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Democratising Trade Politics in the Americas: Insights from the Women's, Environmental and Labour Movements

Rosalba Icaza, Peter Newell and Marcelo Saguier
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Rosalba Icaza, Peter Newell and Marcelo Saguier

Summary

This paper explores the extent to which and the ways in which civil society groups are contributing to the democratisation of trade policy and politics in the Americas. It explores the strategies adopted by a range of NGOs and social movements to influence the decision-making processes and the content of the trade agenda. This includes efforts to open up existing spaces of participation as well as the creation of new ones through forms of citizen engagement, democratic innovation and efforts to change the terms of debate. We concentrate on the cases of the women's, environmental and labour movements in relation to the trade agenda promoted by the NAFTA, MERCOSUR and FTAA initiatives.

The first part of the paper provides a discussion of the constraints that recent trade integration processes in the Americas pose to the possibility of deepening democracy. This is followed by an engagement with existing literatures on democratisation in Latin America to draw parallels and identify insights on the nature of the relationship between trade and democracy. The second part draws on three case studies of the strategies of movements in Latin America in their attempts to influence trade policy processes across political scales. The first case study explores the initiatives of women's and feminist organisations in Mexico to incorporate a gender perspective into the debate about NAFTA. The second case deals with the engagements of the environmental movement at the sub-regional and hemispheric levels in relation to the NAFTA, MERCOSUR and FTAA initiatives. The third case focuses on the labour movement in the Americas in relation to the FTAA process. The conclusion reflects on what has been achieved and what future challenges remain.

Keywords: trade liberalisation; social movements; civil society; democratisation; gender; labour; environment.

Rosalba Icaza is Lecturer in Governance and International Political Economy at the Institute of Social Studies (ISS) in the Hague, the Netherlands. She is an international studies scholar specialised in the international political economy of trans-border civic activism on regionalism, democracy and gender with a particular emphasis on Latin America and Mexico. E-mail: icaza@iss.nl.

Peter Newell is Professor of Development Studies at the University of East Anglia. He is a specialist in the political economy of environment and development and has worked on issues such as corporate accountability and trade activism, and the politics of climate change and agricultural biotechnology. E-mail: P.Newell@uea.ac.uk

Marcelo I. Saguier is a Research Fellow in Department of International Relations at FLACSO/Argentina. His areas of research interest are transnational social movement coalitions centred on trade issues, regionalism in Latin Americas and the regulation of transnational corporations. E-mail: msaguier@flacso.org.ar

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Local Global Working Group preface

Working paper series on Citizen Engagements in a Globalising World

Around the world, globalisation, changes in governance and emerging transnational social movements are creating new spaces and opportunities for citizen engagement. Indeed, some would argue that citizenship itself is being de-linked from territorial boundaries, as power is becoming more multi-layered and multi-scaled, and governance increasingly involves both state and non-state actors, which often are transnational.

One of the research programmes of the Development Research Centre on Citizenship, Participation and Accountability, the Working Group on Citizen Engagements in a Globalising World explores the significance of these changes to poor and disenfranchised citizens. In particular, the group's work explores how the diffusion of power and governance resulting from globalisation gives rise to new meanings and identities of citizenship and new forms and formations of citizen action. The research programme is asking questions across local-national-regional scales related to

- The dynamics of mobilisation, paying particular attention to new forms and tensions of alliance-building and claim-making;
- The politics of intermediation around representation, legitimacy, accountability;
- The politics of knowledge around framing issues, the power to frame, dynamics of contestation across forms of expertise and ways of knowing; and
- The dynamics and processes of inclusion and exclusion to examine who gains and who loses.

The group's work is a unique contribution to a vast literature on transnational citizen action in the way in which each project examines the vertical links from the local to the global from a citizen's perspective, looking up and out from the site of everyday struggles. And while much normative and conceptual literature examines the concept of global citizenship, few studies of the theme are actually grounded in empirical study of concrete cases that illustrate how global reconfigurations of power affect citizens' own perceptions of their rights and how to claim them.

The group is made up of 15 researchers carrying out field projects in India, South Africa, Nigeria, Philippines, Kenya, The Gambia, Brazil and South Africa, as well as other cross-national projects in Latin America and Africa. The projects examine new forms of citizen engagement across a number of sectors, including the environment, trade, education, livelihoods, health and HIV/AIDS work and occupational disease, agriculture and land – and across different types of engagement, ranging from transnational campaigns and social movements, to participation of citizens in new institutionally designed fora.

The working papers in this series on Citizen Engagements in a Globalising World will be available on the Citizenship DRC website www.drc-citizenship.org, as they are completed. The Citizenship DRC is funded by the UK's Department for International Development.

1 Introduction

The latest wave of trade integration schemes promoted in the Americas since the 1990s has been subject to mounting criticism about the social and environmental costs trade liberalisation brings in its wake. Opposition to neoliberal models of regional trade integration forms part of broader movements that define themselves in opposition to neoliberal globalisation in general, which register concern about the imbalance between investor rights and responsibilities and the lack of checks on rising corporate power. Amid accusations of rich clubs of economic elites crafting the terms of agreements that serve narrow economic interests, it is unsurprising that there have been calls to democratise trade policy; to open it up to plurality of participants, interests and agendas, to revisit fundamentally the question of *who* and *what* is trade for.

Democratising trade politics faces a series of challenges related to the shifting patterns of inter-relations between institutional frameworks and practices of social actors advocating more inclusive trade processes and agendas. On the one hand, the complexity of emerging governance arrangements make state-centric approaches of democratisation limiting to understand the struggles between various social forces to define and control the rules and content of trade policy. As in other domains of public policy, the governance of international trade relations has undergone a considerable transformation in line with the historically specific configurations of global capitalism (Soederberg 2006). Decision-making processes that cut across nation-states are often characterised by increasingly autonomous networks of policy specialists and public officials within bureaucracies (Jordana and Levi-Faur 2007; Slaughter 2004; Stone and Maxwell 2005). Likewise, mechanisms of regulation and management have been privatised with the incorporation of corporations and (mostly Northern) non-governmental organisations (NGOs) to form a seemingly pluralistic and networked sphere of deliberation and participation.

Distinctions between inside/outside and between domestic and international politics need to be critically reassessed in light of these developments. The traditional approach to thinking about democracy in terms of the nation-state must also incorporate other levels of governance as analytically relevant. Work on cosmopolitan democracy and efforts to democratise global governance structures represent important advances in this regard even if not specific to the issue of trade (Held 2005; Held *et al.* 2005; Scholte 2002).

In addition to the changing nature of trade governance, there is also a transformation in the practices through which social demands are organised and mobilised in response to the democratic deficits of trade processes. Practices undertaken by civil society organisations associated with participatory/direct forms of democracy expose existing tensions within liberal representative forms of institutionalised democracy. Some of the main practices of participatory democracy include the organisation of social forums, alternative summits to official presidential summits and informal plebiscites around trade as we will see below (Saguier 2007b; Pianta 2001). They also include more institutionalised practices such as participatory budgets in local governments (Avritzer 2002) and

mechanisms of social accountability created by civil society organisations (Perruzotti and Smulovitz 2007). Such practices both help to create new spaces of engagement as well as contest the boundaries of existing 'invited spaces'.

Trade issues have proved to be particularly relevant sites of contestation between formal representative democracy and informal direct participation. Rural workers, peasant, women's organisations, environmentalists, trade unions, faith-based organisations, indigenous movements and organisations of small produces have been salient forces in the development of novel repertoires of action to resist the exclusionary and undemocratic nature of recent trade initiatives. The involvement of indigenous peoples' movements in particular has strained traditional patterns of liberal politics and interest group representation (Polanco 1997; Yashar 2005).

Complex strategies of engagement with trade processes combine mobilisation at the multiple levels of governance involved in trade policy decisions. This is partly driven by the strategies of powerful states and economic groups to 'forum-shift': moving between decision-arenas in order to secure the outcomes they desire. Sell (2003) shows this dynamic at work in the case of the struggles of some civil society organisations around the creation of a global regime on intellectual property rights. Contending coalitions prioritise the engagement in institutional arenas (WTO, WIPO and FAO) that are the most sympathetic to their interests, where the mandate most aligns with the outcomes they are pursuing and where they have the greatest degree of access. When multilateral and regional trade negotiations break down, the liberalisation agenda is often pursued through bilateral free trade agreements (FTAs). The provisions of FTAs often surpass those that were contested in regional and global fora. For example, the FTAs signed between the US and Peru, Colombia, Chile and Central American and Caribbean countries (CAFTA-DR) contain many provisions which some governments and their allies in civil society had opposed in the Free Trade Area of the Americas (FTAA). For activists, moving between and across forums means combining mobilisations at national, regional and the transnational level with the construction of power 'from below' through informal initiatives.

This paper explores the extent to which, and the ways in which, civil society groups are contributing to the democratisation of trade politics in the Americas. Firstly, we look at the shifting patterns of inter-relations between a series of formal and informal institutional frameworks for trade policy/politics. Secondly, we focus on the main practices undertaken by critical groups within civil society to influence the decision-making processes and the content of the trade agenda. Particularly, we concentrate on the cases of the women's, environmental and labour movements as key social forces in relation to the trade agenda contained in the NAFTA (North American Free Trade Agreement), FTAA and MERCOSUR initiatives. We recognise that this focus necessarily excludes sufficient attention being paid to other social movements that have played a key role in seeking to democratise trade politics in the Americas. The section on the environmental movement explores links to peasant-based movements that have mobilised around the impact of trade liberalisation upon their livelihood and food security. This is something Borrás *et al.* (2008) explore in far more depth. Each of the movements here has also engaged with indigenous movements around struggles over the right to water, land and food, but whose contribution to democratising trade politics we mention but do not have space to fully explore.

The argument is divided in two parts. The first part reflects on the relationship between trade and democracy through a discussion of the constraints that recent trade integration processes in the Americas place on the possibility of deepening democracy. This is followed by a review of the mainstream literature on democratisation in Latin America to reveal how the nexus between trade and democracy has been addressed in scholarly debates. We suggest that many of the insights and approaches of this literature are inadequate to understand the ongoing processes of democratisation being initiated by social movements and broader elements within civil society in relation to trade policy and politics.

The second part of the paper is devoted to analysis of the strategies of key social movements in Latin America in their attempts to influence the processes and agendas of various trade policy initiatives. The first case study explores the initiatives of feminist and women's organisations in Mexico to incorporate a gender perspective in trade politics at the national level. The second case deals with the engagements of the environmental movement at the sub-regional and hemispheric levels in relation to the NAFTA, MERCOSUR and FTAA initiatives. Finally, the third case focuses on the labour movement in the Americas in relation to the FTAA process. All case studies reflect on the potential of civil society groups to democratise trade policy processes in the context of complex governance power structures.

In many ways the struggles we observe seek to democratise (a) the *institutions* and policy processes through which the agreements emerge and are managed, (b) the *knowledge base* and ideological underpinnings of the project of regional integration as it is manifested through these trade agreements, but (c) ultimately also seek to challenge and exercise democratic control over the production process and *material base* which drives these processes in a direction that serves multinational capital in particular at the expense of alternative visions of development and regional integration.

We argue that the strategies adopted by the movements we explore help to achieve the democratisation of trade politics in Latin America in the following ways:

- **Opening up the decision-making processes:** Process-oriented notions focus on access to information and the transparency of trade policy decision-making processes. This can be aimed at enhancing vertical or horizontal forms of accountability; institutional checks and balances within and between institutions (horizontal) or justifying actions to political constituencies (vertical). Battles in this regard have been around the rights of citizens to bring legal cases before the institutions of NAFTA, to have access to information about pollution in their neighbourhoods or to submit evidence to dispute settlement panels.
- **Defending existing democratic spaces:** Many strategies aim to protect, strengthen and make use of sovereign and democratic oversight of regional and international trade agreements. We discuss below, for example, the work of COPA (Confederación Parlamentaria de las Américas) aiming to enhance the awareness and voice of parliamentarians in trade debates. Peasant demands for 'food sovereignty' also express the desire to maintain control

over decisions about resource use. These strategies focus on the ability of trade agendas to circumscribe national autonomy, bypass the power of parliaments, privilege certain groups and interests over others.

