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'Challenging the power of corporations. Lessons to be learned from union mobilization against the General Agreement on Trade in Services (GATS).'

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Challenging the power of corporations. Lessons to be learned from union mobilization against the General Agreement on Trade in Services (GATS)

Abstract

This paper draws out the lessons that can be learned from recent research into trade union attempts to influence the outcome of trade negotiations, including an in-depth study of trade unions' campaign against the General Agreement on Trade in Services (GATS) negotiations. This research utilised conceptual tools derived from social movement theory to analyse the opportunities and capacity that existed for unions to influence these negotiations. It also added a power analysis designed to reveal the sources of power that unions drew on to take action. The findings show that the union movement can exert influence in the international trade arena even where organised labour has limited access to the trade policy process and limited resources and capacity. However, unions must be able to identify opportunities for intervening in the trade policy making and negotiation process, and have sufficient power and mobilising and organisational capacity to convert existing opportunities into mobilisation. Knowledge and expertise, strategic framing and coalition building emerge as key factors for identifying opportunities and converting them into collective action and influence. The theoretical framework developed for this research has potential for further application as an analytical and strategic planning tool for union campaigns.

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Introduction

Rather than focus on the effectiveness or otherwise of the inclusion of labour clauses or social clauses in trade and investment agreements, this paper will focus on how unions can mobilise to influence or oppose such agreements.

The liberalisation of trade and investment through bi-lateral, regional and global free trade agreements may have increased wealth for some but the gains, where they exist, have been by no means evenly distributed (Scherrer 2014). Further liberalisation of trade and investment through the new generation of bi-lateral and regional trade and investment agreements, like the Transatlantic Trade and Investment Partnership (TIPP), the highly secretive Trade in Services Agreement (TiSA), the extensive Trans-Pacific Partnership (TPP), and the CETA negotiated

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between the EU and Canada, not only threatens to deepen the cost to workers and increase inequality within and between countries, it threatens the very democratic processes through which states decide how to allocate services and resources.

Given the substantial and increasing encroachment of trade agreements into almost every aspect of economic and social life, there is a pressing need to understand the opportunities which exist for unions to intervene in the trade arena and which factors are most important for mobilising support and exercising influence.

This paper will draw out the lessons that can be learned from recent research into trade union attempts to influence the outcome of trade negotiations, including an initial study into the capacity of unions to develop a voice in trade policy making at the national level (McGuire and Scherrer et al. 2010) and a more in-depth study of trade unions' campaign against the General Agreement on Trade in Services (GATS) negotiations (McGuire 2013 and 2014).

The findings of this research show that union movements can exert influence in the international trade arena, even where organised labour has limited access to the trade policy process and limited resources and capacity. However, unions must be able to identify opportunities for intervening in the trade policy making and negotiation process, and have sufficient power and mobilising and organisational capacity to convert existing opportunities into mobilisation.

Following a brief overview of the potential impacts of the new generation of FTAs on workers and unions, this paper will provide a summary of the findings of the GATS research and explore the implications of these findings for current and future union mobilisation against international free trade agreements. Finally, it will make some tentative proposals about how incorporating the conceptual tools developed for this research could improve current union campaigning against FTAs.

Intentions and Impact of FTAs²

The new generation of bi-lateral and regional FTAs currently being negotiated, including the TiPP, the TiSA and the TTP, extend way beyond the traditional lowering of tariffs. The inclusion on the trade agenda of items such as intellectual property rights, investors' protection, the liberalising of public procurement and so-called competition laws, means that these agreements will affect many aspects of economic life and impact on workers in a wide range of sectors: both directly and indirectly (Scherrer 2014; McGuire and Scherrer 2015, forthcoming).

Scherrer argues that the main objective of these agreements is "protection of the 'strong'" (i.e. early industrialised nations). He argues that the inclusion of these items in international trade agreements benefits multinational corporations in a number of ways.

² The following section draws heavily from Scherrer (ed) (2014) and McGuire and Scherrer (2015 forthcoming).

Because patents, trademarks and copyright are predominantly held by large corporations from early industrialised countries (OECD 2008, cited in McGuire and Scherrer 2015), any strengthening of intellectual property rights would benefit these corporations. A major issue in current FTAs is the call for stronger patent protection for medicines in relation to the development and sale of generic versions (Beck 2014: 22, cited in McGuire and Scherrer 2015).

The call for the inclusion of stronger investors' protection through the elimination of current restrictions on foreign direct investments and the introduction of so-called investor-to-state dispute settlement (ISDS) processes which would enable corporations to claim compensation from the state if state actions potentially reduced their expected profits, would benefit corporations while attacking democratic processes (McGuire and Scherrer 2015).

Liberalising public procurement would reduce the government's ability to utilise its substantial market power for industrial ecological or social objectives and put major transnational corporations on an equal footing with local companies in bidding for public procurement contracts. Current initiatives such as local content clauses, production requirements and exemptions which are seen by these corporations as barriers to trade, would be dismantled (McGuire and Scherrer 2015).

The introduction of competition policy provisions could restrict the state's ability to influence competition or grant favourable treatment to individual local or state enterprises (ibid).

While these changes may not directly impact on all workers and their trade unions, they are likely to have an indirect impact on the whole labour movement (McGuire and Scherrer 2015).

Public sector unions and their members are most likely to be directly affected because these trade agreements focus on opening up the public sector for private competition. This is likely to lead to further privatisation, which in turn is likely to undermine collective bargaining, leading to loss of income and deteriorating working conditions. It could also lead to a lowering of standards in the delivery of services, more generally, and constrain the capacity of municipalities to restrict large retail developments that threaten local industries (McGuire and Scherrer 2015).

Members of unions in small agriculture are also likely to come under severe pressure and suffer job losses. Even in manufacturing, there is no guarantee that the bargaining power of trade unions will be increased in so-called 'winner' industries, while employees in smaller manufacturing companies are likely to feel increased competitive pressure from big corporations (McGuire and Scherrer 2015).

