

Shaping Global Trade Governance Rules: New Powers' Hard and Soft Strategies of Influence at the WTO

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How do new powers seek to influence global trade governance rules? In this contribution, I posit that, contrary to the EU and the US, which act predominantly as regulatory powers, rising powers use a variety of hard and soft strategies to shape global trade governance. The article finds that a combination of hard strategies, such as coalition-building or obstruction, and soft strategies, including placing their own nationals at the top of the WTO or pursuing incremental procedural changes to make trade governance more inclusive, enabled new powers to shape global trade governance rules over the past fifteen years.

1 INTRODUCTION¹

Over the past decades, the global governance architecture has been dominated by the US and the EU, giving them the status of established powers that acted as 'world regulators'. Incumbent powers defined the rules of the multilateral game and developing countries implemented these despite serious contestation. At the end of the 1990s, this situation changed, as rising powers, such as Brazil, India and China (BICs), took a more proactive position and defied the old global trade order.² With the official beginning of the Doha round of multilateral trade negotiations in 2001, rising powers built several coalitions, the G-20 and the

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² Rising powers is the standard term used in the literature to designate the group of the economically rapidly growing countries which are challenging the global governance architecture. In this article, I use this term interchangeably with new powers. Depending on the institutional constellation, the term rising powers also includes Russia and South Africa. This piece, however, focuses merely on Brazil, India and China.

G-33, with the aim of having the issues of more relevance to them included in the negotiating agenda. At several ministerial meetings, including Cancún in 2003 or Bali in 2013, they effectively blocked negotiations by refusing to accept the compromise proposed by established powers. Against this background, I investigate which strategies new powers use to shape rules in global trade governance.

This contribution engages with the discussion in the literature about whether rising powers act as rule-takers or rule-makers.³ I map the variety of strategies of influence, that is, optimal ways of achieving reform goals within an institutional setting, used by rising powers to shape global trade rules. Thereby, I argue that, contrary to the US and the EU, which act predominantly as regulatory powers, new powers' strategies of influence include a wide range of *hard strategies*, such as integrative and distributive bargaining, coalition-building, obstruction, threats and regional exit strategies and *soft strategies*, including placing their own nationals at the top of institutions or in key operational staff positions and calling for incremental procedural changes to make existing institutions more accountable, transparent, coherent and inclusive. In line with the introductory framework of this special issue, hard strategies correspond to hierarchical power through conditionality. They are characterized by attempts of the EU and the US to change the incentives of new powers 'through the manipulation of the latter's costs or benefits linked to the targeted behaviour'.⁴ By contrast, soft strategies of influence are subtler and closely linked to horizontal mechanisms of epistemic co-optation as mechanisms of intentional policy transfer. The use of hard strategies of influence aims at limiting coercive attempts by the EU and the US. Soft strategies relate to more horizontal means of governance. In this sense, placing nationals in key operational positions within international organizations (IOs) and engaging in procedural changes may also weaken horizontal means of rule transfer by the EU and the US since they have to take the positions and views of rising powers into account.

To illustrate this argument, I show how rising powers interchangeably use a variety of these strategies within the World Trade Organization (WTO). They recur to cooperative negotiating strategies, characterized by integrative bargaining and coalition-building, and are, under certain conditions, willing to adopt regulatory rules and standards. In this way, they act as rule-takers. While emphasizing

³ K. Hopewell, *Different Paths to Power: The Rise of Brazil, India and China at the World Trade Organization*, 22 *Rev. Intl. Pol. Economy* (2015); M. Kahler, *Rising Powers and Global Governance: Negotiating Change in a Resilient Status Quo*, 89 *Intl. Aff.* (2013); *Rising Powers and Multilateral Institutions* (D. Lesage & T. Van de Graaf eds, Palgrave Macmillan 2015); Amrita Narlikar, Introduction: Negotiating the Rise of New Powers, 89 *International Affairs* (2013); *supra* n. 3; S. Schirm, *Leaders in Need of Followers: Emerging Powers in Global Governance*, 16 *Eur. J. Int'l Rel.* (2010); J. Scott & R. Wilkinson, *China as a System Preserving Power in the WTO*, in Lesage & Van de Graaf (eds), *id.*

⁴ See S. Lavenex et al., *Introduction: EU and US Regulatory Power Under Strain? Emerging Countries and the Limits of External Governance*, 22 *Eur. Foreign Affairs Rev.* 1–18 (Special Issue 2017).

their own priorities in line with demands from domestic interest groups, rising powers function primarily as partners of the EU and US at the WTO, not directly curtailing the latter's regulatory influence. This is because rising powers are deeply embedded in transgovernmental networks dominated by EU/US regulators and due to a lack of administrative and regulatory capacity. This was the case at the Cancún ministerial meeting in 2003. However, if rising powers are dissatisfied with the reform proposals put on the table, they may adopt more confrontational negotiating strategies, acting as obstructive powers which make use of distributive bargaining strategies, obstruction and regional exit strategies. In this situation, governmental elites from rising powers are more likely to oppose EU/US norms and to act as rule-contesters. This will be illustrated by the BICs' role during the Bali 2013 and Kenya 2015 ministerial meetings. At the same time, within the WTO they have learned to adopt soft strategies of influence, including placing their own nationals strategically either at the top of the organization or as chairs of committees of central importance to them and using the rule-based dispute settlement body to pursue their trading rights.