- **Broadening participation:** This refers to democratisation as pluralising the range of voices included in trade debates. This includes campaigns aimed at securing formal mechanisms of civil society participation and consultation at national and regional levels or strengthening and widening the scope of those that do exist. It also incorporates attempts to widen and deepen the public sphere through raising awareness, enhancing possibilities of communicative action and mobilising people.
- **Creating new democratic spaces:** This is about contributing to democratisation by creating alternative/new arenas of deliberation that contribute to debate and public engagement. Examples would include the creation of Peoples' Summits, the Permanent Peoples' Tribunals on the conduct of multi national companies in Latin America, and Social Forums which seek to construct alternative regional integration projects based on social rather than merely commercial agendas.
- **Discursive democracy:** Many activist engagements with trade policy are concerned with challenging predominant framings of what the issues under discussion are and should be, and who has a right to discuss them. Part of this is what Dryzek (2000) would refer to as 'deliberative democracy'. Democratisation in this sense is about creating the possibility of having a different debate by challenging where the debate is happening (which institutions and arenas), on whose terms it is being framed and what is at stake in adhering to, or contesting, the dominant framings. This is illustrated by the contestation of the alter-globalisation movements in Latin America of the claim that 'There is no alternative' (TINA) with their own assertion that 'Another America is possible'.
- **Democratic innovation:** Democratisation also occurs through using the tools of democracy in novel, innovative and often informal ways (plebiscites, citizen juries, hearings and tribunals). Often the intention is to draw excluded actors into the debate or to demonstrate the gap between issues which concern broad publics and those which are being addressed (or neglected) in trade policy arenas.
- **Democratising civil society:** This refers to opening up civil society itself to greater inclusion of marginalised groups in its campaigning. Hierarchies and patterns of exclusion within movements and anti-free trade coalitions have served to marginalise less powerful elements. Elite NGOs and even 'mass' movements such as the labour movement face challenges of inclusion and adequate representation of their members.
- **Deepening citizen engagement:** This refers to efforts to encourage direct citizen engagement in politics as opposed to participating in other arenas, other peoples' spaces. It takes the form of exposure tours, trade literacy work, publicising educational materials and working with the media.

We present evidence in the paper of each of these forms of democratisation at work in the politics of trade in Latin America.

2 Trade and democracy: exploring the links

The Canada-US Free Trade Agreement (CUFTA) of 1989 opened a new chapter in the history of trade integration initiatives. This agreement would be followed later by the North American Free Trade Agreement (NAFTA) in 1994, an integration process in MERCOSUR and an attempt to establish a Free Trade Area of the Americas (FTAA) also in 1994, and the signing of a series of Bilateral Free Trade Agreements between the US, EU and Latin American governments. Activists claim that these initiatives for trade integration have undermined existing forms of democracy in the region and even pre-empt the adoption of deeper forms of democracy.

In terms of their *procedural* considerations, trade integration processes have been criticised for their lack of transparency and accountability. In many countries in Latin America national parliaments have played a minimal role in contributing to the definition of the agenda and conditions of agreements. Rather, executive power has predominated. Indeed, in the latest extension of NAFTA, the so-called Security and Prosperity Partnership for North America (SPP), decisions are made on the basis of Executive agreements that do not need the ratification of the legislatures in any of the three countries involved. Likewise, participation in a public debate about health rights in Peru involving the country's parliamentarians revealed that parliament had not been consulted about key provisions on issues such as intellectual property rights which impinge heavily upon government's ability to ensure poor peoples' access to essential medicines.¹

To combat such patterns of exclusion and to mobilise the region's parliamentarians in trade policy debates, COPA was formed in 1997 in the wake of the First Summit of the Americas in Miami in 1994 after 400 parliamentarians from 28 countries in the region attended an event in Quebec to discuss their role in the process of hemispheric integration. In its own words:

COPA contributes to the strengthening of parliamentary democracy and to the building of a community of the Americas founded on the respect for dignity and human rights, peace, democracy, solidarity between peoples, social justice and gender equity.

(COPA 2008)

One of its key objectives then is to 'represent to the executive authorities of the Americas, the interests and aspirations of the populations of the hemisphere with regard to the issues and impacts of the hemispheric integration process' (*ibid.*). In April 2001 COPA organised a special meeting to adopt a common position on the strengthening of democracy and the role that parliamentarians must play in the FTAA negotiations producing the 'Quebec City Parliamentary Declaration'. Later that year with financing and a legal identity COPA took on a permanent form

¹ Peter Newell was a guest speaker at a public debate in Lima in December 2004 on civil society participation in trade policy in Latin America.

launching, for example, thematic working committees on labour and environment as well as a network of women parliamentarians.

Despite this, however, national legislatures' participation in international negotiations is constrained to the ratification or rejection of what the Executive negotiates – as is the case with the US Trade Promotion Authority (TPA). In Mexico, the internal regulations of the Mexican Senate establish that public hearings are a discretionary duty of their members (Icaza 2004: 203). When combined with a limited awareness at the level of the general public about the nature and consequences of trade agreements, the accountability of decision-makers for the decisions they make is slight. This begs the question of what kind of mandate do government officials have to negotiate trade agreements on behalf of their citizens.

There have been a number of attempts to involve elements of civil society organisations in trade policy processes. These initiatives are often the response of governments to a crisis of legitimacy facing a trade institution. Events such as the 'battle of Seattle' and other large scale demonstrations against the WTO's perceived power exposed the mounting objections to the secrecy in which decisions are taken and the institution's lack of sensitivity to the power inequities which leave the majority world excluded from its key deliberations. Many other local social uprisings have mobilised against the regressive distributive impacts of neoliberal trade initiatives, such as the Zapatista uprising on the day that NAFTA came into effect and the mobilisations against the FTAA, FTAs and CAFTA.

Institutional responses to the legitimacy crisis facing neoliberal trade processes in the Americas have taken a range of forms. In most cases they have been initiatives to encourage some sort of public participation in trade negotiation processes. Yet, rather than serving as means to democratise the processes and agenda of trade integration, the following case studies reveal that the participation of civil society organisations in formal mechanisms of consultation devised by governments has been largely 'instrumental' to the purpose of obtaining legitimacy and social support for the negotiation process (Saguier 2007b).

Whenever present, formal institutional channels of participation are separated from the formal trade negotiations and undertaken in an *ad hoc* manner. They include supporters of trade liberalisation, while concerned groups that question the purpose, pace or appropriateness of trade liberalisation are marginalised within the process. Some efforts have been more serious in their outward attempts to create spaces for civil society, but all reproduce a liberal democratic version of participation as consultation about decisions already made, information about processes from which most groups are excluded, about agendas that have already been determined. Invited spaces for civil society 'engagement', tend to invoke a restrictive notion of the public realm, one which includes NGOs, business organisations, academics, think tanks and sometimes labour unions but not broader movements; formally organised elements of civil society rather than its more unruly elements that are more difficult to manage. The assumption is that with a level of formality and institutionalisation comes a certain degree of legitimacy and representation (Icaza 2004).

Moreover, the technical, expertise-led and legal nature of trade negotiations,

combined with the reciprocal bargaining that goes to the heart of trade deal-brokering, present high barriers to the meaningful engagement of citizens and organisations claiming to act on their behalf. Access to resources to train personnel with the kinds of skills required to make significant contributions to debating trade policies with government representatives is critical. North-South cleavages are often reproduced between resource-endowed NGOs from the North and organisations from the South which in most cases are short of material resources to be able to keep up with the rapidly evolving trade development agenda (Newell and Tussie 2006). By contrast, large corporations with vast amounts of resources are in a position to employ professional lobbyists to represent their interests in the negotiations and thus benefit to a greater degree from mechanisms of participation for civil society organisations which were originally deemed as means to open up trade processes to public involvement.

With regards to the *content* of the trade initiatives undertaken in the region since the late 1980s, there has been a systematic attempt to introduce a level of greater regulation of economic and social processes through a mixture of public and public/private mechanisms. The US government has been a bold supporter of introducing 'WTO-Plus' trade rules in the new generation of trade initiatives: NAFTA, FTAA, CAFTA and the BTAs. With different degrees of success, the aim has been to introduce rules on investment protection, competition policy, transparency in government procurements and trade facilitation. Commitments to liberalisation which go beyond those contained in the WTO intellectual property rights and services agreements (TRIPs and GATS) have also been pursued at the regional level and bilateral levels. This trade agenda has important implications for democracy.

Firstly, this trade agenda will accentuate the socioeconomic asymmetries that already exist within as well as between countries of the region. The benefits of trade integration along neoliberal lines will be for large corporations since they are the only ones capable of being internationally competitive in a liberalised integrated market. This would invariably result in concentration of economic power in a relatively small number of companies. Mechanisms that could be used to prevent deeper asymmetries following integration – such as performance requirement provisions – have been ruled out. This mechanism would entitle developing country recipients of foreign direct investments to introduce conditions on the benefits derived from market liberalisation offered to potential investors, according to their ability to fulfil certain standards defined along particular developmental priorities of that country (employment conditions, environmental protection, etc). As currently conceived, the principle of 'non-discrimination' in trade amounts to removing barriers to the movement of large corporations, while disregarding the effects this generates in terms of concentration of economic power. Critics also argue that the accentuation of socioeconomic asymmetries is contrary to the aspiration of democratic development. This is the case since inequalities contribute to undermine the capacity of poor and marginalised sectors of society to participate effectively in public matters and to exercise their citizenship fully.

Secondly, the current trade agenda has the potential to undermine democracy by eroding existing public instruments to redress the social and economic exclusion that prevents disenfranchised sectors of the population from exercising their

citizenship rights. For example, trade affects democracy when it pursues the liberalisation of such basic public services as health and education. Furthermore, this also often produces a conflict between market-based and rights-based approaches to development (Mehta 2006). The wave of privatisation of public services results in an apparent zero-sum game between the competing logics of commodification driven by opportunities opened up for large corporations, and the social and economic rights demanded by civil society imposing limitations upon the centralisation of corporate power.

Thirdly, democracy is also affected by the incorporation of trade rules that restrict the policy autonomy of states to align international trade relations with their particular national development strategies, needs and conditions (Wade 2003; Gallagher 2005). Policy autonomy is reduced with the liberalisation of government procurement provisions, as this can be used as an important instrument of development policy. Likewise, investment protection erodes policy autonomy by giving disproportionate rights to corporations over states. Under the state-firm provisions contained in investment protection rules, changes in national and local legislation that may affect investments can make states liable to compensation. NAFTA's Chapter 11 on rules of investment incorporates this provision, which has also set a precedent for later FTAs between the US and Chile, Peru, Colombia and Central American countries.

The disciplines introduced with the 'WTO Plus' trade agenda constitute a means of locking in the liberalisation of trade and investment and deregulation that has already been implemented under structural adjustment programmes, whilst also extending the coverage of those programmes to new sectors of the economy. This 'open veins' trade agenda is consistent with the creation of a model of export-led 'development' for Latin America based on the intensive exploitation of natural resources and labour. It locates Latin American economies at the service of the interests of large transnational corporations, while reinforcing the power of local corporate groups linked to transnational capital (Cox 1994). In this regard, rather than being about the generation of trade in goods and services, the current agenda of trade agreements seeks to institutionalise a particular model of governance that is consistent with limited forms of democratic participation and social inclusion of those subject to economic re-structuring (Anderson and Arruda 2002; Hillebrand 2003). Likewise, this model of governance is also heavily gendered as it tends to obscure the contribution of the reproductive sphere to the economy and to advance flexible labour schemes that impact heavily on already disadvantaged sectors of society worldwide: working class women, girls, indigenous and elderly people (Espino and Azar 2002; Dominguez *et al.* forthcoming). Therefore, it both rests upon existing inequalities and serves to reproduce them.

Given the challenges involved in opening up such a project to broader democratic scrutiny, in a prevailing context of strong economic interests, weak forms of institutional development and histories of civil society exclusion from decision-making, it is useful to explore relevant insights from the experience of national level democratisation in the region. The following section provides an overview of the mainstream literature on democratisation in Latin America to assess its relevance to understanding contemporary efforts to democratise trade politics.

3 Thinking about democratisation and trade

Much of the mainstream scholarly literature on democratisation in Latin America has been concerned with understanding the characteristic features of the democratic regimes during different periods of its recent history. The linkages between democracy and trade are either weak or implied in work that emerged in relation to the challenges of political governance posed by the wave of neoliberal economic reforms.

The development of a literature on democratisation in Latin America dates from the 1980s when political scientists became interested in the transitions that many countries were experiencing from military to democratic regimes. Research focused on the role of political elites and parties in crafting new democratic institutions and pacts that made transitions to democracy politically viable (Rustow 1970; Schmitter *et al.* 1986; Potter *et al.* 1997). A minimalist conception of democracy defined along the basic criteria of competitive elections and civil liberties (Schumpeter 1942) was prevalent in the literature of this period. This reflected a concern about whether the new political regimes would be able to withstand the pressures of social forces (human rights groups and other sectors of civil society) for their inclusion and recognition. Henceforth, a more inclusive definition of democracy that would have to confront the diverse demands social movements placed upon the state was regarded as potentially detrimental, since it would risk halting the fragile stability of the nascent democracies (Pzeworski in Grugel 2005: 197). As a consequence of this, other political actors that were also relevant to the dynamics of democratic transition were treated as having a secondary role behind political parties (Schmitter *et al.* 1986). This notion contributed to the mainstream view that 'actually existing democracies' are the only form of democracy *possible* (Baker 1999).