Beyond the workplace, these trade agreements are also likely to have a negative impact on workers as tax payers and as citizens. Lower incomes mean less tax income available for the state, while making cross-border investment easier could make tax avoidance by MNCs easier. At the same time, the inclusion of Investor-to-State-Dispute-Settlement (ISDS) mechanisms could lead to governments facing lawsuits and compensation costs from corporations that claim they have lost income due to new government regulations, even where

such regulations are designed to protect workers, consumers and the environment (Eberhardt 2014 cited in McGuire and Scherrer 2015). Theoretically, even such things as the introduction or raising of the minimum wage, or providing workers with more rights or better workplace protection could trigger such a lawsuit, on the grounds that it would result in a higher wage bill and thus lower profits. This is likely to have a chilling effect on government policy at all levels. At the same time, including clauses that lock in agreed upon liberalisation with the aim of making them irreversible potentially restricts the future actions of citizens and their democratically elected governments (ibid).

Turning Threats into Opportunities

Trade agreements can clearly be a threat to the interests of workers both within and beyond the workplace. At the same time, the introduction of so many new issues into trade agreements and the encroachment of external trade rules into more and more aspects of daily life has broadened the potential scope for engagement and mobilization against such agreements. Increasingly, international trade and investment agreements have become major ‘condensing’ or ‘symbolic’ issues for broader discontent with existing neoliberal policies (McGuire 2013: 4).

Past Struggles and Symbolic Victories

In the last three decades unions have participated in some of the biggest and most divisive international civil society protests against free trade and investment agreements, including the protests against the Multilateral Agreement on Investment (MAI) in 1998 (Laxer 2003), the protests against the launch of a new millennial round of trade negotiations in the WTO, culminating in the so-called ‘Battle of Seattle’ in 1999 (Smith 2002) and subsequent protests against the negotiations for the General Agreement on Trade in Services (GATS) and against new rounds of trade liberalisation through the WTO, including the Non Agricultural Market Access (NAMA) negotiations, which formed part of the Doha Development Round (Busser 2009).³ Unions have also joined campaigns against major bilateral and regional agreements, such as the North American Free Trade Agreement (NAFTA), which came into force in 1994 (Cowie 1997; Ayres 1998), the Free Trade Agreement of the Americas (FTAA) (Hachman 2009)⁴ the South Korea-U.S Free Trade Agreement (KORUS FTA) (Kim 2009b), the Japan-Philippines Economic Partnership Agreement (JPEPA) (Viajar/Serrano/Certeza 2009b) and various EU Economic Partnership Agreements (EPAs) in Africa and the Caribbean (James and Odigie 2009, Deane

³ The GATS negotiations started in 2000 despite the failure to initiate a new round of WTO negotiations in Seattle. They were subsequently included in the Doha round of negotiations.

⁴ The Free Trade Area of the Americas (FTAA) was an attempt to create a neoliberal free trade agreement that expanded the North American Free Trade Agreement (NAFTA) to every country in North America, Central America, South America and the Caribbean, except Cuba. Negotiations began after the completion of NAFTA in 1994 and were supposed to have been completed by January 1, 2005.

2009b).⁵ In addition to campaigning against FTAs, unions have continuously campaigned to have core labour rights included in WTO agreements and other major regional and bilateral FTAs (Anner 2001).

Both the failure of the proposed MAI in 1998 and the break-down of negotiations at the 1999 Seattle Ministerial have been regarded as symbolic victories for civil society and subsequently used as 'proof' that civil society has the power to defeat or influence trade negotiations, despite the forces arrayed against them (McGuire 2013). The failure of the FTAA and the stalled WTO negotiations at successive WTO-Ministerials have been framed in the same way (*ibid.*), although, of course, conflicts between the negotiating governments have also played a major role (for the FTAA see Prevost 2005, for the WTO negotiations see Kelsey 2008).

Overcoming Constraints and Finding Opportunities

There is no doubt that labor organizations face considerable constraints in making their voice heard in trade policy deliberations and decision making. Union movements in many countries suffer declining power due to structural, economic and political changes. In addition, except in a few cases, unions at both the international and national levels face quite limited access to the trade policy and negotiation process, due to institutional limitations and exclusion from policy and political processes. Union organizations frequently also lack trade policy expertise and the capacity to mobilize members in relation to trade issues (McGuire 2013; McGuire and Scherrer et al. 2010).

Despite these limitations, recent research into trade union attempts to influence the outcome of trade negotiations, carried out by McGuire and Scherrer et al. (2010) and McGuire (2013), shows that there are opportunities and avenues for organized labor to make its voice heard, generally as part of a broader civil society movement.

The first study, which was a collaborative effort with Professor Christoph Scherrer and alumni from the Global Labor University (GLU), investigated the capacity of unions to develop a voice in trade policy making at the national level (McGuire and Scherrer et al. 2010). This research found great variety in the countries studied, both in terms of institutional opportunity for unions to intervene in trade policy processes, and the degree of trade policy expertise and mobilizing capacity possessed by national union movements.

However, on the whole, there appeared to be more opportunities to intervene in the trade policy process at the national level than unions are generally aware of. For example: following the announcement of planned negotiations; at the point of initiation of formal negotiations; during negotiations, especially in the lead up to deadlines and during negotiation meetings; at the point of signing the agreement, which usually requires some form of parliamentary approval; and during ratification and/or implementation of required legislation. In some cases,

⁵ This is not an exhaustive list of campaigns against FTAs. For details of the campaign case studies against FTAs by Hachman (2009), Kim (2009b), Viajar/Serrano/Certeza (2009b), James and Odigie (2009) and Deane (2009b) see McGuire and Scherrer et al. (2010)

trade agreements may also have mandatory review processes (McGuire and Scherrer et al. 2010).

Where unions were successful in mobilising resistance to trade-related policy and negotiations, having sufficient trade policy and political expertise and being willing to participate in broad civil society alliances, were significant factors (McGuire and Scherrer et al. 2010).

Building on this research, the author undertook a more in-depth study of the campaigns conducted by trade unions against the General Agreement on Trade in Services (GATS) negotiations, from the 1999 WTO Ministerial meeting in Seattle to the breakdown and temporary suspension of the GATS negotiations in 2006, as this was the period of most intense campaign action (McGuire 2013; 2014).

The analysis of the GATS campaign focused mainly on the global campaigns of Public Service International (PSI) and Education International (EI), as they were the major global union organisations engaged in campaigning against the GATS, at least initially. Other Global Union Federations (GUFs) became active once it became clear that the GATS was likely to impact on a wide range of services, not just public services such as education and health.⁶ The study included attempts by PSI and EI to involve their national affiliates; with a comparative case study of union action in Australia and South Africa.