This contribution shows that, while new powers try to remove structural bias in the design of multilateral trade rules, they also attempt to maintain their identity as part of the developing world. In addition, in situations of negotiation gridlock, similar to established powers, they effectively use regional strategies, such as leadership within regional organizations, to offer novel alternatives to the WTO and thus to decrease their dependence on multilateral trade rules.

This article proceeds in the following manner. In the next section, I review the global economic governance and rising powers literature. In the second section, I explore the variety of hard and soft strategies of influence used by rising powers and link them to hierarchical and horizontal mechanisms of exerting power. In the third and fourth section, I illustrate the argument made by looking closely at how the BICs effectively use hard and soft strategies of influence at the WTO.

2 GLOBAL ECONOMIC GOVERNANCE LITERATURE AND RISING POWERS

Despite increasing theoretical and empirical attention to the role of rising powers in global economic governance in general⁵ and in IOs in

⁵ C. Ban & M. Blyth, *The BRICS and the Washington Consensus: An Introduction*, 20 *Rev. Intl. Pol. Economy* (2013); J. Gaskarth, *China, India and the Future of International Society* (Roman and Littlefield 2016); K. Hopewell, *Different Paths to Power: The Rise of Brazil, India and China at the World Trade Organization*, 22 *Rev. Intl. Pol. Economy* (2015); G. John Ikenberry, *Rising Powers and Global Institutions* (The Century Foundation 2008); Kahler, *supra* n. 3; E. D. Mansfield, *Rising Powers in the Global Economy: Issues and Questions*, 16 *Int'l Stud. Rev.* (2014); Narlikar, *supra* n. 3; *Negotiating Trade: Developing Countries in the WTO and NAFTA* (J.S. Odell ed., Cambridge University Press 2006).

particular,⁶ scholars widely disagree on whether rising powers are more likely to contest or accept the rules and institutions of the liberal world order. While some scholars expect that rising powers will act as revisionists and are a threat to the 'liberal world order',⁷ others argue that the existing global governance order gave new powers the opportunity to rise, so that they will merely seek incremental adaptations of existing rules and institutions.⁸ Focusing on the success of rising powers' challenges, Zangl et al.⁹ developed an institutionalist power shift theory. They argue that institutional adaptation will succeed or fail depending on rising powers' ability to undermine international institutions or to make credible threats to this effect. Finally, several scholars have begun to examine rising powers' coalition-building efforts, for instance, at the WTO.¹⁰ To my knowledge, however, few scholars have looked specifically at the question of which strategies rising powers use to influence the institutional design of IOs. A partial exception is Amrita Narlikar's special issue in *International Affairs* on 'Negotiating the Rise of New Powers',¹¹ which focuses specifically on rising powers' negotiating behaviour and their ability and willingness to assume international leadership. In this special issue, Miles Kahler investigates the negotiating behaviour of the BICs across economic and security regimes.¹² He suggests that new powers' attitudes are similar to those of incumbent powers: they want to extract as many benefits as possible from international cooperation while sacrificing as little autonomy and sovereignty as necessary; they have clear preferences on how to reform global governance, including opposition to international hierarchies and support for a more inclusive style of decision-making within IOs. This contribution complements this research by exploring the variety of hard and soft strategies used by new powers to shape global trade governance rules.

⁶ G. T. Chin, *The State of the Art: Trends in the Study of the BRICS and Multilateral Organizations*, in Lesage & Van de Graaf (eds), *supra* n. 3; K. P. Gallagher, *Understanding Developing Country Resistance to the Doha Round*, 15 *Rev. Int'l Pol. Economy* (2008); Lesage & Van de Graaf (eds), *supra* n. 3; Scott & Wilkinson, *supra* n. 3; M. Stephen, *Rising Regional Powers and International Institutions: The Foreign Policy Orientations of India: Brazil and South Africa*, 26 *Global Soc'y* (2012).

⁷ N. Barma et al., *A World Without the West*, 90 *Nat'l Int.* 23–30 (2007).

⁸ G. John Ikenberry, *The Future of the Liberal World Order: Internationalism after America*, 90 *For. Aff.* (2011); R. Schweller & X. Pu, *After Unipolarity: China's Vision of International Order in an Era of U.S. Decline*, 36 *Intl. Sec.* (2011).

⁹ B. Zangl et al., *Imperfect Adaptation: How the WTO and the IMF Adjust to Shifting Power Distributions Among Their Members*, 11 *Rev. Int'l Org.* (2016).

¹⁰ E. da Conceição-Heldt, *Negotiating Trade Liberalization at the WTO: Domestic Politics and Bargaining Dynamics* (Palgrave Macmillan 2011); A. Narlikar, *International Trade and Developing Countries: Bargaining Coalitions in the GATT & WTO* (Routledge 2003); A. Narlikar & J. Odell, *The Strict Distributive Strategy for a Bargaining Coalition: The Like Minded Group in the World Trade Organization*, in Odell (ed.), *supra* n. 5, 1–36.

