Becoming Agents of Contestation: NGOs in the International Trade and Climate Regime

Klaus Dingwerth, Kristina Hahn & Miriam Prys

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ABSTRACT: How do the structures of international regimes influence the ways in which non-governmental organizations (NGOs) organize their relations with each other and behave in the context of such regimes? In this paper we investigate to what extent the quality of NGO presence at the founding moment of an international regime influences the future course of interaction among the civil society segments that share an interest in the regime. We assume three specific mechanisms of influence. First, NGOs that had a strong presence in the early stages of an international regime are likely to facilitate access for like-minded activists in future regime stages while creating barriers for organizations with different political ends or ideologies. Second, the strategies that NGOs use to achieve their political ends are likely to differ between regimes with an initially weak vs. strong civil society presence. While weak NGO presence at the founding moment makes opposition from the outside more likely, strong initial presence facilitates more modest forms of contestation from within the regime. Third, we assume implications for the ways in which NGOs become agents of contestation. Thus, depending on the structure of NGO relations within a regime at a given point in time, newcomers will either face incentives to align their concerns with the frames used by ‘insider’ NGOs with access to the regime, or they will find publicly visible protests against an international institution more useful, notably in cases where their concerns are difficult or costly to align with existing contestation frames. We subject our theoretical arguments to a plausibility test in case studies on the international trade and climate regimes. This initial test reveals a general fit with, but also some deviation from our predictions. For instance, strong initial NGO presence in the climate change case does not automatically lead to newcomer alignment.

1 Introduction

Social movement organizations (SMOs) and non-governmental organizations (NGOs) are often depicted as important ‘agents of contestation’ capable of mounting challenges to the structures and policies of international organizations (O’Brien et al. 2000). This view has gained particular strength in the wake of academic literature that has identified a ‘rise of transnational civil society’ (Florini 2000) in the late 1990s as more and more transnational NGOs made more and more important contributions to a broad range of global governance processes. In the meantime, however, the euphoric notion of transnational civil society as ‘the conscience of the world’ (Willetts 1996a: 11) or a progressive force for the ‘common good’ that characterized much of the debate in the 1990s has given way to more sceptical views.

As a result, the initial, and possibly still predominant “tendency to analyse global civil society in terms of its impact on global governance institutions” – a tendency that

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James Brassett and William Smith have criticized as “[obscuring] the range of discussions and opinion that can be found within this realm” (Brassett and Smith 2010: 421) – has increasingly been complemented by analyses of the power asymmetries within global civil society. Studies following this line of research have foregrounded the internal tensions, power imbalances and conflicts within the non-governmental field (see Bob 2005; Hertel 2006; Edwards 2000) and made inequality in access and representation between NGOs from the Global North and South visible (Brühl 2010). In this paper, we build on this research agenda but link it to Brassett and Smith’s recent call for further research on the “nature and limits of the various strategies employed by global civil society” (Brassett and Smith 2010: 423). Using the concept of NGOs as ‘agents of contestation’, we examine how the structures of those international institutions which NGOs seek to change influence, first, the organization of NGOs within a particular issue area, and second, the strategies NGOs use to contest the ideologies, decision-making structures and policies of their target institutions.

The comparison between the international trade and climate regimes is instructive in this regard since the institutions that form the core of the contemporary trade and climate regimes evolved in the context of very different ‘world political times’. Notably, the GATT emerged jointly with UN and Bretton Woods institutions after the Second World War, a period of world politics that all but the most persuaded transnationalists would characterize as an age of state-centred politics. Surely, business interests as well as trade unions made themselves heard within individual government delegations, but transnational organization was still relatively weak and the basic framework of the international trade regime was therefore negotiated in the absence of transnational interference. In contrast, the United Nations Framework Convention on Climate Change (UNFCCC) negotiated at the 1992 Earth Summit in Rio de Janeiro is emblematic for a world political time in which NGOs enjoyed a much more prominent role. What is of interest to us in this article is what this key difference – virtual absence vs. strong presence at the founding moment – means for the ways in which the NGO world organizes and behaves within these regimes. Which strategies and which conflict lines emerge from these different starting points? How does the legacy of the founding moment affect the opportunities of new organizations to become ‘agents of contestation’? And how has it affected the relations between Northern and Southern NGOs within these regimes?

We respond to these questions in four steps. In the following section, we further elaborate our concept of NGOs as ‘agents of contestation’. Subsequently, we spell out more exactly how we imagine presence at the founding moment to make a difference for the future course of the ‘politics of transnational civil society’ within a given issue area. The sections that follow thereafter look into the ways in which civil society is collectively organized and behaves in the international trade and climate change regimes, including the discursive content of their ‘acts of contestation’. Our conclusion then summarizes the empirical findings in light of our theoretical argument and highlights in which regards these findings depart from our initial hypotheses.

2 NGOs as Agents of Contestation

The concept of contestation is used and defined in different ways in the academic literature. In normative democratic theory, contestation is, for instance, often seen as a precondition for democracy in that it allows for the ‘challenge of government’. At the heart of this understanding is the possibility of party competition and the contestation of policies. This literature is important for debates on the possibility of global democracy where contestation is linked to a discursive understanding of democracy and where civil society is seen as pivotal in making global democracy possible. It does so, first, through challenging existing institutions of global governance and second, through giving a voice to alternative visions about possible courses of action or ways of
organizing world politics (Scholte 2004: 212; Slaughter 2013: 77). In relation to the questions that are at the heart of this paper, John Dryzek’s work provides a particularly useful conception of discursive democracy that, far from idealizing civil society as a ‘domination-free zone’, takes power asymmetries within global civil society as a given. His vision of global democracy, therefore, places less hope on the ‘force of the better argument’ alone but instead conceives of democracy in terms of ‘discursive representation’ (Dryzek and Niemeyer 2008) and sees contestation – the insertion of new ideas, perspectives and discourses that challenge existing accounts into political debates and decision-making processes through a variety of political means – as an important means to democratize global governance (Dryzek 1999; 2006). In this understanding, an agent of contestation is best described as someone who provides a ‘different account’ of the major issues in a given policy area and seeks to re-organize the structures of an international institution in line with this alternative account.

A slightly different understanding of contestation is embedded in Neo-Gramscian and post-structural thinking. Here, contestation is more explicitly understood as an element of counter-hegemony, with transnational social movements commonly identified as the main activists behind such contestation. Authors in this tradition thus expect these movements to become the sites at which protest and counter hegemonic revolutionary needs (and eventually will) can emerge (Cox 1981; 1983). In contrast to what Ian Clark (2003: 78) has termed ‘Western liberal folklore’, this does not imply a strict separation of states as the dominant forces and non-state actors as ‘forces of resistance’. Instead, it is acknowledged that ‘hegemonic projects’ are commonly reproduced in civil society; in fact, it is the strength of the state-civil society nexus that lends stability to hegemonic relations. Overall, Neo-Gramscian approaches highlight the structural side of contestation: The social structure in which international institutions are embedded and which they tend to reinforce is characterized by contradiction and conflict. The contradictions make contestation by the dominated possible and, to the extent that such contestation cannot be accommodated through the instruments of hegemony (e.g. symbolic compromises, co-optation of social elites from peripheral societies), successful contestation may eventually lead to a transformation into a new social structure. Conceptually, contestation from a Neo-Gramscian perspective amounts to challenges to the fundamental tenets of a given political structure – challenges that one would commonly expect to originate from outside rather than within existing institutions.

Based on these two approaches, we take contestation to imply communication – either verbal or non-verbal – by individual or collective actors that seeks to either advance a fundamentally different perspective on a given political structure or to alter the fundamental tenets of such a structure. Neo-Gramscian approaches furthermore help us to understand the structural preconditions for contestation: Contestation is most likely to take place in moments of uncertainty, in which a multiplicity of interpretations of ‘reality’ are possible. In moments of contestation, an agent constructs, de-constructs and/or reconstructs meaning with regard to fundamental aspects of a specific political structure or issue. This comes close to Koopmans and Statham’s analysis of ‘contentious acts’ and ‘claims-making’. These authors synthesize a protest event analysis focusing on political opportunity structures with political discourse analysis and a framing perspective. Similarly, our understanding of contestation as a communicative act implies a discursive dimension, and we are therefore also interested in the particular claims that non-governmental actors make as well as in the demands, criticisms and proposals they advance and the ‘framings’ of a specific problem they put forth. These demands may manifest themselves in “violent attacks, public demonstrations, legal action, public statements, and speech acts” (Koopmans and Statham 1999: 208).
Finally, the concept of *agents of contestation* suggests that not everyone who engages in the abovementioned construction, de-construction or reconstruction of meaning can be termed an ‘agent of contestation’. Notably, if one constructs a perspective on the contemporary world trade regime that fundamentally differs from the dominant understanding of that regime, but does so largely privately in one’s armchair or at one’s office desk, it would be hard to see how that could be identified as an act of contestation. In other words, a minimum requirement for challenges to qualify as acts of contestation (and hence for the challenger to qualify as an ‘agent of contestation’) would be that they are made in public. Michelle Betsill and colleagues suggest to go one step further when they define agency as “the capacity of individual and collective actors to change the course of events or the outcome of processes” (Betsill, Dellas and Pattberg 2011), and again others have linked their definition of agents to the authority to prescribe behaviour and obtain the consent of the governed (Schroeder 2010). Both of the latter definitions, however, seem narrow as they may exclude phenomena that one might reasonably wish to subsume under agency. In the first case, limiting agency to those who have the capacity to *change* the course leaves those with a capacity to prevent change out of the picture and thereby masks the agency of those whose support is needed to maintain the *status quo*.

