

Labor and Globalization

Donna McGuire

Re-Framing Trade

Union Mobilisation against the
General Agreement on Trade in Services
(GATS)

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Volume 1

Edited by Christoph Scherrer

Donna McGuire

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Bibliographic information published by the Deutsche Nationalbibliothek

Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliografie; detailed bibliographic data are available in the Internet at <http://dnb.d-nb.de>.

ISBN 978-3-86618-392-6

Labor and globalization: ISSN 2196-5382

First published 2013

Zugl.: Dissertation der Universität Kassel, Fachbereich
Gesellschaftswissenschaften, Donna McGuire, 10.07.2012.

Cover Picture: Damian Brennan 2013

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Rainer Hampp Verlag München, Mering
Marktplatz 5 86415 Mering, Germany

www.Hampp-Verlag.de

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Preface and Acknowledgements

The following book is based on my dissertation, submitted in February 2012 to the Department of Social Sciences at the University of Kassel under the title, ‘Global and Local Union Struggles against the GATS. An assessment of trade union capacity and opportunity to influence international trade policy’. The idea for this research arose out of the desire to understand what enables unions to exercise influence on national and international policy agendas and how they are able to mobilise support for their positions.

I am solely responsible for the content but this venture would not have been successful without the many forms of support and feedback I received.

In particular, I am thankful for the supportive collegial environment provided by the International Graduate College, ‘Global Social Policies and Governance’ (GSPG) at the University of Kassel, the guidance of my supervisors, Professor Dr. Christoph Scherrer and Professor Edward Webster, and the financial and practical support provided by the Hans-Böckler-Stiftung.

The research would also not have been possible without the many people, at the international level, and in Australia and South Africa, who were willing to talk to me about their experiences and who provided me with additional contacts and sources for further investigation. Their insights provide the backbone of this research.

For their endless encouragement and vital feedback on my ideas and drafts of my text, I would especially like to thank Wilfried Schwetz and Yuan-Ming Chiao, as well as Thomas Goes, Frauke Banse, Christian Möllmann and the other members of the GSPG Kolleg and Dok-Workshop.

In addition I would like to thank my family in Australia and other parts of the world, especially Damian Brennan, Natasha Brennan and Imelda McGuire, for their ongoing love, support and understanding.

Finally, I would like to thank the International Centre for Decent Work and Development (ICDD) for its support in publishing this dissertation as the first volume in its Labor and Globalization Series.

Donna McGuire

Kassel

July 2013

Abbreviations

AEU	Australian Education Union
ACTU	Australian Council of Trade Unions
AIDC	Alternative Information and Development Centre
ASU	Australian Services Union
AUSFTA	Australia and United States Free Trade Agreement
AFL-CIO	American Federation of Labor-Congress of Industrial Organizations
AFTINET	Australia Fair Trade and Investment Network
ALP	Australian Labor Party
ANC	African National Congress
BUSA	Business Unity South Africa
CBD	Convention on Biological Diversity
CCPA	Canadian Centre for Policy Alternatives
CIEL	Centre for International Environmental Law
COSATU	Congress of South African Trade Unions
CPSU	Community and Public Sector Union (PSU & SPSF Groups)
DFAT	Department of Foreign Affairs and Trade (Australia)
DTI	Department of Trade and Industry (South Africa)
EI	Education International
EU	European Union
EC	European Commission
ETUC	European Trade Union Confederation
FEDUSA	the Federation of Unions in South Africa
FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GEAR	Growth, Employment and Redistribution programme (SA)
OWINFS	Our World is Not for Sale network
ICFTU	International Confederation of Free Trade Unions
ICT	Information and Communication Technologies
IGD	Institute for Global Dialogue

ILO	International Labour Organisation
IMF	International Monetary Fund
ITED	International Trade and Economic Development (within DTI, SA)
ITAC	International Trade Administration Commission (SA)
ITAP	Institute for Agriculture and Trade Policy
ITF	International Transport Workers' Federation
ITUC	International Trade Union Confederation
IUF	International Union of Food workers
MDG	Millennium Development Goals
MNC	Multinational Corporation
NAFTA	North America Free Trade Agreement
NAMA	Non-Agricultural Market Access negotiations in the WTO
NEDLAC	National Economic Development and Labour Council (SA)
NEHAWU	National Education, Health & Allied Workers Union
NACTU	National Council of Trade Unions (SA)
NALEDI	National Labour and Economic Development Institute
NGO	Non-Governmental Organisation
NTEU	National Tertiary Education Union (Australia)
OECD	Organization for Economic Cooperation and Development
PSI	Public Service International
QNU	Queensland Nurses Union
RDP	Reconstruction and Development Programme
SA	South Africa
SACP	South African Communist Party
SACTWU	Southern African Clothing and Textile Workers' Union
SAMWU	South African Municipal Workers' Union
SEATINI	Southern and Eastern African Trade Information and Negotiations Institute
SEIU	Service Employees International Union
TESILICO	Technical Sectoral Liaison Committee (within NEDLAC)
TILS	Global Unions Forum on Trade and International Labour Standards

TSG	Trade Strategy Group (SA)
TUAC	Trade Union Advisory Committee (to the OECD)
TWN	Third World Network
UNESCO	United Nations Educational, Scientific, and Cultural Organization
UNCTAD	United Nations Conference on Trade and Development
UNI	Union Network International
US	the United States of America
WHO	World Health Organisation
WTO	World Trade Organisation

Chapter 1. Introduction

The widespread adoption of neoliberal policies, which promote trade liberalisation at the expense of worker's power and living conditions, is pushing trade unions to find ways to influence trade policies and trade negotiations at the national and international level. At the same time, the current terrain of neoliberal globalisation and international trade liberalisation, provides a potential opportunity structure which could facilitate the emergence of new forms of global and national resistance that link work-related concerns to wider social issues (Moody 1997, Tarrow 2005).

While the existence of such an opportunity structure may facilitate and even encourage unions to take action in the trade policy field, unions also face considerable restraints to their mobilising and organising capacity in the trade arena, including; declining union power, lack of formal representational capacity within the multilateral trade arena, and lack of resources and expertise in relation to trade. In the face of these restraints it is important to understand how unions have tried to influence international trade policy and what lessons can be drawn for future practice.

Taking union protests against the General Agreement on Trade in Services (GATS) negotiated in the World Trade Organisation (WTO) as a case study, this study will examine how unions at the international and national level tried to influence the GATS negotiations, and the factors that facilitated and constrained their capacity to do so. In doing so, it also seeks to identify and analyse the various sources of power and leverage used by unions to promote their agenda and the factors impacting on their availability and use.

The protests against GATS are particularly significant because they link work-place struggles to bigger political battles over social and economic justice and human rights. Thus broadening the potential scope and strength of engagement and mobilisation. To some extent the protests against GATS are emblematic of wider social discontent with the impact of neo-liberal economic policy – the issues that come up and drive it are not always directly related to the specific negotiations but to other (often pre-existing) problems. Due to the perceived threat which the GATS negotiations presented to the provision of services (including public services and education) the research focuses on the role of Public Services International (PSI) and Education International (EI) in the global and local struggles against the GATS between 1999 and 2006, including a comparative case study of union action at the national level, in Australia and South Africa.

The analysis is informed by insights from social movement theory (McAdam, McCarthy and Zald 1996; Tarrow 1998 and 2005; Benford and Snow 2000; Meyer 2004) and recent literature which theorises about union revitalisation and new sources of power (for union revitalisations see Frege and Kelly 2004; Behrens, Hamann, and Hurd 2004; Frege, Heery, and Turner 2004; Turner 2006; and Dörre, Holst and Nachtwey 2009; and for new sources of power see Silver 2003; Chun 2005

and 2009; Webster, Lambert and Bezuidenhout 2008). It also draws on discursive approaches which emphasise the contested nature of meaning attached to issues, and the capacity of language “to make politics, to create signs and symbols that can shift power balances and that can impact on institutions and policy making” (e.g. Hayer 2006: 67).

1.1 Context

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 for some, 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 (Roskam 2006). And 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 (Blass and Becker 2007). However, the WTO negotiations remain significant as the benchmark for trade liberalisation.

At the heart of international trade policies stands the WTO system of legally binding trade rules designed predominantly to benefit and protect global capitalism. This system has been seen by some (Gill 2002 and Paech 2003) as part of an attempt to ‘constitutionalise’ property rights and market liberalisation, at the expense of human and social rights. Gill (2002: 2) argues that the WTO and especially trade and investment treaties such as the General Agreement on Trade in Services (GATS) are tantamount to a form of “new constitutionalism”, designed to ensure the long term power of capital by creating political and legal mechanisms designed to “lock in private property rights and extend markets”.

The encroachment of trade agreements into new areas – not just the 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 developmental challenges related to sustainable growth and full employment.

As a result, trade unions at both the national and international level have started to engage more intensively with national governments in relation to trade policy and to search for new ways to influence international trade negotiations taking place within the World Trade Organisation (WTO).

Constraints and Opportunities

However, the engagement of trade unions in the field of international trade faces a number of constraints. Union movements in many countries suffer declining power due to structural, economic, and political changes, which make it difficult for unions to protect workers and advance their interests through traditional means (see Voss and Sherman 2000; Clawson 2003; Turner 2003; Hyman 2001, for South Africa: Pillay 2008; Kenny and Webster 1998; for Australia, Peetz 1998). Added to this, is the problem that unions have no formal representational capacity within the multilateral trade arena and are largely excluded from trade policy and trade negotiation processes, at both the international and national level (McGuire and Scherrer et al. 2010). In addition, unions commonly lack expertise in trade and economic issues and frequently face internal divisions over trade policy direction.

At the same time, the current terrain of neoliberal globalisation and trade liberalisation has created a potential opportunity space for new forms of “globalised resistance” that link work-related concerns to wider social issues (Moody 1997, Tarrow 2005). While not downplaying the significance of national states, Tarrow (2005: 20) argues that “the creation of a distinct level of internationalism creates a triangular opportunity space in which non-state actors can become active, form coalitions, and refract their activities back on their own societies”. States create international practices, regimes, and institutions (such as the WTO and the World Bank) to solve collective action problems and to monitor each other’s behaviour: “But once formed, new norms, identities, and interests develop around these venues, attracting the attention of groups of states, non-state actors, and other international actors” (Tarrow 2005: 20), thus creating, “an opportunity space into which domestic actors, can move, encounter others like themselves, and form coalitions that transcend borders” (Tarrow 2005: 25).

Nonetheless, international institutions can also be a source of threats to states and their citizens (Tarrow 2005: 25). As sites of real power and ideas, international institutions are carriers of hegemonic norms and practices, which can shape both domestic and international policy, leading to some policies being considered more legitimate and realistic than others (Cox 1998). They can also threaten state sovereignty and capacity to regulate for the good of its citizens. For example, IMF loan conditionalities and structural adjustment programmes (SAPs) are commonly used to pressure states into adopting neo-liberal policies, which then threaten their capacity to implement policies designed to address inequality and poverty (Tarrow,

2005: 25). This makes international institutions also the site of political struggle, in which member states, especially developing countries, attempt to marshal “counter-hegemonic ideas and social forces” in order to resist the dominant hegemony (Taylor and Williams 2006: 5). At the same time, international institutions and regimes can “serve as proxies for policies that member states support but do not want to carry out by themselves” (Tarrow 2005: 107). Governments can ‘blame’ the IMF, the World Bank, or the WTO for the implementation of neo-liberal policies such as liberalisation and privatisation, by arguing that they (the government) have no alternative.

In any case, as highly visual symbols of neo-liberal policy and global capitalism, international institutions like the IMF, the World Bank and more recently the WTO, have become “major condensing symbols” in global protests, providing a common target for contention (Tarrow 2005: 26). Thus, we can see, as Tarrow (2005) argues, that international institutions and regimes such as the WTO are carriers of both threats and opportunities for citizens. As a source of both resentment and resistance, “they offer a highly visible target and opportunity space within which opponents of global capitalism and other claimants can mobilise” (Tarrow 2005: 26).

The Significance of the GATS

Trade agreements themselves can also create new spaces and terrains for unions and civil society actors to form coalitions and articulate protests about the impact of free trade, and associated neo-liberal economic policies, on workers (Compa 2001, Kay 2005). Compa (2001), argues that union advocacy in relation to including labour rights in free trade agreements has helped unions to build power in the economic and political sphere. In fact, he sees trade as the new battleground for workers. The inclusion of new areas into the multilateral trade regime since the establishment of the WTO in 1995, has dramatically increased the scope and extent of international trade rules and their potential effect on people's lives (Jawara and Kwa 2003). Thus, also increasing the scope of mobilisation. The inclusion of trade in services through the GATS treaty has attracted particular attention, because it means that even the provision and regulation of public and basic services, such as health, education, water and sanitation, can be affected by trade rules. In many countries these services are already under threat from neoliberal policies that encourage the deregulation and privatisation of public services.

To some extent, the GATS has become what Hajer (2006: 65) calls, an ‘emblematic’ issue, in that it is symbolic or representative of a bigger problem. Just as ‘Acid Rain’ was an ‘emblematic’ issue for the broader environmental crisis in the late 1990s (to use Hajer’s example) so the protests against the GATS are emblematic of wider social discontent with the impact of neo-liberal economic policy – including trade liberalisation. Indeed, one could see these protests as part of a Polanyian-type counter movement against the deeper commoditisation of labour and social life (Polanyi 1944). Polanyi argued that the unregulated progress of market forces creates a tension

in society. The intensification of market forces tends ultimately towards the destruction of society. But at the same time, its negative impact and deeper commoditisation of all aspects of life, leads to the development of a counter movement against a market driven society (ibid). The breadth and depth of concern over the impact of neo-liberal policies within civil society, provides organised labour with the potential allies and base of support required to support changes in trade policy. It also creates opportunities for unions to transcend the constraints of narrow industrial unionism and rebuild their legitimacy and capacity as broad social movement actors.

Beyond the National — the Changing Context of Policy Making

Research by McGuire and Scherrer et al. (2010) into union attempts to influence national trade policy processes, found that having sufficient policy and political expertise was a significant factor in mobilising resistance to trade-related policy. Without the necessary expertise, unions and their representatives are not taken seriously in the policy arena. Furthermore, without knowing where to effectively intervene in the policy process, they can be outmanoeuvred by other social forces.

The extension of the policy making processes outside the sovereign state means that national governments may no longer be the main or only addressee for those seeking to influence policy (Hajer 2003). Therefore an understanding of national policy processes is not sufficient for those seeking to influence multilateral trade processes. In a more “transnational” and multilevel political world, pressure groups and social movements seeking to influence policy may need to develop new strategies to achieve their goals (Hajer 2003: 179-80). While the state remains an important actor, decision-making (or at least opinion formation) may be dispersed, at least partly, to the international level. This expansion of the context of policy making can “provide new access points into politics” (Hayer 2003: 179). But, to take advantage of these potential new access points and opportunities, new strategies are called for: Strategies that apply pressure at multiple levels, or that “circumvent the state” by jumping scale to the international dimension so as to use external forms of leverage to apply pressure in the domestic realm.

One example of such a strategy is the so-called ‘boomerang strategy’, as it has been dubbed by Keck and Sikkink (1998), in which groups of citizens in one country appeal to international institutions or citizens of another country to put pressure on their national government to pressure the offending regime to change their policy. Another, is the formation of transnational advocacy networks (TANs), consisting of diverse groups, such as research and advocacy groups, local social movements, foundations, churches, unions, and even intergovernmental organisations and elements of local government, which share information and resources and work together to influence policy, especially in relation to issues of inequality (Keck and Sikkink 1998: 144ff). According to Keck and Sikkink (1998), such TANs are most likely to form when the channels between domestic groups and governments are

closed, when “political entrepreneurs” believe that networking will help them advance their campaign, and when conferences or other events create arenas for forming networks (ibid). WTO conferences and other international meetings of heads of state are good examples of such events. Transnational advocacy networks function by employing information politics (supplying information), symbolic politics (framing issues), leverage politics (calling on a stronger actor to intervene), and accountability politics (holding politicians accountable for what they have said and done) (ibid). These networks seek to influence issue creation and agenda setting (at multiple levels), to influence the state’s discursive position, to change institutional procedures and or policy, and to influence state behaviour.

The international trade policy and negotiating process differs from most domestic policy processes in a number of respects.¹ 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 may prefer not to reveal bargaining positions to their counterparts. Furthermore, one of the main bargaining chips 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 or services. Negotiators, therefore, may only be able to obtain export opportunity gains for one domestic industry or service by making another industry or service vulnerable to foreign competition: Gaining market access in agriculture, for example, by making services vulnerable (Halle and Wolfe 2007, McGuire and Scherrer et al. 2010).²

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 negotiations may be more about security issues or gaining strategic partners than economic benefits (Halle and Wolfe 2007). However, governments may not wish to make such issues ‘public’.³ This helps to explain why trade negotiations have traditionally been enshrouded in secrecy and why they continue to be a prerogative of the executive in many countries. 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 often ruled out. In addition, consultation processes tend to be highly selective and favour certain sectors of the business community, while

¹ Elements of the following section have previously been published in McGuire and Scherrer et al. (2010).

² Halle and Wolfe (2007) describe the trade policy processes in six different countries.

³ See Capling’s (2005) assessment of the Australian government’s negotiation of an FTA with the U.S., for example.

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; McGuire and Scherrer et al. 2010).

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 policy processes at the national and international level. This has led to demands for greater transparency, democratic accountability and civil society participation (Capling and Nossal 2003). As argued by McGuire and Scherrer et al. (2010), 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 for groups opposed to particular trade policy and/or agreements.

1.2 Gap in the Literature

Despite the increased engagement of unions in the trade policy arena there appears to be a lack of comparative research that analyses trade union attempts to influence international trade agreements, particularly in terms of the constraints and opportunities that exist for unions to intervene in the international trade arena, and the resources and capacities needed to influence the trade policy process.

There is a well-developed body of research on the globalisation of social movements and on civil society attempts to influence global governance but this generally lacks a union focus (see for example, Smith 1997 and 2002; Keck and Sikkink 1998; Della Porta et al. 1999; Cohen and Rai 2000; Deslauriers and Kotschwar 2003; Khagram et al. 2002; Tarrow 2005). There is also a body of research on the globalisation of the labour movement and the shift of strategies needed for labour to exert influence in the global political economy (e.g. O’Brien 2000; Moody 1997; Reutter 1997; Harrod and O’Brien 2002). However, these generally do not focus specifically on the trade arena. Where such research has occurred, it has mostly focused on the long-running campaign to include social standards and workers’ rights clauses in trade and investment agreements (Scherrer and Greven 2000; Anner 2001; O’Brien et al. 2000, esp. Ch3 on the WTO and Labour; Greven 2005).

There is also a body of research on labour’s attempts to influence trade policy within the United States (U.S.) and the expansion of economic integration through free trade agreements in the Americas, which can provide useful analytical models for examining the global context (Ayres 1998; Schoch 2001; Greven 2003; Kay 2005). A good example is Jeffery Ayres’ 1998 book, ‘Defying Conventional Wisdom: Political Movements and Popular Contention Against North American Free Trade’, which is one of the first studies of the origins, strategies and activities of movements and

coalitions that arose in Canada and spread across North America to oppose free trade. Another is Greven's (2003) use of neo-Gramscian hegemony theory to analyse how labour rights advocates successfully placed international labour rights on the U.S. trade policy agenda. Shoch (2001) compares labour's attempts to influence trade policy in the U.S. for NAFTA, Fast Track, and PNTR with China. His analysis of labour's mixed success in influencing trade related decisions in the U.S. shows that it is not necessarily the amount of resources available to unions that determine success or failure, but the way these resources are marshalled and utilised.

The existing literature reveals the conflicting desires of government and civil society actors in relation to trade, and provides some insights into how unions have tried to put labour rights on the trade policy agenda. It also sheds some light on the challenges of building transnational labour solidarity. However, it does not sufficiently analyse the contextual constraints and opportunities that exist for unions to intervene in and influence the trade policy process or the source and effectiveness of their power to do so. Given the substantial and increasing encroachment of trade agreements into almost every aspect of economic and social life, there is a pressing need for research that provides a more coherent framework for understanding the source and effectiveness of organised labour's power and capacity to influence international trade policy. This study seeks to address this gap.

1.3 Methodology

A Multilevel Comparative Approach

The originality of this research lies in its attempt to provide a coherent framework for understanding the opportunities that exist for unions to influence global economic governance issues and constraints on their power to do so. Due to the increasing impact of international trade policy and its encroachment into the lives of citizens and workers world wide, this research concentrates on union attempts to influence trade policy and negotiations in the multilateral trade arena. Taking union protests against the General Agreement on Trade in Services (GATS) as a case study, it utilises a social movement framework to analyse the opportunities and constraints that existed for organised labour to influence these trade negotiations and to assess whether unions had the capacity to overcome restraints and take advantage of existing opportunities.

The development of trade in services and its inclusion in the WTO through the GATS treaty has been an issue of great concern to the union movement in general, both on an international and national level. The union movement has engaged in various initiatives to raise awareness about the potential threat of the GATS and to mobilise action against it. However, due to the perceived threat which the GATS negotiations presented to the provision of public services, especially health and education, this research focuses predominantly on the role of two Global Union Federations (GUFs), Public Services International (PSI) and Education International (EI), in the global and

local struggles against the GATS between 1999 and 2006. It includes a comparative case study of union action by affiliated unions at the national level in two countries, Australia and South Africa. Reference to the role of other international and national union organisations, such as the International Trade Union Confederation (ITUC) and the relevant national union federations in the country case studies, is included where relevant to the context. The time period chosen encapsulates the main period of union and civil society action against the GATS; from the lead up to the WTO Ministerial in Seattle in 1999 to the breakdown of WTO negotiations (and their temporary suspension) in 2006. However, this by no means marks the end of union action in relation to the GATS, which remains ongoing.

The value of adding a multilevel approach to the research is that it can capture the differences and interactions between the various geographical scales of mobilisation and contention. In attempting to influence trade policy and combat the negative impacts of trade liberalisation, organised labour has been forced to mobilise at both the global and national level. While states remain a key locus of power in international trade policy making, they are far from being the only significant actors. The international trade policy making process takes place within a form of “complex multilateralism”, as described by O’Brien et al. (2000), or “complex internationalism” as conceptualised by della Porta and Tarrow (2005), which involves the complex interplay between states, international institutions of global governance, and a broad range of social movements and other civil society groups that have mobilised to influence these institutions. In order to capture organised labour’s responses within this complex internationalism, this research utilises a two-level approach. It explores union responses and actions at the international level, and at the national level in two countries, including interactions between the two levels. This approach is designed to shed light on the multilevel (or multi-scalar) nature of contention, and how this impacts on the strategies used to intervene in and/or influence trade policy and negotiations.

The value of adding a comparative analysis of union responses to the same issue in 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, 2001a: 128).

The choice of cases is based on combining a ‘most similar’ and ‘most different’ approach. As can be seen from the table below (Table 1), Australia and South Africa vary considerably along a range of significant variables, including the dominant model of capitalism (as defined by Hall and Soskice 2001) and level of development, the history and context of the union movement (this is particularly relevant in South African where unions have developed within the context of the struggle against apartheid), the institutional framework in which unions are embedded, and the nature of the trade policy processes within each country.

In South Africa’s case, the use of the term ‘transitional economy’ to describe the mode of capitalism refers not to a transition from a centrally planned or co-ordinated market economy to a liberal market economy, but from a political and economic system of apartheid, which exhibited some characteristics of a liberal market economy, to a form of capitalism that increasingly appears to embrace many more of its characteristics, including deregulation and privatisation.⁴

Table 1. Case Study Countries — Differences

Variable	Australia	South Africa
Variety of Capitalism & level of development	Liberal Market Economy Developed	Transitional Economy Developing
Nature of Union Movement	Narrow focus: Laborism, social protections/interests of workers & families	Broad focus: Political/ Social Movement unionism: worker interests part of broad social issues
Union strength	Union decline	Membership growth
Social/political context	Hostile anti-union environment – labour friendly party out of gov’t	Legacy of Apartheid – unions in alliance with ruling labour-friendly party
Trade policy processes	Civil society, including unions, shut out of policy processes	Tri-partite institution for economic policy making. Unions part of political alliance

Source: Author compilation.

At the same time, Australia and South Africa share a number of key similarities. Both countries are multi-party liberal democracies, with two houses of parliament (although South Africa is a Republic while Australia remains a Constitutional Monarchy). The union movement in both countries is unified under a single or dominant trade union federation (South Africa has more than one federation but the Congress of South African Trade Unions — COSATU — is dominant) and has a close relationship with a labour or labour friendly party. They are both dominant economies in their specific regions with offensive trade interests, including in services. Both countries are long-term supporters of multilateralism and members of the WTO. They are also both members of the ‘Cairns’ group, which is a coalition of WTO member countries with interests in trade in agriculture (individually they are also members of other groups). They both rely heavily on the export of raw resources but seek to increase their export of services. Both countries also have significant regional aspirations and have increasingly turned to bilateral and regional agreements to pursue market access and foreign policy goals. Most significantly, both countries

⁴ The use of the term transitional economies has been used to describe the transition from centrally planned or coordinated market economies to Liberal Market, or free market economies, see for example the IMF (2000) analysis of Eastern European countries.

both adopted a broad range of neo-liberal economic strategies including trade liberalisation, tariff reduction, and privatisation of public and social services.

Table 2. Case Study Countries — Similarities

Variable	Australia	South Africa
Democracy	Multiparty democracy	Multiparty democracy
Unions & Parties	Unified, affiliated to labour friendly political party	Unified, alliance with labour friendly political party
Multilateralism	Supporter, member of WTO	Supporter, member of WTO
Regional Interests	Dominant economy, offensive trade interests – services	Dominant economy, offensive trade interests - services
Adopt. of neo-liberal Strategies	Trade liberalisation/ corporatisation and privatisation of services	Trade liberalisation/corporatisation and privatisation of services

Source: Author compilation.

Comparing union responses to the GATS negotiations in these two countries should reveal how differences in the socio-political context in each country impacted on the strategic choices available to unions. At the same time, it should also show how unions' own organisational structures and dynamics impact on their capacity to mobilise resources for action against trade liberalisation. The combination of similarities and differences should make it easier to isolate the factors impacting on union mobilisation (or lack of mobilisation) against the GATS. While one would expect to find contrasting results, which can be explained in terms of the variables mentioned above, there may also be evidence of common trends and strategies, which can be explained with reference to the common terrain of neoliberal globalisation and trade liberalisation within which these countries are located (such as privatisation and deregulation). It might also be possible to identify the rise of new forms of globalised resistance that link trade liberalisation and the erosion of social and workers' rights.

Assessing Outcomes and Impacts

When assessing the outcome of union strategies used to influence the GATS, I will focus on the outcome or impacts of union action, rather than on the success or failure of union goals. Focusing on the impact of union political activity against the GATS, rather than on the success or failure of achieving union policy goals, should enable the capture of both intended and unintended consequences of union action (for a full discussion of this approach see the Chapter by Giugni in Kriesi, Koopmans, Dyvendak and Giugni 1995: Ch.9).

Following the typology developed by Giugni (1995: 209-212), for assessing the outcomes of social movements, I will assess the impact of union political action against the GATS across two dimensions: "internal impacts", on the identity and organisational capacity of the union; and, "external impacts" on structural and

contextual factors. External impacts include such things as, whether unions were able to change consultation processes or obtain better access to the policy process. Whether they were able to either, stop the situation from getting worse by exerting a veto or chilling effect on policy, or improve the existing situation by obtaining substantive concessions from policy makers. Whether they produced any changes in the actual political structure in terms of political institutions or political alliances. And, whether they were able to have a ‘sensitising’ impact by putting their demands on the political agenda, either in the public space or on the governmental agenda, or by building consensus and changing public attitudes.

Table 3. Outcomes — Internal and External Impacts

Outcome	Type of impact
External impacts	Procedural impacts: establishment of consultation procedures, formal recognition, inclusion of ‘challengers’ - either ad hoc access or permanent access.
	Substantive impacts: reactive (prevention of new disadvantages/ or worse situation) or proactive (introduction of new advantages)
	Structural impacts: possibility to produce changes in the political opportunity structure - either on institutional structures (change in the form of political institutions) or on alliance structures (e.g. political alliances or splits in the government)
	Sensitising impacts: sensitising of social actors in political and/or public arena, which builds consensus in the direction of goals of the movement.
Internal impacts	On identity (individual and collective identity)
	On organisation (change in the mobilising and organisational capacity of the movement - includes framing capacity)

Source: Adapted from the typology developed by Guigni (1995: 209-212)

The dimensions and explanatory factors developed by Guigni (1995) will be adapted to align more closely with the theoretical dimensions of political opportunity structure and mobilising and organising capacity utilised in this study (these are elaborated in the theoretical section below).

Methodological Strategies and Restrictions

The choice of union mobilisation against the GATS as a campaign case study was based on an extensive online review of union mobilisation against international trade issues. From this, specific union organisations and countries were selected for more extensive research. Between July 2005 and September 2011, I interviewed key union leaders and officials at the international and national levels (in Australia and South Africa) who were responsible for trade issues, and who played a major role in mobilising union protests against the GATS. I started with a handful of key experts and other respondents were identified through ‘snowball sampling’ as it was not possible to identify or access the appropriate actors without referrals.

The heavy reliance on particular experts reflects the major role they played in mobilisation against the GATS and the fact that expertise about trade-related issues within the union movement (and civil society more broadly) is confined to a handful of people at relatively senior levels. Apart from these union officials, I interviewed key people from NGOs and coalition partners who were active against the GATS, as well as some trade bureaucrats and one trade minister (see Appendix 1 for details). Unfortunately, due to resource and time constraints it was not possible to interview grass-roots level activists or union members. Questions were guided by the variables developed in the theoretical framework below. The other major source of information was from the campaign materials and websites of the union and civil society organisations involved and secondary literature on the trade policy process and union context at the international level and in the case study countries.

From these sources, information was gathered about the political opportunity structure which exists for unions at the national and international levels (especially in regard to international trade), the capacity of unions to engage in trade related policy issues at these levels, and the strategies used by unions to influence the GATS negotiations.

Chapter 2. Theory — Opportunity, Capacity and Power

Counter-movements do not spontaneously erupt but generally require careful construction (Munck 2004: 257, Webster, Lambert and Bezuidenhout 2008). Therefore, organised labour's mobilisation in the international free trade arena cannot be understood simply as some kind of spontaneous or reflexive response to the negative impact of trade agreements on workers' lives. This mobilisation is part of a process that requires resources, capacity and the development of collective power (McAdam 1996; Tarrow 2005). Nor do such movements develop independently from the social, institutional, political, and economic context within which they are embedded (Hyman 2001). This context shapes the structural and political opportunities available to them (McAdam 1996) both generally, and more specifically, within the particular terrain and issue field in which they are addressing their claims.

To understand labour's mobilisation against the GATS one needs a way to analyse the context in which labour's mobilisation developed, the resources that labour movements had available to them, and the sources of power that union movements drew on to take action in this issue arena. The following section develops a theoretical framework which can be used to analyse how the political opportunity structure in which trade unions are embedded impacts on the strategic choices available to them, and how this, and unions' own mobilising and organisational structures and dynamics, impacts on their capacity to mobilise resources for action against a particular issue.

2.1 Social Movement Theory as an Analytical Lens

A theoretical framework drawn from social movement theory concepts of political opportunity structure, resource mobilisation, framing, and repertoires of contention provides a useful lens to examine trade union attempts to influence the GATS negotiations at the multinational and national levels (here I draw mainly on concepts developed by McAdam 1982; McAdam, McCarthy and Zald 1996; Tarrow 1998; Benford and Snow 2000; and Meyer 2004).⁵ While these concepts were initially developed to explain the success or failure of social movement action in relation to national political systems, they can play an equally valuable explanatory role in labour movement research. While not focusing specifically on labour, Jeffery Ayres (1998) adopts a similar approach to link the emergence of popular sector movements and transnational networks to constraints posed by the Canada-U.S. Free Trade Agreement (FTA) and the North America Free Trade Agreement (NAFTA). He utilises three core conceptual tools to analyse protest and mobilisation against economic integration through trade liberalisation in Canada: "changes in the strength

⁵ Elements of this framework developed by the author have been previously utilised in an earlier analysis of national trade policy processes (see McGuire and Scherrer et al. 2010).

and resources of organisations, changes in political opportunities, and changes or transformations in the subjective consciousness of participants in movements” (Ayres 1998: 6).⁶

The concepts have also been successfully extended to the international political environment. Tamara Kay (2005) argues that negotiation of the North American Free Trade Agreement (NAFTA) constituted a new political opportunity structure for labour at the transnational level, in that the shared ‘threat’ of the consequences of the trade agreement ‘catalysed’ cross-border collaboration and cooperation. She identifies three primary dimensions of political opportunity structure at the transnational level that explain how power is established: The constitution of transnational actors and interests; the definition and recognition of transnational rights; and, adjudication at the transnational level. She argues the passage of NAFTA had both a political mobilisation effect, by stimulating labour to mobilise politically, and an institutional effect, by creating “new institutions through which labour activists could nurture transnational relationships” (Kay 2005: 724). Another example is Frundt's (2005) analysis of cross-border solidarity in the Americas, in which he utilises three strands of social movement theory to explore the structural relevance of political opportunities, the mobilization of networks as a resource, and the role of framing and reflexive identity, in building cross-border solidarity. These concepts have also been used to analyse environmental activism. Van der Heijden (2006), for example, develops a concept of international political opportunity structure (IPOS) to account for differences in lobbying and campaigning strategies adopted in relation to intergovernmental organisations. More recently, Verger and Novelli (2009) have used similar elements of social movement theory in their analysis of teachers’ union struggles against liberalising the education sector.

Indeed, social movement theorists have increasingly recognised the “multi-layered” nature of opportunity structure and the need to consider “how international pressures influence domestic opportunity structures” (Sikkink 2005: 151), and how international institutions can act as “arenas for social movement activity” (Sikkink 2005: 152), thus providing expanded nodes of opportunity structure (Tarrow 2005). Evidence increasingly points to the possibility for social movements and other political groups to actively transform opportunity structures at the international level and also to use international institutions to alter domestic opportunity structures (Sikkink 2005: 152; Tarrow 2005).

This movement of contention from the national to the international level (or vice-versa), or “scale shift” as it has been described (Tarrow and McAdam 2005), takes place through a number of processes (Tarrow 2005). Activists at the domestic level

⁶ Perhaps the earliest formulation combining these three concepts is by Douglas McAdam (1982) *Political Process and the Development of Mass Insurgency, 1930-1970*, Chicago: University of Chicago Press

co-opt global themes to fight domestic battles (through global framing or internalisation of contention), they attempt to shift the site of activism to a different level from which it started (through diffusion and/or scale shift), and, they seek to project domestic claims onto international institutions (externalisation) and/or they attempt to build common cause with networks of international actors with the same or similar grievances (transnational coalition forming) (Tarrow 2005: 32) .

Sikkink (2005: 153) identifies the need for research that more closely examines “how particular global constraints or opportunities interact with different kinds of domestic structures to produce different characteristic patterns of interaction”. She argues that there are a range of forms or patterns of interaction within domestic and international opportunity structure, determined largely by “how open or closed domestic and international institutions are to network or social movement pressure and participation” (Sikkink 2005: 171). The interaction of these international and domestic opportunity structures produces “particular types of environments for transnational collective action” (Sikkink 2005: 171), which activists at both levels can take advantage of, provided they are “aware of the possibilities created by this dynamic interaction” (ibid).

Sikkink (2005) identifies four “characteristic” patterns of activism emerging out of different combinations of domestic and international political opportunity structures. Where activists perceive opportunity structures at both the domestic and international level to be closed there are “[d]iminished chances of activism”. Where activists perceive domestic structures as closed and international ones as open, “boomerang” (Keck and Sikkink 1998) and “spiral models” (Risse and Sikkink 1999) of action are likely to emerge, in which activists seek to utilise opportunities at the international level in order to bring pressure to bear at the domestic level. Where activists operating in a relatively open domestic structure are “forced” into the international arena because decisions by their governments have moved “significant decision-making power” into less democratic and less open international institutions, more “defensive forms” of transnationalism are likely to emerge, in which activists “minimize losses rather than seeking gains”. Finally, where both international and domestic opportunity structures are considered to be relatively open, more mixed coalitions of “insiders and outsiders” are likely to emerge, which are capable of taking advantage of opportunities at both levels (Sikkink 2005: 164-5).

An analysis of the political opportunity structure (POS) impacting on a movement (in this case the labour movement at the international and national levels) 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). It can help explain why movements emerge or increase their activity at a given time, why some claims are advanced instead of others, why some alliances are cultivated instead of others, and why some kinds of political strategies are employed rather than others (Meyer 2004).

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 (see Rucht 1996: 189). However, following the example of more recent work by social movement theorists, such as McAdam, Tarrow and Tilly (2001) in *Dynamics of Contention*, and Tarrow (2005) in *The New Transnational Activism*, I attempt to overcome these limitations by combining the more structural approach of political opportunity, with elements of resource mobilisation and framing theory.

Resource Mobilisation Theory (RMT) recognises that far from being irrational, spontaneous or disorganised, social movements are the product of rational choice by individuals to join movements and the deliberate action by social movement organisations to obtain and organise resources so as to encourage mobilisation (McCarthy and Zald 1987). The two main claims of RMT are: a) that individuals join movement because they see some benefit for themselves in achieving a collective goal (beyond the common good); and, b) that movements must be able to secure control over the resources needed for mobilising collective action (ibid). Resources can include tangible factors such as people, facilities, money and means of communication and intangible factors such as the skills and expertise of its members (Rucht 1996). Therefore, a resource mobilisation approach can help address the questions of why people join movements, what resources are available to a movement and how they are organised and mobilised. It can therefore help explain why similar “objective” structural conditions (POS) may generate stronger or weaker mobilisation capacities (Fruendt 2005: 26).

However, both political opportunity structure and resource mobilisation theory have been criticised for focusing too strongly on structural factors while neglecting the important role of collective identity formation in mobilisation (Rucht 1996). The more structural approaches of political opportunity structure and resource mobilisation can be balanced by examining the ideational, social, and cultural contexts facilitating or restraining collective action. Such contexts are best captured through a framing approach, as outlined by Benford and Snow (2000) in their comprehensive overview and assessment of the literature on framing processes in relation to social movements.

A framing approach also captures discursive power relations because it recognises that “the struggle over the production of mobilizing and counter mobilizing ideas and meanings” (Benford and Snow 2000: 613) is a power struggle, and that movements and movement actors are active participants in this process. Social movements are not merely “carriers of extant ideas and meanings that grow automatically out of structural arrangements, unanticipated events, or existing ideologies”. They are sites

of struggle and “meaning work” in which “movement actors” are “actively engaged in the production and maintenance of meaning for constituents, antagonists, and bystanders or observers” (Benford and Snow 2000: 613). Framing is therefore an active process that entails both agency and contention:

It entails agency in the sense that what is evolving is the work of social movement organisations or movement activists. And it is contentious in the sense that it involves the generation of interpretive frames that not only differ from existing ones but that may also challenge them (Snow and Benford 2000: 613).

In other words, framing activity is an active, contentious process, which is deliberately employed by movements to build discursive and collective power and to challenge the power of oppositional forces. Indeed, as Levesque 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.

A focus on these three sets of factors, the political opportunity structure, the resources available to a movement, and the capacity to frame issues in a way that builds consensus and inspires action, should help explain variations in the dynamics of the union movement's mobilisation against the GATS: why this mobilisation emerged when it did, how it developed, and the strategies of contention utilised by activists involved. The case studies should help pinpoint which variations in these dynamics were most important for mobilisation. In addition, they should shed light on the interaction between domestic and international levels of opportunity structure and mobilisation. This should help fill the research gap identified by Sikkink (2005: 153) for research that more closely examines “how particular global constraints or opportunities interact with different kinds of domestic structures to produce different characteristic patterns of interaction”.

The following section expands on the key theoretical concepts and briefly explains how they will be applied.

Political Opportunity Structure (POS)

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). According to the literature, political systems are more likely to be open where divisions and conflicts between political elites exist, when there are changes to or instability within existing political alignments, and where potential allies are available within the political system (Ayres 1998; McAdam et al. 1996; Tarrow 1998; Meyer 2004). McAdam also sees the capacity and propensity for state repression as a significant factor in shaping “the level and nature of movement

activity” (McAdam et al. 1996: 28). As Tilly (1978) argues, 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.

POS is context specific. The responsiveness of a political system depends among other factors on the formal and informal channels available for social actors to access policy processes and put their concerns on the agenda, on the leading party in government, on the degree of policy consensus among policy makers, on the government’s perception of its vulnerability to social protest, 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). As noted earlier, the intrusion of international pressures into the domestic arena and the transformation of international arenas into sites of political contention, increasingly lead to multilevel arenas of action and therefore multilevel political opportunity structures (Sikkink 2005 and Tarrow 2005). At the international level, the political system includes international institutions of global economic governance, national member states, and other non-state actors.

In the trade policy arena, the nature of the political opportunity structure will be determined by the responsiveness of the political and organisational bodies which control the trade policy making process, the degree of access to the trade policy and agreement making process, the extent of elite consensus over trade policy, and the availability of allies. However, access does not equal influence. 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 (McGuire and Scherrer et al. 2010). Where policy proposals are framed in a way that aligns with previously held beliefs and values they are more likely to resonate with policy makers and decision makers, and they are more likely to be receptive to them. Where proposals call into question long held beliefs and practices on which current policies are based, it is unlikely that they will be well received by policy makers (ibid). Therefore another important dimension of the political opportunity structure is the legacy and degree of consensus on trade policy, as this will determine the discursive receptivity of policy makers. This forms part of the political and cultural context that conditions the influence of particular frames and claims (McCammon et al. 2007: 745). However, movement actors can also attempt to increase the receptivity of policy and decision makers through discursive exchange and interaction: by challenging or discrediting existing discourses; by re-framing issues to associate them more closely with accepted discourses; and, by building shared meaning. In other words discursive practices such as framing can also be used strategically to alter discursive receptivity (Hardy, Palmer and Phillips 2000).

Situational Opportunities

For analytical purposes, one can also distinguish between those longer lasting features of the political system that facilitate or constrain social actors, and opportunities for political action that arise from specific situations. The latter can be distinguished as situational opportunities (McGuire and Scherrer et al. 2010). Beyond channels of access and discursive receptivity, political opportunities depend on situational factors such as the emergence of ‘windows of opportunity’ due to changes in the electoral or policy process. McCarthy et al. (1996: 299) argue that electoral cycles can provide “windows of opportunity to bring issues to public attention and to the attention of elites”. Theoretically at least, it is 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 (ibid). In much the same way, key points in the trade negotiation process can also provide “windows of opportunity” for civil society actors to raise public awareness and to put pressure on government positions.

The negotiation of free trade agreements, whether at the multilateral, regional, or bilateral level, provides a number of points of access and opportunities for intervention and influence (McGuire and Scherrer et al. 2010). 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, to lobby members of parliament and try 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, or change its negotiation position, 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 Parliament or Congress, as is the case in the U.S.,⁷ or leaked, as was the case with the text of the proposed Multilateral Agreement on Investment (MAI) (Laxer 2003), 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

⁷ Members of Congress on the respective committees are regularly consulted by the administration.

cross-border solidarity and joint action through the creation of scandal around negotiating positions.

Mobilising and Organisational Capacity (MOC)

Political opportunity is only a starting point, or as McAdam et al. (1996: 8) express it, “a necessary prerequisite to action”. The ability 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) and its organisational capacity.

However, although resources are an important part of social movement theory (Tarrow, 1998; Rucht, 1996; Della Porta and Diani 2006), the concept lacks clarity (McAdam, 1996; Rucht 1996; Cress and Snow 1996).⁸ Therefore it requires some elaboration. In general, a movement 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 union movements, its mobilisation capacity includes its formal union 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 or the integration of ‘lay’ specialists.

While organisational capacity is not easy to define, Hyman (2007: 198), sees it as the ability of a union organisation or movement: “to assess opportunities for intervention; to anticipate, rather than merely react to, changing circumstances; to frame coherent policies; and to implement these effectively.” Structure and intelligence are two key elements of organisational capacity. Structure is important because it indicates, “the degree to which national trade unionism is unified or fragmented...and hence possesses the competence to aggregate diverse perspectives into a common set of priorities” (Hyman 2007: 198).

In fact, as Robinson (1994: 659) argues, the degree of trade union unity and coherence may be a better measure of union strength and potential power than union density alone (Robinson 1994: 659). Union density is used as a common measure of union strength but it doesn’t say much about the capacity of unions to mobilise members in support of issues deemed to be of concern (Robinson 1994). This capacity depends on the unity and coherence of the union movement and the effectiveness of unions’ mobilising and organisational structures, including such things as: the quality of internal affiliation and delegate structures and the level of

⁸ This point is also made by Pekarek and Gahan (2008) ‘From Resource Mobilisation to Strategic Capacity: Conceptualising Resources and Capacities in Social Movements’, Research Report 07/08 September 2008, WERRC, Melbourne: Monash University

member engagement in decision-making (democratic processes). Research by Peetz (1998: 194) has shown, that the degree to which unions stay in contact with their members, including how responsive they are to their needs and wishes, is one of the major factors affecting union retention rates and the willingness of members to take action. Good delegate structures are vital for this. They are also vital for educating members about the wider social forces impacting on their lives.

Intelligence refers to, “the extent to which unions and confederations possess specialist expertise in research, education and information-gathering, and the means to disseminate knowledge throughout the organisation” (Hyman 2007: 198). While this depends to some extent on resources available, it is also depends on the extent to which union movements see knowledge, “as an essential component of power” (ibid).

For the purposes of this research, the factors outlined above are grouped together as mobilising and organisational capacity (MOC).

Framing — Building Common Cause

Movements must also be able to build common cause or consensus around an issue. There must be a set of “collective action frames” (Benford and Snow 2000) that inspire people to become engaged, either by supplying resources or through participating in collective action. Benford and Snow (2000:14) define collective action frames as “action-oriented sets of beliefs and meanings that inspire and legitimate the activities and campaigns of a social movement organisation”. 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 hope that they can somehow redress the problem (McAdam et al.: 1996: 5).

In order to build common cause around an issue and inspire and legitimise their activities and campaigns, movements draw on sets of interpretive ideas, discourses and storylines from the existing “cultural stock” (Rucht: 1996) or ideology. This includes moral values about what is considered right or wrong (just or unjust). It is important to note that frames are not ideology and that ideology, defined as “a fairly broad, coherent, and relatively durable set of beliefs that affects one’s orientation not only to politics but to everyday life more generally”, can in fact, function as “both a constraint and resource” for framing processes (Benford and Snow 2000: 613, see footnote No. 2). As Zald (1996) 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 (Zald 1996: 267).

The way issues are framed also depends on the target group and the broader political and social context (McCarthy 1996: 292). Complex issues need to be ‘packaged’ in a

way that is consistent with “the ideals and contemporary values of civic life”. At the same time, they must be able to accommodate different audiences or target groups. Issues may need to be framed and promoted differently to mobilise union members then to win broad public support, or to get these issues on the governmental or electoral agenda, or to gain media attention. Access to the formal agenda is usually more limited and in order to gain acceptance, especially with policy makers, frames must be backed by credible supporting research and evidence.

Frames are not static. They may need to be adjusted at different stages of the ‘protest cycle’: starting simply to attract attention and becoming progressively more complex to retain interest (McCarthy 1996: 292-309) or changing to respond to new developments. In addition, frames are frequently contested, both within a movement and externally, by those in opposition. They are also transmitted and frequently ‘reframed’ through the diffusion process, especially in the mass media (Zald 1996: 261-262). Therefore, movements need to be actively engaged in a process of counter-framing and re-framing issues of concern.

Core Framing Tasks and Processes

Benford and Snow (2000) identify three main tasks of framing: to identify a problem and assign blame (diagnostic); to suggest solutions and strategies for dealing with the problem (prognostic); and, to provide a rationale for taking action (mobilising).⁹

Both diagnostic and prognostic framing encourage the development of consensus or agreement around an issue, while motivational framing provides compelling reasons for taking action. Motivational framing also helps legitimate the actions of the movement organisation (Snow and Benford 2000: 615). Gerhards (1995: 227) emphasises the need for frame articulators to “find and label an addressee for protests”, to “justify themselves as legitimate actors”, and to provide some proof or hope that action is likely to succeed in achieving goals.¹⁰ The different types and purposes of frames are summarised in Table 4. below.

Frames can vary in terms of their degree of openness and inclusivity, their scope and influence, and their degree of resonance (Table 5.). In general, the broader the frame and the wider the range of social groups that can be addressed, the greater the mobilisation: Provided that the various problems included in the frame are plausibly connected (Gerhards and Rucht 1992: 580, cited in Benford and Snow 2000: 618).

⁹ Benford and Snow (2000) provide a comprehensive overview and assessment of the literature on framing and therefore is used as the basis for explaining the core tasks and processes of framing.

¹⁰ Although Benford and Snow (2000) do emphasise the importance of credibility, of both frames and frame articulators (for resonance, for example), they do not elaborate sufficiently on these dimensions.

Table 4. Types and Purposes of Frames Needed for Collective Action

Frames	Purpose	Questions addressed
Diagnostic	Build consensus assign blame build anger	What is the problem and why is it a problem? (simplify) Why is it a problem? (injustice/threat) Why is it important to me? (relevance) Who or what is to blame? (target/addressee for blame)
Prognostic	Build consensus identify addressee solutions & strategies	How should the problem be solved? (goal/solution) Who should solve it? (addressee for action) What can we/you do about the problem? How can we do it? (strategy/collective action)
Mobilising	Reason to take action justify action build hope	How does/will this affect me/us? (relevance) Why should I/we listen to you? (legitimacy) How will my/our engagement make a difference? (motivation) What will happen if we don't take action? What are our chances of success? (hope)

Source: Benford and Snow (2000: 615ff) and Gerhards (1995)

The scope of influence is usually limited to a particular group or set of problems. However some collective action frames are sufficiently open, inclusive, and elastic to encompass a wide range of groups and issues. These can be referred to as ‘master frames’, in that they function as a kind of “master algorithm that colours and constrains the orientations and activities of other movements” (Benford and Snow 2000: 619).

Table 5. Variations in the Quality of Frames and Mobilisation Capacity

Frame quality	More likely to mobilise	Less likely to mobilise
Degree of openness and inclusivity	Inclusive, open, elastic, and elaborated - broad themes, wide range of groups addressed	Exclusive, rigid, inelastic, and restricted - narrow themes, restricted constituents addressed
Scope and Influence	Broad scope of influence - likely to influence a wide range of groups and set of issues (Master Frame)	Narrow scope of influence - limited to particular group and set of problems
Degree of resonance	Frame is consistent and empirically credible Frame articulator is credible - high status and expertise Framing is congruent with ideas and beliefs and daily experience	Frame is inconsistent, not credible Frame articulator is not credible - lacks status and expertise Framing clashes with existing beliefs, ideas or values too abstract and distant from daily life

Source: Benford and Snow (2000: 618-21)

The degree of resonance depends on the credibility of the frame, and its relevance to the targets of mobilisation (Benford and Snow 2000: 620). Credibility, in turn, depends on the consistency of the frame (congruency between beliefs, claims and

actions), its empirical credibility (fit between framing and real world), and the credibility of the frame articulators themselves: The greater the status or expertise of the frame articulator the more persuasive the frame is likely to be. The relevance of a frame depends on how close the espoused belief, idea or value is to that of the target of mobilisation, and how congruent it is with their every day experiences. Where an issue is framed in a way that clashes with existing beliefs and values of mobilisation targets or it is too abstract or distant from their daily lives, it is less likely to mobilise. Mobilisation is enhanced if frames tap into, or connect with, existing myths, ideologies and assumptions about life. The more culturally resonant messages are, the more likely they are to mobilise (Benford and Snow 2000: 621). These variations are summarised in Table 5.

Framing Processes — How Frames Get Made

In addition to the core framing tasks outlined above (Table 4.), Benford and Snow (2000: 624 - 625) identify three main sets of overlapping processes through which frames are created: discursive processes; strategic processes; and, contested processes.

The two main discursive processes (referring to speech acts and written communication) are a) “frame articulation”, which is the process of connecting and aligning events so that they create a new angle, vantage point, or interpretation, and b) “frame amplification”, which is the process of accentuating some issues or factors as more relevant than others. In some cases these accented elements can become symbolic slogans (Benford and Snow 2000: *ibid*).

Frames are also developed for strategic purposes, for example, to recruit, to mobilise, and to acquire resources. In this case, social movement organisations deliberately try to align their interests and “interpretive frames” with prospective constituents or resource providers. Snow et al. (1986: 467- 479) identify four basic processes through which this takes place: frame bridging; frame amplification; frame extension; and, frame transformation.

- Frame bridging is the linkage of “two or more ideologically congruent but structurally unconnected frames regarding a particular issue or problem” (Snow et al.: 467). It can be a way to link a social movement organisation to a previously unmobilised or unorganised group of individuals, or to other movements or groups.
- Frame amplification refers to “the idealisation, embellishment, clarification, or invigoration of existing values or beliefs” (Snow et al.: 469).
- Frame extension refers to a movement’s effort to incorporate participants by deliberately extending the boundaries of the proposed frame, so as to include or encompass the views, interests, or sentiments of targeted groups. This can be done by including issues and concerns that are considered as important to potential mobilisation targets (Snow & Benford, 1988: 478).

- Frame transformation refers to the process of changing or jettisoning old beliefs and values and generating or nurturing new ones (see also Tarrow, 1992: 188).

The construction of meaning is a contested process and movements are frequently confronted with attempts to undermine or neutralise their interpretive framework, especially by opponents, the media, and other institutional elites. This is referred to as counter-framing (Benford 1987: 75) and may lead to reframing and even framing contests. These processes are summarised in the table below.

Table 6. Framing Processes

Framing process	Sub-processes
Discursive processes.	Frame articulation Frame amplification
Strategic processes:	Frame bridging Frame amplification Frame extension Frame transformation
Contested Processes	Counter-framing Re-framing Frame-disputes

Source: Benford and Snow (2000), Benford (1987), Snow et al. (1986)

One of the weaknesses of framing approaches, which is identified by Benford and Snow (2000), is the lack of analysis of the specific frames and framing processes used by movements, and the dearth of methods to assess their potential effectiveness. One exception is the method developed by Gerhards (1995), in which he outlines the dimensions of an “ideal-type” frame with which to compare “real-type frames”. According to Gerhard's (1995) thesis, if protest actors want to mobilise effectively they must:

1. “find an issue and interpret it as a social problem,
2. locate causes and causal agents for the problem,
3. interpret goals and the chances of success of their efforts,
4. find and label an addressee for their protest, and
5. justify themselves as legitimate actors” (Gerhards 1995: 227).