¹¹ Narlikar, *supra* n. 3.

¹² Kahler, *supra* n. 3.

3 RISING POWERS' HARD AND SOFT STRATEGIES OF INFLUENCE IN GLOBAL TRADE GOVERNANCE

Incumbent powers, such as the US and the EU, use their regulatory power as an effective strategy to set the rules in global economic governance. However, the hegemonic position of both trade powers has been increasingly undermined in recent years by their diminishing share of the world economy vis-à-vis emerging powers. The rise of new powers additionally challenges EU and the US regulatory capacity,¹³ that is, their capacity to formulate, implement and uphold international trade rules.¹⁴ When it comes to the renegotiation of trade rules, established trade powers are able to leverage their economic power and the weight of their trade volume to extensively influence negotiating proposals without recurring to other strategies, such as coalition-building. In doing so, established powers can use both hierarchical (coercion) and horizontal (co-optation) strategies. Hierarchical power mechanisms allow established powers to use various positive or negative measures at bi- or multilateral levels to build up conditionality. Horizontal co-optation strategies, in turn, are related to their regulatory capacity and longer legal and administrative expertise in trade rules. This translates into more qualified staff in the administration at the United States Trade Representative office and the General Direction Trade of the European Commission and corresponding financial resources for trade.¹⁵

Until the beginning of the Doha round negotiations, both the EU and the US played a central role in defining trade rules, while developing countries accepted the deals negotiated bilaterally between the two big trade powers. For example, during the Uruguay round negotiations the EU and the US agreed informally on a new trade regime in the Blair House agreement and developing and developed countries simply accepted this agreement to enable the conclusion of the deadlocked round. At that time, developing countries agreed to implement the Blair House rules for two reasons: First, their status as 'developing countries' guaranteed them longer transition periods to implement the multilateral trade agreements. Second, the US/EU coalition used a coercive strategy and threatened to restrict developing countries' access to their most important markets.¹⁶

With the beginning of the Doha round the BICs became aware of their increasingly important role in global trade and wanted to have a say on trade rules. By now, the five rising powers (Brazil, China, India, Russia and South

¹³ See Lavenex et al., *supra* n. 4.

¹⁴ D. Bach & A. Newmann, *The European Regulatory State and Global Public Policy*, 14 J. Eur. Pub. Pol'y (2010); D. Bach & A. Newmann, *Domestic Drivers of Transgovernmental Regulatory Cooperation*, 8 Reg. & Governance (2014).

¹⁵ See also Lavenex et al., *supra* n. 4.

¹⁶ da Conceição-Heldt, *supra* n. 10.

Africa) collectively have about 3 billion potential consumers and dynamic internal markets with increased consumer purchasing power. During the Uruguay round, these countries were still much smaller markets and thus more dependent on the EU/US. By the time the Doha round came about their capacity to resist the pull of the EU/US markets had increased significantly. In this context of increased economic power, rising powers have raised their voices and used different strategies of influence at the WTO.¹⁷

In this contribution, I examine how the BICs recur to hard and soft strategies of influence to shape global trade governance. Thereby, I explore the following *hard strategies of influence*: integrative and distributive bargaining, coalition-building, threats, obstruction and exit strategies. *Soft strategies of influence* include placing own nationals at the top of institutions or in key operational staff positions, calling for more periodical reviews and pursuing incremental procedural changes to make existing institutions more accountable, transparent, coherent and inclusive. Hard strategies relying on market power aim to resist the coercive power of the existing trade hegemon. Soft strategies are linked to transgovernmentalism as being able to place operational staff in key positions. Such strategies require of regulatory capacities.

3.1 HARD STRATEGIES OF INFLUENCE

Hard strategies of influence vary between cooperative and confrontational modes of influence. Hard cooperative strategies include integrative bargaining and coalition-building strategies. Hard confrontational strategies encompass distributive bargaining, obstruction, threat and exit strategies. When it comes to the renegotiation of trade rules, rising powers can use different types of hard negotiating strategies sequentially, depending on how effective each strategy is. For example, they can start with a more cooperative approach, as they become dissatisfied with the depth and speed of the negotiations, they can then move to more confrontational bargaining strategies. Below I will define these different hard strategies of influence by mapping under which conditions rising powers are more likely to use them in global governance.

Integrative bargaining and coalition-building are two effective and cooperative strategies of shaping global governance rules. *Integrative bargaining strategies* refer to actions which aim to find a common solution so that the joint gains available to all negotiating parties are increased.¹⁸ In contrast, states join coalitions because they expect to extract a better deal for themselves by acting in concert with other

¹⁷ See Gallagher, *supra* n. 6.

¹⁸ J. S. Odell, *Negotiating the World Economy* (Cornell University Press 2000).

countries with similar negotiating positions on the issues at stake. Acting together within a coalition constitutes a way of negotiating from a position of strength with incumbent powers. *Coalition-building* consequently refers to the decision by any group of actors in global governance to act in concert with the aim of increasing their bargaining leverage. These coalitions are generally informal in the sense that they are fluid and actors can simultaneously be members of several coalitions.