In the second case in which agency requires the ‘consent of the governed’, terrorist and other radical groups would not qualify as agents even if governments all over the world see them as a sufficient threat and, on the basis of such threats, decide to sometimes fundamentally alter their own courses of action and invest heavily in combating these groups. Despite these limitations, the virtue of the two definitions is that they focus attention on the need for social interaction for agency to become meaningful. Building on this need, we conceive of an agent of contestation not only as someone who makes challenges *in public*, but also as someone whose public challenges *get noticed*. To become an agent of contestation, in other words, means to become someone whose public challenges find an echo in the ‘global public sphere’ (e.g. as they are adopted or reacted upon by other actors or are reported in the mass media), even if only to a minimum extent.

### 3 Structures and Strategies in the NGO Field: The Legacy of the Founding Moment

So how does an NGO become an ‘agent of contestation’ in a given issue area of world politics? Our theoretical answer to this question is that different structural factors can have an impact on the emergence and strength of agents of contestation. Among those factors, the rules an international institution has devised for its engagement with organized civil society matter directly. Most importantly, the rules of engagement with civil society stipulate who has access to the governance bodies. For the purpose of this paper, this has at least two consequences: First, it differentiates between those segments of civil society that are granted access and those that are denied access; as a result, the rules of engagement structure the relations between NGOs that share an interest in a given issue area. These structures may include a hierarchical element, for instance, when those without access show a desire for access and need to feed their interests through ‘insider NGOs’ which then act as gatekeepers. Yet, they can also be limited to horizontal differentiation between those who seek change from within and

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2 Besides, the ‘capacity to change the course of events’ is a very broad concept that one might prefer, at least for pragmatic reasons, to restrict to the ‘capacity to *wilfully* change the course of events’. Given the scope of contingencies in the social and natural world, the conceptual boundaries are otherwise difficult to determine.

3 A non-exhaustive list of other relevant structural factors would include the availability of financial resources to travel to international negotiations, the availability of financial as well as network resources to make one’s voice heard in the media, national legislation on organized civil society, political culture and the strength and density of civil society organizations at the domestic level.
from the outside. This points to a second implication, namely that the rules of engagement create ‘insider NGOs’ and ‘outsider NGOs’. For the former, confrontation from within is a more promising and also more opportune strategy than contestation from the outside; for the latter, the choice is between opposing institutions externally or seeking to become insiders in the future.

A number of studies show that the pattern of NGO access granted by international institutions depends on a variety of demand and supply factors and that international institutions mainly make use of NGOs where and when granting access promises tangible benefits (Raustiala 1997; Steffek 2012; Tallberg et al. 2013). Yet such research tends to neglect the historical dimension of international institutions. To give an example, the International Labour Organization (ILO) is a unique international organization in that its constitution gives voting power to non-state actors, namely national workers’ unions and employer organizations. The choice for this unusual clause can be rationalized ex post, for instance as a corporatist compromise at times when liberal political systems felt threatened by the rise of socialist movements. In this way, the ‘push’ and ‘pull factors’ of a resource exchange model may very well account for what happened in 1919. Yet the story does not end there. In contrast, the decision taken back in 1919 has important implications for the contemporary structure of labour politics. Thus, it is the ‘social partners’ – jointly with some developing country governments – who strongly oppose the idea of granting further and more formal access to other non-governmental organizations in the ILO, even though the general cost-benefit calculations for NGO access may not differ dramatically from those that motivated the opening up of other international institutions (Liese 2010).

In short, we assume that the presence or absence of NGOs at the founding moment of an international regime makes a difference for how relations between NGOs will be organized as well as for which strategies of engagement NGOs will choose. Yet how exactly do we imagine ‘NGO presence’ to work to such effects? Put simply, the assumption is that if civil society is well organized at the time when states negotiate a new international regime, its members are better equipped to get their interests represented in the outcomes of negotiations. States may not have a direct incentive to take the interests of NGOs into account in their negotiations. Yet, some government delegations may, for various reasons, include NGO representatives, and a civil society that is well-organized at the transnational level is more likely to offer coordinated advice to the different delegations taking part. Second, to the extent that a collective of NGOs can make its opposition against a regime publicly visible, negotiations run a risk of failing at the ratification stage, which happened in the case of the Multilateral Agreement of Investment (MAI). Again, a well-organized transnational NGO movement is best equipped to make negotiation failure a credible option. As a result, it is most likely to get a good deal for itself in negotiations, and a ‘good deal’ will often include rules of engagement that institutionalize access to decision-makers for those organizations present and exerting pressure at the time of creation.

More precisely, we assume that a strong presence of NGOs at the founding moment is likely (a) to hierarchically structure NGO relations in favour of ‘insider NGOs’; (b) to broaden the range of entry points for newcomers, in particular if the initial NGO presence includes a diverse set of organizations; and (c) to facilitate contestation from within while minimizing contestation from outside. In contrast, a weak presence of NGOs at the founding moment is likely to put an international institution on a track that is likely (a) to reduce hierarchical elements in the relations between NGOs that share an interest in a given issue; (b) to narrow the range of entry points to

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4 See also Zürn, Binder and Ecker-Ehrhardt (2012: 98) who argue that existing institutions elicit resistance, whereas institutions whose mandate and authority is being negotiated induce more ‘participatory’ responses through which agents try to shape the institution in question.
international institutions for newcomer NGOs; and (c) to provide incentives for external contestation while largely precluding the option to seek change from within.

In the following, we present the more general rationales behind each of the three assumptions:

(a) In the first assumption, a hierarchical structure between ‘insiders’ and ‘outsiders’ emerges as new NGOs appear on a world political scene in which some NGOs are already granted access. In such a situation, those who benefit from exclusive access will be important gatekeepers. As rational actors, they face incentives to either maintain their position through general opposition against further expansion of NGO access or through seeking to limit expanded access to organizations perceived as being generally useful for achieving their own strategic ends. In general, we can assume the perceived ‘like-mindedness’ to be one important aspect in the evaluations ‘insider NGOs’ make in their assessment of newcomers.

(b) Where NGO presence at the founding moment is not only strong, but also diverse, the chances for newcomers to find support among like-minded ‘insider NGOs’ should be significantly higher than in institutions that lack such characteristics. As a result, they can feed their interests through entering into coalitions with such organizations, or they can seek support from such organizations in order to obtain access to the international institution in the future. The latter step would commonly require perceived ‘like-mindedness’ to go beyond congruence on a specific policy decision.

(c) Finally, ‘insider NGOs’ face clear incentives to use their access to seek reform from within international institutions; at the same time, contestation from the outside may not even be considered a viable option, either because ‘insider NGOs’ may have adopted much of the language and culture of an international institution with which they work and therefore developed an attitude of ‘constructive engagement’ rather than open contestation over the years, or because government delegations might see radical opposition as simply inappropriate and because such opposition might therefore jeopardize NGOs’ well-established relations with decision-makers. Among ‘outsider NGOs’, some will seek to work through ‘insider NGOs’ (possibly while at the same time working towards gaining direct access in the future), whereas others will see too great a risk of being co-opted. Their preference for independence from international institutions makes contestation from the outside the more useful choice.

By and large, these assumptions might lead us to expect different trajectories for institutions created post-1945 (weak NGO presence) vs. post-1990 (strong NGO presence). The case studies we present in this contribution are in line with such a general pattern. At the same time, one would be mistaken to assume a simple relationship, let alone a complete fit, between ‘world historical time’ and initial NGO presence. For instance, the ‘old’ ILO is characterized by a strong presence of particular non-governmental actors; the regional and global human rights regimes created between the 1940s and 1960s included a strong NGO presence; the international refugee regime had a particularly strong presence in the International Commission of the Red Cross (ICRC); and the World Conservation Union (ICUN), as a hybrid between NGO and IGO that was founded in 1947, is so inclusive that ‘contestation from the outside’ has become difficult even to imagine (Lehmann 2013). On the other hand, we can also identify more recent institutions in which NGOs were hardly present at the time of creation despite a generally observed ‘rise of transnational civil society’. A case in point would be international accounting standards developed under the auspices of the International Accounting Standards Board (IASB; see Nölke and Perry 2006).