This research found that unions were able to exert influence over the outcome of the GATS negotiations, even where unions had limited access to the trade policy and negotiation process and limited resources and capacity.

Conceptual Tools for Analyzing Campaigns

Counter movements, such as the broad civil society and union campaign against the GATS, do not spontaneously appear (Munck 2002; Webster, Lambert and Bezuidenhout 2008). They require resources and organisation. Nor do they develop independently from the social, institutional, political and economic context in which movements (including unions) are embedded (Hyman 2001, cited in McGuire 2013).

In order to analyse the context in which union mobilisation against the GATS developed and the internal resources and capabilities that unions had available to them, the author utilised three core conceptual tools developed from social movement theory (SMT):

- 1) The nature of the political opportunity structure (POS);
- 2) The mobilization and organizational capacity (MOC) of movement organizations (in this case unions); and,

⁶ The International Union of Food and Allied Workers (IUF) was quite engaged and Union Network International, particularly its Asian and Pacific Regional Organisation (UNI Apro), were active in the lead up to the Hong Kong Ministerial. The International Trade Union Confederation (ITUC) played a significant role in coordinating and issuing joint trade union statements (McGuire 2013: 110-11).

3) Framing capabilities: the capacity of movements to influence the subjective consciousness of potential activists so as to mobilize them to take action.

By analysing these dynamics it was possible to show how differences in the external context, including the level of access to the trade policy and political process, impacted on the strategic choices available to unions, and also, how unions' own internal capacity impacted on their capacity to mobilise sufficient resources and action against trade liberalisation.

The research also sought to identify and analyse the various sources of power and leverage which unions utilised to take action in the international trade arena, and the factors that impacted on their availability and use. This was achieved by introducing a four-fold power typology of forms and sources of union power (see Figure 1. Below):

- 1) Associational power;
- 2) Structural power;
- 3) Institutional power; and,
- 4) Discursive power.

These conceptual tools are explained briefly below before discussing the outcome of union actions and the implications of the broader research findings for union campaigning against FTAs.

Assessing Opportunities and Capacity — POS, MOC and Framing

Political Opportunity Structure (POS): POS refers to the 'openness' of a political system to external demands or challenges, whether they are from organised interest groups, social movements or trade unions (Meyer 2004, Sikkink 2005, cited in McGuire 2013).⁷ It includes the degree of political pluralism, the stability of elites and availability of 'elite allies', and the state's inclination to repress challenges (McAdam et al. 1996, cited in McGuire 2013: 18-19). The POS is not static and can vary, depending on the issue, the policy field, the country context, and the time frame in which action takes place. To map POS one must look at the specific structures of the political system and the particular issue field to be influenced.

Important factors for influencing trade policy appear to include:

- a) Who controls the trade policy process;
- b) The formal and informal mechanisms and procedures for civil society inclusion and participation that exist, including for unions (i.e. for accessing decision makers and having input into the policy and agenda setting process);

⁷ POS was originally developed in relation to the political system of national states. At the international level, the political system includes international institutions of global economic governance, national member states, and other non-state actors.

- c) Policy legacy, receptivity and degree of consensus within relevant ministries and government departments (this will determine the receptivity of decision-makers and the availability of 'insider' allies); and,
- d) The willingness of the state to repress mobilisation, versus its vulnerability to protest.

Beyond these more general factors of POS, 'windows of opportunity' such as elections or key junctures in the policy process can provide '*Situational Opportunities*' for union intervention, as it may be easier to raise the level of media attention and public debate during these times, and governments are likely to be more responsive and/or sensitive to criticism (McCarthy, Smith and Zald 1996, cited in McGuire 2013).

Mobilising and Organisational Capacity (MOC): To take advantage of openings in the political process, movements must be willing and able to provide sufficient resources (e.g. staff, time, money, member networks etc.). The mobilisation of these resources requires effective mobilisation structures and organisational capacity (McAdam et al. 1996, Rucht 1996, cited in McGuire 2013). For union movements, mobilisation structures include its formal affiliate and delegate structure and collective networks at both the national and international levels. It can also include its links with associated community and civil society networks. A union movement's resource capacity can also be bolstered by access to external resources through association with labour- friendly research institutes and the integration of 'lay' specialists. (McGuire 2003: 21f). While organisational capacity is not easy to define, it can be understood as the capability of unions to assess opportunities for intervention, develop coherent policies and strategies and effectively organise and mobilise resources so as to achieve desired outcomes (Hyer 2007: 198, cited in McGuire 2013).

Beyond making the issue a priority for the union movement, important factors for MOC appears to be:

- a) The unity and coherence of the union movement, as this affects its collective strength and capacity to mobilise members behind a common position;
- b) The effectiveness and inclusivity of a union movement's mobilisation and organisational structures, including affiliate and delegate structures and decision making processes; and
- c) Having sufficient specialist knowledge and expertise, as these capabilities are necessary for understanding the impact of issues on members and where to intervene in the policy process, and for framing issues and legitimising claims.

Framing Capabilities: Social movement theory tells us that opportunity and capacity are not sufficient. Successful mobilisation also requires a consensus or about the issue (i.e. shared value orientations, problem descriptions and solutions), and a willingness to take action. Where this does not exist, it must first be created. This can be done by framing specific problems in a way that resonates with constituents (e.g. union members), alliance partners and the general public. To do this movements frequently draw on existing sets of interpretive ideas about what is considered an injustice or violation of rights (Rucht 1996, cited in McGuire 2013).

The main tasks of framing are to:

- a) Identify an issue as a problem and assign blame (diagnostic frames);
- b) Suggest solutions and strategies to deal with the problem (prognostic frames); and,
- c) Provide a rationale for taking action (mobilising frames) (Bedford and Snow 2000: 614, cited in McGuire 2013).

How issues can be framed and what will resonate will evolve and change over time depending on the audience and the wider political, social, cultural and economic context (POS). The nature of the political opportunity structure can constrain some collective action frames while facilitating others. Changes in political systems or material conditions can lead to changes in frame resonance, which in turn may make it necessary or advantageous to re-frame particular issues and claims (McGuire 2013: 26f). Frames are also subject to contestation and redefinition by oppositional and interested bodies (such as corporate interests and the mass media) and will therefore require a process of constant framing and re-framing (Zald 1996: 261-262, cited in McGuire 2013 and 2014).

