

**Bringing the Firm Back in the Analysis:
State-Business Relations in Latin America and their Impact
on Policies**

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I, Eva Renon confirm that the work presented in this thesis is my own. Where information has been derived from other sources, I confirm that this has been indicated in the thesis.

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Abstract

The political science literature is now unable to account for the differences in the business community behaviour towards Latin American governments. This thesis offers to fill this gap by answering three questions: what explains the differences between firms' varying degrees of success and failure in communicating their policy preferences to politicians? What determines the type of policies the business community promotes through lobbying and other political influence mechanisms? What determines business' varying degrees of success and failure in influencing policy outcomes? Answering these questions is essential to understand how political systems respond to powerful private actors and is a condition to the success of political efforts to create a quality jobs led growth.

This thesis' theory answers these questions by developing a typology of the business community's ability to communicate its preferences to politicians: cartelism, competitive-corporatism, and pluralism. This typology explains the type of interest companies promote and how efficient they are in influencing policies. Conglomerates and large firms (CLFs) lead effective collective action if the benefit of collective action seems high enough, regardless to its cost. Small and medium-sized enterprises (SMEs) organise in business associations if the cost of collective action is low enough, regardless to its benefit. The combination of these two factors shapes the business community's mode of organisation. If CLFs and SMEs communicate their preferences clearly to politicians, they compete for influence over policies and coordinate ahead of lobbying. In this coordination process, all firms make concessions on their preferred policies to draft more collectively beneficial policy proposals (competitive-corporatism). If only CLFs organise well, they can efficiently promote their own narrow interests, unchallenged (cartelism). When the business community is widely disorganised, the best politically-connected interests prevail (pluralism). Confronted to extensive empirics, this typology better explains trade policy, regulations and fiscal policy in Argentina, Brazil and Colombia.

Impact Statement

This thesis answers three questions. First, what determines the difference between firms' varying degrees of success and failure in communicating their policy preferences to politicians? Second, what determines the type of policies – self-serving and narrow or collectively beneficial – the business community promotes through lobbying and other political influence mechanisms? Finally, what does determine business' varying degrees of success and failure in influencing policy outcomes?

This thesis' theory posits that the level of cost of collective action determines the resource constrained small and medium size enterprises' (SMEs) ability to coordinate in defence of their interests. By contrast, the level of benefit of collective action determines conglomerates and large firms' (CLFs) willingness to coordinate among themselves, ahead of promoting their preferences to politicians through lobbying.

In the 'cartelist' mode of business organisation, CLFs coordinate well and are able to communicate their policy preferences clearly to politicians. However, the inability of SMEs to articulate their preferences to communicate them clearly means that CLFs become the government's uncontested interlocutor. Consequently, CLFs successfully promote their own narrow interests, through varied sophisticated lobbying techniques.

In 'competitive-corporatism', CLFs and SMEs coordinate well and are able to communicate their policy preferences clearly to politicians. CLFs coordinate with SMEs' ahead of lobbying, therefore CLFs need to make compromises on their preferred policies if promoting these policies can hinder SMEs' operations. The state receives varied constructed policy inputs from the business community. When the state and the business community coordinate, they draft more collectively beneficial policy proposals than in cartelism and pluralism.

In pluralism, CLFs and SMEs struggle to coordinate well and are unable to communicate their sectorial policy preferences clearly to politicians. Instead, firms promote their individual preferences through lobbying. The diverse, overlapping and contradictory inputs that a sector's firms provide to the state create confusion. Politicians therefore favour firms they trust and to maintain the upper hand on all policies. Companies' personal contacts with politicians become the main factor determining firms' degree of success in influencing policy outcomes.

This thesis' theory paves an original way out from developing countries' states' embedment with domestic and international oligarchic interests and opens the black box of the 'business community' concept. It also shows that the political representation of SMEs, is key to draft relevant policies supporting SMEs' growth thereby encouraging them to offer greater and better-quality employment

opportunities. SMEs' political engagement is also crucial to improve the transparency of policymaking thereby Latin American democracies' accountability because SMEs act as an efficient check on CLFs' influence on policies – something that legislatures have been struggling to do.

More widely, this thesis' theory offers numerous applications in other regions such as Sub-Saharan Africa, on which political science scholarship is scarcer but where democracies and economies exhibit similar challenges to Latin America's. This work will contribute to the field of political science by being published in scholarly journals. I also aim at establishing partnerships with universities in Latin America and Sub-Saharan Africa to disseminate this thesis' theory and encourage greater political representation of SMEs there.

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Chapter 1

Introduction

Twentieth-century policymakers and scholars have contentiously debated whether to implement import tariffs and fiscal incentives to support the domestic economy; and they have battled over which sectors to protect from foreign competition. These debates took place under the pressure of increasing fiscal space to fund social programmes, welfare state development, or invest in large infrastructure projects. As a result, many policymakers in Latin America have considered that the most sensible option was to protect domestic infant industries, promote their ability to export by providing state support for domestic firms to upgrade to international standards and to offer tax incentives to attract relevant foreign direct investment. Left- and right-wing governments have proven to be quite pragmatic when designing policies and the region has been one of the most innovative in regard to the design of economic and social policies. Recent macroeconomic policies include a mix of laissez-faire, protectionism, import-substitution, and even heterodox measures.

In some cases, the government and business elites have successfully collaborated to formulate policies that contribute to economic growth, job creation, and productivity; in other cases, they have promoted rent-seeking goals at the expense of social welfare and economic development. The region has indeed one of the worst rates of income and wealth inequality in the world, and its elites have been consistently painted as oligarchic. They pay very low taxes, participate in wide reaching corruption schemes, 'capture' the state and policies, and, in many instances, seem to be above the law. Meanwhile, the average citizen and the disenfranchised lose faith in democracy, voter turnout remains low, and the perception of corruption increases – e.g., the 2019 Latin American public opinion project (LAPOP) survey reports that an average of 40% people do not support democracy in Brazil and Colombia, against 29% in Argentina (Zechmeister & Lupu, 2019).

To understand the government and business elites' collaboration puzzle that underlies Latin America's difficulty to craft transparent and collectively beneficial policies, this thesis answers three questions. First, what determines the difference between firms' varying degrees of success and failure in communicating their policy preferences to politicians? Second, what determines the type of policies – self-serving and narrow or collectively beneficial – the business community promotes through lobbying and other political influence mechanisms? Finally, what does determine business' varying degrees of success and failure in influencing policy outcomes?

Through the comparative analysis of business associations and firms' collective action strategies, this thesis develops a theory to explain under which conditions business elites collaborate with the state to promote either equitable economic development or their own narrow interests. It also addresses the conditions under which they fail to collaborate altogether. This work shows the plurality of business interests, of interest promotion through lobbying, and it demonstrates that simply getting policies right is not enough. The process of formulating these policies determines as much their content as their chances of being implemented as intended thereby their chances of producing the desired outcome.

Concretely, firms make alliances with other firms that have similar interests in order to share information about the markets they operate in and on policies that may affect them. The Brazilian textile sector, for example, coordinates with all levels of its value chain before entering into contact with the legislative and executive federal or regional governments. By contrast, the Argentinian textile sector is represented by at least six different business associations. They fight one another over what policy should be at meetings with the Minister, who struggles to understand the sector's needs and challenges. In Colombia, larger firms from sectors as diverse as pharma, sugary drinks, metal, construction, and the paper industry collaborate efficiently ahead of any lobby action. They have not only become the government's main interlocutor, but they have also denied political representation to small and medium-sized enterprises, hindering their growth and worsening informal employment.

Firms' conflict of interest often follows the trade interests of value chains. For example, domestic producers seek high import tariffs to shield their outputs from foreign competition, whereas domestic buyers seek lower tariffs to benefit from a cheaper price. Lobby over tariffs was unsuccessful under the governments of Nestór and Cristina Kirchner in Argentina where firms obtained marginal decreases of import tariffs and quotas on an individual basis depending on their ability to make up for lost foreign exchange. Other conflicts of interest oppose capital-intensive and labour-intensive industries over fiscal policy. For example, Brazilian textile firms have found it beneficial to coordinate with firms from the entire textile value chain in order to mitigate conflicts between capital-intensive and labour-intensive branches. Capital-intensive firms even accepted a greater share of the sector's tax to relieve the labour-intensive branch and enable the growth of the sector as a whole. Other conflicts of interest oppose multinationals to domestic firms over regulation. In Colombia, larger firms and multinationals have teamed up to promote stringent regulations preventing medium-sized enterprises and domestic producers from operating legally and profitably due to the costly technological upgrading.

Business' input on policymaking remains essential to craft relevant policies that will be accepted by businesses and properly implemented. This thesis finds that when facing fierce competition in regard to influencing policy from other well-organised sectors, firms tend to promote more consensual and collectively beneficial interests. Doing so improves their chances of success in influencing policies. This work also shows that if a set of firms does not face this competition, it does not compromise on its preferences, promoting narrow and self-serving policies at the expense of less well-organised firms.

This work thereby offers new tools to improve accountability within policymaking, which has undermined the quality of democracy in Latin America. Far too often, the root problems of representation and accountability remain unresolved because attempts at reform are hindered at the legislative level by oligarchic and corporate interests (Foweraker, 2016). The state is not able to enact everywhere effective policies representing the preferences and aspirations of citizens. What determines this ability is state capacity: consistent and uniform defence of the rule of law, the provision of public goods, and an ability to gather enough tax revenue to fund these attributes (Doyle, 2016). In turn, the state's ability to gather enough tax revenue relies on its ability to enact efficient fiscal policies that firms will not evade nor obtain extensive exemptions from. More widely, this work aims to better understand Latin American states' willingness (Foweraker, 2016) and states' ability, through their capacity to collect tax revenues (Doyle, 2016), to produce policies aligned with citizens' preferences.

To answer my three research questions, this thesis applies Olson (1965) and Ostrom's (2009) collective action theory to a type of firm that is limited in its resources and its access to information. In defining this firm, I was inspired by the work of Coase (1937), North (1990) and Shadlen (2004). This thesis places this rational but imperfect and limited firm in the context of Latin American 'hierarchical capitalism' in alignment with Schneider's work (2013). I also analysed the selected opportunities that this type of capitalism creates and the corresponding set of mutual dependencies between the state and firms it creates (Culpepper, 2015). This analysis is helpful in determining the strength of private interests' structural power – derived from a firm's contribution to the domestic GDP and foreign exchange reserves (Culpepper, 2015). Finally, the work of Fairfield (2015) was a guiding framework used to understand what tactics firms use to influence policies.

The resulting theory developed in this thesis posits that the cost of collective action determines small and medium-sized enterprises' (SMEs) ability to coordinate in defence of their interests. By contrast, the level of benefit of collective action determines conglomerates and large firms' (CLFs) willingness to coordinate among themselves, before promoting their preferences to politicians through lobbying. This work finds that the degree of organisation of SMEs and CLFs explains well the

differences between firms' varying degrees of success and failure in communicating their policy preferences to politicians – answering this work's first research question.

In the cartel mode of business organisation, CLFs coordinate well and are able to communicate their policy preferences clearly to politicians. However, SMEs struggle to do so. The inability of SMEs to articulate their preferences and communicate them clearly means that CLFs become the uncontested, privileged interlocutor of the government. CLFs claim to represent the entire private sector, and there is no voice to contradict them. Consequently, they promote their own narrow interests through varied lobbying techniques. This situation determines the type of policies the business community promotes through lobbying, and thereby answers this thesis' second research question. The combination of a lack of challengers with varied lobby techniques explains CLFs' high degree of success in influencing policy outcomes; this idea answers the third research question.

In the competitive-corporatism mode of business organisation, CLFs and SMEs coordinate well and are able to communicate their policy preferences clearly to politicians. The ability of SMEs to articulate their preferences and communicate them clearly means that CLFs' influence is contested. The state has access to varied input on policy from the business community. CLFs cannot claim to represent the entire private sector and have to coordinate with SMEs before lobbying if they want to influence policies. In this process of coordination, CLFs need to compromise on some of their preferences that could hurt SMEs' operations. This explains how CLFs can have 'surprising' preferences, such as when CLFs ask to bear a greater share of their sector's tax burden to relieve SMEs.

Finally, in pluralism, CLFs and SMEs struggle to coordinate well and are unable to communicate their collective policy preferences clearly to politicians. In this situation, the policies promoted align with firms' individual preferences. The diverse, overlapping and contradictory input that businesses from the same sector provide to the government creates confusion. Politicians, therefore, tend to favour firms they know and trust, and maintain the upper hand on all policies. Companies' instrumental power – derived from personal connections to decision makers – becomes the only factor that matters in determining their degree of success in influencing policy outcomes, regardless of firms' structural power.

This thesis' theory and resulting typology also show the limits of the private sector's coordination with the state. In each of this thesis' three cases, business associations and the government have failed to find optimal tariffs that could reconcile the upstream and downstream producers' acute conflict of interests. In Colombia, tariffs are set by CLFs' undisputed preferences at the expense of domestic firms and SMEs. In Brazil, sectors seem to spend much time and many resources fighting one another over tariffs that other segments of the sector offset by obtaining large fiscal breaks. In Argentina, the government provides firms with

tariff exemptions on an individual basis depending on personal contacts, the firm's ability to bring foreign exchange, or participation in corrupt activities. In no case has this work found a collaborative decision-making process that leads to the setting of tariffs that benefit the different segments of a value chain.

This thesis' theory answers to why do countries with reasonably similar levels of economic development and degrees of industrialisation – like Argentina, Brazil, and Colombia – display different forms of business coordination. Based on seven months of field work and 117 interviews with key stakeholders, this thesis argues that it is due to the countries' respective levels of the cost and benefit of collective action, which historical experiences and governments' provisions of selective incentives have shaped. Consequentially, this level of coordination shapes firms' policy preferences and determines how efficient their lobby is likely to be.

The next section presents the methodology I used to build this thesis' theory and the next chapter outlays my theory of the different types of business organisation thereby answering my first research question: what determines the difference between firms' varying degrees of success and failure in communicating their policy preferences to politicians? Chapter 3 draws on this theory to answer to the second and third research questions: what determines the type of policies – self-serving and narrow or collectively beneficial – the business community promotes through lobbying and other political influence mechanisms? And, what does determine business' varying degrees of success and failure in influencing policy outcomes? Each study case is treated in two chapters working in pairs in the same way chapters 2 and 3 do. In chapter 4, I test the theory outlaid in chapter 2 with the case of Colombia. Chapter 5 replies to my second and third research questions in the case of Colombia – in the same way that chapter 2 continues chapter 3. Chapters 6 and 7 cover Brazil and chapters 8 and 9 cover Argentina in that same way. The last chapter concludes.

1. CASE SELECTION FOR THE COMPARATIVE METHOD

In political science, analysing institutions in a small number of countries following the 'comparative method' allows for a deeper understanding of political processes (Peters, 1998). The comparative method guides the production of theories about political life which can be assumed autonomous from the case studies (Peters, 1998). It is a middle ground between the study of one case in its idiosyncrasies (monograph), and the study of many cases conducted from large statistical samples. Although monographs provide analysis of the complexities of a specific case, almost every variable has an equal chance of being a cause (Peters, 1998). By contrast, statistical studies aim to produce a general understanding of a simple causal effect that would hold across most cases. However, studying numerous cases means losing information by over-simplifying, which increases the risk of producing an

uninformative theory (Ragin, 2008). Such a theory would end up inductively justifying a correlation rather than explaining a phenomenon.

By contrast to the extremes of the monograph and statistical analysis, the comparative method proposes an in-depth comparison of a small number of cases, underlying a similar process of change happening in different contexts (Collier, 1993). This method helps build scientifically robust complex causal explanations, yet more widely pertinent or even generalisable (Ragin, 2008). Comparison brings out similarities and differences among each case which serve to inductively form new theoretical hypotheses and to test pre-existing hypotheses. As such, the selection of cases acts as a substitute for experimental or statistical control (Collier, 1993), which improves the study's credibility. While selecting a set of positive cases following either the most similar system design (MSSD) or most different system design (MDSD) provides a base for theory building, testing these hypotheses requires selecting negative cases.

1.1. Case selection

Selecting specific positive cases may unduly shape the theory due to the risk of the selection bias. Often, a couple of cases are central to the theory. If these cases are marginal, the researcher risks generating a general theory that does not apply well to the entire set of possible positive cases (Goertz, 2006). For example, in the case of a regression analysis, inclusion or exclusion of outliers during the selection of cases may mislead the researcher about the relevant independent variable(s) or their importance (Geddes, 2003). However, by selecting cases before tailoring a theory, the researcher risks 'overfitting'; that is to say building the theory in a skewed way that fits the cases. In quantitative analysis, overfitting is when the slope of the regression line is driven by extreme cases, or where the addition of a relevant case to the sample changes the degree of significance of the model (2003). Conversely the researcher risks 'conceptual stretching' by tailoring the theory to the selected cases when it fails to provide a satisfactory explanation (Collier & Mahon, 1993; Goertz, 2006; Sartori, 1993). Conceptual stretching occurs when a concept is loosened in order to apply to additional cases. For these reasons, while building a theory, the researcher must not only stay aware of the downsides of each choice but also have well-defined concepts.

Defining well a theory's concepts requires the researcher to analyse them by attaching observable 'secondary attributes' to them before attempting to demonstrate causal links between two concepts. The secondary attributes are limited to the sufficient and necessary components of that concept, without which it would lose its identity. The analysis of those properties is the base on which to build causal explanations and mechanisms (Goertz, 2006). For example, secondary attributes to 'economic elites' could include: a certain level of income and/or a certain

degree of influence on the economy and/or a certain number of assets owned and/or the participation in politically influencing lobbying groups. In a theory, one of these elements will be the crucial elements that links economic elites to their attempt to block new efforts of taxation.

Once secondary attributes have been clarified, the next step is to define concrete indicators used to measure and recognise secondary attributes' presence or absence (Goertz, 2006). These are third level attributes which could be, using the same example of economic elites: earning above USD \$1 million a year; representing over a third of a sector's activity; owning over half of a major company's shares; and having regular contacts with key politicians.

Selecting cases to build a strong and credible theory free of bias requires the examination of the concepts at play and their secondary attributes in order to define whether a case should be negative or positive. For example, the structure of the concept 'new taxation efforts' expands or shrinks the set of possible positive cases, rejecting some cases in the 'grey zone' between positive and negative cases (Goertz, 2006). Hence, the choice regarding concept definition is an implicit decision about case selection; therefore, it is a source of selection bias. The decision to sort the grey zone's cases as positive or negative has downstream implications for the theory's causal inferences.

Another widespread mistake is the confusion of a concept with the actual distribution of cases (Goertz, 2006). The fact that a majority of the cases fall at one end of the concept's continuum does not call for a modification of the concept but for a causal explanation (Goertz, 2006). For example, observing that most economic elites possess significant assets but receive a very low income should not call for claiming that economic elites are those possessing assets but not earning much income. Rather, the scientifically rigorous attitude is to explain that possessing assets exempts one from working for income and that the assets' return might be reinvested or placed offshore in which case they would not show up as income.

The comparative methods' most similar system and most different system research designs help in selecting cases that make sense in combination with one another. The combination of cases' values on the theory's independent and dependent variables provide support to the theory. The most similar system design (MSSD) puts in parallel cases exhibiting significant differences between the theoretically relevant variables, but which are similar in all other contextual aspects, thus controlling for them (Rihoux & Ragin, 2009). It tries to control extraneous variance by selecting cases in which variances are unlikely to be an issue (Peters, 1998). The design follows the Popperian empirical falsification logic according to which science makes progress by eliminating possible causes rather than by proving the existence of relationships (Peters, 1998). The MSSD is similar to the 'method of difference' (Mill, 2002 [1843]) where the dependent variable varies across cases

while all the independent variables are similar but one – the significant one (Peters, 1998; Rihoux & Ragin, 2009).

Negative cases, also called control cases, serve to control for irrelevant variables and test for competing theories in order to verify whether empirical observations meet our theoretical expectations (Geddes, 2003). Eliminating competing theories is crucial to a study's credibility because they explain the same outcome differently or offer additional factors influencing the relationship of interest which would need to be taken in account. This includes paying attention to factors which would provoke the outcome despite the absence of our independent variables. To perform this test, the researcher applies the theory to cases different from those that have been used to generate it. Ideally, the more negative cases are used, the more reliable the study's conclusion (Geddes, 2003). But, at minimum, to estimate a causal link, the researcher needs one case more than the number of independent variables (Geddes, 2003; Peters, 1998).

In this thesis I used the MSSD to select the four cases of Argentina (1956-1976), Argentina (1976-2015), Brazil (1943-2017) and Colombia (1928-2018) to measure the impact of the two variables of the cost of collective action for SMEs and the benefit of collective action for CLFs on business modes of coordination before engaging with the government. The different modes of business coordination are what determine firms' varying degrees of success and failure in communicating their policy preferences to politicians (my first research question). In turn, business coordination's strength in the three cases of Argentina (2003-2018), Brazil (2003-2018) and Colombia (2002-2018) explains the type of policies the business community promotes through lobbying and other political influence mechanisms (my second research question), and business' varying degrees of success and failure in influencing policy outcomes (my third research question).

These three countries exhibit significant variation in regard to the cost and benefit of collective action. For example, in Colombia, the cost of collective action for SMEs is very high due to a mandatory registration in the register of commerce which requires a fee that is unaffordable to most SMEs. Unregistered firms are by definition informal and can hardly pay another fee to a business association representing their interests politically. By contrast, in Brazil, the legacy of the 1940s' state corporatism left in place a number of channels through which SMEs efficiently communicate their policy preferences to the government, ordered by region and by sectors. The law prevents the creation of competing business associations, bringing clarity as to which should a firm be affiliated to. In addition, up to 2017, the mandatory financial contribution from businesses to unions and to business associations gave financial resources to even the smallest business association. This theory expects the cost of collective action in Brazil to hike following the 2017 amendment of the mandatory financial contribution's part of the labour code – the verification of this

prediction however is left to future scholars to make. Table 1 below shows the level of cost and benefit of collective action for this thesis' case studies.

Table 1. MSSD design applied to business organisation in Latin America

	Independent variables		Dependent variables		Resulting business organisation
	Cost of collective action	Benefit of collective action	SMEs organisation	CLFs organisation	
Argentina (1958-1976)	Low	High	Yes	Yes	Competitive-corporatism
Argentina (1976-2018)	High	Low	No	No	Pluralist
Brazil (1988-2017)	Low	High	Yes	Yes	Competitive-corporatism
Colombia (1944-2018)	High	High	No	Yes	Cartelist
Predictive case: Brazil (2017-)	High	High	No	Yes	Cartelist?

Following the MSSD design, the comparison between the two cases of Argentina and the case of Brazil holds constant several background conditions and institutional factors, which serve to control for these variables. Both Brazil and Argentina are federal countries. Brazil's fiscal federalism includes stable and centralised public revenue rules and shows greater jurisdictional centralization (which refers to the central government's capacity to design policies). Conversely, Argentina's lower jurisdictional centralization is combined with a form of fiscal federalism allowing for more leeway in bargaining between the states over the allocation of revenue and expenditure (Soares & Machado, 2020). Both countries have a history of state corporatism and of military juntas' governments returning to democracy in the mid-1980s. Brazil had left-wing governments from 2003 to 2016 and Argentina from 2003 to 2015, followed by openly pro-business right-wing governments. Both countries share similar levels of economic development in terms of GDP per capita from 2002 to 2014 (World Bank, 2020), and both have well-developed business associations. I also maximised my cases similarities by looking at two epochs within the same country with case of Argentina (1956 to 1976 and 1976 to 2015) – as advised by scholars (Collier, 1993; Haydu, 1998).

Applying this theory to Colombia extends the scope of analysis to a country with a similar level of economic development but without strong history of military rule beyond the 1950s, nor a strong corporatist legacy, nor a period of strong left-wing government in power. The country had in addition a domestic guerrilla war from 1964 to 2017. These differences with Argentina and Brazil, are a strong argument to use it as a control case verifying that the empirical observations do meet my theoretical expectations. Given that, at minimum, the researcher needs one case

more than the number of independent variables to estimate a causal link (Geddes, 2003; Peters, 1998), the use of this fourth case strengthens my theory which counts two independent variables: the cost of collective action for SMEs and the benefit of collective action for large firms. It provides grounds for arguing that my theory travels well across different national contexts.

Once I have compared how the strength and type of business' organisational capacities differ in all four country cases, I explore the extent to which business modes of organisation account for the type of policies business promotes and the varying degrees of success and failure when influencing fiscal policy, regulations, and trade policy. To do so, I used process tracing which is ideally suited for identifying causal mechanisms (Bennett & Checkel, 2014), as it aims to identify the causal chain between independent variables and the dependent variable (George & Andrew, 2005). Through the analysis of multiple within-cases observations, I establish the sequences of events through which business associations or individual firms succeeded or failed to influence policies. The study of these cases contributes to a more nuanced understanding of the policymaking process and the varying roles that business plays in it.

2. COLLECTING DATA: FIELD WORK

My analysis draws on a large body of new data gathered during seven months of field research in Latin America. I conducted 133 in-depth, semi-structured interviews in Ecuador¹ (2), Argentina (45) in Buenos Aires and La Plata, in Brazil (39) in São Paulo, Rio de Janeiro and Brasília, and Colombia (47) in Bogotá and Barranquilla. Each interview lasted from 45 minutes to over 3 hours, and were conducted with: top-level government officials, former ministers, tax agency experts, politicians from different political parties, the advisors of a legislator, business leaders from diverse industries, heads of business associations, embassies' staff in charge supporting their home countries' firms' lobbying actions, professional lobbyists, tax advisors, a main free-trade agreement (FTA) negotiator, and other actors who participate in policymaking. Interviews with lobbyists and business associations provided unique information about business preference formation and influence strategies. Interviews with their public sector counterparts provided unique insight into governments' varied approaches to these private sector's inputs and the extent to which the negotiations with business associations actually shaped policy outcomes.

My semi-structured interviews' questions² were organised in two main parts covering the three main research questions of this work. The first part of the interview focused on the first two research questions: what explains the differences between

¹ These two interviews served to test my interview technique and my list of questions to amend it ahead of travelling to the countries that were to be included in this work.

² The guiding document I used to lead the interviews is available in Annex 2 of this thesis.

firms' varying degrees of success and failure in communicating their policy preferences to politicians? And, what determines the type of policies the business community promotes through lobbying and other political influence mechanisms? Answering these questions was done by asking how the firm and its relevant business association fit into the wider network of business associations and what benefits the firm or local association gets from participating in sectorial or national associations – or, if applicable, what made them choose not to participate in associations.

The second part of the interview focused on answering what determines business' varying degrees of success and failure in influencing policy outcomes. I asked about the firms' and business associations' strategies to influence policies and the factors leading to either success or failure, in their point of view. Interviewees were given flexibility and space to tell their personal stories within these two broader themes.

All interviews were led in the interviewee's native language, which would have been either Spanish, Portuguese, or French – except for one Dutch person who was interviewed in English, and one Brazilian person who, having attended French school as a child, expressively asked for the conversation to be held in French. In each country, I attempted to create partnerships with local institutions in order to benefit from local researchers' inputs. In Brazil, São Paulo's *Fundação Getulio Vargas (FGV)* welcomed me, offered office space, and introduced me to students who assisted me in learning Portuguese, translating my interview questions properly, and accessing datasets on the *Lava Jato* scandal in which I could find the distribution of bribes from firms to politicians in order to obtain their preferred policies. In Argentina, Buenos Aires' *Universidad Torcuato Di Tella* welcomed me with as much generosity, offering me office space, helping me in settling in the city, and inviting me to research seminars. In Colombia, the partnership with *Universidad de los Andes* from Bogotá proved too complicated to establish, and I led the study independently.

I targeted potential interviewees by looking for business associations' points of contact indicated on their own websites, on governments' websites, or through LinkedIn. I then wrote a personalised email to each explaining my study's aims, laying out its ethical requirements, and requesting for an interview.³ I had an unexpectedly high rate of replies varying between 20% to 45% per wave of messages sent, which allowed me to lead the first 10 interviews in each country. These initial ten interviewees kindly recommended other contacts which led to many more interviews by word of mouth and recommendation. These recommendations spanned beyond borders since Brazilian contacts put me in touch with their

³ Examples of these emails are available in annex 4.

Argentinian counterparts who then put me in touch with their Colombian counterparts. I also participated in six high-level events including a local parliamentary session, lobbying events at French embassies, which included attendees such as the French Minister for foreign affairs, and diverse lobbying after-work events organised by business associations. I could speak about my study at these occasions and obtain promises of new interviews with some of the participants – such as a with professional lobbyist working for the French armament industry supplying the Colombian government and with a lobbyist working for a major international pharmaceutical firm.

Overall, the combination of the local institution's mentorship and the use of their country's language often opened numerous doors, and most interviewees have shown great generosity, interest, and curiosity for this work. Government officials were the most difficult to reach out to, but I could obtain interviews with them through lobbyists or businesspeople who were in regular contact with them. Businesspeople knew which politicians were relevant to which reforms and directed me to them, and those politicians directed me to their relevant colleagues, saving me precious time and resources in targeting relevant interviewees. In addition, this allowed me to hear 'both sides' – influencer and influenced – of numerous more or less successful lobbying stories, mitigating potential bias and turning one-sided anecdotes into strong evidence.

These interviewees often shared information that was not part of the public record, including information on the early drafts of reforms and their evolution. I detected and resolved occasional inconsistencies by triangulating between multiple informants. In addition to interviews, I have drawn on legislative drafts, newspaper articles, business publications, and tax agency reports when possible. When working on interviews, I consistently evaluated whether informants had incentive to misrepresent motives for past actions, whether consciously or unconsciously (Bennett & Checkel, 2014). Where relevant, I made this explicit. Various interviewees, such as politicians, were engaged in self-promotion or heavily constrained in regard to their discourse – which explains why some of the top-level politicians interviewed were however not cited in this thesis.⁴ Similarly, some businesspeople were concerned with portraying their actions as socially beneficial, which sometimes offered biased answers.

So many actors and factors have come into play in crafting reforms that attributing an actual change in policy to the actions of a specific actor was, at best,

⁴ Humberto Botero, J., Fasescolda's president, CGN's president, Minister of industry, business, and tourism (2003-2007), 08 August 2018, personal interview; Vaccarezza, C., Legislator for São Paulo region (2007-2015) and head of the governing coalition in parliament under the governments of Lula da Silva and Dilma Rousseff, 11 April 2018, personal interview; Tomada, C., Argentinian Minister of labour (2003-2015), 26 June 2018, personal interview; Solarte, L., head of Senator Paloma Valencia Laserna's legislative team, 26 June 2018, personal interview.

difficult – at worse, a fantasy. This is why, instead, this work has focused on mechanisms of influence, strategies for influence, and when possible, on the actors' self-assessment of success.

I recorded the interviews with either a recorder or a smartphone, and safely stored and encrypted the recordings on my computer afterwards in line with UCL's ethical commitments and the General Data Protection Regulation (GPRD). To be able to exploit and compare all the data, I transcribed main ideas from key interviews which I ordered thematically, easing the ensuing comparison. I also stored the transcripts in compliance with UCL's ethical commitments and the GPRD. I listened to all the other interviews in order to support or complete empirical sections by triangulating the information.

Chapter 2

Modes of business organisation in Latin American capitalism

A distinctive trait of the Latin American business landscape is the fracture between conglomerates and large firms (CLFs) and small and medium enterprises (SMEs) (Schneider, 2013). CLFs often share strategic interests with the government. They can offer electoral resources such as campaign contributions, staff trained in public relations, office space, or networks in large and small towns. In exchange, politicians offer them policies such as auspicious regulation, tax cuts, favourable loan conditions, or subsidies. Thanks to these resources, CLFs can override business associations to lobby government individually if they choose to do so.

By contrast, SMEs have little to offer in exchange for favourable policies. Their best chance to establish a dialogue with the government is to do so through business associations, 'delegating' their political representation (Coen, et al., 2010). A business association's role is, by definition, to overcome collective action problems. They have succeeded in Brazil, but in other cases, like in Colombia and Argentina, SMEs are more often than not being either unrepresented or underrepresented within business associations dominated by CLFs' interests.

The theory developed in this chapter leads to a typology of state-business modes of coordination that explains developing economies more fairly than political science literature tends to; this is because it assesses the extent of oligarchic interests' influence over policymaking. Chapters 4, 6 and 8 illustrate the argument using the cases of Colombia, Brazil and Argentina respectively.

The business community's ability to coordinate determines which policies it will promote and the likelihood of success in generating specific tax and trade policies. These policies in turn determine a range of economic outcomes. For example, studies on tripartite (business-state-labour) bargaining in Europe, found that business associations play a significant role in stabilising the macroeconomy and reach more flexible and lower-cost ways to manage adjustment to exogenous shocks (Schneider, 2004). Corporatism's tripartite bargains 'seemed not only to have a significant impact on rates of inflation, levels of unemployment, and fiscal equilibria but to contribute to the 'governability' of the polity' (Schmitter, 1992, p. 434). In continuity with these authors, this thesis' mapping of the modes of business coordination that have replaced corporatism will contribute to explaining the differences in developing economies' macroeconomic stability, resilience to external shocks, fiscal equilibria, levels of unemployment and informality levels.

To make such a contribution, the first part of the theory presented in this chapter analyses the formation of business interests groups and their organisational capabilities. It finds that business perception of the benefit of collective political action matters most to CLFs because the cost is often insignificant compared to their resources. By contrast, the opportunity cost of collective political action matters more to SMEs' due to their limited resources. The benefit of collective action remains marginal for SMEs because they are too numerous and too small to evaluate clearly the impact of most policies on their daily activities and the path to follow to suggest alternative policies.

The combination of the cost and the benefit of collective action determines which type of business – CLFs and/or SMEs – will organise effectively to successfully communicate their preferences to policymakers. The combination of these two factors leads to four different possible forms of state-business relations presented in this chapter: cartelism, in which CLFs dominate policies undisputedly at the expense of SMEs; competitive-corporatism, in which CLFs and SMEs have to reach compromises among themselves and with the government, diminishing their individual weight on policy outcomes and sometimes reaching collectively beneficial outcomes; pluralism, in which business remains disorganised so that better connected firms and individuals can influence policies until the next politician comes in to power; and sectorialism⁵, in which SMEs' organised sectorial or regional interests tend to prevail in policy. This typology answers the first research question of what explains the differences between firms' varying degrees of success and failure in communicating their policy preferences to politicians. Before developing this theory, however, the next section reviews political science literature's approach to state-business relations.

Building on this typology, chapter 3 will answer the second and third research questions of what determines the type of policies the business community promotes through lobbying and other political influence mechanisms? And what does determine business' varying degrees of success and failure in influencing policy outcomes?

1. MODELS OF BUSINESS ORGANISATION

For some scholars, business associations act as representational organs supplementing political parties and parliaments that have partially failed at representing the political will of the people (Offe, 1981). However, Schmitter (1974) has questioned business associations' ability to transmit their affiliates' policy

⁵ This theoretical case is not treated in this work.

preferences fairly, describing the associations' function as one of 'intermediation' instead of 'representation'.

This thesis claims that the difference between intermediation and representation is not clear-cut because associations have to aggregate the interests of their members. More often than not, these interests are too heterogeneous for the association to simply transmit them to the policymaker (intermediation). Instead, the association finds a consensus between its members' preferences and, by presenting this consensual position to the government, it represents its members. However, when members refuse to compromise on specific issues, some associations intermediate their most important members' preferences over other members' preferences. Other associations choose instead to refuse representing any interests, leaving each member defend its position on its own in front of the government.

Scholars have already identified four ways in which businesses interact with the state: corporatism, neo-corporatism, pluralism, and sectorialism – a typology that the second half of this chapter improves and deepens. But first, let us briefly define these types of business-state relations.

The literature has widely debated how a highly bureaucratic and interventionist state, often non-democratic, organises business in a corporatist fashion through business associations. Corporatism refers to a political system of representation of economic interests organised into a limited number of singular, non-competitive, compulsory, functionally differentiated, and hierarchically ordered institutions. They are promoted or created by the state. This reinforces the unions and business associations' monopoly over their affiliates in exchange for state control over the selection of institutions' leaders and over their demands (Schmitter, 1974, p. 356). Corporatism was widespread between both world wars in Europe when it was tied to authoritarian regimes, surveyed in Costa Pinto's edited volume (2017).

Italian fascism was intrinsically tied to corporatism via the union and corporatist laws. Alfredo Rocco, the regime's architect and most prominent jurist, has pointed to the significance of this union legislation in the fascist state's rationale. The legislation and Mussolini's *Carta del Lavoro* (from 1927) gave corporatism its distinctive features: the control of unions and their organisation alongside business associations (Cerasi, 2017; Moreira Alves, 1985).

Studies on authoritarianism and corporatism in Latin America have demonstrated that some corporatist features survived democratic and authoritarian regimes alike (Wiarda, 2004; Power & Doctor, 2004). For example, the system of interest intermediation in early twentieth century Brazil has been variously qualified as 'corporate', 'corporatist', 'corporativist', or 'semi-' or 'neo-corporatist' (French, 1991). The labour code, *Consolidação das Leis do Trabalho (Decreto lei Nº 5.452, de 1º de maio de 1943)*, regulating all unions including labour unions and employers'

unions, was modelled on Mussolini's *Carta del Lavoro* (Moreira Alves, 1985, p. 45). This corporatism has remained firmly in place throughout multiple regime changes, demonstrating its independence from regime types (Collier, 1982). This independence from regime types was formalised by defining corporatism as an 'observable general system of interest representation' compatible with all regime types, party systems, and other features of a given society despite sub-types having affinities to or defining certain regime types (Schmitter, 1974, p. 92).

This definition opened the way to the study of 'neo-corporatism', frequently used by the 1970s generation of corporatist theorists, in an effort to differentiate the version tied to fascist or right-wing governments from a mode of interests' organisation (Grant, 2018). They define neo-corporatism as a version of corporatism under democracy. Martin and Swank (2012) have defined it as 'macro-corporatist' organisation where employers organise in hierarchical and well-ordered 'peak associations' with cross-sectorial business associations representing a large number of firms. The peak associations are capable of negotiating broad political issues and reaching significant agreements with the state. In this context, business associations focus on collective issues and negotiate directly with government and labour through non-legislative channels. The state plays a strong coordinating role and builds business support and compliance for its policies thanks to business associations.

Scholars have found that – in democracies – business associations and civil society organisations alike emerge and compete, counterbalancing each other's influence in what is called business pluralist organisation (Truman, 1958; Latham, 1952). This counterbalancing effect allows the political system to be more responsive to the public's preferences, thereby furthering democracy and the public good (Baumgartner & Leech, 1998). In such pluralist setting, firms are organised into 'multiple, voluntary, competitive, nonhierarchically ordered and self-determined (as to [their] scope of interest) categories' (Schmitter, 1974, p. 97). The state does not regulate them nor provide them with a licence or subsidies. Associations therefore have no monopoly of representation in their respective sector (Schmitter, 1974). In the 1950s and 1960s, pluralist scholars contented that business interest groups emerged and competed in a fair and equitable manner, counter-balancing each other's influence and thereby making the political system more responsive to citizens' preferences (Truman, 1958; Latham, 1952). Others have identified citizens groups (Baumgartner & Leech, 1998) and public opinion (Smith, 2000) as natural checks on business interest groups' power, furthering democracy and the public good. By contrast, Martin and Swank (2012) describe pluralism as a system in which multiple and conflicting groups claim to represent business interests. They engage in limited coordination and have few links to labour and the state. Their engagement is limited to the legislative process and none have much influence over policies (Martin & Swank, 2012).

By contrast, sectorialism is a regional and sectorial model of organisation of interests. The state is disengaged and delegates authority over collective bargaining to the unions (Martin & Swank, 2012). Employers coordinate depending on their membership within specific industries and engage with corresponding unions. Sectorial associations are weaker than in corporatism, and the state has no role in their coordination. Associations tend to have a weaker influence over policymaking in sectorialism than in corporatism. For example, in Germany, peak associations are limited, and they are functionally divided with one dealing with industrial relations while the other deals with political negotiations and intra-industry collaboration (Martin & Swank, 2012). Their bargaining is organised along sectorial and regional lines, which reflects the federated states' political autonomy (Jacobi, et al., 1992). The German collective bargaining system is nonetheless one of the most institutionalised in Europe. Its comprehensive and organised wage negotiations lead to high productivity levels and wage rates (Silvia, 1997).

In the Netherlands, reforms in the 1980s including the decentralisation of wage bargaining (Hemerijck, 1995) which co-existed with a high degree of coordination and concertation inherited from corporatist structures (Crouch, 1995). This resulted in labour-business relations shifting from a neo-corporatist organisation to one structured at the sectorial and individual firm level (De Vries, 2000). In both the Netherlands and Germany, domestic institutions have shaped business organisation and their strategies to lobby on policies because policymaking increasingly takes place at the level of the European Union (Wilts, 2002/3).

However, corporatism, neo-corporatism, macro-corporatism, sectorialism, and pluralism are insufficient to explain the Latin American cases in which CLFs and SMEs have an unequal chance to engage in the policymaking process. Macro-corporatism, sectorial organisation, and pluralism explain well the EU and US cases (Martin & Swank, 2012) because these economies coordinate through centralised state mechanisms or through the market and contracting (Hancké, 2010). By contrast, Latin American economies coordinate hierarchically, which involves a deeper fracture between CLFs and SMEs than in the EU and the United States. Second, the Latin American state has formed in such a way that oligarchic elements are embedded within the democratic state into a syncretic regime with coherence specific to each country (Foweraker, 2018). Patrimonial practices blur the separation of the public and private and undermine mechanisms of accountability, especially horizontally (when institutions check on one another). These practices are symptomatic of the contradictions between oligarchic and democratic elements of Latin American polities; in each country, a specific patchwork of modes of production underpins the powerful influence of oligarchic interests on the policymaking process (Foweraker, 2018).

This section reviewed scholars' work on business modes of coordination. The next section surveys scholars' work on the political behaviour of the firm across different regions' specific types of capitalism. The following section will look at firms' incentives to organise and coordinate and at the conditions under which firms can afford to engage with policymakers. This will help in understanding how difficult it is for SMEs to organise and coordinate under the Latin American type of capitalism.

1.1. The firm as a political actor

Political science still struggles with the notion of private influence on public policies (Coen, et al., 2010), and there is little research on why and how firms become involved in politics (Hart & Crouch, 2010; Coen, et al., 2010 and their earlier works being the exception). There are great differences among firms in their choices regarding engagement with policies, how much political activity they undertake, and how they choose to pursue a given policy objective through a lobbying action (Coen, et al., 2010).

To answer the question of what determines the type of policies the business community promotes through lobbying other political influence mechanisms, political science literature has looked at the varieties of capitalism. This literature has shifted the focus away from 'one policy fits all' towards how institutions influence differentiated business preferences (see Hall & Soskice, 2001; Hancké, 2010; Martin & Swank, 2012; Schneider, 2013). For these authors, the state plays two crucial roles: providing a regulatory framework influencing the basic characteristics of the business system and providing (or failing to provide) employers with the incentive to coordinate among themselves (Whitley, 2005).

The literature on varieties of capitalism and on business politics explain welfare policy, skill, and innovation policies by the firms' political engagement. Hall and Soskice (2001) articulated this by analysing strategic interactions between economic actors and the behaviour of firms in game-theoretic terms in five areas in which firms coordinate with other key players: industrial relations, vocational training and education, corporate governance and access to finance, inter-firm relations, and relations with their own employees.

They found that firms' way of solving coordination problems has shaped two models of capitalism: liberal market economies (LME) in which firms rely on market mechanisms, and coordinated market economies (CME) in which firms rely on non-market institutions to coordinate with other key players. In LMEs, firms resolve their coordination issues with formal contracting, competitive relations, and price signalling through supply and demand. Employers favour fluid labour markets with easy access to stock market capital and switchable assets. In CMEs, firms resolve their coordination issues with help from the state, centralised mechanisms of coordination, collaborations, and credible longer-term commitments among firms.

Employers favour long-term employment strategies, patient capital provision, and specific or co-specific assets (Hancké, 2010).

The persistence of LMEs and CMEs is due to positive feedback from the institutional environment that, through complementarities, provide firms with a competitive advantage. Economic policies are effective only if they are compatible with the type of institutional complementarities that CMEs or LMEs promote. For example, liberalisation of markets would hurt firms in CMEs while it would support firms in LMEs. Market-oriented policies increasing the autonomy of capital relative to labour are more effective in LMEs whereas policies favouring stronger social partnerships are more effective in CMEs (Hancké, 2010).

Schneider (2013) has adapted the scholarship on varieties of capitalism to Latin America. He found that hierarchical market economies (HME) describe best the coordination among firms and between business, the state, and labour (Schneider, 2013). In HMEs, firms resolve their coordination issues via hierarchy rather than through the market via contracting (LMEs) or non-market institutions (CMEs). This hierarchical coordination stems from the historical weakness of market and non-market institutions and corporate governance (firms' ownership structure). Institutions were unable to sustain a dynamic private sector unlike in equity-centred or bank-centred financial systems, which meant that equity markets and banks were not possible sources of long-term productive investment. Consequently, business groups and multinational corporations had to mobilise capital by themselves and auto-finance (Schneider, 2013).

HMEs are characterised by the significant presence of multinational corporations, diversified business groups, segmented labour markets, institutional complementarities between corporate governance, and labour markets. This gives rise to a political system that favours incumbents and insiders who press governments to sustain core economic institutions. The state has not developed the necessary institutions that would foster central coordination, like in CMEs, or institutions that would free the market enough to allow firms to coordinate via fluid contracting, like in LMEs (Schneider, 2013).

In HMEs, business groups account for the greatest part of the GDP and are diversified in subsidiaries that have no market or technological relations to one another. Firms tend to make decisions unilaterally rather than by relying on the market or the state; on-the-job training is unilaterally decided by firms or business organisations. Industrial relations and labour laws are structured by top-down regulations issued by governments and enforced by labour courts. Where unions exist, they are often distant from the shop floor. HMEs result in segmented labour markets and a low skills equilibrium (Schneider, 2013).