Although he uses different terminology, Gerhard's “ideal-type” dimensions incorporate most of the framing dynamics and processes identified by Benford and Snow (2000), as well as emphasising a number of other important features (listed in core framing tasks above). This makes Gerhard's analytical method ideal for analysing the effectiveness of the framing messages and processes used by unions in mobilising against the GATS.

Framing and Political Opportunity Structure

As noted, framing is a dynamic contested process, which doesn't take place in a structural or cultural vacuum. 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. As Sikkink (2005: 156) notes, opportunity structures at both the domestic and international level are not static; they can vary over time, across intergovernmental institutions, issues, and regions. Movement actors are not passive in this process. They may also be able to frame changes in the political structure or context as an opportunity for collective action. However, as Sikkink (2005: 159) reminds us, to some extent the level of political opportunity or threat is “perceived and constructed by activists”. Therefore, movement actors must first perceive that opportunities exist, in order to take action. Therefore, while political opportunity structure can constrain or facilitate framing processes, political opportunity itself can constitute a “central component” of collection action frames (Gamson and Meyer 1996, cited in Benford and Snow 2000: 631).

Repertoires of Contention

As mentioned above, all of these factors, the nature of the political opportunity structure, a movement’s mobilisation and organisational capacity, and their capacity to build common cause around an issue, will impact on the strategies or “repertoires of contention” (Tilly 1978) utilised. In the social movement literature repertoires of contention refers to the variety of different modes of protest available within any given social context during a specific historical period (Tilly 1978). Decisions about which strategies to use will, in part, be determined by the political opportunity structure. As noted above, different political environments can restrain or facilitate particular forms of mobilisation. For example, where political strikes are illegal, or highly repressed through violence, this may restrain unions from utilising this form of collective action to achieve political goals. The choice of strategies will also depend on the stock of strategies and experience available to a union movement, either internally or through related sources such as networks and allies, and on the arena being targeted (McCarthy et al. 1996).

2.2 A Power Based Approach to Union Action

Social movement theory, as elaborated above, provides a useful framework for understanding the structural conditions in which labour movements operate, the political opportunities, resources, and repertoires of contention that they draw on, and how these resources are mobilised when they engage in struggles to influence international trade agendas. But it is not sufficient to understand where the labour movement draws its power for political action in the policy arena, especially in the face of the steady decline of traditional sources of union power in the context of globalisation. This trend has been well documented in various studies of union decline over the past decade and will not be elaborated in this study (see for example, Voss and Sherman 2000; Clawson 2003; Turner 2003; Hyman 2001, for South

Africa: Pillay 2008; Kenny and Webster 1998; for Australia, Peetz 1998). Power is important. As Tilly points out in his 'polity model': "it is the fight for power between members and challengers of the polity and the various political realities and political alignments facing the challengers that gives rise to collective action" (cited in Ayers 1998: 14). The following section introduces a power dimension to the theoretical framework, in order to shed light on the sources of union (worker) power and how unions seek to exercise this power in the trade policy arena.

Conceptualising Power

The multitude of conceptualisations of power point to the complexity of relationships between actors. We can speak of 'power over', 'power to' and 'power for'. Traditional approaches to power tend to focus on 'power over', that is, the capacity of an actor 'A' to influence (persuade) or force another actor 'B', to do what they wouldn't otherwise have done (Dahl 1957). However, as Dahl (2001) later clarifies, to do so, 'A' must have a 'source' or 'base' of power, the means or instruments to evoke or exert that power, and a connection to those whose behaviour they seek to alter. The amount or extent of the power exerted will depend on the likelihood that 'A' can get 'B' to act, while the range and scope of power will be determined by 'B's possible responses (Dahl 2001). Other approaches, such as Lukes (2005), highlight another more hidden dimension of power that includes the ideological forces that constrain agendas and shape people's capacity to imagine alternatives. Where people cannot imagine alternatives it is difficult to mobilise them to take action for change.

Lévesque and Murray (2010) see 'power to' as the most relevant conceptualisation of power for unions because it focuses more on agency — on the ability of agents to bring about significant effects, to advance their own interests and/or to affect the interests of others. In this case, unions' "capacity to represent workers' interests, to regulate work and to effect social change" (Lévesque and Murray 2010: 335). They argue that union 'capacity to' should therefore be the "starting point to understand union power" (Lévesque and Murray 2010: 335). The concept of 'power to' also captures the capacity of one actor to persuade another to 'willingly' change their position and to engage in acts of cooperation. This 'persuasive' dimension of power seems to be missing from most other conceptualisations of power. However, it would seem to be important when looking at union mobilisation.

Sources and Manifestations of Union Power

A power-based perspective of trade unions as political actors in global governance, emphasises that union power is multi-faceted and that unions have a range of forms of power available to them. In fact, trade unions and their international organisations are, themselves, an expression of the collective and organisational power of workers (Silver 2003). And, while union power across the developed world may have declined over the past few decades, unions nonetheless remain critical economic, political, institutional, and social actors (Behrens, Hamann and Hurd 2004: 14-16).

Indeed, as Hyman (2001b) argues, unions cannot avoid being both political and social actors:

To assert effective influence on the market, trade unions must address the state, and in order to assert the relevance of an alternative ‘moral economy’ they must also participate in civil society (Hyman 2001b: 15).

As political and social actors, unions can draw on a wide range of different but interrelated dimensions or forms of power in order to press the economic, political, and social claims of workers, both within and outside the workplace. These are elaborated below.

Associational and Structural Power

In *Forces of Labour*, Beverly Silver (2003) challenges the notion that the current process of globalisation has structurally weakened labour’s power in an unprecedented way. She acknowledges the impact of globalisation on traditional sources of union power but at the same time she also identifies new sources of power arising out of the processes of global restructuring.

Silver distinguishes between different sources of workers’ power and draws on concepts from Marx and Polanyi to identify two forms of labour unrest. One form of unrest consists of “Marx-type” struggles by “newly emerging working classes”, which are “successively made and strengthened” by capitalism as it relocates to new spaces and locations. The other form consists of “Polanyi-type” struggles against the spread of “a global self-regulating market” by existing working classes “that are being unmade by global economic transformation” and by those workers “who had benefited from established social compacts”, which are now being abandoned (Silver 2003: 20).

There is no single form of worker power. As Silver’s (2003) analysis shows, workers make use of different but interrelated forms of power to press their economic and political claims. Utilising the distinctions made by Eric Olin Wright (2000: 962), Silver (2003: 13-15) distinguishes between two types of union power: associational and structural power. Associational power arises from the workers’ self-organisation into collective organisations such as trade unions and political parties, while structural power is derived from the location of workers within the economic system.

Structural power can be further divided into ‘market bargaining’ power and ‘workplace bargaining’ power. Market bargaining power derives from restricted labour markets. Any factors that restrict the available supply of labour, such as the possession of scarce skills, low levels of employment, and the available exits from the labour market, will strengthen the power of workers to bargain in the labour market. Workplace bargaining power, on the other hand, draws its strength from the strategic location of workers within the production system, particularly in tightly intermeshed production systems and key industries, where a localised stoppage could severely disrupt overall production.

These different forms of structural power encourage different forms of collective organisation or association. Workers in tightly intermeshed assembly line production are able to organise on the basis of strong workplace bargaining power, whereas those with limited structural power, in industries where production can be easily shifted or rerouted, such as the textile industry, need to strengthen their associational power (Silver 2003: 92-94).

As Silver (2003: 13-15) acknowledges, both associational and structural power are weakened by the current practices of globalisation. Because the associational power of workers (at least in the formal sense) is located in a specific state legislative framework, any weakening of the social state (as a result of globalised competitive pressure) such as de-regulation or weakening of labour laws or decreases in social benefits, makes it harder for unions to organise and deliver workplace and social benefits. This, in turn, decreases their legitimacy and associational power (ibid). At the same time, the marketplace bargaining power of workers is undermined by factors such as the ability of capital to shift production to low-cost labour locations, the global over-supply of labour, the lack of alternatives to wage labour (and thus lack of exits from the labour market), and reductions of social security nets, all of which are associated with globalisation. In addition, both associational and structural power, are undermined by sub-contracting and outsourcing (Silver 2003: 13-15).

However, Silver (2003: 15) sees globalisation as also providing opportunities for unions to compensate for loss of power in one area, by drawing on other sources of power. She argues that globalised forms of outsourced production may actually strengthen labour's workplace bargaining power. Firstly, by creating new, strategically located working classes at relocated points of mass-production, and secondly, by introducing extended production systems, such as just-in-time production and global production chains, which are much more vulnerable to disruption by workers in strategic locations (ibid).

Silver (2003 110-111) also identifies new strategies to strengthen associational power. Using an analysis of campaigns to organise low-paid vulnerable service sector workers in the United States (in particular the Justice for Janitors campaign organised by the SEIU)¹¹ Silver demonstrates that unions can compensate for low levels of workplace and market bargaining power by "recasting associational power and developing a new model of organising that is more community based rather than workplace based". The campaigns analysed by Silver also employed a more confrontational style of unionism, which included public protests and public targeting of key employers and power holders (Silver 2003: 110-111 and 170-72). However, it should be noted that the SIEU model is focused predominantly on work sectors that

¹¹ The Service Employees International Union (SEIU) is one of the fastest growing unions in the US. It organises in health care, public services and property services, including janitors, food operators and security services (www.seiu.org).

are not easily relocated abroad and thus does not address the relocation threat, which, as Silver herself recognises (2003: 13-15), is one of the key factors undermining workers' associational power

Symbolic and Logistical Power – New Sources of Power?

In their book, *Grounding Globalisation. Labour in the Age of Insecurity*, Webster, Lambert and Bezuidenhout (2008) explore ideas about how labour can be re-powered through engaging space and scale in new ways. Building on research by Chun (2005), they argue that Silver's analysis of worker power can be extended by introducing the concept of "symbolic power". Symbolic power is a form of associational power that draws its strength from moral power – i.e. claims about what is right or wrong (Webster et al. 2008:12).

Webster et al. (2008) argue that symbolic power can be utilised to develop new associational strategies, which may help compensate for erosion of the structural power of workers and the unions that represent them (see also Webster and van Holdt 2008). Symbolic power is exercised by shifting 'moral' claims that originate in the workplace, into the public domain, where they are expressed as general social claims. Because moral claims involve struggles over what is considered 'right' versus what is considered 'wrong' they can provide a broad basis for an appeal, not just to the public and politicians but also to possible civil society allies (Webster et al. 2008: 12). However, one should also keep in mind that moral claims can be something of a potential 'minefield' because of their contested nature and depending on which basis 'right' or 'wrong', is assessed: tradition, philosophy, religion, natural law etc.

Another potential new source of power identified by Webster et al. (2008: 13), is "logistical power", which is a form of structural power exercised outside the workplace. Logistical power turns the logic of globalisation on its head, by using the "politics of space" to interrupt global production at key locations in the production process. For example, by blocking roads and lines of communication or by crashing internet servers.

As symbolic power takes morality outside the realm of the employment relationship into the public domain, logistical power takes structural power outside the workplace and into the public domain (Webster et al. 2008: 13).

However, whether this can be considered a 'new' source of power, or even strictly a union power, is somewhat debatable. The power of disruption has always been a basic citizen's power and is often a step toward a general uprising. Its use also depends on the repressive nature of the state and its willingness to prosecute individuals or groups taking such action.

The theme of symbolic power is further developed by Chun (2009) in her studies of recent union campaigns among low-wage service workers in the United States and South Korea. She sees the increase in, "vibrant forms of collective action that go beyond organised labour's traditional weapon – the strike – and mobilise the broader

public alongside unions”, as evidence that the “symbolic” has become a key site of contestation in contemporary labour struggles” (Chun 2009: 3). For Chun, contemporary forms of symbolic struggle reflect the broader “political struggles” referred to by Bourdieu (2000: 185, cited by Chun 2009: 4), “for the power to impose the legitimate vision of the social world...and the direction in which it is and should go”. Drawing on Bourdieu’s concepts of symbolic power, Chun (2009: 17-23) fleshes out Silver’s concept that marginalised workers can “leverage” (add strength to) associational power in order to achieve economic gains (Silver 2003: 10).

Using this framework, Chun claims that the “morally charged” public struggles by low status and non-standard workers in the United States and South Korea, to improve their status and working conditions, constitute a new form of “symbolic leverage”. By embedding their demands in the contested area of culture, and public debates about values, rather than in the narrow confines of a workplace, Chun (2009) argues that these workers were able to use symbolic struggles to strengthen their associational power, thereby compensating for their lack of structural power. According to Chun (2009:17):

Symbolic leverage attempts to rebuild the basis of associational power for workers with weak levels of structural power and blocked access to exercising basic associational rights by winning public recognition and legitimacy for their struggles.

Chun identifies two dimensions through which symbolic power operates. One dimension is through classification struggles aimed at, “redefining what it means to be a ‘worker’ and an ‘employer’ in the eyes of the public, rather than in the law” (Chun 2009: 18). The other is through “public dramas”, which appeal to “historically and culturally contested notions of justice that have acquired moral force during previous symbolic struggles” (Chun 2005 cited in Chun 2009: 18). Chun argues that such “symbolic capital” (Chun 2009: 15) can be a potent source of alternative power.¹²

Institutional Power — a Neglected Dimension

In their article on strategies for trade union renewal in Germany, Dörre, Holst and Nachtwey (2009) identify another source of worker power, institutional power, which they claim is ignored by Silver (2003), but which plays a significant role, especially within developed capitalist economies, such as Germany.¹³ According to the analysis by Dörre et al. (2009), institutional power represents past social compromises achieved by workers’ strong organisational (associational) power.¹⁴ These have been

¹² Keck and Sikkink (1998) *Activists beyond borders*, also refer to alternative forms of leverage based on symbolic politics.

¹³ This assessment seems a bit harsh. While not making institutional power explicit, Silver (2003) implies it in her reference to the associational power of workers being located in a specific state legislative framework.

¹⁴ Doerre et al. (2009) use the term organisational power rather than associational power.

subsequently incorporated into societal institutions and continue to be applied during ongoing economic cycles, even where power relations within society may have changed. These institutions may take the form of labour laws, wage setting and bargaining arrangements or institutionalised forms of social dialogue. While such social compromises cannot be institutionalised without strong organisational power, once “conceded by the opposing forces”, institutional power reinforces the organisational power of unions. However, any erosion or weakening of these institutions may negatively impact on the capacity of unions to represent workers. At the same time, without organisational power and a strong union voice the existing institutions will also eventually be weakened and the institutional power eroded.

Dörre et al (2009), link the level of institutionalisation of workers’ power to the variety of capitalism (based on the model developed by Hall and Soskice 2001),¹⁵ with low levels of institutionalisation evident in liberal Anglo-Saxon forms of capitalism and higher levels evident in “Rhenish-corporative” forms of capitalism, such as the system of dual representation of interests in Germany. However, one could also point to the embedding of past social compromises in the institutionalised system of arbitration and conciliation underpinning the ‘Award’ system in Australia (see Peetz 2002) and the extensive system of ‘tripartism’ that has been institutionalised in South Africa (Webster and Sikwebu 2010). According to Webster and Sikwebu (2010), tripartite institutions such as the National Economic Development and Labour Council (NEDLAC) are the result of a successful struggle by organised labour to have a say in the economic arena of the newly emerging democracy of South Africa.

While such institutional arrangements represent the exercise of political power based on the existing (or past) strong organisational power of workers, Dörre et al. (2009) warn that they also embed particular forms of strategic behaviour, which can both enable and limit the actions of unions, both as organisations of workers and as political actors.

Networking and Coalition Building – Leveraging Associational Power

Coalition building has been identified in the union revitalisation literature as one of the key strategies for rebuilding union power (Turner 2003; Frege and Kelly 2004; Frege, Heery and Turner 2004; Tattersall 2010). Frege, et al. (2004) argue that coalitions can provide unions with additional financial and physical resources to achieve goals, as well as access to new groups, expertise, legitimacy and wider mobilisation. According to their analysis of trade union coalition building in five countries, 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

¹⁵ Also utilised by Frege and Kelly 2003 and 2004 to compare ‘varieties of unionism’ and union revitalisation in various countries.

union decline), 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. 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 available “points of access”, the level of state centralisation, and degree of consultation. The form of the coalition which emerges depends on its purpose, whether they are “coalitions of influence” or “coalitions of protest”, and the nature of the relationship between the coalition partners (Frege et al. 2004: 144). National context, union identity and differences in the union movement and its environment can also have an impact (Frege et. al. 2004: 145-148).

The potential for building power through coalitions is further developed by Amanda Tattersall (2010). Tattersall (2010) argues that coalitions can help unions generate political pressure, help build organisational strength, increase knowledge, increase membership participation, and expose unions to new strategies. Tattersall distinguishes between what she refers to as an instrumental approach to coalitions, which see them as an add-on to union power, what she refers to as ‘zero-sum’ approaches, and ‘positive-sum’ approaches where unions and community organisations build power together, in the process increasing the power of each organisation.

Discursive Power — the Missing Dimension (?)

Another important dimension of power, which would seem to be important for trade union attempts to influence trade policy, but which seems to be largely missing from discussions of union power, is the role played by more ideological forces in shaping power relations within the political process (the hidden dimension of power referred to by Lukes 2005). Power is not only exercised through material or economic means, it is also exercised through specific discourses, which shape meaning and perceptions of social reality.

According to Hajer (1995: 44), discourses consist of specific ensembles, “of ideas, concepts, and categorisations that [are] produced, reproduced, and transformed in a particular set of practices and through which meaning is given to physical and social realities.” At the same time, individuals’ ideas are to some extent formed within the specific discourses, or sets of “regulated practices” within which they operate (Hajer 1995: 49). In other words, discourse structures reality, or at least perceptions of reality. To use Hajer’s example, the academic discipline of Physics can be considered a discourse, which is “produced, reproduced, and transformed through practices like academic teaching, laboratory experiments, and peer-reviewed journals” (Hajer, 1995: 44).

Using the same logic, neo liberal globalisation can also be seen as an example of a discourse — in that it is “produced, reproduced, and transformed” through a specific

set of practices, in this case trade liberalisation (trade-flows), neo-liberal economic theory (including journals and leading economists), hegemonic national governments (such as the US), and institutions of global governance such as the WTO, the IMF and the World Bank. Within this overarching discourse, free trade can be considered a sub-discourse, which is “produced, reproduced, and transformed” through practices such as trade negotiations and trade agreements, a multilateral trade regime and a set of rules for trade (including a dispute mechanism for enforcing these rules), and also academic and economic journals and think tanks that promote the benefits of trade liberalisation.

Dominant discourses such as globalisation and free trade can constrain union action by excluding them from the discourse, by promoting the belief that there is no alternative to the current system and thus disempowering people, or by delegitimising alternative ideas and making them difficult to even talk about (for example, by dismissing them as ‘protectionist’).

However, even dominant discourses can be contested through discursive practices. Hajer’s conceptualisation of discourse and discursive power recognises the capacity of language to profoundly shape our view of the world and reality, of what is believable and not believable, and what is possible and not possible. This applies to the political realm as well. The “argumentative approach” developed by Hajer (1995: 58-9), “conceives of politics as a struggle for discursive hegemony in which actors try to secure support for their definition of reality”. Political conflicts cannot be reduced to simple conflicts of interest between competing groups (Hajer’s 2006: 66). They include contested ideas about the meaning that people attach to particular issues, and the way this relates to their cultural understandings and their understanding of the state of society in general, and politics in particular (Hajer 2006: 66). Therefore, politics, can be impacted by language. Hajer (2006: 67) argues that “[l]anguage has the capacity to make politics, to create signs and symbols that can shift power balances and that can impact on institutions and policy making”.¹⁶ However, language is not a “passive set of tools”, instead it is through “discursive interaction”, language in use, that new meanings and identities are created, which can alter cognitive patterns and create new ways of thinking and new positionings (Hajer 1995: 59). “Hence discourse fulfils a key role in processes of political change” (ibid).

Using Hajer’s conceptualisation, the deliberate construction of ‘collective action frames’, to build common cause, to challenge existing discourses and to construct new ones, to make claims and to mobilise collective action, is a discursive strategy. As are lobbying and other advocacy strategies that strategically utilise ‘collective action frames’, symbols and storylines linked to existing norms, values and ideas, in order to persuade, to challenge and to put their ideas on various agendas. Symbolic

¹⁶ Although not mentioned by Hajer one could also include the visual as an important form of ‘symbolic’ language.

power, embedded as it is in “the contested area of culture and public debates about values” (Chun 2009), can therefore be seen as a form of discursive power.

However, while discourse can be used strategically, the strategic use of discourse is not “infinitely pliable” (Hardy, Palmer and Phillips 2000: 1228). The scope of action is constrained by the broader context in which it is embedded, and which, to some extent, shapes the actions of strategic actors (ibid). In other words, the POS. In addition, discursive strategies such as lobbying, also draw on the ‘implied’ associational power that lies beneath the articulators. Such strategies draw not only on discursive power to persuade their target of the truth or relevance of their claims, but also the potential to mobilise collective action in support of these claims. In other words, the MOC. As Robinson (1994) reminds us, the strength of labour’s power ultimately rests on, or is in some way derived from, the mobilisation power of workers. Where this power is weakened, strategies that rely on discursive forms of power could also be undermined. Forming alliances with other groups concerned about the same or related issues can strengthen both discursive and collective (associational) power. This makes networking and coalition-building the other key strategy necessary for political action.

As outlined above, a discursive approach to power can help explain how actors, interests and preferences are constituted by discourses and how such discourses can represent both the exercise of power ‘against’, and a source of power ‘for’ movements. However, one should be cautious about claiming too much about discursive power as a source of union power. Perhaps it is best to see discursive power as an ‘enabling’ or ‘disabling’ power, rather than as a direct power. As an ‘enabling’ power it is essential for building support behind a position, for mobilising collective action, and for contesting dominant ideas and practices. Framing is one of the key ways in which discursive power is exercised. The discursive capacities and framing capabilities of unions are therefore important (Lévesque and Murray 2010). As Lévesque and Murray (2010) point out, unionists “are not passive agents who simply adapt to globalization and implement policies laid down from the top. They formulate strategies on the basis of their own view on how best to shape and implement these policies. These framing capabilities characterize a union’s ability to define a proactive and autonomous agenda.”

A Typology of Union Power

From this overview of the literature on union power, it is possible to construct a typology of ‘ideal types’ of power available to unions, including their source and common manifestations: 1) Associational Power; 2) Structural Power; 3) Institutional Power; and, 4) Discursive Power. However, these ‘ideal types’ should not be seen as competing but as interrelated and intertwined; rarely existing by themselves but combining in unexpected ways that can enhance or leverage each other (see Table 7).

Table 7. Form, Sources and Manifestations of Union Power¹⁷

Form	Source	Manifestation
Associational Power	Embedded in the collective - Organisation into collective organisations Includes organisation into coalitions and alliances	- Trade union /collective bargaining - Labour supportive political parties - National and trans-national coalitions and alliances
Structural Power	Embedded in the economy Market bargaining power: Restricted labour markets (scarce skills, low unemployment, available exits from labour market); Workplace bargaining power: Strategic location within production system	- Withdrawal of labour - Exit from job or labour market - Withdrawal of labour, strikes, localised stoppages etc.,
	Logistical Power: Embedded in the public domain - power of disruption/ with appeals to 'moral' claims	- Blockades and disruption – structural and communication e.g. block supply, crash internet server
Institutional Power	Embedded in past social compromises (incorporation of collective and structural power into institutions)	- Labour laws/ Societal institutions e.g. Award system in Australia, tripartite institutions South Africa.
Discursive Power	Embedded in social processes: Systems of knowledge, production of meaning and legitimation.	- Constructing 'collective action frames' that build solidarity and challenge existing hegemonic discourses. - Lobbying, discourse coalitions and advocacy networks, capturing media/public support
	Symbolic Power: Embedded in the public domain - public moral and symbolic contestation of what is right and wrong. Draws on socially existing meanings, norms, custom, and social identities.	- Use of 'moral' and symbolic references to 'frame' an issue in public domain and build public support, including coalitions & alliances with non-union groups

Sources: Silver (2003), Chun (2005 and 2009), Webster, Lambert and Bezuidenhout (2008) Dörre, Holst and Nachtwey (2009), Frege and Kelly (2004), Tattersall (2010), Hajer (1995, 2003 and 2006).

¹⁷ This typology is drawn from the literature mentioned. However, the original idea for including a power dimension in my research was based on a presentation by Professor Edward Webster at a GLU Workshop in South Africa in 2007. Dörre et al. (2009) also utilise a similar power resources approach ('Jenaer Machtressourcen-Ansatz') but without discursive power.

Power and Political Opportunity

In order to intervene in the trade policy arena unions draw on a source or multiple sources of power, as outlined in the typology of union power above. The choice of strategy used will depend not only on the aim of the union organisation/movement but also on the nature and extent of the power sources/resources available to it, and its capacity and willingness to exercise them.

The range of power resources available will be shaped by the political opportunity structure (POS) in which unions operate, generally within the society in which they are embedded, and more specifically, within the policy arena in which they seek to act. While union power is determined to a large extent by the collective and structural power of its members (Silver 2003), it is also determined by the constellation of relationships between unions, the state, and employers, which constitute the context within which unions are situated in a particular society (Hyman 2001). Changes in the social and political context can lead to changes in the availability and use of particular power resources.

Decline in associational or institutional power can push unions towards adopting new strategies and alliances that enhance or strengthen existing sources of power (e.g. discursive capabilities and coalition building). Where one source of power is not available unions may be able to shift domains to take advantage of alternative forms of power.

Chapter 3. Taking Services to Market

3.1 Introduction

Union mobilisation against the GATS needs to be seen in the context of existing and ongoing privatisation in the public sector and a growing interest in trade in services. Increasingly, services are seen as a valuable commodity for export and a way to stimulate sometimes flagging industrial economies (Kelsey 2008). However, even prior to public mobilisation against the GATS, many governments in both developed and developing countries had already taken initiatives to privatise and liberalise parts of the public sector (Hall 2001). A 2001 report commissioned by Public Services International (PSI) on ‘Globalisation, Privatisation and Healthcare’ (Hall 2001), found that the increasing trend towards privatisation was being driven through a number of channels: Through the projects and policies of international institutions like the International Monetary Fund (IMF), the World Bank, the Organisation for Economic Cooperation and Development (OECD), and more recently the WTO; through the commercial and trade interests of multinational corporations (MNCs); and, finally, through government decisions, made as a result of factors such as national politics, rising costs, reduced tax revenues, international pressures, financial and economic crises, and also, the perception of financial opportunities (Hall 2001). However, on the whole, the trend towards privatisation of services has been driven as much by the ideological shift to neo-liberal economics as by economic factors alone (PSI/EI 1999b).

While these problems were not caused by the GATS, the introduction of trade in services into the multilateral trade regime has been perceived as creating additional pressure for privatisation of public services, especially in health care, education and, more recently, water. Critics also claim that further liberalisation of services through the GATS has the potential to undermine the status of public services in a more fundamental and systematic way (PSI/EI 1999a and b, Kelsey 2008).

The specific debates about the impact of the GATS have therefore been situated in the wider debate about protecting public services. The possibility of subjecting public services to market mechanisms has raised questions about what constitutes a ‘public service’ or ‘public good’, and whether these should and can be protected as ‘social rights’; particularly if they become ‘private goods’ totally subject to market forces, rather than being supplied and/or regulated by governments (for further discussion of the issue of public goods see Kaul et. al. 2003). Susan George (2003), for example, argues that the promotion of further liberalisation of education through GATS is part of a “new politics of trade around knowledge and education services”, that reconceptualises education as “a private commodity exchanged in the global market place”. This, in turn, raises questions about who should govern education – global market forces or national governments on behalf of civil society. And, whether education should be retained as a ‘public good’ or be regarded as just another

tradable commodity. If it becomes a tradeable commodity this could impact on the ability of national and sub-national governments to regulate and govern education in ways designed to protect cultural values and ensure universal and equitable access.

These concerns can be seen in a number of detailed reports by NGOs and unions, which were written between 1999 and 2001 as a response to the start of a new round of trade in services negotiations (see for example, Sinclair 2000; Pollock and Price 2000; PSI /EI 1999a and b; Gould and Clare 2000). These reports were widely distributed and formed the basis of many of the arguments subsequently used against the GATS.

Before looking at the global and local union struggles which emerged against the GATS, it is important to understand something of the story of how the GATS came into being, and how the politics of the negotiating environment changed as the round unfolded. The processes and politics of the negotiations themselves formed a vital part of the context in which the union (and wider civil society) struggles against the GATS took place.

3.2 The Story of the GATS Negotiations

As Kelsey (2008) argues in her in-depth analysis of the political economy of trade in service agreements, the GATS is best understood as part of a “hegemonic project”, driven by the U.S., with the support of an ‘epistemic community’ of services lobby groups, think tanks and academic supporters.¹⁸ In *Serving Whose Interests? The political economy of trade in services agreements* (2008), Kelsey documents how the concept of a trade in services agreement was first hammered out in the Trade Committee of the OECD, before being transferred to the multilateral trade regime and incorporated as one of the agreements of the newly established World Trade Organisation (Kelsey 2008: 82).¹⁹ The introduction of services was heavily resisted by India and Brazil, “as the lead advocates for the global South” (Kelsey 2008: 58). This schism between developed and developing countries (or North and South) has remained a defining feature of the services negotiations.

Nonetheless, the engineers of the GATS did not obtain everything they wanted. According to Kelsey (2008: 75), “[...] the GATS fell well short of the original ambition of a generic set of rules that would open services markets and dismantle regulatory barriers”. Developing countries managed to ensure that a positive list approach was institutionalised, which gave them the right to choose the sectors and subsectors that they agreed to liberalise under the GATS and also to limit the extent

¹⁸ The following section draws heavily on the detailed research conducted by Kelsey (2008), especially Ch.1 ‘Reading the GATS as Ideology’ and Ch.2. ‘How the GATS was won (and lost?)’.

¹⁹ The influence of lobby groups is well documented by Wesselius (2001) in a paper published on *GATSWatch* (www.gatswatch.org/LOTIS/LOTIS.html).

of coverage in particular sectors. This is opposed to approaches that mandate specific numbers and types of commitments, or a 'negative list' approach in which anything that is not specified as an exception is automatically covered. While the positive list approach was seen as a major achievement by developing countries, critics have since argued that the reality of the WTO negotiating process "... exposes developing countries to intense pressure not only to open more sectors than they would themselves choose, but also to withdraw key conditions and requirements on foreign investors" (Hilary 2003).

The first commitments in liberalisation of services were undertaken as part of the 'single commitment' of the Uruguay Round (1986-1994) of the General Agreement on Tariffs and Trade (GATT), the international trade treaty that preceded the establishment of the WTO. These commitments included a built-in agenda that mandated the progressive liberalisation of services, including a new round of negotiations to begin by 2000, with the aim of achieving "a progressively higher level of liberalization" (GATS Article XIX: 'Negotiation of Specific Commitments', cited in Kelsey 2008). These negotiations were scheduled to begin, independently of a comprehensive trade round (Sauvé 2002a). There was also considerable 'unfinished business' left over from the Uruguay Round of negotiations, including rules and disciplines on emergency safeguards, subsidies, government procurement and domestic regulation (Sauvé 2002a: 303).

Despite the failure of the WTO to launch a new round of comprehensive trade negotiations at the Ministerial Conference held in Seattle in 1999 (the so-called Millennium Round), "champions" of the GATS remained optimistic about achieving their aims of more extensive commitments and stronger rules (Kelsey 2008: 43). However, the path of negotiations turned out to be anything but smooth (Kelsey 2008: 43-50). In contrast to the optimistic climate in which the GATS had been launched, in the mid 1990s, by 2000 there was a shift in the ideological climate, with neoliberal globalisation being blamed for "financial instability, economic collapse, social misery and deepening inequality" (Kelsey 2008: 75; see also O'Brien et al. 2000). Differences soon emerged over the aim of the round and concepts of development, with tensions and disagreements between member states following "a largely North/South fault-line" (Kelsey 2008: 43). Services exporters from northern developed countries sought to, "revise the GATS and secure new liberalisation", while governments of developing countries (located mainly in the South) insisted on "flexibility, policy space and support for development" (ibid). According to Kelsey, "[i]t soon became clear that the development promises included in the GATS 1994 were a sham", with developed countries such as the U.S. arguing that the best way for developing countries to reach development aims was to, "make sure consumers had access to high quality, innovative services through cross-border supply and by reducing restrictions on foreign investment" (Kelsey 2008: 43).

In terms of the political configuration within the negotiations, the EU took over from the U.S. as the major ‘demandeur’ in services, along with groups of other developing countries with ‘offensive interests’ in services, including Australia, Canada, Chile, New Zealand and Japan. According to Kelsey (2003: 43), India and Brazil took the lead in pushing for a mainly pro-development stance, albeit with their own defensive interests, at least up until they joined the “inner circle after 2003”, when their protests became “more muted”. The mantle of developing country vanguard was later taken up by Venezuela and Cuba, with other southern governments engaging in various levels of activity and “passive resistance” during the negotiations (Kelsey 2008: 43). This split in the elite made disgruntled developing countries natural allies for civil society groups that opposed the GATS and opened up opportunities during negotiations for leveraging divisions and forming alliances.

Two major areas of dispute between North and South (developed and developing countries) emerged during the course of negotiations. One was the lack of a comprehensive assessment of trade in services, including its developmental objectives, even though this was a requirement under Article XIX of the GATS. The other was the ongoing attempts by GATS supporters to increase the level and quality of services commitments by introducing ‘generic’ or ‘formula’ approaches (Kelsey 2008 44-55). These were designed to mandate a certain level of commitment and thus increase the liberalisation process.

Developing countries lost the assessment debate but prevailed on the negotiation process (Kelsey 2008: 44-45). The guidelines and procedures for negotiations adopted in March 2001, maintained the existing GATS guidelines, giving members the right to specify which service sectors and types of supply they were prepared to commit, and the request-offer approach for negotiations. Through this process countries submit requests for other countries to make commitments in specific services (to liberalise them) or to reduce restrictions in existing services. Countries then decide how they will respond to the requests and make an offer.

Once the Doha round of trade negotiations was launched in November 2001, the existing GATS negotiations were incorporated into the Doha work programme and the ‘single undertaking’, which requires members to accept or reject the final outcome of all negotiations in a single package. This effectively linked the services negotiations to parallel negotiations in agriculture and Non-Agricultural Market Access (NAMA),²⁰ and increased the likelihood that services would be ‘traded-off’ to obtain market access in these areas (especially agriculture). As part of the Doha work schedule, a deadline of 30 June 2002 was set for members to submit initial GATS requests, with initial offers to be submitted by 31 March 2003. It was envisaged that

²⁰ NAMA refers to all products not covered by the Agreement on Agriculture. In other words, in practice, it includes manufacturing products, fuels and mining products, fish and fish products, and forestry products (www.wto.org).

the round would be completed by 1 January 2005 (Kelsey 2008: 45-6). The short timetable for negotiations lent considerable urgency to the process, on the part of both supporters and critics of the GATS. Critics and activists predicted a flood of demands in public and social services, especially education and healthcare and intensified their lobbying and awareness raising (Waghorne Interview 2009).

The request-offer process was confidential and highly secretive but on February 2003 a series of confidential European Union GATS negotiating documents were published on the GATSwatch website (GATSwatch 2003).²¹ The documents, outlining all of the EU's 'requests' to 109 countries stretched to thousands of pages. The leak and subsequent wide-spread international media coverage caused a furore (GATSwatch 2003), which was utilised by anti-GATS activists to raise concerns about the GATS with targeted countries, and intensify pressure on governments not to make commitments or demands, especially in sensitive areas such as public and social services. Only 10 countries met the March 2003 deadline for submitting offers, with more offers 'trickling' in during the lead up to the 5th WTO Ministerial in Cancun, held in September 2003.

As it turned out, services were not a big issue at the Cancun Ministerial. However, the change in the political dynamics as a result of the meeting had a flow-on effect on services negotiations (Kelsey 2008). Negotiations at the Cancun Ministerial collapsed after only a few days following the refusal by different coalitions of developing countries (including a newly formed G-20 group of agriculture exporting developing countries), to include the so-called 'Singapore Issues' of investment, competition, government procurement and trade facilitation into the negotiations.²² This was despite enormous pressure, especially from the EU to include these issues.

The emergence of the G-20 group of developing countries changed the internal political dynamics of the WTO in ways that also impacted on the services negotiations. It signalled a much stronger voice and role for developing countries within the WTO, and opened up avenues for potential alliances with civil society activists opposed to the GATS and other agreements. Civil society groups had played a major role in supporting the position of G-20 developing countries, both internally (at the national level), and through external support at the international level

²¹ GATSwatch is a joint project of Corporate Europe Observatory and Transnational Institute, launched in 2001. Its stated objective is "research and analysis of the role and agenda of corporate lobbies with regards to the WTO GATS 2000 negotiations". It played a major role in the campaign against the GATS (<http://www.gatswatch.org/about.html>).

²² Ministers from WTO member-countries decided at the 1996 Singapore Ministerial Conference to set up three new working groups: on trade and investment, on competition policy, and on transparency in government procurement. They also instructed the WTO Goods Council to look at possible ways of simplifying trade procedures, an issue sometimes known as "trade facilitation". Because the Singapore conference kicked off work in these four subjects, they are sometimes called the "Singapore issues". (http://www.wto.org/english/thewto_e/whatis_e/tif_e/bey3_e.htm)

(Grammling 2006). Activists saw the blocking and subsequent removal of the Singapore issues as a major civil society victory (Ranald Interview 2009).

In addition, the general malaise that engulfed the Doha Round negotiations after Cancun also affected the already troubled services negotiations (Kelsey 2008: 46). There was wide-spread disagreement, with the EU insisting on some trade-off in services in return for concessions on agriculture, and most developing countries arguing that they couldn't make commitments in services until they knew the outcome of critical issues related to agricultural subsidies and trade preferences.

Following Cancun, the WTO process seemed in danger of completely collapsing (Kelsey 2008) but at the end of July 2004 the WTO attempted to revive negotiations by negotiating and issuing a package of 'non-binding' framework agreements, "designed to focus the negotiations and raise them to a new level" (WTO 2004). The section on services set a new deadline of May 2005 for tabling revised GATS offers. However, by May 2005 only 52 initial offers (representing 76 countries) had been received (Kelsey 2008: Ch.1).

As a response to the lack of 'quality' offers in services, a group of OECD countries (including the EC, the US, Japan, Australia, Switzerland, South Korea, Taiwan and New Zealand) started behind-the-scenes talks to develop new proposals designed to increase the amount and quality of commitments (Kelsey 2008: 46). The most radical of these proposals, initially proposed by the EU in 2005 (and strongly supported by Australia), was to create 'benchmarks', that required every member to commit a minimum number of sectors in all modes of supply. Development issues would be addressed by requiring different 'levels of ambition' for developed and developing countries (Kelsey 2008: 47). This proposal sparked outrage among developing countries and threatened to "derail, rather than energise, the negotiations" (Khor 2005, cited in Kelsey 2008: 47).

Another approach, involving plurilateral negotiations, met with less resistance. Under this approach ambitious schedules (model schedules) on priority services sectors would be designed by groups of "like-minded (service exporting) countries", which they would "invite others (mainly developing and least developed countries) to adopt" (Kelsey 2008: 47). According to Kelsey, (2008: 47) this approach didn't prompt the same level of outrage, probably because it seemed mild in comparison to the benchmarking proposal and because plurilateral methodologies were already referred to in the GATS negotiation guidelines. In addition, it suited some major developed countries, such as India, who saw some benefits. However, critics argued that "model schedules could become the new benchmarks of ambition" (ibid).

The benchmarking and plurilateral proposals were major issues in the lead up to and during the Hong Kong Ministerial in December 2005. In October 2005, the new chair of the services negotiations, Mexican Ambassador Fernando de Mateo, produced a draft text for the ministerial containing a statement of principle that the basic structure of the GATS would stay the same, and that the request-offer process would

remain the main method of negotiation. However, the draft text also allowed for other approaches, including sector-or mode-specific plurilateral negotiations, and other multilateral approaches that included “quantitative” (numbers) and “qualitative” (quality) mandatory targets (Kelsey 2008: 48). The inclusion of quantitative and qualitative mandatory targets was heavily disputed by developing countries on the grounds that they were not compatible with the GATS, or the negotiating guidelines, and therefore should not be included in the draft text. The final text of the draft declaration omitted any reference to benchmarks but referred to the proposals in an “Annex C” on services, “under which members would be required to consider any plurilateral requests they received” (Kelsey 2008: 48).

This “Annex C” became an issue of intense debate, vigorously opposed by a number of developing countries (including South Africa) but supported by Brazil and India who applied enormous pressure on other developing countries to break down their opposition. In the end, “Annexe C was included in the ‘consensus declaration’ with the protests of Cuba and Venezuela noted” (Kelsey 2008: 48). The ambassadors from these countries later “tabled a formal memorandum that documented the abuses of process that occurred before and during the ministerial” (Kelsey 2008: 48). The inclusion of these issues in Annexe C cleared the way for groups of ‘friends’ of different services sectors to develop plurilateral requests and submit them by February 2006. According to Kelsey (ibid) by the time the next services negotiating ‘cluster’ was held in March-April 2006 more than 20 plurilateral requests had been submitted” on a wide range of services, plus requests regarding modes 1, 3 and 4 (see following section for an explanation of GATS modes). Like the bilateral requests, neither the plurilateral texts nor the list of recipients was made public. However, most plurilateral requests were directed at developing countries including South Africa (Kelsey 2008: 48).

The chair of the services negotiations, de Mateo “declared 2006 to be the ‘hunting season’ for services” (Kelsey 2008: 49), with the goal of achieving sufficiently ambitious offers that would help bring the Doha Round negotiations to an end. But two days before the 31 July 2006 deadline for tabling revised offers, the Doha negotiations were suspended due to breakdowns in other negotiation areas. Nonetheless, pressure continued in services negotiations due to the immanent expiry of the US Fast Track trade authority on June 30, 2007 and the perception that a breakdown was still possible before then.²³ However, despite the efforts of the US and the EC and a small group of developed countries with aggressive interests in services and the attempt to engage the larger developing countries and major ASEAN

²³ The fast track negotiating authority (also called Trade Promotion Authority or TPA, since 2002) for trade agreements is the authority of the President of the United States to negotiate international agreements that the Congress can approve or disapprove but cannot amend. It was due to expire by 1 July 2007. For an account of the history of Fast Track see ‘The Rise and Fall of Fast Track Trade Authority’ by Todd Tucker and Lori Wallach (2009).

countries, only 69 offers in services had been tabled by the time that the U.S. Fast Track expired.

Although the services negotiations have since resumed, along with the rest of the Doha negotiations, little progress has been made in terms of commitments. Nonetheless, Kelsey (2008) warns that there is still a chance that a sudden breakthrough in agricultural or NAMA negotiations could “trigger an immediate movement in services negotiations”.

However, to a large extent, the threat presented by the GATS has moved to bilateral and regional trade agreements. “Bilateral and regional agreements that involve even one WTO member must follow WTO, and hence GATS, rules” (Kelsey 2008: 50). Kelsey argues that this has produced what Roy et al. (2006, cited by Kelsey 2008: 50) refer to as “GATS-plus commitments and GATS-minus flexibilities”, or as she puts it, “GATS on steroids”.

3.3 GATS Commitments and Classifications

The following section explains briefly how the GATS treaty functions and the nature of its scope and potential impact, with illustrative examples drawn from the education sector. As mentioned above, countries do not ‘have to’ liberalise any services under GATS but once such a decision is made they face two levels of commitment. The first level commits countries to the three central principles of WTO and GATS — most-favoured nation (MFN), national treatment, and transparency. The second level involves specific commitments in the services areas countries choose to liberalise.

Under the most-favoured nation principle, trade concessions granted to one country must automatically be granted to all other WTO Members. However, GATS does contain some general exceptions to this principle e.g. for regional integration treaties. This means that the EU, for example, does not have to grant the trade advantages of its common market automatically to countries outside the EU. The principle of national treatment means that foreign service providers must be treated no less favourably than domestic providers, in any given market. However, it is important to note that foreign service providers can be treated more favourably than domestic providers. For example, they can be given exemptions from taxes and environmental, labour, and health and safety legislation in special Export Processing Zones (EPZ). The GATS agreement additionally demands transparency in State regulation of the services sector. This means that the WTO must be informed of any changes to laws, regulations and administrative guidelines that are relevant in this regard.

Within the GATS, services are classified into broad services sectors, categories and ‘modes’ (types) of delivery or supply, in which countries can make specific commitments. The specific commitments refer to both the particular classification of services that a country decides to liberalise and the modes of supply. The original services classification list contains 12 main services sectors: Business;

Communication; Construction and Engineering; Distribution; Education; Environment; Financial; Health; Tourism and Travel; Recreation, Cultural, and Sporting; Transport; and “Other” (services not listed elsewhere) (WTO 2011e). Each of these sectors is divided into a number of categories. Educational services, for example, are divided into five categories and four modes of supply. The categories are:²⁴

- Primary education services, which can include the pre-school sector but not childcare;
- Secondary education services, which includes school and vocational services at the level below higher education;
- Higher (tertiary) education services, including university and vocational education;
- Adult education, which includes general education and vocational education in so far as the regular higher education system does not offer it;
- Other education services, which also includes special education services in the primary and secondary sectors, in so far as they are not included there.

These categories of services are further defined in terms of their type of delivery or mode of supply. These are explained below, again with illustrative examples from education services:

- Cross-Border Supply (Mode 1) refers to the supply of a service from one country into another, e.g. supplying e-learning over the Internet. This is a growing area of interest, particularly in higher education.
- Consumption Abroad (Mode 2) refers to the supply of a service within a country for consumers from another country, e.g. for students from abroad that come to your country to engage in further study. This is the biggest area of education trade at the moment.
- Commercial Presence (Mode 3) refers to the supply of a service through establishing a commercial presence in another country, e.g. a language school, or a branch of a university. This is an expanding area with some exporting countries already establishing branches and subsidiaries of educational institutions in other countries.
- Presence of Natural Persons (Mode 4) refers to the supply of a service by persons who are temporarily resident in another country for this purpose, e.g. a native speaker from one country teaching staff at a language school in another country on a short-term contract.

Theoretically, these classifications and modes of supply enable member countries to be very flexible about what area of a service they want to open up to international

²⁴ Details of classifications and modes taken from Scherrer (2002a)

trade. Countries do not have to liberalize a service if they do not wish to, and if they do, they can be very specific about the degree and range of market access.

In education, for example, a country could decide only to liberalize “consumption abroad” (Mode 2) for the category of adult education and add additional exceptions limiting the teaching of such adult education to its own citizens. However, once countries have signed an undertaking they are permanently bound by this commitment, unless they provide compensation (money or trade-offs in other areas) to trading partners who experience losses as a result of any reversal (Hartmann, Haslinger and Scherrer 2004).

In reality many WTO member states, especially those from developing countries face enormous pressure to make services commitments in GATS negotiations. Developing countries frequently face considerable pressure to privatise and liberalise services as part of structural adjustment programmes and conditionalities on loans imposed by the International Monetary Fund (IMF), the World Bank and other aide donors. In addition, the ‘horse-trading’ nature of the trade negotiation process means that countries may be pressured into making additional services commitments as a ‘trade-off’ to obtain market access in other areas, such as agriculture. Also, the progressively liberalising nature of GATS commitments places obligations on countries to progressively open their markets in services.

While developing countries see the ‘voluntary’ nature of the request-offer process for market opening in services as providing some protection against such pressure, critics argue that the secret bilateral sessions through which the negotiations are conducted brings “the least powerful countries face to face with the most powerful nations”, thus exposing poorer countries “not only to the far greater negotiating capacity of industrialised countries, in terms of both material and human resources, but also to the full range of extraneous threats and enticements which have become part and parcel of ‘negotiations’ at the WTO” (Jawara and Kwa 2003, cited in Hilary 2003).

3.4 Major GATS Debates for Labour

Proponents of GATS stress the potential of trade in services to stimulate economic growth, particularly where traditional means of growth have slowed. According to OECD statistics on international trade in services (for 2000), services accounted for one fifth of the global trade but this was mainly confined to countries of the North. Critics, including trade unions, have argued that the framework of the GATS is more likely to intensify international trade and lead to the opening up of global markets to multinational corporations, without any real benefits in terms of better employment or sustainable development (Hartmann and Scherrer 2003: 7). Unions point out that trade liberalisation through the WTO has failed to deliver promised benefits in terms of better jobs and higher growth, either in developing or developed countries, and has in fact, in the cases of many developing countries, led to the collapse of domestic industries (Global Unions/WCL/ETUC 2005).

In addition, unions believe that the GATS has significant potential to escalate the liberalisation of essential and other basic services, thus aggravating social disparities. A large part of unions' political campaigning against the GATS has therefore focused on keeping, or getting public services such as health, education and water, out of GATS.

The concern over protecting essential services also incorporates the risk of WTO disciplines jeopardising the capacity of governments to regulate, even at a sub-national level, and to meet universal service provisions, which guarantee access to such services, "at uniform and affordable prices" (Global Unions/ ETUC/WCL 2005). As a result of these concerns unions have continued to call for a moratorium on GATS negotiations until a full assessment can be done of the impact of liberalisation of services.

Claims that public services will remain protected under the so-called 'governmental authority' clause have been seen as ambiguous at best and open to interpretation. For a service to be excluded from the GATS it must be "supplied in the exercise of governmental authority", and further, it must neither be supplied "on a commercial basis" nor "in competition with one or more service suppliers" (GATS Article 1.3 (b) and (c) cited in Krajewski 2001: 6). If a service fails to meet either of the latter conditions it is not considered a service supplied in the exercise of governmental authority and is therefore within the scope of GATS. If broad definitions of the terms, "commercial basis" and "in competition" were adopted, then almost all services would potentially be covered by GATS. Because of the difficulty of interpreting these terms there has been a great deal of uncertainty, even within the WTO itself, about whether a service is covered by the GATS (Krajewski 2001:6-7).

The criticisms of the GATS extend beyond its impacts, to the process of negotiations within the WTO, especially the secrecy and lack of transparency of negotiations and the lack of democratic and civil society involvement in decision making. The whole negotiating process is seen to favour powerful countries and multinationals while unfairly discriminating against developing countries (Global Unions/WCL/ETUC 2003 and 2005)

The main trade union criticisms of the GATS and the reasons for concern are summarised below. These are drawn from the comprehensive overview of the position of trade unions on the services negotiations developed by Hartman and Scherrer (2003: 7-14 and 18-24),²⁵ and from global union statements, which were issued prior to the 2003 WTO Ministerial in Cancun and the 2005 Ministerial in Hong Kong (Global Unions/WCL/ETUC 2003 and 2005).

²⁵ Hartman and Scherrer (2003) examined a wide range of union statements and policy documents. While other concerns were raised by the union movement during the progress of negotiations, the main concerns and proposals mentioned by Hartman and Scherrer and raised in the joint trade union statements remained consistent.

Table 8. Summary of Union Movement Criticisms of GATS

Concern	Reason for concern
The broad scope of the GATS.	That all different types of services are covered in one agreement.
Progressive liberalisation.	GATS aims to achieve progressively higher levels of liberalisation in trade in services.
Power imbalances.	Despite the principal of one vote within the WTO, the whole negotiating process favours powerful countries and multinationals and unfairly discriminates against developing countries.
Lack of assessment.	The effects of more liberalised trade in services have not really been evaluated and studies made by the WTO Secretariat show a very mixed picture of the impact; research on the impact is still in its infancy.
Irreversibility.	Commitments made by a country cannot easily be nullified.
Imperilled Public Services.	The protection of public services in GATS is very weak and the definition of public services very narrow. The potential of GATS to escalate the liberalisation and privatisation of public and other basic services could aggravate social disparities.
Restriction of national autonomy.	The GATS rules and disciplines have the potential to restrict national autonomy, in terms of their capacity to make regulations and public policy designed to guarantee universal access to essential services, and to control foreign investment.
Threatens labour and environmental standards.	Privatisation and commercialisation of services undermines the power of unions and the rights and working conditions of workers. It also undermines the right of governments to regulate these issues for the good of its citizens.
Potentially negative impact on labour standards and immigration policy	The impact of Mode 4 movement of natural persons will have a negative impact on labour standards and immigration policy by encouraging ‘skills drain’ from developing countries, and undermining labour standards in host countries through the use of cheap imported labour.
Lack of transparency and consultation	The secrecy and lack of transparency of negotiations and the lack of democratic and civil society involvement in decision making.

Source: Hartman and Scherrer (2003) and Global Union Statements issued in 2003 and 2005 (Global Unions/WCL/ETUC 2003 and 2005).

Chapter 4. Setting the Scene – Opportunity and Capacity

4.1 Introduction

Until recently, trade has not been regarded as an area of concern for public services and education unions. Traditionally it has been seen as the province of industrial unions whose members serve to benefit from or be disadvantaged by international trade in various products. However, with the advent of the GATS agreement, and subsequent extension of trade into services, trade has become a concern for all workers; industrially and services based. Because of its potential impact on public services, including education, health services, water and energy, the GATS has become a particular area of concern for education and public services unions, at both the global and national levels. As the biggest world-wide confederations of national education and public services unions, Education International (EI) and Public Service International (PSI) have a special mandate to protect public services, and especially education, which plays such an important social, cultural and developmental role. Therefore, it is not surprising that they (and their affiliate unions) have been at the forefront of union struggles against the GATS.

However, the engagement of trade unions in the field of international trade faces a number of constraints, related both to the political and economic system in which unions are embedded, and the internal mobilising and organisational capacities of the union movement itself.

This chapter provides an initial assessment of the external factors enabling and constraining union capacity to intervene in the multilateral trade negotiation process, both at the international (global) and the national level (local), as well as the internal factors impacting on their capacity to take advantage of existing opportunities to exert influence. This is done using two of the three core theoretical concepts outlined in Chapter 2.: Political Opportunity Structure (POS) and Mobilising and Organisational Capacity (MOC).