Assessing Union Power — associational, structural, institutional & discursive

The social basis for collective action stems from a contention for power between those who hold it in society and challengers who are excluded (Tilly 1978). As political and social actors, unions can draw on a wide range of different but interrelated forms or sources of power in order to press the economic, political, and social claims of workers, both within and outside the workplace. These include:

Old and new forms of associational and structural power: often seen as the traditional forms of union power (Silver 2003, derived from Erik Olin Wright 2000, cited in McGuire 2013). Associational power consists of the power that results from the collective organisation of workers, frequently into unions and political parties. Structural power on the other hand derives from the position of workers in the economic system. It can be further divided into:

- a) Market bargaining power, based on workers' position in the labour market and their ability to withdraw their labour, either through strikes or by exiting the workforce. This form of power is strengthened through scarcity of labour and weakened through unemployment and oversupply of labour; and
- b) Workplace bargaining power, based on workers' position in the production process and their capacity to disrupt that process. This form of power is strengthened where workers occupy crucial points in production process.

Institutional power: an often overlooked dimension of union power (Dörre, Holst and Nachtwey 2009, cited in McGuire 2013). This power is derived from the incorporation of past struggles and compromises into institutions such as labour laws and tripartite structures. It represents the institutionalisation of former associational and structural power.

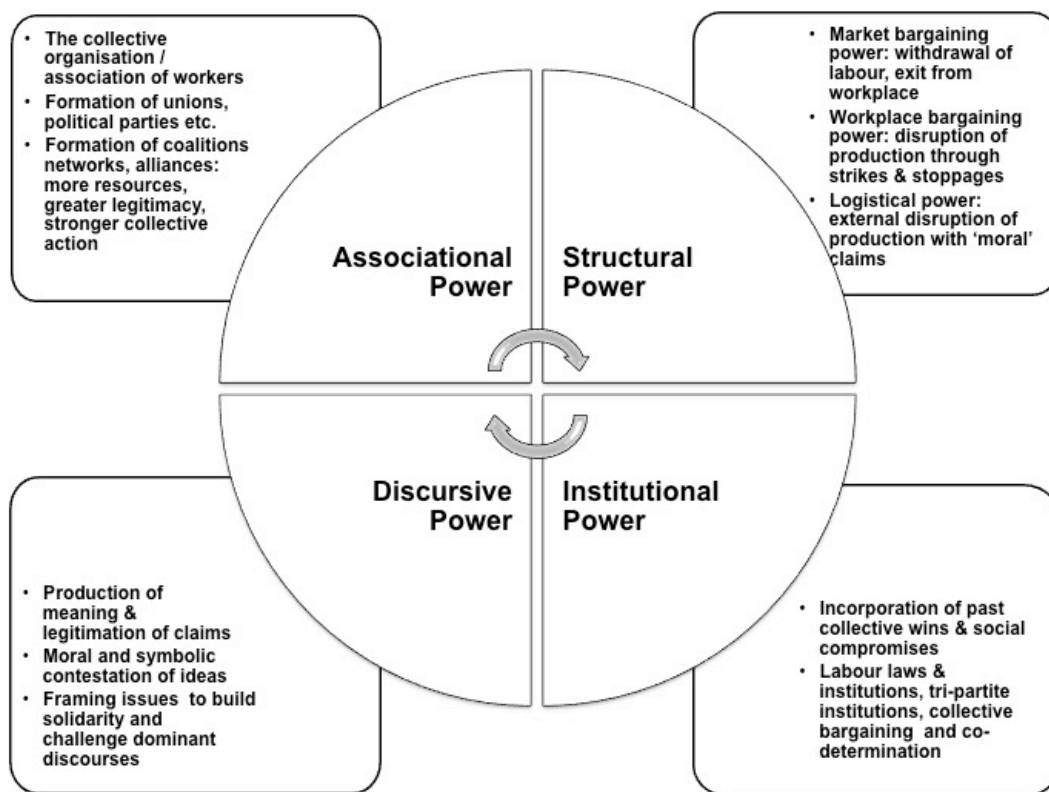
Networking and coalition building: seen as important for boosting union power (Frege et al. 2004, Turner 2006, Tattersall, 2010, cited in McGuire 2013). The

formation of coalitions and networks can increase resources, broaden the base of support, and thus strengthen collective actions, and add greater legitimacy to claims. It can be seen as a form of associational or collective power.

Newly identified forms of logistical and symbolic power: Symbolic power refers to collective action, often exercised outside the workplace, that draws its strength from moral power, i.e. claims about what is right or wrong. Logistical power is a form of structural power exercised outside the workplace, in the public domain, and refers to the capacity to disrupt key parts of the global production process, often supported by 'moral' claims about what is right and wrong (Webster, Lambert and Bezuidenhout 2008; Chun, 2005 and 200, cited in McGuire 2013: 31).

Discursive power: any discussion of union power should also include the more hidden ideological dimension of power that enables and constrains action and agendas but also to build solidarity (i.e. broad support for an idea and willingness to take collective action) and challenge dominant ideas and policies (Lukes 2005; Hajer 1995 and 2006, cited in McGuire 2013). Discursive power often draws on potent symbols and ideas from past struggles. Framing, as outlined earlier, is the key process through which discursive power is exercised through language. Symbolic power, mentioned above, can be seen as a form of discursive power used to strengthen associational power.

Figure 1. A Four-Fold Typology of Union Power



These forms and manifestations of power have been captured in a four-fold typology of union power (see Figure 1.), which forms a basis for analysing the

sources of power that unions are able to draw on to mobilise action and exert influence. These 'archetypal' forms of union power should not be seen as separate or competing but as interrelated and intertwined, rarely existing by themselves but combining in unexpected ways that can enhance or leverage each other (McGuire 2013).

Interaction of Power, POS and MOC

In order to intervene in a political, economic or policy arena unions draw on a source, or frequently, multiple sources of power (as outlined above). The form and extent of power available to unions will be shaped by both the external context in which unions are operating (POS) and their internal mobilising and organisational capacity (MOC). All of these factors will impact on the strategies, or 'repertoires of contention' (Tilly 1978, cited in McGuire 2013) available to and utilised by unions to achieve their aims.

These sets of conceptual tools were used to analyse the global and local trade union struggles against the GATS (McGuire 2013 and 2014).