Diversified CLFs have been the best suited to survive and navigate recurrent economic crisis and competitive pressures, common in Latin America. CLFs were

common in the nineteenth century (Ocampo, 2013) and at the end of the twentieth (Schneider, 2013). This led firms to diversify their activities in order to mitigate risks. CLFs in Latin America tend to be family owned because long-term investment in the region relies on personal fortunes rather than on financial or equity markets. Following the wave of privatisation in the 1980s, large private firms extended corporate hierarchies through mergers and acquisition in an 'unmistakable Coasian onslaught' (Schneider, 2013, p. 11). Here, Schneider refers to the idea that firms will integrate vertically to internalise the production of goods and services, thereby avoiding the transaction costs in the market (Coase, 1937) – making markets and hierarchies alternative coordination mechanisms for economic transactions (Williamson, 1973).

Diversification via horizontal integration has also been a risk-mitigating strategy in Latin America. For example, a top executive from the Chilean business conglomerate 'Grupo Matte,' active in electricity, finance, forestry, construction, and other sectors, stated in 2005 in the magazine *Qué Pasa* that Grupo Matte's strategy was to be big in four or five 'sectors with high profitability, regulated, but also [looking for] low risk and capital intensive' (Schneider, 2009, p. 559). Other CLFs in the region started to diversify after the 2000s commodity boom such as the Brazilian Votorantim (aluminium and pulp and paper), *Grupo México* (mining), and Luksic (mining) in Chile (Schneider, 2013). *Multilatinas* are diversified CLFs focusing on regulated sectors and commodities such as Vale from Brazil (mining), JBS from Brazil (foodstuff), Techint from Argentina (steel), Cemex from México (cement), América Móvil – Grupo Carso – from México (telecommunications), LAN from Chile (airline), and Banco Itaú from Brazil (banking) (Schneider & Karcher, 2012).

These *multilatinas* have been growing, but their internationalisation remains limited; their FDI stock is around 10% of GDP (25% in Chile) on average, in comparison with 40% to 60% in more developed countries (Schneider & Karcher, 2012). Overall, multinational corporations have been important in organising access to capital, markets, and technology due to their superiority in organisation, internalisation of processes, and hierarchy in HMEs (Schneider, 2013).

The 1980s wave of privatisation in Latin America reinforced hierarchical coordination overall because the state came to hold minority shares in the CLFs it partly privatised. Musacchio and Lazzarini (2014) argue that the state does not only act as an entrepreneur by owning entirely a state-owned enterprise (SOE). It can also be a majority shareholder by attracting minority private investors while retaining control either directly or through state-owned holding companies. In other instances, the state is a minority shareholder, which includes firms receiving loans and equity from state-controlled institutions such as development banks, sovereign wealth funds, or other types of funds. In this form, private actors manage firms that the state supports financially.

Although not discussed by Schneider (2013), CLFs that are publicly owned or in which the state is a minority shareholder also coordinate hierarchically. They are free from external financial principals (shareholders, creditors) by virtue of the principal-agent theory (Jensen & Meckling, 1976). They are significant in size and have significant market power over suppliers and buyers. Finally, they manage subsidiaries according to the headquarters or the state's logic, subordinating subsidiary firms' interests to it. Chief executive officers (CEOs) in LMEs and CMEs are worried about their relations with stock markets and with bankers respectively. By contrast, CEOs and managers in HMEs are attentive to their relations with family owners, domestic or foreign headquarters (Schneider, 2013), or the state or the state-owned bank that funds them. For example, the state-owned bank Brazilian Development Bank's (*Banco Nacional de Desenvolvimento Econômico e Social: BNDES*) gave funds to the meat producing firm JBS to buy out a US-based meat producing firm so that JBS would become the largest meat producer in the world. JBS was not 'free' to use this money as it pleased. The risk and investment decisions that the company took were dictated by hierarchy rather than by market estimates (LMEs) or centralised and planned collaborative decision (CMEs).

This section reviewed scholars' work on firms' coordination mechanisms across different regions and their specific types of capitalism. The following section looks at firms' incentives to organise and coordinate ahead of entering politics. This literature will help in understanding how difficult it is for SMEs to form business associations compared to CLFs.

1.2. What determines business interest groups' organisation?

Some scholars have found the determinants of business organisation among a diversity of variables by looking at correlations between them and corporatism. These variables provide a greater incentive for corporatization and include: historical institutional-legal variables, ideology, decision-making style and prior levels of voluntary associational consolidation, level of demographic pressures, and others (Shonfield, 1965, cited in Schmitter, 1975). Other scholars, surveyed below, have described the mechanisms through which variables provide firms with the incentive to collectively organise, namely: individuals' cost-benefit analysis, unifying threats to business, and the level at which electoral competition takes place. These scholars have approached private influence on public policies by building on the rational actor theory of collective action (Austen-Smith, 1997; Jordan & Halpin, 2004), pioneered by Olson (1965).

Olson (1965) argued that some private interests prevail because they are better organised, challenging the pluralist scholars according to whom interests naturally organise to balance each other's influence. He explained that firms evaluate whether it is worth establishing a group when they identify a common

interest to defend. If the group is too large, the individual cost of engaging in a collective struggle to defend common interests overcomes the action's expected benefits. This holds true for 'private goods,' rival and excludable – such as subsidies of credit lines. As the size of the group increases, the share of each member's benefit is reduced.

The cost of engaging in a collective action also overcomes the benefit when a group seeks to obtain a public good, non-excludable and non-rivalrous, or a club good, excludable but non-rivalrous (protective tariffs or sectorial regulation) because of the free-rider issue in which firms expect to benefit from these goods without having to contribute to the effort of obtaining them. The free-rider issue is exacerbated in larger groups in which free-riders are less noticeable. In addition, in large groups, the heterogeneity of participants is often higher in terms of assets, wealth, sectors, information, and payoffs which increases transaction costs – itself a serious deterrent to cooperation (Ostrom, 2009).

For these reasons, large action-taking groups succeed in mobilising members only when they offer side-benefits of membership ('by products' or 'selective incentives') such as private goods in reward for contributing to the effort of seeking a collective good. These selective incentives compensate the time and cost of membership. They include better market information, contact with competitors or other firms in the supply chain, and access to business fairs.

In general, the provision of selective incentives fundamentally facilitates collective action and is a common tool through which governments shape patterns of organisation (Shadlen, 2004). Selective incentives are a key motivation for firms to organise collectively; therefore, looking at scholars' work on the different types of selective incentives is key to understanding why firms decide to establish business associations. Industrial policies providing firms with 'advantages,' whether as private or club goods, have created a common interest between beneficiary firms to protect the status quo.

According to the 'industrial policy school,' government intervention consists of providing such selective incentives in the form of twists in tax codes, hiding subsidies to specific industries (Stiglitz, et al., 2013). The state also invests in support of economic growth and development beyond the possibilities that the free market offers. This is especially true in capital-scarce regions or in economies ridden by market failures that need government to reduce capital constraints and cost of research and development, helping firms develop new capabilities (Musacchio & Lazzarini, 2014). Development banks are also a major actor in such industrial policy. They specialise in the long-term financing of worthwhile projects that would not have been financed by the private sector and could not have been carried out otherwise (de Aghion, 1999). They also lend under the condition that firms meet certain high

standards, which may lead them to pick firms with established good performance to boost 'national champions' and ensure loan repayment (Amsden, 2001).

By contrast, the 'political view school' describes the government as the source of economic inefficiencies. It argues that state intervention leads to rent-seeking from firms needing contracts and politicians needing campaign financing and support (Musacchio & Lazzarini, 2014). It places more emphasis on the selection process of recipients; development banks either bail out conglomerates and large firms or distribute funds to politically well-connected firms. In the case of rent-seeking, development banks distribute subsidised loans to firms in exchange for campaign contributions or favours to politicians or parties (Musacchio & Lazzarini, 2014). This is also described by Amsden's concept of reciprocity in industrial policy (Amsden, 2001). It is a case in which industrial policy provides firms with the means of doing business altogether, fostering rent-seeking behaviour. More widely, firms' political activity (lobbying and campaign contributions) is empirically strongly associated with the dependence of the firm on government contracts (Hart, 2010).

The industrial policy and political view schools are not contradictory since industrial policy has been used to correct both market and government failures (Stiglitz, et al., 2013). The industrial policy tool can have beneficial impacts on the economy by helping burgeoning industries take-off; it can also become the centre of vast rent-seeking by providing firms with the incentive to organise efficiently in small action-taking groups to defend their common interests. Once the government establishes such an allocation of resources – favourable regulation, tax cuts, subsidies – maintaining this flow of resources is sufficient motivation for firms to sustain a dialogue with the government through a supportive coalition (Schneider, 2015).

Another body of scholarship has found that threats to business operations prompt firms to collectively organise in Bolivia, Ecuador, Peru (Conaghan & Malloy, 1994), Nicaragua, El Salvador, Peru, Chile, Mexico (Durand & Silva, 1998), and more widely within Latin America (Bartell & Payne, 1995). These works define collective threats as the potential exclusion of business elites from the policymaking process. The fear of arbitrary state action and changing economic policies fuelled business unity. For example, the business community perceived socialist or populist governments advocating for increased state intervention and property rights alterations as direct threats. Severe threats to all business and land-owning sectors were key in the emergence of business associations (Durand & Silva, 1998).

Similarly, in the cases of the EU and the United States, Martin and Swank (2012) found that the presence of strong industrial unions was related to the emergence of cross-sectorial business associations. The authors observed that the decline of unionisation rates in post-industrial societies decreased the 'threat' to businesses, thereby decreasing the benefits that firms used to find in belonging to

national cross-sectorial business association. Consequently, firms defected from associations, leading to an overall decline in employers' associations (Martin & Swank, 2012).

More recently, Mahoney found that firms defend themselves against a perceived threat by conducting circumstantial 'short-life ad hoc alliance' actions outside of the usual channels, associations, and structural divisions (Mahoney, 2007).

Conversely, scholars found that when the business community does not perceive a threat to their operations, they do not collectively organise. In Brazil, sectorial organisations have continued to access policymaking through pre-existing business associations inherited from the corporatist period instead of creating new ones. In Argentina, firms have not organised either, accessing policymaking through individual and particularistic arrangements instead (Durand & Silva, 1998).

Beyond the impact of cost-benefit analysis and threats to operations on firms' incentive to lead collective action, scholars have also looked at the impact of electoral competition on the organisation of corporate interests. For Martin and Swank (2012), the combination of the party system and federalism/centralism produces the three types of business interests' coordination: macro-corporatist, sectorial, and pluralist. Electoral competition is the main mechanism of interest coordination in democratic regimes. Interest coordination depends on politicians' willingness to nurture strong and highly coordinated business associations. This willingness depends itself on the number and centralisation of political parties. The authors found that multiparty systems and centralised governments tend to create better coordination among businesses and between business and labour. Business interests are more likely to be represented by a single credible party in multiparty systems with proportional representation, which promotes higher levels of business coordination. This creates the incentive for business supporters – in general, right-wing parties – to delegate policymaking authority to representatives of employers' business associations. Employers believe that they will win more battles in negotiations with labour from this position rather than in congress (Martin & Swank, 2012).

By contrast, two-party systems spread business interests across both sides. In this situation, employers are less coordinated and business associations gain less control over policymaking. Associations' members are disappointed by this lack of influence which leads to the proliferation of other business interest groups, resulting in numerous fragmented and poorly coordinated business associations (Martin & Swank, 2012).

In federal systems with decentralised political authority, business associations are more likely to be regionally focused, divided along ethnic or religious lines, cross-class, and fragmented at the national level. Conversely,

centralised governments produce centralised party systems homogeneous at the regional level, producing better organised corporatist associations (Martin & Swank, 2012).

This first part reviewed scholars' works on the different types of business coordination and the cost and incentive for firms to organise and undertake collective action. The next section lays out my contribution, which brings together these two bodies of literatures to build a theory of the firms' varying engagement in collective action in hierarchical market economies. This theory's resulting typology directly replies to the first research question: what explains the differences between firms' varying degrees of success and failure in communicating their policy preferences to politicians?

2. HOW COST AND BENEFIT OF COLLECTIVE ACTION HAVE SHAPED MODES OF BUSINESS ORGANISATION?

This work fleshes out and articulates the theories of business organisation and of the firm as a political actor. It offers an application of the cost-benefit analysis and collective action theory to explain business' forms of coordination. The resulting typology explains business' organisational strength in Latin America to a greater degree than the literature I reviewed in the first part of this chapter has.

Building on this typology, the next chapter will answer the second research questions of what determines the type of policies the business community promotes through lobbying and other political influence mechanisms, and what does determine business' varying degrees of success and failure in influencing policy outcomes. This work continues scholars' work on how business organisational strength determines how much protection and rent business can extract from the state (Martin & Swank, 2004; Fairfield, 2010; Castañeda-Angarita, 2017; Castañeda-Angarita & Doyle, 2017). As such, the next chapter explains how the way organisations (such as business associations) and the modern corporation conduct their affairs determines to a very considerable extent the efficiency of the economic system (Coase, 1991).

The next section details the working mechanism of the independent variables (cost and benefit of collective action) in relation with the political engagement of CLFs and SMEs, the two types of firms that characterise Latin American economies.

2.1. Modes of business organisation's theory

This work differentiates how CLFs and SMEs engage in politics due to the limits of their resources, capabilities, rationality, and their capacity to free-ride or avoid policies by switching to the informal sector. Its core argument is that CLFs are sensitive to the benefit of collective action while its cost is irrelevant to them. CLFs need to identify significant benefits to make the effort to lobby collectively given that they often can afford to lobby alone. Conversely, SMEs are extremely sensitive to the cost of collective action which can potentially be prohibitive. A business association membership fee is proportionately more costly to SMEs than to CLFs due to the higher opportunity cost induced to SMEs. A small firm would have to skip a loan repayment or decline to hire a new employee to pay the business association membership fee. This leads to the conclusion that, even if it is worth seeking collective action, most SMEs will not do so because they are unable to overcome its cost to start with.

To operationalise the variable 'benefit of collective action', I follow the works of Schneider (2013) and Shadlen (2004) by considering that the provision of selective incentives fundamentally facilitates collective action and is a common tool through which governments shape patterns of coordination. I look at whether government distribution of targeted subsidies and protection from competition have

created a reliable flow of resources. The capture and retention of such a flow of resources makes it worth conducting collective action. On this basis, I explain why and predict whether CLFs will coordinate with their peers to promote their preferred policies.

In accounting for the cost of collective action, following Ostrom (2009), I look at the cost of a business association membership and whether institutions have historically fostered or hindered SMEs' organisation. For example, pre-existing business associations, established by a corporatist state, greatly reduce the cost of organising. Based on these elements, I explain and predict whether SMEs succeed or failed to form cohesive business associations that intermediate their interests fairly.

Overall, this work takes into account the main criticism to Olson's theory when building on it.⁶ This theory takes into account the limited rationality of firms when performing their cost-benefit calculus by attributing more weight to the benefit for CLFs and more weight to the cost to SMEs. By doing so it also took into account the type of capitalism in which Latin American firms operate (HMEs).

2.1.1. *Cost and benefit of collective action*

The cost of collective action is less relevant to CLFs than to SMEs because they only need to engage with a small number of other players. In addition, the cost of collective action is largely irrelevant to CLFs because they have access to large financial resources. Coen, Grant and Wilson sharply note that:

We must also ask how far big business reaches its lobbying rationality threshold when we consider that for a giant oil firm, the total cost of

⁶ First, in general, models based on game theory assume that decisions to lobby are driven by the pursuit of a specific benefit (Brasher & Lowery, 2006) while in fact lobbying is a more complex and long-run game in which variables such as reputation and goodwill play a role (Coen, et al., 2010).

Second, lobbying strategies vary dramatically, as well as the incentives to coordinate, depending on the nature of the collective good pursued (Coen, 2010).

Third, the assumption of Olson's model is that business can evaluate the impact of political expenditures on its profits which implies that a firm can calculate the extent to which the policy will benefit it, and how much each of its attempt to influence policies will enhance the probability of the policy to be enacted (Hart, 2010).

Fourth, the firm makes decisions to invest in politics based on its resources which means that it operates on a 'political possibility frontier' in which political resources are efficiently invested (Hart, 2010). The firm is assumed to be profit-maximising, which is often verified empirically, yet there is equal evidence that the firm can be confused, ignorant or even wrong about how to maximise its utility in political activities (Hart, 2010).

Fifth, business concentrates its political investment depending on the opportunities for influence that the political system offers; some of these opportunities are structural and long term while others can be opened or closed by individual policymakers and are shorter term (Schneider, 2010).

Sixth, once firms decide to join a business association, firms tend to stop to evaluate the cost-benefit of their membership and sometimes may even fail to reach the rationality threshold (Coen, 2010).

Seventh, Olson's model has been applied to collective action problems in military alliances (Olson & Zeckhauser, 1966), environmental policies (Ostrom, 1990) and others, but was initially intended to explain how economic interest behave (Hart, 2010).

Finally, the behavioural literature convincingly argues that firms operate in conditions of bounded rationality, which means that they tend to accept a 'good enough' solution rather than to maximize (Coen, et al., 2010).

government relations activities in one year may amount to no more than fifteen minutes of turnover. (Coen, et al., 2010, p. 14)

Large resources provide CLFs with great 'structural power'; policymakers are more likely to accommodate large companies' interests because their investment decisions have a great impact on the local and national economy (Culpepper, 2015; Fairfield, 2015). Structural power opens the possibility of individual strategies of interest representation that are not available to smaller firms (Shadlen, 2004). CLFs gain access to policymakers more easily, and their significant market position places them in a position to collude informally by establishing cartels (Shadlen, 2004). In addition, CLFs have the capacity and resources to build their own political parties and do not need to suffer the hurdles and compromises of collective action (Barndt, 2014).

By contrast, SMEs lack the organisation, financial resources, and network abilities to defend their interests themselves, individually and informally through the market (Shadlen, 2004). SMEs can only rely on collective action, which is a second-best solution. While collective action is most important to SMEs, they face the greatest challenge in achieving it (Shadlen, 2004). This is because SMEs are numerous and heterogeneous which makes the transaction cost to coordinate higher than it is for CLFs.

SMEs are adaptive entities attempting to do as well as possible given their constraints (Simon, 1955) and an SMEs' decision to join a business association is extremely sensitive to the cost of this affiliation. The cost in time, energy, and money required to contribute to an association and to figure out the firm's claims and position within that association is not affordable to all firms and might not provide immediate benefits. In fact, this cost is likely to exclude most small firms (1 to 19 employees) straight away. They do not have the manpower to spend on coordination and are likely to be too busy dealing with liquidity problems and bargaining from a weak position with both clients and suppliers.

When SMEs have the minimum resources necessary to join a business association, the opportunity cost is prohibitive; it is one employee a year, or the repayment of a debt, that they would have to surrender in order to join a business association.

However, pre-existing business associations, established by a corporatist state, can greatly help SMEs coordinate. These institutions decrease the cost of collective action by providing members with information about past actions and by connecting individuals and sometimes preventing individuals from exiting the association voluntarily (compulsory membership) (Ostrom, 2009). Business associations also reduce the information asymmetry between similar firms and between firms and politicians. Membership is more than the result of a calculation or

a matter of habit. It provides firms with access to information about the political environment and about other members' interests, preferences, and capacities (Hart, 2010). This allows members to reduce the cost of obtaining relevant information, and it reduces the cost of undertaking political action whether that is to lobby, contact politicians, write up advisory reports, or help draft a bill; it reduces uncertainty and divides the risk. Business associations help firms articulate their concerns and priorities regarding specific policies, whether on taxes or on regulation (Wilson & Grant, 2010). Such historical institutions include small trade associations and sectorial associations inherited from Vargas' presidency (1930-1945) in Brazil, for example.

Conversely, CLFs need a strong incentive to choose collective action over individual lobbying. Firms prefer individual lobbying over engaging in collective action because it allows them to represent their preferences without compromise nor making strong financial or institutional commitments. However, only CLFs have enough resources to lobby independently while SMEs must rely on collective action. This is why CLFs need consistent selective incentives to organise.

Governments' provision of selective incentives such as subsidies and market protection constitute great benefits worth fighting for collectively. The provision of selective incentives fundamentally facilitates collective action and is a common tool used by government to shape patterns of organisation (Shadlen, 2004). Once a flow of resources is reliably secured it is able to sustain a supportive coalition, contributing to a sustained dialogue between government and recipients (Schneider, 2015). In addition, such targeted industrial policies, including protection from international competition, require strong organisation from the private sector because associations must be able to articulate preferences and prioritise the needs of the groups it represents (Salazar-Xirinachs, et al., 2014). This is a reiterative game: the more protection and subsidies (selective incentives) the state consistently provides to business, the better CLFs organise. The better business is organised, the better it coordinates, and the more it can extract rent and protection from the state.

However, if market protections and subsidies are low or their targeting is unpredictable and unreliable – for example, because their provision depends on a politician's individual preferences – CLFs are unlikely to organise. Rather, they will prefer lobbying individually. In this case, collective action remains nonetheless possible but only in ad hoc temporary alliances in defence of a specific claim, as described by Mahoney (2007).

By contrast, the benefit of collective action is largely irrelevant to SMEs because they can free ride to obtain their desired policy and switch to the informal sector to avoid having their interests hurt by policies. SMEs would rather free ride by letting other firms organise to lobby for common goods or non-excludable private goods. The value of these goods, such as regulations and tariffs, is undividable

between members and benefits all firms. The incentive to free ride is even stronger given that, even when the desired policy is enacted, a firm often ignores the extent to which the fee it paid to its business association contributed to the outcome. The government could have very well enacted this policy without the association's lobby action. More often than not, SMEs remain in a state of 'helplessness' or 'denial'⁷ when facing policies that impact them. Being small enough, they have the option to avoid following policies that hurt them by switching to the informal market entirely or partially. This is a way to avoid taxes and regulations on minimum wage and labour. To a certain extent, they can also avoid import tariffs by buying inputs from smugglers, a widespread practice in the Colombian textile sector, for example.

Following this rationale, a low enough cost of collective action determines if SMEs engage in collective action via business association; on the other hand, a high enough benefit from collective action determines whether CLFs engage in collective action. Consequently, I argue that CLFs are more prone to collective action when governments reliably provide businesses with selective incentives such as subsidies and protections from competition. Under such circumstances, CLFs are more likely to make the coordination effort necessary to become the state's privileged interlocutor. SMEs will organise if the cost of collective action is low enough – for example, when their action is supported by pre-existing institutions. Otherwise, SMEs will fail to coordinate. Most importantly, this work builds a new typology of business organisation by combining the two variables of the cost of collective action and the benefit of collective action.

2.2. Outcome: varieties of business coordination

The combination of the cost and the benefit of collective action leads to a fourfold typology in which SMEs efficiently organise when the cost of collective action is low, and in which CLFs organise when the benefit of collective action is high. For example, if the government has been providing CLFs with protection from competition via tariffs or specific regulation, I expect CLFs to be well-coordinated. If,

⁷ According to Coen, Grant and Wilson (2010) a business can adopt five different attitudes when facing a governmental decision impacting them: denial, helplessness, delegation, insurance, and sophistication.

In 'denial,' firms deny that policies affect their activities. They seek to evade government and operate in the black market. This is a high-risk strategy for CLFs because they face the threat of civil litigation from customers or controls by their headquarters or by the government itself. It is a low-risk strategy for SMEs because they are unlikely to be controlled by government for policy compliance.

When in a position of 'helplessness,' firms acknowledge policies' impact on their activities. They feel either unable to do anything about it or calculate that the cost of opposition is greater than the likely benefits. It is a typical response to policies among SMEs.

When firms 'delegate' they acknowledge that they are unlikely to efficiently influence policies by acting alone. They join business associations to which they delegate the responsibilities of contesting policies, communicating discontent, or providing policy input, sharing risks and costs.

'Insurance' is an individual strategy in which firms donate money to parties or legislators in anticipation of gaining easy access to them once they reach power. It also consists of providing large funding to business associations to ensure the representation of the firm's specific interests (Coen, et al., 2010). When possible, CLFs prefer to leapfrog business associations to engage in individual lobbying.

'Sophisticated' strategies are mostly practiced by CLFs. In general, the larger the firm, the wider the range of strategies and sophistication when engaging with politics (Vogel, 1989; Coen, et al., 2010).

in addition, the cost of collective action has remained high, I expect SMEs to be poorly coordinated. This leads to a cartel mode of business coordination, described in the top-left corner of Table 2. Table 2 describes all four possible scenarios⁸, providing a new typology of business organization that I will describe in more detail in the following sections.

This theory is dynamic. I argue that business modes of coordination will change at moments of critical junctures (Lipset & Stein, 1967; Berins Collier & Collier, 1991). Long periods of path-dependent institutional stability are punctuated by shorter phases during which dramatic institutional change is possible (Capoccia & Kelemen, 2007). These shorter phases, or critical junctures, are moments during which actors have a meaningful choice to make between following one path or another. The choices actors make that influence the determining variables of the cost and benefit of collective action, therefore influence the outcome—or the form of business coordination. This dynamic aspect of the theory is illustrated by the empirical case of Argentina in chapter 9, which has become more pluralistic following a hike in cost of collective action and a fall in the benefit of collective action.

⁸ The fifth possible organisational ideal-type, (neo)corporatism and macro-corporatism, is a case in point in which the state organises business in top-down fashion, as already well described by Schmitter (1992), Wiarda (2004), and Martin and Swank (2012). In such a case, the state is the main determinant of business coordination so that any other variable becomes irrelevant.

Table 2. Typology of the varieties of business coordination

		COST of collective action	
		HIGH	LOW
BENEFIT of collective action	HIGH	<p>Cartelism</p> <p>Vital subsidies and protections for CLFs</p> <p>CLFs depend on government policies</p> <p>SMEs are disorganised, associations fight for existence or are underrepresented</p>	<p>Competitive-corporatism</p> <p>Profitable subsidies and protections for CLFs, but not vital</p> <p>SMEs are organised along regional and sectorial lines, compete for influence with CLFs</p>
		Colombia Brazil after 2017?	Brazil 1988-2018 Argentina 1958-1976
	LOW	<p>Pluralism</p> <p>Low and changing subsidies and protections for CLFs</p> <p>Individual strategies prevail</p> <p>CLFs fight each other for influence but form punctual ad-hoc coalitions</p> <p>SMEs are disorganised, underrepresented</p>	<p>Sectorialism</p> <p>SMEs are organised along regional and sectorial lines</p> <p>Sectorial representatives are the state's main interlocutor and efficiently negotiate at their level</p> <p>No peak associations nor CLFs domination</p> <p>CLFs lobby individually</p>
		Argentina since 1976	Germany (Martin & Swank, 2012)

2.2.1. Cartelism

When the government provides CLFs with high benefit from collective action and the cost of collective action is high, CLFs organise efficiently while SMEs do not. In this scenario, that I have labelled as ‘cartelism’ (top-left corner of Table 2), CLFs are the only companies able to express their preferences in a clear manner to the government. The government lacks access to coherent policy inputs from SMEs and, as a result, I expect CLFs’ inputs to shape the government’s view on the private sector’s policy needs. CLFs’ business associations therefore dominate the entire private sector’s relationship with the state at the expense of SMEs’ interests.

In cartelism, CLFs establish a relation of mutual dependence with the government and form formal or informal cartel-like associations to carry their voice and represent their common interests. These interests include influencing trade policies, regulations, and taxes in order to maintain their dominant economic position while preventing newcomers from obtaining similar advantages. Organised in associations, CLFs can also support politicians or political parties that, once in power, can ‘reciprocate’ by protecting CLFs’ privileged access to the policymaking process and state resources. CLFs’ ‘cartel associations’ become strong enough to make demands of the state and cohesive enough to become the state’s reliable

partner. I therefore expect CLFs' dominance of the private sector's relationship with the state to make CLFs highly influential over policies. This is a reiterative game: CLFs are united by their shared dominant market position which they maintain as a result of their influence over trade policies, regulation, and taxes – as I will show in chapter 3.

By contrast, SMEs seldom contribute to policymaking in a meaningful manner. As a result, I expect SMEs' attitude towards the policies impacting them but that they have not contributed to formulate, to be one of 'denial' or 'helplessness.' In denial, firms deny that policies affect their activities and seek to evade them by operating in the informal market. This is a low-risk strategy for SMEs because they are unlikely to be monitored for policy compliance by the government (Coen, et al., 2010). When in a position of helplessness, firms acknowledge policies' impacts on their activities but feel either unable to do anything about it or calculate that the cost of opposition is greater than the likely benefits (Coen, et al., 2010).

Cartelism is similar to a situation of oligopoly with a competitive fringe described by the economic theory of the dominant firm. Dominant firms set prices and allocate fragments of the market to a web of numerous smaller firms (the competitive fringe) which are all price takers (Khemani & Shapiro, 1993). Some scholars describe this situation as an unstable equilibrium. This is because it leaves room for new large firms to enter and offer lower prices, increasing the toughness of the competition. This is expected to increase social welfare because the procompetitive effect associated with the new entries dominates the resulting decrease in product diversity (Shimomura & Thisse, 2012). The empirical evidence presented in the present thesis supports strongly the opposite argument according to which mixed competition between the competitive fringe and oligopolistic firms is stable (Gonharenko, et al., 2018). Large firms maintain a comparative advantage and smaller firms can enter the market freely without impacting it (Gonharenko, et al., 2018). This is illustrated by the case of Colombia in chapters 4 and 5.

2.2.2. *Competitive-corporatism*

CLFs and SMEs organise efficiently and communicate their preferences clearly to the government, when the state provides high benefits to targeted firms or sectors and that the cost of collective action is low. State subsidies and protection for business activities which could have otherwise been led, but less efficiently so, provide CLFs with the incentive to organise. CLFs' survival is not as much at stake, but their growth and performance are. CLFs coordinate successfully but compete for political influence with sectorial or regional business associations representing SMEs' interests. Like CLFs, SMEs communicate their preferences clearly to the state due to the low enough cost of collective action. As a result, sectorial and regional business associations are, for the state, as reliable and credible as policy

partners as CLFs' interest groups. Peak associations successfully aggregate CLFs and SMEs' interests when conflicts are not too acute in order to promote a favourable business climate.

In this scenario, that I have labelled as 'competitive-corporatism' (top-right corner of Table 2), illustrated by the case of Brazil in chapters 6 and 7, CLFs have to compromise with SMEs' business associations over the policies they wish to promote collectively. SMEs' associations often have distinct policy preferences from CLFs' associations, which contributes to moderating CLFs' influence on policy by pushing them to compromise. CLFs accept to compromise because their preferred policies proposals are not always likely to prevail due to SMEs' well organised business associations and the well-functioning peak associations.

In the absence of this competition between CLFs and SMEs, CLFs would be free to impose their preferences on policies – this is the case of cartelism. Contrary to cartelism, in competitive-corporatism, I expect CLFs to not fight to control a wide array of policies but focus rather on their immediate, sectorial interests. When CLFs and SMEs compromise on their preferred policies, I expect them to lobby for policies that are more beneficial to the entire business community, thereby positively impacting economic outcomes such as employment and the level of informality.

However, to avoid compromising with SMEs on the type of policies they promote, I expect CLFs to leapfrog business associations when possible, in order to engage in individual lobbying; but this is likely to be the exception, not the rule. In particular, this leapfrogging is more likely to occur in the case of acute conflicts of interests that business associations are unable to solve. In this case, firms will lobby individually or establish occasional *ad hoc* coalitions in defence of narrower interests perceived to be threatened, as described by Mahoney (2007).

Overall, business associations are likely to use sophistication and insurance as strategies to promote their preferences to policymakers. 'Sophisticated' strategies refer to the use of a wide range of strategies when engaging with politics – individually and through business associations. 'Insurance' is an individual strategy in which firms donate money to parties or legislators in anticipation of gaining easy access to them once they reach power. It also consists of providing large funding to business associations to ensure the representation of the firms' specific interests (Coen, et al., 2010).

2.2.3. *Pluralism*

When the government does not provide selective incentives and that the cost of collective action is high, I expect CLFs and SMEs to lack the incentive to organise thereby to remain in a state of pluralism (bottom-left corner of Table 2). Pluralism has been extensively described by the literature already, and this thesis only provides a novel explanation behind its emergence.

In pluralism, CLFs and SMEs remain disorganised and firms promote individual interests, creating numerous and overlapping inputs to the policymaking process, which creates confusion. Politicians are likely to resolve this confusion by listening to the firms they know directly and trust. Policy instability is higher in pluralism than in cartelism and competitive-corporatism. This instability is even more acute during changes of government because previously well-connected firms lose their privileged access to the benefit of previously disadvantaged firms. When collective action occurs in such a pluralist setting, it is in the form of defensive ad-hoc alliance to face a common threat, in line with Mahoney's work (2007). This is illustrated by the case of Argentina in chapters 8 and 9.

In pluralism, firms belong to several business associations and informal groups which overlap in function, are narrower in scope than peak associations and sectorial associations and are not exclusive nor hierarchically organised nor centralised (Martin, 2010). Consequently, firms are extremely risk adverse and have a limited capacity for producing cooperation (Martin, 2010). Firms engage in limited coordination, and there are few channels that link them to labour and the state. Attempts to build more inclusive organisations and to promote more effective coordination are likely to run into collective action problems such as anti-collective behaviour, acceptance of the inefficient inertia due to sunk cost confronting agents for change, and the inability of firms to offset their losses (Hancké, 2010).

2.2.1. *Sectorialism*

When the government does not provide selective incentives and the cost of collective action is low, CLFs lack the incentive to organise and remain in a state of pluralism while SMEs organise per sector (bottom-right corner of Table 2). This category follows directly from Martin and Swank's sectorial type of organisation. Under this scenario, that I have labelled as 'sectorialism,' governments negotiate policies and set wages with unions and business associations on a sectorial basis. Employers' coordination depends on their membership to specific industries and engagement with corresponding labour unions from the same industries (Martin & Swank, 2012)

In sectorialism, CLFs are not cohesive; they engage in politics individually and remain caught in a pluralist-like struggle. CLFs are individually strong enough to make some demands of the state but not cohesive enough to be the state's reliable partners (Hancké, 2010). Once again, the CLFs use the sophisticated and insurance strategies to influence the policymaking process but do not coordinate cross-sectorially.

The cost of collective action is affordable for SMEs which allows them to overcome the natural obstacles of collective action. SMEs join well-organised business associations to which they delegate the responsibility of contesting policies and of communicating discontent or policy input. By choosing to bind together with

other firms, they may afford professional staff that understand the political process and, consequentially, become more likely to gain influence. The cost of membership is most likely low enough in relation to the potential policy gain or to the firms' turnover.

Sectorial associations' aim is to protect the economic interests of their sector or region, and they do so by engaging with congress more publicly than individual firms seeking to lobby would (Durand & Silva, 1998). Sectorial associations can have a beneficial impact on policies, as professional and technically competent sectorial or regional associations can help improve distributional conflicts (Durand & Silva, 1998).

3. CONCLUSION

This chapter has fleshed out and articulated the theories of business organisation and of the firm as a political actor by offering an application of cost-benefit analysis and of the collective action theory to Latin American capitalism. After having demonstrated why cost matters most to SMEs and benefit to CLFs, my theory combined the cost and benefit of collective action as independent variables in the building of four outcomes. The four outcomes form a typology explaining business organisational strength. The empirical chapters 4, 6 and 8 test this theory in the cases of Colombia, Brazil and Argentina, laying out for each the mode of business organisation that has determined the difference between firms' varying degrees of success and failure in communicating their policy preferences to politicians.

Chapter 3 that follows builds on this typology of business organisational strength to answer this thesis' second and third research questions: what determines the type of policies – self-serving and narrow or collectively beneficial – the business community promotes through lobbying and other political influence mechanisms? And, what determines of business' varying degrees of success and failure in influencing tax policy, trade policy and regulation policy outcomes? Correspondingly, chapters 5, 7 and 9 answer to these two questions for the cases of Colombia, Brazil and Argentina.

Chapter 3

Business' policy preferences, lobbying techniques, and varying degrees of success in influencing policy outcomes

This chapter argues that the influence of the business community over policies is rarely clear-cut. This chapter draws on the previous chapter's theory and typology to determine in which cases firms are more likely to promote collectively beneficial policies over their narrower interests. In continuity with the previous chapter, it considers the firm to be a diverse actor more or less able to formulate and communicate efficiently its preferences to politicians. It reviews the tactics that businesses can deploy to influence policies, depending on firms' resources and the degree of their organisation. This review leads to the hypotheses that if CLFs organise well and remain unchallenged by contrary interests, they are likely to gain steady and extensive influence over policies to promote their narrow interests. If SMEs organise well, they become a counterweight to CLFs' interests and pressure CLFs to compromise over policies to reach more collectively beneficial economic outcomes. Finally, if CLFs and SMEs remain disorganised, firms promote individual interests, creating numerous and overlapping inputs to the policymaking process, which creates confusion. Politicians are likely to resolve this confusion by listening to the firms they know directly and trust.

The academic literature on interest groups has examined whether the business community 'excessively' influences state institutions and policies to serve its own narrow interests at the expense of citizens' welfare – which is the idea reviewed in this section. It has also touched upon firms' conflict of interests, which is presented in the following section. The literature has also investigated the determinants of success in influencing policies: coordination, group size, wealth, connections to politicians, and alignment with citizens' interests – reviewed in this chapter's third section.

This chapter's fourth section is my contribution. It builds on the preceding three sections to explain the type of policies the business community has promoted through lobbying and other political influence mechanisms, and the varying degree of success and failure in influencing policy outcomes in the three modes of organisation (cartelism, competitive-corporatism and pluralism).

1. BUSINESS' PRIVATE INTERESTS AND COLLECTIVE WELFARE

Classic liberalism supports the idea that freely competing forces automatically achieve equilibrium. When spontaneous harmonisation is not achieved or promotes outcomes misaligned with the state's objectives, the state is 'impelled to interfere in order to secure a deliberately regulated and planned integration of interests' (Kraemer, 1966, cited in Schmitter, 1974, p. 110). However, in this task of regulation, the state needs prior aggregation of opinion and to defer participatory legitimacy to interest groups. To achieve this aggregation of interests, corporatist states delegate decisional authority to business associations with 'singular, hierarchically ordered, consensually led representative monopolies' (Schmitter, 1974, p. 111).

Corporatism leads to higher rates of economic growth according to Schmitter (1974). The corporatist state's agenda is to align private interest with its objectives of fostering full employment, promoting economic growth, containing inflation, attenuating business cycles, regulating labour, and covering the individual economic and social risks. To do so, the state encourages business associations to commit to their future behaviour, 'which will have the effect of moving economic events along the desired path' (Shonfield, 1965, p. 231, cited in Schmitter, 1974, p. 113).

Less trustful of business representatives, Keynes argues that the parliament should ensure that business representatives promote collective welfare over their own narrower interests. Corporatist institutions (such as business associations) function as semi-autonomous bodies acting to promote the public good – as they understand it – within their own sector by excluding their private advantage from their decision-making process (Keynes, 1926). These bodies should however remain 'subject in the last resort to the sovereignty of the democracy expressed through Parliament' (Keynes, 1926, pp. part IV, 1).

Marx (1971 [1850]) and the elite and class theorists were even less trustful of the ability of the state to pursue collective welfare by organising private interests. They contended that few powerful private interest groups resolve their internal conflicts before engaging with politics and always influence policy at the expense of collective welfare (Miliband, 1969; Wright Mills, 1956; Domhoff, 1978, cited in Smith, 2000). Once they enter politics, they are powerful enough to make their interests prevail over the common good. The state delegating decisional power to corporations, even if kept under the check of Parliament as suggested by Keynes, is, for these scholars, nothing but an illusion meant to perpetuate the domination of the few, detrimental to the many.

By contrast, Manoïlesco (1934) argued that corporatism and the organisation of private interests do not protect a class' interests. Instead, corporatism devalues the role of entrepreneurial risk-taking, which hinders innovation and leads to the secular decline in the rate of profit. Corporatism diminishes the attractiveness of

private property and is therefore an efficient tool to promote collective welfare and socialism.

Other researchers have argued that agreement between social classes, labour and capital – for example, under a corporatist state – is necessary to put together a national development strategy, which is itself a prerequisite to economic development (Bresser-Pereira, 2011). For example, between 1950 and 1980, when such a national coalition was achieved in Latin America, income per capita grew by three percent. Under the neoliberal-oriented Washington consensus, it grew at an average rate of 1.6 percent per year (Bresser-Pereira, 2011).

Beyond the correlation between national coalition and income per capita growth, the link between private interests' organisation and economic outcomes has been more developed in the case of newly industrialized East Asian countries. These include Singapore, Hong Kong, South Korea, Taiwan, Indonesia, Malaysia, the Philippines, and Thailand. These countries have not only achieved a significant increase in their output but also moved away from commodity production towards manufacturing (Doner, 1991). Wade (1988) and Amsden (1989) explained this economic success by governments' provision of selective incentives such as engineered price distortions to create a comparative advantage where none existed before. Such industrial policy fundamentally facilitates collective action (Shadlen, 2004). Industrial policy, through a transfer of allocative authority (favourable regulation, tax cuts, subsidies...), is sufficient in itself to sustain a supportive coalition, contributing to a sustained dialogue between governments and recipients (Schneider, 2015).

The New institutional economics school draws attention to domestic factors, organisations, and institutions, such as large integrated firms, that have better explained the South Asian countries' discrepancies in growth levels. Scholars from this school argue that the way organisations (such as business associations) and the modern corporation conduct their affairs determine to a considerable extent the efficiency of the economic system (Coase, 1991). Institutions are an effective way to deal with transaction costs and to solve the issues of rational individuals seeking to maximise their preferences within their constraints of cognitive limitations, incomplete information, and difficulties in monitoring and enforcing agreements (Coase, 1937; Williamson, 2000). These institutions establish the formal and informal rules under which organisations (groups of individuals or firms) coordinate their action against other organisations (North, 1990).

For example, in Thailand, the Philippines, Malaysia, and Indonesia, firms have integrated vertically⁹ in response to collective action and information problems (Doner, 1991). For example, in Thailand, the group Charoen Pokphand built its own

⁹ Integrating vertically is done by mobilising their capital to produce their own intermediate goods.

soybeans processing mills and developed a contract farming system in order to avoid the political conflicts that existed between millers and soybeans farmers (Christensen 1990:36, cited in Doner, 1991). Such integration nonetheless leads to a 'special form of oligopoly capitalism,' reducing the overall efficiency of the national economy and weakening smaller firms (Leff, 1979). In Thailand, the Philippines, Malaysia, and Indonesia, business groups have gained leverage compared to their country's states, which have lacked the ability to make and implement policy independently from business groups (Crouch, 1984, cited in Doner, 1991; Mackie 1988, cited in Doner, 1991).

Business associations have also played a role in Southeast Asia's national disparities in growth rates and industrialisation. Associations have grown following the participation of the Association of Southeast Asian Nations (ASEAN), the regional intergovernmental organisation that promotes economic and security cooperation among the ten signatory countries. Business associations grew from previously scattered firms and often emerged out of communities, particularly ethnic Chinese networks (Bowie and Doner 1988, cited in Doner 1991).

Business associations have played crucial roles at all levels in Southeast Asia from influencing to implementing policy, by 'working out product standards, allocating export quotas, monitoring prices, promoting the adoption of new technologies, coordinating contracts, and supporting efforts to diffuse foreign protectionism' (Doner, 1991, p. 835).

Other scholarship on developing countries confirms that business associations have been undertaking a variety of functions promoting economic efficiency. They have done so by facilitating coordination, upgrading worker's training, and reducing information costs (Doner & Schneider, 2010). The associations that have contributed the most to development have been well organised and well-staffed, exhibited a high member density, efficiently mediated affiliates' interests, and received governments' selective incentives (Doner & Schneider, 2010).

The organisation of business groups and firms has also generally determined the terms of wage setting and skill formation. An increase in organisation improves the likelihood of the promotion of distributive equality and redistribution (Hicks 2000: chapters 5–6, cited in Iversen & Soskice, 2010; Swank 2003: chapter 3, cited in Iversen & Soskice, 2010). For example, in the 1920s in Europe, employers' choices and interest in cross-class collaboration as well as the organisation of the economy determined the strength of the left-wing parties (Iversen & Soskice, 2010). Therefore, business organisation also explained the correlation between distributive equality

and redistribution, solving the robin hood paradox¹⁰ (Iversen & Soskice, 2010). Throughout Asia as well, large industrial groups (*chaebol* in South Korea) were established by entrepreneurs known as plutocrats or ‘political capitalists’, which have contributed largely to industrialisation (Kim 1976:469, , cited in Doner 1991; see also Amsden 1989:46-48, cited in Doner 1991; Jones and Sakong 1983, cited in Doner 1991).

Yet, these constituted organised business groups or associations have a strong interest in shaping industrial policy in their favour, which can be beneficial or detrimental to collective welfare depending on the interests the firms promote. For example, some business groups in South-East Asia favoured short-term profits or sought to capture rent from government-controlled import licenses (Doner, 1991). In Latin America, state protection and support became a model of development for CLFs which made pressuring governments an important instrument in ensuring the growth and stability of the firm (Vidal Olivares, 2016). In both cases, the business community has disregarded the wider socio-economic impact of building such oligopolies.

This section surveyed scholars’ work on the alignment between public and private interests and the influence of organised private interests on collective welfare. The next section reviews the type of conflicts of interest that require business associations and firms to coordinate. In doing so, firms face collective action problems that they will solve differently depending on whether the business community is organised in a competitive-corporatism, cartel, or pluralist mode. The study of these conflicts of interest helps us understand which policies firms promote in these three modes of coordination – that is, whether one side of the conflict will prevail or if firms will seek a consensus and meet halfway. This contribution is presented in section 4 of this chapter.

2. COMMON CONFLICTS OF INTEREST BETWEEN FIRMS

Collective action problems are acute when an association gathers firms with highly conflicting interests. Importers and exporters, for example, have such highly conflicting interests. To promote exports, governments reduce tariffs, devalue their currency, and apply monetary and fiscal restraint. However, these policies hurt manufacturers that rely on an overvalued exchange rate to import intermediate and capital goods at low prices (Doner, 1991).