Rising powers can choose amongst different types of coalitions. These include *agenda-setting coalitions*, in which coalition members agree on which issues they want to include in global governance negotiations; *blocking coalitions*, in which states act in concert to hinder agreement on a certain issue. These informal coalitions will be more or less effective depending on their ability to have a single country assume the leadership role and speak on behalf of all other coalition members when negotiating with incumbent powers.

By contrast, when negotiations remain deadlocked and rising powers consider their demands are not being sufficiently taken into account, they are more likely to move to more confrontational types of hard strategies. These include distributive or value-claiming strategies, obstruction, threats and even regional exit strategies. *Distributive bargaining strategies* refer to competitive and confrontational bargaining behaviours. Actors are more concerned with relative gains, e.g. their own share in world trade, than with absolute gains. In line with this more confrontational negotiating strategy, new powers can opt for a strategy of *obstruction*, which describes a strategy of blocking negotiations either by refusing to exchange proposals and counterproposals or by refusing to accept one-sided losses to reach an agreement. A *threat* strategy refers to actors arguing that they will go back to the status quo ante or will look for an alternative option if their demands are not taken into account by the other bargaining parties. Responding to a dissatisfactory situation with a threat is unlikely to de-escalate conflict within the negotiations and can even lead to an interruption of the bargaining process. As a result, threats are a preferred strategy for credibly signalling to incumbent powers that keeping the status quo will lead to gridlock. In this case, new powers might threaten with an *exit option*, for example, prioritizing regional and bilateral trade agreements, as this allows them to obtain a better trade deal. When negotiations are blocked at the global level, regional strategies offer a credible and novel alternative. When rising powers are discontent and unable to change the power constellation within an IO, fragmentation and an increase of regime complexity is likely to occur.¹⁹ A failure to accommodate the demands of new powers in the long-term might lead to an IO's decline.

¹⁹ See also K. J. Alter & S. Meunier, *The Politics of International Regime Complexity*, 7 Persp. on Pol. (2009).

At the same time, as the BICs are regional powers, two other exit strategies may be available. First, they can assume leadership, for example by initiating the negotiation of regional trade agreements. Doing so allows them to shape regional trade rules. Second, the BICs can play the asymmetrical bargaining power card because their vast internal market and increasing consumer purchasing power allow them to demand one-sided gains from regional partners as their price of agreement for a trade deal. This allows the BICs to persuasively argue at the multilateral level that, should their demands not be met, they will shift their focus to the regional or bilateral level. Nonetheless, a formal exit option is very unlikely. As global free trade can only be provided by *one* IO in the form of a quasi-monopoly, the costs of leaving this organization and setting up a competitor which is able to replace the incumbent IO should be prohibitively high.²⁰ This might weaken the effectiveness of this negotiating strategy, as established powers know that putting into practice this strategy would have an enormous negative impact on rising powers' economies. Exit, therefore, is a reaction of last resort after the voice option has failed.

3.2 SOFT STRATEGIES OF INFLUENCE

Rising powers are aware that a unique focus on cooperative and confrontational negotiating strategies is not always effective. As a result, they have learned to use the existing trade rules to shape organizations from within without recurring to treaty changes. In contrast to established powers, which can rely on more extensive capabilities to influence IOs and which enjoy institutionalized and ideational avenues of influence, the BICs use existing structures to their advantage by recurring to *soft strategies of influence*.²¹

First, they can *place their nationals at the top of institutions or in key operational staff positions*. By doing this, they avoid being outvoted and can prepare proposals for the issues at stake that better integrate their interests. For instance, this strategy might include chairing WTO committees, which are of central relevance for the BICs. A second soft strategy of influence used by rising powers is to *call for more procedural reviews*. For example, the creation of the dispute settlement mechanism in 1995 introduced greater 'legalism' and 'judicialization' into trade dispute settlement, making it more 'rules-oriented' relative to the previous 'power-oriented'

²⁰ See also A. O. Hirschman, *Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations and States* (Harvard University 1975).

²¹ Whereas institutionalized avenues of influence refer to established powers' capacity to withhold or increase funds for particular issues and thus their capability to block organizational actions, ideational influence defines how a single state, such as the US, which designed and established today's most prominent IOs, was able to embed its own values (liberalism) and principles (free trade) in these institutions (see T. Johnson, *Guilt by Association: The Link Between States' Influence and the Legitimacy of Intergovernmental Organizations*, 6 Rev. Int'l Org. (2011)).

GATT system.²² The new dispute settlement system gave rising powers an effective instrument to pursue their trading interests and to successfully challenge unfair trade practices of developed countries. By being able to post nationals in key positions, rising powers are able to increase their influence and better defend their interests. Lavenex et al. argue that expertise and socialization are crucial ways in which established powers extend their influence in transgovernmental networks.²³ Following this line of argumentation, when emerging powers are able to include their nationals in key positions in existing IOs, they may be able to effectively influence the way these organizations work through their own expertise and by socializing others. However, they may also be socialized into supporting the existing rules and in this case, we would not expect necessarily an increased influence.