The Anti-GATS Campaign — Impact and Achievements

In 1995 the General Agreement on Trade in Services (GATS) was incorporated into the newly established World Trade Organisation (WTO). This meant that for the first time, the national laws and regulations governing services became part of the international trade regime. The inclusion of services was heavily resisted by developing countries from the global South and this schism continued during on-going negotiations (Kelsey 2008, cited in McGuire 2013). Initially, most countries committed themselves only to a limited opening of their services, especially their public services. However, the initial agreement included a built in agenda that committed member states to negotiations for further liberalization of trade in services, which started in 2000, despite the breakdown of WTO negotiations at Seattle in 1999. The GATS negotiations were later incorporated into the Doha Round of WTO negotiations. Negotiations reached a high point in 2003, were suspended in 2006 and discontinued in 2008 when the multilateral Doha-Round seemingly broke down for good (McGuire 2013; McGuire and Scherrer 2015). Since the multilateral Doha-Round was suspended, the negotiations on services have been continued among a smaller group of countries under the new acronym TiSA (McGuire and Scherrer 2015).

Proponents of the GATS have stressed the potential of trade in services to stimulate economic growth, particularly where traditional means of growth have slowed (Kelsey 2008; Hartmann and Scherrer 2003, cited in McGuire 2014: 52). However, critics, including trade unions have consistently argued that the potential of the GATS to escalate the liberalization and privatization of essential and other basic services will aggravate social disparities, and that WTO rules and disciplines will jeopardize the capacity of governments to regulate services and meet universal service provisions that guarantee equitable access. As a result, between 1999 and 2006 unions at the global and national levels joined a broad 'counter movement' against the GATS, and the institution and policies

underpinning it (McGuire 2013). This was by no means the end of campaign activity against the GATS but it was the period of most intensity.

The analysis of the GATS campaign shows that, despite a relatively closed political opportunity structure and limited resources to dedicate to trade, unions at both the international and national level were able to have an impact on the GATS negotiations, and to a limited extent on the political opportunity structure: not so much on the institutional aspects but on the negotiating environment. Union actions had a significant chilling effect on negotiations and built resistance to future demands. Unions also built proactive relationships and alliances with key national trade negotiators and achieved some recognition, if not formal acknowledgement, that they are significant actors in the international trade negotiation process.

The campaign against the GATS had a sensitizing impact, leading to wide-spread awareness of the issue within unions, international institutions, parliamentarians, the media and the general public and successfully framed the GATS as a threat and a shared social problem. This had a cautionary impact on governments at all levels. The campaign significantly changed the negotiation environment by delegitimising the negotiation process and undermining claims about the benefits of liberalizing services – thus forcing the WTO and pro-service negotiators on the defensive.

The union struggles against the GATS also built substantial internal union capacity. It increased the level of knowledge and expertise about trade policy and the negotiation process, within the union organizations involved. Such knowledge and expertise is important for scrutinizing future trade agreements, monitoring government action, and identifying opportunities to intervene. It also added legitimacy to trade union claims. The campaign action against the GATS built bridges between unions and with NGOs and social movement networks — in some cases resulting in long-standing alliances. Unions honed their framing capabilities and adopted a wide range of new strategies, which can potentially be adapted to other campaigns. The campaign action also built up a layer of knowledgeable trade activists within the union movement. However, this layer of expertise and activism is relatively thin and confined to key individuals within the union movement. Therefore, it remains to be seen whether it is sustainable in the long term (for further details of the outcomes of the campaign, see McGuire 2013: Ch. 6).

Lessons to be learned from the Anti-GATS Campaign

There are a number of lessons to be drawn from the anti-GATS campaign for trade union's attempts to influence current trade negotiations.

The multilevel nature of the political opportunity structure: The multilateral nature of the GATS trade negotiation process forced unions to operate at both the international and national levels in trying to influence the negotiations, thus creating a multilevel political opportunity structure. This encouraged the development of innovative multilevel strategies.

Faced with a closed political and institutional system at the international level, international union organizations used the national level to leverage their demands, in a type of 'reverse' boomerang effect (Keck and Sikkink 1998, cited in McGuire 2013: 186). At the national level, the GATS negotiations were strongly linked to the existing trend of privatization of public services. In Australia, activists used two forms of 'scale shift' as identified by Tarrow (2005, cited in McGuire 2013) to strengthen domestic claims and mobilization. They reframed on-going domestic privatization as endangering public services by exposing them to further liberalization through the GATS (global framing). And, they framed the enforceable WTO and GATS rules and regulations as an encroachment of external power into the domestic realm (internalization) and thus a threat to domestic policy space and regulation.

The GUFs (PSI and EI) also linked activists (including affiliated unions) on either side of the request/offer process of the negotiations, with the aim of sharing information (including leaked texts and demands) and thus putting simultaneous pressure on governments at either end of the process: on the demandeurs, to withdraw their requests in sensitive services areas, especially of developing countries, and for countries facing the pressure of requests, not to give in to demands to open up sensitive services areas for further liberalization.

The importance of situational opportunities: Even in relatively closed political systems, contingent situational opportunities (SO) provided openings for action. At both the international and national levels key junctures in intergovernmental policy and trade negotiation processes (e.g. WTO ministerial meetings, agenda setting and negotiating deadlines) provided 'windows of opportunity' for articulating grievances, forming alliances, attracting media attention and mobilizing protest action. The GATS negotiations themselves created meetings and deadlines which activists could organize around. Frequently, the negative actions of authorities or elites in the lead up to or during these meetings created new grievances that triggered further protest and mobilization by challenger groups, thus creating a type of 'opportunity/threat spiral' (Tarrow 2005; Karapin 2011, cited in McGuire 2013).

Development of knowledge and expertise: The multilevel strategies used by the GUFs and national unions relied heavily on the development of sufficient knowledge and expertise about the GATS. Despite the lack of resources generally devoted specifically to trade in both international and national union organizations, both PSI and EI, and key national unions developed considerable trade policy expertise, although, in most cases, this was concentrated in the hands of a few key experts. Unions also drew on additional expertise through alliances formed with civil society groups. Unions were able to use their knowledge and expertise to understand the likely impact of the GATS on members and to produce high quality briefing material and policy analysis for educating members and the general public and for lobbying developing country trade delegations and negotiators. Expertise increased the legitimacy and credibility of the claims that unions made about the problems which the GATS posed and made it hard for these claims to be dismissed, it also enabled unions to actively monitor negotiations, to refute claims made by the WTO and GATS negotiators and to make convincing counter claims. Knowing that their actions were being closely scrutinized and monitored by people with expertise and

technical understanding of the WTO and of the GATS negotiations acted as a cautionary brake to liberalization measures in sensitive services. Expertise was also crucial for strategic framing and the exercise of discursive power.