Similarly, downstream firms (finished goods) and upstream firms (producing inputs) from the same value chain also run into such conflict of interests. Downstream firms prefer buying cheap inputs, often imported, whereas upstream

¹⁰ The Robin Hood paradox: nations with high inequality tend to redistribute less than advanced democracies with low levels of inequality (Korpi & Palme, 1998).

firms prefer to be protected from this foreign competition by restrictions on imports. South Korea and Taiwan have used selected protection and subsidy to solve this problem (Weiss 1988:232-33, Wade 1988:50, cited in Doner, 1991). Cutting tariffs on upstream producers' own inputs, such as raw material or capital goods, may also help in solving this issue by lowering domestic production's costs therefore prices (Doner, 1991). The empirical cases of Argentina presented chapter 9 shows that this type of conflict was solved by favouring the best politically connected firms. By contrast, chapter 5 shows that in Colombia, better-organised CLFs obtained their favoured trade protections to the detriment of downstream SMEs.

Standardisation, through the adoption of standard technologies or quality norms, leads to economies of scale, reduction of costs, and higher quality goods. Convincing firms to adopt a specific format may be difficult, especially if the model comes from a foreign firm (Doner, 1991). The empirical case of Colombia presented in chapter 5 also shows that well-organised large firms may use the excuse of such technological upgrading to bankrupt domestic competition that is unable to reach these foreign standards quickly enough.

The next section reviews recent research on how businesses with the competing interests presented in this section have promoted their views to the government to obtain favourable policies. This review of lobbying tactics will help us understand business' varying degrees of success and failure in influencing policy outcomes in the competitive-corporatism, cartelism, and pluralist modes of organisation, presented in section 4.

3. BUSINESS' LOBBYING TECHNIQUES AND VARYING DEGREES OF SUCCESS IN INFLUENCING POLICY OUTCOMES

In corporatism, business associations have a representational monopoly over their respective sectors and regions – in the name of which they have a right to speak. This representational monopoly provides them with a quasi-legal status whereby they may influence government policy directly, bypassing legislative houses (Huntford, 1971). In all other settings (competitive-corporatism, cartelism, pluralism, sectoralism), business associations struggle against one another to make their respective interests prevail in policy. The present section analyses scholars' work on the determinants of the type of policies the business community promotes through lobbying and other political influence mechanisms, and on the determinants of business' varying degrees of success and failure in influencing policy outcomes – this thesis second and third research questions.

Business uses formal channels such as centralised tripartite (business, state and labour) commissions or Ministry boards to negotiate over a wide range of policies. Business also uses informal individualistic channels whereby firms provide expertise, give donations to legislative campaigns, lobby, or refuse to comply with

policy outcomes (Martin & Swank, 2012). For example, firms can contact senators directly to explain their positions, carry out polling, send prepared editorials to the media, fund research on the negative aspects of a policy, and finance campaigns (Smith, 2000).

Whether firms carry advocacy through formal or informal channels, Baumgartner et al. (2009) differentiate three main types of advocacy strategies: inside congress advocacy, outside congress advocacy, and grassroots advocacy. Inside congress advocacy consists of personal contacts with MPs, working with legislative allies, dissemination of in-house research to policymakers, sending letters, writing drafts in legal language, hiring consultants to lobby, contacting white house members or members of agencies, and testifying at hearings. Outside congress advocacy consists of press conferences and releases, public education campaigns, paying for advertising, and dissemination of in-house research to the public. By contrast, when business uses grassroots advocacy, it mobilises elites, mass membership, and the general public or organises a lobby day (Baumgartner, Berry, Hijack, Kimball, & Leech, 2009). Similarly, when lobbying on environmental policy, business interest groups fight many battles outside congress, such as in federal courts and within the bureaucracy (Kamieniecki, 2006). When business interest groups fail to defeat an environmental policy in congress, they tend to bring the case to the courts then later to government agencies (Kamieniecki, 2006).

The efficiency of these tactics depends on other factors explored in the next four sub-sections: firms' wealth, their personal connections to politicians, the alignment of their preferences to the government or the public's preferences, their degree of organisation and coordination, and, finally, their size.

3.1. Structural and instrumental powers

The business community is able to shape policies thanks to strong structural or instrumental power (Fairfield, 2015). Instrumental power comes from relationships between policymakers and business elites, including partisan linkages, institutionalised consultation, recruitment into government, election to public office, and informal ties – which bias policies in elites' favour. It also includes business elites' expertise, media access, money, and cohesion, which help business pressure policymakers more efficiently. By contrast, structural power comes from firms' economic weight, their importance in determining the level of employment, and their potential as a tax base. For example, governments may restrain from initiating taxes and rule out some reforms in fear of capital flight, harming economic growth and employment, or reducing investment. It does not require business to organise and take action (Fairfield, 2015).

Other scholars have also stressed the significance of structural power. Winters (2011) argues that wealthy individuals dominate policy on matters important

to them: wealth and income protection. Wealthy individuals do not need to coalesce or hold power to protect their capital in modern societies because of strong and well-enforced property laws. These individuals need only to focus on the defence of their income, which they can do thanks to a whole industry dedicated to hiding and restructuring wealth – to evade taxation – and designing complex tax shelters. By way of blackmail (if taxes increase too much, taxable wealth will evade them altogether), this industry provides structural power with greater leverage over taxation policy.

The necessity for incumbent politicians to sustain a healthy economy restricts their policy choices and gives business interest groups leverage (Lindblom, 1977). When unemployment is high, politicians are less likely to be re-elected. To a certain extent, their political survival depends on capital owners' investments, which is why politicians seek to support a favourable business environment. Thus, business interest groups have significant leverage when influencing policy in regard to cutting taxes and weakening regulation (Lindblom, 1977). Lindblom goes even further, arguing that business representatives become public officials, in a way, because they have the responsibility of picking the location of the industry, the level of industrial technology, work organisation forms, market structure, executive salaries, and resource allocation (Lindblom, 1977). It follows that unemployment levels, production levels, economic growth, standards of living, and the economic security of the population rest in business interest groups' hands (Lindblom, 1977).

Vogel (1989) argues that the business community is more vulnerable to tax hikes and new regulations in times of high productivity and economic booms. From this point of view, the poorer the performance of the economy, the greater business interest groups' influence is over policies (Vogel, 1989). Smith argues that there is little, if any, evidence in support of this claim (2000). The most compelling counterargument is that owners of productive capital cannot easily move their assets away because of high asset specificity¹¹ (Frieden, 1991). In addition, tax policy and other policies are only some of the reasons that would contribute to the final decision of relocating productive capital. Other reasons might be workforce productivity, proximity to markets, transportation costs, labour costs, energy costs, and agglomeration effects induced by existing firms (Chapman & Walker, 1991).

Federalism increases interest groups' structural power because regions are close substitutes to each other due to conditions in all regions being broadly similar (Smith, 2000). This gives leverage to business interest groups to influence regional fiscal policy; they can threaten regional governments to relocate in another close region to avoid local tax increases or to seek greater fiscal incentives. This is what triggered the so-called 'fiscal war' in Brazil in which each state constantly changed

¹¹ An asset specificity is the degree to which an asset can be adapted for other purposes.

its level of taxes in response to other states' tax incentives in a competition to attract firms – a case reviewed in detail in Chapter 7.

Overall, instrumental and structural powers are complementary – the more sources of power and the more institutionalised these sources, the more likely business elites will be to obtain their desired tax policy outcomes (Fairfield, 2015). However, the weight of structural power depends on the structure of capitalism and the selected opportunities it creates that determine the set of mutual dependencies between the state and firms (Culpepper, 2015). After reviewing other factors of success in lobbying, this chapter shows the extent to which I expect firms to use each tactic in the three modes of business organisation associated with HMEs, which are competitive-cartelism, cartelism, and pluralism.

3.2. Alignment of business and government preferences

Other scholars have argued that business interest groups' resources do not predict well the success of lobbying action (Baumgartner, et al., 2009). The policy agenda of lobbyists is itself entirely unrelated to the policy priorities of the public; thresholds regardless of which measure of public opinion is used. Policy preferences of low-income and high-income US citizens bear few differences, and firms' lobbying agendas do not represent any of the policy concerns of any income groups (Kimball, et al., 2012). Others argue that when business lobbies for an issue that has wide support from the citizenry, politicians move towards this position. This is not because of lobby actions but because it is a way for politicians to please their constituencies (Smith, 2000). Therefore, the best way for business to influence policy is by gathering support from the broader public, an idea that challenges unity as a lobby success factor which would undermine citizens' sovereignty (Smith, 2000).

For other scholars, the best predictor of success is not how much money or how many resources are put on the table, but rather whether lobbyists try to protect or challenge the status quo. In the US, for example, defenders of the status quo are more likely to get their way than challengers of the status quo. This is because the current status quo is the outcome of past struggles and already reflects the position of the most powerful organised interests. A change in status quo can only reflect a change in organisation and in the distribution of power. It takes strong pressure to change the status quo so that significant changes occur more frequently than incremental ones. Such significant change happens in the case of elections leading to a change in representation, external shocks, new leaders, changing demographic, new information, and significant change in economic trends (Baumgartner, Berry, Hijack, Kimball, & Leech, 2009).

Most of the time, challengers of the status quo fail to gain attention and face fierce opposition or the decisive opposition of a party leader playing the role of a gatekeeper in congress. In general, status quo challengers face additional costs and

their targeted interests happen to be either taboo, unpopular, or easily ignored. They also find that jurisdictional boundaries are unclear, making it difficult to determine who challengers should deal with, which leads the attempted action to change policy to a stalemate. In addition, government attention is scarce, and the policy issue at stake must be not only significant but also concern a large enough constituency in order to find room in a government's agenda (Baumgartner, Berry, Hijack, Kimball, & Leech, 2009). Status quo challengers try to reframe the issue, attempt to bring more attention to the issue, and emphasise the positive aspects of change as well as the long-term risks of continuing with the status quo. Proposing a change calls for more optimistic discourse and an appeal to broad shared social values (Baumgartner, Berry, Hijack, Kimball, & Leech, 2009).

By contrast, status quo defenders can use three main types of arguments. First, they argue that changing the status quo would produce new or worse issues (jeopardy thesis) (Hirschman, 1991, cited in Kamieniecki, 2006). Second, they claim that efforts to change the status quo would only make the situation worse (perversity thesis). Third, they argue that changing the status quo would incur great costs without solving much if anything (futility thesis) (Baumgartner, et al., 2009; Hirschman, 1991, cited in Kamieniecki, 2006). Status quo defenders raise doubts about a change's feasibility and its expected outcomes, and they question whether government action is a relevant solution (Baumgartner, Berry, Hijack, Kimball, & Leech, 2009).

To increase their chances of success, lobbyists also tailor their strategy depending on the salience of an issue. When salience is low, they tend to rely more on inside advocacy and grassroots advocacy techniques. When an issue has great salience, they use external advocacy techniques instead, along with more simplistic arguments and positions (Baumgartner, Berry, Hijack, Kimball, & Leech, 2009). As such, business interest groups are compelled to increase the salience of the issue by mobilising people to support their position (conflict expansion) (Kollman, 1998). Businesses signal that salience is high to policymakers by suggesting that people send letters to their MPs. This technique does not produce phony support but rather is a proper way for policymakers to know what their constituents care about. Yet, it is sometimes forcefully applied by interest groups pursuing unpopular goals and, in that case, the process does not reinforce citizens' sovereignty (Kollman, 1998).

Culpepper (2010) argues that highly organised interest groups dominate the policymaking process in the areas that the public disregards or is not interested in. This is what Culpepper calls 'quiet politics.' In 'noisy politics,' which pertains to issues that receive some public interest, organised business interest groups do not always obtain their favoured policies. This is because politicians respond primarily to their constituencies in order to increase their own chances of re-election (Culpepper, 2010).

Kamieniecki found that when there is a high salience and that much is at stake, citizens' groups tend to emerge and make themselves heard, counterbalancing business interest groups' influence (2006). Support from public opinion is an important factor of success. The more support business interest groups' leaders can credibly demonstrate, the more likely they are to successfully influence policymakers (Kollman, 1998). For example, Chile's 2014 tax reform proposal received international press attention because it had important distributive consequences. The popular mobilisation around this issue countered business interest groups despite their strong instrumental and structural powers (Fairfield, 2015b).

When the public is indifferent, however, politicians are more likely to trust and defer policy decisions to companies' managers. Managers often seem the most familiar with the issues at hand and can serve as experts. Firms' tools for influencing policies in this case are their access to key decision makers, the deference to managers' expertise of legislators and the media outlets. Through these channels, managers have successfully influenced corporate control laws in contemporary France, Germany, Japan, and the Netherlands (Culpepper, 2010).

Government agencies' positions and the influence of think tanks also enhance a lobby's efficiency. By contributing to think tanks, business interest groups gain influence over policymaking through two channels: influencing politicians, civil servants, and their staffs and bringing public opinion closer to their own preferences (Smith, 2000). In regard to environmental issues in the United States, Kamieniecki found that lobbying is not what mattered most. Rather, the position of the executive power and who is appointed to senior positions within the natural resource agencies are what mattered most (2006). He found that business interest groups most often lobby for a certain environmental bill rather than against, suggesting that they participated in the earlier stages of drafting – whether with government agencies or specialised think tanks (Kamieniecki, 2006).

3.3. The best organised interests prevail

For Olson (1965), firms' greater organisational capacities, rather than greater financial resources or alignment with the government and citizens' interests, are decisive in successfully influencing policies. In Olson's model, a group pursues a common good, and each group member can expect to receive a share, the size of which depends on the number of members. Individuals choose to contribute to seeking the collective good only if the individual share they expect to obtain from it exceeds the cost of engaging in this endeavour.¹²

¹² It consists of $N = \{1, \dots, n\}$ individuals, who each contribute to produce a collective good. For every individual $i \in N$ each of them contributes to the production of collective good $\gamma_i \geq 0$ so that the total amount of collective good produced is $\Gamma = \sum_i \gamma_i$. The utility gained by an individual i who obtained the good $v_i(\Gamma)$ and the utility gained

In other words, the group's capacity to organise depends on the group's size; if the group is too large, the individual cost of engaging in the struggle overcomes the expected benefits of obtaining the collective good sought after. This is why action-taking groups tend to be smaller groups. To take action, larger groups have to mobilise members by other means, namely by offering members selective incentives ('by-products'). Although criticisms to Olson's theory are numerous, a complete review of them would fall outside the scope of this work. This thesis' theory took into account the limited rationality of firms when performing their cost-benefit calculus by attributing more weight to the benefit for CLFs and more weight to the cost to SMEs. By doing so, it also took into account the type of capitalism in which firms operate.

Well-organised and homogeneous groups have greater influence over policymaking than loosely organised groups. Dahl (1961) also assumes that political effectiveness of private interest groups depends on the groups' potential for unity. Vogel (1989) argues that unity between business interest groups and elites is an important factor of success. When business can build a unified coalition, it is difficult for congress to resist its influence because the combination of the CEOs' prestige with small business' grassroots connections creates a significant political force. However, such unity is difficult to achieve, and it is even more difficult to maintain (Vogel, 1989). The elite and class theorists argue that business interest groups and elites solve their conflicts of interests and agree on a common unified position before entering politics. Such unity is a function of common social origins, intermarriage, commercial banks operating at the heart of corporate networks, overlapping board of directors, and equity holding by institutions and by one firm in another (Smith, 2000).

Other scholars have also found that centrally coordinated groups are more influential than less coordinated groups. For example, in lobbying for policy change in Washington, when one side – whether for or against the status quo – is better organised, it has a greater chance of reaching its objectives (Baumgartner, et al., 2009). Castañeda-Angarita shows that in Latin America, centrally coordinated business interest groups have impaired government's ability to promote tax hikes (2017). When business is not centrally coordinated, sector-specific business associations are likely to seek narrower tax benefits including lower tax rates for their sector, tax loopholes, and tax credits; in this case, only groups with greater lobbying resources succeed (Castañeda-Angarita & Doyle, 2017). Governments can then shift the tax burden to these poorly organised business actors. This strong link

by the entire group is given by $V(\Gamma) = \sum_i v_i(\Gamma)$, and the cost function is given by $C_i(\gamma_i)$. Individuals choose to contribute to the production of the collective good only if the utility gained exceeds the cost – that is if $v_i(\Gamma) > C_i(\gamma_i)$.

between business association coordination and the feasibility of implementing distributive tax policies holds for 18 countries in Latin America between 1990 and 2010 (Castañeda-Angarita, 2017).

Similarly, in Brazil in the 1980s, support from the industrial sector was crucial in implementing neoliberal policies. Several industries have suffered from the economic opening because they had been previously sheltered and had enjoyed the benefits of protection from competition. To prevent these industries' opposition, which would jeopardize the government's agenda, the government sought and obtained the private sector's support (Kingstone, 1999).

In the 1980s, well-organised businesses and encompassing business associations played a significant role in the demand-raising and agenda-setting stages of policymaking, as well as at the stages of policy evaluation, feedback, and policy implementation (Durand & Silva, 1998). Business associations combining sectoral and industry-based interests mitigate divisive distributional conflicts based on narrow sectoral and selfish interests. These encompassing associations focus on issues held in common, making them more articulate in front of policymakers and leading to higher functionality and efficiency (Durand & Silva, 1998).

More recently, well-organised business interest groups have also wielded significant agenda-setting power thanks to which they have prevented governments from shifting the tax burden onto private capital holders (Castañeda-Angarita & Doyle, 2017). Instead, left-wing governments are forced to use regressive taxation tools, such as consumption taxes, to fund social policies. The combination of high-level coordination across business interest groups and of high-level integration into policymaking forums makes business interest groups more influential on labour and tax policies (Martin & Swank, 2004; Fairfield, 2010; Castañeda-Angarita, 2017).

Other scholars have argued that business elites' cohesion and organisation have increased their support of longer-term objectives such as fiscal stability, making them more willing to pay higher taxes (Weyland, 1997). However, cohesive or fragmented, if elites do not perceive incentives to accept higher taxes, their cohesion and organisation enhances their ability to block such reform (Fairfield, 2015b). Consequently, inequality and levels of redistribution depend on how well private interests, including business', are organised – a key indicator of elite cohesion and, therefore, instrumental power (Fairfield, 2015b).

However, this literature is insufficient when it comes to understanding policy outcomes in HMEs. For example, when the business community successfully prevents the government from increasing taxes on capital gains is not a success of the private sector as a whole. Instead, it is the success of the minority group of capital-intensive industries. If the tax burden shifts to labour-intensive sectors in compensation for lower taxation over capital, the tax burden will ultimately weigh on other segments of the private sector, such as labour-intensive industries mostly

constituted of SMEs. Similarly, the previous section showed that upstream and downstream segments, or importers and exporters, have a sharp conflict over import tariffs policy. This is why the discussion on business influence over policies needs to account for the heterogeneity of business actors – a question treated in the next section.

3.4. Is firm size enough to successfully influence policy outcomes?

Scholars have argued that policies protecting specific sectors of the economy are a result of the competition between lobbies to influence policies, but they often treat lobbies as unitary decision makers, overlooking the significant role of individual firms in lobbying (Bombardini, 2008). The distribution of firm size in a given economy matters because sectors with a higher share of large firms exhibit higher intensity of political activity (Bombardini, 2008). The present section focuses on how business heterogeneity has impacted lobby actions, or, in other words, how smaller and larger firms engage with politics differently. It analyses the extent to which CLFs have access to a wider array of strategies to engage with policies than SMEs.

CLFs are disproportionately well represented in business associations. Historically, official, unofficial, formal, and informal business associations have tended to represent mainly the interests of large corporations in most of Latin America (Schneider, 2004). Latin American peak associations' role was to reconcile intra-capitalist conflicts by representing a 'general interest of business,' thereby improving government-business coordination (Silva & Durand, 1998; Schneider, 2004). But, while peak associations are inclusive horizontally – of diverse sectors – they are not vertically inclusive and have only represented larger firms (Shadlen, 2004). If SMEs do not have their own representative, they are integrated into associations that are created and controlled by CLFs and in which SMEs' particular interests are likely to be subordinated and neglected (Shadlen, 2004).

Business associations' aim is not to reach collective agreements for all member-firms; rather, it is to provide each member with the private goods that encourage them to remain a member of the association (Hart, 2010) – forms of by-products necessary for overcoming the hurdles of collective action (Olson, 1965). While most members only benefit from these by-products, CLFs may seek to gain actual control of those associations to use them as a cover for their pursuit of a private good, such as tax breaks, and to block similar efforts by competitors (Hart, 2010).

CLFs can provide parties and politicians with financial and in-kind resources in order to obtain easier access to politicians after their election. Political campaigns are expensive and traditional resources are scarce, which has increased the role of private sources of financial support in establishing and strengthening political parties (Barndt, 2016). Latin American political campaigns have been especially expensive,

which made donations from CLFs essential to political success but has also potentially increased the influence of CLFs on policies (Schneider & Karcher, 2012). This higher political influence from business has led to the proliferation of classic conservative parties with broad core constituencies within the business sector (Barndt, 2016).

The rise of this electoral conservatism restricts the range of policy choices while forcing non-privatised parties to seek shadowy and possibly corrupt sources of funding, delegitimising the party system as a whole¹³ (Barndt, 2016). At least one in every thirteen significant parties (that have won over 5% of votes in elections) in Latin America since 1975 – the start of the third wave of democratisation of the region – depends on a specific business conglomerate or firm (Barndt, 2014). In 2009, the Panamanian Democratic Change (PCD), the party of the Super 99 supermarkets business conglomerate, won presidential elections (Barndt, 2014).

CLFs also have the capacity and resources to build their own political parties and do not need to embarrass themselves with the hurdles and compromises of collective action (Barndt, 2014). Businesses contribute to the five types of resources that a party needs to be efficient in elections: infrastructure, clientelist networks, publicity, specialized personnel, and extensive financing (Barndt, 2014). All these resources are natural assets of CLFs; they can provide discretionary funds to campaigns, share their offices and information technology networks with the party, share their logistical and transportation networks to distribute patronage and move candidates around the country, and share their personnel from the legal, financial, and advertising departments (Barndt, 2014). By contrast, SMEs lack these electoral resources that would make them valuable to parties (Shadlen, 2004).

CLFs also use electoral strategies by developing linkages with existing right-wing parties, which are the most relevant electoral vehicle for resisting taxation. This is because the right-wing argues that social and income inequalities are natural and, therefore, should be excluded from the scope of state intervention (Luna & Rovira Kaltwasser, 2014). Right-wing parties are an efficient vehicle to election to public office, which is a direct way to influence policymaking. In Latin America, such partisan linkages are an important source of influence over taxation outcomes (Fairfield, 2015).

Illegal and legal financing to legislators in exchange for votes for specific policies are also part of firms' lobbying strategies (Schneider, 2004). As a reward for support, business leaders have been well represented in government and have participated in legislative committees, playing a leading role in shaping policies (Schneider & Karcher, 2012). Such appointment of business elites to government

¹³ Party systems are therefore increasingly shaped by a reversion to forms of competitive oligarchy, a term used by Dahl in his *Polyarchy* (Barndt, 2014).

positions is an important channel of influence over the policymaking process in Latin America (Schneider, 2010; Fairfield, 2015).

CLFs can also use sophisticated strategies, mixing formal, informal, legal, and illegal tactics, that SMEs seldom have access to. CLFs can also threaten policymakers to withdraw investments, thus provoking or amplifying economic crisis (Lindblom, 1977; Przeworski & Wallerstein, 1988). Structural power opens the possibility of individual strategies for interest representation that are unavailable to SMEs (Shadlen, 2004). CLFs participate in public debate and encourage think tanks to produce reports favourable to their interests. CLFs have the ability to contact senators directly to explain the firm's position, carry out polling, send prepared editorials to the media, fund research on the negative aspects of the policy opposed, and finance campaigns (Smith, 2000). They can pressure foes in the debate to make them drop their positions (Schneider, 2004). CLFs can also own media channels and use them as a tool to diffuse discourses sympathetic to their cause and their allied politicians' cause (Luna & Rovira Kaltwasser, 2014). In extreme cases, they can organise disruptive mobilisations and threaten coups (Luna & Rovira Kaltwasser, 2014).

CLFs develop their own specialised government relations departments while engaging with several business associations, including some associations to which membership is only possible upon invitation. They can simultaneously employ lobbyists, lawyers, or consultants to focus on specific issues if this proves to be a more efficient way to engage with legislators (Coen, et al., 2010). This also allows them to represent their interests individually, without support of formal associations. Thus, they gain access to policymakers more easily, and their significant market position places them in position to collude informally by establishing cartels (Shadlen, 2004). This allows them to obtain regular meetings with government officials, a process called *concertación*, either formally (Schneider, 1997) or informally (Silva, 1996).

By contrast, SMEs need to rely on business associations to represent their interests because they lack the resources needed to defend their own interests individually and informally through the market (Shadlen, 2004). In Latin America, democratisation has opened new opportunities for all social actors to participate in politics, but some actors are less able than others to take this chance. SMEs that had secured political representation through business associations and corporatist institutions after the second World War lost this ability during democratisation (Shadlen, 2004).

Relying on business associations is a collective action solution that remains a second-best solution, requiring the mobilisation of resources that SMEs naturally lack. Their limited electoral resources and increased obstacles in participating in collective action prevent them from gaining fair political representation through these

trade associations (Shadlen, 2004). In other words, while such ‘delegation’ of SMEs’ interest representation to business associations is SMEs’ only way to gain political representation, CLFs are often better represented in associations.

Nonetheless, SMEs can use business associations in creative ways, such as: supporting service and representation, using a chamber of commerce for networking to develop the firm, and joining an association to qualify for public procurement contracts (Coen, et al., 2010). These types of by-products that business associations offer are the characteristics most likely to encourage membership (Olson, 1965; Jordan & Halpin, 2004; Coen, et al., 2010).

Building on this scholarship, the next section ties my theory’s different modes of business organisation (competitive-corporatism, cartelism, and pluralism) to the type of preferences businesses promote through lobbying – from very narrow to beneficial to the collective welfare – and to the varying degrees of success business has in influencing policy outcomes.

4. HOW DOES THE BUSINESS MODE OF ORGANISATION INFLUENCE BUSINESS’ PREFERENCES AND POLICY OUTCOMES?

The previous chapter’s theory explained the differences between firms’ varying degrees of success and failure in communicating their policy preferences to politicians through business’ degrees of organisation. Business is more or less well organised depending on the cost and benefit of collective action faced in leading collective action. The present section expands on my theory’s typology to explain business’ varying degrees of success in influencing policies. Firms are more likely to compromise on their preferred policies when they face competition from opposing business interests, and are less likely to successfully influence policy outcomes when other firms or sectors are well-organised as well.

If CLFs organise well and remain unchallenged by contrary interests, they are likely to gain steady and extensive influence over policies and will promote their narrow interests. In this case, CLFs leverage their structural and instrumental powers to deploy a wide range of sophisticated lobbying strategies. If SMEs organise well, they are more able to provide CLFs’ interests with a counterweight and pressure CLFs to compromise over more collectively beneficial policies. In this case, CLFs and SMEs alike rely on business associations to aggregate their interests and negotiate over which type of policy they collectively agree to promote through lobbying. However, CLFs remain likely to attempt leapfrogging the association when they can, and they will attempt to deploy other tactics to circumvent the associations, such as funding politicians’ campaigns. Finally, if CLFs and SMEs remain disorganised, firms promote individual interests that are quickly overturned by other firms’ lobbies, increasing policy instability. In this case, instrumental power and

individual connections to elected politicians are the lobbying tactics that matter the most.

In cartelism, CLFs are well organised into cohesive business associations because the state consistently provides them with selective incentives and benefits worth protecting. SMEs face the high cost of collective action and remain largely disorganised. I expect SMEs to be either unrepresented, represented in associations dominated by CLFs, or represented by associations gathering only part of their respective sectors, overlapping with other associations and struggling to convince SMEs to put time and money into the association. The government is less inclined to listen to SMEs' associations because membership is low, making the associations look as if they were unrepresentative of their sectors. This means that CLFs are likely to communicate their policy preferences to politicians more successfully than SMEs.

CLFs' voice remains unchallenged by SMEs' contradictory interests on policies that pertain to, for example: favouring capital-intensive over labour-intensive industries, shifting taxes from capital (corporate income tax cut) to VAT (weighing more heavily on SMEs), and favouring exports or imports in sectors dominated by CLFs. For example, CLFs operating upstream by producing inputs for their value chain may lobby for higher tariffs to be the sole supplier for local SMEs. They would offer more expensive inputs to these firms, limiting their expansion – which is ultimately detrimental to the consumer. Conversely, CLFs operating downstream would lobby for lower tariffs on their inputs to be able to import cheaper, suffocating the upstream domestic industry.

To obtain their favourable policies, CLFs are able to deploy a large array of strategies, as reviewed in the previous section of this chapter. These strategies include structural and instrumental powers, specialised lobbying departments, think tanks, declarations to the media, and funding politicians' campaigns, among others.

SMEs can hardly rely on business associations to communicate their preferences, and when they succeed in doing so, they are unlikely to successfully influence policies given the wide range of coordinated tactics that CLFs are able to deploy. The lack of SMEs' associations' resources prevents them from offering by-products that could encourage mass affiliation with SMEs. I expect in this case that SMEs will use tactics of denial or avoidance when facing the government policies that they have not contributed to shaping. Avoidance will take the form of evading or avoiding taxes and labour regulation by switching partially, or entirely, to the informal sector. This results in domestic firms competing among themselves in a smaller and partially informal market ('oligopoly with competitive fringe').

In competitive-corporatism, CLFs are well organised into cohesive business associations because the state consistently provides them with selective incentives and benefits worth protecting. SMEs are also represented by well-organised associations because the cost of collective action is low. I expect SMEs to be able

to challenge CLFs within business associations, thereby preventing CLFs from dominating them and pressuring them to find a consensus on which policies the association should promote through lobbying. SMEs' associations have enough resources to offer by-products to its members, encouraging them to maintain their affiliation. CLFs and SMEs are likely to communicate their policy preferences to politicians with equal success. The government is, therefore, more likely to enact policies beneficial to both groups when possible, which benefits most of the private sector.

In line with the academic literature, I expect to find more collectively beneficial policy outcomes in competitive-corporatism than in cartelism. This is because I expect business associations to be well organised and well-staffed, exhibit a high member-density, efficiently mediate affiliates' interests to undertake a variety of functions, promote economic efficiency by facilitating coordination, upgrade worker training, and reduce information costs (Doner & Schneider, 2010).

CLFs' voice is challenged by SMEs' contradictory interests on all policies, leading to policy outcomes that I expect to be more complex and less clear-cut in terms of impact; therefore, they are more difficult to analyse than in cartelism. I also expect to find a lower level of informal employment in competitive-corporatism than in cartelism because SMEs contribute to shaping policies and are, therefore, more likely to implement these policies.

To obtain their favourable policies, CLFs are able to deploy a narrower range of strategies in competitive-corporatism than in cartelism due to restrictions imposed by SMEs' associations. I expect SMEs to denounce CLFs' attempts to leapfrog associations, and SMEs pressure CLFs to find a consensus on which policies to promote. If CLFs are likely to deploy their structural and instrumental powers, SMEs are likely to argue that they represent most of the country's employment. SMEs are also likely to develop specialised lobbying departments thanks to their association's pooled resources.

Finally, in general, the status quo is likely to reflect the aggregated interests of the private sector as a whole, so a change of legislation reflects a change in the underlying networks of power between SMEs and CLFs.

In pluralism, the state does not provide CLFs with consistent benefits worth defending collectively. As a result, CLFs are not organised in cohesive groups and prefer lobbying on an individual basis with to their own resources. SMEs face the high cost of collective action and remain largely disorganised. I expect SMEs to be either unrepresented or represented by associations gathering only part of their respective sectors, overlapping with other associations and struggling to convince SMEs to associate. This means that CLFs and SMEs fail in communicating their policy preferences to politicians. The government has no reliable interlocutor since multiple individual firms and overlapping, unrepresentative associations attempt to

influence policies. I expect these numerous actors' challenging one another to create confusion due to their overlap; I do not expect them to balance one another which would have been the case if they represented clearly defined, well-articulated, and contradictory interests, such as in competitive-corporatism.

I expect government officials to solve this confusion by favouring the companies and groups they know personally and trust. This attitude makes the use of instrumental power a lot more efficient in influencing policies than any other lobbying tactic. This means that I expect to find instances in which companies with significant structural power fail to influence policies if an SME has greater personal connection to a politician. However, this also provides politicians with more leverage in policymaking than in competitive-corporatism and cartelism. I, therefore, expect politicians to maintain the upper hand over business on policies critical to their own political agendas.

The bulk of companies remain unlikely to successfully influence policy, and I expect SMEs and CLFs to use tactics of denial or avoidance in facing the government policies that they have not contributed to shaping. Avoidance will take the form of evading or avoiding taxes and labour regulation by switching partially, or entirely, to the informal sector. However, CLFs will face greater difficulty in switching to informality because they are fewer in number, the government can more easily control them, and operating in foreign markets forces them to conduct their activity formally. I expect to find a high level of informality, similar to the levels found in cartelism but inferior to informality levels associated with Competitive-Corporatism.

Table 3 below applies these three dynamics to specific policy areas: trade policy, regulations, and fiscal policies.

Table 3. Impact of business organisation on policies

Business organisation type	Effect on policies		
	Trade Policies	Regulations	Fiscal policy
Cartelism	<p>CLFs operating upstream lobby for higher tariffs, and CLFs operating downstream lobby for lower tariffs on their inputs to be able to import at cheaper prices, suffocating the smaller domestic firms.</p> <p>SMEs compete between themselves in smaller and partially informal markets.</p> <p>Oligopoly with competitive fringe situation.</p>	<p>CLFs lobby for favourable regulation regardless of SMEs' ability to comply. CLFs can lobby on wide-ranging regulations that apply to the entire private sector.</p> <p>The government supports CLFs in avoiding constraining regulations by enacting waivers on the grounds of firms' strong structural power (the significance of the investments and employment firms bring)</p>	<p>CLFs obtain significant tax incentives at the national and regional levels.</p> <p>The government shifts the tax burden onto SMEs and consumers through indirect taxes such as VAT. Both are unable to voice their opposition. Consequently, SMEs vastly evade or avoid these taxes, shifting partly or entirely to informality.</p>
Competitive-corporatism	<p>CLFs are unlikely to obtain tariffs that would damage other segments of their value chain because of SMEs' associations' organised opposition.</p>	<p>CLFs focus on promoting their specific sectoral interests. CLFs seek consensus with SMEs in promoting wide-ranging regulations.</p>	<p>CLFs and SMEs compete over fiscal incentives. They are not always likely to successfully obtain them because the government needs to avoid fiscal shortfalls.</p>
Pluralism	<p>No business association has a meaningful say on trade policies.</p> <p>The government maintains the upper hand on tariffs which it uses in support of its own political agenda, or in favour of well-connected firms.</p> <p>Business seeks individual arrangements and waivers.</p>	<p>The government enacts regulation favourable to well-connected firms or segments.</p> <p>The government uses regulation to pursue its political and developmental agendas but lacks articulate business' inputs, preventing it from enacting more relevant and more technical norms.</p>	<p>The government grants fiscal incentives and waivers to the best-connected firms or segments.</p> <p>Other firms are more likely to reject the legitimacy of taxes and are more likely to evade them – especially SMEs, which are less easily monitored.</p> <p>The state seeks to raise revenues by indirect taxes such as VAT and export taxes because they are hardly avoidable.</p>

5. CONCLUSION

This chapter showed that the type of policies the business community promotes through lobbying and other political influence mechanisms depends on firms' degree of coordination and whether firms face the competition of opposing organised interests. In cartelism, CLFs are free to promote their own narrow interests. In competitive-corporatism, CLFs and SMEs are equally well organised and need to find a consensus ahead of lobbying if they want to ensure their proposal's success. In pluralism, multiple individual and overlapping voices create confusion, encouraging politicians to favour the firms and associations they trust most – favouring well-connected firms, regardless of their size. In each of these three configurations, I expect business actors to deploy various lobbying tactics, explaining business' varying degrees of success and failure in influencing policy outcomes, thereby answering my second research question.

I also draw conclusions on business' varying contributions to collective welfare in these three modes of business organisation. In line with the academic literature, I expect the best organised business community to contribute to collective welfare through macroeconomic stabilisation, helping to lower unemployment and decrease informality – a scenario more likely under competitive-corporatism. In cartelism, I expect CLFs to promote their own narrower interests and heavily influence policies thanks to their structural and instrumental powers. The policies they promote are likely to be detrimental to SMEs, which remain the largest employers in Latin American countries. Consequently, CLFs' exclusive influence over policies is likely to be at the expense of collective welfare. I expect this political engagement of the firm to reinforce the oligarchic and patrimonialist elements of the state described in the scholarship on Latin America (Foweraker, 2018). Finally, a pluralist organisation of private interests allows for the firms best connected to key politicians to gain the upper hand during policymaking. Consistent sectoral policies are unlikely, and I expect firms to lose their benefits at each change of government. This risk discourages CLFs from making longer term investments, and it encourages SMEs to operate informally.

Overall, this theory has been widely confirmed by the primary data collected in 133 semi-structured interviews conducted in Ecuador (pilot), Argentina, Brazil, and Colombia between February and August 2018. Nonetheless, the study of these cases brings more nuance to these archetypes, especially in the case of competitive-corporatism in which policy outcomes are the most complex than expected.

The following chapters present this empirical data in two consecutive chapters for each country. The even chapters focus on how the benefit and cost of collective action have shaped CLFs and SMEs organisation, leading to cartelism (Colombia), competitive-corporatism (Brazil), and pluralism (Argentina). The odd chapters explore how each mode of business organisation has impacted the type of policies businesses have promoted through lobbying. These chapters also present a review

of lobbying tactics deployed in each case and instances of failed and successful attempts to influence specific trade, regulation, and fiscal policies.

Chapter 4

Cartelist business organisation in Colombia

President Iván Duque from the Democratic Centre (*Centro Democrático: CD*) party took office in August 2018. The *CD* was established in 2013 by former president Alvaro Uribe (2002-2010), in opposition to then-president Juan Manuel Santos from the *U* party (*Partido de la U*), Uribe's former party. The *CD* has continued policies in line with Uribe's legacy, including supporting investor confidence, foreign investment, maintaining strong macroeconomic fundamentals, fiscal prudence and taking a hard-line position on the guerrilla war by rejecting the 2016 peace agreement negotiated between the Santos' government and the guerrilla group *FARC* (*Fuerzas Armadas Revolucionarias de Colombia*).

In August 2018, newly elected President Duque announced his cabinet: as Defence Minister, Guillermo Botero, who was until then head of retailers' business association *FENALCO* (*Federación Nacional de Comerciantes*); as Foreign Minister, Carlos Holmes Trujillo, former head of the steel sector business association *Fedemetal* in the 1980s; as Environment Minister, Ricardo Lozano, former head of National Water Centre of *ANDI* (*Asociación Nacional de Empresarios de Colombia*), Colombia's largest business association; as Minister of Housing, Jonathan Malagón, who was until then technical vice president of the financial sector's business association, *Asobancaria*.

In December 2019, congress approved the President's tax reform which gradually reduces corporation tax from 33% in 2019 to 30% in 2021, sets a rate of 27% for a period of 20 years for firms with over 250 employees, and provides a minimum of USD310 million of new investment by 2024. Clearly, this legislation further decreases taxes for the country's largest companies. Colombian SMEs, defined as firms with fewer than 200 employees (El Congreso de Colombia, 2000), constitute 90% of the total number of firms, employ more than 80% of workers, and contribute 35% of GDP (Portafolio, 2019).

Meanwhile, the director of *ACOPI* (*Asociación Colombiana de las Micro, Pequeñas y Medianas Empresas*), the largest SME business association which represents most Colombian firms, recalls that he had to invite himself to tripartite meetings with the government, labour and business. He was never greeted by anyone there, and his name would not appear on subsequent photographs of the events. *ACOPI's* representative was only admitted on the condition he sat on a chair

against the wall. Other business associations, such as *ANDI*, *FENALCO* and *Asobancaria*, had a seat at the negotiation table. When, on one occasion, *Asobancaria*'s representative playfully offered his seat to *ACOP*'s, the Minister of Commerce, Industry and Tourism entered the room only to 'loudly ask who was this stranger that had taken the bankers' seat at the table and where the heck were the bankers sitting now'.¹⁴

This chapter explores what President Duque's cabinet appointments, large tax cuts to CLFs, and *ACOP*'s misfortune say about state-business relations in Colombia. The chapter shows that in the cartel mode of coordination, CLFs from all sectors organise efficiently into a cohesive and well-organised business association, *ANDI*, that has become the government's sole interlocutor in the policymaking process. Meanwhile, SMEs remain largely disorganised, struggling to articulate their demands and gain access to politicians. This chapter's first section applies this thesis' theory by evaluating the costs and benefits of collective action. It finds that both costs and benefits have been high for historical reasons. The second section verifies the expected outcome, a cartel mode of business organisation. It reviews the cartel features of the Colombian business community organisation, examining *ANDI*'s internal coordination mechanisms and relationship with government. It then documents the SMEs struggle for representation through the case of *ACOP*.

1. HIGH COST AND BENEFIT OF COLLECTIVE ACTION

The substantial fee for mandatory registration fee to the commerce registry, which is managed by the association of the chambers of commerce, *Confecámaras* (*Confederación Colombiana de Cámaras de Comercio*) has made the cost of collective action very high. *Confecámaras*' registration fee also prevents the political organisation of SMEs that cannot afford it, since un-registered firms are illegal and subject to prosecution. However, the registration fee represents an opportunity cost to those SMEs that can afford it: if the SME pays the fee, it loses the opportunity to use this money to employ one or two employees or to invest in improving or expanding their business.¹⁵ In exchange for this fee, *Confecámaras* has failed to provide SMEs with meaningful services. SMEs that do spend the fee to register their business legally are understandably reluctant to then pay yet another fee for affiliation to a business association that would better represent their interests. In a vicious circle, SME associations are likely to lack the funding and membership required to provide members with side benefits (networking events, accounting

¹⁴ Osorio, A., *ACOP* director, 10 July 2018, personal interview.

¹⁵ Calad, J., textile and fashion chamber's director (*ANDI*), 11 July 2018, personal interview.

services), or to organise actions and events that could bring them political victories and thereby attract more affiliates.

On the other hand, the benefits of collective action have been provided by decades of import-substitution industrialisation (ISI) policies consisting of protections (tariffs, rules of origins) and benefits to selected sectors. The law authorizing private actors, including business associations, to levy a tax on their affiliates (parafiscal funding) only increased the incentives for CLFs to organise. I expect them to have established a relation of mutual dependence with the state by forming cartel-like business associations.

1.1. High cost of collective action: *Confecámaras*

The state has been relying on *Confecámaras* to reach out to SMEs to implement its policies and offer financing lines.¹⁶ But, *Confecámaras* behaves like a ‘rent-seeking association pretending to be a business association because its fees are not met by a duty of interest representation’¹⁷. It aims to collect and administer a secured rent, doing so in return for modest efforts to provide a range of services which are in turn aimed at promoting higher registration rates instead of focusing on the needs of SMEs.¹⁸

The first Colombian chamber of commerce was established in 1878 in Bogotá to represent the interests of local businessmen. In 1918, the state put in place the commercial registry (‘the registry’). In 1931, the chamber of commerce of Bogotá redacted the law 28, which was quickly adopted by the government. It mandated the registration of all firms in return for a fee and delegated management of this to the chambers of commerce (Cámara de Comercio de Bogotá, 2021). In 2010, *Confecámaras* conducted a fierce lobbying campaign to push for the adoption of law 14-29, which condemns to liquidation any firm that has not paid the registration fee.¹⁹ For a company, this is equivalent to capital punishment: even firms accused of financing terrorism or laundering money only face fines and prosecution – not liquidation.

The 1931 authorisation from the state to a private entity to levy a registration fee qualifies as a parafiscal funding regime. Although it is not explicitly described as a parafiscal tax by Colombian law, it does follow this model. In France, the law of 9 April 1898, art. 21. which authorised chambers of commerce and industry to charge

¹⁶ Romero, Y., PTP construction sector manager, 09 August 2018, personal interview.

¹⁷ Reyes, F., superintendent of companies (2014-2018) and former Chairman of the United Nations Commission on International Trade Law (UNCITRAL), 11 November 2018, personal interview.

¹⁸ Reyes, F., superintendent of companies (2014-2018) and former Chairman of the United Nations Commission on International Trade Law (UNCITRAL), 11 November 2018, personal interview.

¹⁹ Reyes, F., superintendent of companies (2014-2018) and former Chairman of the United Nations Commission on International Trade Law (UNCITRAL), 11 November 2018, personal interview.

for registration, is acknowledged by law experts as being one of the first parafiscal regimes, before the term was even coined (Plazas Vega, 2005, p. 147, cited in Romero Molina, et al., 2012, p. 105). It fits the strict definition of parafiscal funding, whereby the state delegates some tax collection duties to autonomous agencies or associations representing professional interests, e.g. business associations (Rocha, 1999; Moscoso Suárez, 2013; Duverger, 1950). These private actors can use such revenues to promote their economic activity and ensure themselves complete financial autonomy (Mehl, 1954). Such parafiscal charges have been a common tool in the EU which provided member states with guidelines on their use in 1986 (OECD, 1986).

The management of this parafiscal tax has provided *Confecámaras* with substantial resources and a broad geographical reach: 57 subsidiaries distributed throughout 29 of the 32 Colombian departments (except Guainía, Vaupés and Vichada, which are densely forested and sparsely populated). The 57 chambers of commerce have been working as an oligopoly by sharing the 'market for registration', instead of competing to best articulate and represent their members' interests – as business associations would normally do.²⁰ *Confecámaras*' subsidiaries share the market for registration fees in a single large city between several subsidiaries, as is the case with the three chambers of commerce in Medellín.²¹

This is consistent with a previous study focusing on the UK which found that small chambers of commerce tend to be collective action oriented institutions (Bennett, 1995). In contrast, large chambers of commerce are largely service and fee oriented, so the overwhelming motive for firms' membership is to access individual and specific services rather than collective benefits (Bennett, 1995). Although membership remains voluntary in the UK and mandatory in Colombia, both countries' large chambers of commerce have been providing members with individualised services. The services are presented as 'incentives to affiliate' in the UK and as 'promoting formalisation' in Colombia, but their underlying logic is the same: associations seek to increase revenues in exchange for benefits instead of providing firms with political representation.