4 NGO Structures and Strategies in the World Trade Regime

In the following, we test these broad assumptions in the context of the world trade regime. The world trade regime was developed with initially weak NGO presence. We
would therefore expect it to provide for only limited access for organized civil society, which in turn should render hierarchies among NGOs that share an interest in the world trade regime relatively flat. Moreover, we would expect newcomer NGOs to find only few access points among existing ‘insider NGOs’ – for there were only very few – through which to feed their own interests. As a result, we would expect contestation from the outside to be the predominant strategy used by NGOs. Evidently, we cannot provide a systematic and encompassing account of NGO activities in the world trade regime on merely a few pages. What follows is therefore a sketch of the broad contours of such activities meant to shed light on the empirical plausibility of our theoretical assumptions. Our analysis is based on the relevant secondary literature, on media reports about the GATT in which NGO activities were mentioned (from 1981 to 1994), on selected NGO statements provided on the websites of these organizations (1995 to 2013) and on the documentation of the WTO Public Forum (2001 to 2012).

4.1 Weak Presence at the Founding Moment

According to the common narrative, the GATT remained closed to NGOs until the early 1990s (Steffek 2013: 324; see also Charnovitz and Wickham 1995: 122; Hannegraf, Beyers and Braun 2011: 4). Observers thus agree in their characterization of the negotiation on an International Trade Organization (ITO), the failure of that organization to materialize and the resulting international consensus around the GATT as a temporary solution for a post-war international trade order as a set of interstate negotiations in which individual delegations may have sought advice from economic and societal groups in their own countries, but where transnational activity was insufficiently strong to warrant a note (Curzon and Curzon 1973; Steffek 2013). This general impression is also supported by the observation that some of the classical works on the international trade regime hardly mention non-governmental organizations. Craig Murphy’s *The Emergence of the NIEO Ideology* (Murphy 1984), for instance, provides an account of the major contestation of the international economic order in the 1960s and 1970s when a coalition of developing countries joined a forceful campaign against the GATT and for a new international economic order modelled on the insights of dependency theorists. Murphy’s account shows that contestation came from states rather than NGOs – albeit from states that had not yet existed at the founding moment and whose interests were thus weakly represented in the original GATT. The few references to non-governmental organizations in Murphy’s reconstruction – among them the Brandt Commission on North-South Relations – thereby lend further support to Jens Steffek’s (2013: 321) analysis of the relations between the GATT and NGOs:

> In historical perspective, the age of the Cold War was the heyday of intergovernmentalism in world politics, as states successfully marginalized non-state actors in policy-making. In the 1940s, the demarcation between the intergovernmental and non-governmental realm solidified, along with the expansion of tasks of international governance and the professionalization of international organizations. The GATT, and more remotely also the WTO, are the offspring of this period in global history, preserving a rigorous spirit of interstatism.

Even though the negotiation of the original ITO Charter had included some NGOs as observers (and even though the charter itself also envisaged that “the Organization may make suitable arrangements for consultation and co-operation with non-governmental organizations concerned with matters within the scope of this Charter”; see Charnovitz 1996: 338), Steffek argues that the ‘club model’ character of the eventual GATT, as opposed to the forum character of the envisaged ITO, meant that there was little states
could have gained from NGO participation. Moreover, the interests of NGOs themselves were limited. Charnovitz and Wickham (1995: 113) mention the World Federation of Trade Unions, the International Co-operative Alliance (ICA), the American Federation of Labor and the International Chamber of Commerce (ICC) as those NGOs “seeking to consult with the working committees” of the preparatory conferences of the ITO negotiations that took place in London. At the Havana Conference, where the text of the ITO Charter was agreed upon, the ICA, ICC and the International Organization of Employers (IOE) were present, and the meetings of the Interim Commission for the ITO, set up after the initial failure of the ITO Charter to come into effect, saw the additional participation of the International Federation of Agricultural Producers, the Inter-Parliamentary Union (IPU) and the World Federation of United Nations Associations (Charnovitz and Wickham 1995: 115-116).

4.2 Contestation From the Outside: NGO Voices in the Media

As contestation ‘from within’ is largely ruled out and mass protests do not (yet) play a big role, NGO contestation of the world trade regime works mostly through the media channel until the late 1990s. As a consequence, professional NGOs with strong communications departments and long-standing media relations are the most central ‘agents of contestation’.

Table 1 below provides a first glimpse of the presence of different segments of organized civil society in media debates about the GATT and WTO. The data mainly show how attention to the voices of NGOs is distributed among different organizations. The Factiva database on which the search is based includes media from around the world but – particularly in the earlier of the two periods listed in Table 1 – is numerically biased towards Anglo-Saxon sources. As a result, the figures inform more about reporting in this region than about reporting at a global level. Nonetheless, the observation that, between 1980 and 1994, the US-based consumer organization Public Citizen appears almost twenty times as often as the most visible Southern NGO, the Third World Network, shows that access to Northern media discourses was largely precluded for Southern actors in these years.

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Table 1: Media Presence of Selected NGOs in Relation to the GATT/WTO (Data based on a Factiva Search for GATT/WTO and Organization Name).

Substantively, the analysis of media articles for 1980 to 1994 shows that contestation by the International Council of Free Trade Unions (ICFTU) is largely based on the idea that the GATT or WTO needs to protect workers’ rights against a ‘race to the bottom’.

Charnovitz (1996: 339) also shows that the Interim ITO further worked on the implications of this article which attests to the contingency of the course of action that was eventually taken: “The fact that the negotiators of the ITO treaty provided for NGO participation, combined with evidence that the Interim ITO was prepared to implement this provision, together demonstrate that NGO participation is consistent with the design and aspirations of the multilateral trading system. That the GATT behaved in a more introverted way does not detract from the intention of the founders of the trading system”.

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The fundamental critique is thus of the GATT prioritizing growth at the cost of exploiting workers and infringing upon their basic rights; the solution is to introduce a ‘social clause’ in the GATT/WTO that would withhold trade preferences to countries that do not respect basic ILO conventions (see also O’Brien et al. 2000: 67-108). In contrast, Friends of the Earth stands for the environmental movement that bases its contestation of the GATT/WTO on the notion that trade liberalization has a significant potential to harm the environment and on the fear that world trade rules, in particular after the Uruguay Round (1986-1994), would undermine international as well as national environmental legislation (see also O’Brien et al. 2000: 134-153). This general concern is shared by Public Citizen as well as Oxfam, though both have their own take on the issue. For Public Citizen, the main concern is that U.S. food safety will be harmed by the GATT and WTO as national legislation on chemical food additives, which is more demanding than the ‘international standards’ envisaged in the GATT, may be interpreted by the then envisaged WTO Dispute Settlement Body as an import barrier to foreign products. Moreover, the organization shares with the environmental movement the idea that the envisaged WTO is a threat due to the much greater enforcement power of its dispute settlement procedure, the lack of transparency of that procedure and the lack of accountability of the ‘international bureaucrats’ it empowers. Finally, Oxfam also shares some of the environmental concerns with Friends of the Earth and Public Citizen but places a greater emphasis on poverty alleviation and the needs of developing countries which it sees as harmed by the results of the Uruguay Round.

This latter aspect also puts the enhanced media representation after 1995 of statements issued by members of the Third World Network into perspective. While the overall recognition in media reporting puts the organization on a roughly similar attention level as some of the ‘big players’, Oxfam has gained particularly strong recognition as an ‘NGO voice’ in media reporting. If we assume that this recognition is related to the launch of the Doha Round – also known as the Doha Development Agenda – in 2001, this suggests that Oxfam is particularly accepted in (Northern) media discourses as an organization that represents ‘development interests’. Even as their stakes in the global media debate may have risen, this recognition of Oxfam as an authoritative voice on development concerns makes it difficult for Southern organizations like the Third World Network to make their own voice heard. Between 2003 and 2006, for instance, Oxfam appears in 17 to 25 times as many news reports on the WTO, as included in the Factiva database, than the Third World Network. This has implications not only in terms of who speaks but also in terms of what is said. Substantively, major differences between the arguments put forth by the two organizations are that Oxfam combines environmental and development concerns in a sustainable development frame while the Third World Network puts a clear emphasis on development needs; that the Third World Network speaks out more strongly against Northern protectionism guised as concerns for nature, workers rights or ‘fair trade’; and that it puts a stronger emphasis on the ‘institutional imbalances’ in the world trade regime where developing countries may formally have equal status but are informally subordinated to their industrialized counterparts.