Strategic use of Framing: The results of this research demonstrate how framing can be used as a contentious strategy in the exercise of discursive power. As part of a broader movement against the GATS (and the WTO), unions deliberately constructed meaning about the GATS as a way to exercise influence; not just on the GATS negotiations themselves, but also on various domestic issues, including the on-going deregulation and privatization of public and social services. As mentioned above, through the processes of "global framing" and "internalization" (Tarrow 2005: 32, cited in McGuire 2013), unions co-opted potent global themes to add ammunition to their domestic battle to protect public services.

By claiming that existing privatization and commercialization policies imperilled public services by exposing them to international trade rules through the GATS, unions and civil society actors re-framed what was essentially an existing domestic issue in global terms (global framing). This enabled unions to reinforce claims about the essentially social nature of public services, as opposed to them being tradable commodities, which could be 'sold off'. At the same time, unions framed the GATS negotiations as the intrusion of a set of powerful external trade rules into the domestic realm (internalization). Unions argued that the GATS effectively shifted elements of domestic regulatory power to an undemocratic external institution, which had the power to determine whether domestic regulations related to services consisted of a barrier to trade, thus potentially restricting, or at the least undermining, current and future government policy making and regulatory power. This effectively amplified the threat of the GATS into an attack on national sovereignty and democracy thus broadening and deepening the level of threat and thus mobilization potential (McGuire 2013: 171).

Leveraging weakened power: Unions drew on coalition building and discursive power (through strategic framing) to compensate for the lack of institutional power and to leverage weakened associational power. Coalition building and networking with NGOs and other social movement groups opposed to the GATS were particularly important for broadening unions' support base, strengthening the legitimacy of their claims and providing additional resources, knowledge, frames, and possibilities for joint action. Where organised labour lacked institutional and political access (and thus power) in the labour domain, unions shifted their demands to the 'citizenship' domain (particularly the national parliament) where they could lobby parliamentarians and draw on their legislative rights to call for public inquiries, lodge submissions and exercise both their symbolic and institutional power as citizens.

Transnational and cross-border action: There were attempts to link countries at the horizontal level through connecting the countries involved in the request/offer process of services negotiations. However, there was no evidence of any sustained coordinated transnational or cross-border coalition building between unions in countries that shared similar grievances related to the GATS. While this was theoretically possible, it would probably have required the

formation of a coalition of like-minded countries working together to resist demands to liberalize public and social services, as happened later in the Non Agricultural Market Access (NAMA) negotiations, also negotiated in the WTO. In this case, the demands made of developing countries during the negotiation process led to the formation of a coalition of developing countries known as the NAMA 11. This subsequently opened an opportunity for the formation of a parallel cross-border coalition of NAMA 11 trade unions, who then played a major role in bolstering the position taken by the NAMA 11 countries and holding the coalition together (for a full account of the formation of the NAMA 11 trade union coalition see Busser 2007 and 2009, for the union campaign in the Philippines, see Castro 2009).

The relationship between opportunity and capacity: Another interesting finding was that opportunity and capacity shape mobilization but not as directly as expected. A limited or relatively closed POS and limited MOC do not prevent mobilization on a particular issue. On the other hand, an open political system and good mobilization and organizational capacity does not necessarily lead to mobilization. In fact, the lack of institutional and political power in Australia encouraged unions to take advantage of their powers as citizens through the parliamentary process to run a campaign against the GATS, whereas the very access of labour to institutional and political power in South Africa appeared to lead them to utilize more 'insider' strategies (which, however, were backed up by the potential for mass mobilization).⁸

Implications for Campaigning Against Current & Future FTAs

International trade agreements can be a threat but they also create new spaces and terrains in which unions and civil society actors can mobilise against the negative impacts of free trade and global capitalism. However, unions must have sufficient power and mobilising capacity to take advantages of opportunities that emerge or are created. The following section outlines some of the implications of the GATS research for current and future campaigning against FTAs.

Taking advantage of opportunities

As the anti-GATS campaign study shows, the multilevel nature of the trade policy process and negotiations created a multilevel political opportunity structure, which, in turn, facilitated the development of innovative multilevel (and potentially cross-border) strategies. This is not an isolated example. Trade agreements can create a shared sense of threat, which can catalyse cross-border collaboration between unions and lead to the formation of new transnational relationships and alliances. As mentioned above, the NAMA negotiations stimulated the formation of an alliance between developing countries that felt threatened by the agreement, which, in turn, provided a 'mirror' opportunity for unions to form their own cross-border coalition (Busser 2007 and 2009). And as

⁸ Its also important to note that most union leaders at the time did not see the GATS as a major threat in South Africa and unions were more focused on issues related to job creation. Unions were much more active against the NAMA, which they saw as a greater threat (McGuire 2013).

Tamara Kay's assessment of the NAFTA negotiations show, far from increasing antagonism and reducing cooperation between unions in the countries concerned, the labour and environmental side agreements created new institutions and legal fields through which labour activists interacted, established collective interests, built trust and developed common strategies. (Kay 2011; Kay 2005: 724 cited in McGuire 2013:15).

However, the existence of an opportunity structure is not sufficient, unions need to be ready (and willing) to identify and utilise existing opportunities for multilevel and cross-border action, and they must have the capacity to do so. In other words, building a movement against FTAs requires both structure and agency (this point is also made by Kay 2011).

If unions are to make the most of opportunities for transnational action presented by the negotiation of international trade agreements they will need to overcome existing and potential tensions, divisions and conflicts of interest that exist in the union movement at the international and national levels. Not just in relation to trade issues themselves, but also with regard to the often hierarchical decision making processes of unions, problems caused by the affiliation structures of unions with their global organisations, and differences in the political and economic situations in which unions are embedded, including the sometimes conflicting ideologies and economic interests of union members.⁹ A careful assessment of the POS in relation to the particular trade negotiations could help unions identify opportunities, potential allies, collective interests and areas of possible conflict.