Confecámaras promotes formalisation by offering incentives consisting of diverse services and training, although these have remained extremely inefficient.²²

²⁰ Reyes, F., superintendent of companies (2014-2018) and former Chairman of the United Nations Commission on International Trade Law (UNCITRAL), 11 November 2018, personal interview.

²¹ Reyes, F., former superintendent of companies (2014-2018) and former Chairman of the United Nations Commission on International Trade Law (UNCITRAL), 11 November 2018, personal interview; Julliard, M., vice-president of Branquilla's chamber of commerce, Friday, 3 August 2018, personal interview; González Ávila, P. and Mora, J.-A., vice-president of institutional relations at the Bogotá chamber of commerce, 12 July 2018, personal interview.

²² Romero, Y., PTP construction sector manager, 09 August 2018, personal interview; Reyes, F., superintendent of companies (2014-2018) and former Chairman of the United Nations Commission on International Trade Law (UNCITRAL), 11 November 2018, personal interview.

Among them are a superficial service to assist with consulting, assessment and market intelligence, help with accounting, and guidance on paying taxes, on labour security and on rights in pensions and health.²³ More significantly, SMEs cannot access state support – or benefit from any favourable state policy – without registering with their local chamber of commerce. Colombia’s main industrial policy, the *Programa de Transformación Productiva (PTP)*, or programme of productive transformation, relies on *Confecámaras*’ network. It has a deeper geographical reach than the state itself, especially in rural areas in Antioquia, the so-called ‘Eje Cafetero’ (coffee growing regions), and Santander, among others.²⁴ The *PTP* offers to SMEs funding options and plans for technical upgrading, but these cannot be accessed without first being registered with their local *Confecámaras*’ subsidiary.²⁵

In other words, *Confecámaras* dramatically raises the cost of collective action for SMEs because it claims to represent them while instead promoting its own rent-seeking interests – its yearly registration fee – and crowding out other business associations. This mandatory fee is the main source of revenue for chambers of commerce, totalling around EUR\$500 million per year.²⁶ SMEs that reach sufficient turnover and profit levels to be able to afford the registration fee cannot then afford to pay additional membership fees to business associations that might actually articulate their interests and represent them politically – as is demonstrated below.

This discussion remains vague unless we seek to determine how ‘big’ a SME needs to be, to be both formal and to belong to a business association. Let’s consider that a firm allocates 5% of its turnover to registration and affiliation with business associations.²⁷ A firm would have to spend a monthly combined total of around USD\$1,120, consisting of USD\$747²⁸ for the yearly Commerce Registry fee and, approximately USD\$373²⁹ for affiliation with a small business association such as *ACOPI*. This firm would need to make a minimum yearly turnover of USD\$22,421³⁰ to afford this. Taking into account that the minimum wage was set at USD\$583³¹ per

²³ Romero, Y., PTP construction sector manager, 09 August 2018, personal interview.

²⁴ Romero, Y., PTP construction sector manager, 09 August 2018, personal interview.

²⁵ Romero, Y., PTP construction sector manager, 09 August 2018, personal interview. A programme of technical upgrading costs between USD\$8,000 to USD\$10,000 for 4 to 6 months of work to improve a firm’s production standards. In the construction sector, the PTP has a portfolio of projects costing in total USD\$150,000. Benefiting firms contribute about USD\$30,000 while the PTP (ministry) gives USD\$33,000 and the Chambers of Commerce, an estimated USD\$70,000 (all monetary values are expressed in their original currency).

²⁶ Reyes, F., superintendent of companies (2014-2018) and former Chairman of the United Nations Commission on International Trade Law (UNCITRAL), 11 November 2018, personal interview. Estimated value provided in euros by the interviewee.

²⁷ Reyes, F., superintendent of companies (2014-2018) and former Chairman of the United Nations Commission on International Trade Law (UNCITRAL), 11 November 2018, personal interview.

²⁸ González Ávila, P. and Mora, J.-A., vice-president of institutional relations at the Bogotá chamber of commerce, 12 July 2018, personal interview. This would be COP\$1 million a year, which is COP\$84,000 pesos a month which equivalent of 12 lunches in a standard local restaurant per month. This is based on the interview cited and the Purchasing power parities (PPP) exchange rate at the time of the interview in 2018, which was at 1,338.006 Colombian pesos to the USD, according to the OECD data base, available online.

²⁹ COP\$500,000.

³⁰ COP\$30,000,000.

³¹ COP\$781,242.

month – or USD\$7,006³² per year – in 2018 (Salario Mínimo Colombia, 2018), a firm would need a monthly turnover equivalent to over 3 minimum wages. Therefore, any firm that is unable to employ at least 2 or 3 employees, including the owner, is likely to be structurally unable to reach formalisation, never mind political representation.

Considering that, in 2017, 87.2% of formal firms only employed 1 to 9 people, this cost excludes most firms from the purview of the state and from formal financing options. This is clearly reflected in the rate of informality, which in 2017 was 88% for small-size and 22% for medium-size firms (OECD, 2019). This high rate of informality is easily understandable considering that firms with the capacity to hire 2 or 3 employees would prefer to expand their payroll rather than formalising their operations and paying taxes. In contrast, the benefits of collective action have been consistently high in Colombia.

1.2. High benefit of collective action: subsidies and ISI policies

Throughout the 20th century the Colombian state offered various incentive packages to CLFs, including parafiscal funds, direct targeted subsidies and protective tariffs.

Parafiscal funds, a form of privatised tax collection, are a source of endless revenues creating their own supporting coalition of firms to administer collection. In Colombia, the first parafiscal fund was created in 1928 to benefit coffee producers. The state delegated authority to *Federación Nacional De Cafeteros* – the main coffee-growing business association – to collect taxes on coffee exports and to invest these revenues in promoting the interests of the coffee industry (Romero Molina, et al., 2012, pp. 109, 112). This parafiscal tax was aimed at benefiting from high coffee prices while curbing inflation bursts.³³ The Coffee National Fund (*Fondo Nacional del Café*), created in 1927, worked as a privatised sovereign wealth fund receiving these higher than usual revenues from coffee exports.

This fund invested the foreign currency it levied directly into coffee firms and firms of mixed capital in the sectors of electric energy, steel and iron (Sáenz Rovner, 2002, p. 109, cited in Romero Molina, et al., 2012, p. 112). The metal mining sector was dependent on foreign revenues and foreign capital, while the electrical sector boomed (Pombo Vejarano, 2002) – Coffee National Fund reinvestment in these sectors thereby supported the industrialisation process. It reduced dependence on foreign capital and generated fruitful profits from ‘national champions’ firms. This period was the first phase of ISI policies, during which the Coffee National Fund was ‘a private project, financed with domestic savings that came from the accumulation

³² COP\$9,374,904.00.

³³ Inflation would hike due to a greater money supply created coming from exports’ revenues creating an inflow of foreign denominated currency in the domestic economy.

of capital in the coffee industry [focusing on] food, beverage, tobacco, apparel, footwear, and foundry products' (Pombo Vejarano, 2002, p. 8).

According to the import-substitution industrialisation (ISI) theory, using tariff and import quotas to protect domestic industries from competition during their infancy allows them to grow. This is a way of planning and programming the industrialisation of developing countries based on the Singer-Prebisch theory (Prebisch, 1962; Singer, 1950). It argues, contrary to Ricardo (1817), that developing a comparative advantage in commodities leads to a deterioration of the terms of trades. This is due to the raw commodities' long-term decline in price when compared with the price of manufactured goods, including more qualified labour and therefore more added value. This impoverishes the commodities' exporters, namely the developing countries. These policies of state-directed ISI date from the 1930s but were formally recommended by the United Nations Economic Commission for Latin America and the Caribbean (UN ECLA), led by Raul Prebisch, in 1950. The policies were continued well into the 1970s, by which time 'forced' industrialisation had almost become a Latin American continental policy goal (Lewis, 2019).

Such protected economic environments and subsidies permitted family firms to grow even though they were not part of the technological vanguard (Casanova, 2016). In Mexico, for example, ISI policies exaggerated the growth of industries, in particular those that were most heavily supported by the state (Casanova, 2016). In Argentina, Colombia and Mexico, tariff protection policies fostered market concentration in family firms that went on to form conglomerates (Vidal Olivares, 2016). In Argentina, the 1940s ISI policies consisted of regulations, protectionism, and supply contracts provided by state-owned enterprises. Argentine firms that benefited from these policies, and from the protected domestic market, flourished to become the basis of modern conglomerates (Fracchia, et al., 2010).

Throughout the twentieth century, Colombian governments have used such policies to develop the country's industry. The economic policy of the Reyes government (1904-1909) consisted of protecting new domestic manufactures from international competition. His administration followed the Mexican model, granting protective tariffs, concessions, and direct subsidies to enterprises and monopoly grants (Pombo Vejarano, 2002). Unlike the Mexican policy, Reyes consistently favoured domestic over foreign capital. After 1910, state protections were reduced to tariffs such as 50% on processed foods, textile and inputs from the cotton weaving sector.

During the 1930s, while maintaining agricultural protection, Colombian governments also established new ISI policies in the steel, rubber and chemical products sectors. In addition, tariff reform in 1931 increased import duties on all imported competing goods.

It was in this context, of firms seeking greater protection from foreign exchange and trade through tariff protection, that the business association *ANDI* was established in 1944 (Jiménez, 2019). It started in the city of Medellín following then President Alfonso López Pumarejo's visit to the businessmen heading the most significant industries of the country. The president reportedly expressed his government's interest in having a single body to represent the interests of the – often dispersed – industrial sector. Cipriano Restrepo Jaramillo, manager of the Colombian Tobacco Company, contacted other business leaders in Medellín and Bogotá to establish such an association. *ANDI* was founded by 26 CLFs from numerous sectors including the cement, steel, beer, tobacco, textile, chocolate, and fizzy drinks industries (El Tiempo, 2004).

Between 1945 and 1967, Colombian governments used the dependency theory to justify their ISI policies: they focused on protecting capital intensive industries against unfair competition from the United States and Europe which had already well-developed manufacturing sectors. These policies consisted of targeting sectors and firms directly with domestic credit, FDI, direct state promotion, trade and non-trade barriers and quantitative restrictions on imports. Among the most favoured sectors were rubber, plastics, petrochemicals, basic metals, chemical products, paper, transportation equipment and machinery (Pombo Vejarano, 2002). In 1969, the rate of effective tariff protection in manufacturing was of 53.3%, with outliers such as 668% for electrical machinery and 319% for transportation equipment (Díaz-Alejandro, 1976).

Between 1967 and 1989, industrial policy was a mix of ISI policies, direct export promotion and active exchange rate management. After 1990, governments began to roll back ISI policies in favour of greater economic openness (Ocampo & Villar, 1992, cited in Pombo Vejarano, 2002, p. 13).

The business landscape in Colombia confirms the expectation of this thesis in finding a cartel mode of organisation in which the costs and benefits of collective action are high. Parafiscal investments in the domestic industries combined with nearly a century of consistent ISI policies have provided CLFs with rent. This led to the creation of their own supporting coalition, *ANDI*, consisting of firms from all sectors which expanded thanks to these policies. *ANDI* has been unchallenged as the government's main interlocutor, not the least because SMEs have remained in a persistent state of disorganisation and informality. The next section will survey the features of the Colombian cartel mode of organisation in more detail.

2. THE ORGANISATION OF COLOMBIAN PRIVATE INTERESTS

The *Consejo Gremial Nacional (CGN)* is the umbrella association which claims to represent the entire private sector. In reality, it represents the main CLFs business associations (see table 4 below) which account for over half of the market share in their respective sectors.³⁴ The *CGN*'s most important and influential members are, in order: *ANDI* (CLFs from all sectors), *FENALCO* (retail) and *Asobancaria* (banks).³⁵ This status was confirmed when, in 2018, president Iván Duque named the president of *FENALCO*, Guillermo Botero, as Minister of Defence and Jonathan Malagón, the technical vice president of *Asobancaria*, as Minister of Housing, Cities and Local Development (The City Paper, 2018).

CGN lacks political power and has instead drawn its prestige from the power and influence of its affiliates. It routinely fails to propose coherent reforms that would be collectively beneficial. Instead, it is quick to defend its members and exert influence in a reactive manner, whether by sending letters to authorities or shaping public opinion with the aim of blocking legislative proposals that could be harmful to one of its members.³⁶ For example, the *CGN* sent out a letter condemning the special transitional justice tribunal for peace, which was going to investigate cattle ranchers accused of financing paramilitaries. Though this has little to do with business operations, the *CGN* came out in opposition to this cornerstone of the peace process, leaping to the defence of the cattle ranchers' business association, *Fedegan*, which is a *CGN* affiliate.³⁷ While the *CGN* publicly supported the 2015 peace agreement, it nonetheless explicitly voiced concern over the agreement's 'lack of clarity' regarding the tribunal's competence to make judgements, as well as over possible punishments for those with indirect responsibility for the guerrilla war's crimes (El Espectador, 2015).

³⁴ The exceptions are *Asociación Colombiana de Medianas y Pequeñas Empresas (ACOPI)*, *Confecámaras* and *ANDI*. *ACOPI* claims to represent SMEs and has a very limited influence within the *CGN* (Morales, G., Afrido's director, former director of CAMACOL (construction) and former ACP's vice-president (oil), 10 August 2018, personal interview; Osorio, A., ACOPI director, 10 July 2018, personal interview). *Confecámaras*, explored in the next section, is a network of regional Chambers of Commerce. It charges fees to firms for registration into the commerce registry.

³⁵ Reyes, F., superintendent of companies (2014-2018) and former Chairman of the United Nations Commission on International Trade Law (UNCITRAL), 11 November 2018, personal interview.

³⁶ Reyes, F., superintendent of companies (2014-2018) and former Chairman of the United Nations Commission on International Trade Law (UNCITRAL), 11 November 2018, personal interview.

³⁷ Morales, G., Afrido's director, former director of CAMACOL (construction) and former ACP's vice-president (oil), 10 August 2018, personal interview.

Table 4. Members of CGN (Consejo Gremial Nacional, 2017)

ACOLFA	Asociación Colombiana de Fabricantes de Autopartes	CAMACOL	Cámara colombiana de la construcción
ACOPI	Asociación Colombiana de Medianas y Pequeñas Empresas	CCI	Cámara Colombiana de la Infraestructura
Acoplasticos	Plásticos, química, petroquímica, cauchos, pinturas, tintas, fibras.	Colfecar	Federación Colombiana de Transportadores de Carga por Carretera
ANALDEX	Asociación Nacional de Comercio Exterior	Confecámaras	Red de Cámaras de comercio
Andesco	Asociación nacional de empresas de servicios públicos y comunicaciones (Agua, Aseo, energía eléctrica y gas natural, TIC y TV)	Cotelco	Asociación Hotelera y Turística de Colombia
ANDI	Asociación Nacional de Empresarios de Colombia	Fasecolda	Federación de Aseguradores Colombianos
Asobancaria	Sector financiero	Fedegan	Federación Colombiana de Ganaderos
Asocolflores	Asociación Colombiana de Exportadores de Flores	Fedepalma	National Federation of Oil Palm Growers of Colombia
AF	Asociación de Fiduciarias de Colombia	FENALCO	Federación Nacional de Comerciantes
Asofondos	Asociación Colombiana de Administradoras de Fondos de Pensiones y de Cesantías	SAC	Sociedad de agricultores de Colombia
Asocaña	Asociación de Cultivadores de Caña de Azúcar de Colombia		

Since its inception, *CGN*'s structural division and political partisanship has prevented it from acting as an umbrella business association that would foster consensus and be independent from its affiliates. When President Samper (1994-1998) was accused of having received illicit money from drug trafficking to fund his campaign, the main business associations — grouped in the *CGN* — demanded his resignation (Rettberg, 2002). However, support from some of the most influential businessmen in the country, known as the 'cacaos', was enough to enable Samper to finish his term. These businessmen were Luis Carlos Sarmiento (banking), Carlos Ardila Lülle

(*RCN TV*, Postobon), and Julio Mario Santo Domingo (Bavaria, Avianca etc).³⁸ Their support for Samper came about because their businesses depended on the government for loans, contracts and certain beneficial regulations (Rettberg, 2002).

This was a breaking point for the *CGN*: this division between the *CGN* and some of its most powerful affiliates weakened and delegitimised the association (Rettberg, 2005). Ever since, the *CGN* has held monthly meetings but has consistently failed to produce policy proposals or to foster consensus among its members.³⁹ In order to satisfy all members, the *CGN* produces only vague proposals, such as increased productivity, greater competitiveness, fostering investment and advocating for lower corporate taxes⁴⁰ (Consejo Gremial Nacional, 2018). The only unifier for the *CGN* is its support of former president Álvaro Uribe.⁴¹ Significantly, in 2018, the *CGN*'s president was Jorge Humberto Botero, Uribe's chief of campaign in 2002, and Minister of Commerce, Industry, and Tourism under Uribe's administration between 2003 and 2007.⁴²

Interviews confirmed that the *CGN* is largely an empty shell, drawing its influence from its individual members' structural and instrumental powers – particularly those of *ANDI*.⁴³ The political influence of *ANDI* illustrates well the cartel model of business representation. First, by its unrepresentativeness, as CLFs dominate the private sector's relationship with the state at the expense of SME interests. Secondly, by its sophisticated and efficient coordination strategies. Finally, *ANDI*'s CLFs maintain their shared market dominance as a result of their influence over trade policies, regulation and taxes – as I will show in chapter 5.

2.1. *ANDI*: uncontested government's interlocutor

Because it represents most investments from all sectors, *ANDI* is the business association with the most structural power in Colombia. However, it falls short of short of being a peak business association because it represents a minority of

³⁸ Morales, G., Afrido's director, former director of CAMACOL (construction) and former ACP's vice-president (oil), 10 August 2018, personal interview.

³⁹ Morales, G., Afrido's director, former director of CAMACOL (construction) and former ACP's vice-president (oil), 10 August 2018, personal interview.

⁴⁰ Morales, G., Afrido's director, former director of CAMACOL (construction) and former ACP's vice-president (oil), 10 August 2018, personal interview; Reyes, F., former superintendent of companies (2014-2018) and former Chairman of the United Nations Commission on International Trade Law (UNCITRAL), 11 November 2018, personal interview; Castro Lozano, J.-C., cosmetics, toilet, and absorbents chamber's director (*ANDI*), 04 July 2018, personal interview.

⁴¹ Morales, G., Afrido's director, former director of CAMACOL (construction) and former ACP's vice-president (oil), 10 August 2018, personal interview.

⁴² Humberto Botero, J., Fasescolda's president, *CGN*'s president, Minister of commerce, industry and tourism (2003-2007), 08 August 2018, personal interview.

⁴³ Morales, G., Afrido's director, former director of CAMACOL (construction) and former ACP's vice-president (oil), 10 August 2018, personal interview; Reyes, F., superintendent of companies (2014-2018) and former Chairman of the United Nations Commission on International Trade Law (UNCITRAL), 11 November 2018, personal interview.

Colombian firms with only around 1,200 affiliates⁴⁴ out of the millions across the country. For example, *ANDI's Fedemetal* (representing manufacturers of steel used in infrastructure) counts 70 members, representing 20% of the sectors' formal and significant firms but only about 3.5% of the total number of firms in the entire sector.⁴⁵ Overall, *ANDI* represents the largest firms operating in Colombia⁴⁶ with its members representing between half and the entire market share in their respective sectors, and contributing 70% of the Colombian private sector's GDP in 2019 (Suarez, 2019). For example, the 57 *ANDI* affiliates in the cosmetics, toiletries, and absorbents sector represent 87% of the cosmetics market and 90% of the toiletries' market, and include firms such as Unilever, L'Oréal, Procter & Gamble, Johnson & Johnson, Recamier, Colgate and Palmolive.⁴⁷ The *ANDI* 9 affiliates in the paper pulp, paper and paperboard sector represent 100% of the production of pulp, 100% of paper for printing and writing, 95% of the paper for packaging and 80% of loo paper production.⁴⁸

ANDI has also developed its structural power by cultivating direct access to key politicians and has established itself as the government's main business interlocutor. Firms that are not members of *ANDI* therefore have no political representation or access to politicians. No other business association is strong enough to contest *ANDI's* dominant role when it comes to the private sector's relations with government. *ANDI's* 29 sectoral chambers also broadly dominate their respective sectors' relationships with the government. For example, *ANDI's* chamber of cosmetics, toiletries and absorbents is the only consequential business representative in its sector.⁴⁹ The only other body is the Association of Sciences and Technology of the Cosmetic Industry (*Asociación Colombiana de Ciencia y Tecnología Cosmética: ACCYTEC*) which is entirely dependent on *ANDI's* political influence.⁵⁰ *ACCYTEC* affiliates include smaller firms and few large firms such as Air Liquide. However, *ANDI's* cosmetics, toiletries and absorbents chamber has a seat on *ACCYTEC's* board of directors and finances *ACCYTEC's* innovation award – making the latter association dependant on *ANDI*.

⁴⁴ Riveros Pineda, I. C., paper pulp, paper and paperboard's chamber director (*ANDI*), 04 July 2018, personal interview.

⁴⁵ My own calculation based on the following data: There are 2,000 firms operating in of which 300 to 400 were identified in the census of the national department (DANE) as robust and formal firms (Romero, Y., PTP construction sector manager, 09 August 2018, personal interview).

⁴⁶ Calad, J., textile and fashion chamber's director (*ANDI*), 11 July 2018, personal interview.

⁴⁷ Castro Lozano, J.-C., cosmetics, toilet, and absorbents chamber's director (*ANDI*), 04 July 2018, personal interview.

⁴⁸ Riveros Pineda, I. C., paper pulp, paper and paperboard's chamber director (*ANDI*), 04 July 2018, personal interview.

⁴⁹ Castro Lozano, J.-C., cosmetics, toilet, and absorbents chamber's director (*ANDI*), 04 July 2018, personal interview.

⁵⁰ Castro Lozano, J.-C., cosmetics, toilet, and absorbents chamber's director (*ANDI*), 04 July 2018, personal interview.

The government provides *ANDI* with unconditional access – never rejecting a request for meeting. Even *FENALCO*, the country’s powerful retailers’ association and a member of *CGN*, enjoys significant access to government – but this is not unconditional.⁵¹ The government often seeks expertise, data and input from *ANDI*, and uses this dialogue to build support from *ANDI*⁵² for its policies. This has meant that *ANDI* is almost always aware of policy changes before they are announced to the public. This privileged access to early policy drafts only varies in ‘how early’ the drafts are seen. As part of the association’s unconditional access to government, and alongside early sight of policy drafts, *ANDI*’s director has often met with key ministers, or even with the president, to discuss and shape policies affecting members’ interests.⁵³

The *sine qua non* conditions for a firm to become *ANDI*’s affiliate are to be significant in size, to pay large fees and to be accepted by the other members.⁵⁴ Chambers perform thorough checks on each new member’s capital, and the personal histories of its managers and CEO, before accepting a firm’s membership. This procedure is often used as an excuse to refuse applicants who do not belong to the existing members’ personal circle.⁵⁵ The director of *ANDI*’s textile chamber explains that she forms a close-knit group with her affiliates’ representatives, so that:

A large firm could ask for affiliation and if we see that the firm’s representative does not fit well in our interests, we would prevent him to affiliate, just because we do not wish to complicate our lives further. If he does not pay VAT or if he has bad reputation within our circles, we’d use it to reject him.⁵⁶

Even when a firm does manage to join one of *ANDI*’s sectoral chambers, it is not guaranteed fair representation nor complete access to political resources, which are often only available to members of the board of directors. The board is where requests and demands are first drafted and where each firm has one vote regardless of its size and connections. A seat on the sectoral chamber’s board of directors therefore grants significant decision-making power – power that cannot be obtained otherwise. For example, *Biopas*, a domestic pharmaceutical company that had recently joined *ANDI*’s pharmaceutical industry’s sectoral chamber led a fierce

⁵¹ Riveros Pineda, I. C., paper pulp, paper and paperboard’s chamber director (*ANDI*), 04 July 2018, personal interview.

⁵² Riveros Pineda, I. C., paper pulp, paper and paperboard’s chamber director (*ANDI*), 04 July 2018, personal interview.

⁵³ Riveros Pineda, I. C., paper pulp, paper and paperboard’s chamber director (*ANDI*), 04 July 2018, personal interview; Romero, Y., PTP construction sector manager, 09 August 2018, personal interview.

⁵⁴ Castro Lozano, J.-C., cosmetics, toilet, and absorbents chamber’s director (*ANDI*), 04 July 2018, personal interview; Romero, Y., PTP construction sector manager, 09 August 2018, personal interview.

⁵⁵ Reyes, F., superintendent of companies (2014-2018) and former Chairman of the United Nations Commission on International Trade Law (*UNCITRAL*), 11 November 2018, personal interview.

⁵⁶ Calad, J., textile and fashion chamber’s director (*ANDI*), 11 July 2018, personal interview.

lobbying campaign but still failed to obtain a seat on the board.⁵⁷ Biopas changed strategy, becoming active in just two committees, ‘access to markets’ and ‘regulation’, in an attempt to gain influence within the chamber. Biopas sent two part-time employees to attend all committees’ meetings to maximise its impact within *ANDI*. The strategy succeeded in gaining Biopas access to meetings and thematic workshops with the government on a monthly or bi-monthly basis, enabling it to gather information on early policy drafts. However, Biopas gained less than it had expected when it paid the substantial fee to join *ANDI* and does not feel it has played a significant role in crafting policies that have been beneficial to the firm.⁵⁸

Even though *ANDI*’s members are broadly homogenous and relatively few in number, the association still experiences conflicts of interest within and between its chambers, often between the suppliers and consumers of a given value chain. The following paragraphs review the coordination mechanisms that help to ensure cohesion within *ANDI*. This is particularly important, because *ANDI*’s members ‘know very clearly that it is better to find a solution internally rather than to say to the government that it should find a solution alone’.⁵⁹

2.2. *ANDI*’s coordination mechanisms

ANDI’s ‘vice-presidents’ maintain cohesion between the association’s sectoral chambers. They are leaders of a range of ‘transversal services’ (*ANDI*, n.d.), or centralised departments. The legal department is in charge of legislative lobbying, while the energy department is tasked with lobbying the executive on the price of gasoline, for example. Similarly, the sustainable growth department led the COP21 negotiations in support of those sectors with a large consumption of energy. In addition, vice-presidents support and coordinate between chambers on issues that affect several sectors simultaneously.⁶⁰

When two or more sectoral chambers have a conflict of interest, they usually reach a consensus internally. For example, *ANDI*’s chamber of home appliances got the ‘7.21’ resolution issued which made conformity certificates for batteries mandatory, ensuring that they do not contain mercury, lithium nor plumb.⁶¹ *ANDI*’s chamber of toy producers then complained to *ANDI* because its members import non-compliant batteries to include with the toys they sell, and certification would significantly increase their production costs. A consensus was reached that toy producers would have a transitional year to pass the certification. Home appliances

⁵⁷ Vega, P., institutional relations’ director at Biopas, 19 and 25 July 2018, personal interview.

⁵⁸ Vega, P., institutional relations’ director at Biopas, 19 and 25 July 2018, personal interview.

⁵⁹ Leal del Castillo, F., home appliances’ chamber director (*ANDI*), 06 July 2020, personal interview.

⁶⁰ Riveros Pineda, I. C., paper pulp, paper and paperboard’s chamber director (*ANDI*), 04 July 2018, personal interview.

⁶¹ Leal del Castillo, F., home appliances’ chamber director (*ANDI*), 06 July 2020, personal interview.

supported the transition at minor cost, by mediating with cheaper labs abroad offering a renewable three-year certification.⁶²

The conflict between two *ANDI* chambers, *Fedemetal* and home appliances, over the US 2.32 tariff is another example of a successful resolution. The '2.32' is a protective tariff on steel produced in the United States which the Colombian steel sector feared would push cheap Turkish and Chinese steel producers to seek new markets in Latin America.⁶³ In response, *Fedemetal* promoted protective tariffs in Colombia on all steel.⁶⁴ *ANDI*'s home appliance affiliates, who use imported steel, strongly opposed this measure. Both chambers finally agreed⁶⁵ to push for the adoption of selective import tariffs that would exclude most types of steel used by the home appliance sector.⁶⁶ This resolution was adopted by the government exactly as it was proposed by *ANDI*'s chambers: '*DIAN – Resolución 35 de 2018*' (DIAN, 2018).⁶⁷

When the chamber directors fail to reach a consensus, *ANDI*'s president settles the debate, either by favouring one side or presenting the conflicting views to the government to letting it decide which side to favour.⁶⁸ Such a conflict of interest arose over a tax on sugary drinks included in the 2017 national fiscal reform. It was intended that revenues from the tax would be allocated to the health sector. *ANDI*'s four health sector chambers (medical supplies, health, pharmaceuticals and industrial and medical gas) were initially supportive of the tax, while the drinks, flavours and taste, and foods chambers opposed it. When the chambers could not reach a consensus, *ANDI*'s director settled the conflict by opposing the tax on sugary drinks, arguing that it would set a precedent for further tax increases on foodstuffs or vices that cause health issues and would therefore adversely affect other industries affiliated to *ANDI*.⁶⁹ Publicly, his argument was different: he claimed that studies in Colombia had not demonstrated the efficacy of such taxes in altering people's behaviour and that sector specific taxes are unfair and go against the principles of free competition (El Nuevo Siglo, 2016).⁷⁰ *ANDI*'s director asked

⁶² Leal del Castillo, F., home appliances' chamber director (ANDI), 06 July 2020, personal interview.

⁶³ The United States was the largest importer of steel in 2018 (Krishna, 2019) so that such a measure led to the fear of a global steel over production and subsequent drop in global price of steel. Turkey was constituting 3% of the steel imported to the United States and although China did not make it to the top ten it remained the largest steel exporter in the world (Krishna, 2019).

⁶⁴ Lesmes, J. M., Fedemetal chamber director (ANDI), 24 July 2018, personal interview.

⁶⁵ Home Appliances' director explained that this consensus was found thanks to the trust that both directors have fostered over the years by working on the same floor, at *ANDI*'s headquarters.

⁶⁶ Lesmes, J. M., Fedemetal chamber director (ANDI), 24 July 2018, personal interview; Leal del Castillo, F., home appliances' chamber director (ANDI), 06 July 2020, personal interview.

⁶⁷ Leal del Castillo, F., home appliances' chamber director (ANDI), 06 July 2020, personal interview.

⁶⁸ Riveros Pineda, I. C., paper pulp, paper and paperboard's chamber director (ANDI), 04 July 2018, personal interview.

⁶⁹ Jurado Moncayo, C. E., health sector's chamber director (ANDI), 9 July 2018, personal interview; Sánchez González, M., medical devices and health supplies' chamber director (ANDI), 6 July 2018, personal interview.

⁷⁰ Jurado Moncayo, C. E., health sector's chamber director (ANDI), 9 July 2018, personal interview; Sánchez González, M., medical devices and health supplies' chamber director (ANDI), 6 July 2018, personal interview.

affiliates from the health sector to support the position, which they did.⁷¹ The tax increase was excluded from the 2017 reform.

When a conflict of interest arises between members of a sectoral chamber, *ANDI* has three main strategies to resolve them: promote an unfair representation in the board thereby reducing the number of firms with decision-making power and facilitates imposing decisions on other members, holding votes on contentious issues, or allowing the chamber to maintain a neutral position and externalising the conflict by letting firms lobby on their own. Each of these strategies is illustrated in the paragraphs below.

The chambers' boards of directors take all the important decisions and while some boards include all members, others only include some. For example, as mentioned previously, the newly affiliated firm Biopas tried unsuccessfully to win election to the board of *ANDI*'s pharma chamber. It remained a 'second rank' member, a member of the audience with only a consultative status. If board members have a different opinion to that of the audience, the board takes its decision without reaching a consensus.⁷²

Boards make decisions with majority votes when conflicts of interests are mild. Of the 9 members of the chamber of paper pulp, paper and cardboard, it is often the case that only 5 members are supportive of a particular policy or communication campaign. The remaining 4 members are frequently not impacted – or only mildly so – by the majority position and agree to remain neutral. They neither block nor support the majority's decision. This resolution is however only possible over moderate conflicts of interests that do not touch upon significant commercial interests. In contrast, *Fedemetal*, *ANDI*'s steel sectoral chamber, affiliates firms from different levels of the sector's value chain. A policy beneficial to the sales of some members could entail hiking the production costs of other members. In this case, firms compensate each other over time. The members most likely to drive the chamber's consensus on a specific policy issue are those most affected. The chamber asks members that might lose out from the policy to remain neutral and refrain from opposing it. In return, the losers are promised preferential treatment in a future conflict of interest.⁷³

When a firm wishes to lobby for a policy that benefits itself without hurting other affiliates, those other affiliates usually agree to remain neutral. They let the firm perform its own individual lobby using *ANDI*'s centralised resources, legislative know-how and aggregated sectoral data. The chamber's director supports the firm's

⁷¹ Jurado Moncayo, C. E., health sector's chamber director (*ANDI*), 9 July 2018, personal interview; Sánchez González, M., medical devices and health supplies' chamber director (*ANDI*), 6 July 2018, personal interview.

⁷² Vega, P., institutional relations' director at Biopas, 19 and 25 July 2018, personal interview.

⁷³ Leal del Castillo, F., home appliances' chamber director (*ANDI*), 06 July 2020, personal interview.

efforts by offering to mediate between the firm and the government and attending meetings. Chamber directors are well known figures, often speaking for an entire sector, and their presence makes it far easier for an individual firm to obtain a meeting with government ministers.⁷⁴

ANDI decides when, and on which issues, its members can lobby individually. Firms rarely bypass the association to defend their own narrow interest against the group. Acesco, a steel producer and a *Fedemetal* affiliate, has pushed to enact higher import tariffs to protect goods it produces. However, *Fedemetal* prefers to oppose tariffs or to stay neutral, because most of its affiliates are steel importers. Acesco refused to comply with this consensus and lobbied the government directly. The government notified *Fedemetal* of Acesco's lobbying activities, and *Fedemetal* forced Acesco to accept the association's consensus.⁷⁵ By contrast, Techint Colombia abided by *Fedemetal*'s against seeking protective tariffs in Colombia.⁷⁶ But the company's Argentinian headquarters adopted a different strategy: it successfully negotiated with then-President Donald Trump for an exemption from the US tariff on steel for its Argentinian and Brazilian subsidiaries⁷⁷ (The National Law Review, 2019).

When *ANDI* cannot solve a conflict of interest internally, it lets firms lobby on their own. This is a way of externalising contentious issues in order to preserve internal cohesion. For example, in negotiating the FTA between Colombia and Korea, Samsung-Colombia agreed to represent itself on the Korean side, supported by its headquarters, to avoid creating conflict with other members of *ANDI*'s home appliances chamber.⁷⁸

Similarly, the director of *ANDI*'s textile and fashion chamber preserved cohesion by prohibiting discussions about the 'rule of origin'. The rule of origin has repeatedly provoked heated debates because it determines where a product was manufactured, which in turn enables the government to implement trade policy measures, such as tariffs, trade preferences, quotas, and anti-dumping measures (WTO, 2021). The chamber used to be one of the most divided, because its affiliates represent different levels of the value chain with often incompatible preferences over trade policies. On the rule of origin, firms have typically lobbied the government either alone or by forming temporary alliances with other firms, outside of business

⁷⁴ Riveros Pineda, I. C., paper pulp, paper and paperboard's chamber director (*ANDI*), 04 July 2018, personal interview.

⁷⁵ Lesmes, J. M., *Fedemetal* chamber director (*ANDI*), 24 July 2018, personal interview; Gonzalez Garza, F., Acesco's executive president, 02 August 2018, personal interview.

⁷⁶ Deleonardis, L., director of institutional relations at Techint (Argentina), 18 June 2018, personal interview; Casas, M., head of institutional relations at Techint Colombia, 13 July 2018, personal interview.

⁷⁷ Deleonardis, L., director of institutional relations at Techint (Argentina), 18 June 2018, personal interview; Casas, M., head of institutional relations at Techint Colombia, 13 July 2018, personal interview.

⁷⁸ Leal del Castillo, F., home appliances' chamber director (*ANDI*), 06 July 2020, personal interview.

associations.⁷⁹ Similarly, the director of the home appliances chamber forbade discussions of divisive commercial defence issues, instead focusing on technical regulations, energy efficiency, garbage collection and proper labelling.⁸⁰

When the association fails to resolve a recurring conflict of interest, those firms that feel inadequately represented can disaffiliate. Producers of long steel products, used in construction, left *Fedemetal* in 2014 to create a new chamber of steel producers within *ANDI*. Colombian domestic long steel makers traditionally sought protective tariffs and were fearful of competition from Turkey. In contrast, firms producing flat steel, used in manufacturing home appliances, oppose tariffs and promote free-market reforms because their inputs are imported.⁸¹ When multinational corporations, Votorantim (Brazil) and Ternium (Argentina), active in flat steel, bought out Colombian long steel makers, they affiliated to *Fedemetal*. From that point, long-steel makers felt underrepresented because *Fedemetal* was unwilling to defend what the long-steel industry considered to be ‘enough’ protectionist measures.

These producers left to create their own chamber within *ANDI*, and have since been free to focus on the issue of smuggling, their industry’s most pressing challenge.⁸² However, the government has questioned their legitimacy to speak for the steel sector, and so has requested that they coordinate with *Fedemetal* on wider sectoral issues. Unable to reach a consensus, the two often present their own, divergent, positions to the government.⁸³

This separation served to reduce the conflicts of interest within *Fedemetal*, and allowed it to better defend the interests of flat steel producers. Thanks to this efficiency and homogeneity, Cotecmar, representing the military shipyard industry, joined shortly after, seeing sufficient benefit in *Fedemetal* membership. *Fedemetal* took this opportunity to seek to include its flat steel producing members in a government certification scheme, allowing them to provide steel for the military shipyard industry. The association also sought a similar certification allowing members to supply steel for the military aeronautic sector, under the supervision of Airbus.⁸⁴

Similarly, a conflict over ‘the rule of origin’, which imposes tariffs on goods that were not made from Colombian inputs, led cloth importers to split from *ANDI*’s chamber of textile and fashion and establish the Confection association. When a new director of the textile and fashion chamber decided to exclude discussions on

⁷⁹ Calad, J., textile and fashion chamber’s director (ANDI), 11 July 2018, personal interview.

⁸⁰ Leal del Castillo, F., home appliances’ chamber director (ANDI), 06 July 2020, personal interview.

⁸¹ In the case of Colombia which does not produce this input domestically.

⁸² Lesmes, J. M., Fedemetal chamber director (ANDI), 24 July 2018, personal interview.

⁸³ Lesmes, J. M., Fedemetal chamber director (ANDI), 24 July 2018, personal interview.

⁸⁴ Lesmes, J. M., Fedemetal chamber director (ANDI), 24 July 2018, personal interview.

rule of origin issue from her agenda, those large importers of cloth that had left to found Confection chose to re-affiliate with *ANDI*. Ultimately, the government approved a law of origin which benefitted the few large cloth producing members of *ANDI* while disadvantaging the far more numerous SMEs that rely on imports of cheap cloth.⁸⁵

This section demonstrated that *ANDI* affiliates CLFs, and seeks to defend their interests, while also having a wide range of coordination mechanisms between and within chambers to maintain internal cohesion. Moreover, it is – almost exclusively – the government’s main interlocutor. In contrast, SMEs have struggled to convince firms to affiliate, to coordinate their interests, and to make themselves heard in government.

2.3. SME’s struggle for representation

ACOPI represents micro, small and medium-size firms through its regional subsidiaries, coordinated by one national body. Established in 1956, *ACOPI* is only 12 years younger than *ANDI* and is also funded exclusively by membership fees.⁸⁶ The board of directors is composed of the representatives of the seven main regional subsidiaries. The board decides what *ACOPI*’s position will be on all issues by a simple majority vote. If one region ‘loses’ the vote, the others will likely compensate the loser by supporting its position at a later date, in a vote that matters less to them – similar to the way members of *ANDI*’s sectoral chambers settle on policy positions.

ACOPI has generally struggled to attract and keep affiliates. Firms and small associations frequently disaffiliated, particularly if they have suffered a loss of revenue due to unfavourable economic conditions. Regardless of the number of its affiliates, it broadly defends SMEs’ interests. This makes the free-rider issue more acute since it is not necessary for a firm to affiliate to *ACOPI* in order to benefit from *ACOPI*’s efforts when, for example, it successfully lobbies government to pass favourable legislation. But, with fewer members, *ACOPI*’s revenues are smaller, limiting its ability to hire staff in support of its lobbying actions.

ACOPI improved its access to political resources and policymakers in 2015 thanks to the efforts of its president.⁸⁷ His struggle showcases the degree to which SMEs are excluded from the policymaking process.

Antonio Osorio is the *ACOPI* national representative and is in close contact with the the Ministry of Trade, Commerce and Industry, the Ministry of Labour, *Propaís* (the government agency linking public and private sectors) and Bancoldex

⁸⁵ Calad, J., textile and fashion chamber’s director (*ANDI*), 11 July 2018, personal interview.

⁸⁶ Osorio, A., *ACOPI* director, 10 July 2018, personal interview.

⁸⁷ Osorio, A., *ACOPI* director, 10 July 2018, personal interview.

(the state bank supporting Colombian firms in import-export). His work to gain access to these institutions and their associated policymakers was a three-year long process. This enhanced access has enabled *ACOPI* to gain credibility among its members and other governmental institutions.

Mr Osorio has attended all meetings, but often only after being made aware of the time and place by friends belonging to other *CGN*'s associations, rather than being officially invited. At first, no one would greet Mr. Osorio at meetings of government representatives and *CGN* business associations, either because attendees did not regard him as a worthy businessman, did not know him personally, or took little interest in finding out who he was.⁸⁸

Moreover, Antonio Osorio explains that, being an unusually tall black man, he was often the most physically noticeable and memorable person in the room. This, he argues, helped people remember that '*ACOPI* was in the room'. Meetings would usually end with a group picture which was then published and included the participants' names in the footer – minus the name of Antonio Osorio. Over time, Osorio decided to strategically place himself at the front and centre of the picture and as close as possible to the most important person in the room. He argues that he would contrast so much with the other short, white participants that they eventually started to ask for his name and to list it at the bottom of the picture in order to avoid further awkwardness. He finally started receiving official invitations to attend to the meetings.⁸⁹

ACOPI also struggled to gain a seat on the tripartite permanent labour committee where it could contribute to labour-related policies. The Minister, Vice Minister and the unions seat on one side of table, while representatives of business associations (*ANDI*, *FENALCO*, *Asobancaria* and *SAC*) face them from the other side. When *ACOPI* was admitted to the committee, the other members did not rearrange the seating to allow Mr. Osorio to place on the business associations' side of the table. Instead, they added a chair against the wall, behind the line of business associations, facing the backs of the *FENALCO* and *Asobancaria* representatives. Antonio Osorio explains he interpreted this as 'a very clear message that *ACOPI* did not matter and that its inclusion was cosmetic'⁹⁰. He asked *ANDI*'s representative to grant him a place at the table in order 'to avoid complete humiliation'⁹¹. They improvised by adding a chair at the very end of the table, where it remained thereafter.⁹²

⁸⁸ Osorio, A., *ACOPI* director, 10 July 2018, personal interview.

⁸⁹ Osorio, A., *ACOPI* director, 10 July 2018, personal interview.

⁹⁰ Osorio, A., *ACOPI* director, 10 July 2018, personal interview.

⁹¹ Osorio, A., *ACOPI* director, 10 July 2018, personal interview.

⁹² Osorio, A., *ACOPI* director, 10 July 2018, personal interview.

After a while, Antonio Osorio grew tired of his position at the end of the table, from where he struggled to contribute to the conversation. On one occasion, he asked Santiago Castro, *Asobancaria*'s president at the time, to swap chairs. Both men playfully imagined what the minister's reaction would be if *ACOPI* was seated closer to him and *Asobancaria* further away. They swapped chairs, and the minister entered the room only to 'shout across the table at *Asobancaria*, asking what on earth was its representative doing down there'⁹³. Santiago Castro played along, arguing that *ACOPI* was more important than *Asobancaria* as it represents the overwhelming majority of Colombian firms. Clearly disturbed, the minister argued that all participants were equal, and that 'the physical distance from himself was not symbolic of the importance that government gave to each representative'⁹⁴. Following this incident, Santiago Castro claimed his chair back from Antonio Osorio who repeated the minister's argument that all business associations were equal and that chairs did not matter. Ever since, the seating arrangement for the business association representatives has depended only on who arrives first.⁹⁵

ACOPI's struggle to access policymakers is continuous. In 2018, *ACOPI* lost its seat on the tax reform permanent committee. It was replaced by the business association representing logistics and exporters, whose president was a friend of the committee chair. This was one of the most important committees for *ACOPI* to attend, as it granted the opportunity to make modifications to tax reforms at their drafting stage. *ACOPI* used its position to mitigate the impact of tax reforms on micro, small and medium size firms. After its exclusion from the committee, *ACOPI* was made aware of tax reforms only at their discussion stage, by which point its influence was greatly reduced. At this stage, *ACOPI* has to place a formal request to book an appointment with the minister and then book another with the committee afterwards, before it even can share its analysis of the reforms' impact on SMEs. This analysis is merely consultative and non-binding for the government, which then may, or may not, amend the policy.