4.3 Contestation From the Outside: Geneva and Seattle as a ‘Door-Opener’

Before 1998, public protests against the world trade regime were rarely visible. Thus, even as negotiations about the WTO in the early-to mid-1990s aroused strong opposition from different groups, this opposition mainly worked through the media channel. News reports which inform that “police fired scores of tear gas canisters on Tuesday to stop a march to parliament by what organisers said were about 200,000 leftists protesting against the government’s signing of the GATT multilateral trade agreement” (Reuters 1994, reporting about events in New Delhi) are thus clearly
exceptional. This is interesting in itself given that strong opposition to the course of the Uruguay Round negotiations included trade unions which, in most countries, are among those with the largest capacities for mass mobilization.

Things changed in 1998 and 1999 when high-level WTO meetings in Geneva and Seattle were accompanied by massive and partially violent street protests. The groups that organized and participated in these protests were very heterogeneous and included labour, environmental organizations, consumer groups, development NGOs, the justice movement, church-based organizations and anarchist groups (Lichbach 2002). Substantively, neither the demands nor the preferred strategies of the different protest groups were very consistent (Levi and Murphy 2006). Lichbach observes that “the Seattle coalition (...) combined a majority concerned with themselves (...) with a minority concerned with the well-being of the entire world” (Lichbach 2002: 31), and participants ironically observed that steelworkers and turtles were ‘united at last’ (Gillham and Marx [Year]: 225). Even though they fought for very different reasons, the groups thus made use of a common protest platform to advance their specific cause. Lichbach (2002: 32) observes:

No matter the theme of a particular demonstration, a variety of anti-WTO groups participated. For example, while those decked in Sea-Turtle costumes participated heavily in the AFL-CIO march and steelworker rallies, a large number of steelworkers attended the Jubilee2000 anti-Third World Debt Rally on [November 29].

Beyond their remarkable differences, protestors were united by the ‘master frame’ that the WTO offered as a threat to a broad range of interests. Common themes included the allusion to ‘fair trade and not free trade’; the fight against neoliberalism, capitalism and corporate power; the need to fight, slow down or alter the course of economic globalization; and the fight for true democracy at a global scale. This latter demand was expressed in slogans such as ‘no globalization without representation’ (Lichbach 2002: 37) and ‘we don’t have a voice, so they won’t either’ (Gillham and Marx [Year]: 226). Finally, unity among protestors was aided by “a long day of clashes between police and demonstrators on November 30” which changed the overarching issue frame to one of civil liberties and thereby enabled new coalitions to be built (Levi and Murphy 2006: 653). Geographically speaking however, Seattle was mainly a Northern protest. Only a small fraction of the 50,000 participants originated from outside North America, and the majority of these were drawn from other Northern countries (Lichbach 2002: 54). Even though some parallel protest events had occurred – partially organized with the help of networks like the People’s Global Action – in countries like Cambodia, India, Mexico, Pakistan, The Philippines, South Africa and Sri Lanka (Lichbach 2002: 44-46), the voices of Seattle – while often speaking for the South – were rarely those from the South.

The success of the Seattle protests had several effects that mattered for the relations between the WTO and civil society. A first effect was the massive de-legitimation of the WTO in the public. An analysis of public attitudes towards the WTO thus concludes that “respondents overall held negative views of the WTO before the [Seattle] meeting, and more negative views after the meeting” (Bullock et al. 2002: 433; see also Beyeler 2006: 58-59 who reports an increasing share of critical positions in media reports about the WTO) – a view that is also expressed by the protagonist in Stuart Townsend’s popularized movie version of the Battle in Seattle when he reasons that “A week ago no one knew the WTO; now they still don’t know the WTO, but they know it’s bad”. Second, media coverage of the WTO increased after Seattle (Hendershot 2004), thereby further enhancing the relevance of the media channel for NGOs that sought to contest the world trade regime. Yet, in doing so, they also had to face the legacy of media reactions to the ‘Battle of Seattle’ that often portrayed protestors as marginal,
irresponsible, unrepresentative, violent and extremist (McFarlane and Hay 2003). Third, and maybe most importantly for the purpose of this study, the legitimacy crisis in which the WTO found itself after its inability to hold a ministerial meeting in the face of public protests meant that the WTO itself needed to reflect upon its own future, with organizational representatives calling for a ‘time out’ to think about appropriate steps. The decisions to make more documents available and thereby improve the ‘transparency’ of the WTO, to engage (moderate) NGOs in a ‘WTO Public Symposium’ (later termed the ‘WTO Public Forum’), and to open a new round of international trade negotiations as the ‘Doha Development Round’ must be seen in this light (see also Beyerlin 2006: 59-61). While these decisions were – at least in the official rhetoric – meant to change the WTO, they have also changed the ways in which NGOs that share an interest in the WTO organize and behave. Notably, the function of the protests as a ‘door-opener’ for NGO access led to a division of labour between ‘insider’ and ‘outsider’ NGOs.

4.4 Engagement with the GATT/WTO: Presence at the WTO

Compared to other international institutions, NGO access to the WTO is still limited even after the post-Seattle expansion (Van den Bossche 2008). NGOs are thus barred from all decision-making bodies except the biennial ministerial meetings which they may attend as observers. The WTO Secretariat provides for some access as it invites submissions of WTO position papers dealing with matters related to the WTO and offers to distribute submitted papers among its members and other stakeholder communities. Moreover, NGOs may participate in the WTO Public Forum that is hosted on an annual basis by the WTO Secretariat in Geneva and provides for an exchange of views among civil society and WTO officials as well as members. While the 1996 and 1998 ministerial meetings in Singapore and Geneva attracted only few NGO participants, later events saw a steep rise in numbers. Overall, agricultural issues attract the attention of the largest number of NGOs, but the range of issues covered by ‘insider NGOs’ as well as the distribution of attention to various policy issues dealt with under the umbrella of the WTO is fairly diverse. Moreover, Hannegraff, Beyers and Brown (2009: 18) argue that between 1996 and 2009, “diversity in terms of country of origin has grown”, and “more and more advocates originating from developing countries are represented at WTO [Ministerial Conferences]”. At the same time, the authors show that volatility is relatively high, with only few organizations attending many or all Ministerial Conferences (Hannegraff, Beyers and Brown 2001: 13-21; quote on p. 18).

4.5 Discursive Coalitions and Division of Labour among NGOs

Explicit coalition-building among organizations that contest the world trade regime serves to further structure the NGO field in this policy area. Historically, the NIEO debate was based on a loose campaign coalition among developing country governments that – in particular in the late 1970s – received increasing Northern non-governmental support. As in later decades, the specific goals, however, differed in important respects, for instance when some Northern NGOs linked development goals to anti-industrialism, a frame that developing country governments themselves firmly rejected (Murphy 1984: 141-142). Yet, the relatively strong attendance of Southern (but not Northern) government representatives at the WTO Public Forums suggests that Southern governments still perceive Northern NGOs as a useful partner in a broader discursive coalition that seeks to alter the world trade regime (Reiff 2013).

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6 See also Piewitt et al. (2010) for additional data and Reiff (2013) on NGO participation at WTO Public Forums. On the substantive dimension, see Beyeler (2009) who provides an overview of the arguments that are present/absent within the NGO community represented at ministerial meetings.
In the media debates of the early 1990s, joint statements of Northern and Southern NGOs are less frequent than joint statements of NGOs with different primary interests (e.g. environmental, developmental or consumer interests). Of the 105 media reports mentioned in section 4.2, 12 reports include joint statements from different types of NGOs (of which none include labour), while only three reports include joint positions from NGOs that originate from the North and South. One reason for this difference links back to the strategic aims of NGOs which, in the run-up to the 1992 Earth Summit and 1994/95 ratifications of the new WTO agreements, sought to lobby their own governments. To create momentum ‘at home’, it was useful to build coalitions among different groups within society but not necessarily to present one’s aims as being the goals of interest groups located in other countries. As a result, cross-national or cross-regional coalitions might have been perceived as harming rather than helping NGOs in achieving their ends.

Where Northern environmental and developmental NGOs speak with one voice, they find common ground in the ‘sustainable development’ frame as well as in the ‘excessive power of the WTO’ frame. This latter frame sometimes comes as too much power in relation to too little democratic accountability, and sometimes as too much power in absolute terms, for instance when campaigns argue against the patenting of life forms or a further expansion of corporate power through the WTO. Coalitions between environmental and consumer organizations, in contrast, are held together by the expectation that national regulations on environmental protection as well as on food safety will be undermined by the WTO approach to harmonizing such standards internationally. Finally, when small-farm groups join this latter coalition – as seems to be the case in the U.S.-based *Citizens Trade Campaign* – protectionist interests, often guised as ‘fair trade’ concerns, move from implicit to explicit in position papers.