Elements of POS Considered

While it is not possible to consider all elements of the political opportunity structure that may have impacted on union action, there are a number of factors that seem particularly pertinent when determining the openness of the political system in regard to international trade. The question of who controls the trade policy process is an important one for unions as, to some extent, it determines the responsiveness of the system to the claims of social actors (McGuire and Scherrer et al. 2010). The second major factor is whether there are sufficient channels of access through which unions and civil society actors can have some input into these processes. A third important factor is the trade policy context, in terms of its history and legacy, and extent of elite consensus. This will determine the discursive receptivity of decision makers. If the government has pursued liberalisation policies for a long period, then it is highly

unlikely that proposals that question these policies in general (as opposed to calling for special exceptions) will be well received by civil servants and political actors in charge of trade policy formation and negotiations. At the same time, the existence of disagreement or dissent between ‘insiders’ within the policy process can make it easier for ‘outsiders’ to exercise influence (McGuire and Scherrer et al. 2010). Two other important factors to consider are the ‘situational’ opportunities for political action arising from specific situations within the political and trade policy process and the capacity of the state for repression versus its vulnerability to social protest.

Elements of MOC Considered

Beyond making trade a priority within the union movement, the important aspects of mobilising and organisational capacity seem to be: the unity and coherence of the union movement and its capacity to form a coherent position in relation to the GATS and trade issues more generally; the presence or absence of effective mobilising, decision-making and communication structures; and, the level of resources and expertise dedicated to trade (McGuire and Scherrer et al. 2010).

The analysis of opportunities (POS) and capacities (MOC) provides the context for understanding the global and local struggles against the GATS, which are detailed in Chapter 5. This includes how the GATS was put on the union agenda, the repertoire of contentious strategies used by unions, and how unions portrayed the GATS. Here, the third theoretical concept outlined in Chapter Two, ‘framing’, is applied in order to understand how unions attempted to build support for mobilisation against the GATS. The outcomes and impacts of union action are assessed in Chapter 6 .

4.2 Assessing Opportunity (POS) — International level

Historical and Political Context

The multilateral trade policy making process can best be understood within the context of what O’Brien et al. (2000) refer to as ‘complex multilateralism’ or what della Porta and Tarrow (2005) conceptualise as ‘complex internationalism’. This form of multilateralism (or internationalism) is defined by a complex interplay between states, major international institutions (like the IMF, the World Bank, and the WTO), and a broad range of social movements and other civil society groups, which have mobilised to influence these institutions at the international level. As such, it represents a shift from a more state-centric multilateralism (Ruggie: 1992), in which these international institutions had been “dominated by member states, had little institutional connection to civil societies within member states and were intent on generalising a particular set of [neo-liberal] principles” (O’Brien et al. 2000: 3-4).

Since the 1980s, the growing intrusion of these institutions into the economic governance and policy of member states (through structural adjustment programmes, loan conditionalities and trade rules), and the failure of their policies to prevent major financial crises or assist development, has led to questioning of their economic

orthodoxy, and contestation over both their structure and their policies (O'Brien et al. 2000: 2-11).

In contrast to international institutions such as the International Labour Organisation (ILO) or the United Nations Conference on Trade and Development (UNCTAD), which rely on forms of “moral suasion” and argument (Cox and Jacobson 1974: 423-36), the “troika” of the IMF, the World Bank and the WTO are particularly notable because of their “rule creating and rule-supervisory dimensions” (O'Brien et al. 2000: 11). These rules and their implementation have direct consequences for states and their citizens around the world (ibid). Therefore, it is not surprising that these international institutions have become the target of national and transnational civil society protests, and active attempts to influence their policies and processes (O'Brien et al. 2000; Tarrow 2005). The WTO in particular, has become a highly ‘symbolic’ target for civil society protests (Tarrow 2005), most notably at the so-called ‘Battle of Seattle’ during the 1999 WTO Ministerial Conference, in which wide-spread, and at times violent, protests contributed to the breakdown of negotiations (Smith 2002).

Who Controls the Trade Policy Process at the International Level?

The multilateral trade process is controlled by the World Trade Organisation (WTO), which replaced the General Agreement on Tariffs and Trade (GATT) in 1995.²⁶ Unlike other international institutions such as the IMF and the World Bank, the WTO has a multifunctional nature, being simultaneously a negotiating forum for member governments, a system of trade rules, and a dispute resolution and enforcement body (WTO 2010: 9). As at July 2008, it had 153 members, most of whom are national governments, but also including some larger political entities like the European Union, which negotiates as a bloc represented by the European Commission (EC) (WTO 2011). The various WTO functions are supported by a Secretariat located in Geneva, which administers the agreements and provides technical support for the negotiations. It is also acts as the communication and ‘public relations’ arm of the WTO (WTO 2003 and 2010). The WTO Secretariat consists of various divisions, including the Trade in Services Division, each headed by a director, under the supervision of four deputy directors general. Its head is the WTO Director General (WTO 2011a).

The establishment of the WTO, as the final act of the Uruguay round of the GATT (1986-1994) substantially changed the nature of the multilateral trade regime; by increasing its enforcement power, augmenting its institutional character, and

²⁶ The GATT itself, was the outcome of the failure of negotiating countries to create the International Trade Organisation, which would have been a UN body with a broad regulatory mandate, covering trade, employment rules, and business practices. When negotiations for the ITO failed, the GATT was left as a de facto organisation for conducting rounds of international trade talks and resolving international disputes (FPIF 2012).

expanding its reach to include agriculture, textiles, intellectual property rights, and trade in services. In fact, the incorporation of trade in services (through the GATS) into the multilateral trade regime was seen by many as one of the “crowning achievements” of the Uruguay Round (Kelsey 2008: 12). The original GATT was retained within the WTO structure and updated as the umbrella treaty for trade in goods (WTO 2010). The agreement that established the WTO also incorporated a “built-in agenda” committing members to ongoing negotiations, including a new round of services negotiations scheduled to start in 2000. The initial round of services commitments was made as part of the ‘single undertaking’ of the Uruguay Round.²⁷ The existing services negotiations have since been incorporated into the Doha Development Round/Agenda (WTO 2010: 20).

At the heart of the WTO are the agreements themselves. Although there are many agreements, annexes, decisions and understandings, the major agreements are: the General Agreement on Tariffs and Trade (GATT); The General Agreement on Trade in Services (GATS); the agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS); and, the Agreement on Trade-Related Investment Measures (TRIMS). Once signed, these agreements provide the legal ground rules for multilateral trade between member countries. They are essentially legally-binding contracts to which governments are expected to adhere (WTO 2010).

They spell out the principles of liberalization, and the permitted exceptions. They include individual countries’ commitments to lower customs tariffs and other trade barriers, and to open and keep open services markets. They set procedures for settling disputes. They prescribe special treatment for developing countries. They require governments to make their trade policies transparent by notifying the WTO about laws in force and measures adopted, and through regular reports by the secretariat on countries’ trade policies (WTO 2010: 21).

Underpinning the agreements is the dispute settlement process, through which the Dispute Settlement Body can make rulings on trade disputes and enforce trade agreements through sanctions.²⁸ The power to enforce international agreements makes the WTO unique among international organisations (Jarawa and Kwa 2003: 4).

Critics (for example, Jarawa and Kwa 2003) argue that the inclusion of new areas into the multilateral trade regime has dramatically increased the scope and extent of international trade rules and their potential effect on peoples lives. The inclusion of trade in services means that even the provision and regulation of public and basic

²⁷ Under the single undertaking approach used by the WTO, virtually every item of the negotiation is part of a whole and indivisible package and cannot be agreed separately. “Nothing is agreed until everything is agreed” (www.wto.org).

²⁸ For a more detailed overview of this process see the WTO publication ‘Understanding the WTO’ (WTO 2010: Ch.3).

services such as health, education, water and sanitation can be affected by trade rules. In addition, the progressive liberalisation of international trade through WTO rules and agreements, means that countries are under pressure not only to lower or remove trade barriers, but to ‘lock in’ this level of liberalisation. This limits their capacity to raise trade barriers again if needed, or to enact policies in the interests of their own population (Jawara and Kwa 2003: 4). In particular, newly elected governments are bound to pre-negotiated treaties that they cannot alter, thus making a mockery of the democratic process.

Critics also see the WTO’s stronger enforcement powers as problematic because they represent a further shift in power and decision-making away from citizens and democratically elected national governments to an undemocratic international institution (FPIF 2012). Proponents of the WTO system, on the other hand, see the dispute settlement mechanism as “enhancing democracy and assisting small countries in trade disputes against other members (particularly more powerful ones)” (Jawara and Kwa 2003: 6). However, any such potential is countered by two factors. The asymmetry of the trading system whereby trade sanctions by large powerful members are more likely to have an impact on smaller weaker members than the other way around. And the considerable barriers to participation faced by developing countries due to cost, lack of access, and problems related to implementation and compensation (Jawara and Kwa 2003: 6).

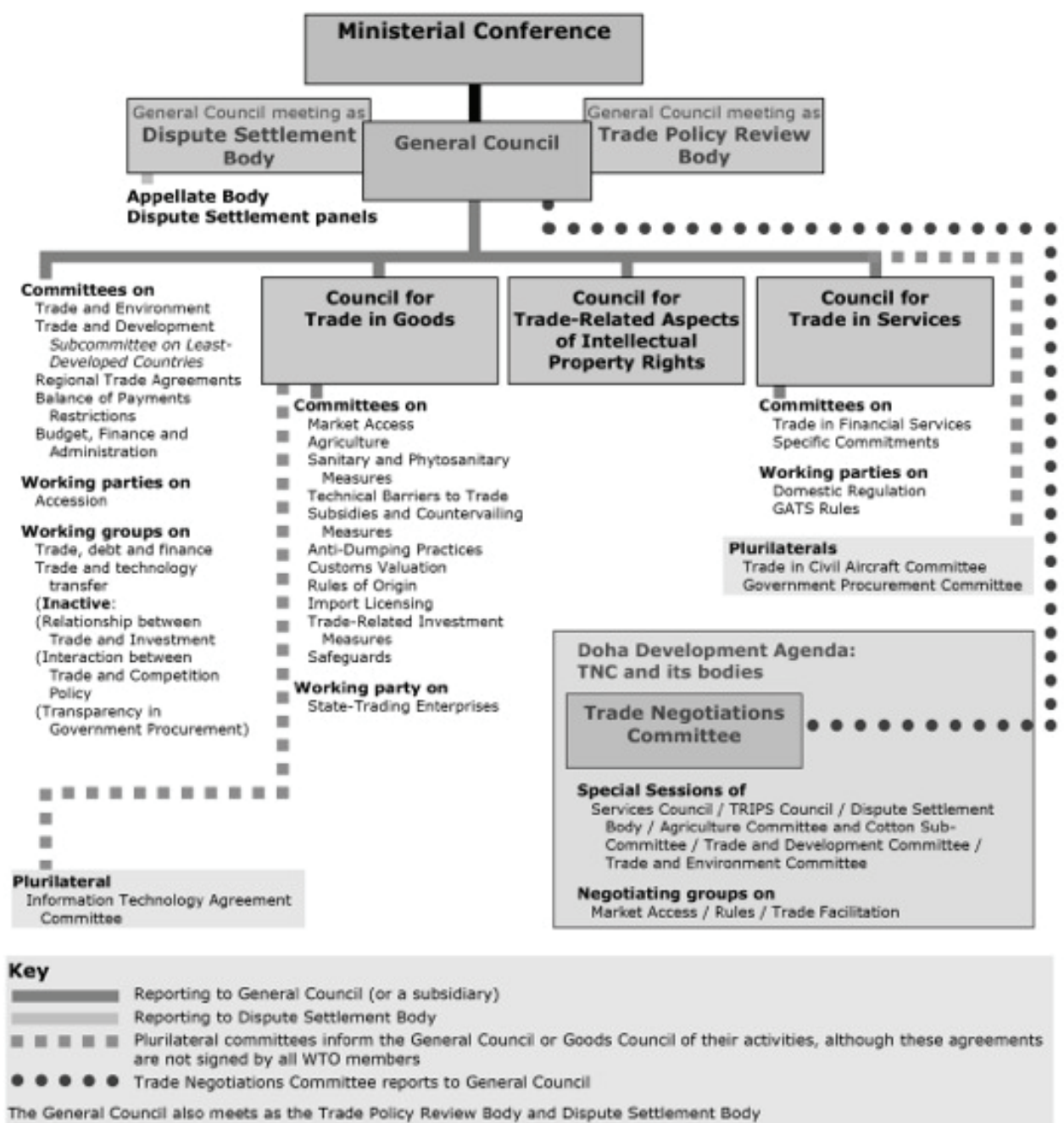
The WTO’s top decision making body is the Ministerial Conference, which is mandated to meet every two years. This consists mainly of trade ministers from the various member states and has the authority to take decisions on all matters related to any of the multilateral agreements of the WTO. Ministerial Conferences of significance to this study include Seattle (1999), Doha (2001), at which the current Doha Development Round was launched, Cancun (2003), and Hong Kong (2005).²⁹ Below the Ministerial Council is the General Council, which meets regularly in Geneva to carry out WTO functions between ministerial conferences. This Council, which acts on behalf of the Ministerial Conference, consists mainly of heads of national trade delegations and Geneva-based Ambassadors (WTO 2010). Current negotiations take place in the Trade Negotiations Committee (TNC) (and its various subsidiary bodies), which operates under the General Council. It is chaired by the WTO Director General, and like other committees, it consists of representatives from all WTO members (WTO 2010: 77).

The General Council also sits as the Dispute Resolution Body to oversee procedures for settling disputes between members, and as the Trade Review Body to analyse members’ trade policies; but under different terms of reference and with different Chairs (WTO 2010: 102). The Councils for Trade in Goods (Goods Council), Trade in Services (Services Council), and Trade Related Aspects of Intellectual Property

²⁹ WTO Conferences are generally referred to by the name of the city in which they were held.

Rights (TRIPS Council), and various committees and working groups also report directly to the General Council. The full structure is detailed in Figure 1 below (WTO 2011b).

Figure 1. WTO Organisational Structure



Source: www.wto.org

The WTO claims that the multilateral trade process is democratic and member-driven, with WTO rules resulting from agreements negotiated among member states through a consensual process, which are then ratified by members' parliaments at the national level (WTO 2003 and 2010). It is true that the WTO seems, on the face of it, to be democratic, given that each member has one vote. However, in practice, decisions are made by consensus rather than by a majority vote and each member has a right of veto. This makes lobbying the WTO very difficult, as even if unions succeeded in getting an item on the agenda and were able to build wide-spread support for the issue, it would only take the 'veto' of one member for it be finished. The need to achieve consensus on negotiating positions leads to a lot of pressure politics.

Critics argue that agreements are forced through "by political and economic pressure from the major developed countries", with the interests of weaker, and particularly developing countries, largely ignored (Jawara and Kwa 2003: 3).

Serious questions have been raised about the lack of transparency and democratic process in WTO decision-making processes, about the 'arm-twisting' used to obtain consensus, about the lack of neutrality of the Secretariat, the domination of decision making by a few powerful developed countries, and the difficulty for less well resourced countries to fully participate in WTO processes due to their lack of capacity (for a general criticism of the WTO see Jawara and Kwa 2003, for lack of resources of developing countries see Shaffer 2006).

While the formal apparatus of the multilateral trade negotiation process, including the WTO Secretariat, is situated in Geneva, the actual trade policy process itself is multilevel. Trade policy and WTO negotiating proposals and positions are generated at national and/or regional levels, with various levels of consultation and coordination, before they are presented in negotiating meetings in Geneva. This can lead to tensions and communication problems between the bureaucratic layer of decision makers (trade negotiators and Ambassadors) located in Geneva, and the political decision makers (trade ministers and heads of government) normally located in national capitals (Narlikar 2004).

Channels of Access to the Trade Policy Process

Organised labour has no official access to the multilateral trade process at the international level. The WTO is neither a tripartite organisation, nor is it based on any concept of social partnership or social dialogue. In WTO terms, global union organisations and their affiliate members are just like any other NGOs or private sector interest group, and therefore have no official role in WTO activities. As the WTO Secretariat makes clear:

The WTO is an organization of governments. The private sector, non-governmental organizations and other lobbying groups do not participate in WTO activities except in

special events such as seminars and symposiums. They can only exert their influence on WTO decisions through their governments (WTO 2003: 9).

While the WTO has increased its ‘dialogue’ with civil society over the years, this is mostly one-sided and limited to changes designed to improve ‘transparency’ and communication with NGOs. To some extent, this new ‘openness’ owes as much to legitimacy problems, in the face of sustained criticism and protest (O’Brien et al. 2000: 3), as it does to any real desire to include civil society in any meaningful fashion. The fact remains, that at the international level, organised labour can only participate in WTO activities on an informal basis, and only in ‘invited’ forums such as briefings, seminars and public symposiums.

As negotiating positions and decisions about commitments to trade agreements are made by the WTO member states, organised labour must, to a large extent, try to influence the process through its influence on national governments. However, unions often lack official access to the trade policy and agreement making process at the national level as well (McGuire and Scherrer et al. 2010).

Beyond formal channels of access to the trade policy process and civil society dialogue, unions frequently have other channels of access to governmental and political actors (McGuire and Scherrer et al. 2010). These alternative 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. As there is no official international (supra-national) governmental and political system (beyond the EU), this opportunity is not open to unions at the international level. Nonetheless, international union organisations such as the GUFs and the ITUC, have sought to increase their level of influence by building relationships with WTO staff, including various Directors General, and with the Chairs of particular negotiations. They have also sought to cultivate relationships with sympathetic Geneva-based trade delegates and Ambassadors from member states (EI 2005a, b and c, Jouen Interview 2005, Busser Interview 2009, Waghorne interviews 2005 and 2009).

Trade Policy Legacy and Degree of Consensus

During the last two decades of the 20th Century, trade and development debates were largely dominated by neoliberal policies, which promote economic opening, with respect to trade and investment, and the expansion of market forces within the domestic economy (Broad 2004). For developed and developing countries alike, free trade has been promoted as the path to development and prosperity. These policies have been aggressively promoted by international institutions such as the IMF and the World Bank, and are, to some extent, reflected in the replacement of the GATT by the WTO (Kelsey 2008).

However, as noted above, the growing intrusion of these institutions and their policies into domestic life and their failure to address development issues or prevent

financial crises, has led to something of a backlash against both the institutions and their policies (O'Brien et al. 2000, Broad 2004). This backlash is reflected in the growing civil society movement against neo-liberal policies, and the institutions that are seen to push them. The WTO, in particular, has become a highly visible target of protest, which has, to some extent, put it on the defensive (O'Brien et al. 2000). These tensions are to a large extent reflected within the WTO, with many developing country members, in particular, calling for a greater focus on development issues and a 'fairer' approach to trade.

The differences in market access interests, developmental levels and power imbalances within the multilateral trade system, have led to considerable tensions and shifting alliances. As a country's influence in the WTO is determined by, "its share of world trade, its trade dependence and the absolute size of its market", large developed countries tend to dominate (Scherrer 2002b: 511). In addition, smaller developing countries tend to lack the resources needed to participate in all of the forums in which bargaining takes place, and frequently lack the technical and legal skills needed to understand complex trade agreements (Shaffer 2006). These power and resource imbalances are exacerbated by the secretive decision and consensus making processes, which systematically exclude certain WTO member states (Scherrer 2002b: 511).

Both the lack of transparency and democratic process, and the neglect of developing countries' interests, have been major factors in the breakdown of negotiations, most spectacularly at the WTO Ministerials in Seattle (1999) and Cancun (2003), but also at various junctures in between (Narlicker 2004). As detailed in Chapter 3, these tensions are largely reflected in the GATS negotiations.

In order to overcome some of these power imbalances, and to advance their trading interests and strengthen their voice in negotiations, countries have frequently formed coalitions around sectors or issues of interest (for a good account of developing country coalitions in the GATT and the WTO see Narlikar 2003). While there is not space within this research paper to list them all, at present there are more than 20 different coalitions within the WTO.³⁰ However, there is no specific formalised coalition that has developed in relation to the issue of trade in services.

Situational Opportunities in the Political and Trade Policy Process

As mentioned in the theoretical framework in Chapter 2, specific situations arising within the more long-term and enduring political structures can provide openings, or situational opportunities, for unions to bring issues to the attention of the public and political elites.

³⁰ A full list can be found on the WTO website under 'Groups in the WTO' (www.wto.org/english/tratop_e/dda_e/negotiating_groups_e.pdf)

The negotiating schedule of the multilateral trade regime appears to provide multiple situational opportunities for intervention and potential influence. WTO Ministerial Conferences must be held every two years. As well, each set of negotiations within the WTO, including the GATS, has its own set of negotiating announcements, meetings and deadlines (for details of the GATS negotiations timetable see Chapter 3 and Appendix 2.). Due to their highly visible international nature, and the tensions inherent in formulating agreed negotiating positions, these events and negotiation deadlines open up considerable opportunities for lobbying, advocacy, and colourful protest activity. WTO Ministerials, in particular, have attracted widespread media attention, thus opening up opportunities for campaigners to put their messages about the trade negotiations onto the media agenda, at both international and domestic levels. In addition, the established practice of staging side or parallel civil society events during WTO Ministerials provides opportunities for networking and alliance-building amongst the many and varied civil society groups that attend.

Probably the most well known example is the civil society protests and side events held at the WTO Ministerial in Seattle, in 1999 — the so-called ‘Battle of Seattle’ against the WTO itself and the proposed new round of negotiations. However, subsequent Ministerials have also attracted considerable lobbying and protest activity, including the negotiation and announcement of the so-called ‘Doha Development Round’ at the WTO Ministerial in Doha in 2001, the 2003 Ministerial in Cancun, and the 2005 Ministerial in Hong Kong. Other non-trade related international events might also provide opportunities for focusing attention on trade and related issues.

Capacity for Repression/Vulnerability to Social Protest

The wide-ranging civil society protests that have taken place around the world since the 1980s have revealed that multilateral economic institutions such as the IMF, the World Bank, and more recently the WTO, are vulnerable to social protest (O’Brien et al. 2000) especially during periods when they are struggling to maintain legitimacy due to policy failure. As mentioned earlier, the growing intrusion of these institutions into the economic governance and policy of member states has led to questioning of their economic orthodoxy, and widespread, and sometimes violent, contestation over both their structure and policies (O’Brien et al. 2000: 2-11).

At the same time, governments of all types, including democratic ones, have shown an increasing willingness to suppress civil rights and exercise violence against their own citizens when faced with disruptive protests at important international events. Following the police violence against protestors during the ‘Battle of Seattle’, police brutality against protestors has steadily increased (Tarrow 2005). Another response to public protest has been to hold important international meetings, including WTO Ministerial meetings, in inaccessible or less democratic locations. Following the demonstrations at the Seattle Ministerial in 1999 subsequent Ministerial Conferences have been held in major cities located in countries where the possibility of civil

society access is restricted due to visa restrictions, and in which governments appear more than willing to repress protest activity: Singapore (Doha Ministerial 2001), Mexico (Cancun Ministerial 2003) and Hong Kong (Ministerial 2005).

4.3 Assessing Capacity (MOC) — International level

As outlined in the theoretical framework, the opportunity for unions to intervene in the trade policy process can be either facilitated or constrained by external contextual factors in the political environment. However, opportunity by itself is not sufficient. Unions must also have the mobilising and organisational capacity to take advantage of opportunities that exist.

Union Strength, Unity and Organisational Form

According to the theoretical framework, the mobilising and organisational strength of the union movement is to a large extent dependent on its level of unity and coherence (Robinson 1994). The union movement, taken as a whole, is an (institutionalised) international network with a strongly representational organisational form. At the international level, union members are represented through a dual structure. National union federations are affiliated to the International Trade Union Confederation (ITUC), which is the largest trade union organisation in the world. It was formed in 2006 from the merger of the International Confederation of Free Trade Unions (ICFTU), the World Confederation of Labour (WCL) and various other union bodies with no prior affiliation. At the sectoral (industry/occupation) level, national unions are affiliated to their relevant Global Union Federation (GUF). Both the ITUC and the GUFs also have regional level organisations.³¹ At the European level, national union federations are also affiliated to the European Trade Union Confederation (ETUC), which although autonomous, usually supports global union concerns. Nonetheless this division between the international and European level is problematic as it can lead to duplication and coordination problems (Traub-Merz and Eckl 2006, Stevis and Boswell: 73). Unions also have representation in the OECD through the Trade Union Advisory Committee (TUAC). More recently, in 2007, the international union movement also formed a Council of Global Unions (CGU) consisting of the ITUC, TUAC and most of the GUFs, which aims to “[...] encourage closer co-operation among Global Unions in order to act more effectively at the international level to build a more favourable, enabling environment for organising and collective bargaining” (www.global-unions.org). Policy making, however, remains the responsibility of the individual organisations that make up the CGU.

Outside of this structure, other, more radical, trade union initiatives are being developed such as the Southern Initiative on Globalisation and Trade Union Rights

³¹ The ITUC regional organisations are the Asia-Pacific Regional Organization (ITUC-AP), the African Regional Organization (ITUC-AF) and the American Regional Organization (TUCA). Each of the GUFs also have regional organisations.

(SIGTUR), which is a southern organisation of democratic, independent trade unions in Asia, Africa, South America, Australia and New Zealand formed to develop new forms of labour internationalism, especially in the global south (see Lambert and Webster 2001, O'Brien 2012).

Of the 10 GUFs, Education International (EI), representing 30 million members in 169 countries, and Public Services International (PSI), representing 20 million members in 150 countries, are two of the biggest (Figures as at 2007- Stevis and Boswell 2008: 47).³² Given their size and the extensive nature of the labour network in which they are integrated, GUFs like PSI and EI have the potential to exert considerable collective power. However, this power rests ultimately on the effectiveness of their collective structures, including their relationship with affiliated unions.

Size alone does not equal strength or power. The international union movement has a history of inter-union conflict, as well as cooperation (Stevis and Boswell 2008: Ch.3), and although this has improved in recent years, global union organisations still face considerable restraints to the exercise of collective power.

Part of the problem lies with the dual affiliation structure of the union movement, as outlined above. On the whole, the two sections of the union movement cooperate strongly (Fairbrother and Hammer 2005) but there are disagreements between the GUFs and with the ITUC over priorities and strategies (for some examples see Stevis and Boswell 2008: Ch.3). This prevents the labour movement from working more effectively together at the international level, including in the trade policy arena.

There have been considerable tensions about the level of resources put into the campaign to have core labour standards embedded in international trade agreements through the WTO: Not so much questioning whether it is an important issue but questioning the degree to which it has been prioritised by the ITUC, sometimes at the expense of other important issues (Waghorne, Interview 2009). The legally binding nature of WTO agreements initially appeared to present an opportunity to give core labour standards some 'teeth', in terms of providing a mechanism for enforcement (Anner 2001, Howard Interview 2009). However the proposal met with stiff resistance within the WTO and has attracted some internal criticisms within the union movement as well, especially by national federations from key developing countries such as South Africa, South Korea and Brazil. This is not so much due to disagreement over having labour standards in trade agreements (Anner 2001, Howard Interview 2009) but more due to the top-down nature of the ITUC campaign and the failure to address other issues of importance to developing countries (Jakobsen 2001, Anner 2001).

³² Since this research was completed, three of the GUFs have merged (see <http://www.industriall-union.org/>).

There have also been tensions over what the relationship between the union movement and the WTO leadership and key actors should be. The ITUC has taken a social dialogue approach towards the WTO, aimed at obtaining and maintaining a place at the “negotiating table”. This has led to a softer, more conciliatory approach to the WTO than that favoured by a number of the GUFs and key national affiliates, who have frequently pointed out that the union movement has no place at the “negotiating table” when it comes to trade policy, and should therefore be more openly critical of WTO policies (Waghorne Interview 2009).

Relationships with NGOs has been another divisive issue. There has been considerable debate within the union movement over the dangers and benefits of working with NGOs (Gallin 2001, Spooner 2002, O’Brien 2000). Some see it as having the potential to strengthen the union movement, both in terms of providing access to specific expertise and broadening the base of labour’s claims. Others have questioned the legitimacy of NGOs due to their perceived lack of mandate and reliance on funding, which sometimes comes from corporate or institutional sources whose interests may conflict with the interests of unions and the workers they represent (Spooner 2002). According to a former senior union official, unions also have a tendency to be somewhat “elitist” with regard to working with NGOs (Waghorne Interview 2005). He said that unions have a tendency to believe that they are somehow “purer” and more important than NGOs (because of their representative nature and accountable status) and of “leading and expecting NGOs to get in behind”. Some analysts, such as O’Brien (2000: 553), see these attitudes as a significant obstacle to the possibility of labour “forging a long-lasting, broadly based coalition” with social movements. O’Brien argues that labour’s insistence that it is the largest and most democratic organisation and its hierarchical organisational structure could restrict its willingness to cooperate and compromise with social movements, except on a case-by-case basis.

While some GUFs, like PSI, have increasingly worked closely with NGOs and social movement networks, the ITUC and many other GUFs have been more reluctant (Waghorne Interview 2009). However, they are generally happy to utilise information and policy analysis from well-informed NGOs (Howard Interview 2009). According to Waghorne (Interview 2009), these tensions are often played out within the Global Unions Forum on Trade and International Labour Standards (TILS) network, which is the main union forum for discussing trade-related issues and formulating joint policy. At the same time, according to James Howard (Interview 2009), who is the ITUC director of economic and social policy, the formation of the TILS in 1989 has played a major role in improving these relationships. The subsequent broadening of the global union trade agenda beyond labour standards, to gradually incorporate issues such as trade in services, development, TRIPS and Aid medication, has provided a foundation for improving relations with NGOs:

[...] we shared very similar positions on many of those issues and the fact that we disagreed on labour standards became just one out of 10 issues where we would agree on the other nine so that was an important breakthrough for us to start agreeing with them and talking with them and participating in their meetings, and a more respectful base I suppose [...]
(Howard Interview 2009)

There is also a perception within some of the GUFs that the ITUC does not treat them as equals, and sees itself as ‘the boss’ when it comes to international trade union issues (Waghorne Interview 2005). However, there are signs that the level of cooperation between GUFs and the ITUC is increasing (see Stevis and Boswell 2008: Ch. 3). They have developed a common website under the Global Unions banner and commonly speak with one voice as the Global Unions Group.³³ The trade union position statements issued for WTO Ministerial meetings are a good example (see Global Unions/WCL/ETUC 2003 and 2005). This was confirmed by Mike Waghorne (Interview 2009), who says there had been a definite improvement during the 16 years that he had worked at PSI. As mentioned above, a Council of Global Unions (CGU) consisting of the ITUC, most of the GUFs, and TUAC, has also been formed, although this hasn’t been without controversy within the union movement, due to a perception that the ITUC had “muscle in” on what was originally a GUF idea and was now “automatically” seen as the chair of the Council (Waghorne Interview 2009).³⁴ Some GUFs also saw the formation of the CGU as a waste of scarce resources (Croucher and Cotton 2009: 54).

While some of this cooperation can be attributed to the recognition by unions that they have to work together because they face the same kinds of issues, Mike Waghorne (Interview 2009) believes that, unfortunately, much of it is driven more by desperation than conviction: “Unions are losing members, losing resources, under increasing attack and therefore working together out of necessity rather than conviction.”

In terms of unity and coherence, the tensions which exist at the international level, due to the dual affiliation structure of unions, is sometimes mirrored at the national level, with tensions between national union federations and key national sectoral unions over the direction of policy and nature of political engagement, and over who should ‘speak’ for the labour movement on various issues (Murphy Interview 2005 and 2009). Tensions also exist where there are multiple national federations and/or where significant national unions have divergent political views and ideologies from the federation.

³³ This includes the GUFs, the ITUC and the Trade Union Advisory Committee to the OECD, see www.global-unions.org

³⁴ The International Metalworkers Federation (IMF), for example, had not joined as at December 2011 (see <http://www.global-unions.org/conseil-des-global-unions.html>)

Mobilising, Decision-Making and Communication Structures

The main role of the GUFs is to defend the interests of their affiliates through solidarity and organisational work, which may include financial assistance or co-ordination of actions against employers or governments, to provide information and research, to engage in campaigns and create public awareness, and to represent affiliate's interests with multinational enterprises (MNCs) and international organisations (ICFTU 2001).

Nonetheless, while a global union federation may act as the official 'voice' for its affiliated unions and their members at the international level, it is the affiliated national unions who direct the policy and actions of the GUFs. Like other union organisations the GUFs have well-developed governance and decision-making structures which determine how decisions are made (Croucher and Cotton 2009: Ch.4). Major policy decisions, including whether to embark on a significant international level campaign, are usually made at congress, the highest decision making body (of elected delegates from affiliates), which meets at regular intervals (usually from between 3-5 years) (ibid). In practice, draft policy positions are often formulated by key affiliates prior to such congresses and these are then discussed and decided on. Union congresses can be very robust affairs with considerable debate and jostling by affiliates to have their positions adopted.³⁵

Decisions are usually reached by consensus, with formal voting restricted to leadership elections and issues where no agreement can be reached. Affiliation fees are based on membership, and voting rights are generally determined by the level of paid-up membership (Croucher and Cotton 2009: 41). To some extent, the major unions of the developing world, especially those that contribute the highest resources (e.g. German, Nordic, North American and Japanese unions) tend to dominate decision-making due to the level of their contributions and the perceived political importance of their country and union movements (Croucher and Cotton 2009: 43-4). As Congress is held infrequently the potential for influence on daily policy and practice is limited and decision-making is usually confined to broad policy directions and major strategies.

In between congresses, decisions are made by an executive body, usually consisting of elected delegates from national affiliates, which meets between once to twice a year (Croucher and Cotton 2009: 42). Many GUFs also hold regional meetings for specific sectors. General secretaries tend to be European but increasingly, presidents are elected from developing countries (ibid). Indeed, the president of EI during the period studied was from South Africa. Elected positions are also allocated to regional committees, with attempts made to address gender imbalances (ibid). The power and autonomy of regional offices is generally limited, with finance and decision making usually directed through the head office (Cotton and Croucher 2009: 49). There are

³⁵ Author's own observation from attending such a congress in 2005.

also various working groups and non-statutory committees which assist in reviewing and developing policy. These frequently include regional, and sometimes national delegates.

Within this framework GUFs have no direct authority over their affiliated national unions and cannot compel them to act. According to a former senior official in PSI (Waghorne Interview 2009), they can only make recommendations, encourage them to take action, and offer them advice and support. However, Croucher and Cotton (2009: 43) make the point that senior union officers at the international level exercise considerable power through their expertise, access to information and power to set agendas.

Beyond the formal processes, it is unclear how much actual discussion and debate about policy issues, such as trade, takes place at the level of general membership or how much input members at the grass roots level have into decisions about trade policy positions or subsequent lobbying and campaign action. It is also unclear how much information about trade related issues actually reaches the grass roots membership level. The GUFs, including PSI and EI have websites, which members can access independently, but, beyond this, it can be difficult for them to mobilise members directly (this may be changing with the growing use by the GUFs of internet petitions and social media such as facebook and twitter).

Most campaign information, including publications and briefings are distributed via national union offices and it is up to the national union leaders to disseminate this to the branch and membership level. However, to a large extent, national unions act as a 'filter' between the global level and grassroots members, in some cases actively preventing direct contact. In other cases union leaders located in the national office may simply decide a particular campaign is not a priority or not relevant to the local situation (Mawbey Interview 2009).

In addition, union leaders are frequently resistant to the idea of involving members more directly in international campaigns, fearing that this could lead to 'misrepresentation' of union views. From the other side, there is criticism of the tendency of both the ITUC and the GUFs to work 'over the heads' of national affiliates and members on technical or controversial international issues (Murphy Interview 2005, Mawbey Interview 2009). On the whole, national trade union leaders appear reluctant to relinquish organising authority to the international level due to the fear of losing control (Heery 2005).

The dual affiliation structure of the union movement, as mentioned above, can also lead to communication problems at the national level, with important information from international union organisations 'falling through the cracks'. To some extent, this is also a problem of insufficient expertise. If the responsible union staff in national federations or key national unions fail to recognise the significance of a briefing or other information coming from the international level, they may simply file it away rather than passing it on. One senior union official from the National

Tertiary Education Union (NTEU) in Australia said that he had experienced this problem directly (Murphy Interview 2005). In his initial research on the WTO and GATS he came across a briefing about the WTO and issues of concern to unions published some years earlier, but which had been buried in the archives of the national union federation. It had never been passed on to the NTEU or other relevant national unions, probably because nobody in the federation at that time had understood the significance of the issue.

In relation to trade policy issues, one of the problems for the union movement appears to be working out who should do what. Because the WTO is essentially a negotiating arena for member states and labour lacks any institutionalised access at the international level, it makes sense for the focus of much of the lobbying and campaigning to be at the national level. However, even here, questions remain over whether this should be the responsibility of national union federations or national sectoral unions, and there are sometimes tensions and communication breakdowns between the two.

On the other hand, much of the actual negotiating and ‘consensus building’ for WTO agreements takes place at the international level, as this is where the negotiating apparatus is located. The GUFs, especially those located in Geneva, are often in the best position to keep a close watch on negotiations and to identify windows of opportunity for intervention. This raises questions over the role that global union organisations should play. Whether it should be mainly one of supporting and coordinating the actions of national affiliates, or whether GUFs should take more of a leading role in setting campaign priorities and developing a common front of resistance.

Expertise and Resources Dedicated to Trade

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 is widely cited by union activists and officials in this study as a common problem preventing union member and wider public engagement, at both a national and international level (Murphy Interview 2005; Waghorne Interview 2005; Jouen Interview 2005; Ehrenreich Interview 2009; Rudin Interview 2009).

However, despite the size of the union movement as a whole, union organisations at the international levels are relatively small. In their recent study on global unions, Croucher and Cotton (2009: 45) calculate that some 700 people worked for the GUFs in total, with just over half of these located at the head offices and the rest located in regional offices. EI is listed as having 33 head office staff and PSI as having 28 (figures as at 2004). These staff members usually have a wide brief and where trade is covered, it is usually in conjunction with a wide range of other international

relations issues (Waghorne Interview 2005, Jouen Interview 2005). This is largely replicated at the national level (Murphy Interview 2005, Rudin Interview 2009, McLean Interview 2009, Carey Interview 2009, Tate Interview 2010).

While GUFs may seem large and wealthy, normally they have quite a small staff and much of their money goes into non-discretionary spending on administration and constitutional requirements related to their representational structure (Croucher and Cotton 2009: Ch.4). As GUFs rely predominantly on affiliation fees for financial resources, declining union membership in major unions means less money for international action. If fees are raised to compensate, affiliates can choose to reduce the number of members they affiliate and thus the fee they pay (Croucher and Cotton 2009: 52-3).

Despite the limited funds, global union federations have a wide mandate, which means that trade issues, while important, often only make up a small percentage of their overall focus (Waghorne Interview 2005; Jouen 2005). For example, the senior officer responsible for trade in PSI estimated that he spent only 30 per cent of his time on trade issues, which in turn represented only a very small percentage of PSI's overall commitment to international issues (Waghorne Interview 2005). In addition, PSI has a Public Sector Working Group (PSWG), which is the main internal body responsible for globalisation issues, including trade, and an important body for communicating issues of concern between the national and international level. It includes representatives from the PSI regions, plus one or two representatives from the more wealthy affiliates who can afford to send a representative. However, this body, which reports to the PSI Executive Board, only meets every two years, although members stay in close contact via email and briefings.

However, GUFs frequently also have access to external resources, including project funding, which is often used for educational activities (Croucher and Cotton 2009: 45-53) or research facilities. PSI, for example, has access to high quality research through the Public Services International Research Unit (PSIRU), which is located at the University of Greenwich. While PSIRU does not work specifically on trade-related issues, it researches the privatisation and restructuring of public services around the world, with special focus on water, energy, waste management, and healthcare. It produces reports and maintains an extensive database on the multinational companies involved.³⁶ The core work of PSIRU is funded by PSI (www.psiru.org/about-us). Croucher and Cotton (2009: 92-94) identify dedicated research capacity as one of the tools urgently needed by the GUFs to help them "make well-supported arguments and buttress their position as sectoral experts".

This is one of the distinguishing factors between NGOs (including International NGOs) and trade unions (including GUFs). Unlike trade unions, which tend to rely on members' affiliation fees to fund most of their activities, NGOs, especially at the

³⁶ www.psiru.org

international level, access funding from a variety of donors, including governments, trusts and foundations (Spooner 2002). This means they can dedicate people and resources to a single issue or policy area. This makes them much more able to stay up-to-date with what is happening with the WTO and various trade negotiations. On the other hand, as mentioned above, NGOs normally lack the representational structures of unions, and therefore lack the mandate and access to the potential collective mobilisation power available to unions (for a good analysis of the relationship between trade unions and NGOs see Gallin 2001 and Spooner 2002).

Theoretically, global union organisations can also draw on resources and expertise from their national affiliate unions. However, this is not much help if resources and expertise are lacking at this level as well. As McGuire and Scherrer et al. (2010: 32) found in their study of union capacity to influence trade policy at the national level, most national union federations lack sufficient institutionalised policy and political expertise in relation to trade. In some cases national federations were able to draw on resources and expertise from major national sectoral unions but, here also, such expertise was usually restricted to one or two key people, usually with competing responsibilities.

In their recent study on global unions, Stevis and Boswell (2008: 76) argue that: “Only when national unions agree to transfer significant resources and authority to global union organisations will global labour politics move beyond foreign politics and towards the globalisation of solidarity”.

4.4 Assessing Opportunity (POS) — National Level, Australia

Historical and Political Context

The Commonwealth of Australia was formed in 1901 from the federation of the six pre-existing British colonies and territories, which had developed in the late 18th and 19th centuries following British possession of the east coast in 1770. Great Britain later claimed the entire country (continent) as British territory in 1829. This occupation of the land as ‘Terra nullius’, (land possessed by no-one), dispossessed the indigenous people, known as the Aboriginal people, who had occupied the land for about 40,000 years or more prior to European invasion. This is still a major issue in Australia today. From the beginning, Australia relied heavily on its natural resources to develop agricultural and manufacturing industries, and was heavily involved in the British war effort in World Wars I and II. During the 1980s, the labour government of the time instituted a range of economic reforms, which effectively transformed Australia’s relatively protected industrial environment into a liberalised market economy. While this shift was followed by a period of economic growth and industrial stability in the 1990s it had a dramatic impact on Australia’s manufacturing industry and has ushered in a period of eroding public services and labour rights. Australia remains highly dependent on its natural resources, including extensive reserves of coal, iron ore, copper, gold, natural gas, uranium, and

renewable energy sources, which make up a significant percentage of its exports and attracts high levels of foreign investment (and foreign ownership). However, it also has a large services sector and is a significant exporter of agricultural products (CIA World Fact Book 2012a).

Although Australia is a fully independent parliamentary democracy, it remains a constitutional monarchy. Australia has a federal system of government with power divided between a central government and the six states and two territories.³⁷ It has a bicameral Federal Parliament consisting of the House of Representatives, elected by popular vote to serve terms of up to three-years, and a Senate which has representatives from each of the six states and two from each of the two mainland territories. Minority parties or independents often hold the balance of power in the Senate, which serves as a chamber of review for the decisions of the government. These structures are reflected at the state level. Australia has a multi-party political system consisting of four major parties, the Australian Labor Party (ALP), the Liberal Party and the Nationals (which usually act in coalition) and the Greens, and other minor parties (DFAT 2008b).

Who Controls the Trade Policy Process?

In Australia, all decisions about the negotiation of treaties, including objectives, negotiating positions, and the final decision to sign and ratify an agreement are made at the Federal Ministerial Level (executive arm of the government – Prime Minister and the Cabinet) rather than by Parliament (DFAT 2008a: 3). The Federal Parliament's role is limited to a scrutinising one. All treaties (including trade agreements) must be tabled in Parliament, usually after signing but before ratification, and are scrutinised by a specially established parliamentary committee, the Parliamentary Joint Standing Committee on Treaties (JSCOT), established in 1996 as part of a range of reforms to the treaty making process introduced by the incoming Liberal/National Party coalition government as part of an election promise (Capling and Nossal 2003). However this scrutiny usually takes place late in the negotiation process and, in the end, JOSCOT can only make non-binding recommendations to government. As part of these reforms a Treaties Council was also established to ensure better participation by and consultation with heads of federal states and territories but it is not clear how well this functions. Other Parliamentary Committees such as the Foreign Affairs, Defence and Trade Committee can also hold inquiries into trade related matters, but their recommendations are also non-binding. Parliament only plays a significant role if enabling legislation is required for Australia to fulfil its treaty obligations (DFAT 2008a). As noted by Capling and Nossal (2003: 13), although the reforms provided a process for scrutinising trade agreements prior to ratification, they stopped “well

³⁷ Queensland, New South Wales, South Australia, Tasmania, Victoria, Western Australia, and two territories; Australian Capital Territory, and the Northern Territory

short of developing more inclusive or participatory processes with respect to a vital part of the treaty-making process — the development of national negotiating positions”.

Administrative responsibility for all international treaties, including trade agreements; bilateral, regional and multilateral trade policies, international trade negotiations and trade promotion, rests with the Department of Foreign Affairs and Trade (DFAT) together with the Australian Trade Commission (AusTrade). AusTrade is mainly responsible for trade promotion while trade policy and coordination is the responsibility of DFAT, with the assistance of the Department of Prime Minister and Cabinet. Other agencies such as the Australian Customs Service and Treasury are also involved in various capacities (a full list can be found in the WTO trade policy review for Australia, WTO 2007).

Channels of Access to the Trade Policy Process

In Australia, organised labour has no formal access to the trade policy process, however, there is some limited indirect access for civil society actors through the parliamentary system, as a result of the reforms mentioned above. Consultation with civil society is confined mainly to business interests. A WTO advisory group which included representatives from civil society and labour was set up shortly before the WTO ministerial meeting in Doha, in 2001, following criticism that the negotiating process in the lead up to the WTO negotiations in Seattle privileged business interests while ignoring other groups that had legitimate social concerns (Capling and Nossal 2003: 848). However, it has since been disbanded. In any case, it was regarded by civil society and labour representatives as largely tokenistic, although it did provide a useful avenue for information (Murphy Interview 2009). There have been some improvements in terms of transparency and public access, as a result of reforms to the trade negotiating process in the mid 1990s mentioned above. Proposed trade agreements are publicly announced in newspapers and posted on the Department of Foreign Affairs and Trade (DFAT) website (www.dfat.gov.au), and submissions are called from interested parties. Information about current trade negotiations, including those in the WTO, are also posted on the DFAT website. In addition, DFAT also holds some formal briefings on trade negotiations for ‘stakeholders’, which includes trade unions and NGOs as well as business interests, and sometimes holds public forums (Tate Interview 2010, Sparkes and Deady Interview 2009).

The parliamentary reforms, mentioned above, have provided some limited institutionalised means for public input in the trade negotiation process through submissions to public inquiries and participation in public meetings and hearings. JSCOT (the parliamentary committee set up to review trade agreements) advertises its reviews in the national press and on its website, inviting comments from interested groups and individuals. It also takes evidence from public hearings, government agencies and people who have written submissions. Following its review the Committee presents a report to Parliament about whether Australia should bind itself

to the treaty and on any related issues that have emerged (DFAT 2008, Parliament of Australia 2011). Although the government is not bound by the recommendations, the process itself attracts considerable media attention and provides some scope for ‘moral suasion’ and scandalising government action. JSCOT also has the capacity to inquire into a treaty during negotiations, or when issues are referred to it by Parliament or a Minister. This happened during negotiations of the proposed Multilateral Agreement on Investment (MAI) (DFAT 2008: 17). It was prompted by wide-spread public concern over the secrecy of the MAI negotiations and the lack of consultation, despite its potential scope and impact on the countries concerned. In addition, civil society actors can lobby Ministers and Members of Parliament to raise questions in Parliament and call additional inquiries.

While it is true that these reforms have opened up the policy process to some extent, critics argue that they do not provide any genuine input into the development of trade policy and negotiating positions services (Capling and Nossal 2003: 849-850). Governments can and have ignored public concerns, even when wide-spread. The government’s preparations for the WTO ministerial meetings in Seattle in 1999 provide a good example. The consultative processes for developing negotiating objectives were confined to business interests and relevant government agencies. In addition the feedback from the public enquiry set up by DFAT had virtually no impact on the final negotiating position. Despite the largely negative attitude to further liberalisation and freer trade expressed in numerous submissions and testimony by state governments, business and community groups, trade unions, and individuals, the federal Government pressed ahead with further trade liberalisation in agriculture, manufacturing and services (Capling and Nossal 2003:849-850). Capling and Nossal (2003: 851) argue, that rather than addressing the perceived ‘democracy deficit’ caused by internationalisation of policy making, JSCOT has evolved as “a tool of political management, a means by which the government could channel protest, deflect opposition, and in essence legitimise its own policy preferences”. Their analysis shows that despite the JOSCOT reforms and attempts to make the process more democratic, the treaty making process did not change much: some groups are still systematically excluded from the consultation and preparation process of trade agreements while the “policy-making elites”, such as big business and producer groups “enjoy, as they always have, privileged access to those forums where Australia’s negotiating position is really hammered out” (ibid: 850).

As mentioned above, a close relationship or alliance with a labour-friendly political party can provide unions with an additional channel for influence and thus political power. Theoretically, unions in Australia have additional access to the legislature and political decision-makers through their historical association and alignment with the Australian Labor Party (ALP).³⁸ The ALP was born out of union struggles in the

³⁸ The Labor in the Australian Labor Party is spelt in the US style to distinguish it from the labour movement more generally.

1890s and has been traditionally regarded as the political arm of the labour movement (with unions being the industrial arm). However, as the ALP was in opposition from 1996 until 2007 this relationship provided only limited possibilities for influence during the period in which the union and civil society campaign against the GATS took place. In addition, the extent of elite consensus on trade policy between the two main political parties makes it generally difficult for union activists to exert influence on trade through Labor Party channels.

Trade Policy Legacy and Degree of Consensus

Prior to the 1980s Australian trade policy focused more on import policy and industry protection, rather than free trade, although there has always been tension between those favouring protectionist measures and those supporting free-trade (Capling 2001 and 2005). However, as mentioned previously, during the 1980s, under the Hawk/Keating (ALP) Government, the supporters of free trade won out, with Australian trade policy changing from “one of the most protected to one of the most open economies in the World” (Capling 2005: 14). This was related both to the growing influence of neo-liberalism in Australia and the failure of “the post-war Keynesian consensus” to solve pressing economic problems of high unemployment, stagnating growth and high inflation (Cahill 2000 and 2004). Some see this change in trade policy as part of a hegemonic shift in Australian society (Cahill 2004, Staples 2006), which moved the balance towards neo-liberal policies, including free-trade, progressive liberalisation, privatisation and deregulation. This shift, which further intensified under the Howard Liberal/National Coalition government (between 1996-2007), was actively promoted and supported by neo-liberal intellectuals and think tanks such as the Institute for Public affairs (IPA), the Centre for Independent Studies (CIS), the H.R. Nicholls Society, and the Australian Chamber of Commerce (later the Australian Chamber of Commerce and Industry ACCI) (Staples 2006, Cahill 2000).

Initially, this shift in policy also enjoyed broad support of large sections of the trade union movement. Although trade liberalisation was accompanied by sweeping reforms in the labour market, which effectively decentralised collective bargaining while ‘disciplining’ workers through wage fixing, the trade-off for unions was a say in policy making and an increase in the social wage for workers. While the ‘Prices and Incomes Accord’ or the ‘Accord’, as this period of corporate unionism is popularly known,³⁹ has since fallen out of favour (Peetz 1998), the pursuit of

³⁹ 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.

national interest through trade liberalisation has been consistently pursued, regardless of the political party in power.⁴⁰

While Australia supports multilateralism, there have been and continue to be tensions in Australia between multilateral and bilateral approaches to trade (Capling 2005). However, generally speaking the multilateral trading system has been seen by both main political parties as the best option for Australia to advance its trading interests (at least until recently). Its self-perception as a ‘small country’, has led successive governments to take the view that Australia lacks the leverage or bargaining capacity for trade-offs to gain better market access, therefore greater influence could be exercised by acting together with like-minded countries in the context of multilateral negotiations (Capling 2005). Consequently, Australia has taken a leading role in the Cairns Group, “a coalition of like-minded agricultural exporting nations” established during the Uruguay Round of the GATT, which achieved increased significant agriculture exports for Australia (DFAT 2008a: 2, see also Capling 2005: 23-24). Australia was a member of the GATT and has continued to play a leading role in WTO negotiations, since it was established in 1995. Although Australia’s role as a key player in agricultural negotiations has diminished, as an aggressive exporter of education services it plays a key role in services negotiations (Sparkes and Deady Interview 2009). According to former lead GATS negotiator Rhonda Piggott (Interview 2009), Australia is a key exporter of education services and therefore has offensive interests in this area. She said that the Australian government had made commitments in services at the tertiary level but “very much protects secondary and primary level” education. Other services of interest include a wide range of professional services, telecom services, financial services and logistics (ibid).

While, at least in its policy statements and reports to the WTO (WTO 2007), Australia continues to support multilateralism, in recent years political consensus seems to have shifted in favour of bilateral agreement making (Capling 2005:16). Since 2000, Australia has negotiated five bilateral free trade agreements, with nine currently under negotiation (DFAT 2012). This seems to be related to a number of factors: a return to using trade to realise geo-political goals (Capling 2005: 78-79); a loss of faith in the capacity of the multilateral system to provide opportunities for Australian exports; and, an attempt to position itself in what it sees as the “new global economy”, where export opportunities will shift from the centres of Europe and Northern America to the Asia-Pacific region (Mortimer 2008). In any case, this shift is part of a general trend and not confined to Australia. The growth of regional and bilateral agreements throughout the world has accelerated in the past few years, leading to a “spaghetti bowl of criss-crossing agreements” and growing concerns about its threat to the multilateral system (Baldwin and Low 2008: Introduction).

⁴⁰ For criticism of the Accord as a betrayal of workers’ interests see Ewer et al. 1991 cited in Peetz (1998: 162) and comments by Manufacturing Workers’ leader Doug Cameron, quoted in Crosby (2005: 47)

These agreements range from simple bilateral agreements between relatively equal partners to highly integrated regional agreements, which go beyond WTO standards, between highly unequal partners (ibid).