ACOPI's struggle to provide SMEs, most of which are not affiliated, with substantial representation contrasts sharply with *ANDI*'s exclusive representation of its CLF affiliates, and with the variety of coordination mechanisms *ANDI* has in place to resolve collective action issues. Parafiscal funds and decades of ISI policies – consisting of protections and benefits to certain sectors – have created a powerful incentive for CLFs to organise efficiently. Colombian SMEs' struggle for representation has been compounded by the CLFs' organisational strength, mainly represented by *ANDI*. This combination has provided CLFs with profound influence

⁹³ Osorio, A., *ACOPI* director, 10 July 2018, personal interview.

⁹⁴ Osorio, A., *ACOPI* director, 10 July 2018, personal interview.

⁹⁵ Osorio, A., *ACOPI* director, 10 July 2018, personal interview.

on a wide range of policies, enabling them to defend their market position and rents (stemming from favourable tariffs, regulations, and tax systems), as is explored in the next chapter.

3. CONCLUSION

This chapter has showed that the combination of high costs and high benefit of collective action has produced a cartel mode of business organisation in Colombia. The interests of CLFs have dominated the private sector's relationship with the state through *ANDI* and a few other associations within the *CGN*. In contrast, a small number of SMEs' have their interests represented by associations that struggle for survival or are forced to strike deals with *ANDI*. The majority of SMEs, meanwhile, have remained informal: legally non-existent and prosecutable entities.

Well-organised and uncontested CLF business associations have therefore been the only ones able to communicate their interests to the government. As a result, policies have been heavily directed towards their own interests. The next chapter will explore which policies CLFs have promoted through lobbying, which techniques they used and how successful they have been. If, as expected, SMEs and CLFs' policy preferences are contradictory, CLFs will have undermined the state's ability to produce reforms aligned with the preferences of its own citizens. Because SMEs employ most of the population, citizens' preferences are far more likely to be closer to the needs and priorities of SMEs. When SMEs are informal, they do not comply with labour policies nor provide their workers with social protections, hindering the implementation of social policies. This issue is likely to remain unresolved as long as SMEs struggle for political representation while unchallenged oligarchic interests can influence a wide range of reforms at their early drafting stages.

The next chapter explores CLFs' preferences in the areas of trade policy (such as FTAs and tariffs), favourable regulation and tax breaks, with illustrations at the national and regional levels. It lays out the mechanism through which powerful business actors successfully influence these policies by using revolving doors, access to early drafts, legislative lobbying and ties to embassies.

Chapter 5

Conglomerates and large firms' capture of policies in Colombia

In the two weeks prior to legislators voting on wide-ranging fiscal reform in 2017, 'the entire *ANDI* had basically moved into congress and left [its] offices empty'⁹⁶. Thanks to this lobbying effort, *ANDI*'s interests were reflected in the final version of the bill.⁹⁷ *ANDI*'s success illustrates that, unchallenged by opposing interests, CLFs have leveraged their structural and instrumental powers to influence government policy. These findings are consistent with the literature's prediction that a combination of strong structural and instrumental powers enables big business to have an undue influence on policy (Castañeda-Angarita & Doyle, 2017; Fairfield, 2015).

In the first section, this chapter goes a step further in exploring the working of instrumental power, by looking at how firms' cohesion and organisation has translated into specific strategies to gain influence. The case studies presented in the second section show that CLFs have been largely successful in influencing trade policy (FTAs, tariffs), technical regulation, tax reforms and in obtaining tax breaks at the regional and national levels. This evidence answers the second research question of this work: the cartel business mode of organisation determines the type of policies the business community promotes through their lobbying and other political influence mechanisms, and their varying degrees of success and failure in influencing policy outcomes in Colombia.

Confirming this thesis' theory expectations for a cartel business mode of organisation, Colombian CLFs have largely promoted policies that protected their oligopolies and have imposed higher costs on SMEs, preventing their growth and hindering their technological improvement. This has directly translated into underemployment, with SMEs – which employ the majority of Colombian workers – often opting for partial informality. Indeed, informality in Colombia (57.25% in 2018) is higher than in Brazil (38.27% in 2015) and Argentina (48.14% in 2018) (World Bank, 2019). In pushing for favourable policies, CLFs have employed a wide array of strategies, which are reviewed in the next section of this chapter. These strategies include structural and instrumental powers, specialised lobbying departments, declarations to the media, and leveraging contacts abroad, among others.

⁹⁶ Riveros Pineda, I. C., paper pulp, paper and paperboard's chamber director (*ANDI*), 04 July 2018, personal interview.

⁹⁷ Riveros Pineda, I. C., paper pulp, paper and paperboard's chamber director (*ANDI*), 04 July 2018, personal interview.

1. STRATEGIES OF INFLUENCE

This section sets out the Colombian CLFs' preferred methods of influencing policy: revolving doors, access to early policy drafts, contact with legislators, and leveraging foreign embassies. These methods help to explain CLFs' high degree of success in influencing a wide range of policies in Colombia.

1.1. Revolving doors

President Duque's appointment of business association representatives as ministers in 2018 was not an oddity but rather a symptom of widespread and deeply entrenched practices. Revolving doors – the appointment of business leaders as government officials and vice versa – are an important way for businesses to access government as they attempt to align state policies with their own interests. A common career path for public officials in Colombia is to join one of the *CGN*'s business associations after their time in office has ended.

The director of the *ANDI*'s chamber of cosmetics, toiletries, and absorbents in 2018 had previously worked in the executive branch of government, both at the agency for exports promotion (Pro-Colombia), and at the Ministry of Commerce, Industry, and Tourism (*MinCIT*). At the latter he was involved in the Programme of Productive Transformation (*PTP*), the main industrial policymaking department. While employed by the Ministry of Commerce, Industry, and Tourism, he worked hand in hand with *ANDI* in negotiating laws, regulations and programmes to support the growth of the sector. This job included the reduction of regulation requirements, reduction of paperwork, the replacement of Colombian norms with those of the EU, and promoting better international practices by ensuring that Colombian cosmetics follow the EU and US 'CosIng' guidelines (the list of the ingredients that are secure enough to be used in cosmetics).⁹⁸

Following his career in the public sector, he joined the multinational Unilever as head of institutional relations – a lobbying post – and then moved on to lead the sector's main business association: *ANDI*'s chamber of cosmetics.⁹⁹ *ANDI* hired him specifically because the firms he had been supported during his time in *MinCIT* wished to collaborate more closely with him.

Similarly, the director of *Afidro*, one of the most important pharmaceutical business associations, started his career as a government official. He was then appointed as the vice-president of *Fasecolda*, the insurance sector's business

⁹⁸ Castro Lozano, J.-C., cosmetics, toilet, and absorbents chamber's director (*ANDI*), 04 July 2018, personal interview.

⁹⁹ Castro Lozano, J.-C., cosmetics, toilet, and absorbents chamber's director (*ANDI*), 04 July 2018, personal interview.

association. After a short period of working for the government again, he became vice-president of the public construction sector's business association (*Cámara Colombiana de la Infraestructura: CCI*). He left this position for a job in another business association representing the oil industry before finally becoming head of *Afidro*.¹⁰⁰

The revolving door also works at lower levels of seniority. For example, I interviewed a junior member of a Democratic Center senator's legislative team who later went to work at *Asobancaria* shortly after President Duque's election.¹⁰¹

Such career paths are commonplace in all sectors and are exploited to gain greater policy influence. For example, a number of state officials who had mapped Colombia's metallurgic reserves while working for the government's Geology Service were then hired by AngloGold Ashanti in its initial attempt to gain control of the concessions (Zaitch & Gutierrez Gomez, 2015). SMEs in the mining industry were at a significant disadvantage when applying for titles because of the undue advantage gained by AngloGold Ashanti thanks to its use of revolving doors (Zaitch & Gutierrez Gomez, 2015).

1.2. Access to early drafts

Scholarship on lobbying has found evidence that the earlier business actors access a policy draft, the more likely they are to see their interests reflected in the final bill (Fairfield, 2015). In the US, firms often lobby for environmental bills rather than against them, suggesting that they have participated in the earlier stages of drafting these bills alongside government agencies and specialist think tanks (Kamieniecki, 2006). The empirical evidence presented in this section confirms that the literature's findings apply to the case of Colombia. *ANDI's* lobbying squad not only has wide-ranging access to policymakers but also to early policy drafts.

The government's technical team routinely asks *ANDI* for its contribution to the creation of new standards.¹⁰² The Health Ministry and the Drugs Price Commission always seek comments on policy drafts from the pharmaceutical sector's business associations. The Ministry then organises a meeting with the associations to discuss their comments.¹⁰³ Similarly, *ANDI's* paper industry chamber, whose 9 affiliates represent nearly 100% of the sector's market share, is 'always a point of consultation' for the government. When a Ministry or a technical

¹⁰⁰ Morales, G., Afrido's director, former director of CAMACOL (construction) and former ACP's vice-president (oil), 10 August 2018, personal interview.

¹⁰¹ Tocaría Díaz, D., legislative team (UTL) of a democratic centre's senator, 10 September 2018, personal whatsapp communication.

¹⁰² Riveros Pineda, I. C., paper pulp, paper and paperboard's chamber director (ANDI), 04 July 2018, personal interview.

¹⁰³ Morales, G., Afrido's director, former director of CAMACOL (construction) and former ACP's vice-president (oil), 10 August 2018, personal interview.

department formulates a draft policy, it is amended in direct collaboration with the association, before being shared with other stakeholders for wider consultation.¹⁰⁴

A business association representative¹⁰⁵ explained that her association initiated and drafted a law against smuggling designed to protect its own affiliates. It presented the draft to Colombia's tax agency (*Dirección de Impuestos y Aduanas Nacionales: DIAN*) which agreed to support it. Together, the association and *DIAN* presented the draft to the Trade Minister and the Finance Minister, both of whom also agreed to support the bill and helped push it through congress. Numerous legislators representing regions on Colombia's borders opposed the law because their regional economies benefit from smuggling – with some of the legislators even suspected to have benefitted personally. To ensure approval of the bill, *DIAN*, the ministries and *ANDI* attached it to a wider money laundering bill which was certain to pass – legislators would have risked gaining a bad reputation if they had opposed such a bill. As will be shown in chapter 7, such 'legislation packaging' is also a common practice in Brazil where business associations block a bill by tying it to another, extremely controversial one, typically a bill which has been shelved for years and remains unlikely to be approved.

Even when government officials do not consult *ANDI* on a specific policy draft which they know the association will oppose, *ANDI* will nonetheless have access to the draft at a later stage in the legislative process – but still before it is voted on by congress.¹⁰⁶ The Brazilian government has also used the tactic of not actively sharing a policy draft with business associations to avoid their opposition. However, Brazilian business associations are less powerful and less entwined with the government, meaning that in such cases they often see a policy only when it is put to a vote in congress.¹⁰⁷ In addition to using revolving doors and access to early drafts, *ANDI* has also used extensive legislative lobbying to influence policy.

1.3. Legislative lobbying

Legislative lobbying is also an essential part of CLFs' strategy. In the US, Baumgartner et al. (2009) argue that, in general, legislative lobbying consists of personal contacts with legislators, working with allies in congress, disseminating in-house research to policymakers, sending letters, writing policy drafts, hiring lobbying consultants, contacting White House staffers (executive power) or members of agencies, and testifying at congressional hearings. The evidence presented in this

¹⁰⁴ Riveros Pineda, I. C., paper pulp, paper and paperboard's chamber director (ANDI), 04 July 2018, personal interview.

¹⁰⁵ Anonymous 3, 2018, personal interview

¹⁰⁶ Riveros Pineda, I. C., paper pulp, paper and paperboard's chamber director (ANDI), 04 July 2018, personal interview.

¹⁰⁷ Cintra de Oliveira, E., executive director at ABRAFAS, 26 March 2018, personal interview.

section confirms that the same findings apply to *ANDI's* tactics in the Colombian congress.

ANDI's centralised department of 'Legal Affairs' (*Asuntos Jurídicos*) is dedicated to supporting legislative lobbying on transversal issues as well as on narrower issues specific to certain sectoral chambers. The department is led by the legal vice-presidency (*vice-presidencia jurídica*), and composed of a large team of employees mostly aged between 25 and 30 years old, who 'move in congress like a fish in water'¹⁰⁸. Their job is to build personal relationships with legislators and their teams of economic, legal and technical advisors (*Unidad de Trabajo Legislativo: UTL*).

ANDI's legislative squad is in charge of mapping legislators' interests. This includes what they do in their free time, what they like, which football match they might go to, which team they support, which norms they have promoted in the past, their previous political alliances and whether they remained allies or became opponents. The squad enters the data gathered on legislators into a shared set of Microsoft Excel sheets, available to all *ANDI* chambers, which helps to coordinate wider lobbying actions.¹⁰⁹

When working to oppose the 2012 tax reform, the Legal Affairs department coordinated between the directors of sectoral chambers, asking them to tell one story or another to a specific legislator, as an element of a wider communications strategy. The directors would receive specific bullet points to emphasise in their conversations with legislators in order to convince them how to vote. A legislator's change of opinion or otherwise on a certain proposal would then be added to the shared excel sheets. Such coordination means *ANDI* can avoid repeating redundant arguments and instead favour ones that are more worthwhile or impactful.

In the two weeks preceding the vote, 'the entire *ANDI* had basically moved into congress and left [its] office empty'¹¹⁰. This extensive legislative lobbying meant *ANDI's* affiliates were successful in seeing their interests reflected in the final version of the tax reform.¹¹¹

This process is not completely institutionalised, however, and remains partially dependent on individuals. If one member of the lobbying team decides to quit, he or she would take their personal friendships with legislators with them, meaning they would be lost to *ANDI*. In contrast, Brazilian umbrella business

¹⁰⁸ Riveros Pineda, I. C., paper pulp, paper and paperboard's chamber director (*ANDI*), 04 July 2018, personal interview.

¹⁰⁹ Riveros Pineda, I. C., paper pulp, paper and paperboard's chamber director (*ANDI*), 04 July 2018, personal interview.

¹¹⁰ Riveros Pineda, I. C., paper pulp, paper and paperboard's chamber director (*ANDI*), 04 July 2018, personal interview.

¹¹¹ Riveros Pineda, I. C., paper pulp, paper and paperboard's chamber director (*ANDI*), 04 July 2018, personal interview.

association for the industrial sector (*Confederação Nacional da Indústria: CNI*) employs an institutional relations' management system, using software that includes process tracing methods and econometric regression analysis to find which factors best explain their success in lobbying. This means any member of the *CNI* team is able to negotiate with any congressman. Additionally, *CNI* does not always send the same people and prefers to use affiliates and local contacts rather than its own lobbyists, who tend to remain at the 'strategic level' rather than the 'tactical one'.¹¹² This allows *CNI* greater ownership of its relations with legislators than *ANDI*.

Similarly, the firm Wilson Sons in Rio de Janeiro, uses software to report all its meetings. Any meeting involving an employee is reported, in case another employee meets the same person in the future. This intelligence gathering allows the firm to remain as independent as possible from its employees' personal relationships with key politicians, business associations, and the representatives of other firms. In addition, it ensures that the firm presents a unified point of view at all times.¹¹³

Lastly, *ANDI* has also leveraged its affiliations with foreign companies in order to request support from foreign embassies for *ANDI*'s lobbying actions.

1.4. Embassies

ANDI has gained privileged access to foreign embassies through its multinational affiliates. The embassies of Colombia's main trade partners have most influence over the Colombian government, along with embassies from countries which are influential in the World Trade Organisation (WTO) and countries that play a leading role in the creation of international regulations and norms. In the case of Colombia, its most important partners are the United States, the EU¹¹⁴ and China, as depicted in Table 5 below.

Table 5. Colombia's main trade partners (Harvard, 2018)

Country	Import share in total Colombian imports in 2018	Export share in total Colombian exports in 2018
United States	30.79%	27.62%
China	17.75%	10.64%
E.U.	15.92%	14.37%

¹¹² Cesario, P., executive director of *CNI*'s lobbying department, 23 April 2018, personal interview.

¹¹³ de Viveiros, C. L., director of institutional relations at Wilson Sons, 16 April 2018, personal interview.

¹¹⁴ Castro Lozano, J.-C., cosmetics, toilet, and absorbents chamber's director (*ANDI*), 04 July 2018, personal interview.

The American, French and Swiss embassies, for example, have supported the lobbying activities of *ANDI*'s chamber of cosmetics, toiletries and absorbents.¹¹⁵ The Colombian government planned to enact a law on degradability which would have negatively impacted the exports of L'Oréal France to Colombia. In 2018, L'Oréal made up a large share of the USD\$24 million of total Colombian cosmetics imports. To defend its position against the government bill, L'Oréal put the director of *ANDI*'s cosmetics, toiletries and absorbents chamber in contact with the Economic Service (*Service Économique*) of the French Embassy in Bogotá, which is in charge of promoting French commercial interests. Using inputs and data from the chamber's director, the Economic Service drafted a letter to the Colombian government. After being reviewed and revised by *ANDI*, the letter was sent to the Colombian government by the French embassy, in the name of the French government. It argued that the Colombian government's planned legislation contravened WTO regulations. After receiving the letter, the Colombian Minister held a meeting with French representatives on 23 July 2018 to discuss the issue.¹¹⁶ Although the outcome of this meeting is not known to the author of this work, as of February 2021, no such legislation had been presented to congress, nor was it being discussed in the media – suggesting that the reform has been successfully removed from the political agenda.

Another example is the case of resolution 0689 from 2016 (*Resolución No 0689 de 2016*) which was adopted following a similar process. Thanks to an affiliated US firm, *ANDI*'s chamber of cosmetics, toiletries and absorbents contacted the US agency PCPCC (Patient Centered Primary Care Collaborative) which sent a letter to the Colombian *MinCIT*. The letter argued that the resolution would slow down US exports to Colombia and suggested the United States would retaliate by imposing tariffs on Colombian imports. The American threat was sufficient for the Colombian government to amend resolution 0689 (*Resolución No 1770 de 2018*).¹¹⁷

ANDI's chambers improve the efficiency of their lobbying activities by, for example, using affiliates' contacts with embassies in a coordinated manner. In 2018, the Ministry of Mining and Energy (*Ministerio de Minas y Energía: MINAS*) pushed for the adoption of energy efficiency labelling. Usually, energy labelling involves 3 proofs. However, *MINAS* proposed a different system of labelling that would involve 125 different proofs and be left at the firms' charge to perform. To get the new standard approved, *MINAS* had to send its draft to *MinCIT* for revision which

¹¹⁵ Castro Lozano, J.-C., cosmetics, toilet, and absorbents chamber's director (*ANDI*), 04 July 2018, personal interview.

¹¹⁶ Castro Lozano, J.-C., cosmetics, toilet, and absorbents chamber's director (*ANDI*), 04 July 2018, personal interview.

¹¹⁷ Castro Lozano, J.-C., cosmetics, toilet, and absorbents chamber's director (*ANDI*), 04 July 2018, personal interview.

then sent the final document to the WTO for approval. To block it, *ANDI*'s home appliances chamber planned a three-stage response, including leveraging its contacts abroad.

Firstly, the chamber's affiliates contacted their respective embassies asking their home countries to write to *MINAS*. This included: Japan via Sony and Panasonic, South Korea via Samsung, the United States via Whirlpool, France via Seb Group, and Mexico via Mabe. In case this was not sufficient, firms were also instructed to contact their countries' regulation agencies to work on an alternative, more complex, proposal that would make *MINAS*' proposed new standard seem like 'ridiculous and amateur work'.¹¹⁸

Thirdly, *ANDI* sought to pressure the Colombian government via the WTO. The strategy was again to discredit *MinCIT* and Colombia, by asking Samsung to publicly deprecate *MINAS*' proposal at a WTO meeting in Geneva. Similarly, *ANDI* asked Mabe to request that Mexico's representative at the WTO describe the proposal as badly constructed. Via Whirlpool, *ANDI* would ask Washington to suggest to its spokesperson in Geneva that the Colombians were '*acting like fools*'¹¹⁹. The US representative in Geneva would also convince the Colombian representatives to drop the proposal because it was detrimental to US interests – and, therefore, to Colombia's interests.¹²⁰

Nonetheless, involving embassies does not always ensure success, particularly when there is public interest in the issue at stake. The case of Colombia supports the argument that organised business associations do not always get their way on issues that attract significant public attention. This is because politicians respond primarily to their constituencies – that is, they are ultimately driven by their ambition to be re-elected (Culpepper, 2010). For example, via an affiliate, *Afidro* asked a foreign embassy to send a letter to the Colombian government calling on it to scrap a particular piece of legislation that was receiving considerable public interest. The Minister of Health decided to pass the letter on to a friendly news agency. The headline in the following day's newspaper was: 'The United States pressures Colombia to prevent it from regulating the price of imatinib' (El Espectador, 2016), a drug used to treat cancer.¹²¹ In similar instance, another headline declared 'Disgust at the pharmaceutical companies in the fight over the price of hepatitis C drugs' (El Espectador, 2018). This time, *Afidro*'s president also responded through

¹¹⁸ Leal del Castillo, F., home appliances' chamber director (*ANDI*), 06 July 2020, personal interview.

¹¹⁹ Leal del Castillo, F., home appliances' chamber director (*ANDI*), 06 July 2020, personal interview.

¹²⁰ Leal del Castillo, F., home appliances' chamber director (*ANDI*), 06 July 2020, personal interview.

¹²¹ Morales, G., *Afidro*'s director, former director of CAMACOL (construction) and former ACP's vice-president (oil), 10 August 2018, personal interview.

the media, prompting the Minister to apologise to *Afidro* in a private phone conversation in an attempt to avoid the situation escalating.¹²²

ANDI, *Afidro* and the other CLF associations have implemented efficient lobbying strategies, using a variety of tactics to influence Colombian government policy, including exploiting revolving doors at the executive government level, coordinated legislative lobbying, early access to policy drafts, and leveraging contacts with foreign embassies. This efficient coordination explains how CLFs have been increasingly successful in influencing policy outcomes.

The next section analyses what type of policies CLFs have obtained through these means, focusing on trade policy (tariffs and FTAs), regulation, and tax breaks. In cartelism, SMEs lack the ability to communicate their policy preferences efficiently. The empirical evidence in this chapter confirms that, consequently, SMEs are unable to compete with CLFs for influence, thereby allowing CLFs to lobby successfully for policies which protect their oligopolistic positions.

2. MAKING CLFs' NARROW INTERESTS PREVAIL OVER POLICIES

Schneider's work claims that business associations contributed to Colombia's 'remarkable tradition of policy moderation' (2004, p. 218). For example, in the 1970s, when governments proposed ambitious land reform and significant tax increases, business associations mobilised – studying the proposals, pushing for them to be debated in the media, before finally reach forcing the government to a compromise on less extreme policies (Hartlyn, 1985, cited in Schneider 2004; Thorp & Durand, 1997, cited in Schneider 2004).

This work claims instead that Colombia's remarkable policy stability is symptomatic of CLF business associations largely being defenders of the status quo, often because it is already skewed in their favour. Interviewees confirmed that the core members of the *CGN* and *ANDI* seldom make proposals that would benefit their entire sector by improving competitiveness.¹²³ Instead, they ask the government to attend to their particular needs.¹²⁴ Since *ANDI*'s inception, its main goal has been to protect its affiliates against competition, whether domestic or foreign.¹²⁵

¹²² Morales, G., *Afidro*'s director, former director of CAMACOL (construction) and former ACP's vice-president (oil), 10 August 2018, personal interview.

¹²³ Reyes, F., superintendent of companies (2014-2018) and former Chairman of the United Nations Commission on International Trade Law (UNCITRAL), 11 November 2018, personal interview.

¹²⁴ Reyes, F., superintendent of companies (2014-2018) and former Chairman of the United Nations Commission on International Trade Law (UNCITRAL), 11 November 2018, personal interview.

¹²⁵ Morales, G., *Afidro*'s director, former director of CAMACOL (construction) and former ACP's vice-president (oil), 10 August 2018, personal interview. This is also directly the case of some sectoral chambers. For example, *ANDI*'s Chamber of Textile and Fashion was created in order to support the government in the negotiations of FTAs by defending the 'rule of origin'. The textile industry had around 900 different tariffs, which made it difficult for government to know which one it should defend to shield its industry against international competition (Calad, J., textile and fashion chamber's director (*ANDI*), 11 July 2018, personal interview).

Illustrative of this, *ANDI* has been promoting higher quality standards and new regulations in an attempt to cripple local competition and maintain its affiliates' local oligopolistic position. CLFs are already compliant with these standards because they often operate internationally, but medium size local firms are likely to collapse if they upgrade to new standards and norms too quickly. In contrast, as soon as *ANDI*'s affiliates are threatened by international competition, they are quick to roll back on their free trade position and support for international standards and to request more state protection. For example, the textile sector's representatives have lobbied to for a law that would amount to designate nearly all international competition as illegal 'dumping' practice. Similarly, in anticipation of greater international competition, the steel sector's representatives have repeatedly requested preventive protective tariffs to be enacted in their sector's favour. Finally, CLFs have been leveraging their structural and instrumental power to obtain extensive fiscal exemptions from impoverished localities – areas which hoped that new investment would translate into higher local employment. The following three sections review these cases in more detail.

2.1. Trade policy

The government has often relied exclusively on input from *ANDI* during its FTA negotiations, asking the association what to include in Colombia's first proposal and how to respond to counter-offers. As a result, *ANDI* affiliates' interests are strongly reflected in FTAs, unlike those of SMEs.

Before starting the negotiation, the government commissions a study on the advantages and disadvantages of opening trade discussions with a particular counterpart.¹²⁶ The lead negotiator assesses which sectors represent an export opportunity for the country and which sectors could be hurt by the counterpart's imports.¹²⁷ While the government 'always seeks to negotiate according to the private interests', difficulties arise because these 'private interests are contradictory'¹²⁸. The government seeks a balance between affected industries asking for more tariffs and those industries wishing to export and therefore asking for a reduction of tariffs from the counterpart. Negotiations usually focus on ways of smoothing the effects of tariff reductions, such as excluding a sector from the FTA, agreeing on a slower

¹²⁶ Barbosa, R., main government negotiator (agriculture) in the FTA with the US, 10 August 2018, personal interview; Leal del Castillo, F., home appliances' chamber director (*ANDI*), 06 July 2020, personal interview.

¹²⁷ For example, in agriculture those are: meat, milk, fruits, coffee, cereals, sugars and alimentary products (Barbosa, R., main government negotiator (agriculture) in the FTA with the US, 10 August 2018, personal interview).

¹²⁸ Barbosa, R., main government negotiator (agriculture) in the FTA with the US, 10 August 2018, personal interview.

progressive reduction of tariffs – ranging from several years to several decades – and negotiation of import and export quotas.¹²⁹

Business associations' input into FTA negotiations is continuous throughout. Business association representatives travel to the talks alongside government negotiators and wait in a nearby room christened '*cuarto de al lado*' (the room next door). Government negotiators come to the 'room next door' to consult with business' representatives on their degree of flexibility on specific points over which the counterpart would not back down. In addition to consulting business associations in the 'room next door', the government meets with them between each round of negotiation, in an attempt to reach agreements that could not be made on the spot. For example, the FTA negotiation with the United States lasted 2 years and unfolded over 10 to 12 rounds.¹³⁰

In the negotiations with South Korea, *ANDI* described the 'room next door' as a way to 'ensure that the government had understood well what [*ANDI*] had said and would not forget about it'¹³¹. During the negotiations, Colombia was prepared to accept the elimination of tariffs on fridges after one year. In the 'room next door', *ANDI* strongly opposed it, because South Korea is a high quality and efficient fridge producer and exporter. *ANDI* argued that Colombian fridge production sustained 7,000 jobs and fuelled demand for steel, rubber, paint, glass, etc. One year was, therefore, too short a timeframe for the reduction of tariffs to zero. Bowing to *ANDI*'s demand, the Colombian government negotiated a progressive tariff reduction over a much longer period.¹³²

When the government needs to favour one sector over another, such as home appliances over steel, the industry absent from the 'room next door' would automatically lose.¹³³ But if both industries are present, because they are nearly always represented by *ANDI*, the directors of each sectoral chamber – who likely know each other well – will usually strike a deal. For example, one would willingly back down in exchange for gaining the upper hand in another negotiation or a different part of the same FTA.¹³⁴ If, despite all these efforts, agreement between all business representatives is impossible, the Minister will make 'a political decision', and favour one sector over the other in order to preserve the wider FTA.¹³⁵

¹²⁹ Barbosa, R., main government negotiator (agriculture) in the FTA with the US, 10 August 2018, personal interview.

¹³⁰ Barbosa, R., main government negotiator (agriculture) in the FTA with the US, 10 August 2018, personal interview.

¹³¹ Leal del Castillo, F., home appliances' chamber director (*ANDI*), 06 July 2020, personal interview.

¹³² Leal del Castillo, F., home appliances' chamber director (*ANDI*), 06 July 2020, personal interview.

¹³³ Leal del Castillo, F., home appliances' chamber director (*ANDI*), 06 July 2020, personal interview.

¹³⁴ Lesmes, J. M., Fedemetal chamber director (*ANDI*), 24 July 2018, personal interview.

¹³⁵ Barbosa, R., main government negotiator (agriculture) in the FTA with the US, 10 August 2018, personal interview; Leal del Castillo, F., home appliances' chamber director (*ANDI*), 06 July 2020, personal interview.

Outside of FTA negotiations, the steel sector CLFs have promoted protectionist measures to reduce competition and protect their oligopolistic control of the domestic market. In 2013, *Fedemetal* promoted an anti-dumping measure to gain protection against Chinese goods, as well as against several foreign produced corrugated tin roofs which were more competitive than those made by the main Colombian producers.¹³⁶ This anti-dumping measure has since been applied by the Colombian government.¹³⁷ Similarly, the government enacted protective tariffs on steel and aluminium tubes, even while it was still in the process of evaluating the evidence on suspected dumping provided by *ANDI*.¹³⁸

2.2. Favourable regulations

CLF business associations have also promoted regulations and standards that eliminate competitors or prevent them from entering the market – as is expected in a cartel mode of business organisation. For example, *ANDI*'s cosmetics, toiletries and absorbents affiliates attempted to speed up the implementation of OECD reforms in Colombia in order to prevent smaller domestic firms catching up and becoming competitors.¹³⁹ By joining the OECD, Colombia pledged to make all active substances in detergents biodegradable. *ANDI* affiliates such as Procter and Gamble, Unilever, and others, are already compliant because of their operations in the EU and the United States, where this standard applies. These firms have pushed for it to come into force in Colombia within six months, far too soon for domestic firms to be able to change the chemical formulation of their goods, have them approved, and start production – at minimum a 24-month process. *ANDI*'s chamber director brokered a deal between the government and his affiliates, giving domestic firms twelve months to make the change.¹⁴⁰

In another instance, graveyards started to offer funeral insurance, a service that *Fasecolda*'s affiliates, all CLFs from the insurance sector, were already providing. For a monthly fee, graveyards would cover any burial costs after death. *Fasecolda* argued that because its payment in was not made in installments, this amounted to a type of insurance, and therefore the companies offering it had to comply with certain requirements: minimum capital, minimum reserves, investment, and compliance with anti-money laundering measures. This debate took place in Congress, where *Fasecolda* added an amendment to the 2017 fiscal reform – which

¹³⁶ Gonzalez Garza, F., Acesco's executive president, 02 August 2018, personal interview.

¹³⁷ As of September 2018.

¹³⁸ Gonzalez Garza, F., Acesco's executive president, 02 August 2018, personal interview.

¹³⁹ Castro Lozano, J.-C., cosmetics, toilet, and absorbents chamber's director (*ANDI*), 04 July 2018, personal interview.

¹⁴⁰ Castro Lozano, J.-C., cosmetics, toilet, and absorbents chamber's director (*ANDI*), 04 July 2018, personal interview.

was then being legislated – requiring graveyards to comply with insurers’ regulations, effectively preventing them from competing with *Fasecolda*’s affiliates.¹⁴¹

Graveyards, organised in cooperatives, are influential in Congress thanks to their presence nationwide.¹⁴² *Fasecolda*’s then-representative met with around 50 legislators to convince them to support his proposal. Yet, with the exception of who was a close personal friend, all voted against it. The outcome in Congress was worse than *Fasecolda* expected: the law that was passed stated that graveyards not only had the right to provide funeral insurance but that, in addition, insurers were prohibited from offering such a service. Nonetheless, in the implementation phase, many graveyards ran into technical difficulties and some went bankrupt. To solve this issue, the graveyards cooperative brokered a deal with *Fasecolda*: graveyards would serve as a sale point but *Fasecolda*’s insurers would manage the graveyards’ funeral insurance policies.¹⁴³

In another example of *ANDI* promoting protectionist trade policies for the benefit of its affiliates, in 2018 the textile and fashion chamber succeeded in decreasing foreign competition dramatically by obtaining a decree against textile smuggling. Though it is an apparently sound regulation, the measure actually consists of setting the minimum price of goods at higher than the market price, thereby prohibiting any competition. The rationale was as follows: smuggling is endemic in the textile industry and represents unfair competition; smuggled goods are much cheaper and can therefore be differentiated from normal goods simply by price comparison. *ANDI* exhaustively calculated what should be ‘normal prices’ in textiles and so any goods costing less would be regarded as illegal on the basis they had been smuggled. *ANDI* spent a year deciding the ‘right and normal’ minimal prices, by calculating the usual import price of cloth and the cost of Colombian labour required to produce the final goods.¹⁴⁴

Actually, what *ANDI* did was to calculate the ‘natural price’ of goods through the value of incorporated labour. Except that it did so on the basis of Colombian wages and the prices of Colombian inputs. This negates the market price and effectively outlaws all goods that would be more competitively priced than those produced in Colombia. If the international price of a textile product falls below this ‘Colombian natural price’ threshold – whether due to technological advances, cheaper labour abroad, a collapse in international demand or a surge in global

¹⁴¹ Morales, G., Afrido’s director, former director of CAMACOL (construction) and former ACP’s vice-president (oil), 10 August 2018, personal interview.

¹⁴² Morales, G., Afrido’s director, former director of CAMACOL (construction) and former ACP’s vice-president (oil), 10 August 2018, personal interview.

¹⁴³ Morales, G., Afrido’s director, former director of CAMACOL (construction) and former ACP’s vice-president (oil), 10 August 2018, personal interview.

¹⁴⁴ Calad, J., textile and fashion chamber’s director (*ANDI*), 11 July 2018, personal interview.

supply – it is outlawed in Colombia on suspicion of being smuggled and will be stopped at the border.

The decree came out in a regulated form. *ANDI* had created such a detailed table of minimal pricing¹⁴⁵ for each product that the government decided its application by customs would be too complicated and time consuming. The government made an average of all prices in order to create larger categories.¹⁴⁶ Given that sub-categories of goods routinely cost from 0.5 to 2 dollars, averaging the entire larger category to, for example, a minimum price of 1 dollar, has deeply affected firms which used to import a range of goods at 0.5 dollars. *ANDI*'s affiliate Kimberly Clark, which imports non-woven cloth/fabric for its diapers and gauze, was legally obliged to import at a much higher price than it had previously – or to buy locally. *ANDI* supported the firm in their complaint to the government. However, the government refused to modify its decree because listening to just one firm would force it to listen to all firms making similar complaints, creating an unmanageable situation.¹⁴⁷

CLFs have successfully used their structural power to influence regulations at the local level as well. For example, to build its plant on 100 hectares of dense forest in Palmar de Varela, a company called Ternium sought to obtain the required approval of the *CAR* (*Corporación Autónoma Regional del Atlántico*). To obtain *CAR* approval, according to the law, the firm must replant a different location with the same area, number and diversity of trees as the forest that was destroyed during construction of its plant. The total expense of identifying and replanting the vegetation would have been almost equal to the expense of constructing the plant – a significant opportunity cost since the company could simply have built a second plant elsewhere and avoided having to seek *CAR* approval. With the support of *Pro-Barranquilla*, the government agency in charge of fostering investment, Ternium negotiated with *CAR* to interpret the law. They concluded that Ternium had to compensate for the environmental destruction, but not on a precise one-to-one ratio. Instead, *CAR*, the governorship and the local town hall helped to identify the range of vegetation present in the area, while Ternium financed only a partial replantation – in accordance with this new interpretation of environmental regulations.¹⁴⁸

According to a source close to the negotiation, the regulatory body *CAR*, the governorship and the town hall were all keen on re-interpreting the law – in effect bypassing it – because of the economic power of Ternium. The source noted that 'it is not every day that Ternium builds a plant, bringing 300 jobs and USD\$90 millions

¹⁴⁵ Detailing them down to 10 digits of reference.

¹⁴⁶ Down to 4 digits of detail.

¹⁴⁷ Calad, J., textile and fashion chamber's director (*ANDI*), 11 July 2018, personal interview.

¹⁴⁸ Oliva, M., heavy industry investments coordinator at *Pro-Barranquilla*, 03 August 2018, personal interview.

of investments in that remote corner that is ours’, so ‘the authorities rightly thought that it would have been stupid to miss this once in a lifetime opportunity for regional development’¹⁴⁹ because of environmental regulations.

Organised CLFs have also, by leveraging their structural power, been able to obtain extensive fiscal incentives and tax breaks from regional governments.

2.3. Tax breaks: steel industry in Atlántico

The Colombian state is highly centralised, but regions have discretion over certain local taxes. As in federalist countries, this type of fiscal management gives more weight to firms’ structural power because firms can choose which region they prefer to invest in (Smith, 2000). Producers can relocate a plant to a different region, or threaten to do so, in order to enjoy lower taxes or regulatory advantages. This section explores three cases of companies – Ternium, Deacero, and Unilever – exerting their structural power to obtain fiscal benefits.

Using distinct lobbying strategies at municipal and regional levels, two similar steel producers achieved different outcomes: Ternium were granted tax incentives to build a plant in the Atlántico region, whereas Deacero (GJ Group – which is not an affiliate of *ANDI*¹⁵⁰) abandoned negotiations and did not invest in the region. Both faced the same issue: there was no energy service provided to the planned locations of their plants, respectively in Juan Mina (Barranquilla municipality) free-trade zone’s La Cayenna (Deacero) and in Palmar de Varela (Ternium). In general, the local town halls and governorships require firms to cover the cost of energy infrastructure installation via monthly payments added to their energy bill over a period of ten to fifteen years.

Ternium agreed to cover this cost in exchange for extensive tax breaks that would offset infrastructure costs over the long term. To pressure the municipality into accepting this deal, Ternium used its structural power by arguing it would bring jobs and economic activity to the region. Ternium also used its instrumental power, in the form of connections to the local government agency in charge of investment promotion (*Pro-Barranquilla*) and the governorship.¹⁵¹

In contrast, Deacero leveraged only its structural power and then used the media to pressure the local town hall and the governorship to cover the cost of installing the energy infrastructure. Unlike Ternium, it appears that Deacero was

¹⁴⁹ Oliva, M., heavy industry investments coordinator at Pro-Baranquilla, 03 August 2018, personal interview.

¹⁵⁰ Deacero is affiliated to the association Camacero, the business association for the steel sector that is not part of ANDI. Camacero claims to represent numerous firms. Yet, it is an empty shell with no official list of its members and, in fact, representing its founder, main and nearly only member, the firm GJ (Romero, Y., PTP construction sector manager, 09 August 2018, personal interview; Gonzalez Garza, F., Acesco’s executive president, 02 August 2018, personal interview; Casas, M., head of institutional relations at Techint Colombia, 13 July 2018, personal interview).

¹⁵¹ Oliva, M., heavy industry investments coordinator at Pro-Baranquilla, 03 August 2018, personal interview.

unable to afford the option of covering the cost of installing the infrastructure and then recovering it over the long term through tax breaks.

2.3.1. Tax incentives: Ternium's success

In 2016, Ternium asked *Pro-Barranquilla* for help in mapping the fiscal incentives available in the Atlántico region, as the company was considering building its steel plant in either Atlántico or Bólivar. By mid-2017, it confirmed that the city of Palmar de Varela, in Atlántico, was its chosen location to construct a plant that would make profiles, bent steel, mild steel bars, HYSD (High Yielding Strength Deformed Bars) bars, and welded wire mesh, all of which are produced for the construction industry. The 100-hectare plant would cost USD\$90 million and require 1,000 employees to build, and would employ 300 permanent workers. In exchange for employing local people, trained for their specific jobs in partnership with *SENA (Servicio Nacional de Aprendizaje)* – the government agency in charge of vocational training and upgrading workers' skills – Ternium obtained a ten-year exemption from several taxes.¹⁵² The project also included a potential second stage involving the creation of a free-trade zone and the construction in the same location of a plant that would melt steel.¹⁵³

The municipality of Palmar de Varela, inexperienced in negotiating with firms, had no blueprint for fiscal incentives because no industry had ever come to the town. On the advice of *Pro-Barranquilla*, Palmar de Varela copied the ten-year incentive structure used in nearby Malambo, Soledad, Barranquilla and Galapa. Ternium accepted this offer but with a twist: if, ten years after the first investment, Ternium made a new investment, a new ten-year tax exemption cycle would start. If within five years Ternium made another investment by, for example, creating a free-trade zone or constructing a steel oven costing USD\$110 million, they would also then start a new ten-year cycle tax exemptions (instead of only having five years of exemptions remaining). This plan ensured endless tax exemptions on the condition of making a new investment every ten years and became the standard framework for fiscal incentives for industrial plants in Palmar de Varela.¹⁵⁴ The negotiations happened in six steps and took ten months, including around six months of continuous work.

As the first step, Ternium held a meeting with Atlántico's political leaders including its governor, an economic development team and Palmar de Varela's mayor. Ternium presented its plan and all stakeholders established the project's

¹⁵² Those were: *IPA, impuestos predial, impuestos anuncios y avisos.*

¹⁵³ Oliva, M., heavy industry investments coordinator at Pro-Baranquilla, 03 August 2018, personal interview.

¹⁵⁴ Oliva, M., heavy industry investments coordinator at Pro-Baranquilla, 03 August 2018, personal interview.

roadmap.¹⁵⁵ Formal meetings with a strong institutional presence, and avoiding one-to-one informal meetings with the mayor, were key to Ternium's anti-corruption strategy. Ternium was afraid that local leaders in Palmar de Varela, perceived as a small, inexperienced Caribbean coastal municipality, would see such large investment as an opportunity to ask for bribes. Ternium made sure to never meet with the municipality alone and involved the regional governorship as much as possible, as the latter it had the authority to sanction the municipality and was famous for its anti-corruption stance. *Pro-Barranquilla's* continuous involvement as the main point of contact in the negotiation process, whether for updates or to schedule meetings, was another deterrent against potential corruption.¹⁵⁶

Next, Ternium held a meeting in Palmar de Varela with the mayor and his Secretary of Finance to start discussing fiscal incentives. The municipality put forward its first offer of a fiscal incentives package, copied from the blueprints of nearby municipalities, with *Pro-Barranquilla's* support.

The third step included Ternium holding two more meetings with the Secretary of Finance to discuss their mutual revisions of the fiscal incentives plan. Because Ternium's re-investment clause did not exist anywhere else, it became a process of 'this-yes-but-this-no'. According to the clause, the ten-year cycle of fiscal exemptions would restart with each new investment and applied to all new industries settling in the area in future. A back-and-forth negotiation saw around four or five revisions proposed by Ternium and the municipality.

At the fourth step, the local legislative body, called the *Consejo* (Council) complained that they had not been consulted about Ternium's plans for a large investment, nor about the fiscal incentives, and had only found out about the plan from the media. According to another source, the *Consejo* had a reputation for corruption and consulting it routinely meant having to bribe members to guarantee their support for a project. Following the *Consejo's* complaint, Ternium agreed to present its investment plan to the *Consejo's* members on the condition that they were accompanied by technical staff from *Pro-Barranquilla* and a representative of the governorship. Ternium sent two representatives, one from their technical staff and one from their financial department.

In a clear use of structural power, Ternium insisted that the already negotiated incentives (including the re-investment clause) would bring economic activity and employment to the municipality.¹⁵⁷ This framework of fiscal incentives, they claimed, had the potential to attract other industries. Ternium also argued that construction of its industrial plant would lead to hundreds of lorries travelling via the district's toll

¹⁵⁵ Oliva, M., heavy industry investments coordinator at Pro-Baranquilla, 03 August 2018, personal interview.

¹⁵⁶ Anonymous 4, 2018, personal interview.

¹⁵⁷ Oliva, M., heavy industry investments coordinator at Pro-Baranquilla, 03 August 2018, personal interview.

road, thereby generating revenues for the city, and that the hundreds of drivers would need to buy food and drink in the city's shops as well. Ternium re-asserted its commitment to team up with *SENA* to open a branch close to Palmar de Varela and train local people to work at the plant.

As the fifth step in the process, Ternium met with the mayor to finalise the offer. The town hall, lacking technical experts with the knowledge to properly review the proposals, took a long time to respond to the offer. *Pro-Barranquilla* regularly called the town hall to enquire about the status of the project and to pressure the mayor to reduce any administrative delays.

Finally, after two more meetings to formalise the plan and finish editing the official documents, the resolution was issued.¹⁵⁸

2.3.2. *Deacero's failure in benefiting from public funds*

Deacero used its structural power and the media to put pressure on authorities but, unlike Ternium, it failed to achieve its desired outcome. This is because instead of lobbying and using its instrumental power to persuade the municipality to grant tax incentives, Deacero lobbied the authorities to pay the cost of the required energy infrastructure.

Deacero is a Mexican firm associated with the GJ Colombia Group. In 2014, it intended to open a steel plant like that planned by Ternium, but ultimately abandoned the project, first in 2016 and again in 2017. Deacero's preferred location in La Cayenna's free trade zone lacked energy infrastructure but, unlike Ternium, Deacero refused to invest in building such an infrastructure. Instead, it called on either the governorship or the town hall to cover the cost. The energy infrastructure could be installed only by either of two access routes to the site. The first option was to lay cables via a road going through the municipality of Juan Mina. But the governorship already had plans to expand this stretch of road and so forbade the town hall to undertake any other public work in the area for three years. The second option created a different problem – it was legally unclear which of the governorship or townhall would be responsible for the required investment because their jurisdictions overlapped in the area.