Likewise, accounts of democratisation during that period served to depoliticise the economy as a site for the democratisation of social relations. This was possible through the *a priori* separation in this literature between political order and economic system, subordinating the latter to the former. Grugel exemplifies this claim in reference to the work of Przeworski (1986) in which he maintains that, in the context of transitions, economic relations remain intact regardless of the kind of political system in place, whether it is democratic or otherwise (Grugel 2005: 197). This suggests that, by focusing on changes introduced by democratisation at the level of political systems, research at the time was contributing to the endorsement of a limited and contained form of democratisation associated with a 'top down' approach and a commitment to economic conservatism. Democratisation was largely regarded in terms of formal political institutions.

As democratic transitions appeared to have reached considerable stability by the mid- 1990s, much of the concern about the risk of new democracies reverting to authoritarian regimes was dissipated (Huntington 1996: 10). Debates in the literature moved on to understanding the particular features that characterised the unique democracies that resulted from this transition from authoritarian regimes. Suddenly, determining the *quality* of that democracy occupied the centre stage in

debates about democratisation in Latin America (Agüero and Stark 1998; Conaghan 2005; Eisenstadt 2004; Hagopian and Mainwaring 2005; Hite and Cesarini 2004; Weyland 2004). O'Donnell (1994) was particularly influential in describing the tone of this new climate. He characterised Latin American political systems as 'delegative' democracies in which the executives had an excessive concentration of power at the expense of a diminished role of national congresses and civil society. The so-called 'hyper-presidentialism' of these regimes was seen to yield low intensity democracies. They exhibited the continuity of authoritarian legacies which, he claimed, are deeply rooted in Latin American political cultures. Such a critical take on the celebrated democracies invited further reflection on the limited achievements of the post-authoritarian systems.

This period corresponded with the neoliberal reforms carried out in most countries as a means of overcoming the debt crises that left Latin American economies in shackles during the 1980s. The social transformations that accompanied this period of market liberalisation brought about the 'disarticulation and recomposition of the Latin American socio-political matrix', which involved changes in the 'relation between the state, the system of representation, and the socioeconomic basis of social actors, institutionally mediated by the political regime' (Garretón 1999: 71). In the midst of this deep transformation, and reflecting a concern over the quality of democracy, the literature on democratisation in Latin America began to focus on the interrelations between political and economic reform. Partly, this stemmed from the challenges faced by policymakers in their attempts to bring forward economic reforms while governing the potentially explosive political consequences that could follow the implementation of market liberalisation policies with high levels of social dislocation. In this context, academics debated whether the privatisation and deregulation of the economies and their exposure to international trade and investment contributed to the deepening of democracy or to the exacerbation of its shortcomings and limitations.

On the one hand, there was the view that considered free market economies to be *compatible* with democratisation. This position rests on the assumption that democracy would arise from free markets (Lipset 1959, 1994; Rueschemeyer, Stephens and Stephens 1992; Diamond 1992; Rostow 1960). A more nuanced proposition was that, if not determined by them, free markets were at least a necessary condition for the flourishing of democracy (Bhagwati 2002). While it was recognised that tensions may arise between the requirements of democratisation and market economics, this would be remedied by allowing 'short-term trade-offs' (Haggard and Kaufman 1995). The proposed compatibility of market-economics and democratisation is sustained by the ingrained assumption that 'democracy' is reducible to elections and the protection of civil rights. Likewise, this view assumes an unproblematic legitimacy in the representation and organisation of social interests in political parties and trade unions tied to corporatist arrangements.

On the other hand, there was also a view that neoliberal economic reforms were *incompatible* with democracy. It was held that market economies and democracies are not complementary but are indeed contradictory processes driven by conflicting logics (Waisman 1992, 1999; O'Donnell 1994). Economic liberalisation is seen to have transformed the existing neo-corporatist arrangement for the

representation of interests in the state through trade union organisations. The demise of this institutional arrangement (largely due to the weakening of the labour movement and the changes in the labour market) resulted in the emergence of a 'neo-pluralist' system. It was argued that this system fragmented and atomised organised social interests, thus weakening civil society in its capacity to resist and condition the economic reform process (Oxhorn and Ducatenzeiler 1998). The possibility of conceiving of the improvement of democracy in such a gloomy scenario appeared remote, as many questioned to what extent the new social actors that had proliferated in the shadows of a declining labour movement (NGOs and social movements) could be viable options for the representation of social interests in face of the collapsed corporatist arrangements and the diminished credibility of political parties (Roxborough 1997).

The incorporation of an economic dimension to the study of democratisation was a welcome turn. Similarly, theory also became more sensitive in accounting for the complex and contingent dynamics that drive democratisation processes. An important development in the literature proposed concentrating on the 'contingent nature of the relationship between economic and political liberalization' (Oxhorn and Starr 1999: 4). Accordingly, '[i]nstitutional and social structures mediate the dynamics of *participation* and *contestation* (however limited) by determining which actors are relevant, influencing each actor's objective, and creating incentives for the adoption of particular types of policies' (Oxhorn and Starr 1999: 4; our emphasis). This move departs from previous analyses that focused on the interaction between political and economic reforms resting on an authoritarian/democratic dichotomy (Armijo *et al.* 1994; Haggard and Kaufman 1995) and re-centres explanations of democratisation on the contested interactions of actors mediated by political institutions (Oxhorn and Starr 1999: 2–4).

The concern over the quality of democracy in the context of neoliberal reform was enhanced by the consideration of the disputes between different actors for the control of policy processes. However, the portrayal of state-society relations depicted by this last phase of the democratisation literature continues to be of limited value in exploring the dynamics of trade integration processes in Latin America. This literature reflects an excessive polity-centric perspective that hinders the interrogation of processes of democratisation that take place at the margins of formal political institutions. This is clear in early debates about democratisation focused on political elites and parties, but also in later approaches which incorporate other social actors in the political arena – primarily trade unions. The relevance of organised social interests to the democratisation of policy processes is defined in terms of *access* to formal political institutions, either through political parties or via formal recognition in corporatist arrangements. This precludes the possibility of thinking about alternative sites for the articulation of social interests into political demands.

The emergence of new and heterogeneous social movements pressing for social inclusion arising from the 'margins' of established society – such as urban unemployed workers, farmers (Edelman 2003) and indigenous peoples (Houghton and Bell 2004; Quijano 2005; Yashar 2005), among others, challenged ideas about formal institutions being the only legitimate sites of political activity. An

important characteristic of these movements is precisely their demand for greater autonomy from the state (Calderón *et al.* 1992: 24; Escobar and Álvarez 1992; Pearce 2004; Seoane and Taddei 2002: 111; Seoane *et al.* 2005). Disenchanted with traditional politics, movements have a 'clear awareness of the limits of the parties'. Rather than purely reacting to states or parties as they had done in the past, many of these movements develop 'their own agenda and their own programs' (...) and 'without waiting for political parties to take on work that only organized society can carry out' (Zibechi 2005: 4). The bias in much of the democratisation literature on institutional politics becomes a hindrance to understanding the potential of these social forces to advance the democratisation of trade 'from below'. Some important contributions that address the rise of indigenous political parties in Latin America stand as exceptions to this norm (Van Cott 2005, 2006; Oxhorn 2001; Yashar 2005).

As well as challenging conventional ideas about democracy, the experience of democratisation in Latin America was in many ways formative for movements in the region. Literature on social movements focuses on groups and struggles that are in many ways outside the formal arenas of political bargaining. This is partly explained by the fact that many Latin American NGOs began to organise and mobilise under, and in opposition to, authoritarian rule. As Friedman *et al.* (2001: 11) note; '[t]his common formative experience shaped the actions and attitudes of the groups profoundly, not least in their shared ambivalence toward cooperation with the state'. Such work help us to understand the forms of mobilisation taking place around the FTAA process, for example, or those which preceded and continue to characterise the NAFTA and Mercosur negotiations. They shed light on the organising strategies of 'outsiders' in trade debates, though as we will see below, these forms of mobilisation and non-engagement also interact with and shape the politics of bargaining between states and those elements of civil society within formal negotiating arenas.

Early work on social movements in Latin America during the 1970s was oriented towards the radical agendas of left intellectuals concerned with the revolutionary potential of those movements to overthrow the capitalist state. As Haber notes, at this time, 'environmental and women's movements were assessed in terms of their assault on capitalism and the capitalist state, whether or not they saw themselves in those terms' (1997: 127). Perhaps slightly exaggerating the case, Petras and Morley (1990: 158) claim; 'practically all of the significant political changes that took place in Latin America in the 1960s and 1970s were the direct or indirect result of massive social movements and not of electoral processes or militarized guerrilla movements'.

Through the 1980s and 1990s interest has grown in new social movements and different ways of understanding their relevance to political life. There has been significant interest, for example, in high-profile movements such as the urban squatters in Chile and Peru (*pobladores* and *barriadas*), the Madres de Plaza de Mayo in Argentina, the Zapatistas in Mexico and the movement of the landless workers (MST) in Brazil. More recently, the focus has been more on the democratising potential of social movements in Latin America; the extent to which they can sustain and deepen the transitions to democracy witnessed across the region since the 1970s, as well as their role in constructing alternative politics or

new visions of development (Álvarez *et al.* 1998; Jacobs 2002). There is a danger here of romanticising Latin American social movements (Roberts 1997), but the point is that they have been a crucial element in the changing landscape of Latin American politics such that the politics of regional economic integration can be expected to be cast in their light.

An important limitation of both the literature on democratisation within the political science tradition and the literature on social movements is its recurrent state-centric methodological perspective. A so-called 'methodological nationalism' overlooks the changing nature of global governance structures within which national economies and political systems are inserted. This has implications for the understanding of the processes of democratisation currently underway which are tied to the contestation of power structures that go beyond the traditional focal point of the nation state. Power is both created and challenged locally, nationally, regionally and globally in simultaneous ways by institutional and non-institutional forces often working transnationally. This is particularly the case in the domain of trade governance. The challenge of democratising trade is therefore related to the processes by which socioeconomic inequality is produced within and across national divides.

An additional key problem in the literature on democratisation and social movements is the supposed gender neutrality that characterises both. Accordingly, in the analyses on democratisation as a transformative process and of the dynamics of social contestation that have contributed to it, the division between public and private spheres is taken for granted. This has the effect of circumscribing democratisation processes to what is defined as 'public' and neglecting social movements' gendered dynamics and interventions. Feminist analyses have challenged the extent to which gender relations are affected by ongoing processes of democratisation and shown that men and women are differently impacted by and involved in this process (Eschle 2000 and 2005; Rai *et al.* 1994; Waylen 1994). Therefore, a meaningful understanding of democratisation should also include a re-politicisation of what is considered as 'private' in the literature on democratisation and a problematisation of social movements gendered framings, repertoires and strategies.

Likewise, in the literature on trade the assumption of gender neutrality constitutes another key problem for understanding its democratisation. The feminist literature on structural adjustment programmes showed that economic policy is not gender neutral and in fact has differentiated impacts on women and men (Beneria and Shelley 1992; Bakker 1994; Brodie 1994; Evers 2003; Runyan Sissons 1997). Feminists have argued that markets are socially embedded institutions and roles within market systems are structured by non-market criteria that lead to specific gender-based distortions in the markets. For example, women are considered docile workers, less prone to form unions and hence, more productive for specific jobs such as assembly lines. Furthermore, it has been observed how class and gender render unequal capabilities and bargaining capacities and resources to participate in the market (Rai 2004).

Overall, the challenge of democratising trade politics demands a commitment to a reflection on the emerging forms of *power* arising from civil society to reveal the various sites for the construction of social power (i.e. public/private, local/global).

How is power created and used by civil society organisations for the democratisation of trade as a means to development?

The following section looks at case studies of the women's, environmental and labour movement in the Americas to analyse the potential of civil society organisations to democratise trade politics in a context of shifting governance arrangements.