The GATS research also shows, that even in relatively closed political systems contingent 'situational opportunities' (SO) can provide openings for protest action. Key junctures in the trade negotiation process, e.g. ministerial meetings, agenda setting, negotiating deadlines and review processes, provide 'windows of opportunity' for articulating grievances, challenging claims, forming alliances and mobilising action. To take advantage of these situational opportunities requires sufficient resources and expertise in relation to trade and a willingness to work with like-minded NGOs and social movement groups (see below).

A word of warning needs to be sounded here about being too event driven. Such an approach can lead to reactive strategies at the cost of more long-term strategic planning. It can be difficult to mobilise action shortly before a major trade event because people are not sufficiently prepared, members don't understand the issues involved, unions have not built alliances or haven't done the necessary lobbying before-hand and so lack the contacts and influence needed. In order to take advantage of situational opportunities unions must have done the local educating, the awareness raising, the policy making, the coalition-building, the lobbying etc.. (McGuire 2013: 175)

⁹ Space prevents these being elaborated here. For an assessment of the MOC of the union movement at an international level see McGuire (2013: Ch 4.3).

Leveraging weakened power — through coalition building and discursive power

Strategic framing capabilities and coalition building and networking, both within the union movement and with other civil society groups, have emerged as key factors for converting opportunities into collective action and influence.

It is true that in many cases unions lack the necessary institutional power to influence trade policy or negotiations directly (McGuire and Scherrer et al. 2010 and McGuire 2013). Except in rare cases, organised labour is not included in the trade negotiation process at the national level (McGuire and Scherrer et al. 2010) and unions are excluded from the international trade negotiation process in the WTO (McGuire 2013).

Unions frequently also lack associative (collective) power in relation to trade-related issues. As trade negotiations can seem far removed from workplace issues it may be difficult to mobilise members in relation to trade related issues. Unions may also lack resources and the inclusive networks and contact to workers needed to get their message out. In addition, unions may face restrictions on taking industrial action on issues outside the workplace or they may face oppressive governments.

Nonetheless, as the GATS research shows, unions can draw on coalition building to compensate for their lack of institutional power in the trade arena and to strengthen weakened associational power. Coalition building and networking with NGOs and other social movement groups opposed to the GATS helped broaden union's support base, strengthened the legitimacy of their claims, and provided additional resources, knowledge and expertise, frames, and possibilities for joint action (i.e. strengthened MOC).

This makes building broad based coalitions and networks with like-minded NGOs and other social movements a crucial element for successful campaigning against trade agreements. However, there has been considerable debate within the union movement about the dangers and benefits of working with NGOs. Some see it as potentially strengthening the union movement while others question the legitimacy of NGOs, due to their perceived lack of mandate and reliance on funding (Gallin 2001, Spooner 2002, O'Brien 2000, cited in McGuire 2013: 63). Nonetheless, as the GATS campaign shows, if unions are to successfully form or join broad based coalitions to campaign against FTAs, they need to overcome such resistance. Unions may also need to re-examine the nature of their role in such coalitions and networks. Unions have faced criticism over their somewhat narrow focus on incorporating labour standards in trade agreements, for their tendency to be somewhat 'elitist' due to their more representative nature and accountable status and for wanting to be 'the boss' in such coalitions (McGuire 2013: 63-4). There is evidence that unions are making progress in improving relations with NGOs. One key factor has been the broadening of the global union trade agenda beyond labour standards (ibid).

At the same time, one should not underestimate the resources that unions can bring to the movement against the negative impacts of FTAs. Unions have global reach, relatively stable staff and institutional structures, and access to significant 'potential' collective mobilisation power.

The other major way that unions in the GATS study overcame their lack of institutional and associational power in the trade arena was by building and exercising discursive power, largely through the use of strategic framing. Despite their lack of formal access to the trade policy and negotiation process, unions successfully framed the GATS as an external and internal threat, and a shared social problem. As we have seen, this increased the potential for mobilisation at the national and international levels and had a chilling effect on negotiations; making some governments reluctant to make further commitments, enabling them to resist demands and making it difficult for more powerful countries to make claims for further liberalisation. At a broader level the campaign against the GATS undermined the claims about the benefits of further liberalisation of services and actually delegitimised the whole negotiation process.

However, to build and exercise discursive power unions must develop sufficient strategic framing capabilities. Indeed as Lévesque and Murray (2010) convincingly argue, framing can be seen as a “strategic capability” that can be “developed, transmitted and learned”, and which is essential for the mobilisation of union power.

Increasing knowledge and expertise

Knowledge and expertise, about the trade policy and negotiating processes and the content and likely impact of trade agreements, is crucial for exercising discursive power. Successful framing relies on having sufficient knowledge and expertise about the trade policy and negotiation process and the politics behind negotiations. The complex nature of trade negotiations makes it essential to have technically skilled experts who can understand the implications of new developments and alert the wider union network. It is difficult to engage people in debate, mobilise them to act, or lobby and campaign, if unions don’t understand the issues involved. The complexity of the WTO and issues related to the GATS was widely cited by union activists and officials in the GATS study as a common problem preventing union member and wider public engagement, at both a national and international level (McGuire 2013: 67).

Without an understanding of the broader political situation and the trade policy and negotiation process (POS), it is unlikely that unions will be able to identify opportunities for intervention and potential influence. And without the necessary resources and capacity to understand the trade policy process and to analyse the likely impact of specific trade agreements on members and the broader public (MOC) unions are unlikely to be able to develop a common narrative, about the nature of the problem, why it is a threat and what can be done about it. Without a common narrative that resonates with members and the broader public, collective action is unlikely to succeed.

As the research shows, expertise increases the legitimacy and credibility of union frames and claims and makes it harder for these to be dismissed by opposing forces. It also enables unions to monitor trade negotiations and refute claims made by government negotiators and supportive corporate interests. This itself can act as a cautionary brake on further liberalisation attempts.

Dedicating sufficient resources to trade related issues

Clearly, having sufficient resources to dedicate to trade issues, including staff with sufficient expertise and strategic capability to utilise them, is another key factor for successful mobilising against trade agreements. This is an area that requires attention by unions.