Deacero attempted to pressurize local authorities by using its structural power, arguing that its investment would bring development to the region through jobs and economic activity. It used the media to spread this narrative. Ultimately, these efforts failed to obtain the public funding it required.¹⁵⁹

¹⁵⁸ Oliva, M., heavy industry investments coordinator at Pro-Baranquilla, 03 August 2018, personal interview.

¹⁵⁹ Oliva, M., heavy industry investments coordinator at Pro-Baranquilla, 03 August 2018, personal interview; Henriquez, M.-A., investments coordinator at Pro-Baranquilla, 01 August 2018, personal interview.

Deacero decided to cease work on the project and stopped holding meetings with public authorities. Instead, it published an article in the local newspaper '*El Herald*' claiming it was ready to build the plant but that the project was being blocked by administrative processes and the incompetence of public authorities who were refusing to respond to Deacero's requests for meetings (Romo Mendoza, 2015; Romo Mendoza, 2016). However, according to the *Pro-Barranquilla* official responsible for heavy industry investments in the region, not only had Deacero had numerous meetings with the town hall but the decision to stop work came from Deacero itself and not from any 'administrative processes'. Rather, these false media stories were simply a strategy of 'making noise'¹⁶⁰ to put pressure on local authorities to bow to the company's demand to use public funding to cover infrastructure costs.

The town hall and the governorship responded immediately following the publication by asking Deacero for meetings, and restating that local authorities had always remained open to discussions. Still, the negotiations yet again reached the same dead end and Deacero decided to drop the project.¹⁶¹

In 2017, the firm approached *Pro-Barranquilla* again to re-examine the same proposed plant. According to *Pro-Barranquilla*, this was because a similar negotiation by Ternium had reached a successful outcome, which in turn had served to discredit Deacero's public claims about the alleged incompetence of local authorities. At first, the company displayed an open mind to public-private financing for the energy infrastructure (Mouthón, 2017), but then issued several press releases designed to pressure authorities into financing the infrastructure by claiming that access to electricity is a 'right' (*El Tiempo*, 2017; *Caracol Radio Barranquilla*, 2017). Eventually, despite claims in press releases that the company intended to continue with its planned investment (Mouthón, 2017), *Pro-Barranquilla* confirmed that Deacero was actually unable to fund the project.¹⁶²

2.3.3. *Free-trade zone's tax incentives: Unilever in Palmira (Cauca)*

The case of Unilever in Palmira also shows that organised CLFs are efficient in obtaining consistently low tax rates by lobbying local authorities. Unilever has used its structural power and close connections with the central government (instrumental power) to pressurize local government and win extensive tax breaks in compensation for the loss of another fiscal incentive. Juan Carlos Castro Lozano, head of *ANDI's* cosmetics chamber in 2018, used to work in the executive branch of the central government. In 2014, during his time in government, Unilever announced

¹⁶⁰ Oliva, M., heavy industry investments coordinator at Pro-Baranquilla, 03 August 2018, personal interview.

¹⁶¹ Oliva, M., heavy industry investments coordinator at Pro-Baranquilla, 03 August 2018, personal interview.

¹⁶² Oliva, M., heavy industry investments coordinator at Pro-Baranquilla, 03 August 2018, personal interview.

the building of a factory in the city of Palmira (Cauca) to produce detergents, a project that would generate 120 additional jobs (ProColombia, 2014; El País, 2014). To support this effort, Mr. Castro Lozano's team designed a new free-trade zone to satisfy Unilever's request for fiscal exemptions.¹⁶³ Unilever started building a factory in Cauca but after it had invested USD\$10 million of a total USD\$150 million, then-president Juan Manuel Santos revoked the fiscal incentives.

Unilever relied on its personal connection with Mr. Castro Lozano to pressure the local authorities to offset their loss. From his position in central government, Mr. Castro Lozano convinced Palmira's town hall to exempt Unilever from half of all taxes. The mayor initially resisted because the move would mean the town's revenues fell significantly. Unilever, represented by the civil servant Mr. Castro Lozano, threatened to end all investments and withdraw its factory if it was not granted the requested exemptions. Forced to choose between seeing Unilever withdraw, and therefore losing all its revenues, or agreeing to cut Unilever's taxes by half, Palmira decided to grant the fiscal incentives. Unilever stayed in Palmira and continued the construction of its plant.¹⁶⁴

The previous sections have answered the questions of what determines the type of policies the business community promotes through lobbying and other political influence mechanisms, and what determines businesses' varying degrees of success and failure in influencing policy outcomes. The sections documented in detail the types of policies that CLFs have promoted with frequent success in Colombia at the national and regional levels. In contrast, the next section explores how firms outside *ANDI* have consistently failed in their attempts to lobby the government.

2.1. Outside *ANDI*: lobbying of despair

In a cartel mode of business organisation, SMEs can rarely rely on business associations to communicate their interests. Even when business associations do so, they are unlikely to succeed in influencing policy given the wide range of coordinated strategies that CLFs are able to deploy.

The case of Colombia verifies the theoretical expectation of this thesis, namely that SMEs use tactics of denial or avoidance when faced with government policies they have not contributed to creating. Avoidance will take the form of evading or avoiding taxes and labour regulation by switching partially, or entirely, to the

¹⁶³ Castro Lozano, J.-C., cosmetics, toilet, and absorbents chamber's director (ANDI), 04 July 2018, personal interview.

¹⁶⁴ Castro Lozano, J.-C., cosmetics, toilet, and absorbents chamber's director (ANDI), 04 July 2018, personal interview.

informal sector. This results in domestic firms competing amongst themselves in a smaller and partially informal market ('oligopoly with competitive fringe').

Business associations that seek to challenge *ANDI* on specific positions are so unlikely to influence government that they either fight in vain, such as *Andigraph* and *Andiarios*, attempt to strike temporary deals and alliances with *ANDI*, such as *Acoplasticos*, or make use of disruptive lobbying strategies by organising street protests, like the confection chamber. When SMEs succeed in influencing a policy, the policy is generally nullified by poor or unequal implementation – as was the case with ACOPI. These illustrative cases are explored in more detail in this section.

Andigraph and *Andiarios* (both unrelated to *ANDI*) unsuccessfully attempted to strike a deal with *ANDI* on tariff reduction. *Andigraph* represents firms processing paper for the graphics industry and *Andiarios* those processing paper for newspapers. *Andigraph* has over 100 affiliates, but these are mainly SMEs which contribute little to GDP or to the import and domestic sales of paper. In contrast, *ANDI*'s chamber of pulp and paper has nine affiliated CLFs. The pulp and paper chamber defended higher tariffs in order to protect its affiliates' production, whereas *Andigraph*'s affiliates fought for lower tariffs.¹⁶⁵ In 2015, *Andigraph* and *Andiarios* joined forces to demand reduced tariffs on paper imported from Canada and used in printing newspaper. This type of paper is not produced in Colombia, where firms instead are forced to buy a more expensive alternative produced by *ANDI*'s pulp and paper affiliates. The FTA between Canada and Colombia established that tariffs on such goods would be gradually reduced to zero over the two years to 2017. *ANDI* discussed this issue with *Andigraph* and *Andiarios* for exactly two years, but consistently refused to support them and blocked their access to government, so they ultimately gained nothing – tariffs reached zero in 2017, as *ANDI* had pushed for in the FTA negotiations.¹⁶⁶

In contrast, *Acoplasticos* and *ANDI*'s chamber of home appliances have formed ad hoc but successful alliances. *Acoplasticos* represents the industry that produces the commodity (plastic) used by home appliances factories in their production process. *CCIT* and *Akaire* are the other two business associations representing the home appliances sector, but *ANDI* does not attempt to form alliances with them – consequently they have only occasional access to government and struggle to make themselves heard.

Conversely, *ANDI* formed successful alliances with *Acoplasticos* because it has autonomous access to government. *ANDI* cannot ignore them without risking

¹⁶⁵ Riveros Pineda, I. C., paper pulp, paper and paperboard's chamber director (*ANDI*), 04 July 2018, personal interview.

¹⁶⁶ Riveros Pineda, I. C., paper pulp, paper and paperboard's chamber director (*ANDI*), 04 July 2018, personal interview.

curtailing its own influence. For example, when *ANDI* pushed for reduced tariffs on plastic used to make fridges¹⁶⁷, it met with *Acoplasticos* and agreed to lobby together for equal reductions on tariffs for raw materials and plastics: ‘we let them lower the raw material tariff so that they could lower the polystyrene’¹⁶⁸. The process took twelve months from the initial disagreement to the issuance of the decree.

In the textile sector, the SMEs gathered in the ‘confection chamber’ association have refused to comply with the rule of origin, promoted by *ANDI* and which imposes tariffs on goods that do not contain ‘enough’ Colombian inputs. The confection chamber’s SMEs therefore all pay a 10% tariff on the thread they use as input. The chamber adopted a disruptive lobbying style combining street protests, strikes and lobbying legislators.¹⁶⁹ Business interest groups attempt to mobilise people in support of their position as a way of increasing the salience of the issue (conflict expansion) and therefore signal to policymakers that salience is high (Kollman, 1998). Yet, despite arguing they represent the interests of most Colombian firms in their sector, the confection chamber has failed to change the rule of origin when calling for radical changes such as mixed tariffs or protective tariffs of 40%.¹⁷⁰

Finally, *ACOPI* lobbied the government to obtain a two-month delay for SMEs to pay VAT. This delay would allow SMEs to pay 15% of its VAT immediately but retain the remaining 85% for two months as a way of helping the firms’ cash flow. The government agreed and enacted the change, but the problem remained. Buyers began delaying their payments to sellers for longer so that SMEs had to pay VAT to the government on a sale from which they had received no money – just as it had been before the rule change. SMEs needed to take out loans, at substantial interest rates, just to pay the VAT.¹⁷¹

To help SMEs, *ACOPI* had succeeded in getting a law passed which allowed SMEs to benefit from cheaper loans but again, the effects of the policy were nullified by poor implementation. *ACOPI* successfully pushed for the *garantismos inmobiliarios*, which enabled firms to use their output, say 20,000 litres of milk for example, as collateral for a cheap loan to support the buying of inputs. These backed loans have greater guarantees and therefore come with cheaper interest rates. When the law passed, Colombia gained 4 points in the World Bank’s Ease of Doing

¹⁶⁷ This was because the one produced in Colombia was expensive and produced in small quantity.

¹⁶⁸ Leal del Castillo, F., home appliances’ chamber director (*ANDI*), 06 July 2020, personal interview.

¹⁶⁹ Calad, J., textile and fashion chamber’s director (*ANDI*), 11 July 2018, personal interview.

¹⁷⁰ Calad, J., textile and fashion chamber’s director (*ANDI*), scornfully commented on 11 July 2018, personal interview: ‘They take the risk of asking for so much in such a way because they are mostly uneducated, more spontaneous, more risk-taking. I respect them nonetheless because they have obtained some stuff but seriously, it is another style. Now, during his campaign, Iván Duque was hugging the leader of the [Confection Chamber] on pictures. The style that I have is to not get involved in anyone’s campaign. I will go to present my demands to the next president and that’s it. They [Confection Chamber] are hundreds but I represent half of the exports and if you sum up the 300 that they are it is not even 20% of what Colombia exports. And we represent about 40% of the GDP produced in our sector. We do not need to be rude and disruptive to be heard, we are legitimate.’

¹⁷¹ Osorio, A., *ACOPI* director, 10 July 2018, personal interview.

Business index. However, the financial sector has failed to apply it, so that the benefits never reach SMEs, but only serve to aid the buying of cars, instead of inputs for milk producers, among others.¹⁷²

3. CONCLUSION

In Colombia, the government has provided CLFs with high benefits from collective action but the costs of collective action are also high. Observations presented in the previous chapter confirmed that, consequently, CLFs have organised efficiently while SMEs have not. In this scenario, which I have labelled ‘cartelism’, CLFs organised through *ANDI* have been highly influential in the policymaking process. *ANDI* dominates the private sector’s relationship with the state. SMEs have remained unable to communicate their preferences to the government, which has paid little attention to the main SME association, *ACOPI*.

In Colombia, oligopolistic firms set prices and allocate fragments of their markets to a web of numerous smaller firms (the competitive fringe) which are all price takers. This mixed market consisting of the competitive fringe and oligopolistic firms is stable: large firms maintain an advantage thanks to the efficient promotion of their interests through lobbying, while smaller firms can enter the market freely without impacting it.

Colombian CLFs are united by their shared dominant market position which they maintain as a result of their influence over trade policies, regulations, and taxes – as this chapter has demonstrated. Their policy preferences are pragmatic and not ideological: they promote protectionism and liberalism simultaneously. What they really seek is to maintain their dominance of the domestic market by hindering domestic and international competition. Shielded against competition both by protective tariffs and by standards that make cheaper goods illegal, they impose higher prices on SMEs and consumers; liberalising in the domain they control, they remove protections that could allow SMEs to grow.

At the SME level, this has translated into burdensome taxes, such as the poorly managed VAT, and regulations – evaded by SMEs whenever they can – that result in high levels of informality in labour and sales and few opportunities for SME firms to grow.

In the next chapter, the case of Brazil demonstrates the importance of SME organisations in moderating the policies promoted by CLFs and in offsetting their influence.

¹⁷² Osorio, A., ACOPI director, 10 July 2018, personal interview.

Chapter 6

Brazil competitive-corporatism: stability and cooperation

The Workers Party (*Partido dos Trabalhadores: PT*) gained office in 2002 and won four consecutive presidential elections, with former Presidents Lula da Silva and Dilma Rousseff governing Brazil between 2003 and 2016. The party is on the moderate left and has supported increasing state participation in the economy, as well as the promotion of national champions and generous social benefits and labour legislation. However, the party has been discredited by a series of corruption scandals. In 2021, corruption investigations found dozens of *PT* members guilty of accepting bribes from companies in exchange for votes in Congress. In 2015, the Lava Jato anti-corruption investigation unearthed another major bribery scheme involving the state-owned oil giant Petrobras, which led to the prosecution of numerous Brazilian political and business leaders. Former president and *PT* leader Lula was also imprisoned for bribery and corruption. In 2018, the *PT* lost the presidential elections to Jair Bolsonaro, a right-wing former Brazilian army captain. The Bolsonaro government has been committed to a pro-business and free-market agenda, but strong opposition in Congress has prevented it from implementing both its privatisation plan and cuts in public spending designed to contain a large fiscal deficit. Previously, the *PT* had sought to overcome similar congressional opposition through bribery.

Before Bolsonaro, the governments of former presidents Collor (1990-1992) and Cardoso (1995-2003) had also struggled to pass neoliberal reforms. Success in getting these reforms approved in Congress has relied on support from the industrial sector – which has long enjoyed the benefits of state protection from economic competition (Kingstone, 1999). The support of industry has depended on the sector's perception of the government's ability to deliver on its promises. Under Fernando Collor's leadership, resistance to reform was widespread because his credibility was low. In contrast, under Fernando Henrique Cardoso's government, the industrial sector's support for his reform program was greater after he made significant concessions to industrialists.

Business representatives have maintained cohesion and continuously clearly articulated their policy preferences throughout different governments' reforms thanks to Brazil's sustained legacy of corporatist institutions. Since it was established in 1943, Brazilian corporatism has showcased its resilience, cohabiting with

authoritarian regimes and democratic regimes alike (Power & Doctor, 2004). Corporatist institutions nonetheless evolved and, in 2004, Power and Doctor predicted that Brazil would eventually move towards a form of business organisation in which pluralist features will be intertwined with a broadly corporatist system. In 2010, Pralon Mancuso noted that both corporatist associations and newer voluntary associations had undertaken lobbying activities throughout the legislative cycle, as is typical of pluralist systems (2010). In 2018, the chief lobbyist for the *Confederação Nacional da Indústria (CNI)*, the largest umbrella association in Brazil, confirmed the diagnosis:

Brazil started from the corporatist model, has evolved towards a mixed model with a different organisation and different lobby strategies specific to each branch. This is a new type of organisation which is not corporatist but certainly not pluralist either.¹⁷³

This chapter argues that this hybrid system emerged as a consequence of the 1988 Constitution, which suppressed the state-chartering of labour and employers' unions, the definition of corporatism, but preserved their monopolies on territories and their right to levy a small mandatory fee on all firms in their sectors (Power & Doctor, 2004). Up to 2017, this fee has been a modest 0.01% to 0.5% of a firm's capital (*Decreto lei Nº 5.452, de 1º de maio de 1943, Art. 136, s. III*). This created an environment of low-cost collective action. My expectation, therefore, is that SMEs can organise efficiently. Alongside SME organisation, I also expect to find well-organised CLFs because they have benefited from decades of ISI policies and the Brazilian Development Bank's (*Banco Nacional de Desenvolvimento Econômico e Social: BNDES*) provision of subsidised financing which creates incentives for them to lead collective action.

This chapter confirms, reinforces and explains the scholars' observations on the Brazilian 'mixed' model of business by documenting the transition from state-directed corporatism to what I label 'competitive-corporatism'. In competitive-corporatism, the low costs and high benefits of collective action lead to both SMEs and CLFs organizing efficiently and enable SME business associations to provide a counterweight to CLF influence over policy. CLFs coordinate successfully but compete for political influence with sectoral or regional business associations that represent SME interests. Such SME associations often have distinct policy preferences from CLF associations, which helps to moderate CLFs' influence on policy by pushing them to compromise. When CLFs and SMEs compromise on their

¹⁷³ Cesario, P., executive director of CNI's lobbying department, 23 April 2018, personal interview.

preferred policies, I expect them to lobby for policies that are more beneficial to the entire business community, thereby positively impacting economic outcomes such as employment and the level of informality.

Based on this thesis' theory, this chapter also argues that the Brazilian business mode of organisation is likely to move towards cartelism – similar to the Colombian case reviewed in the previous two chapters. The reason is that the 2017 labour law (*Reforma Trabalhista, Lei 13.467/2017*) cancelled mandatory fees to state-directed corporatism. Paying a non-mandatory fee is an opportunity cost for resource-bounded firms which makes the cost of collective action hike for SMEs when compared to a situation in which they have no choice. Choosing to pay a fee, however small, to affiliate to an association is always an opportunity cost for SMEs. Given the choice, numerous firms have already decided to disaffiliate from these associations (Silva, 2019; Pinho, 2019). As a result, I expect SMEs' political representation to deteriorate. In parallel, I expect CLFs to remain efficiently organised, incentivised by decades of ISI policies, but also by the Brazilian Development Bank's provision of subsidised financing to them. This thesis' theory expects that CLFs, less challenged by SME associations, will gain greater influence over policy in the coming years.

The next section reviews Brazil's corporatist legacy and the following section delves into how these institutions have kept the costs of collective action low. The chapter then moves on to Brazil's history of ISI policies and subsidised financing which have made the benefits of collective action high. Section 4 confirms this thesis' theory by using primary data to document Brazil's competitive-corporatist mode of business organisation.

1. FROM CORPORATISM (1943) TO COMPETITIVE-CORPORATISM (1988)

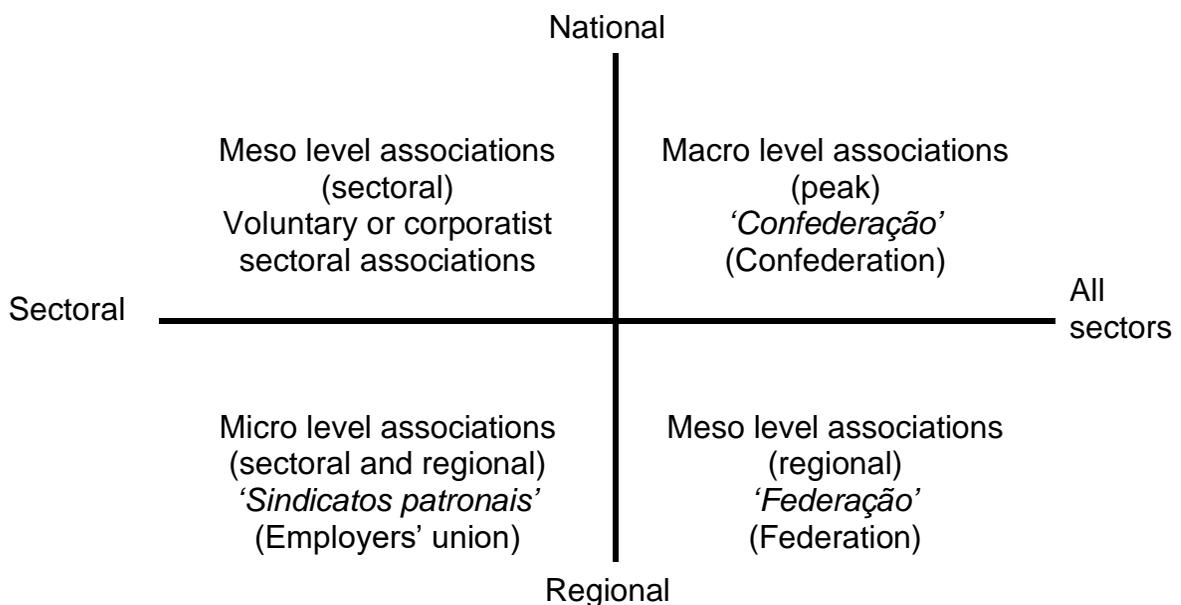
Brazil's twentieth century system of interest intermediation has been qualified as a 'corporate,' 'corporatist,' 'corporativist,' or 'semi-' or 'neo-corporatist' system (French, 1991). The state played 'a major role in structuring, supporting, and regulating interest groups with the object of controlling their internal affairs and the relations between them' (Mericle, 1977, p. 303). The state organised workers corporative associations along the lines of the 1943 labour code (*Decreto lei Nº 5.452, de 1º de maio de 1943*), modelled on Mussolini's 1927 *Carta del Lavoro* (Moreira Alves, 1985, p. 45). It also systematised workers' rights and benefits, although Vargas had outlawed strikes in 1937 and mandated jail sentences or worse for the leaders of such movements (French, 2004).

The 1943 labour code regulated all unions, including employers' unions. The essential features of this social and labour legislation were promulgated mainly during Vargas' 'revolutionary' phase (1930-1934) and his 'constitutional' phase

(1934-1937). After 1937, the centralising corporatist regime created structures to enforce the measures that had already been set down on paper (French, 1991). Corporatism has remained firmly in place despite the many subsequent shifts in political regime (Collier, 1982): it flourished under democratic regimes between 1946 and 1964 (Mericle, 1977, p. 332); in 1966, the military regime abolished Vargas' Labour Party, but left intact the fundamentals of the labour code (French, 2004).

In the 1988 Constitution, the National Constituent Assembly freed state-chartered unions from state interference in their administration (Power & Doctor, 2004). The Constitution nonetheless preserved the main features of corporatism by maintaining unions and business associations' monopolies on territories and the union's contribution (*contribuição sindical*) (Power & Doctor, 2004). The union's contribution is a parafiscal tax because the state has delegated to the representatives of private interests the right to levy a mandatory fee on the constituents they represent. Competition between associations was permitted at the federal level and new voluntary business associations were established, creating a system outside of – and parallel to – corporatist structures (Power & Doctor, 2004). The resulting web of business associations and the terminology used in this work are clarified below in Table 6.

Table 6. Levels of business interests' representation in Brazil



The corporatist associations have remained in place since their establishment in the 1930s. The macro-level national umbrella associations (top-right corner of Table 6) federate all the business associations from their respective economic sectors – industry, agriculture and services: *Confederação Nacional da Indústria (CNI)*, *Confederação Nacional do Comércio de Bens, Serviços e Turismo (CNC)* and the *Confederação da Agricultura e Pecuária do Brasil (CNA)*.

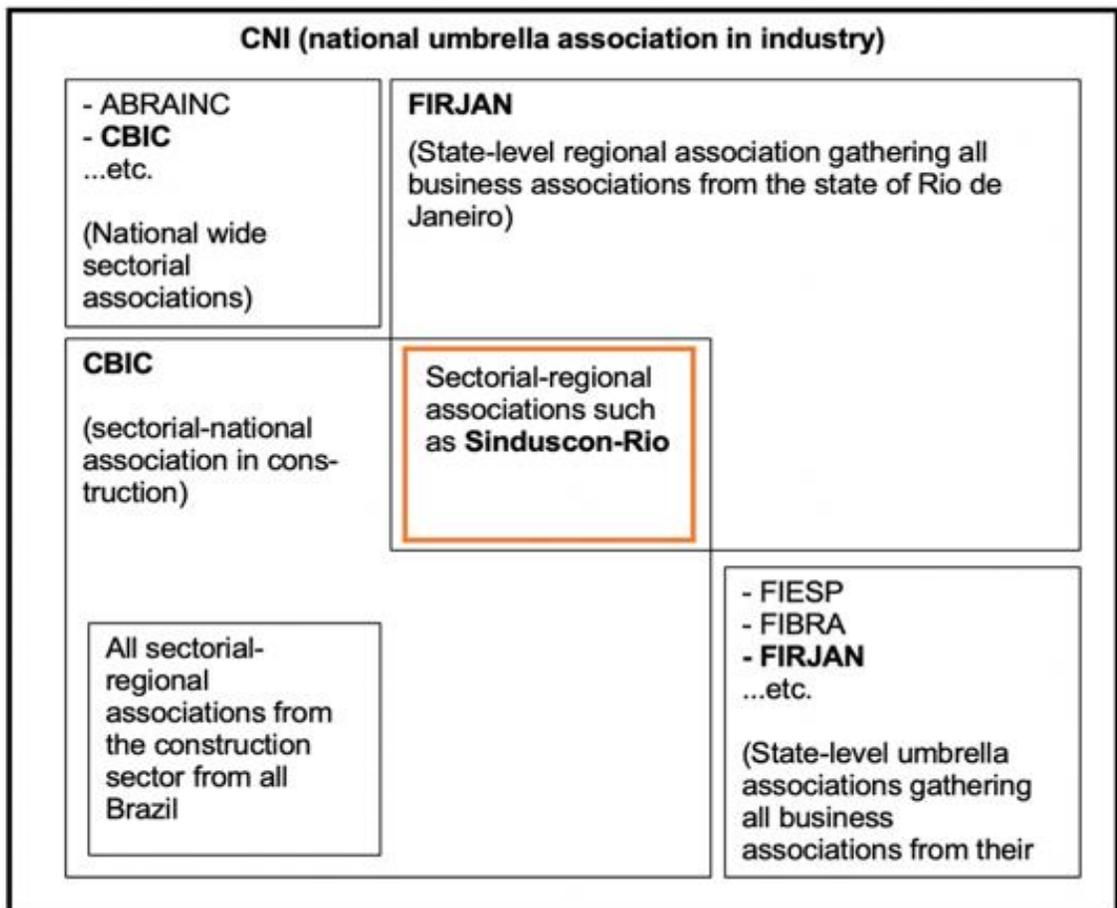
The meso-level regional associations (bottom-right corner of Table 6) affiliate all the micro-level association ‘*sindicatos patronais*’, regional-sectoral employers’ associations (bottom-left corner of Table 6), from their respective states. The meso-level associations include: *Federação das Indústrias do Estado de São Paulo (FIESP)*, *Federação das Indústrias do Estado do Rio (FIRJAN)*, *Federação das Indústrias do Distrito Federal* in Brasília (*FIBRA*), etc.

This meso-level also includes voluntary associations and corporatist legacy associations which represent a specific sector at the national level (top-left corner of Table 6). The constitution of 1988 allowed the establishment of this type of association (Power & Doctor, 2004).

Figure 1 below illustrates this overlap and associations’ multiple affiliations with *Sinduscon-Rio*, the employers’ union of the sector of public construction works from the state of Rio de Janeiro. *Sinduscon-Rio* is affiliated to the sectoral association called the Brazilian chamber of construction industry (*Câmara Brasileira da Indústria da Construção: CBIC*).¹⁷⁴ *Sinduscon-Rio* is also affiliated to FIRJAN which combines all employers unions from all sectors in the state of Rio de Janeiro.

¹⁷⁴ Lira, R., technical advisor at Sinduscon-Rio, 21 March 2018, personal interview.

Figure 1. Business associations overlap: the example of *Sinduscon-Rio*



Legend

CNI: *Confederação Nacional da Indústria* **ABRAINC:** *Associação Brasileira de Incorporadoras Imobiliárias*

CBIC: *Câmara Brasileira da Indústria da Construção* **FIESP:** *Federação das Indústrias do Estado de São Paulo*

FIRJAN: *Federação das Indústrias do Estado do Rio de Janeiro* **FIBRA:** *Federação das Indústrias de Brasília*

2. LOW COST OF COLLECTIVE ACTION

Martin and Swank (2012) have claimed that federalism tends to produce less coordination among businesses because it emphasises ethno-linguistic divisions, which reduces the importance of class divisions and increases the importance of regionally based sectoral divisions. According to them, economic regional diversity impairs the development of centralised cross-sectoral business associations because employers find it harder to identify common ground. They also argue that it is easier for business interest groups to achieve high levels of coordination in small countries because larger countries lack geographically concentrated networks. In

conclusion, countries with such diversity would tend to develop more market-based types of coordination (Martin & Swank, 2012).

This chapter however shows Martin and Swank's assessment to be inaccurate: Brazil is a country of continental scale with great economic regional diversity and acute class divisions. However, the Brazilian corporatist institutions and the para-fiscal prerogatives from the 1943 labour code have reduced the high cost of collective action that Martin and Swank (2012) observed in large countries and economically diverse regions. Federalism – a proxy for the level at which political competition happens – is not a significant predictor of the emergence of the macro-corporatist organisation of employers' interests in Latin America. Brazil has produced well-functioning business associations at the macro-, meso- and micro-levels which have survived four different political regimes – including a democratic period of deeply fragmented parties and another of effective bipartisanship (Kingstone & Power, 2017).

This work argues that Brazil contradicts the theory of Martin and Swank (2012) because federalism, a country's size, and regional diversity do not directly impact business organisation. They would normally do so through the cost of collective action: SMEs would struggle to coordinate among themselves in a large and regionally, ethnically, and culturally diverse country with semi-independent states promoting distinct legislation. However, the Brazilian business associations established by the corporatist state have allowed SMEs to overcome all these obstacles and undertake efficient collective action.

2.1. Historical institutions: parafiscal taxes and corporatism

The 1988 Constitution upheld corporatist features while burying corporatism itself, by permitting competition between business associations at the federal-sectoral level and by suppressing direct state interference in the administration of unions and business associations (Power & Doctor, 2004). The corporatist state faded away, but the corporatist institutions remained in place, decisively lowering the cost of collective action.

The 1988 Constitution maintained business associations' monopolies on territories (*Constituição da República Federativa do Brasil de 1988., Art. 8, s. II*). This prohibits the creation of a competing association with the same base of affiliates, and means SMEs can identify clearly which institution should politically represent them. The participants are homogeneous in their sector and region, and hence their culture, and all receive the same information from the employers' union. This homogeneity decreases transaction costs and greatly encourages cooperation (Ostrom, 2009).

These corporatist associations have in themselves decreased the cost of collective action by becoming a source of information about previous actions, by linking individuals, and by fostering face-to-face communication. These are three variables identified by Ostrom as significant in reducing the cost of collective action (Ostrom, 2009). For example, *CNI* informs smaller business associations and members about previous lobbying actions and makes education services available to them.¹⁷⁵ The automobile pieces industry sector, represented by *Abipeças*, also provides a networking service to SMEs, including a directory of all affiliates published at the end of the first semester of each year. Additionally, each month the economics department publishes affiliates' employee numbers, amount of billing, investment, and commercial balance.¹⁷⁶

The articles 579 and 580 of the labour code (*Decreto lei Nº 5.452, de 1º de maio de 1943*) made SMEs financial contributions to their employers' unions and labour unions mandatory but proportional to their size and financial capacity. For employees, the union fee amounted to one day's wage. For employers, it was proportional to their capital, and for freelance and self-employed professionals it was a percentage of the reference value set by the Executive Power (Kozyreff, 2018).

The Brazilian labour code made fees mandatory but modest, from 0.01% to 0.5% of a firm's capital until 2017; the fee was then shared between the employers' union, the state-level federation and the confederation (*Decreto lei Nº 5.452, de 1º de maio de 1943, Art. 136, s. III*). This created an environment of low-cost collective action, because the fee was cheap and levied on all firms regardless of their affiliation to their local business association. Moreover, the cost of affiliating to the association was null in financial terms and required only the time necessary to register.

Some firms may have preferred to remain informal in order to avoid this mandatory fee and taxation, as in Colombia, but I would expect the rate of informality to have been significantly lower than in Colombia, where the registration cost for the commercial registry is around 5% of a firm's yearly profits. Indeed, in 2018 informality stood at 57.25% in Colombia, compared to 38.27% in Brazil in 2015 (World Bank, 2019).

This mode of business organisation remained in place until 2017, when the reform of the labour code (*Reforma Trabalhista, Lei 13.467/2017*) made financial contributions to unions and business associations optional (Saores Ximenes & Oliveira, 2018). This was likely due to perceived rent-seeking behaviour from many labour unions, which were suspected of taking the fee without providing any

¹⁷⁵ Cesario, P., executive director of CNI's lobbying department, 23 April 2018, personal interview.

¹⁷⁶ Pedregal, L. and Chesky L., director of institutional relations at Sindipeças, 29 March 2018, personal interview.

meaningful representation in return (Araújo Filgueiras, 2019). The mandatory fee was abolished for both labour unions and business associations. The reform also included a range of other changes aimed at cutting direct or indirect costs for business related to hiring, remuneration, breaks and travel, health and safety, maintenance of the workforce, layoffs and the legal consequences of non-compliance with legislation (Galvão, 2019).

After a year, the reform led to a 90% drop in union and business association revenues in São Paulo state (Silva, 2019) and a 95% drop after two years (Pinho, 2019). If *CNI* and the largest regional and sectoral associations are to overcome this loss in revenue, it will likely be at the expense of the employers' unions and sectoral associations composed mainly of SMEs. SMEs are most likely to disaffiliate in order to save the cost of the fee.

Meanwhile, CLFs are likely to continue to coordinate efficiently, thanks to the sustained benefits of collective action, as explored in the next section. Following the 2017 reform, fewer SME representatives are likely to be active in promoting their policy preferences. As a result, CLFs will gain a firmer grasp on the policymaking process. This will allow CLFs to promote self-serving trade and fiscal policies detrimental to SMEs, reducing competition and supporting oligopolies which will in turn worsen unemployment and informality – as has happened in Colombia.

3. BENEFIT OF COLLECTIVE ACTION: SUBSIDISED FINANCING AND ISI POLICIES

The Vargas regime won the support of the wealthiest Brazilians, something which 'was not difficult as long as their privileges were defended' (Loewenstein, 1942, cited in French, 2004, p. 2). The subsequent decades of ISI policies provided CLFs with consistently high benefits of collective action, consisting of protections (tariffs, rules of origins) and subsidised funding targeted at certain sectors. This fostered the creation and strengthening of a coalition of firms that grew or maintained their dominant position thanks to these policies.

Between 1930 and 1980 Brazil was a model case of ISI policies, with state-owned banks playing a significant role in providing credit for industrial development and economic diversification (Saad-Filho, 2010). Small domestic family firms, dominant in the non-durable goods sectors, have occasionally prospered under ISI. But those that benefited the most from these policies were foreign transnational corporations dominating the durable goods sector, domestic oligopolistic firms dominant in the capital goods sector and state-owned enterprises (SOEs) dominant in infrastructure and energy (Saad-Filho, 2010). During this period, strong state intervention made Brazilian business dependent on political decisions, which created an incentive for powerful firms to forge links with politicians to advance and protect their interests. Since the 1950s, the operation and profitability of firms has

been heavily dependent on the discretionary rulings of state officials – on licenses and permits, subsidies and tax incentives, and contracts with para-state enterprises for example (Weyland, 1998).

This state intervention has not been universalist but rather sector or even firm specific. Weyland, however, claims that targeted benefits created the incentive for firms to lobby individually, thereby preventing a macro-corporatist system of interest intermediation from emerging (1998). This work claims instead that targeted benefits have created a durable incentive for CLFs to collectively organise in order to protect these benefits. Individual lobbying often relies on personal connections and so any gains made are easily overturned by a newly elected politician or nominated civil servant, as has been happening in Argentina since 1976 – a case this thesis makes in Chapter 7.

Such an incentive for CLFs to form associations as a means of coordinating to defend their shared strategic interests continued after 1980, despite the end of ISI policies. The external shocks of the 1970s and 1980s made the ISI fiscal, tax, monetary, financial, and exchange rate policies incompatible with internal and external balance (Saad-Filho, 2010). Brazil transitioned to a ‘new liberalism’ system which relied on neoliberal economic policies, the denationalisation of firms and their integration into global value chains, a more important role for finance in economic policy-making, and political democracy. Still, there was a continuity in state provision for protection from imports and subsidised financing to sectors (Saad-Filho, 2010). These are surveyed in the next section.

3.1. Subsidised interest rates: *BNDES* and regional banks

The high real interest rates during the period of the *Real* currency (1994-1997) led to the establishment of continuous subsidised interest rates. The high rates were a result of continuing inefficiencies in the financial system and high costs, as well as the new liberalism’s latent conflicts between monetary and fiscal policies (Saad-Filho, 2010).

As part of this longer term industrial and developmental policy, *BNDES* and regional development banks provided very large and well-connected firms with cheap loans (Musacchio & Lazzarini, 2014). *BNDES* offered a rate of 4% instead of the 8% offered by commercial banks with the government making up the difference.¹⁷⁷ These credit lines¹⁷⁸ were *de facto* subsidies directed to industries such as the

¹⁷⁷ Jardim, R., superintendent of industrial and economic policies at ABIT, 09 April 2018, personal interview.

¹⁷⁸ Firms can request from *BNDES* to benefit from a line to modernise their industrial park. To obtain the line, firms need to present a project that matches the requirements of lines already opened and which conditions include the size of the firm, cost of the project, and so on, and if a firm qualifies, it only needs to get certified to receive the money (Cintra de Oliveira, E., executive director at ABRAFAS, 26 March 2018, personal interview).

automobile and oil and gas sectors, among others.¹⁷⁹ The beneficiaries were healthy firms, generally performing well, using their political connections to find cheaper credit (Musacchio & Lazzarini, 2014).

This use of political connections led to abuses and, according to a representative of the textile sector's business association, 'sectors would be asking for subsidized money [partly] to engage in an entirely corrupt operation with the government itself'¹⁸⁰. In 2016, *BNDES* halted funding for 47 overseas infrastructure projects that had been awarded to construction companies investigated in the *Lava Jato* corruption probe. The prosecutors charged former president Lula with corruption, money laundering and influence peddling, after he allegedly received a fee in exchange for helping the construction company Odebrecht to obtain subsidised *BNDES* loans for projects in Angola (Global Construction Review, 2016). However, between 2003 and 2018, only 5% of *BNDES*'s total loans value was received by companies involved in the corruption investigation (*BNDES*, n.d.).

Aside from corrupt practices, business associations contributed to requesting the opening of financing lines and formulating their conditions – illustrating that subsidies are a great incentive to organise. In fact, *CNI* has a systematic role in designing lines of finance provided by *BNDES* and regional development banks and in helping meso-level associations to access them.¹⁸¹

Besides sectoral lines, *BNDES* also provides cross sectoral credit lines directed to working capital¹⁸² which mainly targets capital intensive firms, which in turn also tend to be large firms. This targeting of large firms reinforces the incentive for CLFs to coordinate efficiently, so they can continue to benefit from these resources. The synthetic fibre industry's business association (*Associação Brasileira de Produtores de Fibras Artificiais e Sintéticas: ABRAFAS*), which only affiliates large firms, has benefitted from *BNDES* support. This support funded a project to expand an existing plant, at a cost amounting to dozens of millions of dollars. *ABRAFAS*' representative found the credit lines helpful but admitted that his affiliates could have obtained funding elsewhere, albeit at a more expansive rate: 'we would survive without *BNDES* but would be less profitable'¹⁸³. Similarly, a director at Tenaris, an Argentine multinational manufacturing steel pipes, argued that in Argentina, as in Brazil, the firm has benefitted from subsidised funding from *Banco Nación* (Argentina) and *BNDES*, which 'just increased the profitability of specific projects'¹⁸⁴.

¹⁷⁹ Jardim, R., superintendent of industrial and economic policies at ABIT, 09 April 2018, personal interview.

¹⁸⁰ Jardim, R., superintendent of industrial and economic policies at ABIT, 09 April 2018, personal interview.

¹⁸¹ Cesario, P., executive director of *CNI*'s lobbying department, 23 April 2018, personal interview.

¹⁸² Jardim, R., superintendent of industrial and economic policies at ABIT, 09 April 2018, personal interview.

¹⁸³ Cintra de Oliveira, E., executive director at *ABRAFAS*, 26 March 2018, personal interview.

¹⁸⁴ Cintra, M., institutional relations director at Tenaris (Brazil) and the president of Brazilian Association of Infrastructure and Basic Industries, 16 April 2018, personal interview.

BNDES support in exporting has also been an important benefit to CLFs. *BNDES* has supported Brazilian firms in answering public tenders abroad in order to make the firms' proposals more competitive. For example, a group of firms coordinated to respond to a public call to build a gas pipeline from Russia to Germany. If it had won the contract, the firm operating the project (Shell), could have benefited from *BNDES* funding to buy steel tubes from Tenaris.¹⁸⁵ Ultimately, firms remain free to turn any extra profit made with the help of *BNDES* into higher shareholder benefits and to repatriate them outside of Brazil – making the degree of benefit to Brazil's economy and industrialisation questionable.

The next section provides empirical evidence to support this thesis' theoretical expectation: where high-benefit and low-cost collective action is commonplace, business follows a competitive-corporatist mode of organisation. This mode of organisation explains the differences between firms' varying degrees of success and failure in communicating their policy preferences to politicians. The section supports this argument by exploring the different strategies used by associations at all levels to solve their conflicts of interest.

4. THE ORGANISATION OF BRAZILIAN PRIVATE INTERESTS

Business associations in Brazil are organised on three levels. At the micro level, employers' unions federate all the firms in their respective sector and geographical zone, such as *Sinduscon-Rio*, the employers' union for the public construction works sector in the state of Rio de Janeiro. At the meso-level, federations amalgamate all employers' unions from the state they represent, as with *FIRJAN* in Rio de Janeiro. The state of São Paulo hosts the country's largest industries and firms so that state's association, *FIESP*, stands out as the nation's CLF association. Also at the meso-level, voluntary associations – authorised to compete with corporatist associations by the 1988 Constitution – gather large firms in sectoral groups regardless of the state in which companies operate. At the macro level, confederations affiliate all federations as well as the largest sectoral voluntary associations. Firms do not have an obligation to go through their employer's union to be represented at other levels because they are authorised to affiliate directly with their state's federation or with the confederation for their sector. However, this option is reserved to those CLFs with the financial means to pay an additional fee to business associations on top of the mandatory fee to their assigned employers' union. The following sections provide more detail and empirical examples for all levels of representation.

¹⁸⁵ Cintra, M., institutional relations director at Tenaris (Brazil) and the president of Brazilian Association of Infrastructure and Basic Industries, 16 April 2018, personal interview.

4.1. Macro-level: transversal reforms and shaping of preferences

CNI coordinates a network of 27 regional federations which affiliate all the business associations in their respective states. This totals over 1,300 sectoral associations affiliated directly and over 7,700 indirectly (i.e. affiliates of affiliates).

CNI experiences internal conflicts of interest in areas such as import/export and tariffs which create 'constant tension [due to the] aggregation of diverse interests and sectors'¹⁸⁶. Halpin, Lowery and Gray (2015) argue that business associations which are overly diversified tend to die because they are either too slow, or completely unable, to achieve a consensus. However, *CNI* has proved them wrong because 'it has been actively reducing conflicts and building consensus. This is a work of providing with information in order to build policy preferences'¹⁸⁷.

To maintain unity and lower the cost of collective action, *CNI* has done more than articulate its affiliates' diverse policy preferences; it has shaped them through the yearly formulation of its legislative agenda (see an extract below, Figure 2). At preparatory seminars affiliates provide input to the legislative agenda draft – an efficient form of collective action in terms of coordinating interests and promoting those interests through congressional lobbying (Borck, 2019). Since 1995, *CNI*'s legislative agenda has tracked every major legislative proposal that could impact Brazil's competitiveness, and published the private sector's position on each proposal (Pralon Mancuso, 2010). From 1997 on, all the state-level federations have been participating in its formulation and, from 2001, a growing number of sectoral associations have also contributed. In 2004, for the first time, an employers' union joined the effort.

CNI has internalized its members' cost of collective action by investing significant resources¹⁸⁸ in its legislative affairs department, which employs political scientists, lawyers and economists. They work year-round to prepare the agenda in conjunction with *CNI*'s affiliates (Pralon Mancuso, 2010). For example, in February 2021, *CNI* organised a two day seminar aimed at consulting affiliates on labour legislation, economic regulation policies (including for SMEs), tax policies and institutional questions such as environmental regulation, social security and research and development (CNI, 2021).

Finally, *CNI* also internalised the cost of communicating these preferences to the government by disseminating the legislative agenda to Congress, the executive, the media and other stakeholders (Pralon Mancuso, 2010). *CNI* has also produced

¹⁸⁶ Cesario, P., executive director of *CNI*'s lobbying department, 23 April 2018, personal interview.

¹⁸⁷ Cesario, P., executive director of *CNI*'s lobbying department, 23 April 2018, personal interview.

¹⁸⁸ These resources mainly come from the parafiscal tax established by the 1943 Labour Law which allows it to receive 5% of all the fees raised by the 27 states' associations (Pralon Mancuso, 2010).

similar agendas on the industry's preferences for the judicial and executive branches.

CNI's internal organisation has also contributed to solving conflicts of interest. *CNI* is subdivided into thematic councils in which conflicts are identified and consensus found among the participants of these more homogeneous, interest-based sub-groups. If a consensus cannot be found, *CNI* remains neutral and moves a conflict outside its structure by delegating the management of it to a lower strata of the hierarchy, such as a regional or sectoral meso-level association.¹⁸⁹

If a conflict of interest arises that affiliates are unable to solve, *CNI* arbitrates by punishing anything that *CNI's* president regards as opportunistic behaviour that would hurt the interests of the wider group. For example, a business association affiliated to the State of Amazonas' association requested specific fiscal subsidies in the free trade zone of Manaus. All other *CNI* affiliates opposed it on the grounds that it created unfair competition. *CNI* filed a lawsuit to contest the granting of these fiscal subsidies by the State of Amazonas' association on the grounds they were unconstitutional. This was despite the fact that Amazonas is represented at the board of directors through its regional association representative, who is also *CNI's* second vice-president.