4 The women's movements in the Americas

Over the years, free trade agreements have been a prime issue for sectors of civil society in the Americas critical of the lack of effective citizen participation in public policy. Women's and feminist initiatives concerned with the negative costs of trade liberalisation on marginalised sectors of society have been part and parcel of this mobilisation. In doing so, they have confronted a double burden: that of opening spaces for gender concerns on trade governance within inter-governmental mechanisms *but also* within civil society itself. Their interventions have contributed to expose key interconnections between trade governance's gendered nature and its democratic deficits. This section illustrates how these neglected but highly important interconnections continue to constrain women's active participation in democratic life and citizenship and hence, limit a meaningful democratisation of trade governance in Mexico and in the Americas. Nonetheless, paths towards the democratisation of trade governance have been opened up by women's mobilisations around the North American Free Trade Agreement (NAFTA).

The NAFTA came into effect in 1994 to formalise economic integration between Canada, Mexico and the US. NAFTA set important precedents for subsequent trade governance developments in the Americas as the first North/South economic liberalisation treaty to grant extensive rights to private capital, including unrestricted rights of repatriation of investment capital, payments, profits, and royalties, along with a guarantee of fair compensation for expropriation (Chapter 11) (Shadlen 2003: 16). By 2005, NAFTA's \$700bn in cross-border trade and investment constituted the cornerstone of its extension through the Security and Prosperity Partnership for North America (SPP).² The following section explores how the women's movement in the Americas has been a key force in the democratisation of NAFTA and more recently the SPP process.

² The SPP was launched in March of 2005 as a trilateral effort to increase security and enhance prosperity among the NAFTA members. According to the SPP-US official website, this sub-regional initiative aims at 'transforming North America in the safest and best place to live and do business. It includes ambitious security and prosperity programs to keep our borders closed to terrorism yet open to trade'. See: www.spp.gov/.

4.1 Opening up decision-making processes

For more than two decades, a central demand from civil society groups critical to NAFTA in Mexico, Canada and the US has been that of opening spaces for participation in official policymaking processes, especially in foreign policy and, particularly, in trade negotiations (Brooks and Fox 2002: 2–7; Hogenboom 1998: 43–57). To date, some important steps have been taken to provide for institutionalised civil society inputs within NAFTA (see NACEC case in the following section). At the national level, there has been the case of the *Unidad de Atención a las Organizaciones Sociales* (UAOS) established within the Mexican Ministry of Foreign Affairs in 2002, soon after President Fox's cabinet held meetings with Mexican civil society organisations such as the US-based Alliance for Responsible Trade (ART), Common Frontiers and the Quebec Network on Continental Integration (RQIC).³

At that moment, the UAOS became one of the first and few liaison units at federal level interested in the institutionalisation of dialogue with civil society organisations in Mexico. According to a former UAOS director this institutionalisation process was possible because for the Mexican government 'this didn't represent a political issue at all, but a matter of finding the most efficient ways of organising it' (Icaza 2004: 219). In order to achieve this, the UAOS launched diverse 'e-public invitations', held meetings with activists including critical voices on trade liberalisation,⁴ and organised national forums on the FTAA process. The UAOS's last e-public consultation was on the Security and Prosperity Partnership for North America (SPP) and the National Development Plan for 2006–2012.

However, the creation of top-down mechanisms for citizen participation, such as the UAOS, has been a rather limited process and far from an established success. In the case of Mexico, for example, the interactions of civil society organisations with governing authorities (the Executive, Legislative, and Judicial powers) remain subject to the discretionary whim of the latter and despite the fact that *ad hoc* mechanisms have been established for organising public consultations over the country's foreign policy agenda, including trade related issues, these have had no enforcement capacity, no resources and are not widely known. Notably, when the democratisation of foreign policy, including trade governance, is discursively linked to the question of citizenship through consultations and 'ownership', no particular mechanisms are created to promote this. Furthermore, in the case of the UAOS, which lacked formal criteria to clarify what constitutes a civil society organisation, most of its programmes were focused on formal groups. Overall, the assumption was that a level of formality and institutionalisation equals legitimacy and representation (Icaza 2004).

3 The UAOS. See: www.sre.gob.mx/uaos

4 Among these was RMALC that was launched as an advocacy network in 1991 by different sectors of civil society in Mexico, including grass root and base groups, NGOs, unions, individual political party members, civil and social organisations, think-tanks and individual academics. RMALC was created to oppose the signature of the North American Free Trade Agreement (NAFTA) and for some the network's transborder resistance to this agreement has become a reference for different sectors of civil society in the Americas critical of free trade agreements and corporate globalisation. See: www.rmalc.org

Unsurprisingly, as with other *ad hoc* inter-governmental mechanisms created for civil society participation in Mexico, the incoming administration implemented important reforms to the UAOS. From December 2007, the UAOS has been reduced to an Office within a Sub-Ministry for Multilateral Issues and Human Rights and has remained silent in relation to the latest mobilisations in Mexico against the implementation of NAFTA's agricultural chapter in 2007. Therefore, some sectors of civil society, including women and feminist organisations that mobilised against NAFTA, have remained sceptical of top-down democratising initiatives such as the UAOS. In particular, for some feminist and women's organisations and activists in Mexico linked to Red Mexicana de Acción Frente al Libre Comercio (RMALC), UAOS-style initiatives have tended to ignore the fact that some organisations and sectors within civil society are better positioned to participate while many others remain excluded (Concha and Labelle 2005; Dominguez and Icaza 2006).

In the case of the *Gender Equality Office* at the Mexican Ministry of Economy – the main institution responsible of the day-to-day administration of NAFTA – women and feminist activists have remained sceptical too. The Office was established in 2002 to 'foster the design of specific strategies to grant and guarantee development opportunities to the Mexican population without distinction by gender'.⁵ So far, the Office has focused on producing desegregated data on women entrepreneurs in order to inform business development programmes within the Ministry. It has also contributed to specific programmes targeting low-income women having as a central objective promoting self-employment and flexibility for those working at home (and hence, close to their family responsibilities) (Secretaría de Economía 2003).⁶

The Office's agenda displays sensitivity to feminist agendas on trade and development and to some extent has started to make visible the gendered dimension of trade policy and the market. Nonetheless, male technocrats and government officials in general continue to neglect the relationship between gender and trade. Paradoxically, for many women and feminist organisations in Mexico dealing with issues such as domestic violence, gender discrimination or parliamentary quotas for women, this relationship is simply not considered. Therefore, trade is systematically excluded from the agendas of institutions and government agencies responsible for 'women's concerns' (Domínguez and Icaza 2006).⁷ This poses important challenges to the democratisation of trade governance by feminist and women activists who despite this have managed to open channels within inter-governmental bodies and civil society itself to voice their demands as the following examples illustrate (Hale 1999; Spielfoch 2004; Staudt *et al.* 2001; Hoskyns 2006).⁸

5 The Unit's official standpoint is that the economy is gender neutral. See: www.economia.gob.mx/?P=1379 (accessed on 29 August 2007).

6 See for example: Fondo Nacional de Apoyo a las Empresas de Solidaridad (FONAES) y el Fondo de Microfinanciamiento a Mujeres Rurales (FOMMUR) at www.economia.gob.mx/?P=1379

7 This is the case of the Mexican Instituto Nacional de las Mujeres (INMUJER) see: www.inmujeres.gob.mx/pprincipal/index.html.

4.2 Broadening participation

For more than two decades, sectors of the women and feminist movements in the Americas have sustained tri-lateral cross-border campaigns on NAFTA's gendered nature and precarious democratic credentials. Diverse networks and groups, such as the International Trade and Gender Network (INGT), Red de Género y Economía (Redge), Mujer a Mujer, the Coalition for Justice in the Maquiladoras (CJM), and Comité Fronterizo de Obreras (CFO), have been mobilised around trade liberalisation's negative impacts on women's general welfare, labour rights and employment opportunities in formal and informal sectors of the economy.

Through academic analyses and economic literacy programmes on trade and gender, coalition building, street protests, solidarity tours, lobbying to authorities, and so on, these groups have also sought to make visible women's unpaid labour and find ways to give voice to those heavily affected by economic restructuring, such as elderly, disabled and indigenous women (ASC-HSA 2002; Espino 2001, 2003; Espino and Azar 2002; León and León 2002; Valadéz 1999; Valdés 2003; RMALC 1997).

4.3 Promoting new democratic spaces

In addition to promoting women participation, it can be argued that the emergence, inclusion and subsequent gender awareness of development and trade governance is largely seen as a result of multi-level contacts among female politicians and public servants, feminist and women's groups and activists and not a top-down governmental initiative (Álvarez 1998; Domínguez and Icaza 2006; Newell and Tussie 2006). This is an especially complex task due to the fact that gender concerns have not got the same leverage as environment and labour concerns, in the regional intergovernmental mechanisms within the NAFTA framework (see subsequent case studies). For many, these inequities are explained through the straightforward relationship that exists between trade liberalisation and organised labour and/or environmental concerns, whereas the connections between trade and gender are less obvious, visible and are more deeply-rooted.

4.4 Democratizing civil society

Gender related issues have rarely been the main focus of civil society tri-lateral coalitions campaigning in the Americas. In Mexico, women working for the export industry and maquiladoras and recently, *femicidios* in Ciudad Juárez have been the focus of intense transnational activism and solidarity among feminist and women organisations and networks (Pearson 2008).⁹ Notwithstanding, civil

8 Interview with Ms Leonor Aida Concha, representative of Red de Género y Economía (REDGE) in Mexico and long time feminist activist working on campaigns against NAFTA and FTAA and subsequent bilateral free trade agreements in the Americas. The interview took place at REDGE's offices in Mexico City on April 2008.

society initiatives and campaigns have often interpreted feminist concerns on the gendered nature of trade liberalisation as exclusive to women. This has been the case of Mexico's networks and coalitions of civil society organisations and social movements that have privileged, for instance, NAFTA's democratic deficits above any gender-related concern. Notably, in the most recent national campaign '*Sin maíz no hay país*' opposed to the implementation of NAFTA's agricultural chapter, women are playing an important role as activists and peasants themselves, but gender concerns are simply not mainstream ones.¹⁰

For some academics, these gendered hierarchies in civil society organisations are limiting the meaningful democratisation of trade governance. They can be explained by three interrelated factors: (i) a widespread assumption of a gender neutral market among institutionalised circuits of power (e.g. like in the UAOS and Unidad cases), (ii) a general failure to create explicit links between the broader feminist movement's 'traditional' areas of struggle, such as domestic violence, abortion, political party quotas, and free trade issues; and (iii) in the case of Latin American countries, to the weakness of the feminist movement within leftist circles (Vargas 1994; Domínguez and Icaza 2006; Icaza 2006, 2007; Icaza *et al.* 2006; Macdonald 2002; Newell and Tussie 2006).

The incorporation of a gender perspective into civil society multisectoral alliances and networks, such as RMALC or the Hemispheric Social Alliance (HSA) has not been an easy or automatic task; this is the result of intense mobilisations of women from popular sectors allied to middle-class organisations in national and transnational campaigns (Domínguez 2002). In Mexico, feminist activists have had to confront the lack of gender equality in decision-making within civil society organisations themselves that in the case of RMALC has provided women with reduced opportunities for meaningful participation (Domínguez 2002; Macdonald 2002). Certainly, in many cases this can be more subtle than premeditated, but in general civil society groups are not immune from the asymmetrical relations that exist among their own members.

4.5 Democratic innovation

A key issue for feminist hemispheric campaigning over the FTAA and Mercosur has been capitalising on the lessons learned from NAFTA's previous experiences in which the marginalisation of gender concerns in governmental arenas but also in civil society itself played an important role (Domínguez and Icaza 2006; Domínguez 2007; Concha and Labelle 2005; Espino and Azar 2002; Icaza 2007). Accordingly, interventions by feminists and women's groups aimed at circumventing the prevailing restrictions upon dissent in governmental arenas are pushing forward diverse strategies of protest and resistance, such as meetings that run parallel to the official negotiation rounds. A salient rationale behind these

9 In the first Border Social Forum (BSF) held in Tijuana-San Diego, one of the main topics for discussion and street protests was *femicidios* and the lack of effective governmental responses to them.

10 www.sinmaiznohaypais.org/

interventions has been that the lack of public visibility and accountability of the mechanisms and institutions dealing with trade negotiations constitute one of the many factors that not only reproduce North–South asymmetries but also gender ones (Domínguez and Icaza 2006). However, these women have also turned to parallel meetings and protests such as *‘encuentros feministas’* and *‘women’s tribunals’* as a way of opening spaces for women and other marginalised sectors of society within civil society itself.¹¹ For example, in the 2008 *Foro Social de las Americas* held in Guatemala the Women’s Committee of the Hemispheric Social Alliance (HAS) invited their members for a two-day meeting prior to the Foro to discuss and negotiate key points of their agenda that would be promoted during the Forum’s events.¹² For some, to ‘open’ spaces to women’s participation at different policy levels within state institutions, the market and civil society itself represents an essential step: a sort of ‘pre-condition’ to bringing gender concerns into the politics of global trade (Concha and Labelle 2005).