Finally, another soft strategy of influence involves *pursuing incremental procedural changes to make existing institutions more accountable, transparent, coherent and inclusive* without formally changing treaties. This includes trying to increase rising powers' ideational influence by lobbying for the acceptance of new principles and rules that they consider to be of central importance. This goes in line with the horizontal mechanisms of influence, which offer a subtler way to undermine European and US American regulatory standards.²⁴ Examples include having concepts such as fair trade as a complement to free trade or putting special and differential treatment (SDT) for developing countries on the negotiating agenda. In relation to accountability and transparency, this strategy might encourage the inclusion of procedural reviews for the Trade Policy Review Mechanism (TPRM), a major source of information on the trade policies of WTO members and on global trade development. When the inclusion of a TPRM was initially discussed during the Uruguay round, developing countries were opposed to the establishment of new obligations. In the end, however, they supported this new mechanism, seeing it as a means of closing the gap between their surveillance capacity and that of developed countries, of improving their trade and investment policies, of obtaining recognition for their implementation of trade rules and of ensuring that trade rules applied to all members would be regularly monitored by the WTO Secretariat.²⁵ By applying the same rules for all individual members, the TPRM increases coherence within the WTO, strengthens inclusiveness, transparency of trade rules and equality among Member States. Horizontal power through technocratic

²² See B. Zangl, *Judicialization Matters! A Comparison of Dispute Settlement under GATT and WTO*, 52 Intl. Stud. Q. (2008).

²³ Lavenex et al., *supra* n. 4.

²⁴ *Ibid.*

²⁵ S. Laird & R. Valdés, *The Trade Policy Review Mechanism*, in *The Oxford Handbook on the World Trade Organization* (A. Narlikar et al. eds, Oxford, 2012).

co-optation that relies on regulatory capacity by pursuing incremental procedural changes can thus be equally effectively exercised by emerging powers.

As this section illustrates, rising powers have access to a vast array of hard and soft strategies of influence in IOs which equate with the hierarchical and horizontal means of influence discussed in the Introduction of this special issue. The next section investigates how new powers have effectively been able to use hard and soft strategies to influence global trade rules during the Doha round of trade negotiations from 1999 to 2015.

4 HARD STRATEGIES OF INFLUENCE AT THE WTO

Under the leadership of Brazil and India, rising powers have used both hard and soft strategies during the Doha round negotiations to shape global trade governance rules.²⁶ They began by using *integrative negotiating* strategies. Both countries presented constructive proposals on how to change the negotiating agenda in a way acceptable to them. Simultaneously they assumed a leadership role in building coalitions to shape the current multilateral trade system. The use of integrative bargaining strategies enabled Brazil and India to put the issues of central relevance to their domestic constituencies on the negotiating agenda. These included the liberalization of the agricultural sector for Brazil, the liberalization of the services sector for India and the inclusion of a food security program for India. At the same time, Brazil and India strategically and effectively took advantage of their identity as developing countries in the negotiations, asking to keep that status and to include SDT for developing countries in the negotiating agenda, as this would give them more time and flexibility to implement multilateral trade agreements.²⁷ Rising powers still face continued levels of poverty and increasing inequality and they have a long history of viewing development as the principal global and national challenge.

In order to integrate these demands into the Doha negotiations, established powers agreed to officially call the negotiations the 'Doha Development Agenda' to show their willingness to seriously address development issues. Furthermore, incumbent powers committed themselves to guaranteeing duty and quota-free market access for products coming from least developing countries (LDCs) and developing countries as a means of addressing these states' development needs. This reflected a demand by the Indian government, which had underlined that

²⁶ At the beginning of negotiations in 1999, China was not a member of the WTO. Accordingly, the Chinese position is taken into consideration only from the time of its accession in 2001 onward. Thus the focus here is predominantly on Brazil and India.

²⁷ World Trade Organization, *Doha WTO Ministerial Conference 2001: Statement by Brazil* (10 Nov. 2001) http://www.wto.org/english/thewto_e/minist_e/ (accessed 17 Mar. 2017).

developing countries needed to be able to provide food and livelihood security to their citizens.²⁸

Subsequently, the BICs used *coalition-building* to shape global trade governance, which allowed them to defend a common position on the issues at stake by explicitly coordinating with other countries who shared their negotiating preferences. As coalition-builders, the BICs acted pragmatically by simultaneously participating in several different coalitions. Whereas Brazil, India and China are all members of the G-20 and of the Friends of Anti-Dumping Negotiations, India is also a member of the G-33 and Brazil is a member of the 'NAMA-11' coalition. Brazil and India both play leadership roles in different coalition groups. For example, Brazil set up the G-20 to make the interests of developing agricultural exporters a more prominent issue in the negotiations and to reverse protectionism in this sector. India, in turn, assumed leadership of the G-33, which represents the interests of developing agricultural importers. The NAMA-11 coalition was created by South Africa with the aims of establishing a more extensive reduction of tariff rates by developed countries than by developing countries and of achieving a more balanced outcome between non-agricultural and agricultural market access. The BICs have used soft strategies of influence within this group to emphasize their shared demand of having more flexibility on industrial tariff liberalization. Although China is not officially a member of this coalition, it does support the group's position.²⁹ In contrast to Brazilian and Indian coalition leadership, China has kept a low profile in these coalitions and Chinese officials have reiterated on several occasions that China does not intend to lead any group within the WTO neither now nor in the near future.³⁰