The culture of trade liberalisation is well entrenched in Australia at both the political and bureaucratic level. There is a relatively strong consensus on trade liberalisation between government and business regardless of the party in power (Ranald Interview 2009, Murphy Interview 2009, Sparkes and Deady Interview 2009). In addition, both bureaucrats and trade negotiators within DFAT (department responsible for trade) favour trade liberalisation as the best way to advance Australia's national interests (Sparkes and Deady Interview 2009). They have also been quite resistant to consultation with civil society groups, beyond business interests. Although they recognise that unions have some legitimacy as stakeholders, trade bureaucrats appear generally dismissive of the claims by other civil society groups that they have a legitimate right to be consulted about trade issues (Sparkes and Deady Interview 2009).

However, the highly secretive and rather exclusionary nature of the trade negotiation process means that other Ministries and levels of government are not always adequately consulted or engaged in the formulation of negotiation positions (Ranald Interview 2009). This opens up possibilities for activists to appeal to 'disgruntled' policy makers and governmental actors at other levels (i.e. to form elite allies, see McAdam et al.1996).

During the period looked at unions had no links with the ministry or department responsible for trade. With the election of the Howard government in 1996 unions were thrust into a hostile industrial relations and political environment which restricted union rights and excluded unions from the policy process for a decade (Murphy Interview 2008, Nixon Interview 2008). Ministers and DFAT officials responded to formal letters and met with union representatives on request, but were not open to alternative policy positions (Ranald Interview 2009). As mentioned, the Australian government has aggressive interests in trade in services, especially higher education services, and this is supported by trade negotiators and bureaucrats (Sparkes and Deady Interview 2009). However, during the period under study the services lobby in Australia was not as organised as in other countries, and lacked the political clout of the services lobby in the U.S. and the EU (ASU 2003 and 2007).⁴¹

The shift towards neo-liberalism in Australia was accompanied by a concerted attack on unions and NGOs, designed to de-legitimise them and reduce their capacity to undertake advocacy roles on the part of workers and the broader society (Cahill 2004, Staples 2006). Consequently any attempt by NGOs to influence policy was interpreted as interfering with the market or acting in pursuit of self interest: they

⁴¹ According to its newsletter (ASR 2003), The Australian Services Round Table (ASR) was only officially launched in February 2004.

were dismissed as “single-issue groups”, “special interests” and “elites” (Staples 2006: 4). Unions also suffered from the sustained neo-liberal attack. From the mid 1980s neo liberal intellectuals and a range of influential think tanks began calling for the dismantling of Australia’s centralised wage fixation and arbitration system, and restriction of trade union power (Cahill 2000: 5). This was intensified under the Howard led Liberal National Coalition government (1996-2007), which turned it into an all out attack on the union movement.

Capacity for State Repression/Vulnerability to Social Protest

Restrictions on the right to strike in Australia 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 sympathy strikes and 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 necessarily 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 (Barrett 2000).

4.5 Assessing Capacity (MOC) — National Level, Australia

Union Strength, Unity and Organisational form

As in many other advanced capitalist states, the Australian union movement has faced declining levels of strength and power over the past few decades (Kelly 1998): Not just in terms of levels of union density or the capacity of unions to negotiate better wages and conditions for members, but also in its ability to exert political influence. As detailed above, the impact of neo-liberal policies, initially adopted by a labour government in the mid 1980s and then intensified under the liberal/national coalition from 1997-2007, decentralised collective bargaining, accelerated the process of membership decline, and created an increasingly hostile political environment for unions. Between 1982 and 2001, union density in Australia fell to less than 25 per cent (Peetz, Webb, and Jones 2002). As at 2008 this had fallen to 19.1 per cent of the wage and salaried earners, and only 17 per cent if all workers are included (Hayter and Stoevska 2009: 9). However, the collective bargaining coverage of workers is higher (ibid). This probably reflects historical factors, including the degree to which previous union strength has been institutionalised in Awards and collective bargaining agreements, and the practice of employers extending bargaining gains to non-union members (Peetz 1998).

The Australian union movement exhibits a relatively high degree of unity and coherence, although not without tensions, due to the multilevel nature of union representation and something of an ideological split between left and right (Murphy Interview 2009, Peetz 1998). Australian unions are represented at the national level by a single union federation, the Australian Council of Trade Unions (ACTU), which was established in 1927 in recognition of the need for a national organisation to represent the interests of the union movement, particularly at the policy level (ACTU 2009). Prior to this, unions were represented at the State level and these State-level labour bodies, which are now branches of the ACTU, still play a major role. The complexity of the industrial relations system is reflected in the union structure. Industrial relations in Australia operate on a dual State and Federal level, with some workers represented by national unions and some by state-based unions, depending on the industrial instrument that covers their wages and working conditions. In most cases state-based unions are also affiliated at a national level and therefore registered as national unions as well (Peetz 1998); all of which makes for a complex union picture.⁴² National sectoral unions, and in many cases their State branches, maintain considerable autonomy in policy and decision making. As at 2007 the ACTU was made up of 46 affiliated unions and represented around 1,700,000 Australian workers; around 19 per cent of the full-time workforce (Australian Bureau of statistics 2007, cited in ACTU 2009).

Mobilising, Decision-Making and Communication Structures

Official ACTU policies and decisions are made through two representative bodies: 1) the ACTU Executive, which includes ACTU officers, a representative from every union that has more than 8,000 members, a youth representative, an indigenous Australian representative, and additional women representatives (there is an affirmative action requirement for 50 per cent of the Executive to be women); and 2) the ACTU Congress, which is a three yearly meeting of delegates, representing every union that belongs to the ACTU (ACTU 2009). National trade policy is developed at the level of the National ACTU Congress, which sets the union agenda for the next three years (ACTU 2009). To what extent these policy decisions represent the interests or opinions of grass-roots members is not clear, although unions in Australia generally have a democratic structure, with elected delegates and executive bodies. The ACTU represents unions in the ITUC at the international level.

In terms of mobilising grass-roots support for trade-related issues, one of the problems in Australia would seem to be the lack of effective union delegate structures within workplaces (Peetz 1998). In his analysis of the Australian trade union movement in 1993, Peetz (1998: 193) estimated that more than half of the

⁴² But not as complex as it was in the past. Prior to 1986 there were 326 unions in Australia but following an ACTU driven amalgamation and restructuring in response to union decline in the mid to late 80s, this was reduced to 47 nationally registered unions by 1995 (Peetz 1998: 133).

unionised workplaces in Australia have no union delegate structure and many more have only an “inactive” union presence. Not only is this a threat to union democracy and organising capacity, it makes it impossible to effectively engage members in broader policy issues. Information about policy issues and campaigns is conveyed via websites, briefings and union journals, and in some cases email Listserves (Carey and Gruit Interview 2009, McLean Interview 2009, Murphy Interview 2005, Tate 2010).⁴³ In most cases information from GUFs is filtered through the affiliated national union offices (Waghorne Interview 2005 and 2009, Murphy Interview 2005 and 2009, Mawbey Interview 2009). However, control of information is not as easy now that most members have internet access. Nonetheless the actions of GUFs can seem far removed from members. More recently, the ACTU, and a number of other major unions have developed more sophisticated web-based campaign tools, which provide some capacity for members' feedback and interaction (electronic sign-on statements for example).

Expertise and Resources Dedicated to Trade

The lack of resources dedicated to trade at the international level is largely reflected at the national level in Australia. The ACTU has one international officer with responsibility for trade issues alongside other international issues (Tate Interview 2010, Burrow Interview 2009). However, it also has an international committee made up of key representatives from affiliate unions which provides an important additional source of expertise and a forum for discussion and policy formation in relation to trade and other international issues (Tate Interview 2010). Until recently, the lack of dedicated staff in the federal office was offset by the trade and global economic expertise of the former ACTU president Sharan Burrow, through her role as president of the ITUC and her work in the ILO.⁴⁴ In addition, the ACTU draws on key experts from within major affiliates, or external labour consultants, to provide policy advice, write submissions and represent the federation at public hearings and other trade related events (Murphy Interview 2008, Apple Interview 2008).

As it has been in the firing line of tariff cuts since the 1980s the Australian Manufacturing Workers Union (AMWU), which is the major manufacturing union in Australia, has developed a strong capacity to campaign in relation to trade issues (Apple Interview 2008, Roe Interview 2009). But until recently, this was not the case for unions in most other sectors, especially those covering public services and education. However, the increased intrusion of trade into domestic issues, heralded by the inclusion of services negotiations into the multilateral trade regime, the attempted negotiation of the Multilateral Agreement on Investment (MAI) in 1998, and the Government's negotiation of a number of controversial bilateral trade

⁴³ The term ‘listserv’ refers to an automated mailing list that enables a single email to be sent out to a large group of people.

⁴⁴ She has since resigned as ACTU president and in (2010) was elected as General Secretary of the ITUC.

agreements over the past decade, has increased awareness of trade related issues, both within the union movement and the wider society (Murphy Interview 2009, Ranald Interview 2009, Capling 2005).⁴⁵ Various campaigns against trade agreements have led to a growing trade policy expertise, especially within health and education sector unions, which have been seen as most exposed to the threat of further liberalisation through trade in services.

The National Tertiary Education Union (NTEU) in particular, has developed specialised trade policy expertise in relation to the GATS. In fact, most of the ACTU work in relation to the GATS negotiations, (including writing submissions) has been done by Ted Murphy, who until recently was the assistant general secretary of the NTEU (Murphy Interview 2008). Murphy also conducted training and awareness raising, and frequently represented the ACTU at regional and international trade events.

In the health sector, the Australian Nurses Union (ANU) and the Queensland Nurses Union (QNU) were also very active in mobilising against the GATS, especially the QNU (Mohle Interview 2009). General public services unions also developed some expertise in relation to trade issues, especially the Australian Services Union (ASU) and the Community Public Services Union – State Public Services Federation group (CPSU-SPFS) (McLean Interview 2009, Carey and Gruit Interview 2009). Nonetheless, expertise, where it exists, is usually confined to a few people at relatively senior levels of the union movement.

Unions in Australia do not generally retain a parliamentary office and union head offices, including the ACTU are located far from the national capital, Canberra, thus making direct lobbying of politicians more difficult. To overcome this problem, some unions have more recently employed parliamentary liaison officers to provide advice and information to officials, officers, organisers, delegates and members about relevant legislative and parliamentary developments (the CPSU for example, see LabourNet 2010).

Unions had access to additional expertise and mobilising capacity through alliances formed with civil society groups, most notably the Australian Fair Trade and Investment Network (AFTINET), which was formed in 2000 as a direct response to concerns over the WTO negotiations, especially the GATS. There were 30 original members of AFTINET, including church groups, NGOs and unions. Most of the original members had been part of pre-existing networks formed during mobilisation against the failed Multilateral Agreement on Investment (MAI) (Ranald Interview 2009). Many of these networks, which continued to exist also turned their attention to

⁴⁵ The importance of the protests against the MAI as a key factor in raising awareness about the potentially negative effects of trade agreements was reiterated by most of the Australian union leaders interviewed for this research and also by Pat Ranald, the director of Australian Fair Trade and Investment Network, AFTINET.

the WTO and the GATS. Thus providing key linkages for information distribution and awareness-raising.

4.6 Assessing Opportunity (POS) — National Level, South Africa

Historical and Political Context

The modern Republic of South Africa was born out of conflict, with the indigenous peoples subjugated over a long period of time by a combination of violence and disease, despite extensive resistance. European occupation began with the establishment of Cape Town in the 1650s by Dutch traders, as a stopover point on the spice route between the Netherlands and the Far East. The Dutch also colonised nearby land and introduced a system of slavery in response to the demand for labour. Slaves were imported from East Africa and Madagascar, and the East Indies.

After the British seized the Cape of Good Hope area in 1806, many of the Dutch settlers (the Boers) trekked north to found their own republics. The discovery of diamonds (1867) and gold (1886) had a major impact, leading to wealth accumulation and immigration and also intensifying the repression of the native inhabitants. The Boers resisted British encroachments but were defeated in the Boer War (1899-1902). However, from 1910 the British and the Afrikaners (as the Boers became known) ruled together under the Union of South Africa (a Commonwealth realm), which became a republic in 1961, after a whites-only referendum.

From 1948 until May 1994, the Republic of South Africa (formerly the Union) was ruled by the Afrikaner-dominated National Party (NP), which instituted a policy of apartheid - the separate development of the races - that favoured the white minority at the expense of the black majority. In part, this was a response to the growing integration of African people into the country's economic life and assertion of political rights. An educated élite of clerics, teachers, business people, journalists and professionals grew to be a major force in black politics and a vigorous black press emerged. The African National Congress (ANC) founded in 1912, became the most important black organisation, drawing together traditional authorities and the educated African élite in common causes, and the Communist Party, formed in 1921 became a force for non-racialism and worker organisation (South Government Information 2012c).

The African National Congress (ANC), which led the growing opposition to apartheid, spent many years in exile and many top ANC leaders, such as Nelson Mandela, spent decades in South Africa's prisons. Opposition to the apartheid regime intensified from the mid-1970s with the government facing wide-ranging internal protests and insurgency, and international sanctions and boycotts. The union movement played a major role in the struggles for liberation from apartheid. The rising level of social unrest combined with economic problems eventually led to the regime's eventual willingness to negotiate a peaceful transition to majority rule. From

1989 moves got underway to dismantle legislative apartheid, lifting the ban on the ANC and the Pan-African Congress (PAC). In February 1990 Nelson Mandela, deputy president and leading figure in the ANC, was released from jail after 26 years' incarceration.

The first multi-racial elections in 1994 brought an end to apartheid and ushered in majority rule under an ANC-led government, led by Nelson Mandela as President. Since then the ANC has maintained its position as the largest party in parliament and government. In 1999 Mandela was succeeded as President by the ANC's Thabo Mbeki. Since then, the South African government has struggled to address apartheid-era imbalances in decent housing, education, and health care, while at the same time attempting to retain the confidence of the white-business community and international investors. (IUR 2009; EISA 2009; CIA World Fact Book 2012b; South Government Information 2012c).

South Africa has a bicameral parliament, which includes the National Assembly, directly elected by the people, and the National Council of Provinces NCOP, which represents provincial interests at the national level (effectively the Senate). The President is elected by the National Assembly and then ceases to be a member of the legislature. As head of state the President has considerable executive power over the appointment and responsibilities of ministries. South Africa has a multi-party political system with 13 parties currently represented in parliament and 13 with no seats. The African National Congress (ANC), which currently (as at August 2009) holds 264 of the 400 seats in the National Assembly and controls eight of the nine provinces, continues to be the dominant political party (EISA: 2009).

Who Controls the Trade Policy Process?

In South Africa, trade policy formulation and negotiation is undertaken at the executive branch level; consisting of the President, the Deputy President and the Cabinet ministers at national level. Unlike in Australia, international trade agreements must be ratified by both houses of Parliament. However, Parliament does not have the power to amend international treaties that are the prerogative of the executive (Draper 2007).⁴⁶ While Parliament could, theoretically, refuse to ratify an agreement, this has never been tested (Draper 2007: 247). Parliament is briefed about upcoming negotiations and kept informed of the progress of negotiations, usually through the Portfolio Committee on Trade and Industry, which is the parliamentary committee with special responsibility for trade.⁴⁷ This committee can scrutinise the

⁴⁶ According to Draper (2007: 247, note 16) this is an ambiguous area and it is not clear which types of agreements require parliamentary ratification. Annexes to trade agreements, for example, which can contain important provisions, do not.

⁴⁷ Due to the nature of international trade agreements, other committees including those dealing with agriculture, labour, communications and environmental affairs also included to deal with trade issues.

text of proposed trade agreements, engage with trade negotiators and experts, and initiate public hearings. It also has the right to “summon any person to appear before it to give evidence or produce documents” (Inter-Parliamentary Union 2011). However, while the Parliament in South Africa appears to have considerable potential to be engaged in trade matters, according to Draper (2004 and 2007), it is yet to play a critical role in the formulation of trade negotiating positions.

The key department with responsibility for formulating and coordinating South Africa’s trade and industrial policies is the Department of Trade and Industry (DTI). Within the DTI, trade negotiations, including multilateral negotiations in the WTO, are largely the responsibility of the International Trade and Economic Development (ITED) Division, which “provides leadership on South Africa’s trade policy” (DTI 2011). Some critics (e.g. Draper 2007) argue that ITED suffers from lack of capacity, due to insufficient staff and inadequate institutional experience in trade negotiations. According to Keet (2010), the lack of institutional experience is, to some extent, due to the shift from the apartheid regime and the need to replace existing staff within bureaucracies, including within the DTI and ITED, and also within the trade delegation situated in Geneva. Trade agreements are administered by the former Board of Tariffs and Trade, now the International Trade Administration Commission (ITAC). Trade promotion and investment are handled by Trade and Investment South Africa.

The Minister of Trade and Industry plays an important role in driving policy direction. Previous trade ministers, such as Alec Erwin (1996-2004) have promoted a policy of more or less unilateral liberalisation but the current Trade Minister, Rob Davies (who was previously the deputy Trade Minister from 2004), is reputed to have a less ‘liberalising’ focus and be more open to labour and civil society concerns (Rudin Interview 2009, Vickers Interview 2009).

Other key departments include the Department of Foreign Affairs (DFA), The Department of Agriculture (NDA) and Treasury, which has a key interest in trade policy and plays a major role in driving liberalisation (Draper 2007: 249). The Presidency is increasingly playing a policy coordination and mediation role (Draper 2007, Vickers Interview 2009), both through the “cluster” system which groups key ministries together and through the President’s Economic Advisory Council. Trade and investment initiatives can also come from other departments and agencies and also from the organised private sector, including business and labour. Both organised business and organised labour have a formal relationship with the South African Department of Trade and Industry (DTI) through a tripartite economic institution. 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. These are explored in more detail below.

Channels of Access to the Trade Policy Process

Unlike the situation in Australia, organised labour in South Africa has institutionalised access to the trade policy process through the National Economic Development and Labour Council (NEDLAC), a statutory tripartite body formed in 1995, which brings together representatives from organized labour, organized business, community organisations, and the state to address economic, labour and development issues. (Finnemore 2002: 115). NEDLAC's mandated role is to build consensus on key social and economic policy issues. For trade, this includes building consensus between business, labour and government on the broad trade negotiations agenda, including the potential impact of particular trade agreements and initiatives on the economy, and on the formulation of positions for trade negotiations. NEDLAC's input is generally required before Parliament considers legislation (NEDLAC 2009),⁴⁸ although this does not always take place. One particularly controversial example was the development and introduction of the Growth, Employment and Redistribution (GEAR) policy, outside of the NEDLAC framework, despite the fact that this represented a major economic policy shift (Basset 1999).

NEDLAC's work is conducted in four Chambers: the Labour Market Chamber; the Trade and Industry Chamber; the Development Chamber; and, the Public Finance and Monetary Policy Chamber. These Chambers report to a Management Committee, which oversees the work programme and administrative issues. Trade issues are discussed in the technical sectoral liaison committee (TESELICO), which is a sub-committee of the Trade and Industry Chamber. Within TESELICO, task groups have also been set up to provide a mandate and guidance for specific negotiations such as the Non Agriculture Market Access (NAMA) and services negotiations in the WTO.

Within NEDLAC, government interests are represented by ministers and senior officials from various departments, including the Departments of Labour, Trade and Industry (DTI), Finance and Public Works. Other departments attend when there is a relevant issue for their portfolio. Within TESELICO, the DTI represents government in relation to trade issues. Organised labour is represented by the three main labour federations: the Congress of South African Trade Unions (COSATU), the Federation of Unions in South Africa (FEDUSA) and National Council of Trade Unions (NACTU), which all meet the criteria to participate as social partners within NEDLAC. However, COSATU, as the largest trade union federation, appears to play the dominant role on the part of labour (Webster and Sikwebu 2010). Organised business is represented by the Business Unity South Africa (BUSA), which was formed by the merger of the Black Business Council (BBC), and Business South Africa (BSA). Finally, the organised community is represented by a range of organisations including, the South African Youth Council, National Women's Coalition, South African National Civics Organisation, Disabled People South

⁴⁸ Unless otherwise noted, specific information about the organisation and function of NEDLAC is derived from the NEDLAC website (www.nedlac.org.za).

Africa, Financial Sector Coalition and the National Co-operatives Association of South Africa. Each group — government, organised labour, organised business and the organised community — has an overall convener within NEDLAC (NEDLAC 2009). It is worth noting that community interests are only represented in the Development Chamber (not in the Chamber of Trade and Industry) and therefore the organised community has no formal voice in the trade policy process. However, a range of trade oriented civil society groups, such as the Trade Strategy Group (TSG), have managed to promote their interests in relation to trade, through links with the trade union movement (Pressend Interview 2009).

Some critics of NEDLAC argue that that it undermines the functions of Parliament (it is hard for parliament to override a consensus decision) and that the social partners are not really independent of each other due to COSATU's role in the alliance with the governing ANC (Finnemore 2002: 117). Others argue that small business and other civil society interests are not adequately represented (ibid). However, from a labour point of view, NEDLAC is seen as a crucial way of entrenching unions' (and therefore workers') rights in decision making and their influence in macro-economic policy making (Finnemore 2002: 115, Webster and Sikwebu 2010). This view is largely supported by the current and former union officials interviewed for this research (Makgetla Interview 2010, van Meelis Interview 2009, Ehrenreich Interview 2009, Dicks Interview 2008 and Rudin Interview 2009). However, there are criticisms about organisational issues, such as the chronic underfunding and lack of proper process (Rudin Interview 2009, Webster and Sikwebu 2010).

As representatives from each of the tripartite groups from NEDLAC are included in the official government delegation to the WTO (NEDLAC 2001), unions in South Africa have also had more 'privileged' access to WTO negotiations than unions in many other countries. In addition, the DTI holds public consultative forums for stakeholders before each WTO Conference (South African Government Information 2005). More recently, special 'Bi-Annual Strategic Sessions' have been introduced by the minister for trade (NEDLAC 2007), which open up further avenues for labour access to trade policy decisions at a more strategic level.

Besides having institutionalised access through NEDLAC, the main union federation, COSATU, is in the unique position of being in a formal alliance with the South African Communist Party (SACP) and the African National Congress (ANC), which has been in government since the first democratic elections in 1994 (Finnemore 2002). This alliance, which was formed in 1991, shortly after the lifting of the ban on the ANC (Chinguno 2009), reflects the union movement's desire for workers to have a say in the economic and social restructuring of South Africa following the overthrow of apartheid (Finnemore 2002). Theoretically, this provides organised labour with considerable influence and levels of access to policy making and political decision makers that do not exist in many other countries. COSATU leaders also have considerable opportunities for informal access to ministers and members of

parliament due to the high percentage of former unionists who have become members of parliament and subsequently government ministers (IUR 2009: 19).

However access does not in itself guarantee influence and the relationship between COSATU and the ANC has been far from smooth. Since coming to power, the ANC-led government has pursued a liberalising focus at odds with the more socialist oriented agenda of COSATU; which aims to address the entrenched inequality, which is a legacy of Apartheid. As Adler and Webster, (2000) note: “Instead of COSATU and the SACP drawing the ANC into their redistributive politics, the ANC ...[has been]... increasingly been drawn into orthodox economic policies, thus marginalising COSATU and the SACP’s redistributive programmes” (cited in Webster and Buhlungu, 2004: 46). This dominance has been reinforced by the ANC’s ongoing success at the polls, first in 1994, then in 1999 and 2004, with the most recent election in 2009 (Election Resources on the Internet 2009).

The first major policy split occurred in 1996, when the ANC unilaterally replaced the largely Keynesian, and democratically negotiated Reconstruction and Development Programme (RDP) with the more neo-liberal macroeconomic GEAR programme (mentioned above), without consultation with its Alliance partners, or within NEDLAC (Bassett 1999). This sparked major criticism from COSATU and led to speculation about a split in the Alliance (Bassett 1999). However, in the end, “COSATU’s opposition to GEAR was not strong enough to make its participation in the Alliance conditional on the ANC dropping the program” (Bassett 1999), and it has remained committed to reforming the ANC from within, notwithstanding perceptions of its increasing marginalisation outside election times, during which the ANC relies on COSATU’s organisational support to mobilise voters:

Once elections are over we go back into the painful reality of being sidelined for another five years. All too often COSATU’s letters do not even get the courtesy of a response, and we are routinely told that ‘government must govern, there is no dual power, there is no co-determination, and COSATU must not treat the Alliance as a bargaining chamber (COSATU 2003b: 18 cited in Webster and Buhlungu 2004).

At the same time, the ANC’s growing dominance of the Alliance, and the influence of neo-liberal elements within the ANC leadership has not been uncontested (Webster and Buhlungu 2004). Since 2000, COSAU has embarked on a strategy to “recapture working class influence over the ANC”, through a combination of a return to mass mobilisation and contestation of “the hegemony of the right wing within the party” (Webster and Buhlungu 2004: 240-41). Once the government intensified its restructuring and corporatisation of state assets in 2001, policy differences came more out into the open, culminating in a general anti-privatisation strike in August 2001 and again in October 2002 (Webster and Buhlungu 2004: 46). This led to considerable conflict and “mud-slinging”, with the ANC at one point alleging that “an ‘ultra-left’ tendency had emerged that was attempting to transform COSATU into

a political formation independent of the ANC” (ANC 2001: 4, cited in Webster and Buhlungu 2004: 46).

In his analysis of the relationship between trade unions and political parties in Africa, Webster (2007: 3) categorises the alliance between COSATU as an: “Unhappy marriage where labour retains an uneasy alliance with the governing party”. Nonetheless, Webster (2007) argues, that COSATU “retains considerable autonomy and influence” and its strategy of remaining in the Alliance retains popular support.

Contrary to constant speculation that this Alliance is about to break up, research among COSATU members reveals that they continue to show strong support for the Triple Alliance, the ruling African National Congress (ANC), the South African Communist Party (SACP), and COSATU” (Webster 2007).

Trade Policy Legacy and Degree of Consensus

Any consideration of South Africa’s trade policy since 1994 needs to be examined in the context of the socio economic legacy of apartheid and the tensions and contradictions created by the country’s transition to a liberal democracy (Taylor 2005: 295). Domestically, the ANC has tried to balance its need to “maintain an alliance with its Leftist-inclined constituency and elements linked to organised labour and/or the South African Communist Party (SACP) while at the same time courting domestic capital and foreign investors present within South Africa” (Taylor and Williams, 2006: 6). This has resulted in a dual, and at times contradictory, approach where South Africa has tried to sell itself as a “pro-Western bridge-builder capable of smoothing the differences between North and South while simultaneously seeking to champion the values of the weaker Southern states in general and of an ‘African Renaissance’ in particular” (Taylor and Williams, 2006: 6).

As in Australia, there was a shift towards free-market policies in South Africa during the 1980s, which intensified in the 1990s (Taylor 2005: 295), especially after 1996, following the introduction of GEAR. This policy is based on neo-liberal principles such as reduced government spending, a restructured public sector, labour market flexibility, an export directed economy, and trade liberalisation (Department of Finance, SA 1996). In terms of trade policy, this has translated into dismantling barriers to trade, including lowering tariffs and phasing out ‘non-tariff barriers’ (SA Government 2006). The only difference from an essential neo-liberal view has been the government’s (and the DTI’s) conviction that any ill-effects from proposed trade policy reforms could be addressed by supply-side, industrial policy measures, thus introducing a developmental state aspect to its macroeconomic policy (Taylor 2005).

As mentioned above, the ideological policy shift represented by GEAR has not been without resistance. The South African government’s position regarding macro-economic policy generally, and trade policy more specifically, has continued to be contested within the Alliance, and increasingly on the street (Bassett 1999). This has been exacerbated by the speed of reforms in the context of increasingly high levels of

unemployment and extreme levels of poverty, and the failure of the government's policy to achieve its stated aims (Taylor, 2005: 295).

South Africa has been and continues to be a strong proponent of multilateralism, first under the GATT and now under the WTO. In fact, since coming into power in 1994, the ANC-led government has promoted itself as something of a bridge-builder between developed and developing countries (Taylor and Williams 2006). When the new government came to power in 1994 it inherited a range of WTO commitments, which formed part of the final agreement of the Uruguay Round. This included heavy undertakings and extensive trade liberalisation under the GATT, significant restraints on investment regulation under TRIMS, expanded binding commitments to protect corporate intellectual property rights under TRIPS, and a range of commitments on services (Keet 2010: 1-2). Rather than questioning or rejecting these commitments, as a legacy of the apartheid government and therefore not legitimate, the new government not only stood by these commitments but also actually defended them (Keet 2010). Instead of seeing the multilateral trade regime as a site of struggle in which to challenge the rules on which the current system is based, like many other developing countries (Taylor and Williams 2006), South African leaders appear to have believed that the best they could expect was "to get the rich industrialised states to play by their own liberal rules" (Taylor and Williams 2006: 6). Consequently they have adopted a rather "instrumental" or "tactical" approach to multilateralism (Nel 1999) designed to "extract the maximum material benefits and modify the worst aspects of a far from perfect system, without necessarily challenging the rules upon which the system is based" (Taylor and Williams, 2006: 6). As a self appointed 'bridge-builder', between developed and developing countries South Africa has played a significant role in actively encouraging and persuading developing countries to accept "the 'global realities' and Northern agendas" within a range of multilateral forums, including the WTO (Taylor and Williams 2006, 12). This has put it at odds with the position of most other developing countries in Africa, who consistently opposed any new round or inclusion of new issues into the multilateral trade agenda (Keet 2010).

While South Africa's support for the WTO, and its contributions to the multilateral trade negotiations have been commended by the General Director of the WTO (Business Day, 12 February 2002, cited in Flecker and Clark 2005), others have seen it as more problematic. Civil society activist and trade expert Keet (2010: 48), argues that the South African government has acted, "not so much as a bridge between the developed and developing countries but rather as a bridge for the transmission of influences from the developed countries for the promotion of their economic interests and global aims in the developing world".

However, by 2005 there are signs of a change in position, with high level actors within the ANC government beginning to openly question the claims of global theorists "about the unparalleled and unquestionable benefits" of unilateral

integration into the global economy (Keet 2006), and with South Africa moving away from its earlier role as a 'bridge builder' to acting "more clearly and publicly within, or with, various other developing country tactical coalitions" (Keet, 2006). This change is reflected in South Africa's role at the Cancun (2003) and Hong Kong (2005) Ministerials.

South Africa is a member of several economic and cooperative alliances within the WTO, including the Cairns Group, the G20 group of agriculture developing countries, and more recently the NAMA 11 group, which cooperate on various shared issues of concern as a way to strengthen their presence in the WTO. Alongside multilateralism, the Southern African region has also been a key priority area for post-apartheid South Africa, in terms of its foreign economic policy objectives (Soko 2006). According to (Soko 2006: 23), the South African government has used regional trade integration and subsequent trade policy reform, "as a foreign economic policy tool not only to rebuild political and economic cooperation with African countries (damaged during the apartheid era) but also to advance its leadership ambitions in the Southern African region" (Soko, 2006: 23).

Despite the position taken by the ANC-led government in relation to macroeconomic policy and trade policy, there are differences within the government, and within the ANC more broadly, over policy direction (Dicks Interview 2008). Former COSATU policy advisor Rudi Dicks said that COSATU had established quite good relations with the Minister and Deputy Minister for Trade and Industry in recent years. This seems to coincide with the appointment of Rob Davies, first as Deputy Trade Minister and more recently as Trade Minister (DTI 2010). Davies is a member of the SACP and considered much more sympathetic to COSATU's policy positions (Dicks Interview 2008). This was confirmed by former COSATU policy advisor Neva Makgetla (Interview 2010), who said that the appointment of Rob Davies as deputy trade minister had made a significant difference because his positions were more sympathetic to labour's position. However, Makgetla (Interview 2010) also pointed out that it was not just a happy coincidence that someone like Rob Davies was appointed to the trade ministry; it was related to the Alliance, to his relationship in the left, and to his role in the Communist Party (SACP). She said that COSATU had lobbied hard to get Davies into this position. However, within the economic part of government, Treasury and Finance continue to "beat the neoliberal drum" (Dicks Interview 2008); arguing that a focus on industrial policy doesn't work and what is needed is liberalisation and micro-economic reform strategies. Dicks sees the debates within government as providing opportunities to put pressure on different government positions.

Nonetheless, the attitude of DTI officials and those within ITED remain very free trade oriented (Keabetswe Mene Interview 2009, Makgetla Interview 2010). DTI officials and staff are largely supportive of the WTO and the concept of the 'single undertaking', i.e. that the results of negotiations on all issues are adopted by all

members in their entirety (Flecker and Clarke 2005: 88-9). As mentioned earlier, this increases the likelihood of countries making trade-offs in one area in return for market openings in another. The DTI also sees services negotiations as holding great potential for economic development. This is reflected in a document published in 2000, entitled 'Notes on South Africa's Approach to the WTO and key elements of a Negotiating Position', which states:

In our view, services negotiations hold great potential for economic development, in terms of the growing direct contribution of services to the economy (GDP), its indirect contribution as an input into other sectors (manufacturing) and, generally, in improving overall economic efficiency and competitiveness (cited in Flecker and Clarke 2005).⁴⁹

A more recent interview with a leading trade bureaucrat within the DTI, with responsibility for services, confirmed that this position remains basically unchanged (Keabetswe Mene Interview 2009).

In terms of oppositional forces, business and industry do not seem to have the same level of influence over government trade policy positions as in Australia. Draper (2007: 277), claims that organised business in South Africa has not established hegemony over government in the field of trade policy, and that 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). Draper argues that business interests in South Africa lack the capacity for trade policy intervention and trade is generally not given a high priority. Outside of NEDLAC, there is no focal point for coordinating business policy positions and no established business-government structure for developing trade negotiating positions. Business interests lack lobbying expertise and resources dedicated to trade and do not take advantage of access to international business advocacy groups (Draper 2004: 7). This means that labour is potentially able to form alliances with business interests with regard to trade policy positions.

Capacity for State Repression/Vulnerability to Social Protest

In South Africa, workers have the right (under the 1995 Labour Relations Act) to engage in sympathy strikes, subject to the same legal guidelines and prohibitions as legal strikes, and also to participate in legal protests or 'stay-aways', "the purpose of which is to promote the **socioeconomic interests** of workers in general"⁵⁰ (Bendix 2007: 629). While the term "socioeconomic interests" is not defined, according to Bendix (2007: 30), it can be taken to include such things as: "[...] actions against the imposition of certain taxes, protests at cuts in government spending, or actions related to employment creation, the provision of housing and privatisation." Under the law,

⁴⁹ The original paper was downloaded in May 2003 from www.dti.gov.za/07-itedd/downloads/sa_wto_approach_and_elements.pdf, but has since been removed from the DTI's website.

⁵⁰ Author's emphasis.

such actions must be instituted by a registered trade union or union federation, and NEDLAC must be advised beforehand about the reason and nature of the proposed action (ibid).

COSATU has a history of utilising this capacity to undertake political strikes in order to reinforce its political and policy claims. However, the right to strike is undermined by the right of employers to hire replacement workers during a strike and there is a growing climate of anti-union repression in South Africa, which makes it increasingly difficult for unions to strike in support of both 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).

4.7 Assessing Capacity (MOC) — National Level, South Africa

Union Strength, Unity and Organisational Form

While unions have been in decline globally over the past few decades (Voss and Sherman 2000, Clawson 2003), in South Africa the union movement remains relatively strong (Pillay 2008), not only in terms of union density but also in terms of capacity to mobilise members and political influence. This is related to the union movements instrumental role in the broad popular struggle to overthrow apartheid. This extension of union concerns and mandate beyond the workplace to wider, more political issues (Beckman, Buhlungu and Sachikonye 2010) led to the formation of what is commonly referred to as social movement unionism (or political unionism), and has become something of a ‘trademark’ of the labour movement in South Africa (Schwetz, McGuire and Chinguno 2010).

According to ILO statistics, almost 40 per cent of the formal work force (wage and salaried workers) in South Africa are union members. However this level drops to 24.9 per cent if all workers, both formal and informal are included (ILO figures from Hayter and Stoevska 2009: 9). The extent of collective bargaining coverage is lower, with only 27.3 per cent of the formal workforce covered by collective bargaining agreements, and only 17 per cent, if the entire workforce is considered (Hayter and Stoevska 2009: 12). The sectors with the highest union density (up to 60 per cent) are education, public administration and mining/construction (SA Labour Department 2008).

The deep inequalities created by the history of Apartheid and South Africa’s political economy continue to be reflected in its current industrial relations system, and in the structure of workforce and the union movement, with the labour movement fragmented along racial, occupation, political and organisational lines (Webster and Buhlungu 2004: 41-42). This is reflected in the union structure. As at 2008, there

were 253 trade unions registered with the South African Labour department, representing a union membership of around 3.5 million workers (SA Labour Department 2008).

These unions are organised into three main labour federations, which to some extent reflect the history of racial divisions entrenched by Apartheid.⁵¹ The most dominant federation in terms of size and political influence, is COSATU, with 21 trade union affiliates representing 1.8 million workers. COSATU is non-racial but “remains predominantly black, blue collar, politically aligned to the ANC and the SACP and relies on a combination of strategic engagement and militant mobilisation in the workplace and on the streets using traditional tactics such as strikes and stayaways” (Webster and Buhlungu 2004: 42). The next largest is the Federation of Unions of South Africa (FEDUSA), which has 26 affiliates and represents nearly 547 000 workers. It has a majority of white members, mostly white collar workers, is non aligned and relies predominantly on lobbying. The smallest federation, the National Council of Trade Unions (NACTU) has 17 affiliates and represents approximately 300 000 members. It has its origins in pan Africanism and black consciousness, is also non-aligned and relies on lobbying (details taken from, COSATU: 2008, FEDUSA: 2008, NACTU: 2008, and Webster and Buhlungu: 2004: 41-42).⁵² At the international level, all four federations (including CONSAWU) are affiliated to the ITUC (formerly the ICFTU) and the ICFTU Congress was held in South Africa for the first time in 2000.

However, despite their level of political engagement and influence, unions in South Africa have so far failed to address the growing problem of precarious employment and the expansion of the informal sector, resulting from neo-liberal globalisation, despite adoption of various resolutions to do so (Kenny and Webster 1999). This raises questions about whether COSATU is still pursuing a social movement tradition of unionism or whether it has shifted to a more institutionalised/corporatist form.⁵³

Mobilising, Decision-Making and Communication Structures

As a result of the role that COSATU played in the liberation struggles against apartheid, COSATU unions have a history of militancy and engagement in broader social issues beyond the workplace. This has been supported by a strong tradition of political education. On the whole, COSATU unions, and COSATU itself, have also been defined by a culture of mandate driven leadership and worker control, underpinned by an active, and usually volunteer shop steward (union delegate)

⁵¹ The Confederation of South African Trade Unions (CONSAWU) formed in 2003, is also of relevance in the construction industry.

⁵² The figures quoted have not changed much from those quoted by Webster and Buhlungu (2004: 41) which were compiled in 2003.

⁵³ Comments made by Webster to the author (2010).

network (COSATU 2001). As stated on the occasion of its 25th Anniversary, this remains one of COSATU's core principles:

COSATU believes that workers must control the structures and committees of the federation. This approach aims to keep the organisation vibrant and dynamic, and to maintain close links with the shop floor (Mail and Guardian 2011).

However, the change in political, social and economic environment since liberation and democracy has presented many challenges to the union movement. Unions have grown quickly, with many amalgamations, leading to large complex structures, requiring considerable management skills. Leaders have become more distant from workers at the shop floor and the role of shop stewards has also changed, from one of voluntarism and deep personal commitment to more of a servicing and representational role. In many cases shop stewards are released from full-time work to undertake union duties (COSATU 2001). While this theoretically gives them more time to carry out union duties it also changes the nature of the relationship with workers. In addition, COSATU and its affiliates must engage in a wide range of economic, industrial and political forums, all requiring considerable policy input. This has placed a lot of strain on resources and led to something of a shift in focus, from predominantly militancy led strategies to more of a focus on negotiated and policy oriented strategies (ibid).

While COSATU retains its capacity to mobilise wide-spread worker protest around issues of concern, this seems to be used mainly as a way of adding strength to policy demands (although some affiliates retain considerable militancy). A recent report on COSATU's organisational review process has identified a lack of maintenance of internal democracy (outside collective bargaining) and a shortage of resources and personnel to coordinate organising and recruitment (Munakamwe 2009). Concerns have also been raised within COSATU, about the reporting structure between bodies such as NEDLAC and the grass roots level (COSATU 2009).

Mandates for policy decisions are obtained through triennial National Congresses and the union is controlled by democratically elected worker representatives at all levels. Affiliates remain autonomous bodies governed by their own constitution but they must abide by COSATU's constitution and the policies of the Federation (www.cosatu.org.za).

Expertise and Resources Dedicated to Trade

Compared to union federations in other countries COSATU has considerable policy and research expertise, developed largely as a response to the legacies of apartheid (McGuire and Scherrer et al. 2010). This is in contrast to the other main federations, NACTU and FEDUSA, which on the whole lack the policy expertise and research capacity necessary to keep up with policy input demands from employers and the state or to participate in labour market institutions such as NEDLAC (Webster and Buhlungu 2004: 41-43).

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, established in 2001, consisting of seven highly educated people, including a dedicated policy officer for trade and economic policy.⁵⁴ This was established partly in recognition of the need to supply the degree of policy expertise necessary for participating effectively in NEDLAC (COSATU 2001). In fact, the existence of NEDLAC, and the highly complex and often technical nature of trade negotiations within this tripartite structure, have led to a great deal of capacity building and expertise in relation to trade, 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 (van Meelis Interview 2009). However, this capacity is more strongly developed in relation to manufacturing than services (Ehrenreich Interview 2009). In the past COSATU has devoted considerable resources to building capacity for trade policy and trade negotiations within NEDLAC and educating members about how trade impacts on them. However, this capacity seems to have diminished somewhat over the past few years due to the drain of staff to the parliament, government and associated agencies.

In addition, COSATU has access to ‘in-house’ research expertise through the National Labour and Economic Development Institute (NALEDI), which carries out labour and economic research, including for NEDLAC processes. While NALEDI is an independent NGO, it was originally established by COSATU in 1993, during the transition to democracy, to meet the research needs of organised labour and improve its capacity to engage in policy issues. According to its website (www.naledi.org.za): “NALEDI’s mission is to conduct policy-relevant research aimed at building the capacity of the labour movement to effectively engage with the challenges of the new South African society”. In addition, COSATU has a parliamentary office in Cape Town, which was established in response to dissatisfaction with the ANC by COSATU members, “on account of unsatisfactory delivery and inadequate consultation, especially by the ministries” (Maree 1998).

COSATU’s affiliates also have relatively large well-resourced head offices and regional offices with up-to-date communication facilities, including union journals, email and active websites, and some also have dedicated research and union education facilities (Webster and Buhlungu 2004: 43). However, not all affiliates have expertise in relation to trade issues.

In services this is confined mainly to the South African Municipal Workers Union (SAMWU) and to a lesser extent the National Education, Health & Allied Workers Union (NEHAWU) (Rudin Interview 2009). The Southern African Clothing and

⁵⁴ Since 2006 there has been a high turn-over of staff and some of the economic and trade-related expertise has been lost from within COSATU.

Textile Workers' Union (SACTWU) has been very active in relation to the impact of trade on the textile industry and its officials have a lot of general expertise about trade (Ehrenreich Interview 2009). In terms of alliances with civil society groups, COSATU has well developed relationships and alliances in some areas (for example, the alliance on the national budget) but not so much in relation to trade. This is despite the existence of civil society organisations and networks active in the trade arena including the Trade Strategy Group (TSG) and the Alternative Information and Development Centre (AIDC) (which is also a member of the TSG).

Both the TSG and AIDC have been very active in campaigning against privatisation and liberalisation of essential services and for environmental protection (Pressend Interview 2009). In particular, Dot Keet, who is a South African academic and activist and a member of both the TSG, the AIDC, and various international NGOs working on trade, has published many papers critiquing the South African governments position on trade, and warning about the problems with the WTO and the dangers of the GATS (for example, Keet 2005, 2006 and 2010).

The Institute for Global Dialogue (IGD) also does a lot of work on trade and economic issues (Vickers Interview 2009). Although it is not an advocacy organisation it provides substantial research and policy advice to labour and support for the Trade Strategy Group (Ibid). International NGOs active in trade and development issues, such as Oxfam, are also setting up a presence in South Africa and many of the local organisations/groups mentioned above also have links to international anti-globalisation and trade networks such as Our World is Not for Sale (OWINF) and the Third World Network (TWN).

However, while COSATU has participated in meetings and activities of the TSG and other civil society groups it has not entered into any formal alliance or coalition with civil society groups and has not usually signed onto group statements issued by other civil society groups (Makgetla Interview 2010, van Meelis Interview 2009). According to a former policy officer, COSATU prefers to make its own policy decisions on trade-related issues (van Meelis Interview 2009). COSATU has also shown considerable reluctance to work with civil society organisations and social movement groups that are publicly critical of ANC policy or of COSATU's participation in the Alliance (McKinlay Interview 2011). At times, this has manifested in outright hostility, as in COSATU's reaction to the formation of the Ant-Privatisation Forum (ibid).

4.8 Summary of Opportunity (POS) and Capacity (MOC)

The following tables (Table 9 and 10) summarise the political opportunity structure faced by organised labour and the mobilising and organisational capacity of the union movement in relation to trade; at the international level and at the national level in Australia and South Africa.

Table 9. Summary of Political Opportunity Structure (POS)

International	Australia	South Africa
1. Who controls the trade policy process?		
WTO member gov'ts. WTO Secretariat supplies admin. & technical support. Trade pos. formulated at national/ regional level.	Executive — Gov't + Trade Minister + Dep't of Trade. Parliament does not ratify – has scrutinising role only.	Controlled by Executive + Trade Minister + Dep't of Trade. Parliament must ratify trade agreements but limited role.
2. (a) Channels of Access to the Trade Policy Process - Formal		
Closed: No formal role for civil society/unions No consultation. Must try to influence process at national level.	Very Limited: No formal role for civil soc/unions Limited inst. access through Parliament. Limited consultation.	Open: Unions have formal access & input through NEDLAC. DTI holds public consultations. Labour included in WTO delegation.
2. (b) Access to governmental and political actors (informal)		
Closed: Some informal access through meetings, seminars and WTO events Rely on advocacy, lobbying & union access at nat. level	Closed: Hostile party in government - no access Relationship with 'labour-friendly' Party (but not in Gov't)	Open: multiple channels, COSATU in tripartite Alliance with ruling ANC and SACP. Good relationships with Gov't Ministers (ex-union)
3. Trade policy legacy, receptivity, consensus and available allies		
Dominated by trade liberalisation discourse Lack of consensus on agriculture, services, NAMA negotiations, developmental issues. Numerous coalitions and shifting alliances Allies: Disgruntled developing countries from global South	Shift to free-market policies in 1980s. Dominance of neo-liberal discourse within gov't and ministry of trade. Aggressive trade interests in services, esp. higher Ed. Allies: Gov't Ministries and Gov't levels that could be adversely affected by trade	Shift to free-market policies in mid 1990s. Dominance of neo-liberal discourse in ANC & some gov't dep'ts but highly contested. Growing interest in export of services Allies: Labour friendly Trade Minister & some gov't Ministers opposed to liberalisation
4. Capacity for State Repression/Vulnerability to Social Protest		
Shift of WTO Meetings to more repressive countries Increasing use of police brutality to disperse public protests at international meetings WTO on defensive from protests and campaigns - engaged in discursive battle	No rights for political or secondary strikes by unions Public protests allowed/usually peaceful but State has shown willingness to use violence against protestors Some vulnerability to public protest - depends on election cycle	Right for political strikes by unions (widely used) State increasingly seeks to repress strike action - Increasing police violence against protestors ANC relies on COSATU support in elections so theoretically vulnerable to protest

Source: Author compilation.

As we can see from Table 9., there is considerable variation, both between levels and also between countries, at the national level. The political opportunity structure within the multilateral trade system is quite closed at the international level, with some limited access at the national level in Australia and quite good access in South Africa.

Table 10. Summary of Mobilisation and Organisational Capacity (MOC)

International	Australia	South Africa
1. Union Strength, Unity and Organisational Form		
Extensive global network representing workers world-wide – mobilisation restricted by structural and organisational factors Dual structure of representation causes some tensions between GUFs and ITUC	Decline in union strength Single federation - high degree of unity but some tensions and complex federal/state structures Affiliates retain considerable independence	Relatively high level of political & industrial strength Multiple federations - one dominant federation (COSATU) Affiliates independent but must follow COSATU constitution & policy
2. Mobilising, Decision-Making and Communication Structures		
Representational structure - policy & strategy directed by affiliates Decisions on policy and strategy made at Global Congress (3-5 years) GUFs role – lobby at Int. level & support national level lobby & campaign Distant from grass-roots members - contact via national union office	Representational structure at all levels. Major policy decisions made at triennial National Congress. Lack of delegate structures and political education Limited capacity for political mobilisation Communication and decision making mainly top down	Member driven representational structures Mandate on policy and strategy obtained at triennial National Congress Culture of militancy and political mobilisation Political education given high priority
3. Expertise and Resources Dedicated to Trade		
Limited resources dedicated to trade - small staff and many demands Limited expertise but can draw on expertise from affiliates. Some research capacity Limited relationships with NGOs	Limited resources dedicated to trade Expertise confined to one to two officials and activists in federation and major unions Access to civil society network working on trade	Considerable resources dedicated to trade Policy and political expertise within COSATU and major unions – more in manufacturing than services Access to labour research institute

Source: Author compilation.

There is also considerable variation in the level of mobilising and organisational capacity (Table 10.). Again, South Africa stands out as something of an exception, with relatively high levels of resources dedicated to trade and considerable expertise

within the main union federation and also major affiliate unions. In Australia and at the international level we find more limited expertise and resources dedicated to trade.

The following section investigates how unions mobilised against the GATS and what strategies they used, given the different levels of political opportunity structure and varying mobilising and organisational capacity.

According to the theoretical framework, the strategies, or ‘repertoires of contention’, used by movements will depend on the resources, mobilising structures and framing processes available to the actors involved. The nature of the political opportunity structure will also have an influence, especially the level of union access to the trade policy making process, as this will determine the nature of the opportunities available and the choice of targets to influence.

Where unions have established access to government through institutionalised tripartite processes or through the legislative process (institutional power), one would expect them to use more formal strategies such as social dialogue, formal lobbying, and meetings with ministers and decision makers.

Where unions are completely excluded from the political and legislative process, one would expect to find more use of direct action strategies, either in the workplace or in the public domain (collective power/symbolic power). Where there is some, but limited, access, one would expect to find a mixture of strategies.

Chapter 5. Global and Local Union Struggles Against the GATS

5.1 *Mobilising against the GATS at the International Level*

As shown above, unions face a relatively closed political opportunity structure at the international level. Organised labour has no institutionalised access to the multilateral trade policy process at the international level and little informal access to decision makers. Instead, global union organisations must rely on the capacity of their affiliated union bodies to influence WTO member country governments at the national level (or at the supra-national level in the case of the EU). In addition, the capacity of international union organisations to mobilise transnational solidarity and collective action in relation to trade issues is limited by organisational and structural factors within the global labour movement. Added to this, they tend to have limited expertise and resources dedicated to trade, especially in relation to trade in services, partly because this is a relatively new area of policy for education and services unions. Therefore, the GUFs couldn't draw on institutional power and they had limited capacity to exercise associational or structural power (as defined by Silver 2003) at the international level.

However, as the following case demonstrates, despite the unfavourable political opportunity structure, and relatively limited mobilisation and organisational capacity in relation to trade in services, PSI and EI were able to find opportunities and resources to mobilise against the GATS and bring pressure to bear on negotiating positions.

Putting the GATS on the Global Union Agenda

There were three main catalysts that brought the GATS onto the agenda of PSI and EI.

First, both federations had for some time been working on globalisation issues, including engagement in the union campaign to include labour standards into the WTO system (see PSI 1999, EI 2001a, Jouen Interview 2005). This brought them into contact not only with trade issues, an area normally far removed from the daily concerns of public services and education unions, but also with trade activists, who alerted them to the potential for public services to be affected by WTO agreements.

Second, in 1998/9 informed officials from national education unions in Canada, Australia, and New Zealand, alerted EI to the potential threat of the GATS, especially in relation to higher education (Waghorne Interview 2005). The significant role played by affiliates was confirmed by Ted Murphy from the NTEU, in Australia, who said that well informed union officials from affiliate unions in Australia and New Zealand contributed significant information and expertise to EI's knowledge and understanding of GATS and its implications for education, especially higher education (Murphy Interview 2005 and 2009). Affiliated national teachers' unions in a number of countries, especially in New Zealand (Murphy Interview 2005) and Canada (Verger and Novelli 2010), had already been working on trade and education

issues. Due to their earlier exposure to free trade agreements negotiated with the United States (e.g. the Canada-U.S. Free Trade Agreement — FTA in 1989 and the North America Free Trade Agreement – NAFTA in 1994), Canadian Teachers' unions, in particular, had already developed considerable expertise in relation to trade and education. In 1999, just prior to the WTO Ministerial in Seattle, Canadian affiliates introduced a critical resolution about the GATS onto the agenda of EI's International Higher Education Conference held in Budapest (Verger and Novelli 2010), which set the basis for a campaign against the GATS. While EI was the first to be alerted about the potential threat of the GATS to public services, PSI was very quick to pick up on these concerns due to the close working relationship between the two unions with regard to issues affecting public services (Waghorne Interview 2009).

Third, key officials and activists from PSI and EI attended the WTO Seattle Ministerial in 1999, where they came in contact with networks of NGOs and key activists who had already done extensive work on analysing the potential threats of GATS and mobilising action against it (Waghorne Interview 2005 and 2009).

Prior to the Seattle Ministerial, union engagement with the WTO and the multilateral trade process had focused almost exclusively on the ICFTU (now ITUC) driven campaign to have core labour standards embedded in world trade agreements. As mentioned earlier, the legally binding nature of WTO agreements appeared to present an opportunity to give core labour standards some 'teeth', in terms of providing a mechanism for enforcement (Anner 2001, Howard Interview 2009). However, the attempt to enshrine core labour standards in the WTO met stiff resistance from development related NGOs and some developing country governments, on the ground that it was 'protectionist', and that the WTO was an inappropriate institution to defend workers rights and advance developing countries' interests (O'Brien 2000: 549ff). It also met some resistance from union federations in developing countries on the grounds that it failed to address other issues of importance to developing countries (Jakobsen 2001, Anner 2001).