Where Northern and Southern NGOs speak with one voice, some statements simply add different demands without further attempts to integrate them under a broader heading. For example, Christian Aid and the Third World Network call upon a new multilateral trade organization “to protect the environment, to promote sustainable development and to [raise] the incomes of the poor in the Third World countries” (Inter Press Service 1992c, Media Report 49). Whereas joint declarations seek a common frame, they tend however to put a more decisive emphasis on the needs and demands of developing countries rather than exclusively on Northern statements. An example is the joint declaration of 25 NGOs including “groups such as the World Wide Fund for Nature, Christian Aid, the Institute for Agriculture and Trade Policy, Third World Network in Malaysia, IBASE of Brazil, and groups from Colombia, Holland, Bangladesh and other nations”. According to a summary of the joint declaration given by Inter Press Service (1992a, Media Report 85),

[The groups] fear that with GATT’s powers over services, intellectual property and investments, the MTO would become the world’s most powerful economic agency. Operating under GATT rules and outside the U.N., it would not be democratically accountable, they say. It would not give equal voice to developing nations and would allow richer countries to forcibly open up the fragile economies of the South without granting comparative advantages in the North. MTO imposed intellectual property laws would hamper technology transfer and in some cases – such as the ‘patenting’ of plantlife by the drug multinationals – could harm the environment. Similar efforts to free investment would limit developing nations’ powers to set conditions on multinational firms operating in their lands. The MTO ‘will only increase tensions between strong and weak nations and among the strong nations themselves. It will also disrupt the livelihood of communities, including small farmers, firms and traders.’ Instead, they said, an International Trade Organization should be founded under the U.N. General Assembly. Founded on the principle that ‘trade should not be an end in itself but a means to the goal of sustainable
development,’ such a body, the NGOs said, should respect obligations of countries under other U.N. agreements and defer to the authority of U.N. institutions.

Whether across issues or regions, a common feature of coalitions among ‘agents of contestation’ is that they tend to include a small number of ‘big’ NGOs as sponsors and occasionally a larger number as additional signatories. Examples are joint statements by Oxfam and the WWF (Business Times 1994; Media Report 95), joint press conferences by Friends of the Earth, Greenpeace, the Third World Network and the WWF (Inter Press Service 1992b, Media Report 82), “concerted efforts by groups such as Christian Aid and the Third World Network” (Inter Press Service 1992c, Media Report 49) or a joint letter by “representatives of the leading environment and development organizations in the UK” (Financial Times 1992, Media Report 10).

Beyond the large and highly professional multinational NGOs, contestation networks that mainly work from the outside include the People’s Global Action (PGA) network, ATTAC, and Our World Is Not For Sale (OWINFS). Among these, the PGA network is highly decentralized and mainly serves as a platform for coordination among a very large number of leftist direct action networks and community groups with a broad range of purposes in different world regions. Its three main objectives are

[to inspire] the greatest possible number of persons and organisations to act against corporate domination through civil disobedience and people-oriented constructive actions; [to offer] an instrument for co-ordination and mutual support at global level for those resisting corporate rule and the capitalist development paradigm; [and to give] more international projection to the struggles against economic liberalisation and global capitalism, as well as to the struggles of indigenous people and original cultures.

ATTAC is more thematically focused on financial policy issues and also slightly more centralized, with national ATTAC chapters adhering to a minimal level of ‘corporate identity’. Finally, OWINFS includes 216 organizations from different world regions and, similar to the other networks, conceives of itself as “a loose grouping of organizations, activists and social movements worldwide fighting the current model of corporate globalization embodied in global trading system”. Politically, the network is held together by the OWINFS Statement of Political Unity which organizations need to sign to become a network member.

All three networks stand out as places where groups that contest the world trade regime from the outside coordinate their activities and also as places where a more truly global interaction takes place within civil society. Moreover, membership of the OWINFS network includes a number of ‘insider’ organizations (e.g. Oxfam International, Sierra Club, Third World Network). As in the context of the Seattle events, building and maintaining coalitions involves mutually complementary resource needs as well as the ability to build trust, resolve tensions and make credible commitments to strengthen organizational relationships (Levy and Murphy 2006: 663-668). In terms of the resource needs, it seems plausible to assume that coalitions among large Northern NGOs increasingly need partners from the South to maintain their own legitimacy as sincere representatives of those who oppose the current structures of the world trade regime.

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7 It might seem useful to verify whether these organizations are also central in terms of access to the WTO itself, i.e. if they are regularly present at WTO ministerial conferences, maintain close contact with the WTO Secretariat and/or organize thematic sessions at the WTO Public Forum.


11 Again, it would be useful to empirically verify this assumption in future versions of the paper.
5 NGO Structures and Strategies in the International Climate Change Regime

In the climate case, a diverse range of NGOs were strongly present at the time of regime creation. We would therefore expect hierarchies between ‘insiders’ and ‘outsiders’ to play a role but be diminished by relatively open rules of engagement as well as by the availability of multiple entry points. In addition, contestation from the outside should be less significant, both in comparison to contestation from within and in comparison to the world trade regime. Again, rather than seeking to give a complete account of NGO activities and strategies in the climate regime, we concentrate on the broad contours of NGO engagement with the regime. This includes UN negotiations taking place in the framework of the UNFCCC since its inception in Rio in 1992, negotiations leading up to the agreement on the Kyoto Protocol to the UNFCCC as well as the lengthy process of ratification of that protocol, and finally, the ‘post-Kyoto process’ that set in with the Bali Summit in 2007. For the purpose of identifying different forms of NGO contestation, we consult secondary literature, different sets of primary resources as well as activist websites and media reports.

5.1 Strong Presence at the Founding Moment

Since its inception, the climate change regime can be characterized as being more accessible to civil society actors than most other regimes (Fisher 2010: 11). The scientific community and NGOs have acted as constitutive agenda-setters and have been closely incorporated in the following international climate change negotiations (Brunnengräber 2011: 21). Notably, they were active at the International Negotiation Committee for a Framework Convention on Climate Change (INC) through various ‘rules of engagement” (Mintzer and Leonard 1994: 40) inspired by a distinct ‘openness’ of the INC and its main representatives to civil society participation. These rules allowed formal NGO participation as observers as well as some ‘limited oratory presence’ in “all INC plenary negotiation session[s]” (Faulkner 1994: 230). The United Nations Framework Convention on Climate Change (UNFCCC) which resulted from this process was adopted in 1992 at the United Nations Conference on Environment and Development (UNCED) in Rio, Brazil, known as the ‘Rio Earth Summit’. It became famous as a global summit that experienced strong participation and impact by NGOs (Willets 1996b).

Thus, NGOs had different pathways of participation at their disposal during the lead-up to the summit as well as at the 1992 Summit itself. The openness of the INC encouraged strong NGO participation, which, in turn, allowed for a strong presence and a ‘key role’ (Rahman and Roncerel 1994: 240) in follow-up negotiations, such as the UNCED in Rio. Nevertheless, there were also cleavages within the NGO community. Mintzer and Leonard, for instance, describe the relationship amongst the NGO world as a ’microcosm of a global North-South debate’. Northern NGOs grounded their lobbying on their scientific expertise but were less interested in issues related to development or global justice. Their presence in the Rio process was very strong. Southern NGOs, in contrast, had a stronger interest in justice and equity but also a weaker involvement at the international level (Mintzer and Leonard 1994: 41; Rahman and Roncerel 1994: 244). At the same time, NGOs from both the North and South also looked for alternative ways of influencing negotiations. They participated in state delegations, at times even as ‘full members’, and formed coalitions to gain bargaining power and homogenize some of the diverging voices emerging from civil society (Rahman and Roncerel 1994: 247-249).

The main objective of the INC and its culmination at the Rio Conference was to establish an institutional framework for global climate governance. The negotiations centred on the definition of basic norms and principles. The UNFCCC treaty makes a
formal distinction between industrialized (Annex I) and developing countries (Annex II). The former are supposed to take the lead in combating climate change by stabilizing their emissions and by providing developing countries with financial and technical assistance. However, binding emission reduction targets were not introduced until 1997 when the Kyoto Protocol to the UNFCCC was adopted (Prys and Wojcewski 2012: 4 et seq.; Bodansky 2001: 33 et seq.; Gupta 2010: 639 et seq.).

On NGO participation, the key rule is formulated in Article 7, paragraph 6 of the Convention. It stipulates that

Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by the Convention, and which has informed the secretariat of its wish to be represented at a session of the Conference of the Parties as an observer, may be so admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

This, in comparison to the ITO regulations cited in the previous sections, gives broader rights of access to NGOs.