Before the Cancún meeting in 2003, the EU and US presented a proposal in which they opposed giving the full benefits of SDT to net agricultural exporting countries. This prompted Brazil to build the G-20, a highly cohesive coalition asking for greater agricultural trade liberalization.³¹ This coalition linked agricultural exporters with a strong interest in agricultural trade liberalization, such as Brazil and South Africa, with agricultural importers, like India and China.³² The resulting G-20 coalition presented a detailed proposal asking for longer implementation periods for developing countries, an extension of SDT to all developing countries, a total elimination of export subsidies for all products of special interest to developing countries, a substantial reduction of domestic subsidies linked to

²⁸ World Trade Organization, *Doha WTO Ministerial 2001: Ministerial Declaration* (2001), at: http://www.wto.org/english/thewto_e (accessed 17 Mar. 2017).

²⁹ B. Vickers, *The Role of the BRICs in the WTO: System-Supporters or Change Agents in Multilateral Trade?*, in Narlikar et al. (eds), *supra* n. 25.

³⁰ Scott & Wilkinson, *supra* n. 3.

³¹ da Conceição-Heldt, *supra* n. 10.

³² Vickers, *supra* n. 29.

production and better market access through significant tariff rate reductions, especially for processed agricultural products, like orange juice.³³

On non-agricultural market access, the Brazilian government opposed further trade liberalization for the industrial sector due to its potential negative impact on workers' salaries and on employment. By contrast, due to its large rural communities, India's main negotiating priority on agricultural issues was to ensure the livelihood of rural populations and food security (G-20 2005). Similar to Brazil in the G-20, India assumed the leadership and speaker's role within the G-33, asking for the exclusion of 'special products' from agricultural trade liberalization and for the creation of a special safeguard mechanism temporarily allowing developing countries to raise their tariffs in the case of falling prices or an import surge. Hitherto, the G-20 and the G-33 have been two of the most influential and prominent coalitions of rising powers thanks to the leadership role provided by Brazil and India, respectively.³⁴

Brazil and India also used the NAMA-11 coalition to demand an extensive reduction of tariff rates in the industrial sector for developed countries and a smaller reduction for developing countries. Due to their low level of competitiveness in this sector, in line with the demands of their industrial sectors, the Brazilian and the Indian governments refused further tariff rate reductions for industrial products within the NAMA-11 coalition. In turn, India supported trade liberalization only for its highly competitive services sector. Starting at the Geneva ministerial meeting in 2008, India additionally assumed the leadership of the NAMA-11 coalition, rejecting the proposal by established powers to limit developing countries' ability to use tariffs and import quotas to protect their domestic industries.³⁵

In contrast to Brazil and India, China has neither become a leader of diplomacy in any of these coalitions nor has it rewritten the rules of the game. Admittedly, China has been very active in the Friends of Anti-Dumping Negotiations group, which aims to strengthen anti-dumping rules and to limit arbitrary practices.³⁶ However, China refused, hitherto, to take a leadership role or to ally itself formally with this group.³⁷ This can be explained by China prioritizing the maintenance of its status as a developing country and as a new WTO member in the Doha round. This status entitles China to have certain products exempted from tariff reductions and also gives China more time to implement respective

³³ G-20, *Ministerial Communiqué Cancún, 9 September 2003* (2003), <http://www.g-20.mre.gov.br/conteudo/> (accessed 17 Mar. 2017).

³⁴ E. da Conceição-Heldt, *Emerging Powers in WTO Negotiations: The Domestic Sources of Trade Policy Preferences*, 27 *Intl. Trade J.* (2013).

³⁵ *Ibid.*

³⁶ Vickers, *supra* n. 29.

³⁷ Scott & Wilkinson, *supra* n. 3.

WTO rules. Accordingly, the only non-negotiable issue for China has been its status as a new member, which is based on the so-called four 'L' strategy: 'less' (requests), 'lower' (obligations), 'longer' (transition periods) and 'later' (liberalization).³⁸ This priority explains why China has been a member of different coalitions but has opted to keep a low profile within these coalitions.

By using integrative bargaining strategies and coalition-building as tools of their cooperative negotiating strategy, the BICs have been very influential players in the Doha round. However, as they became dissatisfied with the depth and speed of reform, especially India began to successfully use *obstructionist negotiating strategies*. During the Bali ministerial meeting in December 2013, India threatened to hold up negotiations on the Trade Facilitation Agreement, which was expected to increase trade and create 21 million jobs worldwide, if India was not allowed to pursue its domestic food security program. At the end of this meeting, WTO Member States agreed to allow India to keep this program until 2017. However, in the summer of 2014, India asked for this program to be transformed into a permanent food security program as a prerequisite for executing the agreement concluded in Bali the previous year.³⁹ At the Nairobi meeting in December 2015, other WTO members rejected the Indian's request and, since then, the negotiations remained stalled.