To some extent, the labour standards campaign seems to have blinded global labour to the implications of other trade issues. Although representatives from both PSI and EI had attended the first WTO Ministerial in Singapore in 1996, and the so-called 'Mickey Mouse' Ministerial in Geneva in 1998,⁵⁵ at this stage they knew very little about the WTO and GATS.

We really went to Singapore knowing very, very little about the WTO and GATS. We went to Singapore largely in support of the ICFTU and largely on the workers' rights issue, rather

⁵⁵ Mike Waghorne referred to it as a 'Mickey Mouse' Ministerial because it had no substance and was only held because the constitution of the WTO required them to have a Ministerial meeting every two years.

than anything else. It was only while we were there that we heard about GATS and came across people who were aware of it (Waghorne Interview 2009).

Even then, the GATS was not immediately seen as a major threat to education and other public services. The prioritisation of the labour standards campaign, even in the lead up to the Seattle Ministerial, is reflected in a major PSI strategy document published prior to the Ministerial:

In 1999, in November at Seattle in the USA, the World Trade Organisation (WTO) will be holding its third Ministerial Conference. The ICFTU and ITSs [now GUFs] will be mounting a global campaign throughout 1999 to ensure that the link between trade and labour standards is firmly embedded in WTO language and procedures (PSI ca1999: 12).

To some extent, PSI saw the labour standards campaign as an important extension of its ongoing campaign to pressure the IMF and the World Bank to insist on active enforcement of labour standards in Bank and Fund programmes (PSI ca1999:12). While the GATS is mentioned in this document, at this stage it is flagged as a “further item of interest to public sector workers”, rather than as a major threat. However, the link between the GATS and pressure to privatise is already made:

At present, neither education nor health are seen as tradable services within the GATS regime. If they are brought within the GATS gambit, there will be additional pressures on governments to privatise large chunks of both of these services and to open them both to TNC incursions (PSI ca1999: 12).

The actions of the GUFs at this stage was more of a watching brief, pending the outcome of further analysis of the GATS and its implications for education and health, which was then being undertaken by EI and PSI respectively (PSI ca1999: 12).

Nonetheless, as a result of the concerns raised by its affiliates and its initial analysis of the implications of the GATS for education, EI developed a publication for members titled, ‘The WTO and the millennium round: What is at stake for public education?’ (PSI/EI 1999a). Shortly thereafter, PSI undertook a similar exercise for health, titled ‘The WTO and the millennium round: What is at stake for public health?’ (PSI/EI 1999b). Both documents were jointly published by PSI and EI in the lead up to the WTO ministerial in Seattle, under the series title: ‘Common concerns for workers in education and the public sector’.

These joint publications were part of a formal alliance between PSI and EI, which includes publication of information in areas of common interest, and sharing some offices, resources and personnel. It has its roots in a much older informal alliance between the global unions PSI, EI and other GUFs with responsibility for public sector workers, which formed a ‘common front’ on public service issues when needed (Waghorne Interview 2005).

The purpose of these publications was mainly awareness raising, educative and advocative:

They were mainly aimed at people who were involved in policy lobbying in unions, particularly within our affiliates, with the aim of raising awareness that GATS was an issue, that public services could be under threat, and to give people material that they could use in their own campaigns and lobbying work (Waghorne Interview 2009).

However, their production served two other important roles (although perhaps unintentionally).

First, it helped forge closer relationships to leading NGOs, such as the World Development Movement (WDM), which had already produced a lot of material against the GATS (Waghorne Interview 2009). The WDM later played a leading role in awareness raising and mobilising protests against GATS, especially at the European level (Waghorne Interview 2009, Strange 2011).

Second, it opened channels of communication with key WTO personnel. Following the publication of these documents, PSI and EI representatives held meetings with WTO Services Division representatives, at which both parties expressed their concerns and points of view about the GATS. According to a leading PSI official who attended the meeting, WTO representatives were very aware of these publications and quite concerned about PSI and EI's criticism of the WTO and the GATS (Waghorne Interview 2005).

However, as mentioned above, it wasn't until after representatives from the GUFs and some of their major affiliates attended the WTO Ministerial in Seattle, that the global unions coordinated their efforts and intensified their activity against the GATS (Waghorne 2009). Mike Waghorne, who was the senior officer in PSI responsible for globalisation issues at this time, including the WTO and its trade agreements, said that attending the WTO Ministerial at Seattle was a turning point in terms of PSI's and EI's engagement with GATS.

We were aware of GATS. We hadn't really done much work of our own on it but we knew a lot of people who were GATS activists who were going to be at Seattle, so we took part in some of the workshops and that's where we first came across, what is now called Our World is Not for Sale (Waghorne Interview 2009).

It was here that they (PSI and EI officials and delegates) also met and developed relationships with key activists such as Ruth Caplin from 'The People's Alliance for Democracy', based in the US, and leading Canadian activists, Tony Clarke from the Polaris institute and Scott Sinclair from the Canadian Centre for Policy Alternatives (CCPA), who had already built up considerable expertise on GATS (Waghorne Interview 2009).⁵⁶ Such activists and networks played a major role in developing

⁵⁶ Mike Waghorne (Interview 2009) said that in his opinion Scott Sinclair had the most expertise on the GATS of anybody that he knew. He was intimately engaged in campaigning against the GATS in Canada and had written a number of expert papers on regulation and the GATS, which were picked up and used by many civil society groups, including unions (see Sinclair 2000).

expertise, sharing information and coordinating civil society demands in subsequent campaigning against the WTO and GATS (for a good account of the key role played by OWINFS see Strange 2011). It was also from this point that PSI and EI started actively coordinating their work on the GATS (Waghorne Interview 2009).

PSI subsequently signed onto the ‘Our World is not for Sale: WTO - Shrink or Sink’ statement, whose main message was that the WTO should not expand its powers and mandate any further, and that unless it fixed what many in civil society saw as its basic deficits, then it should be dismantled, or at the least, discredited and delegitimised (PSI 2006: 30). Although a specific campaign had not been launched against the GATS at this stage, one of the eleven demands in the ‘Shrink or Sink’ statement was to: “Gut GATS: Protect Basic Social Services and public protections”.⁵⁷

The OWINFS ‘Shrink or Sink’ statement was much more than a simple campaign statement or petition. It served as an organising tool and a declaration of common values and objectives for the member organisations.

[...] it was much more than a petition – it was a campaign. It was NGOs, trade unions and social movements saying, ‘Yes we agree with this statement’. That became the main sign on statement that we support OWINFS work. If you weren’t prepared to sign that you really couldn’t be involved in OWINFS’ work (Waghorne Interview 2009).

The original statement was subsequently extended (ca2004) into a more general critique and agenda entitled, ‘Our world is not for sale: our vision, principles and program’, (OWINFS ca 2004), which PSI placed on its website with a call for PSI affiliates to sign it, and with links to other sites carrying similar campaign messages (PSI/EI 2006a: 30).

By endorsing this statement PSI became an official member of the OWINFS network, thus becoming part of a global ‘economic justice’ network, which effectively functioned as a transnational advocacy network (TAN), as defined by Keck and Sikkink (1998 and 1999). PSI subsequently became very engaged with NGOs in Geneva that were working on trade issues, many of who were also members of the OWINFS network.

In Geneva we [PSI] worked with what was called the ‘Geneva Gang’ there, which was a bunch of NGOs who had resources in Geneva to be able to do work on trade (Waghorne Interview 2009).

This included NGOs such as the Institute for Agriculture and Trade Policy (IATP), Oxfam, Friends of the Earth, 3D, the Ecumenical Alliance for the World Council of Churches, Focus on the Global South, and the Third World Network (TWN). Besides

⁵⁷ The 'Our World is not for Sale: WTO -Shrink or Sink! sign-on statement is available at the 'OWINFS' website (www.ourworldisnotforsale.org), and was widely published on member organisation websites.

PSI (who also represented EI's interests in Geneva), representatives from the International Metal Workers Federation (IMF) and the international federation of food workers (IUF), also attended. A representative from the ICFTU was also included, but initially only on an 'unofficial' basis. At this stage, the ICFTU was reluctant to work closely with NGOs, although this changed later (Busser Interview 2008, Waghorne Interview 2009).⁵⁸ In fact, it was Mike Waghorne who introduced the ICFTU trade officer Esther Busser to the Geneva NGOs working on trade (Busser Interview 2008). Busser was later to play a major bridge-building role between the ITUC and NGOs working on trade in later campaigns (Waghorne Interview 2009).

While the 'Geneva Gang' wasn't a formal organisation, representatives met regularly to share information and discuss strategies. According to Waghorne (Interview 2009) the 'Geneva Gang' played a very important role in campaigning against the GATS, particularly in developing alliances with key negotiators from developing countries.

Developing countries came to see the members of this group as key allies, particularly because of the level of expertise within the group. Members of the group would give developing country negotiators briefing materials, which they could then use inside the WTO meetings and negotiations (Civil Society/GATS 2005b). This strategy was very important for slowing down and disrupting negotiations (often referred to as throwing a 'monkey wrench' into the works). As the relationships developed, this information supply was reciprocated by developing country allies:

[...] it got to the stage where some of the key negotiators would come out of the meeting and just feed us material – this is the position of the EU, this is the position of Chile etc., etc. So there was a real campaign there of finding allies and working together on both sides. And that was especially the case with GATS (Waghorne Interview 2009).

In this sense, PSI, especially Mike Waghorne, played a leadership role in bridging relations between global unions and NGOs. Other GUFs, including EI, were initially more reluctant to work with NGOs (Jouen Interview 2005), and didn't become official members of this network until much later (Waghorne Interview 2009).

To some extent, hostility existed on both sides. A number of unions and international union organisations considered NGOs 'dangerous' to work with due to concerns about lack of representivity and sources of funding. At the same time, some of the NGOs felt that if unions became engaged in the network the only thing they would be interested in was the workers' rights clause. Others, like the Third World Network (TWN) were outright hostile to union engagement, at least initially. So the idea of the ICFTU being able to join that group was unthinkable in the early stages (Waghorne Interview 2009). PSI was more readily accepted because it had joined the OWINFS alliance and also because it were already actively campaigning against the GATS.

⁵⁸ The attitude of the ICFTU (ITUC) towards working closely with NGOs changed when NAMA became a major issue.

EI has subsequently signed onto the OWINFS statements and is now more actively engaged in the network.⁵⁹ However, initially the EI leadership was quite reluctant to get involved with NGOs, and didn't see the need to broaden the scope of EI's campaign beyond a narrow focus on education. Mike Waghorne said that when he raised these issue at an EI conference on GATS, (he couldn't recall the date) the response from the EI General Secretary was, "No, our focus is education and that's it" (Waghorne Interview 2009).⁶⁰

I had said that unions need to work with NGOs ...[that] its important if you want to get active support for your campaign, particularly if you are trying to draw in other people who are important for the campaign - you have to be producing material and be knowledgeable about and supportive of the issues that other people are concerned about. You need to know about NAMA, or you need to know about public services other than education (Waghorne Interview 2009).

However, as Mike Waghorne undertook most of EI's trade-related advocacy work in Geneva, EI nonetheless benefited from PSI's engagement with NGOs.

Shortly after the Seattle Ministerial in 1999 (and the temporary break down of the WTO talks), PSI and EI published a revised document titled, *Great Expectations: The Future of Trade in Services* (PSI/EI 2000a), which reflected their greater understanding about "what was actually going on with the WTO and the GATS" and some of the "valid points" raised in meetings with the WTO Secretariat staff (Waghorne Interview 2005). This became the base document for their future lobbying and campaigning work on GATS (Waghorne Interview 2005).⁶¹ The stated aims of this publication were to:

[...]promote an understanding of issues surrounding trade in services for public sector and education unions especially those in developing countries [...and to...] outline a possible campaign aimed at the next round of negotiations on trade in services (PSI/EI 2000: 3).

In this document the GUFs framed the failure of the 1999 Seattle Ministerial Conference and subsequent delay in negotiations as a "window of opportunity" for unions to "reconsider strategies to secure the interests of members and to promote open debate about the social, political and environmental impacts of trade liberalisation on nations" (PSI/EI 2000: 3). National affiliates were encouraged to organise an information based campaign in relation to GATS, and to raise issues of concerns with their national governments.

⁵⁹ EI is now listed as a member of the OWINFS network but its not clear when they joined.

⁶⁰ Waghorne made the comment that this view may not have been representative of the whole organisation.

⁶¹ As PSI had initially seen GATS as being a threat mainly to health services many of the examples relate specifically to health services. In later material this was broadened to include other services, especially water (Waghorne Interview 2009).

By the time the “Stop the GATS Attack Now!” campaign was launched in mid March, 2001, just before a new set of GATS negotiations got underway in Geneva, PSI and EI, along with a significant number of national unions, had joined the broader civil society campaign against the GATS; albeit with their own specific claims.

The ‘Stop the GATS Attack Now!’ sign on statement was designed to help “launch and link together a series of country-based campaigns on the GATS negotiations all over the world” (Civil Society Sign-On Statement 2001). It therefore articulated many of the common civil society concerns about the GATS. By 11 April (2001) the sign-on statement had been distributed world-wide and had already been signed by 430 organisations from 53 countries, including PSI and many national union organisations (www.gatswatch.org), with the numbers increasing as the campaign progressed (Strange 2010).⁶² It is perhaps noteworthy that EI is not one of the original signatories despite its commitment to campaign for education, healthcare, and social services generally, to be excluded from the scope of the GATS (EI 2001a, b and c).

PSI and EI’s commitment to campaign for public services to be excluded from the scope of the GATS can be seen in resolutions to their various World Congresses. At EI’s 2001 World Congress in Jomtien, Thailand (from July 25-29) a resolution was passed calling on EI and its member organisations to “campaign for education, health care, and social services generally to be excluded from the scope of the WTO’s General Agreement on Trade in Services (GATS)” (EI 2001a: Resolution No. 15).

From 2001, PSI and EI action against GATS gained momentum, with much of the lobbying and campaigning concentrated in the lead up to the each of the WTO Ministerials, first Doha in November 2001, then Cancun in 2003 and Hong Kong in December 2005.⁶³ However, the intensity of activity and engagement by EI and PSI was quite uneven; reflecting to some extent the status of negotiations and the level and nature of the perceived threat that the GATS negotiations presented.

The main focus following the Seattle Ministerial in 1999 up to the Doha Ministerial in November, 2001, was on the general threat to public services (Waghorne Interview 2009). From their initial analysis, PSI and EI were convinced that the text of the GATS did not offer the degree of protection to public services that the WTO claimed (PSI and EI 1999a and 1999b). Therefore they concentrated on finding loopholes in the text and mobilising support to have the text of the agreement changed, or to have public services definitively excluded from the GATS. As they believed education and

⁶² “Stop the GATS Attack Now” can be read on the GATSwatch website at <http://www.gatswatch.org/StopGATS.html>. According to Strange (2011: 83) it was subsequently signed by 596 organisations from 63 countries. GATSwatch is a joint project of Corporate Europe Observatory and the Transnational Institute

⁶³ As noted in the methodology section this research only covers the period up to and including the suspension of the Doha Round in 2006.

health services would be the first services up for negotiation, they initially concentrated quite narrowly on these sectors:

Initially our campaign was generic, in terms of public services, because we were convinced that the text of the GATS agreement does not offer protection of public services that it purports to. So that was our main concern, to be able to point to the loopholes and be able to say, look its not true that public services are protected by the GATS (Waghorne Interview 2009).

Once the whole GATS request-offer process started (see Chapter 3.) and some significant demands of developed countries were released or ‘leaked’, the GUFs also focused on making sure that every request and offer that they were aware of in any public service was made public. They also, encouraged national affiliates and other groups to raise these issue with their governments — either to make sure they were not conceding to demands or to stop them from making demands, especially of developing countries. The leaking of the EU demands by the Polaris Institute (and posted on the GATSwatch website) in 2002 had a galvanising effect in many countries.

However, as the request-offer process developed it soon became clear that the initial threat to health and education wasn’t as high as the GUFs had expected: First, because the predicted flurry of requests in education and health had not eventuated, and second, because the GATS negotiations had virtually frozen due to the lack of progress in related negotiations over agricultural subsidies. As a result, EI, in particular, put GATS on the backburner, at least temporarily (Jouen Interview 2005). PSI stayed more engaged but with a change of focus.

What the request-offer process also made clear was that water was likely to be the main area under threat, due to the demand for countries to open up water services (Waghorne Interview 2009). This led to a change of focus by PSI from focusing mainly on health to concentrating on water services (and a bit on energy services). Although water privatisation had been a big issue for PSI for a long time, they hadn’t initially seen it as a key GATS issue.

The pattern of subsequent demands also showed that the delivery of essential services could also be indirectly threatened by commitments made outside the main sectoral areas. Thus making it necessary to undertake a broader assessment of all related services involved in the provision of essential services such as health and education. Because of the way that services are classified under the GATS, related services are not necessarily included under the main “sectoral” headings (WTO 1991). For example, under the “Services sectoral classification list”, the main classification for health, “Health and Social Services”, includes a relatively narrow range of services. However, other significant health related services, including medical and dental services, veterinary services and the services provided by nurses, midwives etc., are grouped separately under “Professional Services”:

[...] hospital services (i.e. health services delivered under the supervision of doctors), other health services (i.e. ambulance services and residential health facilities), social services and “other” health and social services. It does not include medical and dental services, veterinary services and the services provided by nurses, midwives etc., which are grouped separately under “professional services (WTO 2011c).

More peripheral services that are nonetheless vital for the operation of the ‘clinical’ side of health services, such as maintaining medical records, cleaning, catering, and maintenance, are usually listed under their relative headings, and not under “Health and Social Services” .

So, while there may not have been many demands for commitments in health and social services per se, there were significant demands in related or peripheral services. According to Waghorne (Interview 2009), many governments made commitments without realising the potential impact this could have on the delivery of essential services. The same applies for education-related services. EI also gradually came to realise that commitments made by governments in services like library services, education resource services, information technology, research services and even services such as cleaning, catering, building maintenance, ground staff etc., could have a big impact on the delivery of education and lead to a gradual liberalisation of educational institutions (EI 2004e). In raising this as an issue with affiliates EI made the point that if MNCs become established in services central to the delivery of education it was not unreasonable to assume that in future negotiations they would come after teaching as well: “You have given us the rest of the system; now give us your teachers” (EI 2004e :1).

As we saw in Chapter 3, the WTO Ministerial at Cancun was a significant turning point in the GATS negotiations, especially in terms of power relations between WTO members and the way in which developing countries engaged in negotiations (Kelsey 2008). The lack of concessions by major developed countries in the Agriculture negotiations, and the EU’s insistence on bringing in the so-called ‘Singapore Issues’ and pushing them really hard during the negotiations, angered developing country representatives and helped mobilise them to form a new negotiating block, and eventually refuse ‘to do a deal’.

According to Mike Waghorne (who attended the Ministerial), developing countries at Cancun identified very clearly:

[...] that the developed world was not prepared to make concessions, and was simply going to make demands [...] they stuck together and the so-called ‘Group of 20’ came together and stayed together (Waghorne Interview 2009).

This shift opened up more opportunities for NGOs and unions to form alliances with sympathetic developing countries around GATS related issues (FES/CUTS 2006, Kelsey 2008: Ch. 1., Ranald Interview 2009).

While action on GATS subsided somewhat following the Cancun Ministerial, by 2004 the GATS was once more back in the limelight, and back on the GUFs' agenda, with a renewed commitment, especially by EI, to reinvigorate the campaign to keep education out of GATS (Jouen 2005, Interview). This was related to the timetable for services negotiations and the possibility of a breakthrough in other negotiating areas. While GATS negotiations had slowed down, GATS analysts judged there was a real risk that a break-through in a related area of trade negotiations, such as agriculture, could open the "floodgates" on new offers on services (EI 2004d: 1).

In March 2004, representatives from the GUFs participated in an important GATS strategy meeting in Geneva, which brought together policy setters and activists from more than 50 civil society groups; including trade unions from five different regions: Africa, Asia-Pacific, Latin America, Europe and North America. The purpose of this meeting was two-fold: first, to develop a common plan of action that could be undertaken by country-based campaigns in the lead up to the 2005 deadline for services negotiations; and, second, to meet with and lobby trade delegations from developing countries, in order to strengthen their resistance to making "offers" in current negotiations, and to provide them with technical assistance and political support where needed (EI 2004d: 1). This represented a significant change in strategy for the GUFs.

This meeting also highlighted the array of public services under attack in many countries, the close connection between GATS and privatisation policies of governments, and the need for developed and developing countries to work together to preserve the tradition of public service delivery of essential services and utilities, which was seen by participants as essential for positive community development (EI 2004d: 2). Importantly, it also exposed PSI and EI to new strategies of lobbying and campaigning, more commonly used by NGO coalitions and social movement groups.

As part of its renewed campaign EI, began publishing a new newsletter titled *TradEducation News*, dedicated exclusively to trade related issues, and designed to provide affiliates and their members with regular updates about the GATS negotiations in Geneva, analysis of complex WTO and GATS issues, outcomes of lobbying and, most importantly, new strategies and recommendations for action. Most of the content for the newsletter was initially written by Mike Waghorne (from PSI). Later this was overtaken by David Robinson, from the Canadian Association of University Teachers (CAUT), who became EI's main trade consultant (Robinson Interview 2008).

The lead-up to the Hong Kong Ministerial in December 2005 marked the most intense phase of campaign action on the part of the GUFs. The new deadline for tabling revised GATS offers put pressure on countries to respond to demands to open up specific services sectors. In addition, the attempt by some developed countries (led by the EC and the US) to introduce proposals for benchmarks that established minimum levels of commitments, sparked outrage from developing countries because

this would reduce their flexibility to decide whether or not to table offers or engage in commitments. The parallel proposal to introduce plurilateral approaches to negotiations was also a ‘hot’ topic. The new deadline and additional demands of developing countries, especially alongside the failure of industrialised countries to put forward significant development-oriented proposals in parallel negotiations, provided new opportunity for unions and civil society activists to reinvigorate their campaign against the GATS.

When the GATS negotiations re-started in June, 2005, PSI took the lead in arranging for about 20 GATS activists from unions and NGOs to meet with the negotiators from various countries. The group met with representatives from the US, Brazil, India, South Africa, Malaysia, Chile, Thailand, Indonesia, the EC, Venezuela, Mexico and Rwanda (PSI 2005A). They also seized the opportunity to present negotiators with a statement, expressing deep concern about where the negotiations were headed. The statement, ‘Stop the GATS power play against citizens of the world!’, received the signatures of 180-plus civil society organisations, all campaigning on trade issues, including a large number of unions (both national and global) and major NGOs (PSI 2005A).⁶⁴

Although it was EI that had initially alerted PSI to the potential threat of GATS to public services, it was PSI who subsequently took the major initiative in most of the lobbying and advocacy initiatives in Geneva; partly because of PSI’s proximity to Geneva and the WTO negotiations (EI is located in Brussels), and partly because PSI, largely through the work of Mike Waghorne, had already developed a close working relationship with NGOs: a practice which EI was slower, and more reluctant to adopt. As part of the formal relationship between the two GUFs, Mike Waghorne undertook responsibility for most of EI’s WTO work. PSI had a formal arrangement with EI that they would pay part of his salary on the basis that he represented their interests in Geneva, including keeping them up to date with issues, arranging ‘lobbying’ meetings with trade delegates and writing content for the TradEducation newsletter (Waghorne 2009).

PSI also had more experience in trying to influence the policy positions of international institutions like the IMF, the World Bank and the OECD, and had already dedicated resources towards this. In addition, because the policies set by these institutions tend to impact on employment policies for PSI’s members, they have always worked more on ‘generic’ social and policy issues like privatisation, so extending this work to the WTO was in some way natural (Waghorne Interview 2009). To a large extent PSI’s work on GATS was situated within PSI’s long-term

⁶⁴ The statement is available online at (<http://ourworldisnotforsale.org/en/action/stop-gats-power-play-against-citizens-world>) accessed 20.02.2012.

‘Quality Public Services’ campaign designed to build up awareness and mobilise support to stop the privatisation of public services.⁶⁵

The focus of the GUFs was also significantly different. EI tended to maintain a relatively narrow focus on the threat of the GATS to education services, particularly higher education, while PSI gradually broadened its campaign focus to include a wide range of other services. This was the result of becoming more aware of the threat to water services, the need to assess the impact of commitments in wider health services, and an increasing perception that there was a danger in maintaining too narrow a focus on public services. Especially when there were also demands being made on other important services, such as financial services, which had potentially significant impacts, not only for workers in these services, but also for national independence and sovereignty (Waghorne Interview 2009).

However, an overview of the articles in the TradEducation News newsletters between 2004 and 2006 demonstrates a clear broadening of EI’s positions and strategies, including; more active engagement with NGOs and anti-GATS coalitions, direct lobbying of trade delegations in Geneva at strategic times in negotiations, and reaching out to actively engage other international organisations like UNESCO in their campaign to keep education out of GATS (see EI 2004d and e, and EI 2005b, c and d). EI also put more energy into mobilising affiliate unions, including running workshops on the GATS at Congresses and developing new resources such as a GATS kit for affiliates (EI 2006)

It is somewhat misleading to conceptualise PSI and EI’s action against the GATS as a single coherent campaign, with a plan beforehand and a series of ever escalating actions mapped out to achieve a specific policy goal. It was more a series of mini-campaigns and activities that evolved in response to changes in the negotiations and changes in perception about the threat that the GATS presented to education and public services. Mike Waghorne (Interview 2009) believes it is better to conceptualise such long-term actions as a movement, with a series of campaigns and actions within it — that might be global, might be national, and might be sector specific. This movement against GATS varied over the years as the focus shifted and new opportunities opened. What started as a campaign focused on the threat to public services became, in the end, more of a discussion about domestic regulation and the threat that the GATS represented to national sovereignty and democracy. Nor did it take place in isolation. It was part of a broader civil society movement against the negative impacts of ‘globalisation’ and trade liberalisation, which provided the GUFs with key allies framing messages and strategies.

While PSI and EI were the most active international union organisations in terms of advocating and campaigning against the GATS, other GUFs did become more engaged as the campaign progressed. The IUF became involved once it was clear

⁶⁵ Re-launched August 2011 as the 'Quality Public Services - Action Now! campaign'.

that a wide range of food services and agriculture services were included in the services negotiations (Waghorne Interview 2009). According to Waghorne, UNI, which is the global union responsible for a wide range of other services, including financial services, did not really become engaged in the international GATS campaign (Waghorne Interview 2009). However, their website shows that they did undertake some lobbying and campaign activity of their own (see for example, UNI 2002 and 2003).

To a large extent the ITUC relied on PSI and EI to mobilise action against the GATS as they were the international union organisations with the most expertise in the services areas under most threat (Howard Interview 2009). However the ITUC played a significant role in organising and issuing joint trade union statements, which formed a common position on the WTO negotiations, including the GATS. These statements were issued by the Global Unions Group (the GUFs, ITUC and TUAC) plus the WCL and the ETF, in the lead up to WTO Ministerial meetings and other major negotiations (see Global Unions Group/WCL/ETUC ca2002, 2003 and 2005).⁶⁶ The joint trade union statements and other information were also distributed to national federations and the ITUC encouraged them to lobby their national governments in the lead-up to important negotiations. However, the ITUC didn't really shift its focus much beyond the labour standards (social clause) campaign until the NAMA negotiations became a big issue for developing countries in the lead up to the Hong Kong Ministerial in 2005 (Busser Interview 2008, Waghorne Interview 2009, Howard Interview 2009).

Strategies of Contention

In order to realise their policy goal of keeping education and other public services out of GATS, and influencing the rules of trade, EI and PSI used three main strategies: lobbying and advocacy; networking and coalition building; and, mobilising member unions.

Lobbying and Advocacy

Lobbying the WTO: Part of the problem with lobbying the WTO is that on one level it doesn't exist as an organisation with policies that can be changed. As outlined above (in Chapter 4.), it is an arena in which trade agreements are negotiated between member states and it provides services to administer those agreements and enforce them in case of disputes. There is no board of directors to influence, and the Secretariat claims to be neutral, playing only a supportive and administrative role (Jawara and Kwa 2003). Mike Waghorne (Interview 2009) believes that a lot of unionists miss this point because they don't really understand how the WTO operates. They think it is like the ILO, where members have votes and an issue or position can be won by a majority vote. However, in the WTO, each member has the

⁶⁶ Prior to the formation of the ITUC in 2006, the ICFTU and the WCL were listed separately

right of veto. So, even if unions succeeded in getting an item on the agenda and building wide-spread support for the issue, it would only take the ‘veto’ of one member for it be finished. This makes lobbying the WTO exceedingly difficult.

Nonetheless, unions have found avenues for lobbying the ‘official’ bodies of the WTO. Union representatives were able to meet with WTO officials such as the Chairs of General Councils and the Council on Trade in Services in Special Session (the GATS negotiating body), to raise their concerns and obtain useful information. In addition, both GUFs, on occasion, invited WTO officials to executive board meetings or union conferences (EI 2005b), as an additional way to find out the ‘state of play’ of the GATS negotiations and to reiterate their concerns and demands. Mike Waghorne (Interview 2009) believes that, on the whole, WTO officials and Chairs of negotiations that he met with were open to engagement with civil society and were prepared to listen to the arguments being put by the union movement.

In the past EI and PSI have tended to focus their energy and campaigning on the biennial WTO Ministerial Conference, as this is where agreements are actually signed. What they missed at first, was the significance of the ongoing negotiations happening in Geneva. By contrast, NGOs working on trade issues base themselves, or at least some full-time staff members, in Geneva and pursue a strategy of deliberately cultivating and meeting with trade delegations, often on a day-to-day basis. Unions eventually realised that it was in the day-to-day activities in Geneva that important issues arise – that the ‘actual’ negotiations take place in Geneva, and where they are signed is not so important. This resulted in two strategy shifts: first, meeting with and lobbying trade delegations in Geneva, and second, mobilising national affiliates to lobby WTO member state governments as intensely as possible during the crucial negotiations in the lead-up to the Ministerial Council.

While the GUFs continue to have a presence at WTO Ministerials, they consider that it is the informal networking that takes place with NGOs and trade delegates at such events, which is the most valuable outcome. The Ministerial Conferences also function as an important venue for the trade union movement to present a united front in relation to their concerns over the WTO and its various agreements, including the GATS, and to demonstrate the broad range of organised labour’s interests, and its commitment to a fair and equitable trade regime. This has helped counter views of global union organisations as ‘single issue’ and ‘protectionist’ and opened opportunities to exercise influence.

When country representatives realise the range of issues that global unions like EI and PSI support, and that they have affiliates in more than 100 countries, representing millions of members in both the North and the South, they are generally more willing to listen (Mike Waghorne Interview 2005).

Another awareness raising and lobbying avenue within the WTO, which PSI and other GUFs have utilised, is the annual WTO Symposium. In April each year, for two and a half days, the WTO throws its facilities open to “accredited NGOs” (which

includes unions) to run workshops on virtually any topic they like. While workshops have to be agreed in terms of space and scheduling there doesn't appear to be any limitations in terms of topics. Union officials in PSI and EI saw this as an effective way for unions to influence member states or at least to educate them about union concerns regarding GATS and other WTO related issues (Waghorne Interview 2005; Robinson Interview 2008). Member states are invited and they do take part, some actively and some just listening – they clearly want to know what 'civil society' is thinking on these issues.

Lobbying the OECD: The OECD is a key organisation for unions to target in attempting to influence multilateral trade negotiations, because to some extent its trade committee functions as the 'executive board' of the WTO. According to Mike Waghorne (Interview 2009), the OECD "has all the big players and basically sets the agenda of the WTO" (this is supported by Kelsey 2008). In many cases, the ambassadors who serve on the trade committee of the OECD are the same as those responsible for WTO negotiations, including the GATS: "Effectively the same people are involved ... you go there and you meet all of the people that you meet in Geneva" (Waghorne Interview 2009).

However, the OECD's tripartite nature also makes it one of the few intergovernmental organisations within which labour has a recognised role and institutionalised access, through the Trade Union Advisory Committee to the OECD (TUAC).⁶⁷ Waghorne (Interview 2009), claims that OECD governments do listen to trade unions because most of them accept that social dialogue is important, and that unions are legitimate representatives of civil society. However, he believes that unions, on the whole, have failed to understand the importance of the OECD in determining the framework and content of WTO negotiations (e.g. the role played by the OECD Trade Committee as a forum for developing consensus around trade in services, see Kelsey 2008: Ch.2). Nor have they fully exploited existing opportunities for influencing the trade agenda, such as lobbying member states at the annual OECD Trade Committee meetings, or in other meetings where TUAC has access.

Nonetheless, unions did succeed in bringing the GATS and other WTO issues up at a number of the Trade Committee meetings and also at other OECD committee meetings, such as those on public governance and the public sector through GOV (The Public Governance and Territorial Development Directorate).⁶⁸ Mike Waghorne said that member state representatives at these meetings were generally surprised by the breadth of issues that unions were concerned about with regards to the WTO and GATS, and often completely ignorant of the real impact of the privatisation of services, even within their own countries (Waghorne Interview 2005).

⁶⁷ see <http://www.tuac.org/how/chow.htm>

⁶⁸ see www.oecd.org/gov

Unions used their access through TUAC not only to try to influence individual national delegates but also to “influence the debate” itself and put union concerns on the agenda. With some success, according to Mike Waghorne: “You would occasionally get delegations who would say, ‘look, what TUAC has mentioned, that is an important issue, that’s something we have to take account of ...’” (Waghorne Interview 2009). He certainly recalled getting some support from New Zealand, France, Canada, and occasionally Austria, on some issues; enough support to say that at least some countries took on union concerns. Waghorne (Interview 2009) believes unions, through TUAC, were able to have a real influence and this was evidenced through the “caveats” or “buts” which delegates and the OECD itself started to introduce when they talked about the GATS, and the benefits of liberating services.

In terms of resources, TUAC itself has few permanent staff and instead draws on experts from the various GUFs to attend committee meetings where they have a right to have someone present. So, if it is something to do with education, a representative from EI will attend, if it is public services, someone from PSI, if it is to do with industry, someone from the metalworkers (IMF), and so forth. Where there isn’t a particular sector involved, TUAC invites people from various GUFs or the ITUC, with the appropriate experience and expertise, e.g. with economic or trade-related issues.

Lobbying UNESCO: UNESCO’s widely accepted legitimacy in promoting and regulating education at an international level and its embeddedness in social and human values make it a crucial ally for EI’s proposal to develop an alternative ‘regime’ for regulating higher education. This is one of the strategies proposed as part of its renewed campaign against the GATS, launched at EI’s Fourth World Congress, held in 2004. Other proposals included a model membership inter-union agreement and draft guidelines on transnational higher education (EI 2004a and 2004b).

The strategy of developing an alternative instrument to regulate higher education is quite innovative and worth elaborating. According to EI’s Deputy General Secretary at the time, Ely Jouen, it was developed as a way of maintaining positive international education initiatives, while keeping education out of GATS (Jouen Interview 2005). It seeks to protect higher education from commoditisation and commercialisation by legitimising and giving legal status to existing agreements, codes, conventions and declarations such as “the Universal Declaration of Human Rights, the United Nations International Covenant on Economic, Social and Cultural Rights, and in declarations, recommendations, conventions, and codes of best practices from UNESCO and the International Labour Organisation”, which are embedded in and reflect the values of social and human rights, rather than economic and property rights (EI 2004b). It can be seen as an attempt to reframe the already considerable transnational activity in education in terms of an ongoing process of collegial and cooperative “internationalisation”, as distinct from current commercial and commoditised forms of globalisation and trade.

To advance this initiative, EI decided to hold a GATS strategy conference at the UNESCO headquarters in Paris, in 2005 (Jouen 2005). The purpose of this conference was threefold; to involve UNESCO in the GATS and education debate and broaden it from a narrow focus on trade and economic issues to a focus on more social and cultural issues, to get some idea of the ‘state of play’ of GATS negotiations from GATS representatives, and to develop a strategic proposal by EI and its affiliates to deal with GATS in the lead up to the 6th WTO Ministerial Conference to be held in Hong Kong in December 2005 (Jouen Interview 2005 and Robinson Interview 2008).

Lobbying WTO member states: As part of their initial strategy to maintain education as a public service and keep it out of GATS, EI and PSI worked with some of the WTO member states, mainly the Netherlands, on a proposal to have public services defined more clearly in the GATS treaty. However, when the Netherlands put this proposal to other member states their reaction was negative on two counts. First, they believed that there was general (informal) agreement between WTO member states that public services would remain protected (at least between major WTO member states). Second, member states feared that such a request, if successful, would be seen as “a goodie” that they had received, and that they would therefore be expected to give, or trade-off, something significant in return. Most of them didn’t think the issue was serious enough to warrant such action (Waghorne Interview 2005). This highlights the ‘horse-trading’ nature of the multilateral trade process.

Although this initial attempt to engage member states in altering the GATS rule was unsuccessful, it generated a lot of material that made PSI fully aware of how important GATS was and of the wider implications of its ‘rule-making’ capacity. It also strengthened PSI’s connection to other civil society groups concerned about GATS. As mentioned previously, PSI worked with the Centre for International Environmental Law (CIEL) to produce an analysis of the scope of GATS and the threat to public services (Krajewski 2001). This report focused primarily on the meaning of the GATS Article 1:3 (b) and (c), which ‘supposedly’ protects public services (see description of GATS in Chapter 3.), and suggested some legal methods to broaden the meaning of the clause, including, amendments to the GATS itself, an authoritative interpretation by the WTO, or a formal but nonbinding statement (Krajewski 2001). The Global Unions Group subsequently included a variation of this proposal into their official trade union position statement (Global Unions Group/WCL/ETUC 2005: No. 37).

Despite the failure of this strategy, protecting public services remained a core issue of concern for global unions like PSI and EI and they continued to lobby the WTO to have the ambiguity of the term clarified.

Lobbying trade delegations: As mentioned above, from 2004, PSI and EI joined other GATS activists in directly lobbying WTO trade delegations in Geneva during critical moments in the GATS negotiations. The purpose of meetings with trade delegations

and services negotiators was twofold: first, to strengthen the resistance of member country delegations against increasing commitments in education and other public and essential services; and, second, to build strategic alliances, especially with developing countries and influential countries of the South, with a view to slowing down, or even derailing, the negotiating process. (Joeun Interview 2005, Waghorne Interview 2005).

Part of this alliance-building involved supplying high quality briefing material and policy analysis, which developing country negotiators could use to strengthen their position in negotiations. Many developing and least developed countries lack capacity, in terms of the resources and expertise needed in Geneva, to keep up to date with the various meetings and negotiations (Scherrer 2002b). As a result, they are happy to draw on expertise from sympathetic, well-informed NGOs. The lack of resources and expertise provided an opportunity for unions and NGOs to supply material to WTO member country delegations, which provided information about the potential impact of the GATS, which was framed in particular way.

The strategy for these delegations was jointly decided at previous meetings of GATS activists working in Geneva, including Mike Waghorne from PSI. When they met with trade delegates, activists and union representatives presented previously 'agreed' questions relevant to each particular country, and distributed hand-outs containing their views on a variety of issues, including: Mode 4; domestic regulation; GATS and water; health services; GATS and Education; and the liberalisation of a range of other important services and utilities (PSI 2005b and 2005c). PSI increasingly took a lead role in bringing together the groups of union and NGO activists to meet services negotiators (PSI 2005a). This was partly related to the high turnover of staff in the NGOs involved, who often employed highly qualified interns but only for a short time. The engagement of PSI, with its more stable infrastructure and staffing provided continuity.

Meetings with delegates were frequently preceded by a joint statement signed by a wide group of NGOs and unions, which expressed their concerns over issues in current GATS negotiations, such as the attempt by the EC and the US to establish 'benchmarks'.

Such statements were also sent to the Chairs of the General Council and the Council on Trade in Services in Special Session and to the WTO Director General, and circulated to unions via the Global Unions Forum on Trade and International Labour Standards (TILS) network and the PSI website. They were also widely distributed by member organisations of the OWINFS network and other networks working on GATS and other trade-related issues and posted on key websites such as GATSwatch (www.gatswatch.org). According to Waghorne (Interview 2009), these sign on statements and the large number of accompanying signatories had a significant impact on member states. They represented the strength of civil society and union

concern about the GATS, and presented a united front that could not be easily marginalised or dismissed as the concerns of ‘special interest’ groups.

Both unions and NGOs involved saw the lobbying of trade delegates as a useful exercise. They believe it was particularly useful for presenting their positions, gaining information about the ‘state of play’ of current negotiations, and for identifying the major concerns of member states. It also developed alliances with key negotiators from developing countries, who not only used the briefing material inside the WTO but also fed information back to the NGO network. This helped provide crucial information for deciding where to target future campaigning and lobbying efforts, and which divisions and areas of disagreement to strategically exploit (PSI 2005b). Because the WTO works on consensus, exploiting divisions between member states was seen as one way of bringing negotiations to a ‘standstill’ and providing a space for an assessment of the impact of GATS commitments on services. This is often referred to as ‘monkey wrenching’ (Polaris 2004: 15).⁶⁹ However, such strategic alliances can be somewhat “opportunistic” and needed to be treated with caution. A common position on GATS related issue may not extend to support for trade unions in others.

Despite the success of this strategy, lobbying trade delegations is an expensive exercise and not one that either PSI or EI considered they would be able to maintain in the long term. They believe their best hope to influence negotiations still lies in the ability of their national affiliates to get to trade negotiators before they come to Geneva (Waghorne Interview 2005 and 2009, Jouen Interview 2005).

Networking and Coalition Building

Bridging the gap with NGOs: NGOs are able to bring a degree of resources, personnel and expertise to bear on policy issues that trade unions simply have neither the time nor resources to do. They can also help trade unions broaden their repertoire of strategies (Frege et al. 2004, Tattersall 2010). As the first global union to take seriously the need to work with NGOs, PSI has formed something of a “bridge” between the NGO and trade union communities. To a large extent this has depended on the efforts of a single union official from PSI (now retired), with the major responsibility for trade and other intergovernmental organisations. His work with NGO groups, which started as a result of shared concerns over the policy and action of International Financial Institutions (IFIs) like The World Bank and the IMF, increased after the advent of the WTO, and especially following his attendance at the WTO Ministerial in Seattle (as mentioned above). Personal contacts and relationships of trust played a crucial role in building up alliances between the two groups (Waghorne Interview 2009). Although EI was initially more reluctant to work with

⁶⁹ From the saying, ‘to throw a monkey wrench into the works’, meaning to stop something from functioning smoothly.

NGOs it benefited indirectly due to the close working relationship between the two GUFs.

As mentioned above, most of the lobbying and advocacy work on GATS that took place in Geneva was carried out by a group of activists from NGOs known informally as the ‘Geneva Gang’ (Waghorne Interview 2009). This was by no means a formal organisation. The representatives of the various organisations and groups would normally meet once a month to discuss issues related to the GATS and the whole WTO. There was no official coordinator but Mike Waghorne (PSI) and Alexandra Strickner from the IATP, played a significant role in providing continuity and keeping things together. Maintaining continuity was sometimes difficult due to the rapid change of personnel within many of the NGOs involved. NGOs tend to recruit young dynamic people who often move off into something else after a short time — in some cases they are only there on a relatively short internship (Waghorne Interview 2009).

PSI also developed a smaller network, connected through its special WTO ‘listserv’ (automated email group), which could also meet quickly whenever there was a new development.⁷⁰ Automated mailing lists or listservs, as they are commonly known, have been widely used by networks such as OWINFS, and also the TILS network and some GUFs and unions, as a way of expanding their networks and rapidly disseminating information widely. These email distribution networks can be moderated or unmoderated. The listserv technology encourages a form of information ‘snowballing’, where people in one network receive an email on a listserv to which they are subscribed, and then send it on to all of the other listserv networks in which they were engaged, thus rapidly expanding the reach of the information. Smaller listserv groups established on particular themes or issue areas functioned more as ‘discussion’ forums.

Integration into global networks: Networks and more formal coalitions played a major role in building common cause against the GATS, at both the international and national levels; not just specific trade-related networks, but also water networks, energy networks, health services networks and a range of other nationally based networks working to influence their own governments. Key people, like the activists from the Canadian based Polaris Institute, were often engaged in a wide range of networks, thus playing an important connecting and dispersion role, for both information and strategies.

PSI’s decision to join the OWINFS network shortly after the Seattle Ministerial was decisive for the GUFs. It opened up new channels of communication for exchange of information and strategies with NGO and other social movement groups, and enabled both GUFs to more effectively lobby decision makers in Geneva. As mentioned

⁷⁰ Unfortunately the PSI listserv was not archived so it was not possible to trace the flow of communication.

above, many of the NGOs that PSI worked closely with in Geneva were also part of the OWINFS network, and it was PSI's integration into OWINFS that built the levels of trust needed to build up alliances between the two groups. The OWINFS network has also been one of the key drivers and coordinators behind civil society action against the WTO. Whenever there is a WTO Ministerial, or Mini-Ministerial, the network pulls together a team and an agenda to make sure that throughout these events the member organisations work closely together to influence key people and get their concerns on the agenda (Waghorne Interview 2009).

One of the main strengths of the OWINFS network is its capacity to build unity while incorporating differences. While members are free to opt in or out of particular activities, the process of building consensus around issues builds trust and engagement. Statements are developed through a process of consultation and consensus within the network. Although initiatives can come from any organisations, or groups of organisations within the network, only those statements that have widespread support across the network are issued as official OWINFS statements. If there are objections from within the network, then a statement may still be distributed using OWINFS resources, but it only goes out in the name of those groups who have been prepared to 'sign-on' to it.

Somehow an issue will bubble to the surface and somebody will ask, 'Should we do some work on this?' and some organisations will say, 'Yep, we are prepared to work on this'...They might produce a statement, letter, lobbying campaign, document or something and put it out to the rest of the network, to say, 'Who wants to sign onto this?' And in most cases, although it will go out using OWINFS resources, it will not go out as an OWINFS statement, unless they have been able to get massive support for it. So, to some extent, you (that is your organisation) opt into what you want to work on and support (Waghorne Interview 2009).

According to Mike Waghorne, this flexibility was extremely important because it enabled organisations to participate and agree on key campaign issues, without having to give up key policy positions that might be crucial to the work of their own organisation.

Participating in World Social Forums: PSI also participated in the World Social Forum (WSF) and regional social forums. According to Mike Waghorne there were a number of reasons why PSI participated in the WSFs. First, it was a good opportunity to run GATS related events in conjunction with other NGOs and civil society networks such as OWINFS and the World Development Movement. At each of these events there are literally thousands of workshops and seminars, which are published in a newspaper with the name of the seminar, who was organising it, where it would be held, etc.. Second, it presented an opportunity to influence the broader NGO debate and ensure that PSI's own agenda was well understood:

[...] we certainly went in there with a strong defence of public services...and we would raise workers' issues, not in the way the ITUC might, but we certainly wanted people to be aware

of the need to protect workers' rights... and we wanted to make sure other NGOs were picking that kind of stuff up (Waghorne Interview 2009).

Third, and most important in his view, was the opportunity for networking. Not only for expanding and reinforcing existing networks but also building lists of experts and exchanging information.

[...] every time, you would meet new people because you would be at one of these events or workshops and out of the woodwork would pop, either one of your affiliates, who didn't know you were there, or somebody who was working with unions or was interested in working with unions, so your network just kept on growing [Waghorne Interview 2009].

PSI took a different approach to the WSF than the ITUC. Waghorne (Interview 2009) said that PSI had a serious policy disagreement with the ITUC (formerly ICFTU) over the need for the union movement to engage more broadly with the rest of civil society at the WSF and not just with other unionists. He said that until recently, when the ITUC went to the WSF they invited trade unionists and some "important people" from outside, but they didn't actively try to get the rest of civil society along, except a couple of "tame NGOs".

We [PSI] said, 'why send a huge delegation of trade unionists from all over the world to go to wherever the social forum is, and talk to themselves?' (Waghorne Interview 2009).

Coalitions with local governments: Unions also explored the possibility of forming or joining coalitions with sub-national government authorities. EI published the example of the ATTAC-supported local government campaign for GATS Free Zones, which had started in France, and encouraged affiliates to initiate similar alliances in their own countries (EI 2004e).⁷¹ As at October 2004, 560 GATS Free Zones, including 10 regions, 24 departments and hundreds of large and small cities, had been declared GATS Free Zones and ATTAC had made appeals to GATS activists, including unions, to help spread this campaign to the rest of the European Union. This strategy was also picked up in Australia, with the Australian Services Union (ASU), which is a PSI affiliate effectively lobbying local governments and encouraging them to pass resolutions against participation in the GATS (Waghorne Interview 2009, McLean Interview 2009).

An internal PSI report by Sussex (2005) titled, 'Local and Regional Reaction to GATS and Similar Trade Rules', cites three major reasons why local and regional councils in Europe, Canada, USA, Australia and New Zealand started taking action against GATS and other trade agreements. First, GATS and similar trade agreements are seen to have a potentially adverse affect on the services supplied by local or regional authorities. Second, central governments decisions regarding GATS and other trade commitments can have negative impact on the quality of life in their

⁷¹ Attac is an international movement working towards social, environmental and democratic alternatives in the globalisation process (see www.attac.org).

territories through their impact on local labour markets, working conditions and the delivery of services. Third, GATS and other such trade agreements can diminish the capacity of local or regional government to regulate services. Many of these local government campaigns have a strong focus on the preservation of public services and their exclusion from the GATS, which makes local governments natural allies for unions fighting for the same thing. Also local governments are often significant employers of workers in these services sectors so the potential for member involvement is significant.

Due to his expertise on GATS, Mike Waghorne was invited as a speaker to various events related to the local government and GATS Free Zones initiative. In fact, as PSI's expertise in relation to GATS developed and word spread "that we knew what we were talking about", he spent quite a lot of time appearing as a guest speaker in relation to the GATS and WTO issues in various forums (Waghorne Interview 2009).

Mobilising Member Unions at the National Level

Due to the representational nature of the GUFs, they do not have the capacity to put direct pressure on national affiliates or compel them to act. As mentioned earlier, it is the national unions who are the main decision makers, and who direct the policy and actions of the global organisations. The GUFs can only make recommendations, encourage affiliates to take action, and offer them advice and support:

We can urge them to support a campaign and we can offer support material if they ask for it, and usually, that is about it. I mean, we might put out model letters, or a publication that outlines an argument, or they might send us material and ask if we can have a look at it, or ask our advice on what position they should take on an issue. But it was a bit 'hit and miss' (Waghorne Interview 2009).

This is reflected in the strategies used by GUFs to mobilise affiliates. For the most part they relied on 'lobbying' national affiliates at World Congresses and various conferences, seminars and workshops, and on disseminating information and 'calls to action' through special briefings, bulletins, and publications as well as articles in regular union journals, and on communication through electronic media such as websites and email. Both GUFs also participated in their own affiliates' events and various conferences. However, this was also usually on an invitation basis.

PSI and EI used a dual strategy to try to influence negotiations. They provided affiliates with information, educational and advocative material and encouraged them to monitor and lobby their own government. At the same time, they used their status as major international bodies representing educators and public sector workers worldwide to lobby at an international level. This lent weight to national lobbying and attracted more wide-spread media coverage. However, apart from the coordination of the request/offer process, mentioned above, there seems little evidence of attempts by the GUFs to play more of a coordination role in terms of transnationalising the action against GATS.

While PSI and EI initially focused on the WTO Ministerial Conferences and the negotiations in Geneva as the key sites of contention, this focus shifted more and more to the national level, as it became clear that campaign success depended to a large extent on activating and mobilising members at the national level.

This involved a shift in strategy from awareness raising and supplying support material, to a focus on actively mobilising national affiliates to take action at the national level—not just to campaign but to directly lobby governments. This shift is demonstrated by resolutions at EI’s 2004 World Congress, which mandate EI to “raise awareness of EI members of the relevance, impact and importance of international trade agreements to the work of national organisations representing education workers” (Verger and Novelli 2009) And also in the development of EI strategies arising out of the UNESCO conference in April 2005 and later published in *TradEducation News*:

As a matter of urgency, lobbying governments in ways to be defined by affiliates to suit their national situation must be started where it has not already begun. It will be important to identify examples of good practice that can be shared amongst affiliates and used jointly, as has been done in Brazil and Argentina. EI needs to identify key countries for lobbying (EI 2005d).

This shift was particularly important once the GUFs started lobbying trade delegations and negotiators in Geneva in 2004. The success of this lobbying strategy depended to a large extent on activating and mobilising members to take simultaneous action at the national level. PSI also increased its call to action for national affiliates to lobby national governments simultaneously with the lobbying activity in Geneva (PSI 2006). According to Mike Waghorne (Interview 2009) PSI had to constantly keep saying to affiliates: “look, we cannot campaign on this if you are not actively lobbying your own governments, otherwise it’s a waste of time” (Waghorne Interview 2009).

Awareness raising and calls to action: As mentioned above, PSI and EI jointly produced and distributed to members four significant educational and awareness raising publications about GATS. The first two: ‘The WTO and the Millennium Round: What is at Stake for Public Education?’ (PSI/EI 1999a) and ‘The WTO and the Millennium Round: What is at Stake for Public Health?’ (PSI/EI 1999b) were published in 1999, prior to the WTO Ministerial in Seattle, before PSI and EI had really mobilised against the GATS, or initiated a specific campaign. These publications provide an initial analysis and assessment of the GATS and framed it as a potential threat to education and health services, in particular, and encourage national affiliates to inform themselves about the issues. The focus on higher education and health care services in these documents reflects the current concerns at this stage of the campaign. Later publications by PSI encompassed a wider range of services, especially water services, which emerged as a major issue as the GATS

negotiations progressed. EI tended to maintain a more narrow focus on higher education services.

The next joint publication produced by the GUFs, 'Great Expectations: The Future of Trade in Services' (PSI/EI 2000a), which was published after the Seattle Ministerial, reflects a more nuanced view of the GATS, and specifically calls for unions to initiate their own national or regional campaigns. As mentioned earlier this publication became the base document for PSI and EI's future lobbying and campaigning work on GATS (Waghorne Interview 2005). It provides specific suggestions about how to initiate a campaign, however the 'call to action' is not very strong at this stage.