5.2 Cooperation and Contestation from the Inside: Climate Change Negotiations from 1995 to 2005

The first Conference of the Parties (COP-1) of the UNFCCC took place in 1995. There, the process of the negotiations of the Kyoto Protocol was initiated to complement the original treaty with legally binding targets for emission reductions for the so-called Annex I countries. At COP-3, this process was concluded. Its result can be considered a landmark in international cooperation, as it requires “developed countries and those in transition” to reduce their overall greenhouse gas emissions. For this purpose, a set of mechanisms was put in place, including International Emission Trading (Art. 17), Joint Implementation (Art. 6), and the Clean Development Mechanism (CDM), which allows industrialized countries to invest in sustainable development projects in developing countries in return for emission credits (Betsill 2008: 50 et seq.; King, Richards and Tyldesley 2011: 7). Yet, what was initially deemed a success was soon after deadlocked in negotiations, particularly amongst the biggest polluters and culminating in the U.S. withdrawal from the Kyoto Protocol under the Bush administration. Nevertheless, with Russia’s ratification, the Kyoto Protocol finally came into force in 2005.

NGOs were an intrinsic part of the negotiation process. The involvement of NGOs in climate change negotiations has been termed rather ‘unusual’ in that their role changed “from that of outside critical agents demanding issue recognition and action to that of partners in developing workable frameworks and principles for implementing action” (Gough and Shackley 2001: 329). NGOs were actively engaged and empowered with a “place at the negotiation table” (ibid.). This can be linked to the involvement of NGOs during the founding moment when considerable formal opportunities for insider contestation were established. Their participation is organized through so-called constituencies, loose groups of like-minded organizations. The secretariat interacts with constituency chairs or focal points (Schroeder 2010: 324). Initially, there were two constituencies, the business and industry non-governmental organizations (BINGOs) and the environmental non-governmental organizations (ENGOs). Currently, there are nine constituencies: The local and municipal authorities (LGMA), the indigenous peoples organizations (IPO), the research and independent non-governmental organizations (RINGO), the trade union non-governmental organizations (TUNGO), farmers and agricultural non-governmental organizations, women and gender non-governmental organizations (Women and Gender) and youth non-governmental
organizations (YOUNGO). There is time for each constituency to make formal interventions and statements in the plenary sessions of the various climate convention bodies. They can also provide formal submission of their positions to the secretariat (Schroeder 2010: 325). The number of NGO participants in this negotiation process has increased strongly over the past 10 years (see Figure 1). At the beginning, 171 organizations were officially accredited as observer organizations. In 2000, there were already 530 organizations, and for the more recent meetings, Figure 1 below indicates that over 1400 NGOs participated in COP-16.

![Figure 1: Cumulative admission of observer organizations](http://unfccc.int/files/parties_and_observers/ngo/application/pdf/cumulative_admissions_of.Observer_organizations_cop_1-16.pdf)

In practice, this means that NGOs have used access to the conference meetings to make limited interventions during debates, to lobby delegates face-to-face and to distribute information via documents (Oberthür et al. 2002). Other elements of NGO strategy are to access negotiations through national governments or through coalitions of states. For example, FIELD, Greenpeace and WWF have all helped the Alliance of Small Island States (AOSIS) with policy advice and scientific backup in the climate negotiations (Newell 2000: 143), and FIELD lawyers have frequently been accredited as members of small islands delegations (Oberthür et al. 2002: 13). Besides these possibilities for NGOs to participate, observer organizations also hold side events at negotiations (Schroeder 2010: 325; see also Schroeder and Lovell 2011).

Coordination among environmental NGOs mainly works through the Climate Action Network (CAN). Created in 1989, CAN is now a global network of almost 300 environmental NGOs working to curb human-induced climate change to ecologically sustainable levels. To achieve this end, CAN members exchange information, work out joint position papers at climate change negotiations and coordinate strategies at international, national and local levels. Being the recognized umbrella NGO in the international negotiations, CAN unites activist and advisory environmental NGOs in one network.

Although CAN is more important for the less resourceful groups than for the major ones, the CAN network usually is an effective way to communicate NGO positions with

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12 See UNFCCC 2011 and 2013.
one voice during the climate negotiations (Andresen and Gulbrandsen 2003). In Kyoto, the environmental/development NGOs were, for instance, able to shape the bargaining positions of key actors like the EU and the US on the issue of reduction targets and timetables and, in alliance with developing and industrializing countries, successfully reject the US demand for binding emission reductions for industrialized and industrializing countries. However, with regard to the final outcome of the negotiations, the environmental/development NGOs were unsuccessful with their call for much higher emission reductions and could not prevent the inclusion of emission trading and sinks (Betsill 2008: 46, 58; Gulbrandsen and Andresen 2004: 65 et seq.).

To summarize, there was a strong presence of NGO actors at the founding moment of the UN climate change regime. The range of actors was diverse, but Northern, environmental and science-focused actors were more strongly represented than others. In accordance with our expectations, the UNFCCC grants generous formal access to NGOs. Yet, at least until the beginning of post-Kyoto negotiations, Northern environmental NGOs dominate the overall population of civil society actors. Whether this is due to a lack of interest by more developmental actors or whether due to the gate-keeping function of those ‘early-movers’ is difficult to say. In any case, however, we observe relatively little external contestation. Substantively, an environmental conservationist discourse dominates which turns the climate regime – at least for a while – into something we should all approve of like ‘motherhood and apple pie’ (Pearce 1989: 1). This also implied a move “away from ethical and overtly political matters”. Voices that contest the regime overtly, using concepts such as global equity and North-South developments, were not fully absent, but clearly exceptional (Szarka 2013: 13). Overall, much of the contestation during this phase of negotiations took the form of ‘inside’ contestation, and among the strategies chosen by NGOs, distinctly ‘non-radical’ forms of lobbying of and provision of information to government officials dominate; often in the form of introducing new concepts and policy ideas that – at times – become part of the public discourse. Moreover, NGOs are often and continuously part of governmental delegations, organize side events and disseminate up-to-date research data (Szarka 2013: 13). In short, NGOs were keen to be seen as ‘respectable’ and in a ‘partnership mode’ (Gough and Shackley 2001).

5.3 Insider and Outsider Contestation: The Post-Kyoto Negotiations

With the onset of the post-Kyoto negotiations, contestation from within was complemented by additional strategies. While established NGO actors continued to use the strategies discussed above extensively, new actor groups and coalitions challenged the regime from the outside. Also, the international context for the negotiations shifted in some important aspects. First, the global scientific consensus on the human impact on the global climate solidified, leaving less room for climate change denial. Second, the pace of economic development, and hence, the related hike in greenhouse gas emissions for China, India and other emerging countries increased and thus turned their inclusion in a legally binding treaty on the reduction of GHG into an even more contested issue. Until recently, these countries have largely rejected binding emission targets and refer to the principle of ‘common, but differentiated responsibility’. In coalitions like BASIC (Brazil-South Africa-India-China) or the G20, they have managed to increase their bargaining power (Brunnengräber 2011: 23; Gupta 2010: 647 et seq.).

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13 One example includes the “Global commons institute” attack on the IPPC Working Group Second Assessment Review for apparently outdated data that was used. This turned out to be very unpopular with mainstream NGOs and harsh criticism was voiced as the GGI risked a “delay in publication” (Gough and Shackley 2001: 332).
With the coming into force of the Kyoto Protocol in 2005, efforts to secure agreement for the ‘post-Kyoto’ phase (post-2012) were kick-started. The 2007 Bali Summit had the objective to fix a timeline and key points for these negotiations. According to this timeline, the so-called Bali Road Map, a successor for the Kyoto Protocol, was to be produced by the end of 2009. Central elements of the Bali negotiations also were the inclusion of developing country mitigation into a new treaty. Related to this, climate finance for both mitigation and adaptation activities in developing and newly industrializing countries became central to the negotiations. Both issues triggered a (re-)emergence of a central cluster of ‘North-South’ issues on the agenda: The need for global emission cuts by all relevant actors was said to contradict both the notion of ‘common but differentiated responsibility’ and to very likely contradict the achievement of the Millennium Development Goals, including poverty eradication as one of its main objectives. Questions of justice and right to development are highly controversial, also amongst the NGO world. The politicization of the climate change debate thus was inevitably reflected in summits and preparatory meetings.

The increased contestation on the part of states and non-state actors culminated during the Copenhagen Summit. Its negotiated outcome, the Copenhagen Accord is a political, rather than legal, document, as some parties opposed, and hence, no consensus vote could be taken on it. Instead, the decisions were ‘taken note’ of and individual countries needed to sign the accord. This was a big disappointment to developmental and environmental NGOs and the Copenhagen Summit was – across the board – considered a failure. Nevertheless, some important decisions were taken, among others, on the field of climate finance.