Despite its size, the union movement as a whole has relatively limited resources that are dedicated specifically to trade. Union organisations at the international levels (GUFs and the ITUC) are relatively small and staff members usually have a wide brief, with trade covered by one or two staff members in conjunction with a broad range of other pressing international issues (McGuire 2013: 68-9). This is largely replicated at the national level (McGuire and Scherrer et al. 2010). Most national union federations lack sufficient institutionalised policy and political expertise in relation to trade. In some cases national federations are able to draw on resources and expertise from major national sectoral unions but, here also, such expertise is usually restricted to one or two key people, usually with competing responsibilities. And when these people retire or leave the union movement, this expertise can be quickly lost.

Given the substantial and increasing encroachment of trade agreements into almost every aspect of economic and social life, and the likely direct and indirect impact of the new generation of trade agreements on the labour movement as a whole, there is a pressing need for unions to reassess the level of resources allocate to trade related issues.

The lack of trade related resources available within the union movement makes networking and coalition building even more important for unions. As we have seen, unions in the GATS study were able to draw on considerable knowledge, expertise, existing frames and strategies from NGOs and other social movement groups campaigning against the GATS.

Improving mobilising capacity

Both studies (McGuire and Scherrer et al. 2010 and McGuire 2013) found that 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. Even 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. However, the availability of direct action strategies depends on the capacity of unions to develop a coherent position on trade issues, capable of mobilising wide member and public support (framing capacity) and on having functioning mobilising structures.

One aspect of campaigning that was not sufficiently investigated in the GATS research was the engagement of members at the grass-roots level. Unlike NGOs, trade unions are not primarily advocacy organisations but membership-based mass organisations (Scherrer 2014: 3) that draw much of their power from their potential to engage and mobilise these members. Therefore, any campaign plan needs to start with the members; with analysing the direct and indirect impact of the particular FTA on workers.

However, trade negotiations are generally secretive and trade-related issues are often far-removed from the day-to-day concerns of most union members, unless they work in sectors directly affected by trade. This makes it even more important for unions to have the resources needed (or access to such resources) to analyse the likely impact of the demands put forward by negotiators, not just on members as workers and citizens but on the broader labour movement. As Scherrer (2014: 4) points out, if labour is weakened overall by a particular trade agreement, this will have a flow-on effect on all workers.

The effectiveness of a union's mobilising structures depends to a large extent on the willingness of members to take action on a particular issue. This goes beyond having a coherent message. Research by Peetz (1998: 194, cited in McGuire 2013: 21-22) has shown the close relationship between the quality of a union's contact to and inclusion of members and the willingness of workers to take action and remain union members. A well functioning delegate structure is essential for this and also for distributing a union's messages and narratives during a campaign.

Unions in the GATS study put a lot of work into analysing the trade agreement and developing educational material to raise awareness about the potential impact of the GATS on their members and the wider society. However, communication problems between global union organisations and their affiliates often meant that this information never reached grass roots members. In addition, although there were examples of mass mobilisation, unions frequently lacked the inclusive networks needed to sufficiently educate or mobilise members on trade-related issues. This is an area that unions need to work on.

Understanding the context — dominant discourses, available allies, storylines and strategies

The social, economic and political context in which union action against FTAs takes place is important, not just because it influences the opportunities for intervention and protest, but also because it affects the availability of allies and the resonance of the issues with members and the broader public. Like the action against the GATS, union action against the latest generation of FTAs does not take place in a vacuum. It takes place in the context of existing challenges to economic integration and the dominant neoliberal globalisation discourse, which portrays trade liberalisation and deregulation as widely beneficial and largely unstoppable.

In mobilising against these trade agreements, unions can draw on existing stocks of frames, storylines, strategies and networks, built up through previous struggles against regional and international trade and investment agreements, including the GATS. Past struggles against trade negotiations have acted as significant politicising and awareness raising events at the domestic, transnational and international levels. The defeat or breakdown of some of these trade agreements has provided 'symbolic victories', which can be held up as proof that civil society (including unions) has the power to defeat or influence trade negotiations, despite the forces arrayed against them.

Organised labour does not stand alone in its struggle against the latest corporate grab for power through the new generation of FTAs. More and more civil society

organisations are becoming aware of the threats which these trade agreements pose and are engaged in their own mobilisation processes (Scherrer 2014: 3). As the GATS research shows, these groups are potential allies. Indeed, campaigns against the new generation of FTAs, such as the TTIP, offer further opportunities for organised labour to broaden its organising mandate and strengthen its ties with civil society (Scherrer 2014; McGuire 2013).

Using the conceptual tools to improve campaign planning

In reaction to the expanding and frequently negative impacts of international trade agreements unions have joined other civil society groups in campaigning against or, at the least, trying to influence the outcome of such agreements. In many cases, campaign action against FTAs has taken place at both the national and international levels.

As the research cited in this paper shows, unions can be successful in exerting influence on trade policy and negotiations (usually as part of a broader civil society campaign), even where organised labour has limited access to the trade policy process and limited resources and capacity. However, as we have also seen, unions must be able to identify opportunities for intervening in the trade policy making and negotiation process, and have sufficient power and mobilising and organisational capacity to convert existing opportunities into mobilisation.

However, as with other types of union campaigning, both international and national union campaign action, including those against FTAs, is frequently undertaken without:

- a) Sufficiently understanding the context in which action takes place;
- b) Adequately studying the power potential of the oppositional forces and of their own side; and,
- c) Without a realistic assessment of the requirements for the management of an extended strategic campaign and the individual elements or an understanding of the basis for building support for action.

That is, without sufficiently understanding the external environment, power dynamics, the capacity of their own organisation/s, and the basis for solidarity (McGuire and Schwetz 2014).

Incorporating the conceptual tools developed for the GATS research into the campaign planning process could address many of these problems. These conceptual tools provide a framework for analysing both the external context in which planned union campaign action takes place and the internal capacity needed to undertake and maintain such a campaign; for identifying the sources of power that unions are able to draw on to exert influence and assessing how these sources of power are enhanced or weakened by the external context and unions' own internal capacity (or lack thereof); and, for understanding how to strategically frame trade related issues so as to build the broad-based solidarity needed for mobilising against the new generation of FTAs.

This approach is currently being developed in association with Wilfried Schwetz as a way to enhance strategic corporate campaigning and research (see McGuire

and Schwetz 2014; Schwetz 2015, draft GLU Conference Paper).¹⁰ It is just as applicable to campaigns designed to influence FTAs.

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