Another key document, which incorporates broader concerns related to globalisation and the role played by the international institutions, including the WTO, is: 'Stop the World? No. Shape it!' (PSI/EI 2000, 2003 and 2006a). This started out as a briefing document on globalisation and the international institutions, which was developed by PSI for various national union seminars. Following discussion and revision within PSI's, Public Sector Working Group, it was subsequently expanded, revised and regularly re-issued to incorporate ongoing developments: first in 2000, following the collapse of the WTO Ministerial Conference negotiations in Seattle in December 1999; then, in 2003, before the WTO Ministerial in Cancún; and then again in mid-2006 to reflect further developments in the global institutions and ongoing union concerns following the Hong Kong Ministerial in December 2005 (PSI 2006). While it was produced originally in response to requests from affiliate unions for up-to-date material for their leadership to use in making speeches, or in preparing for meetings with governments or employers, it came to be seen as a "living resource" for disseminating up-to-date information about globalisation issues:

[...] the intention is that, by keeping the publication as current as is possible, PSI can offer it to union educators or journalists as a resource for seminars or information sessions/leaflets on globalisation issues (PSI/EI 2006: 1).

One of the most important publications developed by EI to keep member unions up-to-date with the progress of the GATS negotiations and the actions being taken by EI at the international level, is its TradEducation News newsletter. This newsletter, which was initiated in 2004, is sent to members and is also available to individual members and the broader public on the EI website. Besides reporting on the state of play of negotiations, and action by EI at the international level, it also includes 'calls for action' for affiliates and a wide range of suggestions of strategies that can be undertaken. For example, the May 2005 edition provided a comprehensive summary of EI strategy propositions developed at the special EI conference held at UNESCO headquarters in April 2005 (EI 2005d). This included: strategies for popularising and increasing awareness of the GATS; strategies for interventions with political decision-makers, at the national and international levels; communication strategies, especially directed towards the news media; short and long term priorities; and,

information on how affiliates can register to attend the Hong Kong Ministerial (EI 2005d).

Education and training: One thing that has made campaigning against the GATS so difficult is its complexity. This has also been a factor affecting the mobilisation of national affiliates. The GATS does not involve a single issue. There are many areas of concern within the agreement and each area requires specific expertise. According to Mike Waghorne (Waghorne Interview 2009), the complexity of the GATS made people reluctant to enter into debates without having particular expertise on the specific issue being discussed. This complexity, and the need for specialised expertise, made it difficult to get union leaders to take part in such things as public debates with Ministers of Trade.

In recognition of this complexity and the need for education about the GATS, EI budgeted for regional training seminars between 2005 and 2007 (EI 2005d) and it also started including GATS workshops as part of its World Congresses. PSI also ran some education seminars, although mainly only in developing countries, as that is where they had education resources. However, as Mike Waghorne (Interview 2009) points out, a one or two day seminar is not sufficient to make someone an expert on the GATS. Part of the problem lies with lack of resources and the other is the sheer complexity of the issues:

If you want someone to be an expert on GATS, such as that they can take on the minister for Trade, you need more than just a two or three day seminar. We just don't have the resources for that. Secondly, there is no way that you will ever get union presidents or general secretaries to be on top of all of these issues — it is not humanely possible (Waghorne Interview 2009).

The hierarchical structure of most unions and the tendency for the president or general secretary to be the only mandated spokesperson for the union compound this problem. If union leaders are unable, or simply unwilling, to delegate other senior officials in the union, or researchers, policy advisors, and expert members, to publicly speak on complex issues like GATS, which require specific expertise, then they are stuck (Waghorne Interview 2009). There is also evidence that the GUFs were increasingly aware of the need to educate and engage union members and the general public, and EI did suggest a range of ways which affiliates could do this including:

Organisation of meetings/seminars; Mobilisation and events, especially aimed at establishing alliances; Involving members, young people and parents in campaign work; Working with the local community; Working with other unions and NGOs (EI 2005d).

Linking the request-offer chain: One area where the GUFs did play a coordinating role was in connecting the request-offer chain. As mentioned above, once the request-offer process started, whereby countries made demands for market opening and offers of commitments to liberalise certain sectors, the GUFs undertook a deliberate strategy of linking the request-offer process. The idea was to ensure that every

request and offer in any public service, including education, was made public, with the aim of helping “affiliates at both ends of the ‘request-offer’ chain to campaign to have requests withdrawn or rejected”(EI 2004e:1). As part of this strategy, the GUFs called on national affiliates to find out what requests their governments had made and received and to pass this information onto the PSI and EI offices so that it could be coordinated. This strategy had a number of aims: to improve the transparency of negotiations; to slow down the request-offer process; and, to reveal contradictions in the positions of member countries, in terms of what they said and what they did. Making these requests and offers public is a potentially powerful campaigning tool as it can reveal contradictions between what governments say publically and what they do in terms of requests made of other countries. This can be used to delegitimise the claims made by these countries, and call the whole negotiating process into question.

Developing a Coherent Position — Framing the GATS

As outlined in Chapter One, 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 ‘attentive’ public (Adler 1984)⁷². To achieve this, they must be able to ‘frame’ the issues in a way that builds a common understanding of the problem, that develops a sense of grievance or injustice that inspires people to become engaged, and that provides some hope that they can somehow redress the problem.

Using a combination of the framing purposes and processes outlined in Chapter 2. the following section will provide an analysis of how the GATS was framed by PSI and EI during the course of their campaigning activity between 1999 and 2006. The aim is not to undertake an in-depth discourse analysis of particular texts but to sketch out the main “collective action frames” developed and deployed, paying particular attention to the function of various frames (diagnostic, prognostic, mobilising), and the discursive processes and strategies used to ‘load’ these frames with meaning. To do this I draw on three types of documents: joint publications produced by PSI and EI to inform and mobilise national affiliates; resolutions made at PSI and EI Congresses, which represent agreed positions by national affiliates; combined trade union statements relating specifically to the GATS negotiations; and, sign-on statements developed jointly by NGOs and unions. This approach draws attention to the use of framing as a contentious strategy by showing how unions (as part of a broader movement against the GATS) at both the international and domestic level, deliberately constructed meaning about the GATS as part of a broader struggle to exercise power and influence, not just over trade in services negotiations, but also over various other domestic issues, such as the privatisation and commercialisation of public services and associated deregulation.

⁷² That part of the public that is attuned to politics, current affairs and its media coverage.

Identify the Problem & Build a Shared Sense of Grievance (Diagnostic Framing)

As a first step towards mobilisation, an issue must be defined and interpreted as “a problem that the political system should deal with” (Gerhards 1995: 229). This is commonly done by characterising it as a “discrepancy between what is and what should be”: in other words as an injustice or a grievance (ibid Gerhards 1995: 229). The GATS was initially problematised by linking it to the failed negotiations for the Multilateral Agreement on Investment (MAI), despite the fact that the negotiations were not directly connected and the negotiating arena was different. The GATS was framed early on by civil society activists as an attempt to negotiate a new MAI ‘by stealth’. This is clearly illustrated in a trade briefing posted on the website of the Council of the Canadians in 1999:⁷³

The lions are on the prowl, again. Just when victory over the Multilateral Agreement on Investment (MAI) had given us a chance to catch our breath, a new menace has been spotted in the tall grass of the World Trade Organization (WTO). The General Agreement on Trade in Services (GATS) may yet prove to be the way the world’s corporate lions get their MAI (Council of the Canadians 1999).

This link is also used by EI and PSI in their initial explanations of why the GATS is a problem for public services and education unions, and their members. In EI’s first GATS-related publication, ‘The WTO and the Millennium round: What is at stake for public education?’ (PSI/EI 1999a), published shortly before the WTO Ministerial in Seattle in 1999, the issues raised by the GATS negotiations are directly linked to those previously raised about the MAI:

Whether of a societal or sectoral nature, some of the issues raised by the GATS negotiations are the same as those underlying the MAI: loss of sovereignty on the part of nation-states; how to preserve the ability of governments to protect the social security system and national culture; the future of public services in the context of the liberalisation of trade and investments, etc. As far as the education sector is concerned, it is the very existence of education as a public service which might be at stake sooner or later (PSI/EI 1999a).

By linking the GATS negotiations with the failed MAI negotiations, civil society actors, including PSI and EI, effectively activated and transferred many of the frames and storylines associated with it; including its potential to restrict domestic regulation and policy making and its threat to public services. Although the arena had shifted from the OECD to the WTO, the main ‘perpetrators’ pushing the GATS negotiations were portrayed as the same as those that had pushed the MAI — greedy corporate interests, such as Multinational Corporations (MNCs) and powerful business lobby

⁷³ Canadian NGOs and policy think tanks such as The Council of Canadians, the Polaris Institute and the Canadian Centre for Policy Alternatives played a key role in developing and defusing material about issues related to the GATS.

groups, and powerful national governments, especially the United States (US) (PSI/EI 1999a).

While the linkage to the MAI was important as a way of initially problematising the GATS and raising the level of awareness and threat, it wasn't the main frame used throughout the campaign. In, 'Great Expectations: The Future of Trade in Services' (PSI/EI 2000a), published in 2000, shortly after the Seattle Ministerial, PSI and EI develop a more nuanced interpretation of the problem(s) with the GATS, which reflects their greater understanding of the WTO and the GATS (Waghorne Interview 2009). As this became the base document for their future lobbying and campaigning work on GATS (Waghorne Interview 2009), it provides a useful base document for analysing how GATS was framed as a problem for public services and education unions, and their members. These frames were further developed as the negotiations progressed, with different issues being prioritised and new issues added, however, the main messages about the GATS remained fundamentally unchanged.

GATS was defined not just as a single problem but also as encompassing a wide range of interconnected problems, which are part of a broader process of neo-liberal (profit-driven) globalisation and trade liberalisation. The overarching problem identified, and which acts as a kind of master-frame, is the potential for the GATS (as part of a related web of WTO trade agreements), to jeopardise the capacity of national governments to determine policy and implement regulations for the good of their citizens, which is seen as a key component of sovereignty. As the executive summary of 'Great Expectations' states:

This paper argues that the web of agreements made to promote the growth of international trade jeopardises the central role of government in determining policies for the good of individual countries, in ways sometimes unforeseen and unintended. The agreements include the GATS as well as related agreements such as GATT, TRIPS and the CBD (PSI/EI 2000a: 3).

The most important of these "unforeseen and unintended" consequences identified, and the biggest problem for public services and education unions, is the threat that the GATS poses to public services, especially education and health. The main argument is that public services are in danger for two reasons: first, because the exemptions for governmental services provided in the GATS may not be effective in keeping public services out of the GATS, especially as many public services are already or potentially open to commercialisation or privatisation; and, second, because the GATS is likely to escalate the liberalisation and privatisation of public services. The GATS is portrayed as a "net" which could catch any services that are open to commercialisation or privatisation, even if this is unintentional:

Services at risk of being caught in the GATS net are therefore those already or potentially open to commercialisation or privatisation (PSI/EI 2000a: 6).

WTO assurances that these exemptions will enable governments to protect public services, are dismissed as an ‘untested’ belief because the only way the exemption can be tested is through future disputes procedures, thus also raising the spectre of the WTO’s disputes mechanism:

The WTO Secretariat believes that governments can use these two provisions as broadly as they wish. But this general belief has not been tested through the GATS dispute procedures. Public services are therefore at best in an uncertain position (PSI/EI 2000a: 6).

From the start, the GATS was directly linked to the problem of commercialisation and privatisation of public services, which already existed in many countries. Public sector unions, in particular, had already been battling against commercialisation and privatisation of a wide range of public services, and education unions saw it as an increasing threat in education as well (Fredriksson 2003). Fears were raised that through the GATS, profit-driven corporations would put even more pressure on governments to commercialise and liberalise more and more services, and that governments would use the GATS as an excuse for further commercialisation and privatisation. In later statements this was portrayed as a threat, not just to equitable delivery of “vital” public services, but also to the well-being of a large part of the world’s population:

[...] there are growing fears that the present negotiations under the General Agreement on Trade in Services (GATS) could jeopardise access to vital public services and to other services of general interest for a large part of the world’s population. These services are too crucial to human well-being to be subject to private sector competition under WTO disciplines (Global Unions/WCL/ETUC 2002/3).

Other major problems identified in ‘Great Expectations’, are: the unforeseen consequences of trade agreements such as the GATS; the lack of public scrutiny of the GATS negotiation process, despite its potentially powerful consequences for countries and their citizens; that trade increasingly dominates and overrides all other issues, including health and safety considerations and disease management; the way that telecommunications changes the nature of service delivery, thus making some services, particularly in education and healthcare, more vulnerable to cross-border trade through the GATS; the potential of the GATS to exacerbate existing problems of privatisation, such as the practice of skimming off the cream (“cream-skimming”) of profitable areas of services while leaving the burden of cost on the public sector, thus undermining universal access; that mode 4 of the GATS (movement of natural persons) could encourage “skill drain” from developing countries while, at the same time, increasing the use of cheap foreign labour to undermine working conditions in host (usually developed) countries (PSI/EI 2000a). The existing trade union campaign to have labour standards linked to trade agreements is also integrated, by re-framing it as an example of how trade could dominate all issues: “Labour standards are a particularly important case of where trade interests can override all other concerns” (PSI/EI 2000a: 14).

Underlying all of these problems is the relentless expansion of trade through further GATS negotiations, and the enforceability of GATS rules and disciplines, which potentially jeopardises the capacity of national governments to determine policy and implement regulations. Although many of the problems identified are existing problems, they are given new sense of urgency by associating them with a new, unknown, potentially powerful set of trade rules, governed by an ‘external’ international institution, which could be enforced at the domestic level.

Each of the issues identified is problematised by explicitly or implicitly characterising them as a discrepancy between what could happen, ‘potential consequences’, and what should happen, ‘normative claims’ (Gerhards 1995). The GATS potentially restricts national autonomy, in terms of regulation and public policy, fails to protect public services, exacerbates liberalisation and privatisation of public services, encourages skill drain from developing countries, and prioritises trade over all other public policy issues, but governments need to be able to regulate and set policy for the good of their citizens, people need public services that guarantee equitable access to services that are essential to human health and well-being, and developing countries need to retain their skilled workers.

Governments are in danger of being confused and overwhelmed by the “vast array” of trade measures and policies that GATS commits them to, and which could have unforeseen consequences, but governments need clarity and certainty about the impact of trade measures and policies in order to protect the interests of their citizens.

The GATS negotiations are highly technical and veiled in secrecy, with no capacity for democratic and civil society involvement in decision making, but people have a right to be consulted over issues that potentially have such a powerful impact on their lives. Therefore, the implication is, that something must be done to stop or reform this trade agreement.

The correct position that the receiver of the message (addressee) should take on a topic is made clear as part of the ‘diagnostic’ framing (Gerhards 1995: 229). According to Gerhards (1995), this can be done by making the issue more tangible, either by personalising it or demonstrating its impact on daily life, or by loading it with ideological value. Adding ideological value can be achieved by embedding the new problem in a pre-existing set of “universal values or ideological frameworks”, such as human rights, by attaching it to a “larger context” that amplifies the problem, or by linking the new problem to an existing set of “ideological but structurally unconnected frames” (Gerhards 1995, Benford and Snow 2000).

As outlined above, the issues associated with the relatively unknown GATS and the need to oppose it were given immediate relevance by first linking the GATS to the known set of frames used to problematise the MAI. In ‘Great Expectations’ (PSI/EI 2000a), the issues identified are further enforced and made more tangible by use of concrete examples that demonstrate the potentially negative effect of the GATS, either by drawing comparisons with similar problems, or by showing how the GATS

will potentially exacerbate existing trends and visa-versa. For example, existing pressures to commercialise health services makes them more vulnerable to being included in the GATS and therefore subject to its provisions:

Pressures to commercialise more and more of health services have meant more private hospitals, private insurance and private medicine. GATS applies to health services. GATS applies to any commercialised service (PSI/EI 2000a: 12).

The impact of the TRIPs agreement on the cost of AIDS medication in South Africa and Thailand is used as a real-life example of the type of unforeseen consequences that trade agreements like to the GATS can have:

It is doubtful that South Africa and Thailand could foresee that their involvement in TRIPS could result in millions of their citizens dying in order to maintain the profit of pharmaceutical companies (ibid).

This comparison also attaches GATS to a “larger value horizon” (Gerhards 1995: 230) — the threat to human health from diseases such as AIDS, thus amplifying the problem by demonstrating the serious consequences of prioritising trade and profit over social policies such as health and disease management. The fact that this issue is of particular significance for many developing countries strengthens the sense of injustice, and thus the need for something to be done. If trade policy i.e. the GATS, is a threat to human health and management of diseases such as AIDS, then, clearly, it must be opposed.

The repeated use of terms such as, “unexpected”, “unforeseen”, “unintended” and “untested”, to describe various aspects of the GATS, heightens the sense of fear and uncertainty about its impact. At the same time, the expanding reach and undefined nature of the GATS is used to portray it as a kind of huge expanding net or web in which all sorts of public services and government regulations could be caught or tangled up: some deliberately and some in unforeseen and unexpected ways.

The overarching message is clear: that governments should be very cautious about making any commitments in the GATS because it could have serious unforeseen consequences for domestic policy making; and, that steps must be urgently taken to ‘constrain’ the treaty or stop the negotiations, before it is too late.

Extend the Range of Mobilising Targets (Frame Extension)

The wide range of problems associated with the GATS in PSI and EI documents, potentially extends the group to which the frames and subsequent claims can be addressed; beyond the workplace to the broader society. In fact, although potential workplace problems associated with the GATS are also identified, especially initially, they play a relatively minor role in terms of the framing process. As Gerhards (1995: 239) argues, “[...] the larger the range of the problems covered by a frame, the larger the range of groups that can be addressed with the frame and the greater the mobilisation capacity”. However, these problems need to be connected in some

plausible way, e.g. by schematising them as part of some wider value system or pattern (Gerhards 1995: 239). This is done by schematising the various problems associated with the GATS as part of a bigger problem:

The issues that are part of liberalisation of trade in services are complicated. They encompass new technology. They include the very nature of democracy in the future. They involve the environment. They relate to health quality. They affect the nature of public services. They could affect the provision of education. And they are clouded by much of the technical regulation in WTO documents. But ultimately they are rooted in economics. Trade liberalisation in services is part of the globalisation process. It is happening and will continue because there is money in it (PSI/EI 2000: 3).

Thus, all of the problems can be understood as different consequences of one and the same cause - the profit driven globalisation process. This both amplifies the threat of GATS and makes it easier for people to understand. However, it also tends to make the problems appear somewhat abstract and overwhelming, and seem inevitable and unstoppable. If people feel like a problem is too big and too abstract for them to deal with it can have a distancing and demobilising effect (see Table 5. Variations in the quality of frames and mobilisation capacity).

Assign Blame (Diagnostic Framing)

It is not sufficient to identify a problem. The next important step in the mobilising process is defining the cause of the problems that have been identified, and attributing blame (Gerhards 1995, Benford and Snow 2000). “If movement actors want to mobilise people on a problem, they must externalise the causes of the defined problem and attribute the causes to external collective actors” (Gerhard 1995: 231). In other words, there must be someone or something to blame. This is even more effective if the issue can be personalised by identifying “concrete persons as causal agents”. It can be strengthened even further if the problem is portrayed as deliberately caused by the “causal agent”, e.g. for personal enrichment, or through greed. An opponent can also be “moralised” by calling their legitimacy into question.

If the emergence of a social problem can be attributed to a causal agent, if the causal agent can simultaneously be personalised and moralised, and if his actions can be interpreted as intentional and connected with particular interests, then the chances to mobilise a great number of people are increased (Gerhards 1995: 232).

Globalisation is identified as one of the causal agents. However, this message is somewhat mixed or ‘nuanced’, as it attempts to distinguish between a ‘fair’ and an ‘unfair’ globalisation. Thus, it is not globalisation itself that is the problem, or free trade, but rather, the current ‘unfair’ process of globalisation and free trade dominated by the corporate agenda of MNEs (Multinational Enterprises), governments and international institutions such as the IMF, the World Bank and the WTO.

Therefore unions must fight for a fairer process of globalisation and free-trade that would benefit workers and citizens, especially the poor and marginalised (PSI/EI 2006a:39). These polarised positions are clearly illustrated in the various editions of the joint PSI/EI publication, ‘Stop the World? No. Shape it!’ (PSI/EI 2000, 2003 and 2006a), designed to provide up-to-date information and argumentative material for unions and their members to use in lobbying and campaigning, not just in relation to the GATS but also in relation to other international institutions such as the World Bank and the WTO.⁷⁴ As both the 2003 and 2006 editions make clear, globalisation and free trade in themselves are not bad things. The task for unions is to find a way to make these processes fair - to ‘shape’ globalisation and free-trade, not ‘stop’ it:

Oh, by the way: if you get to the end of this paper and think that the Stop the world part of the title of the paper is the answer, then we have obviously failed to communicate our message – unions should shape the world, not try to stop it! (PSI/EI 2003: 8).

And in 2006:

[...] Whilst it [the paper] points to the very negative results for many people, it argues that globalisation – free and fair trade – can be equally a force for good or evil (PSI/EI 2006a: Introduction/Executive Summary).

While such statements indicate that the GUFs remain firmly in the ‘reformist’ camp, this should be seen in the context of the dominant discourses of neo-liberal globalisation and trade liberalisation and the very real danger of unions losing their credibility by being simply dismissed as ‘anti-trade’ or accused of being narrowly ‘protectionist’.

However, people cannot effectively mobilise against globalisation, it needs a public face. The public face of profit-driven, unfair globalisation is the WTO. The WTO is identified as a major causal agent, and therefore target, both as an organisation and as a system of negotiating processes and trade rules, including for services. A number of different arguments are used by unions to criticise and delegitimise the WTO. The WTO is portrayed as an amoral organisation, lacking a social justice and equity dimension, whose stated purpose is to ensure the free flow of trade. By contrast, unions are portrayed as the defenders of social justice and equity with responsibility to ensure these dimensions are addressed in trade agreements:

The stated purpose of the WTO is to ensure that international trade flows as smoothly, freely and predictably as possible . In so doing the WTO hopes to improve the welfare of the peoples of its member countries. However, like any organisation, ultimately what the WTO does stems from its purpose. Its purpose does not include social justice nor equity concerns. Therefore it is up to organisations such as trade unions to ensure that such links are made (PSI/EI 2000a: 7).

⁷⁴ While this document was jointly published and distributed to member unions of both GUFs, it seems to have been mainly developed and written by PSI.

The WTO Secretariat is also delegitimised, initially portrayed as lacking leadership and credibility (PSI/EI 2000a) and the WTO negotiation process itself is also criticised and called into question: Its secrecy and lack of transparency; its enforcement mechanism and the unknown outcome of future disputes related to the trade in services; and, the “horse-trading nature of the negotiations process, where gains in one area are swapped for commitments in another. This is portrayed as a particular danger for public services, especially where they have been commercialised or privatised. “Former government-controlled services, especially in health and education, are possible areas for horse trading, both within and outside of GATS.” (PSI/EI 2000a: 9).

The WTO and other global institutions such as the IMF and the World Bank are framed as transmitters of privatisation policy: The WTO through the pressure it exerts on countries to open up services to trade through the GATS, and the IMF and the World Bank through requirements in “conditionalities” tied to financial support and loans (Hall 2003: 31-2). In its 2003 publication, ‘PUBLIC SERVICES WORK ! Information, insights and ideas for our future’, PSI claims that:

The World Trade Organisation (WTO), through the General Agreement on Trade in Services (GATS), is creating potential extra pressure for privatisation of public services, including healthcare. The key element in GATS is for countries to make ‘commitments’ to open a sector to trade. Countries are not obliged to open sectors, but can do so, and can be requested to do so by others. The EU’s negotiators in GATS have requested many countries to open their water services (Hall 2003:31).

In addition some WTO member countries are also portrayed as causal agents, driving forward unfair trade negotiations, especially those who have a vested interest in promoting liberalisation of services, such as the U.S., the EU (negotiating as the EC), Australia, New Zealand and Canada. The ‘Stop the GATS power play against citizens of the world !’ statement expresses deep concerns about where negotiations are headed, challenges claims made about the benefits of services liberation, and calls on the WTO members to:

[...] stop the current push for a deeply questionable agreement that serves the expansionary interests of service corporations and will be a profound disservice to citizens of the world (Civil Society Statement 2005).

The statement also includes specific references to pressure from big business lobby groups such as the US Coalition of Service Industries and the European Services Forum, and to attempts by the US and the European Commission to accelerate pressure through the imposition of benchmarks which would erode the flexibility for countries to decide whether to make commitments or not.

These are the main causal agents identified. These are the groups who are portrayed as promoting the liberalisation of services for their own interests, at the expense of workers, citizens, and the sovereignty of national governments. These are “The forces

driving GATS”, identified in the joint union and civil society sign on letter ‘Stop the GATS power play against citizens of the world!’ (Civil Society Sign-On Statement 2005). The introduction of new benchmarking proposals designed to increase the level of existing commitments in services verified union and civil society claims about the GATS negotiations, thus increasing the credibility of the claims themselves and of the claim articulators. At the same time it provided a further opportunity for unions and civil society actors to reassert and amplify their initial problem interpretation and diagnosis of blame:

The current Doha Work Program on global trade negotiations at the WTO was to have been geared towards the critical needs and concerns of the peoples of the Global South. We have always been sceptical of that rhetoric. Today enormous pressure is being put on these countries to open up their service markets to powerful foreign-based, for-profit corporations from the industrialized countries (Civil society 2005 ‘Stop the GATS Power Play).

The actions and intentions of the causal agents are problematised by contrasting them with statements about what should happen, thereby heightening the sense of injustice and grievance. For-profit corporations and their home-based countries are seeking increased market share in a wide range of services at the cost of the developmental interests of developing countries and people’s human rights to public social services:

[...] Key sectors in which developed countries are seeking further commitments from developing countries are, among other, finance, energy, environment, water, tourism, distribution and transportation services. On the one hand, these are among the service sectors where the EU and US are the home base of for-profit corporations seeking to expand their global market reach. On the other hand, these sectors also represent crucial and necessary bases for the fulfilment of human rights to public social services, as well as the fundamental support services required for agricultural and industrial production. (Civil society 2005 ‘Stop the GATS Power Play’).

Goals, Solutions and Strategies (Prognostic Framing)

When an issue is publicly framed as a problem it needs to be accompanied by “plausible” goals or proposed solutions to the problems. Framing goals requires the same strategies as defining and problematising an issue: “finding a concept; loading the value of the goal by tying it to higher values; making the goal more concrete by showing the practical benefits for those affected” (Gerhard 1995: 232).

Just as there was no single issue identified with the GATS, so there is no single solution proposed. However, the discrepancies identified in the diagnosis of the problem(s) with the GATS lay the groundwork for the claims (demands) or proposed solutions. ‘Great Expectations’ (PSI/EI 2000a) does not propose specific solutions to the problems it identifies, except that affiliates are encouraged to start an information and advocacy campaign in order to identify the specific issues relevant to their country, and they are urged to talk to their governments. Specific policy goals can be found in Congress resolutions and they also form part of the demands in the

combined trade union statements developed in response to the WTO negotiating agenda prior to each of the WTO Ministerials. The major goal and proposed solution to the threat that GATS poses to public services, at least initially, is for public services, especially education and health, to be removed from the scope of GATS.

Over time, this demand is extended to incorporate more “vital” services. Ideological value is added by linking the claim and demand to broader debates about development and the broader value system of human rights, which supports “normative” claims for universal service provisions and equitable access. This goal is also closely linked to the demand that the policy making and regulatory powers of national governments be protected and strengthened. Unions argue that the ability of governments to enact domestic regulation, legislation and other measures to safeguard public interest must be ensured. This demand or goal achieved more prominence as the campaign progressed. According to Mike Waghorne (Interview 2009), that and the capacity of the WTO dispute mechanism to over-rule domestic policy and regulations resonated most strongly.

This is reflected in the Global Unions statement ‘Safeguarding Services’, made in the lead-up to the WTO Ministerial held in Cancún, in 2003, which restates and reinforces the overarching claim that GATS rules and disciplines threaten national autonomy and governments’ rights to regulate and set policy:

Public services and other services of general interest reflect democratically- determined public policy objectives, and it is essential that these not be undermined by private sector competition under WTO disciplines. Governments need to preserve full responsibility and accountability in the area of such services (Global Unions/WCL/ETUC 2003: Safeguarding Services No. 11).

Value has been added to both the claim and the policy goal by framing it as a threat to democratic decision making. This link escalates the threat, from being a threat to public services and government regulatory power, to being a threat to democratic processes. Thus bringing into play, all of the values and citizen’s rights associated with democracy.

As the claims are escalated so are the demands: From calling for strengthening of the clause which guarantees that services will not be included in negotiations and for revision or removal of restrictions on regulation (such as “the necessity test”), to demanding that a wide range of vital services be excluded from the GATS, at all governmental levels, and that provisions be included for universal access to services. This is strengthened by linking it to achievement of the United Nations (UN) Millennium Development Goals (MDGs) by 2015, agreed to by all 193 UN member states and major international organisations, including the WTO.⁷⁵ The MDGs include eradicating extreme poverty, reducing child mortality rates, universal primary

⁷⁵ For WTO statement about the MDGs see (http://www.wto.org/english/thewto_e/coher_e/mdg_e/mdg_e.htm)

education, fighting disease epidemics such as AIDS, gender equity, and developing a global partnership for development (UN 2011). By the lead up to the Hong Kong WTO Ministerial in December 2005, these claims and demands have been woven into a coherent storyline:

The current negotiations under the General Agreement on Trade in Services (GATS) risk undermining the universal service obligations of governments and their capacity to regulate. Such obligations must not be jeopardised by private sector competition under WTO disciplines and governments must preserve full responsibility and accountability in the area of such services. Therefore, the terms of the GATS agreement should be amended to exclude public services (above all, education, health and essential public utilities such as postal services and telecommunications) including at sub-national levels of government, and socially beneficial service sector activities, from all further GATS negotiations. Across all GATS negotiations, provision should be made on a horizontal basis for access to universal services at uniform and affordable prices. Such universal public provision is also vital in order to move towards achieving the Millennium Development Goals (MDGs). It is especially important because any reduction in public services tends to have its most negative effects on women through reduced access to services such as health care, child support, maternity assistance and so forth. The above conditions and provisions are a prerequisite for continuation of the GATS negotiations (Global Unions/WCL/ETUC 2005).

Another important goal, linked to claims about uncertainty of the impact of the GATS, is the demand for a full assessment of the effects of liberalising trade in services. This is given credibility by pointing to the lack of actual research conducted, and pointing to the fact that even the studies conducted by the WTO Secretariat show a mixed picture of the impact: Thus undermining WTO credibility and calling into question claims made about the benefits of liberalising service. This demand also refers to clauses in the GATS that require such an assessment, thus strengthening the demand, and further undermining the credibility of the negotiating process. The demand is extended by calls for civil society and union involvement in such an assessment.

This can be seen as an attempt to increase access to the trade policy process: Part of a wider demand for accountability and civil society engagement. Related to this, is the call for improved consultation processes, both within the WTO and at the national level. This is linked to the problem previously identified, of the secrecy and lack of transparency of the GATS negotiations, and the lack of democratic and civil society involvement in decision making.

The long-standing demand to integrate practically enforceable labour standards into the procedures and mechanisms of the WTO (including the GATS) is reiterated and calls are made for environmental concerns to be incorporated as well.

‘Call to Action’ and Hope of Success (Mobilising Framing)

Calls to action are more successful if they are accompanied by some proof or evidence that these actions have some hope of success. Belief or hope that participating in collective action can succeed in achieving goals is an important factor in persuading people to take part in collective action: the higher the chance of success, the more likely people are to be willing to take part in protest activities (Klandermans 1984, cited in Gerhards 1995: 232). One way to do this is to compare current goals and action to previous successes that may also have looked ‘hopeless’ but which were achieved, despite major opposition.

Both the failure of the proposed MAI in 1998 and the break-down of negotiations at the 1999 Seattle Ministerial were framed as ‘proof’ that trade unions and NGOs can have a significant influence on trade policy despite the forces arrayed against them.

The threats to democracy, labour standards, government policy setting and a number of equity issues energised the campaign which led to the defeat of the MAI. In turn, this has led to an awareness in civil society that we can stop governments doing what we do not like [...] (PSI/EI 2000b and 2003: 19).

Because the defeat of the MAI has been widely regarded as a ‘symbolic’ victory for civil society (Laxer 2003), linking the GATS negotiations with the MAI negotiations was a way to demonstrate that civil society (including unions) had the power to defeat one set of trade negotiations, and therefore, in all likelihood, will be able to influence the GATS negotiations as well.⁷⁶ The failure of the 1999 Seattle Ministerial Conference is framed in a similar way:

Lobbying and demonstrations by NGOs at Seattle focussed attention on the negative effects of trade liberalisation and forced the WTO onto the defensive. The result for the WTO was a disaster, at least in the short term. No new agreements were reached, nor substantially commenced (PSI/EI 2000a: 6).

Three years later, the suspension of the Doha Round negotiations in mid-2006 is held up as grounds for hope that trade unions can work with other civil society actors to influence the ‘corporate’ trade agenda:

[...]the 1998 defeat of the OECD’s Multilateral Agreement on Investment (MAI) as well as the suspension of negotiations on the WTO Doha Round in mid-2006 gives ground for hope that trade unions, other social movements and NGOs can work together to frustrate the corporate agenda of MNEs, governments and the major international institutions (PSI/EI 2006a).

⁷⁶ Although this publication was jointly published it seems to have been developed primarily by PSI and was based on material prepared for members (Waghorne Interview 2009). The original version seems to have been published in 2000 but is no longer available on the PSI website - it has been replaced by the updated version

The failure of the Seattle Ministerial to launch a new round is also used as a ‘call to action’. The subsequent delay in negotiations is framed as a “window of opportunity” for unions to raise awareness about the impact of trade liberalisation and to develop strategies to protect the interests of members:

The delays are an opportunity for unions to reconsider strategies to secure the interests of members and to promote open debate about the social, political and environmental impacts of trade liberalisation on nations (PSI/EI 2000a: 3).

National affiliates are encouraged to organise an information based campaign around the WTO and the GATS so as to inform themselves and their members about the GATS. While the ‘call to action’ is not very strong at this stage, nonetheless, suggestions are provided for campaign objectives, which explicitly link the GATS and threat of privatisation:

For example, the broad objective for a health union could be to prevent any further privatisation of health services (PSI/EI 2000: 15).

And:

In education, the objective might be to ensure that the government does not open up education services if they have not already done so, or to insist on the involvement of education ministries and education unions in examining commitments being considered by trade ministries before any commitment is made (ibid).

Other ‘calls to action’ can be found in Congress resolutions and briefings to members. Once EI began publishing its TradEducation News newsletter, this was used to call members to take specific actions in relation to negotiations.

Another way to convince people of the probability of success of an action is to define the number of supporters or size of the mobilisation: “the higher the number that can be defined, the higher the probability of successful mobilisation, and greater willingness of others to join the protests” (Gerhards 1995: 232). Sign-on statements are an example of this. They combine a ‘call to action’ with proof that other groups agree with the statement and are therefore also willing to participate in the action. As the statement is forwarded from network to network and more and more organisations sign on this tends to snowball. While signing on to a statement may seem like a relatively weak form of collective action, the process of an organisation coming to agreement about adding their name to the statement can stimulate awareness of the issue and lead to further action. In addition, it is a public declaration of support and willingness to act, which can be used to demonstrate the level of opposition to particular issues.

Sign-on statements were widely used by OWINFS for building consensus around issues and mobilising people to initiate or participate in campaigns against the WTO and the GATS. The initial civil society campaign against the GATS launched in 2001 was initiated with a sign-on statement titled, “Stop the GATS Attack Now!” (Civil Society Sign-On Statement 2001). A further example, used later in the campaign, is

the, ‘Stop the GATS power play against citizens of the world !’ joint union and civil society statement, which was endorsed by 180 plus civil society organisations including significant numbers of unions and GUFs (Civil Society Sign-On Statement 2005). Mentioning the names of major NGOs who have signed the statement reinforces the legitimacy of the union campaign by demonstrating the breadth of organisations that are concerned. Thus reducing the chance that the claims and demands can be dismissed as narrow ‘interest’ demands. It also encourages mobilisation by showing the size and significance of existing support for these issues: A fact that national affiliates can use in campaigns at the national level as well.

Identify Who Should Solve the Problem - (Addressee for Demands)

There are two types of addressees: those who caused the problem (targets) and those who are expected to solve the problem (the addressee for demands). Gerhards (1995: 233) argues that in most modern societies the solutions to social problems are seen to come from the political system and especially the government in power. In order to mobilise, supporters need to be convinced that the political system, and especially the government, is not willing or capable of providing solutions on its own account and that mobilisation is therefore needed to force it to take action to solve the problem. This is often done by discrediting or delegitimising the government and wider political system, using the same strategies described above, for interpreting causes and causal agents: “personalising the addressees, imputing an intentional action which pursues particular interests and the moralisation of the addressees” (Gerhards 1995: 233).

National governments are identified as the main addressee for solving the problems identified in relation to the GATS because they are the ones that negotiate trade agreements and ultimately decide on trade commitments:

You must talk to the government - the more directly, the better. It is the government that will ultimately make the commitment, set the limitation, sign the GATS extension or implement ILO standards. It is the only way to make sure that your position and the government’s are understood (PSI/EI 2000a: 16).

Unions are urged to be clear about the questions they want answered, the kinds of answers they want and the outcomes they want agreed. “Results of discussions can then be confirmed, compared between unions and publicised” (PSI/EI 2000a: 16). Such statements clearly imply that government statements cannot be trusted and that governments may attempt to be secretive and play off one union against the other.

Developing countries are also increasingly addressed as actors that have the power to solve the problem/s by influencing or stopping the negotiations, as was demonstrated in previous WTO Ministerials; first at Seattle in 1999, and then in Cancun in 2003. In the lead up to the Ministerial in Hong Kong in 2005, developing countries are called on to use their power to influence or stop the negotiations if the demands made by civil society are not met:

If negotiations do not proceed on the above terms, we call upon the developing countries to seriously consider how or whether the negotiations should continue. Simply put, access to essential services and the livelihood of millions of people in the developing world are at stake (Civil society statement 2005).

Other addressees identified for lobbying and advocacy are international bodies, including the WTO itself (including the Secretariat, negotiators and certain member states), the UN, the World Bank and the IMF. In the ‘Stop the GATS power play’ statement, for example, the World Bank and the IMF are addressed as both causal agents and potential problem solvers. They are causal agents because of loan conditionalities attached to Third World debts, which put pressure on developing countries to liberalise and privatise their public services. But they are also called to solve the problems by cancelling “all odious and illegitimate Third World debts” and ending pressure on developing countries to privatise public services.

Another addressee is the media. Although the media cannot solve the problem, they can raise awareness about it and amplify its significance. National affiliates are urged to try and get their message across in the media and given advice on strategies to do so, including ensuring the issue has universal interest and illustrated with a personal or local interest angle. Unions are advised to cultivate media people informally to supply background briefings in advance of campaign events, and to be accessible.

Self-Legitimation and Credibility

Both Gerhards (1995) and Benford and Snow (2000) stress the importance of the need for frame articulators, in this case movement actors, to present themselves as legitimate and trustworthy.

They need the approval of supporters and therefore must make it plausible to their supporters that they are not acting in their own interests - e.g. to acquire wealth or power - but mobilising for the sake of the cause and representing collective or even universal interests (Gerhards 1965).

To do this, activists need a “conception of themselves”, preferably one that occupies a “societally shared value”. Externally, PSI and EI framed themselves and their members as defenders of public education and public services, with special responsibility to protect and ensure the quality of, and universal access to, these ‘public goods’.

They can also seek to recruit prominent, trustworthy people to their cause and hope that their “charisma” is transferred to the movement, e.g. church representatives, scientists, artists, and other people with social credibility. EI sought to bring UNESCO (United Nations Educational, Scientific and Cultural Organisation) into the debate and PSI referred to WHO (World Health Organisation). In addition, a range of institutions and professional bodies, including doctors, librarians and university vice-chancellors made public statements “challenging the marketisation of public goods through trade in services treaties”(Kelsey 2008: 87).

Credibility is improved if there is proof that frame articulators have interpreted the topic correctly, in other words, if they are proved right about an issue (Gerhards 1965 234). The leaked demands of the EU in 2002, for example, provided credibility that powerful developing countries were aggressively targeting developing countries and putting pressure on them to open more services for liberalisation. When the expected demands on health and education services did not eventuate PSI and EI had to re-frame their argument and emphasise the more indirect threats.

Because trade is an area outside the normal experience of public services and education unions, considerable space is devoted in PSI and EI publications to explaining what the GATS is and how it functions. These explanations are given additional credibility by embedding them in economic theory and historical analysis of the development of free-trade and a rules-based trade system. Explanations are provided about concepts such as comparative advantage and its likely impact when applied to trade in services, and a brief history of trade is provided, including the rise of the trade in services and its increasing economic value (PSI/EI 2000a: 3). However, these explanations are not neutral: they are based on a particular theory of the world economy, as outlined above.

While the intent may have been to educate a constituency whose normal issues of concern are far removed from trade, the effect is more than explanatory. Embedding the explanations and claims about the GATS in 'scientific' theory and historical facts, increases their 'empirical' credibility and reduces the chance that the concerns raised can be dismissed as myths or wild speculation. Empirical credibility (the fit between framing and the real world), and the credibility of the frame articulators can affect the degree to which a frame resonates with the intended audience. The higher the credibility and the greater the status or expertise of the frame articulator the more persuasive a frame is likely to be (Benford and Snow 2000: 620). The level of knowledge and expertise about the issue, demonstrated by the frame articulators, in this case PSI and EI, also serves to make the arguments about the problems that GATS poses (the way it is framed) more persuasive.

Relevance is another important factor for frame resonance. The closer an espoused belief, idea or value is to that of the target of mobilisation, and the more congruent it is with their everyday experiences, the more likely it is to mobilise (Benford and Snow: 621). Conversely, the more abstract or removed from daily reality it is, the less likely it is to mobilise. As mentioned above, the abstract nature of trade policy and complexity of the GATS has been identified as a key problem for explaining the issues in a way that 'lay' people can understand. Although PSI and EI attempt to make the GATS issues more relevant by using concrete examples to illustrate concerns and connect them to members' every-day lives, there are, nonetheless, many complex issues to understand. To some extent this is because PSI and EI attempt to develop a nuanced and elaborated argument about the problem/s with the GATS,

which connects it to existing issues. It would have been easier to run a straight ‘veto’ campaign, similar to the campaign against the MAI

Reframe Constraints as Opportunities

Changes in political opportunities can constrain some collective action frames while facilitating others (Benford and Snow 2000: 631). However, movement actors are not passive on this process. They can interpret political space in a way that emphasises opportunity rather than constraints, potentially stimulating actions that could actually change opportunity, thus “making their opportunity frame a self-fulfilling prophecy” (Gamson and Meyer 1996: 287).

We can see this process in the way that PSI and EI framed the breakdown of negotiations in Seattle. This was framed as providing an opportunity space to campaign against the GATS. At the same time this ‘defeat’ of negotiations, and the previous defeat of the MAI, was framed as proof that people’s actions against GATS had a good chance of succeeding, thus encouraging mobilisation, which in turn had the potential to change the opportunity structure. When the WTO negotiations were suspended in 2006 this was framed as being, at least partly, due to civil society campaigning (PSI/EI 2006a). Thus reinforcing the belief that civil society actors, including unions and their members, can bring about social change through their actions.

Unions refined and developed these interpretations and claims as negotiations progressed. They widened the target of mobilisation by including sub-national levels of government in calls for exclusion of “socially and beneficial service sector activities, from all further GATS negotiations. They also added value by linking claims about public services to normative claims of human rights and public goods. This was strengthened even further by linking access to public services to existing campaigns such as the campaign to forgive Third World Debt issue and targets, such as achievement of the Millennium Development Goals (MDGs), which many of the WTO member countries had signed.

5.2 Mobilising at the National Level: Australia

In Australia there was an identifiable campaign against GATS, or rather a series of campaign, lobbying and awareness raising activities over a number of years, which included action by national unions affiliated to PSI and EI.

However, as unions and civil society in Australia are to a large extent locked out of the trade policy process unions were unable to use formal strategies such as social dialogue (institutional power). Nor, were they able to employ ‘insider strategies’ which require friendly relationships with the ruling political party (political power). As mentioned above, during the time period in which the GATS campaign took place, there was a union hostile government in power in Australia. Unions had some capacity and expertise in relation to trade, although this was mainly in the hands of a

few key experts in the ACTU and major national unions, and some organisational readiness due to previous trade-related mobilisation. Nonetheless, unions and civil society actors in Australia were able to utilise the limited opportunities that existed in the political process in order to achieve at least some of their aims.

Putting the GATS on the National Union Agenda

The main campaigning against GATS in Australia started post Seattle (WTO Ministerial in Seattle in 1999), when a new round of GATS negotiations was announced in 2001 (Ranald Interview 2009). Prior to that, however, unions and civil society groups had already raised concerns about the WTO and the impact of trade liberalisation on Australia. In the lead up to the Seattle Ministerial, in 1999, union officials from the NTEU, had alerted the ACTU and Education International (EI) about the possible threat which the GATS posed to education and public services (Murphy Interview 2005 and 2009). They, in turn, had been alerted by colleagues in New Zealand, who were facing the consequences of radical liberalisation (ibid). In addition, a number of activists and key trade unionists had attended the WTO Ministerial in Seattle in 1999, where they had come into contact with other activists there (Ranald Interview 2009). As at the international level, this raised their awareness about the potential threat of the GATS negotiations, deepened existing concerns, and established key relationships with international activists and campaign networks such as Our World is Not For Sale Campaign (OWINFS) (Ranald Interview 2009).

The lack of consultation with civil society in the lead-up to the Seattle Ministerial in 1999 had sparked considerable outrage and protest within civil society and highlighted the “democratic deficit” which still existed in Australia’s treaty negotiation process, despite reforms implemented by the Howard government (Capling and Nossal 2003). The high level of secrecy surrounding the negotiation of the proposed MAI in 1998, and the subsequent civil society campaign against it, had already sensitised broad sections of the community to the lack of public consultation in the negotiation of international agreements, despite their potentially negative impacts (Capling and Nossal 2003, Ranald Interview 2009). Indeed, the networks and coalitions formed during the MAI campaign, formed the bedrock on which AFTINET was later formed (Ranald Interview 2009, Murphy Interview 2009). Although DFAT held a public inquiry prior to Seattle, probably in order to avoid a similar public outcry to the one over the MAI (Capling and Nossal 2003), the views of civil society groups, outside of business interests, were largely ignored. In addition, requests by civil society groups, including the ACTU, to be included in the official government delegation to the Seattle Ministerial were refused, despite these groups offering to pay their own costs (ibid).

As they continued to be locked out of the trade policy process, including the formulation of negotiating positions, unions and other civil society actors instead utilised opportunities provided in the parliamentary process, which had been opened

up by the reforms to the treaty making process instituted by the Howard government in 1996 (Capling and Nossal 2003, DFAT 2008a). They used a dual strategy of raising public awareness, while at the same time lobbying members of parliament (MPs), including Labor Party members (in opposition), other minor political parties, and independent MPs, to raise concerns about the WTO and the GATS in parliament and call for parliamentary inquiries into these issues (Ranald Interview 2009).

As a result of growing levels of public concern about the WTO and the impact of trade liberalisation on Australia, and intensive lobbying by unions and civil society actors (Ranald Interview 2009), a parliamentary inquiry into the nature and scope of Australia's relationship with the WTO and the implications this had for Australia's interests was held by JSCOT in February 2001 (JSCOT 2001a). While the terms of reference for this inquiry did not specifically mention the GATS, they did include a number of important concerns raised by civil society including:

[...] opportunities for community involvement in developing Australia's negotiating positions on matters with the WTO; the transparency and accountability of WTO operations and decision making; the effectiveness of the WTO's dispute settlement procedures and the ease of access to these procedures (JSCOT 2001a).

Nonetheless, AFTINET and various individual unions, including the NTEU and the Australian Education Union (AEU) took the opportunity to raise initial concerns about the GATS as part of their submissions to this inquiry (AFTINET 2001, NTEU 2001, AEU 2001).⁷⁷

This inquiry opened opportunities for AFTINET, unions and other community groups to write submissions, give evidence at public hearings and generally raise awareness about the WTO negotiations and the GATS, within the union movement, the general public, government departments, and state and local governments.

The final report from the inquiry, titled, 'Who's Afraid of the WTO? Australia and the World Trade Organisation' (JSCOT 2001b), which was released in September 2001, supported civil society claims for better consultation and recommended that:

[...] the Commonwealth Government invite NGO members of the WTO Advisory Group to participate as community representatives on the official Australian delegation to the WTO Ministerial Meeting in Doha in November 2001 (JSCOT 2001b).

It also supported civil society concerns about the impact of WTO negotiations on Australia, and recommended that "an annual review of Australia's WTO policy, including negotiating positions, current or proposed dispute cases, compliance, and structural adjustment" be carried out by the proposed Joint Standing Committee on Trade Liberalisation (JSCOT 2001b: paragraph 2.130). These reviews, which were subsequently carried out by the Joint Standing Committee on Foreign Affairs,

⁷⁷ The ACTU, the AMWU and other unions also made submissions to this inquiry.

Defence and Trade Committee (JSC FADT), provided additional opportunities for union and civil society input and accompanying lobbying and campaigning.

In December 2002, there was another parliamentary hearing into trade, this time specifically into the GATS, as well as the proposed Free Trade Agreement with the U.S. (AUSFTA). This hearing was conducted by the Joint Standing Committee on Foreign Affairs, Defence and Trade (JSC FADT).⁷⁸ The terms of reference included:

(a) the economic, regional, social, cultural, environmental and policy impact of services trade liberalisation ... (d) the impact of the GATS on the provision of, and access to, public services provided by government, such as health, education and water; (e) the impact of the GATS on the ability of all levels of government to regulate services and own public assets (Senate FADT 2002).

Unions, both through AFTINET, and separately, 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 Australian, United States Free Trade Agreement (AUSFTA) negotiations posed to the provision of services and to domestic regulation (Ranald Interview 2009). The AUSFTA negotiations intensified union and civil society concerns about trade liberalisation and made it easier to attract media and public attention on trade issues, including GATS (Murphy Interview 2009).

Amongst other things, in its final report the committee recommended that:

[...] the Department of Foreign Affairs and Trade consult widely with industry groups, unions, non-government organisations and other relevant bodies prior to preparation of Australia's offers and requests under the GATS, and provide constructive feedback to all organisations about how their views have been taken into account in the preparation of Australia's negotiating position (Senate FADT 2003).

The main aim of the lobbying and campaigning against GATS was to stop the Australian government from making further offers in the GATS negotiations, initially in education and public services and later also in essential services such as water and postal services (threat to standard letter postage charge). The campaign against GATS was also heavily linked to the fight against privatisation of public services in Australia, and other forms of deregulation, such as removal of the power to regulate Foreign Direct Investment (FDI) and the audio-visual industry (local-content laws etc.).

As in the global campaign, campaign and lobbying activity tended to mirror the negotiating process and increased in intensity in the lead up to services negotiating meetings and WTO ministerial meetings. This can be by looking at the index of the contents of AFTINET Bulletins between 2000 and 2006 (AFTINET 2006d). Indeed

⁷⁸ A further inquiry was held by JSCOT in 2004, but this was only into the AUSFTA.

as already mentioned, AFTINET itself was formed in February 2000, in direct response to concerns over the WTO negotiations, in particular GATS (Ranald Interview 2009). Much of the subsequent union work on GATS was directed through AFTINET and key unions provided substantial funding (Ranald Interview 2009, Murphy Interview 2009).

As the campaign against the GATS progressed, AFTINET provided analyses of trade agreements, produced and disseminated education materials and regular bulletins, lobbied ministers and trade officials on behalf of its members, wrote submissions for parliamentary inquiries, gave evidence at public hearings and supplied speakers at many public events (Ranald Interview 2009). Much of the campaign material used campaign slogans/frames developed by international campaign groups like OWINFS for the 'WTO Sink or Shrink' campaign or the 'Stop the GATS attack now' campaign, but these were given an Australian flavour through reference to Australian examples and implications for Australian citizens (Ranald Interview 2009). The other major frame used in Australia was an appeal to democracy and citizen's rights, which is detailed in the section on framing below (for framing of the WTO and the GATS see, AFTINET 2004, 2005, 2006a, b, c and d).

Besides working through AFTINET, a number of individual unions, including the major national education, health and public services unions also ran awareness raising campaigns. The most active national unions included the NTEU, the Media Entertainment and Arts Alliance (MEAA), the Australian Services Union (ASU), and the Community and Community & Public Sector Union - State Public Services Federation branch (CPSU-SPSF) (Ranald Interview 2009, Murphy Interview 2005 and 2009, McLean Interview 2009, Carey and Gruit Interview 2009). At the state level, the Queensland Nurses Union (QNU), amongst others, was also very active (Mohle Interview 2009). As part of its campaign the ASU also successfully lobbied local councils to raise concerns about the GATS (McLean Interview 2009, see also ASU ca2003a and ca2003b).

In Australia, the campaigning activity was most intense from 2001 to 2003, culminating in the WTO ministerial in Cancun. By 2004 the GATS campaign was to some extent overtaken by the sustained campaign against the Australia US FTA (AUSFTA), which was seen as a more immediate threat (Ranald Interview 2009). During this time the GATS campaign went into more of a 'watching' mode, especially as campaigners felt they had achieved one of their main aims, which had been to force the government to publish its initial offer on the GATS negotiations and to exclude public health, education, water, postal and audio-visual services (Ranald Interview 2009).⁷⁹ However, as in the international campaign, there was renewed action in the lead up to the WTO Ministerial in Hong Kong in 2005 and afterwards.

⁷⁹ This is also demonstrated in the list of contents of AFTINET Bulletins during this time, AFTINET 2006d

Following this, campaign activity took on more of a monitoring and information sharing character. The major union campaign initiated to unseat the Howard government ‘YourRights@Work – Worth Fighting For’, which took place in the lead up to the 2006 election, also had a major impact on union resources available for trade related campaign activity (Oliver 2007). This was considered a fight for union survival and it sucked up most of the union movement’s attention, energy and resources between 2004-2006 (see Muir 2008).

Strategies of Contention

As we have seen from Chapter 4., unions and civil society in Australia are to a large extent locked out of the trade policy process so unions were unable to use formal strategies such as social dialogue. Nor, were they able to employ ‘insider strategies’ which require friendly relationships with the ruling political power due the union hostile government in power in Australia. Instead, unions and civil society activists in Australia utilised a combination of strategies, including: utilising opportunities that existed in the parliamentary process, education and awareness raising, networking and coalition building, and some direct action.