4.6 Final remarks

In Mexico, NAFTA inaugurated an era of economic governance that promoted limits to state intervention in economic development with a model of development based upon the export sector, strict macroeconomic balances in public finance, and stable domestic and international markets as the main equalisers of disparities (Dussel Peters 2003; Middlebrook and Zepeda 2003: 16–22). Despite this, the Executive has indeed played a strong role in the administration of NAFTA as well as in pushing forward the necessary structural reforms that put the agreement in place, and that up to today, have prevented its renegotiation (Icaza 2004). Moreover, the supposed neutrality of the intra-regional markets created under NAFTA – in terms of access, competitiveness and efficiency – has been called into question as the benefits of trade have not been distributed equitably. For instance, it has been noted that gender, ethnicity and class truly matter when NAFTA’s winners and losers are identified. Accordingly, NAFTA appears not as ‘neutral’ regional trade governance framework, but framed according to particular gendered conceptions of the market and the economy that determine, for example, whose labour and which sectors of the economy count (Audley *et al.* 2003; Lind 2005: 63; Spieldoch 2004; Staudt *et al.* 2001; Valádez 1999).

Interestingly, the governmental mechanisms recently established in Mexico to address citizen’s concerns about the democratic deficits and gendered nature of trade governance not only seem to escape public control, but also reinforce and reproduce particular gendered understandings and values (discourses) through particular institutional structures on who trade governance is for.

11 www.laboralred.net/leer.php/297

12 Rosalba Icaza was allowed to be present in this meeting, which took place on Antigua, Guatemala on 4 and 5 October 2008 and would like to thank Graciela Rodríguez from INGT for her invitation and to the other members of the Committee for their trust.

5 The environmental movement in the Americas

This section explores the experience of the environmental movement in Latin America both in engaging with the formal institutional channels made available within the NAFTA, Mercosur and FTAA trade accords as well as mobilising to contest those arenas through transnational organising and building alternatives from below.¹³

5.1 Opening up the decision-making processes

The purpose of this section is to look at those mechanisms of participation that exist within the formal arenas created by NAFTA, Mercosur and FTAA respectively, with a view to understanding for whom such processes are working and which groups and interests are effectively screened out of current regional trade debates by the ways these institutional channels have been constructed. In relation to the tools and approaches to democratisation noted above, it highlights in particular attempts to 'open up the decision-making process' and to create new democratic spaces, albeit within existing institutional structures.

5.2 NAFTA

The impact of campaigns on institutional structures is often not easy to discern in the short term, but may yield longer term benefits for groups in the future. Hence with NAFTA, although environmental concerns over trade policy did not substantively alter the norms and principles of trade policy, some (minor) changes to institutional procedures were achieved that may create windows of opportunity for future activism around NAFTA. Audley notes (1997: 118), 'While NAFTA did not alter the practice of using trade experts as panellists, panel members may now call upon experts from the environmental community to provide them information relevant to the case'. A Border Environmental Cooperation Commission (BECC) was also created in response to concerns expressed by NGOs about the effect of trade expansion on the Mexico-US border. Previously operating as a bi-national institution, the BECC now constitutes a ten person board of directors which includes representatives of the 'general public'. Many environmentalists are, nevertheless, 'fuming that the BECC operates behind closed doors' (Timmons Roberts and Thanos 2003: 57). Alongside this, there is an 18 member Advisory Board, made up of residents of the border region, which is meant to ensure that interests of state and local communities affected by BECC decisions are represented. Members of the public are required to submit a request to speak at a public meeting 15 days in advance and the board retains full discretion regarding who can speak at meetings.

13 Some material in this section draws from Newell (2008a).

The environmental side agreement of NAFTA, which activists lobbied hard for, also creates a Joint Public Advisory Committee (JPAC) to the NACEC designed to provide input from NGOs and the private sector to the NACEC's governing council (Fisher 2002). The Joint Public Advisory Committee normally consists of 15 members, with each nation appointing an equal number of representatives, though it currently stands at 14 with one less representative from Canada than the other NAFTA members. The committee seeks public input and recommendations to help determine the advice it provides to the Environmental Council. According to Fisher (2002: 189), '[b]y consistently working to seek public input and incorporate the insights and expertise of civil society into its activities and projects, the NACEC's initiatives have been greatly enhanced'. Articles 14 and 15 of the side agreement provide that any citizen or NGO from the parties may send to the secretariat a submission asserting that a party is failing to effectively enforce its environmental law in order to promote exports or investment. In response, the NACEC's secretariat may be obliged to provide a factual record, though without legal value or the ability to trigger trade sanctions.

Despite these institutional innovations and the degree of interest the agreement generated, and continues to generate, NAFTA has been criticised for its top-down approach and lack of consultation with civil society in the negotiation process. A key lesson from this experience has been that merely having the mechanisms in place does not mean they are used effectively. To date (from 1995–2007), the NACEC had received just 61 citizen submissions, 12 of which were under review and 49 had been closed, many of which because they did not meet the established criteria.

Resources, perceptions of return on effort and shifts in strategic priorities mean that the extent to which groups make use of or engage these mechanisms will change over time. For example, since the heyday of NAFTA, leading environmental groups such as the Sierra Club have shifted their focus away from daily participation in the activities of trade bodies and sought to focus their attention instead on raising the level of interest in trade policy among their members. Lack of resources, even among the accommodating groups, inhibits further participation. Costly engagement is more difficult to justify in a context of pervading frustration with lack of leverage in the process. The concern about lack of progress is compounded by the proliferation in the number of forum where dialogue takes place, each requiring time, personnel and money and the strong sense in which the window of political opportunity to advance trade policy reform has closed.

5.3 Mercosur

In comparison with NAFTA, Mercosur's mechanisms of participation are under-developed. While ambitious in its economic and commercial dimensions, Mercosur is weak in the construction of political dimensions that facilitate participation and representation of citizens that make up its member states. This is despite the fact that the Agreement of Florianopolis, the Environmental Framework Agreement in Mercosur, spells out in two places the importance members attach to civil society participation 'in the treatment of environmental

questions' and more generally 'in the protection of the environment and the use of sustainable natural resources'. There is a *Foro Consultivo Económico y Social*, created by the Protocol of Ouro Preto in 1994, which has spaces designed for businesses and unions, but offers few opportunities for environmental or other activists (Botto and Tussie 2003: 32). Indeed, business groups actively sought to exclude other social groups from this consultative forum. In the case of both the *Foro* and the *Comisión*, described below, Hochstetler concludes (2003a: 212 [my translation]) they 'only have consultative functions that make them *cul de sacs* for political participation'.

It is important to emphasise that control of decision-making has rested with national governments within Mercosur. The majority of decisions regarding Mercosur are taken by national Presidents and their economic and diplomatic advisers with little input from citizens. The process has been led by national ministers and ministries of foreign affairs and economy through bodies such as the Mercosur *Consejo del Mercado Común*. Primary responsibility for implementation is given to the *Grupo del Mercado Común*, made up of representatives from the national economic and foreign ministries and central banks. Unlike NAFTA, the dispute resolution mechanisms within Mercosur, which in theory could provide an opening for citizen engagement, are underdeveloped and specifically, there are no environmental dispute resolution mechanisms. As Hochstetler (2003:13) puts it; 'in practice, most conflicts are resolved through direct negotiations among the region's national presidents, a forum not especially open to broad social participation'. Even the joint parliament (*Comisión Parlamentaria Conjunta*) is simply made up of selected members of the national congresses of the member countries and, while in theory this provides more opportunities for engagement by civil society actors, it is structurally very weak and therefore plays a limited role in key decision-making. This weakness indeed has provided the impetus for organisations such as COPA, discussed above, to strengthen the voice of parliamentarians in trade debates, a strategy of defending existing democratic spaces.

NGOs often have fewer established ties and points of access to those ministries leading the Mercosur negotiations. This reflects a broader trend within trade policymaking where ministries with the weakest ties to environmental groups have the strongest influence over the direction of policy. As Alanis-Ortega and Gonzalez-Lutzenkirchen (2002: 44) note; 'Within Mexico, the Economic Ministry exerts extensive influence on environmental policy decision-making, regulations and practices that could influence economic or trade activity. At the international level, Mexico's Economic Ministry actively negotiates for Mexico in multilateral environmental forums where trade questions arise.' In this sense, officials from these ministries get to exercise a veto over environmental policy measures with which they disagree.

Those regional environmental institutions of Mercosur that do exist, are essentially a gathering of the (currently) four national environmental agencies. The working subcommittees of Mercosur have no permanent agenda or roles, except in the most general sense to enable the realisation of the goals of the Treaty of Asunción, leaving them little capacity to act as autonomous policy entrepreneurs. Weak institutions in this regard equate with fewer channels of access or

mechanisms of influence, however indirect, regarding key power brokers within the foreign and trade ministries. It is clear then, that the majority of opportunities that environmental activists could make use of within the Mercosur decision-making structure are confined to environmental areas that are considered secondary problems by the key Mercosur bodies. Hochstetler (2003: 15) notes, 'Given the limited agenda and powers of the Environmental Sub-committee, it is not surprising that SGT6 has not become a major focus for environmentalists in the region, even though it has tried to include non-governmental actors.'

There are many restrictions on meaningful NGO participation in Mercosur proceedings which impact upon their ability to open up the decision-making process. There are difficulties in accessing information about decisions that are in the process of being made, or even that have already been made within Mercosur (CEDA 2002). Documents are not routinely distributed in advance so, as Hochstetler (2003: 15) suggests, 'meetings can consist of observers sitting at the margins of a room while SGT6 members sit at a central table and make cryptic comments about negotiating documents, without divulging their actual content'. Another mechanism which permits decision-makers within Mercosur to deny NGO access to their meetings is to call 'extraordinary' rather than 'ordinary' meetings which means that NGOs cannot even attend the first day of the meeting. There is also evidence that levels of participation have actually decreased over time, perhaps reflecting the dynamic, already noted, whereby some NGOs choose to disengage from a process that offers few returns, especially after the diluting of the protocol on environmental issues and the continued narrow pro-trade bias of SGT6.

5.4 FTAA

In contrast to Mercosur, the involvement of diverse social actors has been on the agenda of FTAA from the very beginning. From Quebec onwards, the summits of the Americas have pronounced the importance of civil society participation in FTAA deliberations. The Ministerial reunion in San José in 1998 produced a declaration to this effect. At the Santiago summit, governments confirmed that they encouraged 'all sectors of civil society to participate and to contribute in a constructive manner their points of view through mechanisms of consultation and dialogue created in the process of the FTAA negotiations' (Ricco 2004: 7 [my translation]). Efforts to promote transparency, access to information through the internet (such as text being negotiated between states), public reports and participation in seminars, are held up as evidence of efforts to reach out to civil society, even if concerns remain about the technical nature of information provided which deters meaningful citizen engagement (Ricco 2004). It should also be emphasised that the release of information into the public arena often came in the wake of significant pressure from trade activists. For example, it was only from 2001 onwards that the draft text of the FTAA was made public, only following the Quebec summit and the Buenos Aires Ministerial where there was a lot of pressure from civil society for the release of the text (Saguier 2007b).

It is the establishment of a Committee of Government Representatives on the Participation of Civil Society that forms the centrepiece of FTAA's architecture of

participation, however. The FTAA draft declares the objectives of the committee to be information exchange, establishing procedures for accepting submissions, issuing status reports on the negotiations and managing civil society inputs. Indeed some groups have been able to involve themselves in the work of the CRG. In the Summit of the Americas Implementation Review Group (SIRG) meeting held in Mexico City in December 2003, some civil society groups were directly involved in formulating recommendations to the CRG (Icaza 2004: 174).¹⁴ It is dismissed by critics, however, as a meaningless sideshow. This is due to its absence of authority, workplan and lack of a real mandate, operating more as a 'drop box' for comments from civil society than a serious forum for debate. According to FTAA's own website, 'Vice-Ministers and Ministers are to decide the treatment and response to be given to these contributions' (ALCA 2004). Groups can submit recommendations to the committee, 'but the committee is not obligated to actually consider the views expressed' (Blum 2000: 6). This lack of follow-up on the impact of proposals submitted has led to sharp criticism of its effectiveness as a mechanism of participation. Global Exchange (ud) argue, for example:

Despite repeated calls for the open and democratic development of trade policy, the FTAA negotiations have been conducted without citizen input. A process has been set up to solicit citizens' views, but there is no real mechanism to incorporate the public's concerns into the actual negotiations. The public has been given nothing more than a suggestion box. At the same time, however, hundreds of corporate representatives are advising the US negotiators and have advance access to the negotiating texts. While citizens are left in the dark, corporations are helping to write the rules for the FTAA.