Finally, *CNI* is prohibited by law to have political preferences and abides by this principle in practice: 'to defend a party over another within *CNI's* building is actually sufficient ground to fire an employee'¹⁹⁰. This is in fact a matter of survival for the institution because the political preferences of its affiliates are diverse. *CNI* cannot afford to 'ally with any party without alienating a significant part of [its] affiliates'¹⁹¹.

¹⁸⁹ Cesario, P., executive director of *CNI's* lobbying department, 23 April 2018, personal interview.

¹⁹⁰ Cesario, P., executive director of *CNI's* lobbying department, 23 April 2018, personal interview.

¹⁹¹ Cesario, P., executive director of *CNI's* lobbying department, 23 April 2018, personal interview.

Figure 2. Extract of CNI's 2020 Legislative agenda

Where is it in the legislative process?

Description of the law in question.

What is this law about? It proposes to repeal a state-level tax, the *ICMS*, in the cases in which the goods leave one establishment for another of the same owner.

The private sector's position: disagreement.

The practical effect of the project, when determining that the transfers of goods between establishments of the same taxpayer will not be taxed by the *ICMS*, is to interrupt the chain of credits and debits of the tax, transforming these values into cost, and to insert another element of cumulatively to the system. Brazilian tax system. Such a measure will result in an increase in the effective *ICMS* rate at the end of the production chain and will have a significant impact on the competitiveness of companies.

ONDE ESTÁ? COM QUEM?

SF: CCJ (aguarda parecer do relator, senador Tasso Jereissati – PSDB/CE) e Plenário. CD.

PLS-C 332/2018 do senador Fernando Bezerra Coelho (MDB/PE), que “Dispõe sobre a desestatização da Centrais Elétricas Brasileiras Altera a Lei Complementar nº 87, de 13 de setembro de 1996, para vedar a incidência do Imposto sobre Operações Relativas à Circulação de Mercadorias e sobre Prestações de Serviços de Transporte Interestadual e Intermunicipal e de Comunicação nos casos de transferência de mercadoria entre estabelecimentos do mesmo contribuinte”.

Foco: Vedação da incidência do ICMS nos casos de transferência de mercadoria entre estabelecimentos do mesmo titular

O QUE É

Retira da hipótese de incidência do ICMS os casos em que a mercadoria saia de um estabelecimento para outro do mesmo titular.

NOSSA POSIÇÃO



DIVERGENTE

O efeito prático do projeto, ao determinar que as transferências de mercadorias entre estabelecimentos do mesmo contribuinte não serão tributadas pelo ICMS, é interromper a cadeia de créditos e débitos do tributo, transformando esses valores em custo, e inserir mais um elemento de cumulatividade ao sistema tributário brasileiro. Tal medida resultará em aumento da alíquota efetiva do ICMS no final da cadeia produtiva e terá impacto significativo na competitividade das empresas.



Unlike *CNI*, meso-level associations, whether regional or sectoral, have defended the narrower interests of their affiliates – with *FIESP* standing out as the country’s CLFs association. They have put in place a range of mechanisms to solve their members’ conflicts of interest but have stopped short of shaping an agenda to foster greater consensus, a process that has remained unique to *CNI*.

4.2. Meso-level: regional associations and structural power

The 27 regional federations represent – for each state in Brazil – employers’ unions, individual firms that choose to affiliate directly and voluntary associations that choose to affiliate directly. As a result, the sectors and firms with the greatest economic weight in a given state will shape that federation’s priorities. States with few CLFs and where labour intensive sectors dominate will have priorities that are distinct from states where capital-intensive firms are dominant. For example, when compared to its industrial and service sectors, the state of State of Rio de Janeiro does not have large *haciendas* nor a developed agricultural sector, which means *FIRJAN* rarely pays attention to agricultural reforms.¹⁹²

FIESP is the regional association of São Paulo, the most industrialised state in Brazil, and claims to speak in the name of all industry, on the basis that it represents most of Brazil’s GDP. This has made it Brazil’s de facto CLF business association, similar to *ANDI* in Colombia. *FIESP* also actively supports CLF associations. For example, when *ABRAFAS*’s representative travels to Brasília to lobby, they work from *FIESP*’s offices. This alliance allows *ABRAFAS* to build a network with other business representatives and politicians.¹⁹³

Unlike *ANDI*, *FIESP* has not gained hegemony over the policymaking process, as it faces competition from other well-organised interests. Leveraging its structural power, it has been competing with *CNI*. When the positions of *FIESP* and *CNI* differ on an issue, *FIESP* has enough economic weight and political connections to perform put its own case to the government.¹⁹⁴ Still, it has not always been successful because, from the government’s perspective, it has been unreliable as a representative of all industry (Schneider, 2004). Toward the end of the Cardoso administration (1995-2002), government officials made clear that they preferred managing crises without business cooperation (Schneider, 2004). In mid-2001, the government announced the establishment of the Electric Energy Crisis Management Council to deal with the problem of electricity shortages. *FIESP* asked to participate in the Electric Energy Crisis Management Council in order to help reduce electricity consumption with minimal ‘collateral damage’ to industrial production. However, the

¹⁹² de Alcantara Gomes, J.-P. and Kayat Bedran, C., international manager and affiliates manager at *FIRJAN*, 17 April 2018, personal interview.

¹⁹³ Cintra de Oliveira, E., executive director at *ABRAFAS*, 26 March 2018, personal interview.

¹⁹⁴ Cesario, P., executive director of *CNI*’s lobbying department, 23 April 2018, personal interview; Zanotto, T., director of the department of international relations and foreign trade at *FIESP*, 26 April 2018, personal interview.

government refused to include *FIESP*. According to Schneider's interview with *FIESP* in 2001, the reason for the refusal was because *FIESP* wanted to lobby for differential treatment for each state, promoting narrow interests at the expense of industry from the rest of Brazil.

FIESP has also been competing with *CNI* by influencing *CNI*'s internal decisions whenever and as much as it could. Specifically, *FIESP* has used the fact that it represents 40% of *CNI*'s indirect affiliates to influence the election of *CNI*'s president – which is decided by a majority vote among the 27 board members from the regional associations.¹⁹⁵

Internally, just as *CNI* and *ANDI* have been doing, *FIESP* and other federations have organised various committees dedicated to specific issues such as oil, which have helped to reduce conflicts of interest by creating smaller, more homogenous groups.¹⁹⁶ An affiliate is also able to raise an issue on which it requires help and to coordinate with other firms and associations which may share an interest. In such cases, the association creates a specific temporary committee to meet and find a common position, for example on external trade.¹⁹⁷ Sectoral associations have used similar mechanisms to gain influence and solve conflicts of interest. These are surveyed in the next section.

4.3. Meso-level: sectoral associations

Sectoral associations that represent large value chains have had to coordinate between SMEs and CLFs seeking to create a consensus. To do so they have used committees to solve conflicts of interest, similar to those used by federations.

Despite occasionally acute conflicts, the influence of both SMEs and CLFs serve to balance one another within well-coordinated sectoral associations. For example, *ABIT* convinced the capital-intensive sector of synthetic fibre producers to take on part of the tax burden of labour-intensive smaller textile manufacturers. *ABIT* supported law 12.546 / 2011, the payroll tax exemption (*Lei nº 12.546, de 14 de dezembro de 2011*) also nicknamed the law on '*desoneração da folha de pagamento*' (translated as 'payroll tax relief'). The law aimed to reduce the employers' wage bill by changing the base used to calculate this contribution, switching from a firm's payroll to a firm's gross revenue.

This law displaced the tax burden from labour-intensive industries, such as the confection sector, to capital-intensive industries, such as synthetic fibre

¹⁹⁵ Cesario, P., executive director of *CNI*'s lobbying department, 23 April 2018, personal interview.

¹⁹⁶ de Alcantara Gomes, J.-P. and Kayat Bedran, C., international manager and affiliates manager at *FIRJAN*, 17 April 2018, personal interview; Albuquerque, P., technical advisor at *FIERN*, 23 April 2018, personal interview; Zanotto, T., director of the department of international relations and foreign trade at *FIESP*, 26 April 2018, personal interview.

¹⁹⁷ de Viveiros, C.-L., 21 March 2018, personal interview.

producers. The latter's business association, *ABRAFAS*, nonetheless supported the initiative and helped to promote it in Congress. Its rationale was that, if the confection sector pays less tax on labour, it will lower prices and employ people formally, which should translate into more sales and better-quality goods. This, in turn, was expected to lead to an increase in demand for synthetic fibres. *ABRAFAS* was also aware that it could not go against the demands of most of its sector's value chain. *ABRAFAS* could also hardly argue that SMEs should remain burdened by taxes and therefore saw a need to compromise for the sake of the wider group.¹⁹⁸

In the machinery and equipment sector, two large steel tube producers also had to compromise and accept tax increases. Tenaris produced tubes with a seam and Vallourec produced tubes without a seam. On markets in which these tubes do not compete, producers seek identical fiscal incentives. Previously, on markets in which the tubes competed, one of the two firms sought to benefit from a tax incentive which excluded the other firm, in order to gain a competitive edge. For example, Tenaris sought to obtain a tax exemption¹⁹⁹ for the import of the goods produced by Vallourec, and vice versa. The Brazilian association of machinery and equipment Industry (*Associação Brasileira da Indústria de Máquinas e Equipamentos: ABIMAQ*) reconciled them by 'arguing for isonomy: both get taxed, or none get taxed. This is not the best solution individually, but it is the best solution collectively, without a doubt.'²⁰⁰

More generally, the use of committees allows sectoral associations to form smaller and more cohesive internal groups, easing the coordination of diverse interests.²⁰¹ When a specific topic of interest arises, members can ask for their committee to hold an exceptional meeting. For example, *ABIMAQ*, which represents approximately 8,000 affiliates²⁰², is internally organised into committees focusing on certain sectors or on specific interests, such as the 'oil and gas' or 'basic equipment' committees. Similarly, *ABIT* is organised into 20 committees, each focused on a segment of the sector or on a subject of interest, which meet every 30 to 60 days. After a review of the sector's latest news, the meetings consist of debating members' positions and raising their concerns. *ABIT's* board of directors, composed of representatives of 50 firms – of every size – from all textile segments and from every

¹⁹⁸ Cintra de Oliveira, E., executive director at *ABRAFAS*, 26 March 2018, personal interview.

¹⁹⁹ The so-called '*Repetro*' law, passed in 2017, made the purchase of machinery and equipment deductible from the corporate income tax and the Social Contribution on Net Income in the oil and gas sector. It also made possible to deduct exploration and production investment of oil and gas in determining the real profit for the calculation base of the two taxes sus-mentioned (Programa de Parcerias de Investimentos, 2017).

²⁰⁰ Cintra, M., institutional relations director at Tenaris (Brazil) and the president of Brazilian Association of Infrastructure and Basic Industries, 16 April 2018, personal interview.

²⁰¹ Cintra, M., institutional relations director at Tenaris (Brazil) and the president of Brazilian Association of Infrastructure and Basic Industries, 16 April 2018, personal interview.

²⁰² Cintra, M., institutional relations director at Tenaris (Brazil) and the president of Brazilian Association of Infrastructure and Basic Industries, 16 April 2018, personal interview.

region of Brazil, meets once a month. Representatives raise issues to be discussed and the group decides on *ABIT*'s collective position.²⁰³

When no common ground can be found in these meetings, such as when supporting one group of affiliates would commercially hurt another group, sectoral associations remain neutral and let each side undertake their own lobbying.²⁰⁴ When one segment of the industry is lobbying on an issue in which the other segments have no interest, *ABIT* would support this lobbying, as long as it does not hurt other affiliates.²⁰⁵ Such strategies, similar to those employed by *CNI*, *ANDI* and *FIESP*, have proved efficient in ensuring the cohesion and survival of business associations.

Finally, in sectors such as construction, the sectoral association functions as a network of employers' unions from Brazil's 27 states. This is the case of the public works sector which is represented in all states including, for example, *Sinduscon-Rio*, *Sinduscon-SP* (São Paulo) and *Sinduscon-MG* (Minas Gerais). Similarly, *Secovi* is their counterpart in the private real estate and land development sector. All local *Secovi* associations are affiliated to the federal sectoral association of the same name. The subsidiary in the state of São Paulo federates approximately 20 large firms and 16,000 SMEs, for example. Thanks to its mandatory membership fees, *Secovi* has had the resources to establish its own university, offering courses and vocational training that mainly benefit SMEs.²⁰⁶

Sometimes, CLFs feel crowded out or under-represented by the fact that a state's meso-level associations also represent SME interests – as is the case with the aviation sector which is scattered throughout the country, or with the citrus juice sector's oligopoly. These CLFs have established newer associations, 'born out from necessity',²⁰⁷ which are reviewed in the next section.

4.4. Meso-level: CLF voluntary associations

In contrast to those sectoral associations that represent value chains, vertically integrated and capital-intensive sectors tend to be represented by smaller, newer and more exclusive CLF associations. Similar to *FIESP*, they have sought to speak directly with the relevant government representative or to gain influence with larger associations and occasionally forge alliances with them.

The aviation sector association (*Associação Brasileira das Empresas Aéreas: ABEAR*), was established in 2012 by Azul, Avianca, GOL and TAM (called LATAM

²⁰³ Jardim, R., superintendent of industrial and economic policies at *ABIT*, 09 April 2018, personal interview.

²⁰⁴ Jardim, R., superintendent of industrial and economic policies at *ABIT*, 09 April 2018, personal interview; Cintra de Oliveira, E., executive director at *ABRAFAS*, 26 March 2018, personal interview; Cintra, M., institutional relations director at Tenaris (Brazil) and the president of Brazilian Association of Infrastructure and Basic Industries, 16 April 2018, personal interview.

²⁰⁵ Jardim, R., superintendent of industrial and economic policies at *ABIT*, 09 April 2018, personal interview.

²⁰⁶ Hamilton, L., *Secovi* university's CEO, 22 March 2018, personal interview.

²⁰⁷ Cintra de Oliveira, E., executive director at *ABRAFAS*, 26 March 2018, personal interview.

since 2016). These firms concluded that their designated corporatist associations were unable to properly represent their interests. After a consultancy²⁰⁸ advised them to create a new association, in 2011 they hired a head-hunter to find the future association's chief executive.²⁰⁹ Like *ABRAFAS* and *FIESP*, *ABEAR* has sought to increase its influence over the decision-making of the larger corporatist associations. They, like other CLFs, realised that:

that [they] will never manage to achieve nearly as much on [their] own [and] need to insert into the hierarchy of business representation [to] influence the national questions [...]. It is more efficient to attempt weighting in the larger associations' internal positioning and decision.²¹⁰

Similar to *ANDI's* pharmaceuticals chamber in Colombia, *ABEAR* has first- and second-class affiliates, and like other well-organised associations reviewed in this work, it remains neutral when it cannot solve a conflict among its first-class affiliates. After its establishment, *ABEAR* accepted the affiliation of Boeing, Bombardier, TAP, and LATAM Cargo. These four founding firms are the permanent members of the executive council, which incorporates two representatives for each company (one shareholder and the CEO). The newer members have less weight and influence over *ABEAR's* decisions because they do not sit on the executive council. *ABEAR* first seeks to build consensus and 'for the greatest part of the agenda there is a consensus. For other things not at all, like for example, commercial disputes, market share disputes, disputes for the future design of the industry'²¹¹. On these more controversial issues, *ABEAR* remains neutral and each firm has to make its case to the relevant stakeholders.

The agricultural sector's confederation, *CNA*, is not as strong nor well-coordinated as industry's confederation *CNI*, which has allowed CLFs to bypass the corporatist institutions more easily. Consequently, agricultural CLF associations have gained influence on their own and formed alliances with other associations only when necessary. The citrus juice sector is vertically integrated and represented by the business association *CitrusBr*, which was established in 2009. *CitrusBr* represents the largest citrus producers and exporters in the world operating in Brazil: *Citrosuco*, *Cutrale*, and *LDC.Juice* (Louis Dreyfus Company).²¹² Together they make

²⁰⁸ Called *Foundation Dom Cabral*.

²⁰⁹ Sanovicz, E., *ABEAR's* CEO, 11 April 2018, personal interview.

²¹⁰ Cintra de Oliveira, E., executive director at *ABRAFAS*, 26 March 2018, personal interview.

²¹¹ Sanovicz, E., *ABEAR's* CEO, 11 April 2018, personal interview.

²¹² Netto, I., *CitrusBr's* executive director, 26 March 2018, personal interview.

up 75% of the orange juice market, with local producers accounting for the remaining 25%.²¹³

This oligopoly's association is actually organised at the global level and has undertaken large scale campaigns to promote specific regulations in Europe under the European sectoral umbrella association, AIJN (European Fruit Juice Association). CitrusBr is the Brazilian branch of this world-wide effort, and is mostly in contact with the Ministry of Agriculture in order to help formulate regulations, such as those relating to sanitary or agronomic aspects of the industry. Because its affiliates also work in importing and exporting produce, CitrusBr also gets directly involved in Brazil's FTA negotiations.²¹⁴

To exert its influence, CitrusBr does not integrate within the corporatist hierarchy but occasionally collaborates with *FIESP* or *CNI* by forming what Mahoney (2007) has called 'short-life ad hoc alliances'. CitrusBr spent several years building a history of high-quality work, including providing precise information and guidance on compliancy rules, which enabled *CNI* and *FIESP* to trust CitrusBr and accept its input.²¹⁵ These alliances happen outside of the usual channels, associations and structural divisions:

CNI and *FIESP* can help you out sometimes, but you can live without them as well. It is always better to have more people defending the same cause which is why it important to keep them as potential allies even though we are not always supporting their cause.²¹⁶

Yet, while these alliances have become easier with time, they remain conditional because 'there is no way of securing [*FIESP* and *CNI*]'s support'²¹⁷.

Meanwhile, in sharp contrast to Colombian SMEs' struggle to articulate and communicate their interests to the government, Brazilian SMEs have achieved considerable political representation through their employers' unions – as explored in the next section.

4.5. Micro-level: delegation and diffusion of information

Membership of business associations provides SMEs with access to information about the political environment and other members' interests, preferences and capacities (Hart, 2010). This reduces the cost of obtaining relevant information, and

²¹³ Netto, I., CitrusBr's executive director, 26 March 2018, personal interview.

²¹⁴ Netto, I., CitrusBr's executive director, 26 March 2018, personal interview.

²¹⁵ Netto, I., CitrusBr's executive director, 26 March 2018, personal interview.

²¹⁶ Netto, I., CitrusBr's executive director, 26 March 2018, personal interview.

²¹⁷ Netto, I., CitrusBr's executive director, 26 March 2018, personal interview.

of undertaking political actions such as lobbying, contacting politicians, writing up advisory reports, and helping draft a bill. It enables the sharing of risk and reduces uncertainty. Business associations help firms to articulate concerns and priorities regarding specific policies, be they taxes or regulations (Wilson & Grant, 2010). If SMEs have their own representative, they can avoid integration into associations created and controlled by CLFs, and in which SME interests would be subordinated and neglected (Shadlen, 2004). This was illustrated in chapter 4 by the case of Biopas in Colombia²¹⁸.

In Brazil, the corporatist legacy institutions have minimized the cost of SME membership to their corresponding employer's association – all firms pay a fee of 0.01% to 0.5% of their capital, regardless of their membership to the association. Additionally, the 1943 labour code (*Decreto lei Nº 5.452, de 1º de maio de 1943*) granted territorial monopoly to all labour and employers' unions. This system of monopolies and mandatory fees allows SMEs to delegate the representation of their political interests to identifiable, unique and funded employers' unions. All employers' unions are affiliated to their state-level associations, such as *FIESP* or *FIRJAN*, but they are not able to participate in association activities in every state. In general, only representatives of the larger employers' unions can participate, which leaves little room for SMEs in CLF-dominated regional economies such as the state of São Paulo.²¹⁹ However, other states differ. For example, *FIRJAN* allows *Sinduscon-Rio* to have contact with other sectors within the construction value chain in Rio de Janeiro. The other eight micro-level associations from the construction sector meet at the monthly 'council of infrastructure' and 'council of construction', both of which were created, organised and hosted by *FIRJAN*.²²⁰

Regional and sectoral associations send information on recent legislative changes, or new *BNDES* credit lines, to employers' unions in their sectors. In turn, employers' unions pass on the relevant information to their affiliated SMEs.²²¹ For example, *ABIT* unites approximately 400 employers' unions, which themselves represent around 30,000 firms with 5 employees or more²²² and 78,000 firms if one includes smaller family companies.²²³ *ABIT's* website provides the latest news on laws and regulations relating to the textile sector, while also communicating transparently about *ABIT* activities and policy positions. Although *ABIT's* monthly meeting is open to all firms affiliated to *ABIT* member associations, 'smaller firms of

²¹⁸ Vega, P., institutional relations' director at Biopas, 19 and 25 July 2018, personal interview.

²¹⁹ Cintra de Oliveira, E., executive director at ABRAFAS, 26 March 2018, personal interview.

²²⁰ Lira, R., technical advisor at Sinduscon-Rio, 21 March 2018, personal interview.

²²¹ de Alcantara Gomes, J.-P. and Kayat Bedran, C., international manager and affiliates manager at FIRJAN, 17 April 2018, personal interview.

²²² Cintra de Oliveira, E., executive director at ABRAFAS, 26 March 2018, personal interview.

²²³ Jardim, R., superintendent of industrial and economic policies at ABIT, 09 April 2018, personal interview.

course never come'²²⁴. The unions' main task is to collect *ABIT*'s latest information and to communicate it in the appropriate form to SMEs, which may not have the technical ability or time to find it for themselves. They also collect SMEs' concerns and responses, and summarize and articulate them in order to report back to *ABIT* at the monthly meeting.

The second part of this chapter has explained the differences between firms' varying degrees of success in communicating their policy preferences to politicians. It mapped the three levels of private sector interest representation in Brazil and documented the articulation of corporatist institutions with newer, voluntary business associations. It has showcased how the macro-level association *CNI* has successfully coordinated diverse and numerous interests by shaping affiliates' preferences and fostering consensus. It also highlighted different levels of competition between well-organised associations representing CLFs and SMEs within associations – the central feature of competitive-corporatism.

5. CONCLUSION

This chapter explained Brazil's transition from state-directed corporatism to what I labelled competitive-corporatism, characterised by a high level of coordination between SMEs and CLFs. It documented how competition between these well-organised associations has pushed CLFs to accept the need to compromise with SMEs, for example over the sharing of their sector's tax burden. The chapter also showed that large business associations can overcome the hurdles of collective action by shaping preferences instead of taking them as given.

This efficient coordination was made possible by the significant funds granted to employers' unions, federations and confederations as a result of the 1943 labour law (*Decreto lei Nº 5.452, de 1º de maio de 1943*), inherited from state-directed corporatism. The law granted them a monopoly on territories and the right to levy a mandatory fee on their constituents. This created an environment of very low-cost collective action that has allowed SMEs to organise efficiently.

However, the 2017 labour code made the fee to corporatist associations optional. This resulted in mass disaffiliation and significant loss of revenues for all corporatist business associations, especially employers' unions. The CLF associations, which have always been funded by voluntary contributions, remain unaffected, while their contribution to the corporatist associations now represents a greater share of the federations and confederations' revenues.

²²⁴ Cintra de Oliveira, E., executive director at ABRAFAS, 26 March 2018, personal interview.

CLF associations will continue to see significant benefits from collective action thanks to ISI policies and subsidised funding, and will likely receive fewer challenges from SME associations. I thereby expect CLFs to gain an increasingly firm grasp on policies in Brazil, as the situation more closely resembles the cartelism described in chapter 5.

The next chapter turns to how competitive-corporatism shapes the policies promoted by the business community via lobbying and other political influence mechanisms. The chapter also looks at business' varying degrees of success and failure when it comes to influencing trade and fiscal policy.

Chapter 7

Brazil: collective solutions amidst constant rivalry

President Collor (1990-1992) called for the creation of a sectoral tripartite chamber (Power & Doctor, 2004) composed of the government, labour unions, and business associations from the automotive sector²²⁵ to manage stabilisation policies and to handle the competitive challenges posed by trade liberalization (Schneider, 2004). In 1992, this chamber signed its first sectoral agreement. The government committed to reducing sales taxes by 6%, while business agreed to reduce profit margins by decreasing prices by at least 22% while maintaining employment for one year. Labour, meanwhile, agreed not to ask for real wage increases for one year. In 1993, the agreement was broadened to include commitments to modernize the sector and was renewed for three years (Schneider, 2004).

This agreement led to a significant reduction in labour strikes, which had been widespread in the late 1980s. The automotive sector set an all-time record for production, growing by 30% in 1993 and 1994, while prices fell by 30% and domestic sales increased by 43%. Federal tax receipts increased by 30% and state-level tax receipts by 22% (Schneider, 2004). The automotive tripartite chamber showcased the significant impact that government coordination with business on policymaking and policy implementation can have on socio-economic variables.

This chapter goes a step further by analysing the wider impact of the Brazilian mode of business organisation on tax and trade policies. It finds that the competitive-corporatist mode of business organisation determines the type of policies the business community promotes through lobbying and other political influence mechanisms. SME influence within corporatist associations pushes CLFs to compromise on the type of policies they support, prior to engaging with the government.

This chapter also finds that the lobbying techniques deployed by business associations – combined with competition from other associations with opposing interests – determines business' varying degrees of success and failure in influencing policy outcomes.

²²⁵ Alongside well-organized auto workers union, the business association of assemblers (*Associação Nacional dos Fabricantes de Veículos Automotores: ANFAVEA*), and of auto parts producers (*Associação Brasileira da Indústria de Autopeças: Abipeças*) (Schneider, 2004). Note that Schneider cited *Sindipeças* (*Sindicato Nacional da Indústria de Componentes para Veículos Automotores*) as the auto parts business associations whereas it actually is *Abipeças*. *Sindipeças* is the labour union.

This chapter first lays out the way that business organisation shapes how firms attempt to influence policy at various levels of government. Lobbying in Brazil is increasingly professionalized, and lobbyists deploy a broad repertoire of strategies (Santos, et al., 2017). Scholars found that their main asset has been the exchange and dissemination of information (Santos, et al., 2017), a key feature of well-organised interests. Consistently, the primary data presented in this thesis has shown that business associations have used access to early policy drafts, revolving doors and donations to legislators as they seek to have their preferences reflected in government legislation. Sophisticated lobbying strategies have included recording and tracking all lobbying activities in order to determine each one's rate of efficiency. The filing of lawsuits has also been used by certain sectors as a method of disputing government policies they opposed.

The second part of this chapter presents case studies which demonstrate the impact of these tactics in obtaining fiscal incentives and advantageous tariffs. As expected, unlike the situation Colombia, CLFs in Brazil do not seek to influence a wide array of policies but instead focus on their immediate, sectoral interests, and sectoral and regional business associations are regarded as reliable and credible policy partners for the state. The leading association, *CNI*, successfully aggregates its affiliates' diverse interests (when conflicts are not too severe), and the power of CLFs is tempered by the influence of SMEs. *CNI* has successfully promoted a favourable business climate, both by supporting wide sectoral reforms and occasionally by defending the status quo on a particular cross-sectoral issue.

However, contrary to the expectations of this thesis, *CNI* fails to reconcile more serious conflicts of interest when it comes to trade policy. In such cases, instrumental power seems to matter most when negotiating tariffs. Studies on tariff levels in Brazil, and the primary data collected, are inconsistent but not contradictory. The varied outcomes are likely to reflect shifts in the power balance between different segments of the economy. Overall, studying tariffs alone provides an incomplete picture, because firms have pushed states to adjust their fiscal incentives in order to facilitate imports and offset tariffs.

Fierce competition between diverse, well-organised interests has led to suboptimal fiscal policies. Brazil's tax burden is the highest in Latin America and its complexity has been a disincentive for investment and added to companies' transaction costs (e.g. the time to complete tax returns and the cost of hiring accountants and monitoring changes in fiscal policy). Attempts to reform the tax code have consistently been strongly opposed in Congress. Since the 1990s, the administrations of Cardoso, Lula, and Rousseff have failed in their attempts to reduce the tax burden and simplify the tax system. The primary data presented in the case studies shows that competition between associations for fiscal incentives

has accentuated fiscal competition between Brazilian states. Nonetheless, when prompted to come to an agreement on a fiscal reform, associations prefer to maintain the suboptimal status quo because they fear losing the tax breaks that companies and sectors have already secured.

In short, the following sections examine the strategies that large, medium and small business associations have put in place to influence policy. The next section analyses examples of lobbying for fiscal incentives and tariffs.

1. STRATEGIES OF INFLUENCE

With the exception of a few studies (Santos, et al., 2017), scholarship examining business groups' lobbying strategies in Brazil has focused mostly on specific areas of industry. For example, organised private interests have gained considerable influence through lobbying Congress (Cabral, 2007) on industrial regulations (Pralon Mancuso, 2007; Santos, 2011) and environmental regulations. Another study on a biosafety bill shows that organised private interest groups, both opposed to and in favour of the release of genetically modified organisms, have used the legislative process to compete for influence (Taglialegna, 2005).

The strategies deployed by business to influence policy depend on the structure of political power. In Colombia, lobbying has focused on the executive branch, as discussed in the previous two chapters, and in Argentina, it has focused on the President's very close circle, as will be discussed in the next two chapters. In contrast, the decentralised structure of the Brazilian state has accentuated the complexity of competition between organised interests. There are multiple meaningful centres of decision-making across different branches of government that can potentially slow down or block a decision made by another branch of government. It is dependent on the policy in question as to which part of government bears more or less responsibility, which in turn guides business' lobbying strategies.²²⁶

The agenda formulation stage is most crucial for firms when seeking to promote their preferences. This is why the next section explores the access to early policy drafts, before moving on to lobbying tactics in Congress – including the use of revolving doors, building parliamentary fronts and campaign financing. The following section looks at the sophisticated strategy employed by *CNI* to conduct its

²²⁶ For example, Secovi (sectoral, real estate) has relations with the federal executive powers, ministries and presidency. However, it had stronger links with the Ministry of Cities because it administrates the social programme *Minha Casa Minha Vida* or with the *Banco Caixa Federal* (main public bank) because it administrates the resources allocated to the social programme. In congress, Secovi is more in relation with legislators supporting or opposing law projects impacting its sector directly. At the levels of the state and of the city of São Paulo, it is in relation with the Secretary of Habitation that matters the most (Hamilton, L., Secovi university's CEO, 22 March 2018, personal interview).

congressional lobbying and analyses firms' attempts to use the judiciary to prevent the implementation of a policy which they have failed to block or amend at earlier stages.

1.1. Access to early drafts

Influence over the early policy agenda is more significant than influence at all subsequent steps of the policymaking process (Fairfield, 2015). In Brazil, business associations organised at the meso and macro levels are frequently able to contribute to early policy drafts from the executive or legislature.²²⁷ However, when possible, the government strategically sets competing business interests against one another. For example, the government shares early policy drafts with *ABRAFAS* when it is seeking the association's support. Conversely, when the government anticipates the association's opposition, *ABRAFAS* only becomes aware of the policy initiative either through another association, or at a later stage, when it is much harder to push for amendments. When *ABRAFAS* hears about a policy draft that has not been shared with its affiliates, it usually enquires about it in Congress where legislators may be willing to offer information.²²⁸

Often, the government directly calls for business associations to offer input on early drafts of policies. For example, the real estate sector association *Secovi* contributed, via the construction sector association *CBIC*, to the design of the social housing programme *Minha Casa, Minha Vida*²²⁹, and continues to be consulted on reforms to the programme.²³⁰ In another instance, the government has called on the aviation sector's business association, *ABEAR*, to co-write a new code of aeronautics, to replace the outdated 1985 code. The new code was written and approved by the Senate after eight months of work and with a '93 or 94% good outcome for [*ABEAR*]²³¹.

In other cases, business associations actually write the first draft of a policy which they then share with the government for review. For example, the employer's union for public construction in Rio de Janeiro, *Sinduscon-Rio*, along with the sectoral association *CBIC*, drafted a policy aimed at excluding hedge funds from the law on contract dissolution in construction. The law previously allowed hedge funds and individuals alike to cancel the purchase of real estate if the property's value had dropped during construction. The associations then sent their proposal to Congress, which studied and amended the draft.²³²

²²⁷ Cintra de Oliveira, E., executive director at *ABRAFAS*, 26 March 2018, personal interview.

²²⁸ Cintra de Oliveira, E., executive director at *ABRAFAS*, 26 March 2018, personal interview.

²²⁹ It is a housing program aimed at low-income families, valid only to finance new houses or apartments.

²³⁰ Hamilton, L., *Secovi* university's CEO, 22 March 2018, personal interview.

²³¹ Sanovicz, E., *ABEAR*'s CEO, 11 April 2018, personal interview.

²³² Lira, R., technical advisor at *Sinduscon-Rio*, 21 March 2018, personal interview.

The government retains a meaningful say on drafts initiated by business associations, unlike in Colombia where drafts are often approved with few, if any, amendments. For example, Secovi gathered a group of specialists, lawyers, entrepreneurs, condominium administrators, and the Housing Secretary, to formulate a new public policy on rentals for people on low wages. They came up with a programme based on state subsidies, which was then presented to the federal government and to the municipal government. The federal government reviewed the proposal for a year and a half, making modifications. However, by the time the programme was ready to be launched, the Minister had been replaced. This placed the policy in jeopardy because the new Minister questioned its origins and demanded that the review process be restarted.²³³

This section showed that business associations draft policies themselves before offering the drafts to public officials, whether from the executive branch or the legislature, for review. Competing business interests also play an extensive role in amending policies at later stages of the legislative process, particularly in permanent legislative committees.

1.2. Lobbying in Congress

In Brazil, the term ‘lobby’ has always been pejorative but since the *Lava Jato* corruption scandal it has become an insult²³⁴, while ‘the media are describing lobbying as including bad practices only [...] a lobbyist is close to being a murderer, this is an insult’²³⁵. This is the reason lobbyists instead prefer to describe their profession as institutional relations, governmental relations, or parliamentary relations.

However they describe themselves, organised business interests attempt to intervene – either to amend or shelve policy proposals – in every legislative committee. Lobbying is more effective in these committees than at a plenary vote (Santos, et al., 2017), because there is greater room for amendments to policy drafts and less visibility to the wider public (Santos, 2011). Studies have found that it is in committees that the broadest range of pressure groups seek to exercise influence and protect the interests of their members (Zampieri, 2013). This is why a significant part of a business association’s work is to undertake legal monitoring and to construct a ‘parliamentary front’, comprised of legislators ready to defend firms’ interests in committees. Interviewees confirmed that every committee that scrutinizes legislation – including justice, economic and fiscal committees – provides

²³³ Hamilton, L., Secovi university’s CEO, 22 March 2018, personal interview.

²³⁴ de Viveiros, C.-L., 21 March 2018, personal interview.

²³⁵ Noura, C., institutional relations’ manager at Adial Brasil, 25 April 2018, personal interview.

an opportunity for lobbying.²³⁶ The next sub-section reviews how business associations exert influence throughout the legislative process, through the use of the revolving door, parliamentary fronts and campaign donations.

1.2.1. *Building support in congress: revolving doors and parliamentary fronts*

Business associations have cultivated and exploited their connections to members of legislative committees in order to gain influence over policy proposals, notably via the revolving door. This has been possible only because lobbying remains an unregulated practice in Brazil. Since 2000, ten pieces of legislation aimed at regulating the activities of pressure groups when dealing with federal public bodies have been drafted but none approved (Santos & Cunha, 2015). For example, Bill No. 1202/2007, presented by Deputy Carlos Zarattini (*PT*), has been in the House of Representatives for over a decade – in other words, it has been shelved. In April 2018, the bill was scheduled to be voted on, but once again the session closed before it could be discussed. The bill was examined again almost a year later, in March 2019, and the rapporteur's substitute, Mrs. Cristiane Brasil (*PT*), introduced some changes to the initial proposal that limited its scope.²³⁷ The bill remained on the agenda for 13 sessions until early May but never came to a vote (Câmara dos deputados, 2019).

In the absence of laws limiting former public officials' ability to engage in lobbying or other advocacy activities, former legislators and congressional staff can pursue a career in lobbying immediately after leaving Congress. This means they still have significant access to the upper and lower houses, which they are then able to leverage. For example, a lobbyist employed in a firm which specializes in obtaining regional fiscal incentives explained that leveraging the contacts she made during her 16 years working in congress made gaining access to legislators very easy – regardless of their political affiliation.²³⁸ In contrast, a lobbyist without personal contacts in Congress must follow a longer path to present his or her project to legislators – build a project ready to show, identify a legislator whose flagship cause is close to the project (agriculture, industry, religion etc), contact the legislator's secretary, obtain an appointment with the legislator's assessor, and present the project to the assessor to convince them that the congressman should support it.²³⁹

²³⁶ Cintra de Oliveira, E., executive director at ABRAFAS, 26 March 2018, personal interview; Netto, I., CitrusBr's executive director, 26 March 2018, personal interview.

²³⁷ For example, she amended the proposal to make the public national register of lobbyists (cadastre) non-mandatory. Yet, a cadastre would be important because 'its lack is one of the reasons why lobbyists look illegitimate so that in Brazil, lobby is perceived as something dodgy and linked with illegal money' (Jardim, R., superintendent of industrial and economic policies at ABIT, 09 April 2018, personal interview).

²³⁸ Noura, C., institutional relations' manager at Adial Brasil, 25 April 2018, personal interview.

²³⁹ Noura, C., institutional relations' manager at Adial Brasil, 25 April 2018, personal interview; Cintra de Oliveira, E., executive director at ABRAFAS, 26 March 2018, personal interview.

Business associations consciously exploit this revolving door mechanism. For example, the Brazilian Foreign Trade Association (*Associação de Comércio Exterior do Brasil: AEB*), maintains direct contact with Congress, the executive, and regulation agencies via its department of institutional relations. The association explicitly looks to hire someone who has recently left government to be head of institutional relations. *AEB* expects this person to leverage their knowledge of the workings of the government, especially on fiscal matters²⁴⁰, but also to use their personal contacts.

The personal contacts of business association staff are used to facilitate the building of 'parliamentary fronts'²⁴¹ or legislative coalitions. A parliamentary front is a group of legislators sympathetic to the cause of a specific business group or industry because they looking to protect employment in their region (Mahoney, 2008). Business associations encourage their front's legislators to become involved in the relevant parliamentary committees.²⁴² For example, the textile value chain association, *ABIT*, maintains a continuous dialogue with its parliamentary front, raising and flagging issues of concern, so legislators can 'stay alert whenever the industry's needs are discussed in Congress, ahead of any draft of a law project'²⁴³.

Parliamentary fronts also support the legal monitoring undertaken by business associations.²⁴⁴ Constant monitoring of a bill's journey through the legislative committee process enables business organisations to defend their interests against any opposition. Monitoring is also essential to become aware of other bills that could hurt an association's affiliates and to quickly suggest amendments in committees.

In general, business associations build parliamentary fronts regardless of political affiliation – or rather, careful to include all political colours – because they do not expect one political party to always be in a position to fully represent their interests.²⁴⁵ For example, some of the interviewees clearly stated that 'partisanship would be stupid [...] because you do not know who might be in power tomorrow, you need to keep good relations with all parties'²⁴⁶.

²⁴⁰ de Viveiros, C.-L., 21 March 2018, personal interview.

²⁴¹ Hamilton, L., Secovi university's CEO, 22 March 2018, personal interview; Cintra, M., institutional relations director at Tenaris (Brazil) and the president of Brazilian Association of Infrastructure and Basic Industries, 16 April 2018, personal interview; Netto, I., CitrusBr's executive director, 26 March 2018, personal interview.

²⁴² Cintra de Oliveira, E., executive director at ABRAFAS, 26 March 2018, personal interview.

²⁴³ Jardim, R., superintendent of industrial and economic policies at ABIT, 09 April 2018, personal interview.

²⁴⁴ The representative from the aviation sector *ABEAR* bantered that 'today there are 113 law projects being process in congress in relation with aviation out of which 111 are terrible, and the remaining 2 [we] haven't read yet' (Sanovicz, E., *ABEAR*'s CEO, 11 April 2018, personal interview). Similarly, the textile sector representative notes that legislative monitoring is essential given that the Brazilian 'congress produces 70 measures a day' (Jardim, R., superintendent of industrial and economic policies at ABIT, 09 April 2018, personal interview).

²⁴⁵ Cintra de Oliveira, E., executive director at ABRAFAS, 26 March 2018, personal interview; Netto, I., CitrusBr's executive director, 26 March 2018, personal interview; Sanovicz, E., *ABEAR*'s CEO, 11 April 2018, personal interview; Lira, R., technical advisor at Sinduscon-Rio, 21 March 2018, personal interview.

²⁴⁶ Cintra de Oliveira, E., executive director at ABRAFAS, 26 March 2018, personal interview. Netto, I., CitrusBr's executive director, 26 March 2018, personal interview.

Parliamentary fronts are therefore composed of legislators from all political parties. Some members are more active than others, however, because their personal interest in a business association's cause is stronger: they may have expertise in the relevant sector, own a company in that sector or perhaps employment in their constituency is heavily dependent on the sector. To help form and maintain these relationships, the aviation sector's association *ABEAR* sends a weekly newsletter to all legislators, invites them to visit its affiliates' factories once a month and organises regular events and seminars.²⁴⁷ In another instance, *Sinduscon-Rio* worked closely with Celso Russomanno, from a right-wing party (*Partido Republicano Brasileiro: PRB*), and José Stédile, from a left-wing party (*Partido Socialista Brasileiro: PSB*), in writing a bill to prevent hedge funds from backing out of purchasing real estate even if the value of the real estate dropped during construction.²⁴⁸

The extent of coordination between business politicians of all parties was also demonstrated by the infamous *Lava Jato* corruption scandal. In this scheme, business associations coordinated illegal campaign donations from firms to politicians in order to maximize the firms' level of access to a range of government officials and public contracts.²⁴⁹

1.2.2. *Coordinated illegal campaign donations*

Coordination with business associations has helped to optimize both legal and illegal donations to politicians. The *Lava Jato* scandal revealed that firms had made illegal campaign donations beyond the authorised limit of 2% of their revenues, and sometimes in direct exchange for beneficial policies or public contracts. Firms won a public contract, overcharged the state and paid back a fraction of their profit to those politicians who had allocated the contract in the first place. Some CLFs, such as Odebrecht and JBS, have given politicians campaign donations, bribes and side payments in order to purchase support for legislation, including tax breaks, cheaper government credits, favourable regulations – such as exceptional treatment on environmental licensing – and beneficial import-tax regimes (Mello & Spektor, 2018). Following the scandal, in September 2015 the Supreme Court banned corporate donations to political campaigns (Boadle, 2015), although it maintained the potentially significant political influence wielded by wealthy voters and candidates (Pralon Mancuso, 2020).

²⁴⁷ Sanovicz, E., *ABEAR's* CEO, 11 April 2018, personal interview.

²⁴⁸ Lira, R., technical advisor at *Sinduscon-Rio*, 21 March 2018, personal interview.

²⁴⁹ Anonymous 1, 2018, personal interview; Anonymous 2, 2018, personal interview.

Before the reform, the typical corporate strategy was to make donations ‘to many candidates in order to have good relations with all and to be sure to have financed whoever wins’²⁵⁰. Adial Brasil, a lobbying firm specialised in obtaining tax incentives, confirms that their associates’ legal campaign donations had facilitated access to legislators.²⁵¹

The illegal donations from the ‘*Caixa Dois*’ slush fund were often made in greater amounts than, but similar proportions to, legal donations.²⁵² More often than not, these donations were coordinated by business associations.²⁵³

Fifty legislators would have an interest in an industry, for having already defended it in the past for example, and the business association coordinated donations in function of the circumscription of each congressman in relation with its affiliates’ localisation. This was to create a legislative front. [...] Many wealthy firms in mining would give donations to legislators, and several entities within an association too, giving them a heavy political weight.²⁵⁴

Despite the large amounts of corporate money poured into the 2014 Brazilian presidential election, only a small proportion of companies actually donated to the campaigns and the pattern of donations varied greatly between economic sectors. The largest donor by far was the construction sector, followed by the extractive industries and trade. Donations from the manufacturing sector, and all other sectors, were a long way behind (Araújo & Speck, 2019).

The level of campaign donations provided by a particular sector has a positive and statistically significant correlation to the number of legislative proposals approved by that sector. However, this has not prevented some legislators proposing alternative bills, which might go against the interests of that same sector but instead have considerable support among electorally important segments of society, such as workers or consumers (Pralon Mancuso, et al., 2020). The main exception has been the Committee of Agriculture, Livestock, Supply and Rural Development (*CAPADR*), where campaign financing has clearly led to biased policies. In other committees, legislators have generally not shown a significant bias towards organised business interests even when campaign donations have been substantial. The influence of business has, for example, been weak in the Committee for Labour,

²⁵⁰ Cintra, M., institutional relations director at Tenaris (Brazil) and the president of Brazilian Association of Infrastructure and Basic Industries, 16 April 2018, personal interview.

²⁵¹ Noura, C., institutional relations’ manager at Adial Brasil, 25 April 2018, personal interview.

²⁵² Lazzarini, S., professor at Insper university, 12 April 2018, personal interview.

²⁵³ Anonymous 1, 2018, personal interview; Anonymous 2, 2018, personal interview; Coatz, D., UIA’s CEO, 27 June 2018, personal interview.

²⁵⁴ Anonymous 2, 2018, personal interview.

Administration and Public Service (*CTASP*), where the labour union centrals and public service unions have dominated (Santos, et al., 2021).