Utilising the parliamentary process: As unions have no direct access to policy process, except for some rather rudimentary meetings and briefings by DFAT, unions utilised opportunities that existed in the parliamentary process. As mentioned in Chapter 4., there is a special parliamentary committee, which scrutinises trade agreements (JSCOT), and the Senate can also call for other senate inquiries, or refer issues to existing committees (DFAT 2008a). Activists, including unions and the AFTINET coalition lobbied members of the opposition party (the Labor Party) and independent members of parliament to raise concerns about the WTO and the GATS in the parliament and to push for public hearings on trade agreements (Ranald Interview 2009).

As mentioned previously there were at least two major parliamentary hearings during this time, which included concerns about the WTO and the GATS negotiations (JSCOT 2001 and Senate FADT 2002). This gave them the opportunity to make submissions (see for example, AEU 2001, AFTINET 2001 and 2003, NTEU 2001 and 2003) and provide evidence at public hearings, which were held in major cities around the country (see for example, JSCOT 2001c). Activists 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 later the AUSFTA negotiations posed to the provision of services and to domestic regulation (Ranald Interview 2009, Templeton Interview 2009).

Lobbying political and governmental actors: Activists lobbied Government Ministers, Parliamentarians, trade department bureaucrats and GATS negotiators. They attempted to open gaps in elites, e.g. between government Ministers responsible for trade and those responsible for various services, such as health, education and

culture. They lobbied key opposition figures and ALP factional leaders in order to try to get Labor support for their positions. They sent formal letters and information about GATS, requesting meetings, requesting further consultation, and requesting access to information (Ranald Interview 2009).

Activists attended the WTO Ministerials at Cancun and Hong Kong and worked with international activists to pressure government positions. They lobbied for civil society representation on the official Government delegation to the WTO Ministerials as this was seen as an important for getting access to the actual negotiations, and at least open the possibility of influencing the government position.

Education and awareness raising: Education and awareness raising played a major role in campaign and lobbying activities due to the general lack of knowledge on the part of politicians, the media, union members and the general public about trade related issues, especially trade in services. There were extensive attempts to use the media to raise public awareness and influence the discourse around issues of concern. This included media releases, having articles and letters to the editor published in significant newspapers (see for example, AFR 2001a, b, c and d, AFR 2003a, b and c), participating in radio and television interviews, and producing and distributing a wide range of educational material, including a citizens guide to the WTO and various 'Fact Sheets' on the WTO and the GATS, which put forward campaign positions and countered oppositional claims, and various articles supporting campaign claims (see AFTINET website for details: www.aftinet.org.au).

As concern over trade issues mounted, AFTINET director Pat Ranald and NTEU Assistant General Secretary Ted Murphy also spent considerable time addressing meetings of unionists and speaking at various conferences and public meetings. Email and electronic networking played a key role in disseminating information and linking up activists, both nationally and internationally. The AFTINET website was a key tool for disseminating information and in many cases individual unions also had a dedicated trade campaign website and sent regular email bulletins to members.

Mobilising members: Communication about trade related issues tended to be top down with little evidence of significant engagement by members at the grass roots level. Key union activists engaged in AFTINET tend to be relatively senior union officials within the federal structure of unions, which can be quite removed from the State and local branch levels where members are engaged. Information was generally supplied to union branches through the usual channels and available on union websites and published in union journals. While campaigners were able to mobilise some direct action in the form of rallies and protests, these were generally connected to specific events – either locally or internationally.

Monitoring trade negotiations: As the NTEU's GATS campaign shows, building up expertise to enable active monitoring of trade agreements can have a significant affect. The union's strategy was one of awareness building and "precautionary intervention" rather than an activist campaign. After building up a body of expertise

within the union movement they engaged in a strategy of actively monitoring and responding to government negotiations in GATS and other trade treaties; and alerting other unions to issues of concern. Ted Murphy (Interview 2005) believes this monitoring role was vital in putting a brake on Government trade decisions on education and other essential services: “The government knows their decisions on trade treaties are being watched in detail by people who understand the technicalities of trade agreements and the implications for services and who can alert and mobilise union members and civil society groups” (ibid).

Networking and coalition building: Networking and coalition building were key aspects. As mentioned above, most union action against GATS was carried out in the framework of the AFTINET alliance, formed in February 2000, mainly out of pre-existing anti-MAI campaign organisations and networks. This, meant that most participating groups were already sensitised to trade-related issues and had developed considerable expertise and experience in campaigning. As AFTINET was mainly Sydney based (NSW), these pre-existing network also provided important links with key campaign groups in other states. AFTINET provided analyses of trade agreements, produced and disseminated education materials and regular bulletins, lobbied ministers and trade officials and supplied speakers at many public events (see AFTINET website www.aftinet.org.au). Strategic planning, including decisions about campaigning, lobbying, media work and direct action were made at monthly working groups of representatives from the various groups within the alliance.

One of the major problems facing any coalition or alliance is access to adequate funds and resources for campaigning. This was overcome to some extent by the decision by the participation of relatively well-resourced groups and the decision by some of the major unions to provide the bulk of the funding for AFTINET (Ranald Interview 2009, Murphy Interview 2009). However, even then the alliance could initially only afford to fund one part-time campaigner and convenor, and later a full-time campaign director. AFTINET relied predominantly on coalition partners for funding of various initiatives such as publication of campaign material and other campaigning expenses (Ranald 2009).

Both AFTINET and the union movement also relied heavily on their connections with international union and civil society networks. The role of transnational civil society networks such as OWINFS, and initiatives such as GATSwatch should not be underestimated in terms of supplying policy analysis and disseminating key frames, storylines and information. AFTINET was a member of OWINFS and participated in its teleconferencing meetings and email Listserv. As an alliance, AFTINET signed on to international civil society statements and calls to action such as the ‘OWINFS - WTO Sink or Shrink’ statement and the ‘Stop the GATS Attack Now!’ campaign statements and worked as part of the international campaign to defeat WTO proposals and achieve civil society goals.

Developing a Coherent Position - Framing the GATS

As outlined above, in order to mobilise support for action on trade related issues, unions must be able to frame issues in a way that builds a shared understanding and sense of grievance about the problems, which inspires people to become engaged. On the whole, the main collective action frames utilised by trade union and civil society activists in Australia were similar to those developed and deployed at the international level. Therefore, rather than repeating the analysis of the discursive processes and strategies outlined above, the following section will only briefly identify the major framing themes and processes, while highlighting areas of similarity and difference. The analysis draws on the submissions to parliamentary committees made by AFTINET and individual unions and the various campaign documents and website pages they produced.

Identify the Problem and Build Common Cause (Diagnostic Framing)

As at the international level, the GATS was problematised by linking it to the failed MAI (Ranald 2002) and diagnosing it as a threat to national sovereignty, due to its potential to reduce the government's right to regulate and set standards. Fears were raised that GATS rules would threaten the government's right to set standards, such as foreign direct investment controls, and restrict access to public subsidies. Activists also highlighted the binding nature of GATS rules on all level of Government, including local government, which in Australia is commonly the level of service delivery for many public services, especially water. However, while the threat to domestic regulation was diagnosed as a major problem, 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 (as in many other countries), due to fears of raising xenophobia.

Pre-existing problems, such as privatisation of public services were given a new urgency by associating them with an external threat through Australia's commitments to the GATS. The GATS was diagnosed as a threat to public services for two main reasons. First, because further GATS commitments by the Australian government in sensitive areas threatened the equitable delivery of, and access to, public services such as education, health care and water. Further commitments to the GATS were framed as 'trading away essential services'. Second, because the GATS was seen as encouraging a form of "privatisation by stealth". Activists argued that the very nature the GATS puts pressure on countries to increase commitments and progressively liberalise. The potential of GATS to intensify the commoditisation of services was also problematised by arguing that treating services as tradeable commodities ignores the social aspect and role of essential services, especially education (trade dominates all other priorities).

The secretive and undemocratic nature of trade negotiations, at both the national and international levels was used as a powerful mobilising frame in Australia, by increasing the sense of grievance and injustice and therefore willingness of people to

take action. As mentioned above, in order to problematise issues they must be implicitly or explicitly characterised as a discrepancy between what is (or could be) and what should be the case (Gerhards 1995). Trade negotiations at both the national level and at the multilateral level were characterised as veiled in secrecy with no capacity for democratic and civil society involvement in decision making. This was contrasted with people's rights as citizens to be consulted over issues that potentially have such an important impact on their lives. Activists raised fears about the secretive and undemocratic nature of WTO structures and the multilateral trading process, including the lack of consultation and community representation, despite the potentially negative impact of GATS rules, and the impact of future decisions by the WTO dispute resolution process on Australia's capacity to regulate for the good of its citizens. At the national level, unions and civil society activists 'scandalised' the lack of transparency, lack of access to information and lack of democratic processes in the Australian trade negotiation process as a way of mobilising protest and also as a way of pressuring governments to open the trade policy process to greater civil society participation. In doing so, they drew on pre-existing concerns about the democratic deficit in the Australian trade policy process.

Unions and civil society groups countered accusations of protectionism by framing their demands in terms of 'fair trade' rather than 'free trade' and called for a trade negotiating framework which was open, accountable, and compatible with UN agreements on labour rights, human rights, the environment etc. Thus loading claims with added value. As AFTINET Director Patricia Ranald put it in a speech at a Public Meeting on Privatisation, in 2001:

The Australian Fair Trade and Investment Network is not protectionist and does not support a fortress Australia policy. We support fair trading relationships with all countries. We also support the need for regulation of international trade markets to prevent the total domination of international trade by the strongest economies and corporations. But we want a different and fairer trade framework – one which is open and accountable and which abides by UN agreements on human rights, labour rights and the environment (Ranald 2001).

The campaign material used campaign slogans/frames developed by international campaign groups such as OWINFS, including 'WTO Sink or Shrink' or 'Stop the GATS attack now' but these were given an Australian flavour through reference to domestic examples and implications for Australian citizens (see for example, AFTINET 2004b and 2006c). Examples of key slogans include: 'WTO Negotiations: Trading Away Essential Services' (AFTINET 2003b) 'Democracy behind closed doors', 'Education Services for Sale', 'Water Services for Sale', 'Postal Services for Sale', 'No Deal is Better than a Bad Deal' (AFTINET 2006c)

Assign Blame

In Australia the most commonly identified causal agents for the pressure to liberalise trade in services were major global service corporations and big business interest and

lobby groups, both within Australia and in other countries/regions. European business interests were strongly identified as the causal agents behind EU demands in the first round of the GATS request/offers process, especially following the leaking of EU requests (EC 2002) in 2003, which were subsequently reported in the Australian Financial Review (AFR 2003a). This revealed the extent of EU demands of Australia for market opening, including in the area of water and postal services (threatening universal postal provision), and requests for the removal of restrictions on regulations governing foreign direct investment (FDI).

Big business lobby groups such as the Australian Industry Group, the Business Council of Australia, and the more recently formed Australian Services Roundtable (ASR) created in 2002, were also portrayed as causal agents and conveyors of neo-liberal ideology, pressuring the government not only to make further commitments in services but to demand market opening in other countries in areas identified as having economic benefit to Australia. These groups were portrayed as having too great a role and influence in the trade negotiation process, at both the international and national levels. The Australian government itself was also identified as a causal agent driving the GATS process due to its aggressive promotion of trade in higher education services (see AFTINET publications).

Goals, Solutions and Strategies (Prognostic Framing)

As mentioned above, when an issue is publically framed as a problem it needs to be accompanied by plausible goals or solutions to the problems. In response to the uncertainty of the impact of the GATS unions and civil society actors called for a moratorium on GATS negotiations, so as to provide time to review the impact, and hold a full public discussion about the implications. In response to the threat to public services they called for the exclusion of public services from all trade agreements, including the GATS. In response to the threat to government capacity to regulate, they called for preservation of the government right to regulate in the public interest. And in response to the secrecy and undemocratic nature of trade negotiations they called for full debate of all trade agreements before they are signed and for a more democratic and accountable system of trade negotiations, which includes a bigger role for Parliament and better consultation with civil society (these demands are included in AFTINET submissions, see AFTINET 2001, 2003a and 2004a).

Who Should Solve the Problem? (Addressee for Demands)

The main target of the campaign was the Liberal Government of the day, including the Trade Minister and members of Cabinet, as they are the ones that set trade negotiation objectives. Activists called on the government to publish its initial offer on the GATS negotiations and to exclude public health, education, water, and postal and audio-visual services from any future negotiations (Ranald Interview 2009). They also called for greater transparency of negotiations and better consultation with

civil society over negotiating positions (see AFTINET Bulletins between 2001 and 2006 on www.aftinet.org.au).

Campaigners tried to find or create gaps in the government consensus over GATS negotiations by appealing to Ministers responsible for other government agencies, such as Education and Health (Ranald Interview 2009). The main opposition party, in this case the Australian Labor Party, was also a key target for lobbying and campaigning, although on the whole, the Labor party is supportive of the free trade agenda and tends to favour trade liberalisation (ALP 2007).

Although the Parliament in Australia plays a limited role in trade negotiations, campaigners also targeted Parliamentarians, including members of the smaller political parties, the Greens and the Democrats, and independent MPs. As the Senate (upper house of Parliament) plays an important role in Australia, in terms of scrutinising legislation, Senators were also targeted. A key GATS activist observed that politicians in Australia tend to be ignorant about trade issues, especially the GATS so it was also important to educate them and raise their awareness about its potential impact (Ranald Interview 2009).

Activists also targeted DFAT bureaucrats and trade negotiators, in order to press for greater consultation and transparency of negotiations. However, as mentioned earlier, both bureaucrats within DFAT and trade negotiators favour trade liberalisation as the best way to advance national interests. In addition, they are quite resistant to consultation with civil society groups, beyond business interests (Sparkes and Deady Interview 2009).

Business interests were mainly targeted through the media (letters to the editor, op ed. articles, radio and TV interviews and talk back radio), in order to refute their claims and expose the interests of various business interests and lobby groups. According to Ranald (Interview 2009), activists were quite successful at getting media coverage at various points during the campaign (see AFR 2001a-2003c, for example).

5.3 Mobilising at the National Level: South Africa

As outlined above, in South Africa, all three union federations have formal input into the trade policy making and negotiating positions through NEDLAC. In addition, the main union federation, COSATU, also has direct channels of access to ministers and key decision makers through its membership of the tripartite Alliance with the SACP and the governing ANC, and there are also considerable opportunities for informal access. However, as noted above, access does not always translate into influence and COSATU has still often struggled to get the government to consider its policy concerns, especially under the former Mbeki-led ANC government.

While the other union federations in South Africa lack resources and policy capacity, COSATU has considerable capacity and expertise in relation to trade and other policy

areas. This has been developed largely as a response to the legacies of apartheid. COSATU views trade policy, alongside industrial 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 to provide the policy expertise needed to participate in tripartite negotiations in NEDLAC, which includes a dedicated policy officer for trade and economic policy. The labour movement also has access to a dedicated research institute, NALEDI, which provides research and policy advice. In addition, 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. However, this capacity is more strongly developed in relation to manufacturing than services.

Putting the GATS on the National Union Agenda?

In South Africa there was no identifiable campaign against the GATS despite extensive union and civil society mobilisation against privatisation of public and essential services, and despite organised labour having both opportunity and capacity to intervene in trade policy processes. Unlike the Australian case, in South Africa no connection was made, at least within the trade union movement, between the deregulation and privatisation of public and municipal services and the GATS negotiations. This was despite the fact that key civil society actors were campaigning and publishing material making this link, and warning about the threat posed by the GATS. Leading civil society activist Dot Keet, for example, wrote extensive texts about the threat posed by the WTO and the GATS to South Africa, and the issue was also picked up by the Trade Strategy Group. Voices within the trade union movement, especially from SAMWU (a PSI affiliate), also warned of the threats that the GATS posed to the equitable delivery of services, and its possible impact on the government's regulatory power (Rudin Interview 2009). SAMWU had also been alerted to the threat of the GATS when their research officer spent time in SAMWU's sister union in Canada as part of a union exchange programme (Rudin Interview 2009). There is also evidence that SAMWU had received information about the GATS from PSI but this doesn't seem to have sparked any campaign action.⁸⁰

Unionists in South Africa were exposed to the same sources of information on the GATS as unionists and activists at the international level, and in Australia, for example, from the Canadian based Polaris Institute and international networks such as OWINFS. As mentioned in the international case study, the Polaris Institute, in particular, played a key role in trying to build an international campaign against the GATS by providing research and popular education materials to public sector unions and grassroots groups in a number of countries, including South Africa. Between 2001 and 2006 key people from the Polaris Institute, such as Karl Flecker and Tony

⁸⁰ Documents given to the author during the interview included information from PSI.

Clarke, visited South Africa and gave various presentations on the GATS. They also provided extensive analysis and other campaigning materials to SAMWU and other groups opposed to the GATS. Documents provided to SAMWU in 2002 (copies obtained from Jeff Rudin Interview 2009) included presentations on campaigns against the WTO, briefing papers on the major corporate lobby groups pushing for the privatisation of public services through the GATS, corporate research documents on major corporations pushing for water privatisation, including corporate profiles of water multinationals (MNCs) Vivendi Universal and Suez (formerly Suez Lyonnaise des Eaux), and strategic guidelines for mounting a local campaign against the GATS (Polaris 2001, Polaris 2002 and Polaris ca2002).

Suez was of particular relevance in South Africa at this time because it had won the management contract for Johannesburg Water, as part of the Johannesburg City Council's 2002 iGoli Plan to corporatise Johannesburg water and outsource the management contract. This included the introduction of cost-recovery principles into municipal service provision, including pre-paid water meters, which sparked widespread protests (McKinley Interview 2011; Buhlungu 2004: 3). SAMWU was heavily engaged in the protests and struggles against the IGoli Plan and later anti-privatisation struggles (Rudin Interview 2009).

Visiting international activists attempted to link the existing struggles over privatisation of services, to the GATS, and to South African government policy. A Polaris document written in the context of a visit to anti-privatisation campaign organisations in 2002, compares the GATS to the ANC's national macroeconomic policy, GEAR:

Far away in Geneva under the aegis of the World Trade Organisation (WTO), another GEAR like but global, macro-economic strategy is quickly unfolding that may be even more devastating for South Africans. Since January 2000, national governments that are members of the World Trade Organisation including South Africa have been quietly re-negotiating a global trade and investment treaty called the GATS that targets important services (Polaris Institute ca2002).

They also made the same link between the GATS and the failed MAI that was made in the international campaign, and the campaign in Australia, raising the fear that the GATS would incorporate all of the issues that were opposed in the MAI (Polaris Institute ca2002).

It is clear from resolutions adopted by COSATU at its 8th National Congress in 2003, that the federation was aware of the threat of the GATS and also acknowledgement that they had "not been very active in campaigning against GATS", despite the fact that South Africa being requested to liberalise specific services (COSATU 2003c). As a result, COSATU resolved to, "request an urgent meeting with the government and demand full disclosure of information on services they have been requested by GATS to liberalise in terms of GATS, and to disclose which services they have offered to open/liberalise", and also to call for the government to, "review any

offer(s) made to allow proper consultation and full engagement with all stakeholders”. This included calling for the government to request “an immediate moratorium on any further negotiations within the GATS framework” (COSATU 2003c). However, according to Rudin (Interview 2009), these resolutions were based largely on resolutions proposed by SAMWU, which had been drafted by himself and Dot Keet, a well known civil society activist against the WTO and the GATS. There is little sign that these resolutions prompted anything other than some ‘insider’ lobbying of the government.

So, despite the apparent basis for successfully building a nationally grounded campaign against the GATS in South Africa, including information about its potential threats, rising civil society awareness and resistance to the GATS at the national level, and a backdrop of substantial anti-privatisation protests and resistance struggles in the face of government privatisation policies, no effective campaign seems to have eventuated. At least, not one that also involved the broader union movement. Civil society organisations and alliances working on trade, such as the Trade Strategy Group (TSG) and the AIDC were active in trying to encourage broader mobilisation against the GATS (Pressend Interview 2009). However, while SAMWU was a member of the TSG, and COSATU was also engaged to some degree, there doesn’t appear to have been the basis for the type of broad union and civil society coalition against the GATS, which was formed in Australia.

Concerns about the impact of the GATS were mainly voiced within NEDLAC , and mostly by the union representative with responsibility for services negotiations, Jeff Rudin, who was from SAMWU. In fact, SAMWU seems to have been a bit of a ‘lone voice’ on GATS within the union movement. Rudin (Interview 2009) expressed considerable frustration about the failure of the Government, and also COSATU itself, to recognise the threat that GATS rules represent to the delivery and regulation of services in South Africa, even where this has been demonstrated. As an example, he said that he had raised the issue about a possible conflict between South Africa’s Health Act and existing commitments made in GATS. Although these commitments were made in professional services, he argued that they would potentially restrict the delivery of health services proposed in the new health legislation (Rudin Interview 2009). However, despite his commissioning an expert report that backed his claims (Sinclair 2006), his warnings fell on deaf ears.

In higher education there was considerable opposition to the GATS by the University Associations (which, strictly speaking, are not unions). However, there appears to be little evidence of direct campaigning against GATS by the South African Democratic Teachers Union (SADTU), which is the major union covering the education sector in South Africa. This is despite the SADTU president, Thulas Nxesi, also being President of EI during this time. There were some statements made within the framework of EI’s ‘Education for All’ campaign, but nothing that could be considered a sustained campaign (Lewis Interview 2009).

One explanation for this lack of engagement, could be the absence of a strong coordinated union movement in the higher education sector in South Africa (Murphy Interview 2009). In other countries, such as Australia, this sector played a key role in mobilisation. Another reason could be that unions simply didn't see GATS as a threat to higher education in South Africa (van Meelis Interview 2009). The Minister for Education during this period, Kader Asmal, was also very vocal about the threat of GATS, especially in the face of demands made by Norway for South Africa to open up some sections of its education services (see Asmal 2003). When Asmal made these demands public, the outcry made Norway withdraw its requests (Valley Interview 2011).

The combination of an Education Minister who opposed the GATS and the high profile of SADTU's president as the leader of one of the biggest global union federations in the world may have created a 'chilling effect' on any aspirations, on the DTI's part, to expand services commitments in higher education. In addition, the business sector in services was not particularly well organised (Steuart and Cassim 2005: 3-4), so there was no strong business lobby pushing for further services liberalisation.

The union's lack of focus on the GATS can also be explained by COSATU's concentration on other trade policy areas, especially on industrial policy in relation to manufacturing as a driver of employment (Dicks Interview 2008, Makgetla Interview 2010). This can be understood in the context of previous events and struggles. One outcome of the need to address the legacy of Apartheid has been a focus on the industrial sector as the main way to address unemployment. The services sector has not been seen as a major driver of employment in South Africa. As a key former policy officer expressed it, in the end it is a matter of choosing where to put scarce resources, and in this case the union movement chose the industrial sector as the main focus, because of its perceived potential to address unemployment (Makgetla Interview 2010). This priority is also reflected to some extent within NEDLAC, and also in key policy experts, who are located in, or drawn from, predominantly industrial unions.

So, it is not that the union movement in South Africa lacked political opportunity or capacity to campaign against the GATS, it is more that the GATS was not seen by the union movement or by its 'political allies' as being of sufficient threat and therefore priority. Key policy officers within COSATU accepted government assurances that essential services would not be committed in ongoing GATS negotiations (Makgetla Interview: 2010). Indeed, this was confirmed by the current Trade minister Rob Davies (Davies Interview 2010). There seemed to be little concern about the application of general GATS rules to services if they were privatised or offered in competition to other providers, despite warnings from civil society activists and voices within the union movement (Rudin Interview 2009).

COSATU has a strong capacity to mobilise members around policy issues, when they are seen as important, as demonstrated by strikes against privatisation of essential services. However, trade related mobilisation has been confined mainly to calls for textile quotas on imports, and opposition to demands for further tariff reductions as part of the NAMA negotiations. Unions have the capacity to mobilise but they have not made the link between the demands of the GATS negotiations and issues such as privatisation of essential services. Despite wide-spread attempts by civil society activists to frame the GATS as a threat to the South African government's capacity to provide equitable access to public and essential services this did not resonate widely with the trade union movement, especially within COSATU leadership. COSATU was more focused on the NAMA trade negotiations, as the demands for further tariff reductions and the perceived threat to policy space for development resonated with the beliefs held by key union leaders about the need to focus on industrial development as the best way to promote development and create employment.

Chapter 6. Impact of Union Struggles Against the GATS

The following chapter provides an overview of the major outcomes of union contention against the GATS before assessing these outcomes in terms of their external and internal impacts, using a typology based on that developed by Guigni (1995). This enables the capture of both intended and unintended consequences of union action, both internally, on the mobilising and organising capacity (MOC) of the union movements studied, and externally, on the political opportunity structure (POS) available for unions to influence the GATS negotiations, and the broader trade policy and negotiation environment.

6.1 Outcomes of Union Action

Delegitimising the WTO and the GATS — Discursive Battles

The actions of unions and other civil society groups seem to have had a significant impact on the WTO. While their actions may not have changed the institutional structure of the WTO, or increased the level of formal access for organised labour, it did change the negotiating environment: firstly by raising public awareness about the potential threat of the GATS; and secondly, by undermining the legitimacy and credibility of the WTO.

The level of mobilisation and criticism within the broader society, both at the international and national level, forced the WTO to defend its position and engage in a public discursive contest with civil society over their criticisms of the GATS negotiations (Moore 2001, WTO 2002, WTO 2003). This is clearly demonstrated in a column by the then WTO Director Mike Moore, published in *The Guardian* in February 2001, in which he derides criticisms of the WTO and the GATS negotiations as “lies and distortions”:

WTO critics have always taken liberties with the truth. But the lies and distortions they are peddling about the WTO’s services agreement, GATS, are astounding [...] Those talks, and the WTO’s existing services agreement, do not threaten governments’ ability to provide public services, their right to regulate, or their scope to impose restrictions on foreign investment (Moore 2001).

These comments are followed by a long reiteration of the virtues claimed for the GATS.

Shortly after this, the WTO Secretariat published a booklet on their website entitled, ‘GATS - Fact and Fiction’ (WTO 2001), in which it responded to a range of civil society and trade union criticisms, including a short critique by Tony Sinclair from the Polaris Institute titled, ‘GATS - How the World Trade Organisations New “Services” Negotiations Threaten Democracy’ (Sinclair 2000) and also, claims made by PSI and EI about the implications of the GATS for public services (PSI/EI 1999a and b, PSI/EI 2000). In the opening paragraphs of this booklet the WTO tries to

dismiss the criticisms as, “ill-informed and hostile criticisms”, and, “scare stories”. However, the fact that the Secretariat felt the need to respond directly to these claims, and to refute and counter-frame the issues raised, is an indication that these claims had had an impact.

These publications provided unions and civil society actors with new discursive opportunities to restate their claims and criticisms, and also to cast further doubts on WTO credibility. The publication of the ‘GATS – Fact and Fiction’ booklet, incited a detailed response from civil society commentators, which was widely published on-line, with the WTO lambasted for publishing ‘half-truths’ and not getting their facts right (GATSwatch 2001). The reaction of the WTO leadership to the “intensity and success” of the civil society campaign mobilised against the GATS is also documented by Kelsey (2008: 82-88) in her account of ‘How the GATS was won (and lost?)’.

By 2002 pro-services advocates outside the WTO were also clearly concerned by the intensity and success of the mobilisation against the GATS, especially with reference to education. In May 2002, the US and the OECD convened a forum to counter what they saw as “a sustained critique of the GATS from the educational sector” (Kelsey 2008). At this forum, Pierre Sauvé, a leading GATS advocate from the OECD Trade Directorate, presented a paper titled, ‘What’s In, What’s Out, What’s All the Fuss About?’ (Sauvé 2002b), which attacked what it referred to as “a number of key misunderstandings and fallacies that have tended to cloud a rational discussion of the possible effects of the GATS” (Sauvé 2002b: 51). Sauvé makes particular reference to the impact of campaigning activity by education unions (ibid).

At the national level in Australia, there is also evidence of discursive battles. A search of the Australian Financial Review (AFR), which is Australia’s main business newspaper, shows that various news articles and Letters to the Editor on the WTO and the GATS were published during intensive campaigning periods (often coinciding with a key point in negotiations, leaked GATS requests or the release of a parliamentary inquiry report). To some extent these articles and letters take the form of point and counterpoint between those defending the WTO and GATS negotiations, including representatives from pro-WTO business think tanks and the then trade minister, and those critiquing the negotiations, including unions, AFTINET and individual anti-GATS activists (see for example, AFR 2001a, 2001b, 2001c and 2001d and AFR 2003a, 2003b and 2003c). Many of the concerns and critiques made by the unions and AFTINET are also picked up in main news articles. Randal (Interview 2009) sees this media coverage as evidence of the success of their awareness raising and lobbying activities. Media coverage of trade issues, including trade in services, intensified when negotiations for the bilateral FTA with the US (AUSFTA) got underway. This had a flow-on effect on public awareness and coverage of trade in services issues as well. This was confirmed by former and current DFAT officials (Piggott Interview 2010, Sparkes and Deady Interview 2009).

Building Common Cause Against the GATS

Unions, as part of a broader movement against the GATS, were able to build common cause within the union movement and broader society, at the international level, and in Australia. Activists successfully framed the GATS as both a threat to the equitable delivery of public and social services (especially education, health and water), and to the regulatory power of national and local governments (as described in Chapter 5). This brought the GATS negotiations to the attention of other political and governmental actors outside the usually 'closed' trade negotiation process, and opened up, or exacerbated, divisions between governmental and political elites. It also brought the GATS to the attention of a broad range of social groups already concerned about the impact of privatisation and deregulation, and the increasing pressure exerted by external institutions on domestic policy making. The framing processes used by unions (and other civil society actors), successfully linked the GATS to many of these existing concerns, thus increasing the mobilisation potential against further liberalisation of services through commitments to the GATS.

Broadening Mobilisation

Over the period of the campaign, there was a demonstrable increase in the number of organisations responding to the GATS issues. This is illustrated by the increasing number of organisations, including national and international union organisations and influential NGOs, that were prepared to sign on to the global petitions used to raise awareness and build solidarity for action against the GATS. This can be seen by comparing the 'Stop the GATS Attack Now!' statement made in 2001, which 'launched' the civil society campaign against the GATS, to the 'Stop the GATS Powerplay against Citizens of the World' made in the lead up to the Hong Kong Ministerial in 2005 (Civil Society Sign-On Statements 2001 and 2005). It is also demonstrated by the increasing number of organisations (including unions) registering as accredited NGOs for WTO Ministerials: from 108 in Singapore (1996), to 686 in Seattle (1999) and 836 in Hong Kong in 2005 (WTO 2005, Van den Bossche 2006).

This increase in mobilisation can be attributed largely to the awareness raising work of the GUFs, national unions, NGO and social movement groups, and the effectiveness of the transnational advocacy networks, union networks, and personal networks used to diffuse claims and frames about the GATS. However, this diffusion and subsequent mobilisation seems to have been limited to a layer of key activists within organisations, at both the international and national levels. There is a very real danger, that if and when these activists retire or leave the movement, union capacity will be severely diminished.

Beyond the national case studies looked at in this research, there is evidence that the issues associated with the GATS resonated widely within many countries (for education related examples see Fredriksson 2004). There was a variety of lobbying, awareness raising and campaign action against the GATS in a wide range of

developed and developing countries and regions, including within the European Union, and in countries as diverse as Canada, New Zealand, Brazil, Argentina and the Philippines (see Fredriksson 2004 and Verger 2009).

The limitations of this research made it impossible to assess the degree of awareness of the GATS-related issues at the grass-roots level within the union movement. However, union and civil society activists interviewed for this research acknowledged the difficulty of mobilising grass roots members about an issue as complex and seemingly ‘distant’ from their daily lives, as the GATS (e.g. Waghorne, Interview 2005 and 2009; Ranald, Interview 2009; Murphy, Interview 2005 and 2009; McLean, Interview 2009; Rudin, Interview 2009). The research, therefore, highlights the need for more effective political education programmes within the union movement designed to make the link between workplace issues and broader social and policy issues. It may also be an indication of the general lack of engagement of ‘ordinary’ members in the policy making and campaign strategising activities of their unions (Peetz 1998, Peetz et al. 2002).

Developing Influential Allies

While advocates of GATS reached out to business lobby groups and neoliberal think tanks to support their claims, GATS critics were also successful in finding their own “influential allies” (Kelsey 2008: 86), especially in the higher education field. International institutions produced reports about the GATS, and academics of all kinds wrote articles about the threat that the GATS represented to education, to cultural values, and to the equitable delivery of services (for an extensive list see the bibliographies on GATS and higher education produced by South African Council on Higher Education, CHE 2004a and CHE 2004b).

Ministers of education and culture publicly denounced the GATS (e.g. Asmal 2003) and state and local governments challenged the perceived encroachment of the GATS into their jurisdiction. This is demonstrated by the number of local government bodies who declared their neighbourhoods “GATS-free zones” (documented by Sussex 2005), made submissions (e.g. ALGA 2003) or passed resolutions and lobbied national government about the potential encroachment of the GATS into their jurisdiction (see also, LGA/LGIB 2002).⁸¹ In addition, a range of professional bodies, including “doctors, librarians and university vice-chancellors challenged the marketisation of public goods through trade in services treaties” (Kelsey 2008: 87). We can see this in Africa, for example, where the vice-chancellors of major African universities (including from South Africa) held a major meeting about the GATS, which resulted in the release of a public statement (AAU 2004) and compilation of two extensive bibliographies of articles documenting the potential threat of the GATS to higher education (CHE 2004a and CHE 2004b).

⁸¹ These findings are demonstrated in this research and also supported by Kelsey (2008: 86-7).

Creating a 'Chilling Effect' on Commitments

The level of criticism, sense of threat, and degree of public concern caused by union and broader civil society scrutiny and mobilisation had a cautionary impact on national governments and a subsequent 'chilling effect' on the level of commitments made (Sauvé 2002a, Kelsey 2008). Despite the 'arm-twisting' within negotiations (Jawara and Kwa 2003, Kelsey 2008) very few new services commitments were made during the period studied, especially in sensitive public services sectors (GATSwatch 2003b, Kelsey 2008). Nor was the level of demand for market opening as high as was predicted, or hoped for by trade in services advocates (Kelsey 2008). Knowing that their actions were being closely scrutinised and monitored by people with expertise and technical understanding of the WTO and of the GATS negotiations acted as a cautionary brake to liberalisation measures in sensitive services.

This cautionary impact was acknowledged by institutional actors within the WTO, including the Director General, and by leading GATS advocates within the OECD. In an article published in 2002, titled 'Addressing Uruguay Round Leftovers', leading GATS advocate Pierre Sauvé (2002a) acknowledged that:

Since Seattle, WTO Members' every move has become subject to the close scrutiny and the critical assessment of civil society groups. The latter have of late become especially vocal in the services field. The increased public fear that services trade liberalisation is largely synonymous with far-reaching deregulation has generally prompted governments to adopt a more cautious attitude on these issues (Sauvé 2002a: 305).

Sauvé further acknowledges the specific contribution that education unions were making towards this 'chilling impact'. At the above mentioned OECD forum, Sauvé notes that services negotiations were taking place:

[...] not only against a backdrop of a weak initial harvest of liberalisation commitments in this sector. They are also proceeding with significant regulatory and political precaution, and in the midst of a growing anti-GATS campaign, of which public sector unions in the educational field are active players, especially in OECD countries, together with students sensitive to the anti-globalisation movement (Sauvé 2002b: 49).

The impact of the public campaign against the GATS by education unions was also acknowledged by Chilean Ambassador Jara, Chair of the Council on Trade in Services in Special Session, when he attended the EI Conference held at UNESCO headquarters in Paris, on the 4-5 April, 2005:

Education unions will not achieve their objectives in getting GATS out of education because some WTO governments are interested in education services trade. But the public campaign has been successful because very few commitments have been made. That may also reflect public policy issues. Questions of public policy are not being dealt with in GATS. So the extent to which education becomes a tradable commodity under GATS is very limited (EI 2005b).

According to Waghorne (Interview 2009), the level of public scrutiny and outcry meant that even governments that were not sympathetic to unions and civil society claims acknowledged that: “there [was] no way in the world that they were going to concede to a demand on education, at least on basic education, on health services, [and] on water services”. On the other side, governments making demands for market opening in services, also came to realise that if they made a demand in these sensitive areas, especially of developing countries, they would be the target of extensive criticism and public anger. To some extent, these services became ‘no go’ areas.

The ‘chilling effect is also evident at national level, in Australia. Former lead GATS negotiator for Australia Rhonda Piggott (Interview 2010) said that civil society lobbying and campaigning capacity, including the many submissions to various parliamentary inquiries on trade, had had an impact. She said that DFAT trade officials and negotiators were very aware that AFTINET, in particular, was very well informed and had the capacity to mobilise a lot of people in relation to sensitive issues. At the Ministerial level there was also considerable concern about the level of concern within the community over sensitive issues and possible electoral backlash. In cases where there were no real business interests or state interests in a particular area Piggott (Interview 2010) said that they (DFAT) tended not to push an issue that was sensitive in the community.

However, one must be cautious about claiming too much. The slowing down in negotiations can also be attributed to existing tensions within the negotiations (see Chapter 3), changing perceptions about the value of trade in services, lack of real business or state interests, and the ‘wait and see’ nature of trade negotiations.

Building Resistance to Further Demands

Another important aspect of civil society engagement on trade is that it can be used by governments as an argument against commitments and to bolster their position. This point was made by former Australian GATS negotiator Rhonda Piggott (Interview 2010) and also by South African Trade Minister Rob Davies (Interview 2010). Piggott (Interview 2010) said that in the face of demands from the EU and the US, DFAT negotiators referred to internal civil society discontent with certain commitments as part of their negotiation strategy. Davies (Interview 2010) made the point, that for developing countries, having constituencies that have to be answered to was important in preventing Ministers from being “bulldozed” by powerful interests. As seen in Chapter 4., civil society lobbying and protest action, including publishing ‘leaked’ services demands, helped bolster developing country resistance to making further GATS commitments. Although it was not specifically in relation to the GATS, the important role of civil society in supporting the position of G-20 developing countries at the Cancun Ministerial in 2003 has also been documented (Grammling 2006).

Increased Recognition and Consultation

At the international level, the campaign against the GATS increased the recognition of education and public services unions and their international organisations as active ‘players’ in the trade arena. This is confirmed by the willingness of WTO officials to meet with senior representatives from PSI and EI (Waghorne Interview 2009) and for senior WTO negotiators to attend union events, such as the attendance by Chilean Ambassador Alejandro Jara, who was chair of the WTO Council on Trade in Services in Special Session (the GATS negotiating body) and Counsellor Johannes Bernabe from the Philippines Mission at the WTO, at the EI conference in Paris, in 2005 (IE 2005b).

In Australia, we see some expansion of consultation processes, partly as a result of union and civil society mobilisation against the GATS and the AUSFTA and partly because the inclusion of the GATS into the multinational trade regime increased the number of potential stakeholders and thus avenues of consultation and points for external pressure (e.g. government agencies, state government and local government authorities), and available allies. The AUSFTA negotiations, in particular made a big difference to the level of DFAT consultation – prior to this consultation had been only selective, mainly with business interests (Piggott Interview 2010). AFTINET in particular came to be regarded by DFAT as the major avenue for civil society consultation (Piggott Interview 2010).

On the whole unions by themselves are still regarded in the same light as NGOs. Theoretically they can attend regular DFAT briefings on trade issues of interest but they generally have to push hard to make themselves and their interests known (Piggott Interview 2010, Sparkes and Deady 2009). The ACTU continues to be recognised by DFAT as the peak union body to be consulted in relation to specific issues that they think are likely to be of concern to organised labour (Piggott Interview 2010).

However, while DFAT officials acknowledged that the level of consultation increased in the face of the unprecedented level of public interest in trade related issues (especially during the campaign against the AUSFTA 2003/4), it didn’t necessarily follow that civil society lobbying, debates or protests had a direct impact on negotiations (Sparkes and Deady Interview 2009).

Developing Internal Capacity

The GATS campaign built internal mobilisation and organisational (MOC) strength at both the international level, within PSI and EI, and at the national level in Australia (and also affiliate unions in other countries, see Verger and Novelli 2010). Engagement in struggles against the GATS stimulated the development of considerable expertise about the GATS and the multilateral trade process. It also stimulated the development of important alliances (and in some cases more formal coalitions) with significant NGO’s and transnational advocacy networks (e.g.

OWINFS at the international level and AFTINET in Australia). This extended union capacity in a number of significant ways:

- It built bridges, and in some cases, enduring relationships, with NGOs and civil society groups working on the same issues;
- It built knowledge and expertise about the GATS, leading to a more nuanced understanding of the issues;
- It developed framing capacities; and,
- It exposed unions to a range of new contentious strategies (Polaris Institute 2004).

In some cases, as in Australia, these relationships solidified into an enduring civil society coalition. Working in alliance with other civil society groups also broadened the legitimacy of union claims about the GATS and its collective strength. It was much more difficult for the WTO and national governments to dismiss claims from such a broadly based mobilisation of civil society actors. On the other hand, the broad representational legitimacy of unions in society bolstered NGO and social movement claims.

Even where no campaign against the GATS existed, as in the South African case, the need to deal with complex WTO-related negotiations within NEDLAC stimulated the development of considerable expertise about trade issues, both within COSATU and in major affiliates (van Meelis Interview 2009, McGuire and Scherrer et al. 2010). While this was stronger in relation to manufacturing there is also evidence of growing expertise in relation to trade in services (Rudin Interview 2009).

Mobilising Affiliates

It is not clear from this research how much of the lobbying and campaigning action at the national level can be attributed to the mobilising attempts of the GUFs. In fact, as mentioned earlier, it was affiliates in Canada, New Zealand and Australia who actually initially alerted both PSI and EI to the potential threats posed by the GATS, and they supplied much of the analysis for campaign material. In these countries lobbying and campaigning against the GATS, at least in the higher education sector, would probably have taken place regardless of the engagement of the GUFs. To some extent, this highlights the nature of the GUFs as affiliations of national sectoral unions — it makes sense that issues should be picked up by national affiliates, as they are usually the first to see the impact of government policy on members. However, whether national unions would have been able to have had the same impact without the simultaneous ‘sensitising’ action by GUFs and NGOs at the international level is doubtful. The GUFs played an important supportive role in existing campaigns, and a key disseminating and diffusion role, which encouraged national affiliates in other countries, and in other potentially threatened service sectors, to mobilise against the GATS.

6.2 Assessing the Impact of Union Action

As argued in Chapter 1, the outcomes of union contention against the GATS are best understood in terms of their impact rather than on the success or failure of achieving union policy goals, as this enables the capture of both intended and unintended consequences of union action (Guigni 1995).

Using the typology developed by Guigni (1995) the following tables assess the outcomes of union action against the GATS in terms of its impact, both externally (Table 11.), on the political opportunity structure (POS) available for unions to influence the GATS negotiations and broader trade negotiation environment, and internally (Table 12.), on the mobilising and organising capacity (MOC) of the union organisations/ movements studied.

Table 11. External Impact of Union Action

External Impact	Examples
Procedural Impact E.g. new consultation or recognition	Increased recognition of unions as active ‘players’ in the trade arena at both levels, esp. in relation to trade in services Some new consultation processes in Australia
Substantive Impact Reactive - prevention of new disadvantages Proactive - introduction of new advantages	Reactive - ‘chilling effect’ slowing down of GATS commitments and demands – less commitments made than expected. It is likely that more commitments would have been made without GATS campaign at international and national level; helped developing countries resist further demands. Proactive – established relationships and alliances with key developing country negotiators – access to information and indirect access to negotiation process.
Structural Impact Change in POS – either institutional or alliance structures	No change in institutional processes for unions to access trade policy and negotiation process Divided elites - increased divisions between WTO member states Developed influential allies in society in relation to trade in services
Sensitising Impact Raise awareness, build consensus on issue	Raised wide-spread awareness of issue within unions, international institutions, politicians, parliamentarians, the media, and the ‘attentive public’ – successfully defined the GATS as a shared social problem Framed the GATS as both a global and a domestic problem – thus escalating sense of threat and mobilisation capacity Increased public fear that the liberalisation of services is synonymous with deregulation – cautionary impact on governments at all levels Changed the negotiation environment – delegitimised negotiating processes and forced WTO on the defensive Undermined claims about the benefits of liberalising services

Source: Adapted from the typology developed by Guigni (1995: 209-212)

Table 12. Internal Impact of Union Action

Internal Impact	Examples
On identity and mobilising & organisational capacity	<p>Built consensus within the union movement that the GATS represented a threat to public services and national sovereignty</p> <p>Increased expertise about trade policy and negotiation processes within union movement – important for scrutinising & monitoring trade agreements and government action, and for identifying opportunities for intervention</p> <p>Developed networks of activists willing to mobilise on trade issues</p> <p>Built bridges between unions and with NGOs and social movement networks — in some cases long-standing alliances e.g. with NGOs in Geneva and OWINFS at int. level, and AFTINET in Australia</p> <p>Developed framing capabilities</p> <p>Developed new strategies of contention</p>

Source: Adapted from the typology developed by Guigni (1995: 209-212)

Chapter 7. Findings, Contribution to Theory and Conclusion

7.1 *Discussion of Findings*

As argued in Chapter one, the capacity for a movement to mobilise in relation to an issue of concern seems to depend on the existence of a number of interrelated factors. First, there needs to be a suitable political opportunity structure (POS) which somehow enables and facilitates a movement's development and reception of its political goals. While political opportunity structure is multifaceted, an essential aspect seems to be the degree of openness or closure to the demands of social forces (degree of openness or closure) (Meyer 2004). According to the literature this is more likely where divisions and conflicts between political elites exist, when there are changes to or instability within existing political alignments, and where potential allies are available within the political system (Ayres 1998; McAdam et al. 1996; Tarrow 1998; Meyer 2004). However, even where the longer term structures remain unchanged, specific situational opportunities related to the electoral cycle or policy process can emerge that temporarily create a more favourable climate for mobilisation.

Next, in order to convert existing opportunities into mobilisation and influence, movements must have sufficient strength and organisational readiness in terms of available resources 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). Where movements or organisations lack these capabilities, the time taken to build them up may prevent them from taking advantage of more fleeting opportunities. Finally, movements must be able to build sufficient common cause, which inspires people to become committed and take action. At the minimum, people need a shared sense of grievance (or threat) and the hope that they can somehow redress the problem (McAdam et al.: 1996: 5).

In turn, the contentious strategies used by movements will depend both on the nature of the political opportunity structure and the level of mobilising and organisational resources available to movement actors. This includes the sources of power available and the "cultural stock" of contentious strategies about how to organise and protest which exist or can be drawn on. In the following section, I try to tease out how the interaction of these factors impacted on the union movement's mobilisation against the GATS

The Multilevel Nature of the Political Opportunity Structure

The scale of action in relation to the GATS took place at both the domestic and international levels. In part, this is related to the nature of the multilateral trading system itself, as an organisation of national governments which meet internationally to negotiate agreed rules for international trade. While trade policy and negotiating positions for the various WTO agreements, including the GATS, are largely

formulated at the national level, the negotiations themselves take place internationally; in Geneva and in various other international locations chosen for staging the WTO Ministerial meetings. Thus, the international trade policy process itself provides a multilevel political opportunity structure. To some extent this meant that unions were forced to operate at both levels in trying to influence the GATS negotiations: at the national level to influence major negotiating decisions and at the international level to influence trade delegates, Ambassadors and bureaucrats. The multilevel opportunity structure therefore facilitated the development of multilevel strategies through which unions could promote their agendas and press their claims.

A good example is the strategy used by PSI and EI to link up activists on either side of the request/offer process, with the aim of sharing information and putting simultaneous pressure on governments at either end of the process: on the demanders, 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 liberalisation. This strategy relied heavily on the exchange and coordination of information between levels about what requests various countries were making and whom they were making them of. Where developing countries were faced with demands to open up sensitive service sectors the public release of these demands and subsequent international outcry helped bolster their ability to resist these demands. The pressure to make services requests public, and the danger of them being leaked, also made demandeur countries more cautious about making demands in sensitive services sectors. Being publicly scandalised at the national and international level seemed to definitely have a chilling effect on demands in sensitive services sectors. A number of related factors were necessary for this strategy to work: the capacity to mobilise affiliate unions in the request-offer countries to lobby their national governments; the existence of sufficient capacity and opportunity at the national level to do so; the existence of sympathetic governments or 'elite allies' within governments who were prepared to publicise or leak the texts of requests; and the capacity to rapidly diffuse the information as widely as possible via the internet and through diverse union, NGO and social movement networks.

While this strategy linked countries at the horizontal level, there was no evidence of sustained transnational or cross-border coalition building between unions in countries that had the same 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 liberalise public and social services, as happened later in the NAMA negotiations. In that case the demands made of developing countries led to the formation of a coalition of developing countries known as the NAMA 11, which 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. Nonetheless, this transnational coalition also appears

to have relied on considerable 'triangular' coordination between the national and international levels (for an account of the formation of the NAMA 11 trade union coalition see Busser 2009). Rather than opening up a transnational opportunity structure for labour coalition building, as identified by Kay (2005) in the case of NAFTA, the GATS negotiations seem to have opened up a more vertical opportunity space, in which claims were projected up and down between the domestic and international levels and only occasionally linked horizontally.

Strategic use of Framing

The results of this research also draw attention to the use of framing as a contentious strategy and exercise of discursive power. It demonstrates how unions (internationally and in Australia), as part of a broader movement against the GATS and the WTO, 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 ongoing deregulation and privatisation of public and social services. Public sector unions in particular had already been battling against the commercialisation and privatisation of a wide range of public services in many countries, and education unions increasingly saw it as a threat as well. Through the processes of "global framing" and "internalisation" identified by Tarrow (2005: 32), unions co-opted potent global themes to add ammunition to their battle to protect public services.

By claiming that existing privatisation and commercialisation 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 tradeable commodities, which could be 'sold off'. And to reframe existing government's privatisation policies as reckless, by potentially bringing them into the ambit of the GATS and the WTO disputes resolution mechanism.

At the same time, unions escalated existing concerns about deregulation by framing GATS as the intrusion of a set of powerful external trade rules into the domestic realm (internalisation). They argued that the GATS effectively shifted elements of domestic regulatory power to an undemocratic external institution: In this case, through enforceable GATS rules and disciplines backed up by a WTO disputes resolution process, which had the power to determine whether domestic regulations related to services consisted of a barrier to trade, and must therefore be changed. This was framed as potentially restricting or at the least undermining current and future government policy making and regulatory power, as well as jeopardising 'hard-won' social gains.

This broadened and deepened the perceived level of threat and thus mobilisation potential against privatisation and deregulation, and put pressure on national

governments to change their policies, or at least not to make the situation worse by making new GATS commitments.

Unions adjusted frames to fit local situations and to take advantage of situational opportunities that emerged in the negotiation process as a result of negotiating meetings, deadlines and demands (elaborated below). The focus of framing shifted throughout the campaign action. What started as a discourse mainly about the threat to public services (initially to healthcare and education, and later water), broadened substantially as new threats and issues emerged, and ended up predominantly as a discourse about the threat which the GATS posed to domestic policy space and government regulation. This supports claims by Lévesque and Murray (2010) about the importance of framing as a “strategic capability” that is needed for utilising power resources (Lévesque and Murray 2010).

Situational Opportunities and Opportunity/Threat Spirals

These case studies demonstrate the importance of situational opportunities. At both the international level and in Australia, campaign and lobbying activity tended to mirror the negotiation process, and increased in intensity in the lead-up to key junctures such as the biennial WTO ministerial meetings, key services (GATS) negotiation meetings and deadlines, when a break-through in parallel negotiations seemed likely, and when new demands were put on the negotiation agenda. These ‘events’ increased the level of ‘perceived’ threat, provided opportunities for building common cause around new grievances, and opened situational opportunities for unions (and other social actors) to influence negotiating positions.

In fact, the negotiation process seems to have provided what Tarrow (2005: 177) refers to as an “opportunity spiral” (political change, interpretation of change, action and counter action), or as further developed by Karapin (2011), an “opportunity/threat spiral”, in which grievances related to the perceived threat presented by the GATS negotiations triggered protests and alliances between challenger groups (such as unions, NGOs and social movement groups). This was followed by “opportunity increasing actions by authorities and elites”, such as Ministerial meetings and deadlines in the Services negotiations (along with the associated tensions, divisions and shifting alliances inherent in the negotiation process) and new “threat increasing mechanisms” (such as new deadlines, new grievances arising out of additional demands or new issues being inserted into the negotiations). This, in turn, created new opportunities for union and civil society mobilisation. Without repeating every event in the campaign case studies an overview of the main opportunity/threat inducing events in the services negotiations serves to illustrate this dynamic.

The spectacular and widely publicised failure of negotiations at the Seattle Ministerial put the WTO on the defensive. At the same time, for the various groups opposed to the WTO, the ‘Battle of Seattle’ itself and its aftermath, provided valuable opportunities for diffusion of information, frames and strategies, including about the

threat of the GATS. Importantly, it also signalled to civil society actors that they could succeed in influencing multilateral trade negotiations. This in turn, encouraged wider mobilisation. As shown in the international case study, attending the Seattle Ministerial was the significant factor prompting deeper union engagement with GATS related issues.

With the absence of a new round of WTO negotiations, the mandated GATS negotiations, scheduled to start in 2000, became the focal point of protest activity for a wide range of existing activists, while also attracting a diverse array of new activists concerned about the impact of the GATS on public services, especially education and health care. The start of negotiations prompted a series of protest and awareness raising activities leading to the development and launch of the 'Stop the GATS Attack Now' campaign.

The impact of the civil society criticisms and protests prompted a defensive discursive attack by the WTO, which attempted to reframe the debate and cast protestors as misguided and ill-informed. Instead this attack provided new opportunities for unions and other activists to defend their claims and restate their messages about the GATS. The high level of expertise and knowledge about the GATS developed by activists made it difficult for the WTO to dismiss their claims. At the same time the level of protest, criticism and scrutiny of the GATS negotiations created a difficult environment for the negotiations to get underway.