As a consequence of negotiation gridlock, rising powers have, in the meantime, followed the example of incumbent powers by moving to *exit strategies* which shift their focus to regional and bilateral trade agreements. This allows them to leverage their market power to get agreements at the regional level that better fit their interests. In this way, rising powers equally use coercive mechanisms. Dissatisfied with the sluggishness of the negotiations at the multilateral level, the US started negotiating preferential trade agreements (PTAs) in 2003 and the EU followed after the failed Hong Kong ministerial meeting in 2007. The same is true for rising powers. They have not only begun to establish regional trade agreements but more broadly to create competing regional economic institutions, such as the New Development Bank, the Silk Road Fund, the Chang Mai Initiative and ASEAN+. However, it should be noted that neither established nor rising powers ever issued a formal threat in the Doha negotiations to avert their focus from multilateral to regional or bilateral negotiations. Rising powers simply adopted the same coercive strategy as the US and the EU when they realized that negotiations had drifted away from the multilateral to the regional and bilateral level. For example, India has meanwhile successfully negotiated and implemented eighteen

³⁸ C. Leng Lim & J. Yu Wang, *China and the Doha Development Agenda*, World Trade Organization Forum (2009).

³⁹ World Trade Organization, *Bali Package and November 2014 Decisions* (2014).

PTAs, including agreements with Mercado Común del Sur (MERCOSUR), South Asian Free Trade Area (SAFTA), Association of Southeast Asian Nations (ASEAN), Chile, South Korea and Japan. In addition, it is presently negotiating several PTAs with Australia, Canada, the EU, European Free Trade Association (EFTA), the Gulf Cooperation Council, Southern African Customs Union (SACU) and the US.⁴⁰

5 SOFT STRATEGIES OF INFLUENCE AT THE WTO

The first soft strategy of influence used by rising powers was *to place their nationals strategically in key operational positions within the WTO*. In the WTO context, Brazil was the most successful rising power in terms of putting national officials in top positions. When it came to the election of the new WTO Director-General, the US preferred a Mexican candidate and EU Member States were divided between the Mexican and the Brazilian candidate. With the support of eighty-nine countries, including all rising powers, the Brazilian candidate Roberto Azevêdo was elected WTO Director-General in September 2013. One of Azevêdo's main priorities, so far, has been to build the trading capacity of developing countries and LDCs.⁴¹ This aligns with his experience in promoting trade policy capacity, for example, in setting up a dispute settlement unit within the Brazilian foreign ministry. The prioritization of trade capacity as Director-General was the first successful step to give rising powers and developing countries a stronger and influential voice in global trade governance.

At the same time, rising powers also strategically placed their national officials as chairpersons at the General Council level and in several trade committees of crucial importance to them. For instance, China is currently in charge of the Trade Policy Review Body, the Committee on Customs Valuation and the Committee on Import Licensing. Brazil chairs the Trade Negotiations Committee and the Committee on Sanitary and Phytosanitary Measures.⁴² By taking the lead in these trade committees, Brazil and China have the capacity to use soft influence strategies to shape global trade rules and decision-making processes. For instance, sanitary and phytosanitary issues for agricultural products have been contentious, especially between Brazil and the EU, with the latter challenging Brazilian national-level rules in this area. By chairing this Committee, Brazil can prepare

⁴⁰ Indian Trade Portal, *Trade Agreements* (2016), <http://www.indiantradeportal.in/index.jsp> (accessed 20 Nov. 2016).

⁴¹ World Trade Organization, *WTO Director-General: Roberto Azevêdo* (2016), at: https://www.wto.org/english/thewto_e/dg_e/dg_e.htm (accessed 20 Nov. 2016).

⁴² World Trade Organization, *Current WTO Chairpersons* (2016), https://www.wto.org/english/thewto_e/secret_e/current_chairs_e.htm (accessed 20 Nov. 2016).

reform proposals that regulate this field in a way that is acceptable for its own domestic interest groups and simultaneously link its demands to the interests of other developing countries. This helps Brazil ensure that rules in this specific field are shaped in a way that better accommodates its interests and strengthens sequentially its bargaining position vis-à-vis the EU.

A second soft strategy of influence consists of *pursuing incremental procedural changes* to make existing institutions more accountable, transparent and inclusive without formally changing treaties. Since the Seattle ministerial meeting in 1999, the WTO has been extensively criticized for not being sufficiently transparent and accountable.⁴³ In particular, NGOs, developing countries and rising powers complained that the WTO was dominated by established states, especially by the US. If an IO is viewed as being too close to the interests of a particular state, as Johnson⁴⁴ underlines, this negatively affects the legitimacy of that organization. The WTO reacted to this contestation by undertaking some measures to increase transparency, accountability and inclusiveness within the organization. Even though negotiations continue to take place in small country groups, information exchange among WTO members has increased. Starting in 2005, Pascal Lamy introduced regular briefings with the heads of delegations to report on negotiations among small groups.⁴⁵ More importantly, participation in the WTO's green-room meetings, which had long been criticized for their opacity, was expanded to include all rising powers and some developing countries after the Cancún ministerial meeting in 2003. The purpose of this informal institutional setting is to find preliminary compromises before the proposal is formally discussed in a WTO committee.⁴⁶ The BICs consequently used this soft strategy of incrementally changing procedures within the WTO to make the organization more inclusive and, thereby, to make their voice heard during the Doha negotiations.