The underlying political purpose of the committee is made clear in the FTAA draft; 'The aim of the Committee of Government Representatives (CRG) on the Participation of Civil Society is to *build broad public understanding of and support for* hemispheric trade liberalization by serving as a channel of communication between civil society at the regional level and the FTAA negotiations' (cited in Blum 2000: 6 [emphasis added]). It is also open only to those groups that express their views in a 'constructive manner', a device clearly intended to screen out critics. The chief negotiator of NAFTA for Mexico under the administration of Ernesto Zedillo, Herminio Blanco Mendoza stressed the limited role of the committee in the following terms; 'This is no study group, no negotiating group, it's a committee that receives proposals and presents them to ministers' (cited in Blum 2000: 7). The short summaries produced by the committee of inputs from civil society for the Trade Negotiations Committee led environmentalists to react by saying; 'We just don't think it's a good use of our time ... We don't want our view mediated by a bunch of bureaucrats' (*ibid.*). For all its limitations, the committee is the only remaining official avenue for consideration of the environmental implications of the FTAA, given that the negotiating groups have failed to identify specific opportunities for raising environmental concerns directly. Even the existing body has faced opposition from a number of Latin American governments.

14 This was the case of CRIES, ALOP Alianza Cívica and the Canadian Foundation for the Americas (FOCAL).

Since its creation, the CRG has met numerous times and extends open invitations to civil society groups to present contributions regarding the FTAA process, the first of which was issued on 1 November 1998 and the most recent on 21 November 2003. The first two calls received 70 contributions, the third received 56 and the fourth 43, many of which came from US-based industry associations. Declining interest perhaps reflects both greater enthusiasm in response to the first call, the first such innovation of its sort, and subsequent frustration with the 'drop-box' model of participation (CIECA 2003: 337). No formal process links the civil society dialogue and any of the FTAA's nine negotiating groups. Deere and Esty (2002: 7) suggest 'In fact, no procedures even exist to guide the consideration of submissions from civil society, let alone analysis of them'. They claim there has been no substantive analysis of the submissions received from various groups and organisations since the committee was established, only the brief summaries mentioned above. On this basis, they argue 'Although the Civil Society Committee nominally reports directly to the FTAA trade ministers [through the Trade Negotiations Committee], it does so in terms that are far too general to be of any real use. Such lip service to critical issues and to the process of public participation promises to become a serious obstacle when it comes to ratify the FTAA'.

While the focus of this section has been on the institutional opportunity structures available to civil society within regional trade accords, we should not overlook the importance of sub-regional agreements such as CAFTA (Central America Free Trade Agreement) or bilateral accords. Bilateral trade accords provide a potentially important policy space for civil society participation as discussed below. But it is equally true that bilateral trade accords between unequal partners can be used to undermine environmental protection measures. The bilateral investment agreement between the US and Bolivia, said to have been 'negotiated on behalf of US mining companies to protect their investments in the mineral rich Andean country' (Cordonier-Segger 2005: 156) offers few openings for public input regarding the social and environmental impacts of mining for example, and there are no provisions for the public release of documents nor stakeholder participation in investor-state tribunals. Likewise, the bilateral trade agreement negotiated between Peru and the US opens the way to the entry of GMOs into a subsistence based economy, which is a centre of origin for potatoes, by requiring Peru to synchronise its sanitary and phytosanitary measures with those of the US, potentially undermining policy autonomy conferred upon Peru by its membership of the Cartagena Protocol on Biosafety. There are also fears that measures to strengthen intellectual property protection in line with US demands will threaten the genetic resources and traditional knowledge base of indigenous communities in the country (TWN 2006).

The experience of the environmental movement, as with other movements in the region suggests, however, the shallow nature of democratisation in (a) regional fora far removed from the democratic scrutiny of national parliaments that often asked only to endorse trade packages once they have been negotiated and specifically (b) in relation to trade policy, a process for reasons mentioned earlier is especially difficult to democratise in a meaningful sense. Issues of closed bargaining over commercial sensitive deals often preclude possibilities of meaningful ongoing citizen engagement. For this reason activists have sought to

deepen citizen engagement, create new democratic spaces as well as use the tools of democratic engagement in innovative ways.

5.5 Broadening participation

Firstly, there have been government-led initiatives carried forward by individual administrations to improve the participation of civil society in decision-making on environmental issues within the FTAA process for example. Examples would include the initiative between the Bolivia government and the World Resources Institute, or the roles created by the governments of the US and Canada for processes led by groups such as Fundación Futuro Latinoamericano, the North-South Centre of the University of Miami and latterly Corporación PARTICIPA and Fundación Esquel at key summits (Botto 2003).

More recently, the Chile-Canada Agreement on Environmental Cooperation, negotiated in parallel to their bilateral free trade agreement contains a provision that allows citizens and NGOs of the two parties to make submissions alleging a party's failure to effectively enforce its environmental laws. Such submissions may not include complaints affecting a private individual or a specific productive activity, although they may be filed against the parties if they fail to enforce their own environmental legislation (Matus and Rossi 2002: 266). In practice, critics allege many of the provisions regarding public participation in the agreement have too many weaknesses to be effectively utilised (CEDA 2002), but procedures concerning transparency, access to justice and procedural guarantees give others grounds for hope (Cordonier-Segger 2005: 204).

5.6 Creating new democratic spaces

Secondly, civil society groups have also sought to create 'new democratic spaces' including their own parallel conferences to register their views and make their voices heard, including on environmental issues. The *Cumbres de los Pueblos* (Peoples' Summits) that have been held alongside summits of the Americas as well as more recent summits of the South American Community of Nations (UNASUR) bring together activists from across the region to generate alternative proposals for integration that advance social and environmental agendas. The strategies adopted by such movements and groups critical of the orientation of trade policy and the use of formalised channels made available to shape it have been described more fully elsewhere (Newell 2007). They include the use of Permanent Peoples' Tribunals such as then one we attended in Vienna in 2005 focused on the impact of European multinationals in Latin America which heard cases brought against individual firms and evidence from witnesses about the social and environmental impacts of companies' operations. Forms of direct action and protest which aim at *deepening citizen engagement*, have also been employed around issues of water privatisation and in relation to the promotion of genetically-modified organisms through trade in the region amid concern that the FTAA as well as bilateral trade agreements privilege corporations' control over the seeds which farmers need to maintain their food security (Newell 2008).

5.7 Discursive democracy

Thirdly, one of the limitations of current systems of trade policymaking for many environmental activists is that they fail to address 'the ecology of trade'. This discourse emphasises the way in which trade is inevitably part of broader social and ecological systems which determine its viability and sustainability and whose maintenance should be the starting point for debates about *which forms of trade* a society wants and *for what purpose* questions which are excluded from current debates. It is unsurprising, therefore, that activists across the region of Latin America and elsewhere have rejected participation and engagement on the narrow and pre-determined terms being offered in favour of diverse strategies of protest and resistance. In doing so they have formed alliances not only with the feminist and labour movements discussed elsewhere in this paper, but with peasant-based and indigenous peoples' movements around access to and defence of resources such as water, land and seeds that are increasingly incorporated within the scope of trade agreements.

5.8 Democratising civil society

A range of transnational organising has resulted which has sought to generate democratisation *within* civil society by resource pooling, information-sharing and capacity building aimed at bringing excluded voices into the debate through transnational coalition-building. Rather than uncritically accept the rationales and discourses of those promoting a trade integration agenda, activists from groups such as *Vía Campesina* have sought to advance the idea of 'food sovereignty' which asserts peoples and nations' control over their access to and production of food. This is about promoting *discursive democracy*, emphasising alternative regionalisms and other knowledge bases for making decisions as well as deepening citizen engagement through protest, media work and trade literacy campaigns.

For example, the *Coordinadora Latinoamericana de Organizaciones del Campo* (CLOC) formed in 1994 brought together representatives from 84 organisations from 21 countries working on a common agenda of agrarian reform, food sovereignty and indigenous rights.¹⁵ Given this, it is closely aligned with *Vía Campesina* and the overlap between their members is extensive. Almost all *Vía Campesina* member organisations in Latin America participate in CLOC and many CLOC organisations participate in *Vía Campesina* (Edelman 2003). As well as supporting one another's networks, both coalitions have, in turn, played instrumental roles in constructing other coalitions on specific issues such as the 'Forum for Biological and Cultural Diversity' or the IPC (International Planning Committee for Food Sovereignty). This is a global alliance of dozens of transnational agrarian movements plus other civil society groups involving about 500 organisations across the world. For such groups, opposition to FTAA is reframed as a broader struggle against the global industrialisation and

15 Material from the following two paragraphs draws from Newell (2008).

intensification of agriculture. According to Teubal and Rodriguez, 'Various campesino movements have successfully articulated in recent years an authentic global movement' (2004: 197). This is grounded in opposition to TNC control of agriculture (including patenting and biopiracy), free trade in agricultural produce (especially dumping), the use of hormones and transgenics and in favour of food security and food sovereignty. Coalition-building of this sort and a range of protest activities have been the main strategies adopted by campesino movements, often aided by the financial support of sympathetic groups in Europe and North America, funding the travel of campesino groups to major anti-FTAA demonstrations (Newell and Tussie 2006). As a result of this coalition-building, it is possible to argue as Edelman does that 'Participants in the peasant and farmer networks have also come to have a dynamic sense of themselves as political actors, empowered with new knowledge, conceptions of solidarity and tools of struggle' (2003: 214). Edelman (2003) describes this as a form of a 'globalization from below' in which agriculturalists develop common agendas and protest repertoires on issues as diverse as trade and human rights issues. As a result he suggests 'farmers have achieved a prominence in international arenas that they rarely enjoyed in their own countries' (2003: 185).

The trigger for such mobilisations is the prospect of a trade agreement with far-reaching effects on rural economies serves to galvanise social action and provides a common threat for smaller producers. This was certainly the case with the NAFTA agreement that spawned a whole series of coalition-building amongst the probable losers of an integrated market and latterly the FTAA (Teubal and Rodriguez 2004). RMALC (Mexican Network Against Free Trade) was one manifestation of this, serving as an important source of analysis on trade policy for peasant movements (Edelman 2003; Icaza 2004). Issue-specific groups such as *En Defensa del Maíz* focused around free trade and GM corn and national coalitions of campesinos such as *El Campo No Aguanta Más*¹⁶ drawing attention to the negative impacts of NAFTA upon the livelihoods of the rural poor also sprung up in the wake of the agreement. Trade politics connect macroeconomic restructuring with local livelihood concerns 'blurring' domestic and foreign policy in new ways. There is also a sense with activism around trade issues that nationality ceases to be the primary point of reference even if lobbying continues to be channeled through the state. Expressions of solidarity, encouraged through joint demonstrations, declarations, exposure tours and the like lend weight to Edelman's claim that trade policy 'increasingly divided people less along national lines than in relation to shared class, issue-based or sectoral interests' (2003: 198).

National campaigns within the region may well be managed through bodies serving as coordination points and with a transnational base of representation. They serve to direct their claims towards regional and global arenas, such as the WTO or multilateral arenas dealing with issues which impact upon rural livelihoods such as the CBD's deliberations about access and benefit sharing or the debates about restrictions on the use of GURT technologies. Activists make use of their

16 Translation: The Countryside Cannot Take any More. See for example www.grupochorlavi.org/php/doc/documentos/elcamponoaguanta.pdf (accessed 4 December 2007).

ability to operate simultaneously in different political spaces and to transgress scales. This involves, for example, mobilising nationally within 'transnational arenas' such as the negotiations of the Cartagena Protocol. With access to transnational audiences such arenas serve as platforms to advance national political objectives. For example, around 1,500 peasants organised by Via Campesina demonstrated in Curitibia where the MOP3 (Meeting of the Parties) was being held. They were protesting the length of time allowed before requirements regarding the identification of transgenics in food come into play, currently four years.¹⁷

5.9 Final remarks

It is clear then that trade justice and an incredible array of other social movements and political actors have sought to establish that where trade negotiations determine access to water, life-saving medicines, determine the viability of rural livelihoods and pass judgement on whose knowledge counts and can be privately owned, they have transgressed the politics of formal state bargaining over tariff reductions. Fundamental issues of politics, morality and social and ecological sustainability are at stake and activists have sought to have them addressed as such. Trade negotiators are finding that people will not easily be pacified by pleas to be acting in the common interest in the absence either of spaces for deliberation and contestation within trade policy arenas or, more fundamentally, at the national level where governments of course remain the appropriate and overriding point of democratic reference for the politics of representation.