When the GATS negotiations started in 2001, the short deadlines for initial services offers and requests (for market opening in specified service sectors) and the predicted flood of demands in public services, especially education and health care, created a sense of urgency, which mobilised critics of the GATS, including unions, to intensify their lobbying and awareness raising. When market opening requests (framed as demands) were released or leaked, as was the case with the EU requests, this reinforced the claims, which activists had been making about the threat of the GATS, especially for developing countries. It also provided opportunities to 'scandalise' the secrecy of the request-offer process and to increase mobilisation, both in the countries of the demanders and in (or on behalf of) those being demanded of. This put a chill on commitments, which further undermined the negotiations.

Even when new demands were not directly related to the services negotiations, the resulting change in the political dynamics of the overall WTO negotiations also changed the political opportunity structure in the services negotiations. As we have seen in Ch.3, the emergence of the G-20 group of developing countries shortly before the Cancun Ministerial in 2003, and their success in defeating the attempt by powerful developing countries to include disputed new issues (the so-called 'Singapore Issues') into the Doha Round, changed the internal political dynamics of the WTO in ways which also impacted on the services negotiations. The general malaise caused by the subsequent collapse of negotiations also spread to the already troubled GATS negotiations and slowed down negotiations even further. At the same

time, it signalled a much stronger voice and role for developing countries within the WTO, exacerbated the North/South split, and provided potential allies for unions and civil society actors when negotiations were restarted in 2004.

The slow-down in the GATS negotiations and the lack of quantity and quality of new services commitments led to the introduction of various new proposals to intensify the commitment process, the most radical of which was to establish benchmarks for services commitments, and another to introduce plurilateral negotiations. This, in turn, escalated the level of threat and prompted the intensification of mobilisation activity against the GATS and the new proposals, especially in the lead up to the WTO Ministerial in Hong Kong. The benchmarks proposal also alienated and angered many developing countries and exacerbated the existing North/South divisions within the WTO member states, thus providing new opportunities for building alliances, escalating grievances and mobilising action against the GATS.

Unions and trade-related NGOs used these opportunities to try to influence the negotiating position of key developing countries, to exacerbate divisions and to slow down negotiations. The lack of resources and expertise within the trade delegations of developing countries made them receptive to these overtures, thus providing an opportunity for highly expert activists from unions and NGOs to lobby trade delegates and provide them with information and policy advice that highlighted the potential threat of the GATS to developing countries. In some cases this led to closer forms of alliance, where trade negotiators or delegates from developing countries fed key details about the negotiations back to civil society activists.

WTO Ministerials, in particular, provided important situational opportunities. As the peak decision making body of the multilateral trade process they attracted widespread international and national media attention, particularly following the 'Battle of Seattle', where negotiations had broken down so spectacularly. Each successive WTO Ministerial also attracted more and more registered NGO groups (including representatives from global and national union organisations and individual activists) and a diverse array of protestors and social movement groups who staged large colourful protests. This contributed to making each WTO Ministerial into a significant media event.

This opened up opportunities for campaigners to put their messages about the WTO and the GATS onto the media and therefore the broader public agenda. Media coverage was considered crucial for raising levels of public awareness about the GATS, for putting pressure on the negotiations, and for influencing the overall discourse around trade liberalisation. It was not possible within the confines of this research to conduct a survey of media coverage of WTO events. However, according to the union and civil society activists interviewed, civil society protests against the WTO and against the GATS negotiations did generate considerable press coverage, some of it sympathetic to the views of civil society actors, or at a minimum, highly

critical of the WTO negotiation process and the failure of negotiations to achieve significant progress. Such media coverage contributed to the union and civil society aim of slowing down or stopping the GATS negotiations. However, one must keep in mind that media attention can be a 'two-edged' sword and the mainstream media is generally more likely to support the status quo than to publish articles sympathetic to challengers.

Apart from bolstering the position of developing countries, it is unclear how much influence the lobbying and protest activity at WTO Ministerials had on actual negotiations. In most cases, decisions about negotiation positions are made long before the Ministerial meetings take place (Waghorne Interview 2009). However, regardless of the degree of impact which lobbying and protest action had on negotiations, attendance at the Ministerial meetings clearly had an impact on the internal mobilising and organisational capacity of the civil society groups that attended. To some extent, the practice of holding parallel civil society events in conjunction with WTO Ministerials has transformed these negotiation events into sites of opportunity. Activists, including unions, staged and participated in seminars, held press conferences, shared information and intelligence on negotiations from friendly 'insiders', built consensus around issues, and strategised about how best to take advantage of divisions or tensions that appeared in negotiations. They also developed personal relationships, and added new contacts to their growing database of activists. A number of the union activists interviewed for this research, assessed the opportunity that these events provided for networking and alliance building as one of their most important characteristics.

However, while the situational opportunities that emerged in the negotiation process provided valuable opportunities for mobilisation and internal capacity building, the events driven nature of campaigning against the WTO and the GATS also has its downside. Being too event focused can lead to reactive strategies rather than more long-term strategic planning. As Mike Waghorne (Interview 2009) argues, the groups and networks working to influence the WTO trade negotiations, both within and outside the union movement are 'too' event focused:

[...] what we tend to do is wait until just before a meeting (WTO) and get everybody excited and have a campaign to get [their] government to endorse such and such" (Waghorne Interview 2009).

All too frequently, nothing significant happens at the national level because people are not sufficiently prepared, they don't understand the issues involved, or they haven't done the necessary lobbying before-hand and so lack the contacts and influence needed. Waghorne argues that what is needed, is a more long-term strategic approach to particular issues, which involves at least a year's advance planning, and which ensures that people understand the issue — that they have done the local educating, the awareness raising, the policy making, the lobbying etc..

Another problem with event-driven mobilisation is that something always needs to be happening. There needs to be some threat-inducing activity in order to keep groups together and generate a sense of urgency about the need for action. As one union activist pointed out:

[...] its very hard to keep working on an issue when you can't go back to your people and say 'next week this and this is happening, we've got to do this and this'. When there is no 'next week' issue, to some extent that does make things very difficult (Waghorne Interview 2009).

The lack of a noteworthy 'event' or a shift in focus can reduce or divert the resources available for campaigning. Once trade is no longer top of the agenda within an NGO, or for that matter, within a union organisation, then the resources that can be dedicated to trade issues tend to disappear or be reallocated. This can lead to a rapid loss of expertise and mobilisation capacity.

The slowing down of WTO negotiations over the past few years and the domination of the financial crisis as the major issue in the international political economy have led to a shift of focus within both trade union networks and social movement networks like Our World is Not for Sale (OWINFS). This has had a flow-on effect on resources available for ongoing campaigning against the GATS and other trade-related issues. However, given that the threats presented by the GATS negotiations can re-emerge in the WTO negotiations, and that many of the problems identified in relation to the GATS are embedded in the multiple regional and bi-lateral trade agreements currently being negotiated (Kelsey 2008: 50),⁸² this could be a significant problem for future mobilisation.

Explaining Differences at the National Level

At the national level we find significant differences between the two national cases in terms of political opportunity structure and mobilising and organising capacity in relation to trade, and also in the extent to which the GATS was picked up by unions and framed as an important policy issue. The political opportunity structure in the trade policy and negotiation process clearly varied between the two countries, being rather closed for unions in Australia and rather open for unions in South Africa. However, as the case studies demonstrate, an open or supportive political opportunity structure doesn't necessarily lead to activism or influence and a closed political opportunity structure doesn't necessarily prevent activism or influence.

Despite the relatively closed political opportunity structure in Australia and the presence of a particularly union-hostile government, unions were able to utilise their power as citizens to take advantage of limited institutional access through the

⁸² Regional and bi-lateral trade agreements contain GATS-plus rules, which Kelsey (2008: 50) argues leads to GATS-plus commitments.

parliamentary system. This supports observations by Gentile and Tarrow (2009) that labour is able to successfully shift between domains of rights in order to achieve political and industrial aims: where labour rights are repressed or not available unions can shift the locus of activism to the domain of citizenship rights.

Somewhat ironically, these institutional opportunities were opened up by the very same union-hostile political party, as a way to address the so-called 'democratic deficit' in trade policy and treaty making, which had been one of their campaign promises (Capling and Nossal 2003). As such, the government remained somewhat vulnerable to claims related to this issue. The secrecy of the subsequent MAI negotiations and the refusal to include civil society delegates in the government delegation to the Seattle Ministerial somewhat negated any goodwill which the reforms had induced and fuelled union and community anger. As we have seen, the anti-MAI campaign in Australia acted as an important precursor event for sensitising the public and media about the level of threat posed by international trade agreements. This made people more open to the frames and claims made about the GATS, and more willing to mobilise in support of them. As demonstrated in earlier research by McGuire and Scherrer et al. (2010), a sense of threat appears to be one of the determining factors in people's willingness to mobilise in relation to trade issues. The anti-MAI campaign also built up considerable organisational and mobilising capacity within the union movement and the broader society in relation to trade issues and prompted the first use of the newly established parliamentary committee (JSCOT), established to scrutinise trade agreements. As elsewhere, the eventual defeat of the treaty was widely hailed as a victory by Australian activists (Laxer 2003).

Therefore, when unions and civil society groups started raising concerns about the GATS in response to the announcement of a new set of services negotiations, they were operating in a highly charged political atmosphere, where international trade was already a public issue, and where the government of the day was vulnerable to accusations about the on-going democracy deficit in trade policy and agreement making. In addition, they had considerable organisational readiness, built up by the previous anti-MAI campaign, and experience in the contentious strategies required to utilise the new opportunities opened up within the parliamentary system. When the new round of services negotiations actually started in 2001 the conditions were ripe to form a broad civil society coalition with capacity to campaign on trade issues: The necessary network links, expertise and personal relationships were already in place. The newly established trade coalition, AFTINET (which included the ATUC and major sectoral unions), was quickly able to marshal the necessary resources and experience needed to initiate a lobbying and awareness raising campaign with the aim of stopping the Australian government from making further offers in the GATS negotiations, initially in education and public services, but later also in essential services such as water and postal services.

As in the global campaign, campaign and lobbying activity in Australia tended to mirror the negotiation process. One can observe a similar spiral of opportunity and threats with key WTO events and junctures in services negotiations providing situational opportunities for escalating lobbying and campaigning activity.

In South Africa, on the other hand, there was no identifiable union campaign in relation to the GATS, despite a relatively supportive political opportunity structure and good mobilising and organisational capacity related to trade and the apparent existence all the factors necessary for such a campaign to emerge, including: awareness of the potential threat of the GATS to public and social services; growing concerns about the intrusion of international institutions into the domestic regime; the existence of government driven commoditisation and privatisation of social services; and the presence of potential civil society allies active in the trade arena.

On the face of it, there doesn't appear to be any reason why COSATU couldn't have framed the GATS in a similar way to unions and civil society actors in Australia. It seems like a missed opportunity. Even if the union movement accepted government assurances that they would not make further commitments in essential services, nonetheless, the argument could still have been made that any privatisation or commercialisation of public and essential services at the domestic level would jeopardise these services by bringing them into the scope of the GATS rules and disciplines. This was an argument made by unions and civil society in Australia (and at the international level). Unions could, as was the case in Australia, have used this 'potential' threat to public and social services as a lever to pressure the government about its privatisation policy, and as a way to build alliances with local government authorities and a broader movement against privatisation. Instead, COSATU chose to pursue its policy of influencing ANC policy on privatisation and other related domestic policy, including trade, through the Alliance and its more informal political connections, or where appropriate, through NEDLAC.

Although other civil society groups working on trade-related issues, including the Trade Strategy Group (TSG), made the link between the privatisation and commercialisation of public services and the GATS provisions, the political and social context did not encourage the emergence of a broad union-civil society coalition against the GATS. Key policy advisors within COSATU saw the government's push to privatise or at least corporatise public and social services as a failure of domestic regulation, which had little, if anything, to do with the GATS and, on the whole, they dismissed the claims made by civil society activists (Makgetla 2010).

As seen in Chapter 5, the main union federation COSATU (and its major affiliates) does view trade policy as a crucial tool for addressing poverty and social inequality and has a strong record of policy engagement. However, during the period looked at, attempts to influence trade policy were focused more on manufacturing-related issues rather than on services. This appears mainly because manufacturing has been seen as

crucial for development policy and job creation. As a subsequent campaign against the Non-Agriculture Market Access (NAMA) negotiations in the WTO shows (Busser 2007 and 2009), COSATU did have sufficient international focus and capacity to campaign against an international trade agreement and to use global framing to support a domestic issue (threat to jobs in manufacturing), when that issue was considered of sufficient relevance.

In other words the issues associated with the GATS, as framed at the international level, did not resonate with the domestic policy concerns of union leaders.

In addition the conditions did not seem to exist for the formation of a broad civil society coalition as developed in Australia. While COSATU participated in the Trade Strategy Group and a range of other civil society forums, its preference for making independent policy decisions and its reluctance to support any social movement or group that publicly criticised or mobilised against the ANC, seems to have closed opportunities for it to form strong alliances with civil society groups; at least in relation to issues where they believed they had ‘insider’ access to policy issues.⁸³ This can be seen in the hostile way COSATU acted towards the anti-privatisation forum (APF) (Buhlungu 2004) and other social movements that strongly critiqued ANC policy (confirmed in Interview with McKinlay 2011).

As leaders and policy advisors within COSATU did not perceive privatisation in ‘global terms’ they focused on opportunities at the domestic level, utilising a dual strategy of exercising influence through tripartite structures, including the Alliance, combined with widespread mobilisation of members on the streets to demonstrate its collective power in relation to the issue of privatisation. The fact that political strikes are permitted in South Africa under the labour legislation, provided they are approved by NEDLAC, opens the opportunity for (and even encourages) the use of strike action in relation to political issues such as privatisation or trade policy.

Dominant Discourses, Available Allies, Storylines and Strategies

It is important to note that union action against the GATS did not take place in a vacuum. It took 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 the GATS, unions and civil society groups drew on existing stocks of frames, storylines, strategies and networks, built up through previous struggles against regional and international trade and investment agreements such as, the Canadian-US FTA (CUSFTA), the North American FTA (NAFTA), the OECD’s proposed Multilateral Treaty on Investment (MAI), and the battle to stop a new round

⁸³ COSATU's coalition with other groups to form the 'People's Budget' seems to be an exception. But this could be because COSATU perceived that it was more 'locked out' of budgetary and monetary policy issues

of WTO trade negotiations at Seattle (Battle of Seattle). These negotiations acted as significant politicising and awareness raising events at the domestic, transnational and international levels.

The failure of the proposed MAI agreement was particularly significant, especially as it was widely hailed as a ‘victory’ by civil society activists (Laxer 2003) and as proof that civil society activists could succeed in influencing international trade policy. As we have seen, at both the international level and in the Australian case, linking the GATS to the failed MAI effectively activated and transferred many of the frames and storylines associated with it, including its likely impact on public services, especially education and healthcare, and its potential to restrict domestic policy making and regulation. It also brought the GATS to the attention of the extensive network of civil society and union activists and groups who had been involved in the various campaigns to stop the MAI. As they were already sensitised to trade-related issues, they were receptive to mobilising against the GATS and already possessed substantial capacity to do so.

The so-called 'Battle of Seattle' (WTO Ministerial 1999) was also significant as a sensitising, awareness raising and coalition-building event, and also subsequently claimed as a civil society victory. The struggles against these earlier agreements developed expertise within unions and other NGO groups, built strong transnational links of solidarity between diverse groups, and encouraged the diffusion of information, ideas and strategies; both across borders and between national and international levels. They also provided hope that mobilisation by civil society could succeed in influencing the actions and policies of governments. As the literature on framing tells us (Benford and Snow 2000, Gerhards 1995), hope is one of the key factors needed to encourage mobilisation.

To some extent this process was highly dependent on the personal relationships of trust developed between people in different movements, what Tarrow (2005: 105) refers to as “relational diffusion”, and the active ‘brokerage’ role played by key movement activists who built links and spread information, ideas and strategies between groups who might otherwise have remained ignorant of each other’s claims, or what Tarrow refers to as “mediated diffusion”. However, frames, storylines and strategies were also diffused indirectly, both through the internet and other forms of electronic communication, and also through meetings of activists and their participation in protest events, what Tarrow (*ibid*) refers to as “non-relational diffusion”. Activists adapted these diffused frames, storylines and strategies to struggles in the domestic arena.

Networks (or TANS), like Our World is Not for Sale (OWINFS), played a major role, not just in the diffusion process but also in building consensus and common cause between groups, particularly through sign-on statements such as ‘ Stop the GATS Attack Now!’, which successfully incorporated different claims and demands within a single “unified demand” (Strange 2011). While such global sign-on petitions

may seem like a relatively weak contentious strategy they served a number of important purposes: they raised awareness of issues amongst existing groups; they were used to lobby and mobilise other groups to support the stated claims; they united and mainstreamed demands, forming them into a common claim that couldn't be easily dismissed or marginalised by governments and other decision makers; and most importantly, they built cooperation and coalition strength (Strange 2011). The degree of commitment implied in signing onto such statements varied but the act of drafting such statements built cooperation between groups and helped bridge differences in beliefs and claims (Strange 2011: 85). In this way, they functioned both as an 'expression' of collective power, and as an important strategy for 'building and strengthening' collective power.

As has been shown to be the case in various analyses of social movement communication and interaction (e.g. Danitz and Stroeble 2001, Samuels 2004: Ch. 4, Bennet 2003, and Tarrow 2005), the internet and other forms of electronic technology played an important facilitative role in the diffusion of information, collective action frames and strategies of contention in the GATS campaign; both in an impersonal "unmediated" way, via campaign websites and undifferentiated email lists, but also through more "relational" diffusion as differentiated by Tarrow (2005: 105). The internet also acted as a key organising tool. With activists separated by formidable distances and lacking the resources for regular face-to-face meetings, contact via purpose built website pages, 'closed' email list-serves, and via cheap (or free) internet-based teleconferences enabled them to rapidly share information and ideas, build consensus around issues and claims, strategise, and coordinate contentious activity. This supports observations by Bennett (2003: 1), based on research into communicating global activism, "that current networks of global protests could not exist without the various uses of the Internet".

Internet access and new communication technologies also have the potential to overcome communications problems within the union movement. In terms of the campaign against the GATS, one of the problems for global unions has been getting key people in affiliate unions to understand why the WTO and GATS is an issue, and the implications it has for members in their sector. As we have seen, the hierarchical structure of unions plays a role in this. Where leading officials of national unions are not convinced that an issue is important, or where they decide that they need to prioritise other issues, then campaign and advocacy material tend to get no further than the national union office. This can be a problem for engaging members at the local branch and grass roots levels. However, controlling the flow of information is not so easy when individual union members have independent access to the internet and email. This has potential benefits to unions at both levels, as it is most often individual members who are best placed to notice what is happening in their workplace. If they understand the wider issues they are more likely to be able to make the connection and alert their union or their relevant GUF directly.

This also highlights the need for educating members about trade related issues, and engaging them more directly in decision making and strategising. As veteran campaigner and union educator Michael Crosby (2005: 171) stresses in his book on building union power in Australia, organising around social issues can play an important role in building workers' power. However, they must be conveyed in a way that raises awareness and moves people to action. Unions must educate for movement (ibid).

Nonetheless, despite the crucial role played by the internet, the campaign case studies also demonstrate the importance of face-to-face contact, especially for initiating relationships and building up trust (Waghorne Interview 2009, Kelsey 2008: 87). It is not so easy to identify or mobilise potential key activists over the internet, without some form of personal contact or grounds for trust. As documented by the activists in the above case studies (e.g. Waghorne Interview 2005 and 2009, Ranald Interview 2009, Murphy Interview 2005 and 2009, Dicks Interview 2008), much of the analysis, networking, and coalition building for the GATS campaign took place in 'behind-the-scenes meetings', usually held in conjunction with more public protests at major WTO and trade in services negotiations.

However, it is also important to note that an over reliance on the internet may potentially exclude activists in countries with a technology deficit, thereby contributing to rather than reducing the inequality gap between developed and developing countries (Tarrow 2005: 138). As Kelsey (2008: 87) notes, access to valuable resources like “virtual archives” and “list-serves” is selective: “technologies require reliable and affordable telecommunications and these are often only in English”. Future analyses of social movement and union activity must also take into consideration the impact of new social media technologies such as ‘Twitter’ and ‘Facebook’.

7.2 Contribution to Current Research and Theory

Contribution to Labour Research

This research helps fill the gap identified in Chapter 1., for comparative research that systematically analyses trade union attempts to influence international trade policy and negotiations, particularly in terms of the factors impacting on labour mobilisation and capacity to exert influence.

It also demonstrates the effectiveness of social movement theory concepts to analyse and explain factors impacting on labour mobilisation at the international and national levels. As shown in the discussion of findings above, the analytical framework provides valuable insights into the contextual, structural, organisational and subjective factors impacting on organised labour’s capacity to influence the GATS negotiations.

The development of a four-fold labour power dimension is particularly important as it makes explicit the sources of power which unions are able to draw on to exert influence. It also reveals how the sources of power available to unions are affected both by the external context (POS) in which unions are situated, and in which campaigning or conflict takes place, and by unions' own mobilising and organisational capacity (MOC). The application of this power typology in the case study of union protests against the GATS demonstrates that unions can shift domains to draw on alternative forms of institutional power (e.g. from the labour domain to the citizenship domain) and use 'facilitative' powers (e.g. discursive power and coalition building) to leverage weak associative and institutional power.

The POS/MOC/Framing/Power (PMFP) framework would appear to be adaptable to union attempts to influence other policy fields and other areas of union practice. It could provide the basis for a new approach to union attempts to influence policy-making as well as conceptual tools to enrich the theory and practice of union organising and campaigning.

Contribution to Social Movement Theory (SMT)

This study also helps address a gap in SMT research identified by Sikkink (2005: 153), for research that more closely examines "how particular global constraints or opportunities interact with different kinds of domestic structures to produce different characteristic patterns of interaction".

The research demonstrates how the multilevel nature of the POS faced by unions in the international trade arena impacted on the patterns of interaction between the international and national levels. It identifies a form of 'reverse' boomerang effect, where actors facing lack of access to the political/institutional system at the international level used the national level to leverage their demands. At the same time, actors at the national level utilised potent global themes and international action to strengthen domestic demands.

These findings demonstrate that domestic activists are not necessarily 'forced' defensively into the international arena as a result of governments shifting important decision-making processes into the international arena, as Sikkink (2005) finds. Instead, it shows that activists can also consciously 'choose' to 'frame' a potential 'shift of decision-making power' as a threat to domestic gains, thereby strengthening domestic mobilisation.

This supports growing evidence (Sikkink 2005, Tarrow 2005) that social movements and other political groups are able to actively transform opportunity structures at the international level and use international institutions and issues to alter domestic opportunity structure. It thus points to the need for further research that looks at the role of agency in conceptualising political opportunity.

Robustness of Theoretical Concepts

Nonetheless, there are some areas of the theoretical framework that need to be strengthened. In general, the concepts of political opportunity structure and resource mobilisation lack clarity (Gamson and Meyer 1996, Rootes 1999, McAdam 1996, Rucht 1996).

As Gamson and Meyer (1996: 275) note, “the concept of political opportunity structure is [...]in danger of becoming a sponge that soaks up virtually ever aspect of the social movement environment”. I have tried to address this tendency towards overgeneralisation by defining POS more tightly in relation to the particular issue field and movement organisation being investigated; in this case, in relation to the international trade regime (particularly the GATS negotiations) and the union movement. This approach recognises that different aspects of political systems may be more open or closed to civil society actors, and that the degree of openness or closure may also depend on the particular group seeking access. For example, in the trade arena one can see a substantial difference in access by business groups and access by unions.

Another problem with the concept of political opportunity structure, identified by Roots (1999), is the lack of differentiation between the more enduring forms of the political system and its more contingent or variable aspects. I have attempted to address this by introducing the concept of situational opportunities (SO). The research shows that the more contingent aspects of the international trade regime provided ongoing opportunities for re-framing and mobilisation.

Resource mobilisation has been variously criticised for not sufficiently conceptualising and differentiating between types of resources, for failing to identify which types of resources are more important for mobilisation than others, and for failing to identify how resources impact on the strategies used by movements (Cress and Snow 1996). I have attempted to overcome some of these problems by defining and focusing specifically on mobilisation structures and organisational capacity (MOC), and by identifying specific factors or variables that appear relevant to the union movement. However the concept of MOC requires further development. In particular, the special nature of unions as representative bodies of workers needs further conceptualisation, including the role played by institutional actors (e.g. union leaders), and systems (e.g. management, decision making structures, bureaucracy) in resource mobilisation. This weakness could be addressed by a selective borrowing of concepts from the field of organisational studies (as suggested by Davis, McAdam, Scott and Zald, 2005). The analysis could also be strengthened by making a clearer distinction between having resources and having the ‘strategic capabilities’ needed to utilise them effectively; as suggested by Lévesque and Murray (2010).

7.3 Conclusion

This research set out to investigate how organised labour seeks to advance a labour agenda in global economic governance by assessing the opportunity and capacity for unions to influence international trade policy. Taking the union protests against the General Agreement on Trade in Services (GATS) as a case study, it has used three core conceptual tools for understanding the emergence and effectiveness of union protest and mobilisation: 1) the nature of the political opportunity structure (POS); 2) the mobilisation and organisational capacity (MOC) of movement organisations; and, 3) their capacity to influence the subjective consciousness of potential activists so as to mobilise them to take action (framing capacity).

By analysing these dynamics within the union movement's global and local struggles against the GATS, the research aimed to identify what opportunities existed for unions to mobilise in the trade arena, and which factors were most important for mobilising support and exercising influence. The research also sought to identify and analyse the various sources of power and leverage which unions have utilised to take action in the international trade arena, and the factors that have impacted on their availability and use. This was achieved by introducing a four-fold power typology of forms and sources of union power: 1) associational power (including coalition-building); 2) structural power (including logistical power); 3) institutional power; and, 4) discursive power (including symbolic power). The addition of discursive power to the power typology is particularly significant, as it enables the capture of the more hidden ideological forces shaping power relations within the political process (Lukes 2005, Hajer 1995 and 2006).

As shown from the analysis, despite a relatively closed political opportunity structure and limited resources to dedicate to trade, unions at both the international and national level (in Australia) 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 prevented 'new disadvantages'. Unions also achieved some recognition, if not formal acknowledgement, that they are significant actors in the international trade negotiation and policy process.

The union struggles against the GATS also built substantial internal capacity. It increased the level of knowledge and expertise about trade policy and the negotiation process. This is important for scrutinising future trade agreements, monitoring government action, and identifying opportunities to intervene. 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.

The results of the analysis also point to a number of findings, which have significance for both labour research and social movement theory.

First, intergovernmental negotiations and policy processes can themselves create a multilevel political opportunity structure, which, in turn, facilitates the development of innovative multilevel strategies. The multilateral nature of the international trade negotiation process forced unions to operate at both the international and national levels in trying to influence the GATS negotiations. This encouraged the development of innovative (but largely vertical) multilevel strategies. Faced with a closed political/institutional system at the international level, international union organisations used the national level to leverage their demands, in a type of ‘reverse’ boomerang effect (Keck and Sikkink, 1998). At the same time, union activists at the national level (in Australia) utilised two processes of scale shift, ‘global framing’ and ‘internalisation’ (as described by Tarrow, 2005), to strengthen their demands and escalate existing mobilisation against the privatisation and deregulation of public services. This supports growing evidence that social movements and other political groups are able to actively transform opportunity structures at the international level and use international institutions and issues to alter domestic opportunity structure (Sikkink, 2005 and Tarrow, 2005).

Second, even in relatively closed political systems, contingent situational opportunities (SO) can provide openings for action. As we have seen at the international level and in Australia, key junctures in intergovernmental policy and negotiation processes (e.g. WTO ministerial meetings, agenda setting, negotiating deadlines) provided ‘windows of opportunity’ for articulating grievances, forming alliances and mobilisation. The GATS negotiation process itself created an ‘opportunity/threat spiral’ (Tarrow, 2005; Karapın, 2011) in which key points in negotiations and the actions of authorities or elites created new grievances that triggered further protest and mobilisation by challenger groups.

Third, it demonstrates the importance of expertise and strategic framing capabilities for the exercise of discursive power and mobilisation. The multilevel strategies used by the GUFs and national unions relied heavily on the development of sufficient knowledge and expertise to frame the GATS in a way that: a) linked it to existing international and domestic concerns; b) co-opted global symbols to strengthen domestic demands; c) extended the problems associated with the GATS (and thus mobilisation potential) beyond the workplace; d) amplified the threat of the GATS into an attack on national sovereignty; and, e) contested the claims made by the WTO and trade in services supporters.

Fourth, unions are able to shift domains and adopt strategies to leverage ‘weakened’ power. Unions in this study drew on coalition building and discursive power 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 they lacked institutional and political access (and thus power) in the labour domain, unions in Australia shifted to the citizenship domain where they could draw on their legislative and symbolic power as citizens.

And finally, opportunity and capacity shape mobilisation but not as directly as expected. A limited or relatively closed POS and limited MOC does not prevent mobilisation on a particular issue. On the other hand, an open political system and good mobilisational and organisational capacity does not necessarily lead to mobilisation. 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 utilise more 'insider' strategies (backed up by the potential for mass mobilisation).

The degree of perceived threat and relevance of an international issue to the domestic context also appear important. In Australia, the framing of the GATS as an external threat, which could potentially exacerbate the ongoing deregulation and privatisation of public services, resonated with the existing concerns of unions. Whereas in South Africa the problems with the GATS, as framed internationally, did not resonate with the domestic policy concerns of unions. Union leaders did not perceive the domestic issue of privatisation and deregulation of services as related to any external 'global' threat from the GATS and their main trade policy focus was on the impact of trade liberalisation on jobs in manufacturing.

The theoretical framework developed for this research has potential for further application as an analytical and strategic planning tool. However, further case studies are clearly needed to test the findings and to bring more clarity to the concepts and indicators.

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Appendix 1. Schedule of Interviews

International

Busser, Esther: former ITUC Trade Officer, Geneva 2008.

Jouen, Elie: Deputy General Secretary EI, Brussels, 2005.

Howard, James: Director Economic and Social Policy ITUC, Brussels 2009.

Tayob, Riaz: Third World Network (TWN), formerly Southern and Eastern African Trade Information and Negotiations Institute (SEATINI), Geneva, 2009.

Robinson, David: Trade Consultant for EI, Geneva 24.07.2008.

Waghorne, Mike: former Assistant General Secretary and Senior Policy Officer PSI, Ferney-Voltaire, 2005 and South Africa, 2009

Australia

Apple, Nixon: economic policy consultant for ACTU, Melbourne 2008 (telephone).

Burrow, Sharan: ACTU and ITUC President (now ITUC General Secretary), Melbourne 2009.

Carey, David and Gruit, Lesley: Federal Secretary/Policy, Research, and Campaign Officer, CPSU-SPFS, Sydney, 2009 (interviewed together).

Sparkes, Phillip and Deady, Stephen: deputy lead negotiator, Office of Trade Negotiations, DFAT and former special negotiator for AUSFTA, Canberra, 2009 (interviewed together).

McLean, Greg: Assistant National Secretary, Sydney – ASU, Sydney 2009.

Mohle, Beth: Assistant Secretary, QNU, 2009 Brisbane

Murphy, Ted: Assistant General Secretary, NTEU, 01-09-2005 and 2008 (telephone) and 2009 in Melbourne.

Piggott, Rhonda: former lead trade negotiator DFAT, Brussels, 2010

Ranald, Patricia: Director of AFTINET, Sydney 2009.

Roe, Julius: National President of the AMWU, Melbourne, 2009

Sanders, Richard: Research Fellow, Griffith University (MAI and WTO Activist), Brisbane 2009.

Tate, Alison: former International Officer for the ACTU, Geneva 2010.

Templeton, Terrie: activist, WTO Watch Queensland, Brisbane 2009.

South Africa

Davies, Rob: Trade Minister, South Africa, 2010 (telephone).

Dicks, Rudi: former COSATU policy officer (Director of NALEDI), Geneva 2008.

Ehrenreich, Tony: COSATU Western Cape Provincial Secretary, Cape Town 2009.

Keabetswe Mene, Wamkele: Director, Trade in Services, International Trade & Economic Development Division (ITEDD), Department of Trade & Industry (DTI) Pretoria 2009.

Lewis, John: SA Democratic Teachers' Union (SADTU), 2009 (telephone).

Makgetla, Neva: former COSATU Policy Officer, 2010 (telephone).

Mawbey, John: Head of Organising and Development (SAMWU), Cape Town 2009.

McKinlay, Dale: Ant-Privatisation forum (APF) Johannesburg, September 2011.

Pressend, Michelle: Trade Strategy Group Development, Cape Town 2009.

Rudin, Jeff: Research Officer, South African Municipal Workers Union (SAMWU) and COSATU representative in NEDLAC, Cape Town 2009.

Vally, Salim: senior researcher at CERT, University of Johannesburg, Johannesburg, 2011.

Vlok, Etienne: South African Clothing and Textile Workers Union (SACTWU) Cape Town, 2009 (telephone).

Vickers, Brendan: trade policy specialist, Institute for Global Dialogue (IGD), Johannesburg 2009.

Appendix 2: WTO “Services Negotiations Timetable”

- January 2000: Negotiations begin
- March 2001: Guidelines and the Procedures for the Negotiations on Trade in Services are adopted
- November 2001: Doha Development Agenda is adopted
- March 2003: Deadline for receiving “initial offers”
- July 2004: “July Package” resuscitates negotiations and establishes deadline of May 2005 for submission of revised offers
- December 2005: Hong Kong Ministerial Conference reaffirms key principles of services negotiations
- July 2006: Doha negotiations suspended
- January 2007: Resumption of Doha negotiations
- May 2008: Report on services issued
- July 2008: Services Signalling Conference held as part of “July 2008” package. Ministers exchange signals on what improvements could be expected in services.
- 2009: Slowdown in negotiations overall due to failure to conclude agriculture and NAMA modalities as part of the “July 2008” package.
- March 2010: Stocktaking exercise conducted by the TNC to revive the negotiations. Report by the Chairman of the Council for Trade in Services in Special Session for the purpose of the stocktaking.
- December 2010: General Council calls for intensification of DDA negotiations across all areas.
- April 2011: Report by the Chairman of the Council on Trade in Services to the Trade Negotiations Committee, representing the state of play in the services negotiations on market access, domestic regulation disciplines, GATS rules, and the LDC waiver.
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Source: WTO (http://www.wto.org/english/tratop_e/serv_e/s_negs_e.htm)

Appendix 3. German Summary

Diese Buch untersucht die Frage, wie die organisierte Arbeiterbewegung versucht, ihre Anliegen in das System der globalen wirtschaftlichen Steuerung (global economic governance) einzubringen. Am Fallbeispiel der gewerkschaftlichen Proteste gegen das General Agreement on Trade in Services (GATS) und unter Benutzung von Theorien sozialer Bewegungen wird untersucht, welche Gelegenheiten der organisierten Arbeiterschaft zur Beeinflussung dieser Verhandlungen zur Verfügung standen und wie ausgeprägt ihre Fähigkeit war, von diesen Gelegenheiten Gebrauch zu machen.

Die Theorie sozialer Bewegungen bietet drei konzeptionelle Werkzeuge, um das Entstehen und die Effektivität von sozialem Protest gegen ein spezifisches politisches Vorhaben zu verstehen: 1. die Natur der 'Political Opportunity Structure' (die gegebene politische Umwelt, in der soziale Bewegungen operieren), 2. die organisatorische Fähigkeit von 'Bewegungsorganisationen' zur Mobilisierung von Mitgliedern und breiter Öffentlichkeit, 3. ihrer Fähigkeit, das subjektive Bewußtsein von potentiellen Aktivisten zu beeinflussen. Variationen innerhalb dieser drei Komponenten beeinflussen die Dynamik und die Effektivität der Mobilisierung. Deshalb kann eine Analyse dieser drei Dynamiken im Fall der gewerkschaftlichen Mobilisierung gegen die GATS-Verhandlungen dabei helfen, die zur Verfügung stehenden Möglichkeiten zur Mobilisierung bei Verhandlungen von Handelsabkommen zu identifizieren und zu verstehen, welches die wichtigsten Faktoren für die Mobilisierung von Unterstützung und die Ausübung von Einfluß sind. Die Untersuchung versucht außerdem die verschiedenen Quellen von Macht und Hebelwirkung zu identifizieren, die Gewerkschaften benutzt und welche Faktoren deren Verfügbarkeit und Gebrauch beeinflußt haben.

Die Proteste gegen GATS sind deshalb bedeutsam, weil sich in ihnen arbeitsbezogene Themen mit weiteren sozialen Anliegen verbinden. Zu einem gewissen Grad stehen die Anti-GATS-Proteste sinnbildlich für eine weitergehende soziale Unzufriedenheit mit den Folgen neoliberaler Wirtschaftspolitik – wobei die dabei aufgekommenen Themen nicht immer in direktem Zusammenhang mit konkreten Verhandlungen bei der WTO stehen, sondern zu anderen, oft bereits länger bestehenden, nationalen Problemen. Da die GATS-Verhandlungen allgemein als Bedrohung für die Bereitstellung wichtiger sozialer Dienstleistungen (einschließlich öffentlicher Dienstleistungen und Bildung) wahrgenommen wurden, konzentriert sich diese Untersuchung auf die Rolle der globalen Gewerkschaftsföderationen Public Services International (PSI) und Education International (EI) in den Auseinandersetzungen gegen GATS zwischen 1999 und 2006, einschließlich einer vergleichenden Studie gewerkschaftlicher Aktionen in Australien und Südafrika. Obwohl sich diese beiden Länder hinsichtlich einer Vielzahl von Variablen unterscheiden, u.a. in der politischen Stärke der Gewerkschaftsbewegungen und dem Grad des Zugangs zum Prozeß der Formulierung der nationalen Handelspolitik,

weisen sie auch signifikante Ähnlichkeiten auf, zum Beispiel sind in beiden Ländern viele der notwendigen Faktoren gegeben, die eine Kampagne wie die gegen GATS entstehen lassen.

Die mehrstufige Natur der Political Opportunity Structure

Wie diese Forschung zeigt, stellt der Prozeß der internationalen Handelspolitik selbst eine mehrstufige Political Opportunity Structure dar. Während multilaterale Verhandlungen zur Handelspolitik auf der internationalen Ebene stattfinden, bei der WTO in Genf, werden Entscheidungen über Handelspolitik und Verhandlungspositionen für WTO-Abkommen (einschließlich GATS) auf der nationalen Ebene getroffen. Das bedeutet, daß Gewerkschaften gezwungen sind, auf beiden Ebenen zu operieren: auf der nationalen Ebene, um die wesentlichen Entscheidungen zur Handelspolitik zu beeinflussen; und auf der internationalen Ebene, um Handelsdelegierte, Diplomaten und WTO-Funktionäre zu beeinflussen. Zugleich erleichtert die mehrstufige Natur der Political Opportunity Structure die Entwicklung von mehrstufigen Strategien, mittels derer Gewerkschaften versuchen, ihre eigene Agenda voranzubringen und ihre Ansprüche zu durchzusetzen.

Diese Forschung zeigt aber auch, daß die Political Opportunity Structure innerhalb der Handelspolitik beträchtlich variieren kann, sowohl zwischen der internationalen und nationalen Ebene und zwischen Ländern auf derselben Ebene: relativ geschlossen in der internationalen Arena und in Australien, relativ offen in Südafrika.

Auf der internationalen Ebene waren PSI und EI mit einer relativ geschlossenen Political Opportunity Structure konfrontiert. Die WTO ist weder eine dreiteilige Organisation (bestehend aus Vertretern von Kapital, Arbeit und Staat wie im Falle der ILO) noch ist sie irgendeinem Konzept von Sozialpartnerschaft oder sozialem Dialog verpflichtet. Im Verständnis der WTO sind globale Gewerkschaftsföderationen (Global Union Federation - GUF) und ihre Mitgliedsorganisationen nichts anderes als jede andere NGO oder private Interessengruppe. Die einzige Möglichkeit der GUFs, die Handelspositionen der jeweiligen Regierungen zu beeinflussen, besteht in der Mobilisierung ihrer Mitgliedsgewerkschaften, damit diese ihren Einfluß auf die nationalen Regierungen ausüben. In Anbetracht der Größe des internationalen Gewerkschaftsnetzwerks, könnten die GUFs, theoretisch, hinsichtlich GATS für transnationale Solidarität und für gemeinsame Aktionen mobilisieren. In der Praxis ist diese Möglichkeit jedoch durch strukturelle und organisatorische Hindernisse innerhalb der Gewerkschaftsbewegung eingeschränkt. Das hatte zur Folge, daß PSI und EI auf keine institutionelle Macht aufbauen konnten und sie nur eingeschränkte Möglichkeiten zur Ausübungen von kollektiver Macht hatten. Um diese Einschränkungen zu überwinden, gebrauchten die GUFs einen Doppelansatz einerseits aus Lobbying, Bewußtseins- und Koalitionsbildung, während sie zugleich ihre handelspolitischen Positionen in die nationale Ebene einspeisten, indem sie ihre

Mitgliedsgewerkschaften dazu drängten, Druck auf die Handelspositionen ihrer nationalen Regierungen auszuüben.

Der Mangel an offiziellem Zugang zum multilateralen Verhandlungsgeschehen wurde zu einem gewissen Grad kompensiert durch die Natur der WTO-Verhandlungen selbst, die beständig Konflikte und Uneinigkeit produziert und dadurch situative Gelegenheiten für Aktivitäten schafft. Die Nord-Süd-Spaltung während der Verhandlungen zum GATS, die aggressiven Forderungen der mächtigen entwickelten Staaten nach stärkerer Marktöffnung und der wachsende Ärger über den Mangel an Demokratie innerhalb des Prozesses der Entscheidungsfindung und Konsensbildung in der WTO eröffneten für Gewerkschaften Gelegenheiten zur Vertiefung der Spaltungen und zur Bildung von Allianzen.

GATS wurde von den GUFs beschrieben als eine mächtige externe Bedrohung für öffentliche Dienstleistungen, speziell für Bildung und Gesundheit, wie für die nationale Souveränität, welche von externen internationalen Institutionen, mächtigen Staaten und gierigen Konzernen betrieben werde. Konkreter Angriffspunkt der GUFs war aber die Privatisierungs- und Deregulierungspolitik der jeweiligen nationalen Regierungen. Durch die These, die national betriebene Privatisierungspolitik bedrohe die öffentlichen Dienstleistungen zusätzlich dadurch, daß sie diese unter den Anwendungsbereich von GATS bringe, wurden die nationalen Auseinandersetzungen in einen neuen globalen Kontext gestellt (global framing – Globale Einordnung). Gleichzeitig verstärkten die GUFs bereits bestehende Ängste über die Deregulierungspolitik, indem diese assoziiert wurde mit dem Bild, daß den Staaten von außen ein mächtiges Set von Handelsregeln aufgezwängt werde, ausgeführt und kontrolliert von einer 'undemokratischen' internationalen Institution (Internalisierung). Dies vertiefte das Gefühl der Bedrohung und verbreiterte dadurch das Mobilisierungspotential gegen weitere Privatisierung und Deregulierung und übte gleichzeitig Druck auf die nationalen Regierungen aus, ihre Handelspolitik zu ändern - oder die Situation zumindest nicht schlimmer zu machen.

Die Gewerkschaften paßten die argumentative Rahmensetzung den jeweiligen lokalen Gegebenheiten an und nutzten situative Gelegenheiten, die sich aus bevorstehenden Verhandlungsrunden, ablaufenden Fristen und eingebrachter Forderungen ergaben. Der Fokus der Rahmensetzung veränderte sich im Verlauf der GATS-Kampagne: Was als Diskurs über die Bedrohung der öffentlichen Dienste, vor allem im Bereich von Gesundheit und Bildung, begann, endete in einem Diskurs über die Bedrohung, die GATS für die nationale Souveränität zur Regulierung der eigenen Angelegenheiten darstellte.

Die Kampagnen- und Lobbyaktivitäten spiegelten tendenziell den Verhandlungsprozeß wieder und verstärkten sich im Vorfeld von Schlüsselereignissen wie den zweijährlichen WTO-Ministerialtreffen, Schlüsselverhandlungen zum GATS und des Näherrückens von Fristen, wenn ein Durchbruch in parallelen Verhandlungen wahrscheinlich erschien und wenn

Regierungen neue Forderungen auf den Verhandlungstisch legten. Diese 'Ereignisse' erhöhten den Grad der wahrgenommenen Bedrohung, lieferten Gelegenheiten zur Erzielung von Übereinkünften rund um neue Ärgernisse und eröffneten Gelegenheiten für Gewerkschaften (und andere soziale Akteure) zur Beeinflussung des Verhandlungsprozesses.

Faktisch erscheint der Verhandlungsprozeß als eine Art von 'Gelegenheits-Bedrohungs-Spirale' (opportunity - threat spiral) (Tarrow 2005, Karapın 2011), wobei die wahrgenommene Bedrohung durch GATS die Herausbildung von Allianzen und gemeinsamen Protesten zwischen verschiedenen GATS-kritischen Gruppen wie Gewerkschaften, NGOs und sozialen Bewegungen anstieß. Die folgenden Aktionen und Events, wie WTO-Ministertreffen und Fristsetzungen in den GATS-Verhandlungen, eröffneten neue Gelegenheiten zum Lobbying und zur Organisation von Protesten. Es folgten wiederum neue Bedrohungen als Folge neuer Forderungen und Themen, die in die Verhandlungen eingebracht wurden; was wiederum neue Gelegenheiten zur Mobilisierung schuf, und so weiter.

Wie erklären sich Unterschiede auf der nationalen Ebene?

Auf nationaler Ebene finden wir signifikante Unterschiede zwischen den zwei nationalen Fallstudien hinsichtlich der Politcal Opportunity Structure, der Mobilisierungs- und Organisierungsfähigkeit bei Handelsthemen und auch hinsichtlich des Maßes, in dem das Thema GATS von den nationalen Gewerkschaften als ein für sie bedeutsames Thema aufgegriffen wurde. Zu einem gewissen Grades war letzteres abhängig davon, ob das Thema GATS, so wie es auf internationaler Ebene bewertet wurde, mit den jeweiligen Bewertungen und Bedenken der nationalen Gewerkschaftsführungen übereinstimmte.

In Australien gab es eine nachhaltige gewerkschaftliche und zivilgesellschaftliche Kampagne gegen GATS, unter Beteiligung der australischen Mitgliedsgewerkschaften von PSI und EI. Da allerdings Gewerkschaften und Zivilgesellschaft weitgehend aus der Formulierung der nationalen Handelspolitik ausgeschlossen waren, konnten sie keine formellen Strategien des sozialen Dialogs (institutionelle Macht) nutzen. Auch konnten sie keine 'Insiderstrategien' nutzen, da diese ein freundschaftliches Verhältnis mit der regierenden Partei (politische Macht) voraussetzen. Dennoch waren die Gewerkschaften in der Lage, ihre Macht als Bürger zu nutzen, indem sie einige neu geschaffene institutionelle Zugangswege über das parlamentarische System nutzen. Dieses Ergebnis stützt die Beobachtung von Gentile und Tarrow (2009), daß Gewerkschaften erfolgreich den Ort ihrer Aktivitäten auf das Gebiet der Bürgerrechte verlagern können, wenn keine adäquaten gewerkschaftlichen Rechte bestehen oder diese unterdrückt werden.

Der Mangel an Zugang zum politischen Prozeß in Australien wurde teilweise aufgehoben durch die hochgradig aufgeladene politische Atmosphäre: die internationale Handelspolitik war bereits ein öffentliches Thema und die damalige Regierung war verwundbar gegenüber Klagen über das fortdauernde

Demokratiedefizit in der internationalen Handelspolitik. Zusätzlich hatten Gewerkschaften und zivilgesellschaftliche Aktivisten bereits eine erstaunliche organisatorische Gewandheit durch eine frühere Kampagne, gegen das Multilateral Agreement on Investment (MAI), entwickelt. Wie auf der internationalen Ebene, war die australische Kampagne gegen GATS stark mit der Frage von Privatisierungen und der Bedrohung nationaler Regulierungsfähigkeit verknüpft. Darin zeigt sich das hohe Maß an Besorgnis über die fortdauernde Privatisierung öffentlicher Dienstleistungen. Analog zur internationalen Kampagne begleiteten auch in Australien Lobbying, Bewußtseinsbildung und Aktionen den GATS-Verhandlungsprozeß. Auch kann man eine ähnliche Spirale von Gelegenheiten und Bedrohungen beobachten: WTO-Ereignisse und kritische Verhandlungspunkte erzeugten situative Gelegenheiten für verstärkte Lobby- und Kampagnentätigkeiten.

Im Gegensatz zu Australien gab es in Südafrika keine identifizierbare Kampagne gegen GATS - obwohl scheinbar alle dafür notwendigen Faktoren vorhanden waren: wachsende Besorgnis über das Eindringen internationaler Institutionen in das nationale politische Regime, eine von der Regierung betriebene Kommodifizierung und Privatisierung sozialer Dienstleistungen, ein breites Bewußtsein über die mit GATS zusammenhängenden Problematiken sowohl in den Gewerkschaften wie in der Zivilgesellschaft. Und das obwohl die organisierte Arbeiterschaft sowohl über die Gelegenheit wie die Fähigkeit verfügte, in den Prozeß der Formulierung der südafrikanischen Handelspolitik einzugreifen, denn in Südafrika können die Gewerkschaften ihre wirtschaftspolitischen Positionen ganz formal über eine dreiteilige Institution (NEDLAC) in den politischen Prozeß einspeisen. Darüberhinaus hat die größte Gewerkschaftsföderation COSATU direkte Zugangskanäle zu Ministern und Schlüsselpersonen durch ihre Allianz mit der Regierungspartei ANC.

Der Hauptgrund für den Mangel an gewerkschaftlicher Aktivität gegen GATS scheint die mangelnde Resonanz der internationalen Kampagne bei den südafrikanischen Gewerkschaftsführungen gewesen zu sein. Während COSATU beträchtliche Proteste gegen die Privatisierung und Kommodifizierung von wichtigen Dienstleistungen, speziell in der Wasserversorgung, organisierte, wurde dies als eine vorwiegend nationale Angelegenheit betrachtet – ohne eine Verbindung zu dem von außen kommenden Druck durch die GATS-Verhandlungen zu ziehen. In anderen Worten: Im Gegensatz zum australischen Fall, griffen die südafrikanischen Gewerkschaften keine globalen Themen auf, um nationale Schlachten zu schlagen. Sie ordneten die nationale Frage von Privatisierung und Deregulierung von Dienstleistungen nicht in den globalen Kontext ein, auch betrachteten sie diese nationale Politik nicht als möglichen Ausfluß der GATS-Verhandlungen.

Diese Tatsache scheint auch in Zusammenhang mit der Natur der südafrikanischen Political Opportunity Structure zu stehen. Als Ergebnis ihres institutionalisierten Zugangs zum politischen Prozeß, nutzte COSATU mehr 'Insiderstrategien' zur Beförderung der gewerkschaftlichen Anliegen, ergänzt durch politische

Mobilisierung, falls sich Politiker nicht offen für gewerkschaftliche Anliegen zeigten. Hatte COSATU zunächst einige politische Forderungen in Hinsicht auf GATS formuliert, akzeptierte es später die Zusicherung der Regierung, sie würde keine weitergehenden Angebote in wichtigen Dienstleistungen machen. Dies reduzierte das Bedrohungsgefühl und verschloß die Möglichkeit, rund um dieses Thema zu mobilisieren.

Konklusion

Die Fallstudien der gewerkschaftlichen Aktionen gegen GATS zeigen, daß trotz der generell geschlossenen Natur der multilateralen Handelsverhandlungen und des fehlenden institutionalisierten Zugangs für Gewerkschaften auf internationaler und nationaler Ebene (im Fall von Australien), es Gelegenheiten für die Ausübung von Einfluß im internationalen Verhandlungsprozeß gab. Gewerkschaften sowohl auf der globalen wie nationalen Ebenen, in Australien, waren in der Lage, Möglichkeiten zu eröffnen, Druck auf Verhandlungspositionen auszuüben – durch Lobbying und Bewußtseinsbildung, durch Infragestellung der Behauptung, die Deregulierung von Dienstleistungen führe zu Vorteilen auf allen Seiten, durch die Skandalisierung der Taten und Positionen von Regierungen, durch das Zurverfügungstellen von politischer Beratung und technischer Hilfe für Entwicklungsländer und durch die Verstärkung bestehender Spaltungen in den Verhandlungspositionen.

Die Uneinigkeit stiftende Natur der GATS-Verhandlungen und des Prozesses der Entscheidungsfindung (Konsenskultur) innerhalb der WTO und die dadurch beförderten wechselnden Allianzen kompensierten zu einem gewissen Grad den Mangel an offiziellem Zugang. Es wurde dadurch möglich, Spaltungen zu vertiefen und 'Gewinner-Allianzen' zu schmieden. Vor allem waren Gewerkschaften in der Lage, aus Gelegenheiten, die spontan aus dem Verhandlungsprozeß entstanden, Vorteile zu erzielen. Wie oben gesehen, setzten diverse Schlüsselereignisse eine Gelegenheit-Bedrohungs-Spirale in Gang, welche zur Intensifizierung der Anti-GATS-Kampagne benutzt werden konnte.

Dies hing allerdings von der Fähigkeit der Gewerkschaften ab, die Bedrohungen zu identifizieren und sie als Gelegenheiten für Aktivitäten neu zu interpretieren. Dazu bedarf es eines beträchtlichen Expertenwissens über das Innenleben der WTO, den Ablauf der GATS-Verhandlungen und der ihr innewohnenden Dynamiken. Ein tiefes Verständnis über die Komplexität und die praktischen Implikationen der GATS-Verhandlungen ist auch nötig für die Formulierung einer Botschaft, die bei den Gewerkschaftsmitgliedern, der breiten Öffentlichkeit, den anvisierten Bündnispartnern, wie z.B. den Handelsdelegationen der Entwicklungsländer, auf Resonanz stößt.

Zum Ausgleich des Mangels an institutioneller Macht, wie auch der zurückgehenden Organisationsmacht, verließen sich die Gewerkschaften auf internationaler wie auf nationaler Ebene, in Australien, in einem hohen Maße auf diskursive Strategien und der Bildung von Koalitionen mit anderen Gruppen und NGOs, die bereits zu GATS

arbeiteten. Dies setzt jedoch das Vorhandensein einer breiten zivilgesellschaftlichen Kampagne gegen GATS voraus, welche den Gewerkschaften Zugang zu Bündnispartnern, Expertenwissen, theoretischer Rahmensetzung und Kampagnestrategien eröffnet.