A third soft strategy used by rising powers to influence global trade governance consists of *calling for more frequent, periodical reviews*. With the implementation of the TPRM after 1995, individual members have to inform the WTO of specific new trade measures, policies or laws through regular 'notifications'. In addition, the WTO conducts regular reviews of individual countries' trade policies. These 'peer reviews' by other WTO members are a way of enforcing compliance with

⁴³ M. Elsig, *The World Trade Organization's Legitimacy Crisis: What Does the Beast Look Like?*, 41 J. World Trade (2007); R. Wolfe, *Decision-Making Transparency in the 'Medieval' WTO: Does the Sutherland Report Have the Right Prescription?*, 8 J. Int'l Econ. L. (2005).

⁴⁴ Johnson, *supra* n. 21.

⁴⁵ M. Elsig, *Changing Authorities and New Accountability in the World Trade Organization: Addressing a Research Gap*, World Trade Institute (2008).

⁴⁶ World Trade Organization, *Whose WTO Is It Anyway?* (2016), https://www.wto.org/english/thewto_e/whatis_e/tif_e/org1_e.htm (accessed 20 Nov. 2016).

WTO rules. All WTO members are scrutinized, but the frequency of the reviews depends on the country's size. For instance, whereas the four members with the largest share of world trade (the EU, the US, Japan and China) are examined once every two years, the next sixteen countries are scrutinized every four years and all the other WTO members are reviewed only every six years. Through regular monitoring, the TPRM increases transparency and gives individual members detailed information on other countries' trade policies and practices.⁴⁷ This is an important instrument in particular for rising powers, which do not have the extensive technical expertise at the national level necessary to collect this information.

By gaining more information about the unfair trade practices of other WTO members via the TPRM, rising powers can also more quickly appeal to the Appellate Body of the Dispute Settlement Body (DSB). From 1995 to 2014, 74 of the WTO's 160 members participated in appeals to the Appellate Body. Of the total 1198 appeals, the US filed the most, at 168, followed by the EU with 146 appeals. They are followed by the BICs, which have extensively used the Appellate Body to address complaints brought before the DSB. China, for example, has filed 66 appeals, followed by India with 58 and Brazil with 56. These numbers demonstrate that rising powers have learned to use the Appellate Body to challenge unfair trade practices of incumbent powers. For instance, Brazil, has successfully challenged US cotton subsidies and the EU's sugar subsidies, leading to the reform of both regimes. In the specific case of EU export subsidies on Sugar (WT/DS266), the Brazilian government appealed the Dispute Settlement Body's decision claiming that the EU's sugar export subsidies exceeded WTO limits foreseen in the Agreement on Agriculture. At the end of this dispute, the EU had to change its sugar subsidy regime to make it compatible with WTO rules.⁴⁸ This example illustrates how rising powers are able to use soft strategies to shape global trade governance rules even without treaty reform.

6 CONCLUSION

In this article, I have addressed the question of which strategies rising powers use to place their imprint on the design of global trade governance. I have argued that rising powers use a variety of hard and soft strategies of influence to effectively change trade rules. This research carries three key implications. First, the argument developed and the findings of this study complement not only the work by

⁴⁷ World Trade Organization, *Trade Policy Reviews: Ensuring Transparency*, (2016), https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm11_e.htm (accessed 20 Nov. 2016).

⁴⁸ World Trade Organization, *Dispute Settlement: Dispute DS266 European Communities - Export Subsidies on Sugar* (2015).

Kahler⁴⁹ and Narlikar,⁵⁰ with their focus on negotiating behaviour of rising powers, but also that of Lesage and Van de Graaf on institutional settings.⁵¹ This piece illustrates that rising powers were capable of pursuing incremental procedural changes and using a combination of hard and soft strategies to effectively and informally shape global trade governance rules. Whereas hard strategies of influence correspond basically to the hierarchical means of governance, soft strategies are linked to the horizontal means of influence, as Lavenex et al. laid out in the introduction to this special issue. Second, this contribution shows the ambivalence of BIC's positions in multilateral trade negotiations. While they tried to remove structural bias in the design of trade rules and representation within the WTO, they also want to maintain their identity and status as part of the developing world and as leaders of LDCs. Third, in situations of negotiation gridlock, the BICs use soft strategies of influence by placing their nationals at the top of institutions or as chairpersons in strategically important committees to shape global trade governance rules. By placing nationals and engaging in procedural changes within the existing multilateral trade setting, the BICs have weakened incumbent trade powers' horizontal means of rules transfer by, as the latter have to take into account the positions and views of rising powers. Overall, this has strengthened the overall horizontal power of rising powers in global governance.

⁴⁹ Kahler, *supra* n. 3.

⁵⁰ Narlikar, *supra* n. 3.

⁵¹ Lesage & Van de Graaf (eds), *supra* n. 3.