The issues negotiated in Copenhagen were taken up in the following Summits. In the Cancun Agreement (2010), the parties recognized the need for deep cuts in global emissions in order to limit the global average temperature rise to 2°C. They took note of emission reduction targets and nationally appropriate mitigation actions (NAMAS) communicated by developed and developing countries respectively (ENB 2012: 2). The Green Climate Fund (GCF) was established. In Durban in December 2011, states agreed on a roadmap for a new, comprehensive climate treaty and an extension of the minimum reduction obligations for industrialized countries for the post-Kyoto period. The latest COP-18 in Doha was largely considered to be a ‘transition summit’, “where the parties could advance progress toward a new legally binding instrument that would require actions of all parties” in a comparable matter (see Kerr 2013). Key outcomes included the recognition of ‘grave concern’ about a widening gap between greenhouse gas mitigation promises and the actual accumulation of greenhouse gases in the atmosphere, the extension of the Kyoto Protocol for some years. Yet, among others, specific decisions were avoided on finance for poor countries dealing with mitigation and adaptation until 2020, and “only a handful of countries … have made concrete financial pledges” (see IIED 2012). Thus, disappointment prevailed once again (see Adarve 2013).

Since the Copenhagen conference, new actors and new NGO strategies emerged. The increasing engagement of NGOs in the climate change regime resulted in a massive NGO presence at the 2009 COP-15 in Copenhagen. New actors emerged, such Climate Justice Now! whose members – amongst them grassroots, activist NGOs such as the Third World Network or the farmers’ coalition Via Campesina (which were previously much better known for their, at times, radical activism in the international trade regime) – often, though not exclusively, came from Southern countries. Beyond geography, it was, above all, the critical issues of justice and the right to develop that united a set of different groups and activists, that previously seemed to be absent or at least ‘unheard’ in the negotiations. These actors often pursued strategies and held

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14 Founded in 2007 on the last day of the COP-13 in Bali (CJN 2013).
positions that significantly differed from those previously used by their mainstream counterparts and that varied with regard to the ‘radicalism’. Strategies of external contestation included, for instance, ‘flash mobs’, disturbing official negotiations, interrupting speeches with activists storming onto the stage, and attempting to breach security limits to hold a ‘peoples’ assembly’ to “coincide with the arrival of world leaders”. Civil society organizations such as Never Trust A Cop (NTAC) and Climate Justice Action (CJA) network were key protest inciters on YouTube: CJA called for ‘civil disobedience’ and negotiation disturbance while NTAC more radically promoted ‘property damage’ (Uldam and Askanius 2013: 1194). Less controversially, other forms of engagement of the wider public were used: symbolic gestures, such as the outputs of the ‘Step It Up campaign’, organized by the 350.org movement, produced 2000 demonstrations and events across the world, including scuba divers at the Great Barrier Reef and monks in the Himalayas of which photos and videos were sent to world leaders (and the public) (Engler 2009).

Thus, while there may have been many opportunities for access and insider contestation, these new types of actors explicitly did not wish to take up these opportunities. Whether entry points were available or not was therefore irrelevant to their strategies; they came ‘specifically to protest outside’ (Fisher 2010: 15). And while it remains difficult to judge whether this led to a ‘division of labour’ among the insiders and outsiders or, on the contrary, constituted an obstacle for successful NGO participation and even closed previously accessible paths for NGO participation (Fisher 2010) remains an open question so far; the balance of evidence – at least from the Copenhagen Summit – seems to point to the latter option. With growing intransparency in the decision-making process that was also debated heavily among states, mainstream NGOs at times aligned with the ‘outside protesters’. This seemed to have a much broader effect. Szarka (2013: 13), for instance, argues that the dissatisfaction with the international negotiation process led to new strategies that focused much more on ‘interacting and involving the public’ and to activities at political levels and the arena below the global summity.

Briefly summarizing, we can thus speak of various expansions in the ‘agency of contestation’ – an expansion of actors, an expansion of issues contested and an expansion of forms and strategies of contestation. In addition, contestation ‘from the outside’ plays a more important role in this more recent regime phase than our initial hypothesis would have suggested. NGOs and other social movements from both North and South, from development and environmental, from groups supporting market-mechanisms to groups demanding radical system change through civil disobedience, are now characterizing the field of non-state contestation in the international climate regime. The question of ‘hierarchies’ in favour of established insider NGOs and their function as providers of entry points for newcomers (see our initial hypothesis) is however difficult to answer, since the ‘newcomers’ apparently explicitly chose to undertake different strategies – and sometimes confronted the severe criticism by their more established counterparts as well as sometimes even changed the ‘mainstreamers’ behaviour. This choice of different strategies was possibly due to the fact that the NGOs that were present before were acting much more as partners than as ‘outside contesters’ and that the more radical groups could not align their critique with the existing frames held by the established groups. Our following analysis shows that, in the heavily debated area of climate finance, NGOs hold quite diverging viewpoints on the main issues, ranging from a more ‘reformist’ position to a radical critique of the status quo.

15 According to UNFCCC Executive Secretary de Boer (CBC News 2009; Webster 2009).
16 After being shut out of the negotiations, some became willing participants of direct action outside the Bella Center. This activism contributed to the decision to block some groups from the negotiations altogether. Citing security concerns, a number of NGOs—including Friends of the Earth International (FOEI), Avaaz and TckTckTck—had their accreditation revoked (Fisher 2010: 15).
5.4. Discursive Coalitions and Division of Labour among NGOs

Different from the WTO case in which cross-regional or cross-national NGO coalitions are less important due to the importance of lobbying the national governments, in the climate case, as we have seen, most NGO lobbying happened through big transnational NGO coalitions, such as CAN. On the issue of climate finance, major NGO networks – we focus on CAN as the traditional, most central instrument of NGO coordination within the regime and on the Third World Network and Climate Justice Now! which both claim to further ‘Southern’ civil society viewpoints – often hold quite similar viewpoints. All groups want to change the composition of the proposed Green Climate Fund and are critical with regard to market-based mechanisms. However, analyzing their statements in more detail, we nevertheless observe important differences, in particular with regard to the overall framing of the issues and the question of ascribing or denying legitimacy to the regime (see Haunss 2007).

With regard to the issue of institutionalization, for instance, CAN requires a ‘paradigm shift’ by establishing a multi-stakeholder process involving civil society, and it makes concrete propositions on how to improve the Green Climate Fund. It does not question the overall legitimacy of the Green Climate Fund yet suggests changes with regard to financing and structure (CAN 2012a). In contrast, in 2010, the CJN! started a campaign called ‘World Bank out of Climate’ (CJN n.d.). In an open letter issued at the COP-16 in Cancun, the Bank is criticized as being undemocratic and governed by the industrialized nations’ interests. It is suggested to replace the Green Climate Fund with a ‘Global Climate Fund’ in which the developing nations would be dominant. The World Bank, it is said, would privilege private sector and private capital markets over public interests (CJN 2010a). In principle, no development bank should have any influence in climate politics:

The World Bank, private banks and other financial institutions such as the Asian Development Bank, the Inter-American Development Bank and the African Development Bank should have no role in climate finance. These institutions promote a ‘development’ paradigm that is contrary to the well being of our peoples and the planet and they share a large responsibility for the accumulation of illegitimate debt claims against the countries of the South (CJN 2010b).

The Third World Network (TWN) is also very critical of the Bank’s role in climate finance and in particular of the setting up of parallel structures to the UNFCCC finance system. In conformity with the CJN, the TWN’s main critique is that the Green Climate Fund would be donor-driven with little input from the developing countries (Tan 2008).

The mainly Southern NGO networks CJN and TWN, thus, seem to be much more radical in their contestation of the GCF than the established CAN. In addition, their ‘framing’ is different as well as the solutions that the groups propose. CJN and TWN clearly want to advance the interest of Southern/developing countries and claim a stronger voice for them in the process of climate finance. Their voice should be strengthened in the Green Climate Fund. In contrast, CAN focuses on multi-stakeholder processes in general and requires a stronger role for civil society (CAN 2013a) rather than for Southern governments. In terms of a general framing of the issue, ‘Southern groups’ frame their critique as a general critique of capitalism; in this context ‘green capitalism’ (CJN 2012). TWN and the CJN put their requests in the context of a principled critique of global finance and the financial crisis (CJN 2010b; TWN 2011). Instead of making concrete propositions like CAN, these two groups use slogans that question the legitimacy of the entire system in which the climate regime is embedded. We, thus, conclude that with regard to the issue of institutionalization, the

17 According to Haunss, by attributing responsibility or blame to specific actors and/or institutions, actors ascribe or deny legitimacy to other actors and institutions.
NGOs under scrutiny have, in principle, fairly similar standpoints; they however diverge on the depth and intensity of these standpoints (Prys and Wojceswski 2012: 26) – CAN makes concrete propositions on how to reform the climate finance system while CJN and TWN position their requirements in the framework of a general critique of global capitalism and the burden-sharing between industrialized and developing countries in terms of ‘global justice’.