This narrow form of democratising trade policy, understood as bringing more voices and actors into a set of institutions and policy processes whose purpose and process are already established, is a far cry from 'ecologising democracy': recognising the broader and multiple social and ecological systems which support and will be affected by the expansionist ambitions of trade policy and setting up policy spaces and processes that can cope with the complexity that flows from this. This is in contrast to current attempts either to negate the relevance of the social and environmental impacts of trade policy from debates about its content and enforcement or to press those issues into the service of trade liberalisation objectives. Side-agreements without meaningful enforcement, procedures for citizens to bring legal claims once harmed by polluting industry such as exist in the NAFTA agreement, or the suggestion 'drop box' whereby activists can deposit ideas about improvements to the (currently stalled) FTAA negotiations, without any obligation on the part of negotiators to respond to these, hardly count as a serious effort to engage with civil society, let alone democratise trade policy in any meaningful sense of the word. Many such mechanisms reproduce the WTO logic that only groups with a 'legitimate' interest in the organisation's work, defined as having a 'direct interest in issues of production, distribution and consumption' by the Mercosur agreement, are entitled to a say. Groups are regarded as a 'valuable

17 Via Campesina 'Peasants Mobilize Against the 4 year Term to Identify Transgenics'
www.viacampesina.org/main_sp

resource' in making the case for trade liberalisation in the public domain. The political function of the FTAA's Committee of Government Representatives on Civil Society is made clear in the draft text of the agreement noted above: 'to build broad public understanding of and *support* for hemispheric trade liberalisation' (my emphasis).

Inevitably such mechanisms serve to reproduce inequalities within civil society. Those with a clear grasp of the legal and economic framing of the agreements, with the resources to participate and the e-capacity to engage in 'virtual consultations', often capital based and most critically of all, willing to support the institution's goals and objectives, may make use of such mechanisms. The vast majority of civil society organisations, and certainly those better placed to claim that they represent those most by affected trade agreements, often with fewer resources, little to no e-capacity, frequently not capital based and critical of the *procedural* and *distributional* elements of trade policy, will not. After all, why participate in a debate whose terms have been set by those who stand to gain from liberalisation, whose processes were never designed to be inclusive or democratic but which, nevertheless, you are being asked to endorse through your engagement? In the short-term, the project of democratising trade policy remains a valid one; using existing spaces to open up broader debates about what types of trade bring genuine development for all, not as an end in themselves, but justified by their ability (or not) to serve broader social and environmental goals. The longer term aim for critical environmental movements, as with other movements analysed in this paper is to construct alternatives and build political alliances to take them forward.

6 The labour movement in the Americas

This section of the paper explores the efforts of the labour movement to democratise trade politics in the Americas with specific reference to the FTAA. Government representatives of 34 governments of the Western Hemisphere (all countries apart from Cuba) began to negotiate the FTAA in 1998. This trade integration project has faced great criticism based on the concern that it would lead to the exacerbation of the already extreme levels of inequality that makes Latin America the most unequal region in the world (Berry 1998; Portes and Hoffman 2003). Only the most competitive economic sectors in the continent could benefit from the FTAA, particularly the most powerful economic sectors in the United States (Esty and Sánchez 2005; Sangmeister and Taalouch 2003). Inspired by the NAFTA model, the FTAA project was also about the institutionalisation of an infrastructure of rules and disciplines that grant disproportionate rights to corporations while curtailing democracy and social rights. Its chapters on investments protection and dispute resolution have been the most controversial aspects of this project (Anderson and Arruda 2002; Barenberg and Evans 2004; Hillebrand 2003). The labour movement in the Americas has been a key protagonist in the efforts to democratise the FTAA process. Different strategies were adopted to increase the participation of trade

unions in the definition of the trade agenda. This case study explores five aspects of this endeavour.

6.1 Opening up the decision-making processes

The main trade union organisations in the Western Hemisphere sought to democratise the FTAA negotiation by attempting to open up its decision-making processes to the participation of labour organisations. In order to gain access to the decision making levels of the negotiation process, trade unions pressed for the formal incorporation of a Labour Forum into the FTAA negotiation governance structure (ORIT/ICFTU 1997). The Labour Forum process started in 1995 when the Inter-American Regional Labour Organisation (ORIT), the Western Hemispheric branch of the Confederation of Free Trade Unions (ICFTU), began to organise parallel conferences to the FTAA ministerial meetings and other summits.¹⁸ It was expected that access to the decision-making structure of the FTAA negotiation through a formal consultative role could increase the likelihood that labour demands would be taken into consideration in the drafting of an FTAA agreement.

In broad terms, unions sought to prevent that a trade agreement that would make low wages and poor working conditions the main competitive advantages of the countries' economies for attracting investments. To this end they aimed at incorporating a social clause into the core of the trade agreement. The rationale was that the rights that signatory countries are given by subscribing to an FTAA would have to be conditional upon respect for a set of basic internationally recognised workers rights in line with 1998 ILO Declaration on Fundamental Principles and Rights at Work. Moreover, this clause would also have to be accompanied with an effective system of enforcement which could avoid the shortcomings of the North American Agreement on Labor Cooperation (NAALC) that was negotiated along with NAFTA. Although such a 'reformist' stand on the FTAA was never shared by all trade union across the board (due largely to suspicion on the part of Southern unions that a labour clause could be misused by unions in the North for protectionist reasons), during the early stages of the FTAA negotiations the social clause agenda provided a starting point around which trade unions could begin a slow and cumbersome process of articulating a 'common' labour agenda.

The plight to obtain official status for the Labour Forum was nonetheless never successful. There was never agreement between governments to engage with trade unions on FTAA discussions at the hemispheric official level. In contrast, a Business Forum set up by the largest companies in the region was given official status as a body of consultation where various recommendations were produced to 'assist' trade ministers to identify the demands of the private sector. In this respect it can be said that the strategy of carving out an institutional space by trade unions to address labour demands in the FTAA negotiation structure was unsuccessful.

18 The first of these Labour Summits was held in Denver (1995), followed by Cartagena (1996), Belo Horizonte (1997) and the Mercosur presidential summit (1996).

In terms of opening up the negotiation process to labour demands, trade unions also engaged in efforts to access a copy of the draft FTAA agreement. Access to this information was restricted to government officials, with the agreed commitment not to release it in any country. Since the beginning of the negotiations phase in 1998 the text was kept away from public scrutiny, despite the mounting insistence of trade unions and a gamut of other social organisations from across the continent that the text had to be public to increase the transparency of a negotiation process that was insulated from public debate. The large and unprecedented mobilisations that took place in Quebec City in 2001 to oppose the FTAA project in the context of the Summit of the Americas was a clear sign that the democratic legitimacy of the hemispheric trade process was seriously affected, and the public support for this project virtually inexistent. The events in Quebec were the result of an accumulation of a series of initiatives and mobilisations organised continentally to demand public access to the FTAA draft text in which the trade unions most actively behind this process played a significant role. The decision of governments to release this document after the Quebec summit represented a partial, though important, victory in the efforts of trade unions to democratise the FTAA process.

6.2 Broadening participation

Alongside efforts to open up the decision making structures of the FTAA negotiations, trade union organisations in the region also sought to democratise the trade process by participating in a series of official consultations. In particular, some unions participated in a series of consultations launched by the FTAA Committee of Government Representatives on the Participation of Civil Society (CGR) in 1998 and 2000.

The CGR proved to be an inadequate vehicle for the inclusion of labour demands in the official negotiation process. Its function was merely to 'transmit' the views of civil society organisations to the FTAA Trade Ministers rather than provide an adequate space for political deliberation about the agenda of the eventual trade agreement. The limited scope of the CGR reflected the reticence of some Latin American governments towards establishing any kind of supranational initiative that could eventually complicate the executive branches' control of the negotiation process. Originally proposed by the Canadian Trade Ministry, the initiative to establish a CGR was supported by the governments of the United States, Argentina and other countries from the Caribbean, and was also vehemently resisted by Mexico, Peru and some of the Central American governments (Tussie and Botto 2003: 43). Policy recommendations were submitted by trade unions and other social organisations via the internet to be incorporated as terms of reference in the negotiation. This input was not followed by any kind of feedback from the government officials that could be sent back to the trade unions and other organisations that formulated recommendations. This prevented a two-way political dialogue from taking place between trade ministers and trade unionists (ART 2003: 2; Hansen-Kuhn 2001: 5; Sampson 2003: 56).

Furthermore, trade ministers retained discretionary power to filter out any submissions from civil society organisations that they considered 'inappropriate'.

Anything that could politicise, and hence potentially obstruct or delay the goal of market liberalisation, would count as an inappropriate submission. Governments specified that the CGR would only accept 'trade-related matters' that are presented in a 'constructive' manner. Issues such as human rights, gender, poverty, and others, which are commonly treated by some officials as 'non-trade issues', were not brought into the trade discussions (Shamsie 2003: 16).

This led trade union organisations and other social organisations to repudiate this mechanism of participation as being a useless means to influence the negotiation process (Saguier 2007b). It was claimed that the real function of the CGR was 'to keep up the appearance of dialogue' (ART 2003; Barlow in Wiesebron 2004: 82; De la Cueva 2005). Moreover, it became increasingly clear to the trade unions that the proposed form of participation for civil society was instrumental to furnishing an exclusionary FTAA process with a sense of democratic legitimacy (Saguier 2007b). In 2001 trade union organisations in the Americas stopped participating in official initiatives for the participation of civil society organisations.

6.3 Democratising civil society

Alongside the various attempts of the trade unions to intervene in the official FTAA negotiation process, unions affiliated with the Inter-American Regional Labour Organisation (ORIT) had also been working towards the unification of the labour movement in the region (Anner and Evans 2004; ORIT/ICFTU 1997; Jakobsen 2001). This was consistent with the revitalisation of an internationalist tradition of the labour movement in the attempt to overcome the divisions inherited from the Cold War years (Chaloult and Fernández 2001; Dagenais 2005: 3; Mazur 2000; Munck 2002; Waterman 2001). Building solidarity ties to harmonise positions and actions across North–South divides presented trade unions with the possibility of increasing their leverage *vis-à-vis* the FTAA negotiations. The previously mentioned Labour Forums served as a platform to set in motion the unification process of the labour movement – even if outside the formal FTAA negotiation structure.

In addition to closing ranks between trade unions in the continent, making alliances with the so-called 'anti and/or alter-globalisation' movements became an increasingly strategic component of the renewed internationalism of the labour movement (ICFTU 2004). This responded to the political and organisational challenges faced by trade unions in their capacity to act as representatives of workers in a context of increasing informality of work, unemployment, decreasing levels of unionisation of workers and the rise of economic activities without trade union representation. The emergence of diverse forms of social movements and actors in the region demonstrated the loss of standing of trade unions in this respect. Henceforth, the strategy of the labour movement in relation to the FTAA process involved building coalitions with other citizen movements within and across national borders.

The main regional NGO networks working in the Americas on the environment, human rights, gender, rural and indigenous issues were invited to participate at the Labour Forum hosted by the Brazilian United Workers' Federation (CUT) in

Belo Horizonte prior to the FTAA trade ministerial meeting that was held in that city in 1997. Other labour organisations that played a leading role in this event included the American Federation of Labor-Congress of Industrial Organisations (AFL-CIO), the Canadian Labour Congress (CLC) and the Confédération des Syndicats Nationaux (CSN) from Québec, Canada (Saguier 2007a). The final declaration of this encounter states that the goal of that meeting was to work towards an 'effective complementarity between the perspectives and action strategies of the trade-union movement and those of other social movements' (Foro Nuestra América 1997). The bases of consensus reached at this foundational forum resulted in the formation of the Hemispheric Social Alliance (HSA).

The steps taken towards the unification of the labour movement in the Americas, and the alliances forged between labour unions with other social groups in various countries, were important dynamics in the democratisation of trade politics in the region. The degree of political convergence and operational coordination that was reached between such a broad, heterogeneous and geographically dispersed range of social forces under a common resistance to the FTAA project led to the emergence of a new 'continental social force'. This force has a distinguishable sense of identity and common purpose which underlies its plural and loose ideological composition. It nurtures a sense of belonging that has been shaped resisting free trade as being contradictory to the possibility of deepening citizenship. It is rooted in the confidence that it is possible to work together and coordinate actions at a hemispheric level (Aguilar 2004). More importantly, the formation of multisectoral coalitions has been a step forward in the democratisation of the trade union movement in so far as this demanded broadening the forms of representation of other social demands that have never been incorporated by the trade unions. There can be no democratisation of trade institutions and processes without democratisation of forces in civil society representing social demands.

The extent to this change should not be exaggerated, however. As the case of the gender movements in this paper pointed out, a much greater effort is still required to increase the representation of gender issues in debates and actions of trade unions. The same can be said about the priorities and demands of the peasant, and mostly the indigenous, movements which continue to be marginal to trade union agendas. On the other hand, important developments have taken place in representing unemployed social movements – as with the CTA in Argentina being the only trade union organisation in the world that affiliates unemployed workers. Furthermore, the links forged between trade unions and other social organisations around the FTAA project have been under strain following the demise of the FTAA process from the agendas of hemispheric governments from 2005.

6.4 Creating new democratic spaces

The labour movement in the Americas has also participated and supported the creation of alternative democratic spaces to formulate and articulate its demands in relation to the FTAA process. In addition to holding regular Labour Forums as previously discussed, they also contributed to create a series Peoples' Summits

(*Cumbres de los Pueblos*) as parallel events to the formal Summit of the Americas process and FTAA trade ministerial meetings. There were Peoples' Summits held in Santiago (1998), Quebec (2001) and Mar del Plata (2005). In the case of the trade ministerial meetings, the most important of the Peoples' Summits took place in Miami (2003). These informal summits provided a space where all trade union representatives could meet with other social organisations to exchange information, reach common positions and coordinate hemispheric-wide actions. They are structured in thematic workshops and plenary sessions covering the various issues and sectors affected by the FTAA and neoliberalism in general. At the end of these meetings the organisers produce a final declaration and action plan of documents containing the conclusions from the various workshops and sessions.

From 2001 these events were also complemented with the annual Hemispheric Encounter for the Struggle Against the FTAA (*Encuentros Hemisféricos de Lucha contra el ALCA*) held regularly in Havana, Cuba. Finally, trade union representatives have had a prominent role in the World Social Forums as well as in its regional version, the Americas Social Forums, promoting a labour perspective on free trade. Overall, these spaces have served not only as opportunities to meet up, learn about each others' views, exchange information and articulate common visions *vis-à-vis* the FTAA process and agenda. They were also central to the construction of alliances between the labour movement and other social movements. Without such spaces devoted to resisting the FTAA, it is unlikely that the hemispheric links and convergence that resulted from this process would have been attained.

6.5 Democratic innovation

Since the start of the FTAA negotiations in 1998, the engagement of trade unions with this process prioritised efforts to influence negotiations and reform the trade agenda with a commitment to a labour clause. This strategy was abandoned in the aftermath of the Quebec Summit of the Americas in 2001. The shortcomings of earlier engagements with this process were evidenced in the reduced capacity of the labour movement to influence the terms of the negotiations – apart from the success attained in pressuring governments to release the draft text of the agreement. Access to the text finally confirmed this situation with a lack of references to labour demands in the draft agreement. Moreover, the growing opposition to neoliberal globalisation among different publics observed at the Quebec demonstrations (and earlier by the Seattle protests to the WTO ministerial meeting and others worldwide) also contributed to a shift in the labour movement approach to the FTAA process. The new strategy would aim at the derailment of the FTAA process altogether.

In this context, the labour movement accompanied an initiative of the HSA and other social forces in Latin America critical of neoliberal policies to launch a *Continental Campaign Against the FTAA* (Saguier 2004, 2007a). The main strategy of the campaign was the organisation and transnational coordination of a continental-wide popular consultation on the FTAA. This aimed at providing information on the consequences of the FTAA to foster a public debate on the links between trade policies and development.

The popular consultations also sought to mobilise support behind forcing governments to hold official plebiscites on the FTAA in every country as a precondition for the eventual adherence to the agreement. The assumption was that if such official plebiscites were to take place, governments would not be able to rely on sufficient support to join the FTAA.

The national coordinating bodies of the Campaign organised a series of popular consultation initiatives between September 2002 and March 2003. There was flexibility in deciding what kind of consultation was the most appropriate for each country, considering the specific political conditions and infrastructure available. The most successful of these experiences was conducted in Brazil between 1 and 7 September 2002, where more than 10 million people in 3,894 municipalities from across the country voted in a popular plebiscite on the FTAA. The results of this consultation showed that 98 per cent of the people that participated were opposed to the signing of the FTAA, versus 1 per cent that supported this treaty ('Dez milhões' 2002). Material for popular education was also produced and widely distributed (40,000 booklets; 5,000 videos; 15,000 books; 50,000 posters; CDs that were circulated to local radio; and 3,000,000 information leaflets on the FTAA). The massive turn-out to the plebiscite was the result of a very successful information campaign, but also of the political momentum generated by an earlier popular plebiscite on Foreign Debt in 2000, in which 6,000,000 people participated (Berrón 2005).

Another important initiative took place in Argentina, where the *Autoconvocatoria No al ALCA* organised a popular consultation on the FTAA, foreign debt and militarisation between 20 and 26 November 2003. On this occasion, 2,252,358 people voted in 5,700 voting boxes placed in every province of the country (Berrón and Freire 2004: 301; Echaide 2006). The results of this consultation showed that 96 per cent of the people expressed their opposition to the FTAA, 88 per cent against the payment of the country's foreign debt and 97 per cent against the authorisation for the establishment of a US military base in Argentina to hold joint military exercises. In terms of the number of people that it included, this consultation was the second most important initiative of the campaign, following the Brazilian consultation (Berrón and Freire 2004: 301). In July 2004 a second consultation was launched to pressure the government to hold an official referendum on: the FTAA, other trade agreements, the payment of foreign debt, militarisation, and the need for solutions to the problems of poverty in Argentina. However, the pressure mounted by this second initiative was not sufficient to make the government hold this kind of referendum (Echaide 2006).

The experience of Paraguay was also relatively successful. With the leading role held by the Social Pastoral section of the Episcopal Conference of the Catholic Church (*Pastoral Social Nacional*), rural movements and organisations and NGOs working mostly on human rights and the environment, a popular consultation was organised during 2003 in 17 districts from around the country. Surpassing the organisers' expectations, 162,676 participated in this consultation. A series of popular grassroots education initiatives were likewise held before the launch of the consultation: 23 workshops specifically catered to community leaders in which 2,065 participated; and 182 general workshops that reached 15,489 people. The Paraguayan campaign managed to introduce the FTAA as an issue of discussion

in the press and of national debate. This is considered one of its most important achievements of the movement against FTAA (Berrón and Freire 2004: 304).

In Mexico, a system of permanent consultation process was employed between 12 October and 18 March of 2003 in which 2,000,000 people participated. However, 900,000 voted in favour of the FTAA. A consultation was launched in Ecuador by the Permanent Committee of Struggle against the FTAA on 9 October 2003, and the Uruguayan chapter of the HSA coordinated a *Citizen Popular Consultation for our Sovereignty and Against the FTAA* on 21 August 2003 (HSA 2003). In the United States, the Alliance for Responsible Trade – ART (HSA) organised an online consultation on the FTAA. Deborah James (2005) from Global Exchange claims that the popular consultations in the United States were unique due to the ‘lack of strong mass-based social movement’. She adds that in the lead-up to the Miami FTAA Ministerial Meeting in November 2003, US groups could only amass about half a million signatures against the FTAA from collective education efforts.

Campaigns to collect signatures were launched in Costa Rica, El Salvador and Honduras. In Nicaragua, 10,000 signatures were collected in the first five months starting in June 2003 (HSA 2003). A public opinion survey was conducted in Peru by the *Peruvian Committee of Struggle Against the FTAA* on 20 October 2002. The results showed that 35.6 per cent of the 500 people that participated in the survey did not know what the FTAA project was, 27 per cent claimed that it would be beneficial for the country and 73 per cent considered that there should be an official consultation organised by the government before signing this agreement. Moreover, in English-speaking Canada, Common Frontiers (HSA) collected 54,000 signatures (until October 2003) which voted no to the FTAA petition (HSA 2003), while in the province of Québec alone the Réseau Québécois sur l’Intégration Continentale (RQIC) (HSA) gathered 60,000 signatures. 93 per cent of these votes were against the negotiation of the FTAA and 95 per cent demanded their government not sign any hemispheric agreement which could undercut the sovereign power of the state to legislate in behalf of the public interest without a transparent and democratic negotiation process (Brunelle and Dagenais 2004: 5).

The contribution of the campaign to the democratisation of trade politics in the region is twofold. Firstly, it permitted groups to raise public awareness and generate information about the FTAA throughout the region. Until this point the FTAA process was largely unknown to the general public in most countries. The agenda-setting and the negotiation process were being conducted almost exclusively by the executive branches of government. According to Ugarteche, ‘all the negotiations have gone on under the table’ and that ‘the issue hasn’t even been discussed by national legislatures. As members of civil society, we have the obligation to openly debate and analyze anything that is going to directly affect us’ (Ugarteche in Ricco *et al.* 2006: 233). The opening of public debate on trade issues at the national level accompanied (and likewise contributed to) the change in the political climate in Latin America, which resulted in the coming to power of governments critical of the FTAA project (mainly Venezuela, Brazil, Argentina, and later Bolivia and Ecuador). A growing consensus among these governments about the necessity to halt the FTAA process was finally in evidence at the 2005 Summit

of the Americas in Mar del Plata, Argentina. The ability of governments to lead processes of trade integration without a popular mandate and with low levels of participation from organised civil society has been severely challenged.

Secondly, it engaged broader publics encouraging them to exercise their rights as citizens to decide whether or not to join the FTAA, compelling their national governments to hold official plebiscites. This contributed to an increasing sense of empowerment among some sectors of the population for which national (let alone hemispheric) politics are perceived to be removed from their daily lives (De la Cueva 2004: 3). The possibility of participating in the popular consultations on the FTAA held in the context of the campaign became a democratic act where citizens could claim their right to partake in decision making concerning the fate of their communities – whether this is defined along national, hemispheric or universal lines.

7 Conclusion

A general conclusion is that the efforts of NGOs and social movements in seeking to pluralise and democratise the debate and practice of trade policy in Latin America have led to shallow forms of democratisation rather than to the deepening of democratic engagement around the core questions of who and what trade is for. Mechanisms of public participation at national and regional levels have been created but only made use of by a limited range of civil society actors. In terms of blocking the advance of some regional integration projects such as the FTAA, there has been progress though again it is difficult to establish how far the mass mobilisations that have been observed were central to this, or whether fundamental disagreements about market access between states, particularly for agricultural products, carry more explanatory weight. It is safe to assume that greater numbers of people have been made aware and been mobilised on trade issues, higher levels of information and institutional oversight have been achieved than would otherwise have been the case. These are tremendous achievements in the light of the degree of secrecy and misunderstanding which surround trade policy negotiations in the region. The means of achieving trade liberalisation has switched for the moment from regional to bilateral trade agreements which often offer even stronger protection of investor interests than their region-wide counterparts. The logic and means of delivering trade liberalisation through closed processes of bargaining between state and commercial elites to the exclusion of those affected by these discussions continues.

Given these inequities in access and participation, democratising trade policy in the current context of Latin America, as elsewhere in the world, has to mean more than the minimal construction of formalised institutional spaces in which self-selected and generally well resourced members of civil society can participate. The creation of such spaces without attention to the resource constraints which prohibit people from occupying those spaces often only serves to reinforce inequalities within civil society (Newell and Tussie 2006). Likewise, creating the opportunity for groups to have input into a process which has no possibility of addressing concerns aired by such groups hardly counts as democratisation.

We have raised doubts in this paper, indeed, about the extent to which democratisation is a workable and applicable concept at the regional level where channels of accountability and participation are weak, direct elections do not take place and from which even national parliaments are often excluded. Movements can work transnationally to democratise trade and other policymaking processes, invoking rights-based claims around the *distributional* and *procedural* aspects and consequences of the way in which trade politics is currently conducted. They can register concern about differential impacts upon poorer groups as well as mobilise demands for rights to information, transparency and participation. That does not mean that they are calling for a transnationalisation of democracy even if they might desire stronger forms of accountability, participation and the existence of checks and balances within and upon economic institutions. There is a need for conceptual clarity then between notions of transparency, opening up, and horizontal accountability and the possibility of the exercise of democracy in a trans or post-state context. The key features of democratic systems for which movements have struggled for decades at the national level in terms of legally enshrined and realised rights of access, recognisable and accessible channels of representation and electoral mechanisms that provide accountability are unlikely to characterise regional economic or other institutions any time soon. Nevertheless, the project of opening up trade politics to a plurality of actors and perspectives, a genuinely open conversation and public engagement about which trade policy a society wants and why, about trade, not as an end in itself but as a means to an end, would be a step in the direction of democratising trade politics.

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