With regard to the market-based mechanisms (including the clean development mechanism CDM), we observe a similar pattern. CAN states that the CDM, so far, has failed to meet its dual objective of promoting sustainable development in developing countries and of promoting deeper cuts in industrialized countries’ emissions (CAN 2009). CAN criticizes that CDM could even undermine national reduction targets, for example by crediting “business as usual emission reductions, i.e. reductions that would have happened even without the additional incentive provided by the mechanism” (CAN 2012b). The current regulations should not contribute to ‘hot-air laundering’ (CAN 2013b) but should rather be implemented in a more transparent and participatory way. Despite these critical statements, CAN also makes very concrete and precise suggestions for how to improve the regulations of the CDM. It answers to a call issued by the CDM’s executive board to make comments on the CDM regulations and states that (CAN 2010),

the purpose of these comments is to highlight key safeguards that must be included in the appeal procedure in order to promote transparency, accountability, and consistency in the CDM project approval process, improve the efficacy of the CDM as a tool for reducing greenhouse gas emissions, and allow for more meaningful public input into the Executive Board’s decision-making – something that is woefully lacking under the current procedures.

In order to reach that goal, CAN establishes ‘basic criteria’ allowing for greater stakeholder involvement. Thus, again, as in regard to the institutionalization of climate finance, CAN makes suggestions on how to improve the current system without questioning its legitimacy as such. Their general framing most often refers to general principles such as transparency, stakeholder and civil society involvement and accountability.

In contrast, Climate Justice Now!, while sharing again many viewpoints with CAN, again undertakes a much more general critique of the whole CDM. In its South-South summit on Climate Justice and Finance that took place during the COP-16 in Cancun (from November 26 to December 4, 2010) and organized by “people’s organizations from the global South”,18 CJN states that the market-based mechanisms would fail their development goals and rather support the capitalist economy controlled by Northern countries or even contribute to neo-colonial behaviour (a critique made with regard to the REDD/Reducing Emission from Deforestation and Degradation mechanism):

‘Like CDM and all carbon credit offset mechanisms, REDD, and its variants, does not tackle the real causes of climate change, which are the capitalist mode of production, accumulation, and consumption, based on the aggressive extraction of fossil fuels and other natural resources. This neo-colonial invasion process [REDD] is already in place and in many cases through strong militarization and criminalization. Hence, REDD is not only a false solution for climate change but an immediate menace for traditional communities, and indeed society everywhere” (CJN 2010b).

In this context, CJN also speaks of the ‘historical debt’ of industrialized countries that are responsible for climate change. Rather than through market-based mechanisms, the money for climate finance should stem from public funding (CJN 2011). The

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18 During the South-South conference, a diversity of networks met in plenary sessions, workshops, group discussions and common actions with the goal of promoting ‘climate justice’ (CJN 2010b).
general assumption is again that Northern countries that control the process would be the only ones that benefit from the CDM. CJN frames their concerns again with reference to a general critique of capitalism, taking a critical post-colonial perspective and underlining the interests of developing countries. TWN does not make explicit comments on the CDM but holds a critical viewpoint towards it as well.

We thus observe that CAN, which can be characterized as being one of the established and very influential NGO coalitions in the climate trade regime, makes concrete suggestions on how to improve the climate finance system and does not question its legitimacy as such. It refers to general principles in terms of transparency, civil society and stakeholder involvement, accountability, etc. In contrast, the statements of CJN and TWN are much more radical – which conforms to their ‘outsider strategies’ described above. While putting emphasis on the issue of ‘justice’, their general framing questions the legitimacy of the whole climate finance regime. The two coalitions frame their propositions as an ‘anti-capitalist’/’anti-imperialist’/’postcolonial’ critique. In addition, it is remarkable that CJN and TWN often advance positions that come close to those of developing countries, while CAN puts an emphasis on issues such as civil society involvement but focuses much less on Southern governments’ interests.

5 Conclusions: Does the Model Hold?

In this paper we argued that the quality of NGO presence at the inception of a regime – comparing the trade and climate change regimes – matters with regard to the ‘mode of contestation’ that NGOs preferably use in subsequent negotiations as well as with regard to the relationship among NGOs and the structuring of the non-governmental field.

Distinguishing basically between ‘insider’ and ‘outsider’ strategies of NGO contestation, we assumed that a weak presence at the ‘founding moment’ is likely to provoke less insider and more outsider contestation, whereas a strong NGO involvement at the ‘founding moment’ makes modest (‘insider’) forms of contestation more likely. Both regimes to a large extent seem to conform to this hypothesis. In the trade regime, a weak presence at the founding moment went hand in hand with largely very limited access to NGOs. Mostly, NGOs engaged with the regime through the media channel, i.e. an outsider strategy that aims to influence the public image of the regime. Only after 1999, with protests in Geneva and Seattle serving as a door-opener, the WTO become more inclined towards NGO participation, although, still limited in its form of formal access to negotiations. Over subsequent years, external contestation diminished again in importance (as would have been predicted given the better chances to contest from within); there exists some division of labour but links across the ‘inside’/’outside’ abyss appear relatively few and also relatively weak. The climate regime, in turn, was characterized by a strong presence of NGOs at the inception of the regime: the 1992 Rio summit and the following negotiations. The number of NGOs participating at the negotiations remained high, and there were different institutional pathways through which NGOs could participate in the process. The strong presence at the beginning of the process, therefore, seemed to have opened the door for further NGO participation in the following. This participation took the form of a ‘partnership’ mode, and some would even say that NGOs had a ‘co-elitist’ position besides the state representative (see above). Overall, NGOs were highly accepted as valuable participants in the negotiations who held important scientific environmental expertise.

“The Clean Development Mechanism (CDM) should be viewed as a prime example of how inefficient carbon markets can be for funding projects in developing countries” (TWN 2011).
Initially, we also assumed that a strong presence of NGOs at the founding moment is likely to hierarchically structure NGO relations in favour of the ‘insiders’ but also to broaden the range of entry points for newcomers. In this regard, our findings only partially conform to these assumptions. In the trade regime, hierarchies among NGOs are not as flat as we might have expected. Our preliminary study shows that gatekeepers, i.e. inside NGOs that may serve as entry points to outsiders with similar interests, can be created at a later stage of regime development; as in the case of the WTO that opened up after the protests in Geneva and Seattle. The media analysis further showed that there are ‘media gatekeepers’ which present one of the view possibilities to smaller NGOs to make their voices heard. In substance, this means that a large NGO, such as Oxfam, becomes the recognized ‘representative’ for voices from the South, whereas smaller Southern, developmental NGOs remain marginalized with regard to media reporting.

As we demonstrated through our case study, the range of NGOs that claimed to have a voice in the climate negotiations became very diverse – at least, starting with the Copenhagen summit in 2010. While beforehand the scene was dominated by Northern scientifically-oriented environmental NGOs (and therefore by a set of quite homogeneous NGOs), new actors entered the scene in Copenhagen which put forward a more developmentalist perspective with a strong emphasis on issues of global justice and the interests of the Global South. These actors used much more radical strategies in order to pursue their (more radical) political objectives such as de-legitimating the current climate change finance regime. Apparently, they were not willing to align with the positions of the modest ‘reformist’ partnership mode NGOs that were already present at the climate negotiations so far, but they chose new pathways to contest in public. As some scholars suggest, these strategies even closed down the possibilities for NGO participation which have been quite extensive beforehand. So far, it remains unclear whether we can speak of a ‘hierarchy’ between the insider NGOs and the newcomers and whether this was a reason for the choice of ‘outsider strategies’ by the newcomers. In any case, the discursive positions that the two actor-types held were quite different, and therefore, it was probably impossible for the newcomers that emphasized issues such as global justice and burden sharing between developing and industrialized countries to align with the established environmentalist, civil society framings.

The question of homogeneity versus diversity among the NGO landscape seems therefore in our case study to be decisive for the choice of modest versus radical strategies of contestation by newcomer NGOs. The increasing homogenization of the insider NGO landscape seemed to have encouraged outside protest by more radical groups, which then, in turn, may have had an impact on the forms of contestation used by the ‘mainstreamers’. In light of our empirical findings, rather than emphasizing the function of the established NGOs to provide entry points for newcomers, it is important that, in the climate case, the outsider strategies by newcomer NGOs seemed to have had the paradoxical effect that they even decreased their possibilities for NGO participation. Different from the WTO case in which the open protest at Seattle ‘opened the door’ for further – also inside – NGO participation, in the climate case, this radical outside contestation seemed to have sometimes even narrowed NGOs’ possibilities for participation that have previously been relatively advanced.

As a commonality between the both cases, we observe that the ‘overlap’ between ‘insider’ and ‘outsider’ NGOs seemed to have been quite low; focusing on the discursive aspect of contestation and analyzing the different framings by the NGO coalitions seem
to be a fruitful endeavor in order to further demonstrate the differences, conflicts and cleavages among the NGO landscape which is far from a harmonious, unanimous group of actors. Interestingly, alliances between ‘Southern’ governments and ‘Southern’ NGOs partially seem to be more likely than those between developmentalist radical groups and more established environmentalist NGOs – however, this would have to be analyzed in further research.

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