The literature and primary data presented in this section are consistent with this work's hypothesis: in Brazil, multiple well-organised and opposing interests compete for influence, meaning that firms – however big and wealthy – do not always successfully influence policy. In addition to building parliamentary fronts and funding campaigns, well organised Brazilian business associations (*CNI* in particular) have deployed sophisticated lobbying strategies – as analysed below.

1.3. Sophisticated and institutionalised strategies

Business associations have worked together to promote and track their legislative proposals, as communicated in the Legislative Agenda of Industry²⁵⁵ (*Agenda Legislativa da Indústria*). The Legislative Agenda has been published yearly by the *CNI* since 1995 and provides a guide to lobbying activities throughout the legislative process (Pralon Mancuso, 2010), as described in the previous section.

CNI's institutional relations department has developed a software to support its congressional lobbying activities aimed at promoting the interests laid out in the Legislative Agenda. For each desired policy objective, *CNI* draws a map of all stakeholders involved in a particular issue: those in favour of *CNI's* objective, those who are against, neutral or undecided, and which are actively mobilising or not mobilised. *CNI* applies this framework to all types of stakeholders, both governmental and non-governmental. All are then sorted by their degree of alignment with *CNI's* preferences. Analysts attribute veto points to each actor, indicating the actor's ability to block or influence decisions at different points in the policymaking process. On this basis, the director of the institutional relations department selects the best course of lobbying action to pursue.

This process starts by deciding on the type of outcome that is desired: be it blocking a policy or launching a 'campaign of radical alteration of public policy' such as, for example, turning the state monopoly on exploration, transport and distribution of natural gas into a competitive market. Another possible outcome is one of *manutenção* (maintaining the status quo), which is a lot simpler to achieve through general rather than radical campaigns. The *CNI* works backwards from its desired policy objective through every step required to reach it, based on the map of stakeholders, their preferences, their rate of engagement and veto powers. Added to this is a strategy of level of visibility – whether to mobilise or avoid public opinion, estimating whether their arguments would be better supported by in-depth studies

²⁵⁵ An extract from the agenda is shown by the Figure 2 from chapter 6.

or opinion pieces in the media and determining if *CNI* needs to contact the executive, legislative or judicial branch. Depending on this, *CNI* selects a type of argument – based on the level of maturity of the issue, its technical complexity, and the government’s position – from a check list of the most common lobbying arguments.²⁵⁶

Finally, *CNI* determines who will apply this strategy: whether it wants to be the main protagonist, if it would rather build a coalition, or place a different spokesperson centre stage – most likely one of the associations affiliated to *CNI*. Once the lobbying campaign is launched, *CNI* monitors all subsequent activities and checks that they follow the chosen line of argument.

This sophisticated strategy was explicitly based on the academic work of Christine Mahoney, *Brussels versus the Beltway* (2008), which maps various lobbying techniques. The techniques laid out in Mahoney’s work are included in the software: lobbying activities can be direct by engaging with the decision-maker – the most frequently used – or indirect by influencing public opinion or mobilising affiliates. In the latter case, *CNI* maps its affiliates’ relations with legislators, depending on who funded whose campaign, who is a friend of whom, who voted for who...etc., enabling *CNI* to know ‘who to mobilise from the base of affiliates’²⁵⁷. At the time of our interview, *CNI*’s lobbying department had 1,973 lobbying activities underway simultaneously in congress. In general, it had ‘a rate of pro-activity of 73%’²⁵⁸.

Once the lobbying activities are over, *CNI* evaluates the impact of its actions on the final government policy by running an econometric model. This model shows which strategies have, on average, been most efficient. For example, based on a database of 210 lobbying cases over several years, *CNI* built a model explaining

²⁵⁶ These include: (1) Technical argument; (2) Consistency of governmental action which is whether the government solves the issue it claims to solve. For example, the government raised taxes on tobacco to reduce consumption, but it resulted in 45% of cigarettes coming from Paraguay because for the inelastic demand, and the informal market crowded out the formal. This is a type of argument that can be used for and against a government’s policy; (3) Support from the base of affiliates; (4) The dimension of the problem; (5) Whether there is a crisis. For example, in the water crisis, *CNI* promoted a reduction of use of water via the private sector. A company could take its own water and clean it itself rather than using the population’s water. In this case though, the company would be exempt from paying for the sanitation of the population’s water. The water crisis was an opportunity to argue that firms are part of the crisis and should be integrated in the solution found because firms take the water of population for their activity; (6) The electoral benefits that the policy can bring; (7) Whether the policy can create a negative/positive precedent; (8) The consequence on the policy on the cost relation of labour/capital; (9) National development (Cesario, P., executive director of *CNI*’s lobbying department, 23 April 2018, personal interview).

This is a non-exhaustive list to which we can add leveraging firms’ structural power by linking fiscal incentives to unemployment and job creation – the exclusive focus of the lobbying firm, Adial Brasil (Noura, C., institutional relations’ manager at Adial Brasil, 25 April 2018, personal interview).

²⁵⁷ Cesario, P., executive director of *CNI*’s lobbying department, 23 April 2018, personal interview.

²⁵⁸ This covers the proportion of cases in which *CNI* acts before the executive makes a decision or before a politician makes a public declaration on which she or he will not be able to come back (Cesario, P., executive director of *CNI*’s lobbying department, 23 April 2018, personal interview).

83% of its success in influencing policy outcomes came through only 5 variables, or strategies.²⁵⁹

The econometric model is also predictive: *CNI* uses it to select the lobbying strategy that would be most likely to lead to the desired policy. If the model predicts a low chance of achieving *CNI*'s desired policy due to strong opposition from other stakeholders, then *CNI* would temper its objective until it reaches a point where it is near certain to achieve its second or third-best policy preference.

The next section shows how well-organised business interests, when they fail to influence a government policy, can challenge that policy in court to attempt to prevent its implementation.

1.4. Judiciary: preventing policy implementation

Kamieniecki's research shows that when business interest groups fail to defeat an environmental policy in the US Congress, they tend to pursue their opposition to the policy through the courts and government agencies (2006). This is verified in Brazil, where courts and regulation agencies are equally important arenas for lobbying as Congress. Challenging a new law or regulation in court is the typical next step taken by business interests if they feel their priorities are not reflected in a piece of legislation.²⁶⁰

To challenge a new law in court, business often launches an 'anti-constitutionality' recourse (*ação direta de inconstitucionalidade: ADI*). If successful, the *ADI* results in the bill's withdrawal. A bill can be withdrawn in the case of a ruling of 'formal unconstitutionality': if a legislative act was produced in violation of the rules of competence (organic unconstitutionality) or in violation of the procedure established for its entry into the legal world (formal unconstitutionality). Unconstitutionality is material when the content of an act is contrary to any substantive decree set out in the Constitution, be it a rule or a principle (Akerman, 2012).

For example, through *ADIs* firms successfully blocked state governments' attempts to revoke all fiscal incentives and claim unpaid money retrospectively. Supported by Adial Brasil²⁶¹ and *CNI*²⁶², business pushed through the law of *convalidação* which was approved by congress in 2017 as *Lei Complementar (LC) N°160-07-08-2017*. This law cancelled retrospective fines that would have amounted

²⁵⁹ But the interviewee 'won't tell which, this is [his] secret' (Cesario, P., executive director of *CNI*'s lobbying department, 23 April 2018, personal interview).

²⁶⁰ Bittencourt, L., ABIFINA's executive coordinator, 17 April 2018, personal interview; Noura, C., institutional relations' manager at Adial Brasil, 25 April 2018, personal interview; Lira, R., technical advisor at Sinduscon-Rio, 21 March 2018, personal interview.

²⁶¹ Noura, C., institutional relations' manager at Adial Brasil, 25 April 2018, personal interview; Cesario, P., executive director of *CNI*'s lobbying department, 23 April 2018, personal interview.

²⁶² Cesario, P., executive director of *CNI*'s lobbying department, 23 April 2018, personal interview.

to around USD\$1.81 billion²⁶³ on the grounds that a new law cannot regulate the past. In the meantime, firms refused to accept the unpaid tax claims, on the grounds that an *ADI* case was ongoing – effectively blocking the original law's implementation.

The bill cancelling retrospective fines needed to be regulated by the Fiscal Council (*Conselho Nacional de Política Fazendária: CONFAZ*). For the Fiscal Council to decide, the 27 states of Brazil must unanimously agree. However, the state of São Paulo, which is attractive to outside investment and has an interest in preventing the other states from promoting fiscal incentives, refused to validate the *convalidação* law. This refusal blocked the implementation of the *convalidação*, but nonetheless the firms still refused to pay the money claimed retrospectively.²⁶⁴

Business can also bring cases to trial in order to create precedent and change the application of a law. For example, when it was previously possible to cancel the purchase of real estate because its price had fallen during the construction phase, the builder was forced to return 75% of the value to the buyer. During economic crisis of the mid-2010s, the price of real estate fell dramatically and purchase cancellations arrived *en masse* to constructors who then struggled to re-sell the newly constructed properties. However, constructors resorted to the courts to block the purchase cancellations. Previously, the courts did not differentiate between institutional buyers who had speculated on real estate and individuals who had bought a home and had the right to rip up their contract if they found themselves unable to repay their loan.

The business associations *Sinduscon* and *CBIC* had a significant role in reshaping the judicial position. They organised seminars at the Supreme Court and at the Courts of Justice in São Paulo and Rio de Janeiro to highlight what they considered the perversity of the existing legislation: institutional buyers cancelling purchases resulted in large shortfalls in revenue for construction sector firms.²⁶⁵ The law project PL 1220/2015, promoted by constructors' business associations in 2015, became law in 2018 – the *Lei nº 13.786, de 27 de dezembro de 2018*.

The IT sector provides another example of such a strategy. Its tax rate is relatively low compared to other industries, standing at an average of 13%. Since the 1990s, the IT sector has benefited from diverse tax breaks. The breaks are granted and renewed if companies use local inputs in their production and invest a certain amount in research and development. In 2013 a new cycle of exemptions started and was expected to last until 2019, but in 2016 the government attempted to revoke the exemptions. The Brazilian electrical and electronic industry association

²⁶³ 4 billion of reals which in 2018 amounted to USD\$1.81 billions, at the 2018 PPP exchange rate of 2.2 reals to the dollar.

²⁶⁴ Noura, C., institutional relations' manager at Adial Brasil, 25 April 2018, personal interview.

²⁶⁵ Lira, R., technical advisor at Sinduscon-Rio, 21 March 2018, personal interview.

(*Associação Brasileira da Indústria Elétrica e Eletrônica: ABINEE*) contested the removal of the exemptions in the courts on the grounds of legal certainty and the fact that investment already made in research and development would be lost. While it was ongoing, this lawsuit blocked the implementation of the government's initiative.²⁶⁶

The first part of this chapter has laid out how the organisation of business has shaped firms' lobbying strategies. This work has provided further primary evidence, in support of recent scholarship, to argue that Brazilian lobbyists have become increasingly professionalised and have deployed a very broad repertoire of strategies (Santos, et al., 2017). Associations use complex strategies at all levels of government and at all stages of policy development, from the formulation of early drafts by the executive to every step of the legislative process in Congress. Business interest groups encounter a variety of well-organised opposition standing in their path – confirming the hypothesis formulated in Chapter 3. This means that in competitive-corporatism, the success of lobbying is not guaranteed and that merely maintaining the status quo has required investing significant resources in legislation monitoring. Finally, when business groups have failed to influence a policy, their last resort is recourse to the judicial process to attempt to block a policy's implementation.

As I argued in Chapter 3, the better organised interest groups are, the more likely they are to see their preferences translated into policy outcomes. In Brazil, multiple differing SME and CLF interests are well-coordinated and have therefore served to balance one another: if meso-level associations initially defend the particular interests of their sector or region, they face a triple constraint in pursuing those interests. The first is an internal constraint from the affiliated SMEs which require coordination and compromise. The second is a constraint coming from macro-level associations, such as *CNI*, which will not support lobbying for a policy that is unfavourable to other members and will push instead for compromise. The third constraint comes from all the other meso-level associations lobbying for their own, possibly contradictory, interests.

2. REACHING SOME COMPROMISES

This section examines how the lobbying strategies and constraints presented in the previous section have impacted fiscal and trade policies. It finds that *CNI* successfully aggregates CLF and SME interests when conflicts are less acute and

²⁶⁶ In 2018, the case was very close to be won by *ABINEE* (Nobre, L., head of Latin American tax department at Dell, 13 April 2018, personal interview) but as of May 2021, the outcome was not known to the author of this thesis.

also that SME influence tempers the power of CLFs. The association promotes a favourable business climate, wide sectoral reforms and may occasionally defend the status quo on a specific cross-sectoral issue – as was the case with the fiscal reform reviewed in the next section. However, this section also finds that the status quo is often sub-optimal when it comes to fiscal policy because the competition between CLF and SME associations for tax incentives accentuates the fiscal competition between the regional governments of Brazil. In 2020, however, *CNI* changed position to support the drafting of a comprehensive fiscal reform proposal which clearly shifts the tax burden from larger companies to SMEs. This is consistent with the theory of this thesis: the 2017 labour law reform led to the disaffiliation of many firms, especially SMEs, from the corporatist business associations. Consequently, SMEs have lost influence in crafting *CNI*'s policy agenda, which now instead tends to be weighted in favour of CLF interests.

CNI fails to reconcile conflicts of interest on trade policy in which instrumental power seems to matter the most in determining policy outcomes. Studies on tariff levels in Brazil and the primary data collected for this work are inconsistent although non-contradictory. The inconsistency in policy outcomes likely reflects shifts in the power balance between different segments of the economy.

2.1. Fiscal incentives

At 33.1%, Brazil's tax-to-GDP ratio is the highest of any South American country, close to the OECD average (33.8%) and well above the Latin American and Caribbean average (22.9%) (OECD et al., 2021). In Brazil, the main corporate taxes at the federal level are the corporate income tax, the social contribution on net income, the contribution for social security financing, the social integration program and the program for the training of civil servants' equity (SEBRAE, 2015).²⁶⁷ The main state-level tax is on the circulation of goods and services (*ICMS*)²⁶⁸ whereas at the municipal level tax is levied on services of any nature²⁶⁹ (SEBRAE, 2015).

²⁶⁷ *IRPJ* (Corporate Income Tax): as mentioned, it is levied on the company's profit, with a rate of 15%, plus an additional 10% on the portion of the profit that exceeds the stipulated monthly amount. *IRPJ* is withheld by customers at the time of payment of invoices.

CSLL (Social Contribution on Net Income): like the *IRPJ*, it is levied on the real profit of the business, with a rate of 9%.

COFINS (Contribution for Social Security Financing) and *PIS* (Social Integration Program) / *PASEP* (Program for the Formation of Civil Servants' Equity): these are contributions that affect the company's gross revenue, in general, with a combined rate of 3.65% (3% *COFINS* and 0.65% *PIS* / *PASEP*). Like *IRPJ*, *PIS* / *COFINS* is also retained by customers when paying invoices.

IPI (Tax on Industrialized Products): it is a tax on industrialized products, which are taxed when they leave the factory. The rates vary widely by product and, on average, are between 10% and 12%.

²⁶⁸ *ICMS*, Tax on Circulation of Goods and Services, (*Imposto sobre Operações relativas à Circulação de Mercadorias e sobre Prestações de Serviços de Transporte Interestadual e Intermunicipal e de Comunicação*: *ICMS*): it is similar to the *IPI*, but it can also apply to some services. It varies a lot by type of product or service.

²⁶⁹ *ISS* (Tax on Services of Any Nature): levies on the provision of services listed in Complementary Law No. 116/03. The average rate varies between 2% and 5%. According to Eduardo Borges, 'some municipalities charge *ISS* on a cash basis (as revenue is received); others, on an accrual basis (as the billing takes place). In most cases, the *ISS* is due to the municipality in which the provider establishment is actually located. However, in

Despite a theoretically high tax burden, fiscal incentives granted to firms are not only common in Brazil but also lead to a significant and underestimated loss in tax revenues (Pralon Mancuso, et al., 2010). Between October 5, 1988²⁷⁰ and January 1, 2009²⁷¹, most fiscal incentives at the federal level²⁷² were in favour of specific segments of all primary, secondary and tertiary sectors (61.5% of legislation). The second most common fiscal incentive were aimed at exporting companies, in support of exports and foreign exchange reserves. The third most common benefited cooperatives, and the fourth benefited micro and small firms (Pralon Mancuso & Cordeiro Moreira, 2013).

The *ICMS*, the state-level tax, is also the subject of significant fiscal incentives.²⁷³ Each state offers specific exemptions to the *ICMS* in order to attract investments from particular firms or sectors. Regional states hope such investment will bring the jobs, vocational schools, and energy and water infrastructure they are otherwise lacking. For example, fiscal incentives attracted Heineken to the state of Pará where it opened a factory, despite the state's small population and long distances from the largest consumer markets of São Paulo, Rio de Janeiro and Minas Gerais. The fiscal incentives had to be attractive enough to outweigh the transportation and logistical hurdles.²⁷⁴

Fiscal competition between the 27 states has degenerated into a fiscal war based on informal practices. Each state's *ICMS* regime is different and decided unilaterally. This has created instability in fiscal policy because when a state changes its incentive scheme, other states adapt to this change in order to remain comparatively fiscally attractive. The constitution, however, formally and explicitly forbids such a fiscal war. In Art. 155, §2º, XII, 'g', of the Federal Constitution and Art. 2º, § 2º of the LC 24/1975, every state-level fiscal incentive must be submitted and approved by all the states of Brazil in *CONFAZ*, the National Council of Fiscal Policy (Rodrigues Afonso, et al., 2017). Unilateral provision of a fiscal incentive on the *ICMS* tax is therefore unconstitutional.

The informality and illegality of such practices has made the situation even more complex, because states have been creative in granting incentives in multiple forms, including but not restricted to tax exemptions, reduction of the tax base and remission, tax rate reduction, tax credit, special payment periods and monetary

relation to certain types of service, the ISS will be due to the municipality in which it is provided, such as construction, cleaning, sweeping, etc.

²⁷⁰ Date of the promulgation of the current constitution of Brazil.

²⁷¹ End of the first half of Luiz Inácio Lula da Silva's second presidential term.

²⁷² The Contribution to the Social Integration Program (*PIS*), the Social Contribution on Net Income (*CSLL*) and the Contribution to the Financing of Social Security (*COFINS*).

²⁷³ Cintra, M., institutional relations director at Tenaris (Brazil) and the president of Brazilian Association of Infrastructure and Basic Industries, 16 April 2018, personal interview.

²⁷⁴ Noura, C., institutional relations' manager at Adial Brasil, 25 April 2018, personal interview.

correction reduction, cancellation of tax notifications and the return of collected tax (Rodrigues Afonso, et al., 2017).

Regional governments have themselves struggled to estimate their tax revenue shortfalls due to the complexity and informality of the incentives they offer (Rodrigues Afonso, et al., 2017). The extent of fiscal incentives on *ICMS* is indeed significant: in 2018, they created an estimated shortfall in tax revenues of 36.1% for Goiás, 32.6% for Amazonas, 12.1% for Rio de Janeiro and 18.1% for Santa Catarina.²⁷⁵ The state of Bahia had no shortfall, while Pernambuco had less than 1% and São Paulo had 7.5% (Rodrigues Afonso, et al., 2017).

Such fiscal competition and complexity has led to government revenue shortfalls and has weighed heavily on business operations, 'especially [on] small firms which cannot afford full-time accountants and lawyers'²⁷⁶. For example, one textile firm spends an average of 12,000 hours a year on tax administration – paying them on time to the right authority – while another firm spends 200 hours a year.²⁷⁷ The information technology firm Dell has many more employees in its fiscal department in Brazil than in the US, despite having a lower turnover in Brazil.²⁷⁸

However, even CLFs do not always obtain their desired fiscal exemptions. For example, the aviation sector's business association *ABEAR* lost its case for an exemption from *ICMS* which would have reduced the price of domestic flights.²⁷⁹ It required a qualified majority of two thirds in the Senate to be approved. *ABEAR* drafted a law which was then presented with the support of a senator, but ultimately lost by 11 votes²⁸⁰. Following this defeat, *ABEAR* sought informal agreements with each state individually and, in 2018, had reached an agreement with 16 of the 27 states. Through these negotiations, *ABEAR* has obtained reductions ranging from 25% to 6% or 7%, in exchange for airlines operating significantly more flights in and out of whichever state is offering the incentive.²⁸¹ However, the state of São Paulo,

²⁷⁵ 2016 figure.

²⁷⁶ Cintra de Oliveira, E., executive director at ABRAFAS, 26 March 2018, personal interview; Jardim, R., superintendent of industrial and economic policies at ABIT, 09 April 2018, personal interview; Cesario, P., executive director of CNI's lobbying department, 23 April 2018, personal interview. One interviewee noted that 'This regulation is very confusing especially for small firms which cannot afford full-time accountants and lawyers. [...] The worst is that if you pay the wrong amount you end up risking a fine and having your firm forbidden to operate temporarily [...]. The issue is not how much taxes we pay this is how we pay [...]. It is inefficient, the government is not earning more, accountants and specialists are' (Jardim, R., superintendent of industrial and economic policies at ABIT, 09 April 2018, personal interview).

²⁷⁷ Jardim, R., superintendent of industrial and economic policies at ABIT, 09 April 2018, personal interview.

²⁷⁸ Nobre, L., head of Latin American tax department at Dell, 13 April 2018, personal interview.

²⁷⁹ The sector's problem is that because it is not possible to tax something in a country that is not taxed in another, and that *ICMS* is specific to Brazil, *ICMS* does not apply to international flights. As a consequence, a domestic flight has an *ICMS* tax to pay on combustible of 25% for example whereas another flight departing from the same airport but going abroad would not pay *ICMS*. (Sanovicz, E., *ABEAR*'s CEO, 11 April 2018, personal interview).

²⁸⁰ The law project went through the committees of justice, infrastructure and economics, and 6 public audiences were held. This process lasted 18-20 months overall. It obtained 43/41 votes, the qualified majority being at 64 (Sanovicz, E., *ABEAR*'s CEO, 11 April 2018, personal interview).

²⁸¹ For example, in Brasília DF, it obtained a tax break from 25% to 2%, against which it increased the weekly number of flights by 196. In Recife, it obtained a tax break of *ICMS* from 25% to 7%. In exchange, *ABEAR* increased its connections from 14 cities of which 4 internationals, to 31 of which 16 internationals (Sanovicz, E., *ABEAR*'s CEO, 11 April 2018, personal interview).

home to 78% of Brazil's aviation business, refused to enter into any agreement.²⁸² In another instance involving CLFs, the state of Rio de Janeiro has refused to wave its higher rate of *ICMS* on the oil and gas sector, despite all states having agreed on a harmonised tax exemption.²⁸³

Widespread dissatisfaction with the tax system prompted every government from 1995 to 2008 to propose broad reforms that altered many aspects of the tax code. These ambitions generated multidimensional conflicts, which repeatedly prevented the creation of a coalition stable enough to pass the reforms (de Oliveira Junqueira, 2015). However, this thesis argues instead that, in the case of the *ICMS*, the failure of fiscal reform is due to firms preferring to maintain the status quo, fearing they will lose the benefits they have already obtained – however collectively dysfunctional the existing arrangement may be. This issue has 'divided *CNI*, because some states attract industries and other states are losing this war'²⁸⁴. For example, the state of São Paulo, through *FIESP*, has pushed for reform that would end the fiscal war. São Paulo is itself highly attractive to investors, hence does not directly benefit from the existing system. Other states, such as Santa Catarina and Goiás, have benefited greatly from the tax regime and so have fiercely opposed *FIESP*'s proposed fiscal reform.²⁸⁵

CNI has nonetheless managed to do some 'damage control' after the Constitutional Court outlawed all *ICMS* incentives in 2015. The Constitutional Court had been dealing separately with individual states' complaints about the incentives offered by other states. However, whenever the Constitutional Court ruled an incentive unconstitutional, the state in question complied – if it had not had already revoked the incentive ahead of the ruling – and then simply compensated firms with a different fiscal mechanism. This is why the Court decided to rule all *ICMS* incentives unconstitutional, revoked them all and then obliged firms to pay not only the normal level of *ICMS*, but also to reimburse states for the previous 5 years' worth of incentives.²⁸⁶ 'Some firms had to pay up to 3 to 4 billion of *reals* of retroactive fines'²⁸⁷, which 'would mean a general bankruptcy'²⁸⁸.

The court ruling sparked in-depth conversations between regional governments and business associations. Associations found themselves in favour of what had been the general informal practice of unilaterally granting fiscal incentives, yet also acknowledging that wider fiscal reform was necessary. However,

²⁸² Sanovicz, E., ABEAR's CEO, 11 April 2018, personal interview.

²⁸³ Cintra, M., institutional relations director at Tenaris (Brazil) and the president of Brazilian Association of Infrastructure and Basic Industries, 16 April 2018, personal interview.

²⁸⁴ Cesario, P., executive director of *CNI*'s lobbying department, 23 April 2018, personal interview.

²⁸⁵ Cesario, P., executive director of *CNI*'s lobbying department, 23 April 2018, personal interview.

²⁸⁶ Cesario, P., executive director of *CNI*'s lobbying department, 23 April 2018, personal interview.

²⁸⁷ Noura, C., institutional relations' manager at Adial Brasil, 25 April 2018, personal interview.

²⁸⁸ Cesario, P., executive director of *CNI*'s lobbying department, 23 April 2018, personal interview.

they all agreed to defend the status quo: to coordinate lobbying activities to oppose the retroactive payment of 5 years of taxes and to fight to retain the already granted incentives. This lobbying action led to the adoption in congress of the law *Lei complementar nº 160, de 7 de agosto de 2017*, called the law of *convalidação*, which cancelled the retroactive element of the 2015 ruling and allowed firms to keep their existing incentives – for a period of 15 years in industry, 2-3 years in commerce and 7 years in the service sector.²⁸⁹

Interestingly, in subsequent years, *CNI* changed position to support the drafting of a comprehensive fiscal reform proposal. The proposal, however, clearly shifts the tax burden and the ‘administrative’ cost of paying taxes from larger industries to SMEs. This is consistent with the theory of this thesis: the 2017 labour law, which cancelled mandatory contributions to business associations, provoked the disaffiliation of most firms, particularly SMEs. Consequently, the share of CLFs’ financial contribution and participation in the corporatist business associations became significantly larger than those of SMEs. This thesis’ theory expects that in consequence, the corporatist associations will typically represent the interests of CLFs while the SMEs will struggle to communicate their preferences to politicians.

This expectation is validated by *CNI*’s support for the fiscal reform *PL 3.887/2020* (Câmara dos Deputados, 2020). The *PL 3.887/2020*’s core proposal is to unify municipal, regional and federal taxes by replacing them by a new contribution on Goods and Services (*Contribuição sobre Bens e Serviços: CBS*), a single nationwide VAT-type tax with a rate of 12% for firms and 5.8% for financial institutions. Additionally, all VAT incurred in one stage of the circulation of goods and services can be deducted in subsequent stages (Agência de notícias *CNI*, 2020). This would simplify the tax system, however the proposal shifts the burden of collecting the tax to the final seller of the goods – which largely means SMEs and retailers. There is also a risk that the cost of the tax is transferred to the consumer in the form of higher retail prices. This is a particular concern if producers that have lowered their production costs thanks to the fiscal reform then decide to decrease their own sale prices by a smaller percentage, thereby increasing their profit margin.

To assist SMEs and retailers, *CNI* asked that when companies are in credit for VAT, the government should refund them within ‘preferably less than 60 days’, (Agência de notícias *CNI*, 2020). Having to wait two months or more to be refunded overpaid VAT is a significant hurdle to SME cashflows, an issue which is amplified by the reform making them the main point of tax collection. Under the existing tax system, *PIS/COFINS* or *ICMS* are levied ahead of the final sale of goods.

²⁸⁹ Cesario, P., executive director of *CNI*’s lobbying department, 23 April 2018, personal interview.

The proposal also states, however, that VAT cannot be applied to exports and that the VAT credit for acquisitions of property, machinery and equipment must be immediate, including in the pre-operating phase (Agência de notícias CNI, 2020) – a change that clearly favours large firms over SMEs and retailers.

At the time of writing this manuscript, in April 2021, the *PL 3.887/2020* was still awaiting a vote in Congress after having been set aside in 2020 because of the prolonged coronavirus pandemic (COVID-19) (Dau, 2021).

This section showed that *CNI* has successfully aggregated CLF and SME interests in conflicts that are not overly acute, as when defending the status quo on the *ICMS* reform. However, this section also finds that, in Brazilian competitive-corporatism, the fiscal policy status quo is sub-optimal because firms spend significant time and money, for example on hiring accountants and lawyers, to obtain fiscal breaks. This incurred significant revenue losses for poorer and less industrial regional governments. Firms have nonetheless continued to support the status quo for fear of losing those benefits already acquired. In 2020, *CNI* changed its position to support the drafting of a comprehensive fiscal reform proposal. The proposal, however, clearly shifts the tax burden and the ‘administrative’ cost of paying taxes from larger industries to SMEs. This is consistent with this thesis’ theoretical expectation that, in the wake of the 2017 labour law reform, Brazil will have an increasingly cartelised mode of business organisation. The next section turns to how business associations have competed to win favourable tariffs under the competitive-corporatist mode of organisation.

2.2. Varying tariffs

The literature on endogenous trade focuses exclusively on the demand side of trade policies by exploring the influence of private interest groups on setting tariffs dependent on the firms’ and the sector’s characteristics (share into GDP, ratio labour-capital) (Godek, 1985; Marvel & Ray, 1983; Olarreaga & Soloaga, 1998). This literature considers the restrictions on trade to be the result of interest groups’ rent-seeking behaviour in which the state is a vacuum and power is not considered as relational (Benítez, 2018).

Other scholars found that the strength of corporatist and pluralist traits, business interest groups’ influence on policymaking and foreign trade, are best explained at industry (sub-sectoral) level rather than national level in developing countries such as Brazil (Benítez, 2018). For example, the interests of specific ‘pluralist’ sectors (the voluntary associations that are not corporatist institutions) are better represented politically. This enhanced representation is due to their stronger links to the key actors in negotiating Mercosur, including the Ministry of Development, Industry, Foreign Trade and Services, the Ministry of Finance and the

president. In contrast, cross-sectoral corporatist associations have more diversified connections and are connected to decision-makers with less power, such as Congress in the case of trade negotiations (Benítez, 2018).

The Mercosur negotiations resulted in tariff reductions which reached an average of 12%, but with numerous exceptions negotiated domestically which sometimes reached up to 35%²⁹⁰. The sectors with strong ties to powerful decision-makers were granted more protection, namely the automobile sector (35%), footwear sector (35%), textile sector (26%) and auto parts sector (16%) (Benítez, 2018).

Using a dataset of 9,714 goods, another study found that, in Brazil, the degree of trade protection is positively correlated to the degree of economic concentration²⁹¹ and labour-intensive sectors, but negatively correlated to workers' education levels. It did not correlate to the number of firms – probably due to the high cost of collective action (Veiga Marzagão, 2008). The author finds that firms' lobbying activities explain the correlation between a higher level of protection and higher economic concentration. However, political will probably explains the higher protection on labour-intensive sectors (Veiga Marzagão, 2008).

The primary evidence collected in this work is partially consistent with this scholarship. It finds that associations such as *CNI* and *ABIT* struggle to coordinate their affiliates' interests on tariffs. While *CNI* avoids the issue, *ABIT* usually attempts to reach a consensus in order for all segments of the value chain to have an equitable level of tariff protection.²⁹² However, more often than not, the parties do not find a compromise and, as demonstrated in the previous chapter, *ABIT* remains neutral on the issue in order to preserve the association's unity. If a conflict of interest arises, each side lobbies the government on its own.

In another case, *ABIT* supported the confection sector's demand for a protective tariff based on WTO recommendations, but the government refused *ABIT*'s proposal and thus tariffs were not imposed.²⁹³ Similarly, in the steel tube sector, the CLF *Tenaris* has attempted to obtain import tax exemption on those inputs it uses which are not produced in Brazil, but 'government was inflexible and rejected all [their] arguments'²⁹⁴.

In conclusion, this work agrees with what limited scholarship exists in arguing that corporatist organisations are weak in negotiating import tariffs. This is due to the near impossibility of finding a consensus, which is why associations often remain

²⁹⁰ The World Trade Organization's maximum rate allowed.

²⁹¹ The number of the sector's employees in the four largest firms' ratio with the sector's total number of employees.

²⁹² Jardim, R., superintendent of industrial and economic policies at *ABIT*, 09 April 2018, personal interview.

²⁹³ Jardim, R., superintendent of industrial and economic policies at *ABIT*, 09 April 2018, personal interview.

²⁹⁴ Cintra, M., institutional relations director at *Tenaris* (Brazil) and the president of Brazilian Association of Infrastructure and Basic Industries, 16 April 2018, personal interview.

neutral to preserve unity and cohesion. However, studies disagree on how corporatist associations' weakness impacts on the level of trade protection. Such inconsistency can be due to different definitions used to designate 'labour-intensive' or 'textile' sector and especially of which firm should be included in these categories. The discrepancy in results can also be consequence of whether studies averaged the tariffs from the entire value chain or focused on a specific segment, especially in the case of the highly diverse textile sector. Another explanation is that instrumental power matters most in negotiating tariffs (Benítez, 2018), but that the power balance between business has shifted between the data collection periods of each study.

Overall, looking at tariffs alone provides an incomplete picture. States may still adjust their fiscal incentives and *ICMS* tax level in order to facilitate imports and offset tariffs. For example, the state of Santa Catarina offers a fiscal regime advantageous for imports in the textile sector in order to attract the clothes manufacturers importing cheaper fibre from China. This initiative is defended by Sintex, the employer's union of the Santa Catarina confection sector, but has caused an outcry from synthetic fibre producers across Brazil. Each side in this conflict has caused disputes within the sectoral association, *ABIT*, which has refused to take a position – both sides have had to lobby Congress independently.²⁹⁵

3. CONCLUSION

This chapter analysed the impact of the Brazilian mode of business organisation on businesses' lobbying strategies and their efficacy getting policies changed. The illustrative case studies showed how, contrary to Colombia, CLFs in Brazil do not fight to control a wide array of policies but instead focus on their sectoral interests. The leading association *CNI* successfully aggregates the interests of nearly all businesses when conflicts are not especially acute. This, however, does not include tariffs negotiations – in these, instrumental power outside of corporatist business associations appears to matter most. The varying findings of studies on tariff levels in Brazil are likely to reflect shifts in the power balance between different segments of the economy. However, regional governments adjust their fiscal incentives in order to facilitate imports and offset tariffs – thereby linking trade to fiscal policy.

On fiscal policy, *CNI* has defended a sub-optimal status quo, probably because businesses fear losing the tax breaks they have already won. In 2020, however, *CNI* changed its position to support the drafting of a comprehensive fiscal reform proposal which clearly shifted the tax burden from larger companies to SMEs. This is consistent with this thesis' theory: the 2017 labour law reform led to the

²⁹⁵ Cintra de Oliveira, E., executive director at ABRAFAS, 26 March 2018, personal interview.

disaffiliation of most firms, especially SMEs, from the corporatist business associations. Consequently, SMEs have lost influence in crafting *CNI*'s policy agenda, which tends to prioritise the interests of CLFs instead.

Chapter 8 turns to the case of Argentina. It argues that the organisation of Argentinian business interests used to be similar to that of Brazil. However, increased costs of collective action, combined with inconsistent benefits of collective action, have encouraged pluralist practices. Chapter 9 then demonstrates that in a pluralist mode of organisation, exploiting personal connections to politicians is the most efficient way for firms to influence policy.

Chapter 8

Argentina: from competitive-corporatism to pluralism

'Outside of the building there was a car with parabolic antenna to eavesdrop on conversations, but in such an obvious way that it turned into outright intimidation'²⁹⁶, recalled the head of *Argentrigo*, the business association of the wheat value chain. This case of harassment was one of many, all aimed at discouraging collective action by the agricultural sector in the midst of its clash with Cristina Kirchner over her decision to increase the already high export tax on soy. The strike action that followed in 2008 paralysed the country for months and led to the proposed increase being scrapped. This was one of few modest collective victories for the sector. In agriculture, as in all other sectors, the rule has been for firms to lobby independently from associations and to win benefits solely for themselves, something the next chapter covers in detail.

This chapter first shows that Argentina's corporatism initially resembled that of Brazil, and similarly turned into a competitive-corporatism mode of business organisation in which private interests balanced each other. This was due to the corporatist legacy lowering the costs of collective action and consistent ISI policies which made the benefits of collective action high. The chapter then traces how competitive-corporatism turned into an unmistakably pluralist system, in which business associations overlap, struggle for representation and have weak coordination mechanisms.

Pluralism emerged not least because of the political polarisation inherited from the *Guerra Sucia*²⁹⁷ and the divide and rule strategies and harassment employed by the governments of Nestór and Cristina Kirchner, which discouraged collaborative negotiation by sectors and made the cost of collective initiatives high. Since 1976, meanwhile, inconsistent distributive economics, divisive rents and trade restrictions, deployed as political punishment and reward, have encouraged CLFs to be individualist. Between 1976 and 1983, the military government in Argentina dismantled ISI associated trade protections by promoting liberalisation and privatisation. In 1982, the International Monetary Fund (IMF) offered conditional lending to Latin American countries that were undergoing a sovereign debt crisis (Casaburi, 1998). However, the programme and its attached conditions were

²⁹⁶ Hughes, D., Argentrigo's president, 15 June 2018, personal interview.

²⁹⁷ The Dirty War, a campaign of repression from the state against Argentinians, lasted between 1976 and 1983.

renegotiated several times, before a new agreement was reached in 1984 (Boughton, 2001). Since 1988, business participation and inclusion in policymaking has been uneven, with access to politicians generally being easier for leading individual capitalists than for business associations (Schneider, 2004).

1. FROM CORPORATISM (1945-1955) TO COMPETITIVE-CORPORATISM (1956-1976)

In 1943, the president named Perón as head of the National Labour Department which was elevated one month later to the rank of Ministry, with Perón retitled as Secretary of Labour and Prevision. The new Ministry incorporated responsibilities previously under the purview of local authorities and other agencies such as legal, health, pension and social security programs related to labour (Buchanan, 1985). Unions were registered and legalised depending on their degree of support for the authorities, with unsupportive unions not awarded legal status (Alba, 1964 cited in Buchanan, 1985).

By 1945, Perón controlled organised labour from the Ministry through the law of professional associations, which arranged unions into a centralised hierarchy – the foundation of the Argentinian corporatist state. The law established a direct chain of command from the Secretary of Labour and Prevision to the unions' leadership, provided the state with the exclusive right to formally recognise unions and allowed only one union per industry and level of activity (Buchanan, 1985). It made the General Confederation of Labour (*Confederación General del Trabajo: CGT*) the sole legally recognised workers' union (Contreras, 2017). The *CGT* was funded by levying a fee on the workers' payroll.

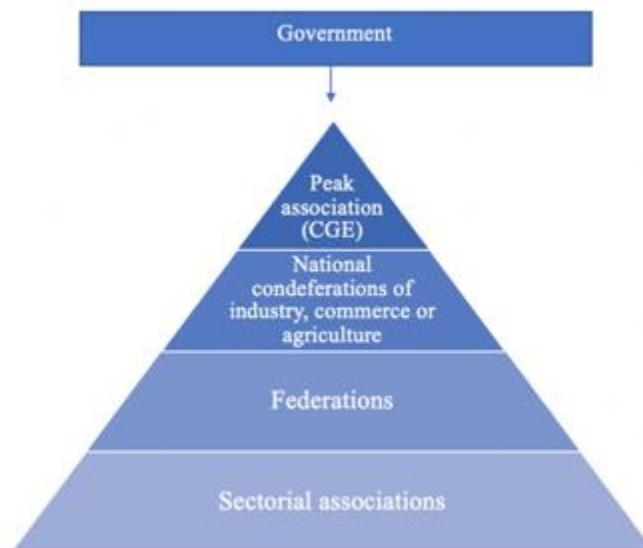
Nonetheless, non-Peronist unions continued to exist outside of *CGT* and participated in the general strikes of 1949, 1951 and 1954. The *CGT* and the government described them as 'infiltrators' and 'anti-patriotic agents' (Contreras, 2017). This merely served to further politicise corporatist institutions and cultivated political violence as an acceptable method of discouraging collective action by labour.

In 1953, Perón extended corporatist legislation to business by creating a hierarchy of business associations and making membership compulsory (Shadlen, 2004). In practice, this legislation created four levels of organisation (see Figure 3 below). Sectoral associations were aggregated into federations, themselves aggregated into national confederations for industry, commerce or agriculture, which were then aggregated into a peak association (Shadlen, 2004). Finally, Perón created the peak association, the General Economic Confederation (*Confederación General Económica: CGE*), into which various SME business associations from the

interior of the country were indirectly merged via their affiliation to sectoral associations.

The *CGE* was the government's main interlocutor. This left no room for Argentina's Industrial Union (*Unión Industrial Argentina: UIA*), the business association that represented the largest firms in the country. In fact, the *UIA* was closed down in 1946 because of its political opposition to Perón and, shortly after, the government confiscated its assets and dissolved it (Schneider, 2004; Shadlen, 2004). This only intensified larger firms' opposition both to Perón and to corporatism (Shadlen, 2004).

Figure 3. Corporatist business organisation in Argentina 1945-1955



The following section reviews how ISI policies proved highly beneficial to collective action between 1956 and 1976. Concomitantly, the web of sectoral business associations under the umbrella of the well-organised *CGE* association facilitated SME coordination efforts, as well as their inclusion in the policymaking process by Peronists – all of which lowered the cost of collective action for SMEs.

1. High benefit of collective action: ISI policies and targeted benefits

Between 1946 and 1976, governments consistently provided trade protections and public contracts to politically supportive businesses. For CLFs, protecting these privileges was worth organising collectively.

In the 1930s, the main method of promoting industrialisation was high tariffs, whereas under Perón (1946-1955) the state implemented a systematic and coherent program of industrial development (Santarcangelo, et al., 2018). The two world wars forced isolation from international markets, pushing Argentinian industries to diversify and grow in number to make up for the lack of imported goods. Most industrialists resented Perón for his support of unions and workers during the labour

unrest. To rally business representatives to his cause and reinforce his political power, Perón promised to use the power of the state to promote industrial expansion (Lewis, 2015).

A small number of industrialists gave him their support after he had declared his candidacy and, once in power, Perón rewarded them. The luckiest received near monopoly conditions over key markets and lucrative public contracts. Perón also expanded government promotion of industrial development to unprecedented levels. He prioritised the development of steel production and manufacturing to successfully secure the political support of the military (Lewis, 2015).

Perón created the Argentine institute for trade promotion (*Instituto Argentino de Promoción del Intercambio: IAPI*), which became a domestic price-setting agency. It was the sole purchaser of all exportable Argentinian products. The *IAPI* would then sell the products abroad at competitive prices. *IAPI* generated large profits by inserting itself between the producers and the export markets. These profits were then used to fund the government's economic and social welfare programmes.

These programmes were laid out in a five-year plan aimed at expanding targeted industries. The plan promised 43% industrial growth by 1953. In addition, Perón promised to set the transportation and utility companies free from foreign interests by purchasing railroads, communication companies, docks, grain elevators, warehouses and power companies (Lewis, 2015).

Despite regime changes in 1955 (military) and 1958 (civilian), there remained a consensus about the significant role the manufacturing sector should play in the economy. This led to the second phase of ISI policies, consisting of high import tariffs, import prohibition on certain items, differential exchange rates, directed credit from publicly-owned banks, direct subsidies, taxes on traditional agricultural exports, mandatory national purchase in government procurement, promotion of foreign direct investment in new sectors (e.g. the automobile sector) and its prohibition in strategic sectors (e.g. oil during certain periods), and the development of state-owned firms in the capital intensive sector (petrochemicals and steel) (Casaburi, 1998).

This thesis' theory expects that targeting these benefits at large companies should only have served to incentivise them to collectively organise. The next section turns to the cost of collective action and finds that the web of sectoral business associations and the peak association, *CGE*, facilitated SME coordination efforts as well as their inclusion in the policymaking process by Peronists.

2. Low cost of collective action

The SME associations, inherited from the corporatist period (1945-1955), and their systematic inclusion in the policymaking process by Peronists, have facilitated their coordination efforts. SMEs' inclusion in formulating policies also encouraged organisation. Because collaboration is the source of information about previous actions, it links individuals, engages them in face-to-face communication and contributes to a process of learning how to achieve collective action (Ostrom, 2009). Finally, the right for business associations and unions created by the state to levy a fee²⁹⁸ on their affiliates has provided them with a steady revenue stream to support their lobbying, publications and organising of diverse events – similar to the case of Brazil.

In the 1950s and the 1970s, the *CGE* received benefits from Peronist governments, notably high-level access to government. It helped the *CGE* and affiliated business associations to attract members and resources – but only so long as Peronists were in power (Schneider, 2004).

This thesis' theory expects the combination of low costs and high benefits of collective action to lead to a competitive-corporatist mode of business organisation, like that in Brazil prior to the labour law reform of 2017. The next section confirms this hypothesis by showing the extent of the competition between the representative of CLF interests, *UIA*, and that of SME interests, *CGE*, in communicating their preferences to politicians.

3. Competitive-corporatism (1956-1976): *UIA* and *CGE*'s rivalry for influence

Scholars agree that Argentinian corporatism faded away progressively, however they disagree on when and how (Haidar, 2013; Etchemendy, 2019; Sánchez Román, 2008; Patroni, 2001; Etchemendy & Collier, 2008; Buchanan, 1985). Their disagreement stems from their focus on the features of corporatism – which this thesis treats as outcomes of corporatism – such as union organisation or wage negotiations, and giving one feature more or less weight.

This work argues instead that the corporatist model was short-lived (1945-1955) in Argentina because the state retreated from prescribing how business should organise in 1955. That year, the military took over, sent Perón into exile, and overturned the 1953 law of professional associations. It reinstated the *UIA* and outlawed the *CGE* but when civilians returned to power in 1958, the *CGE* was again legalised (Shadlen, 2004).

²⁹⁸ This is a para-fiscal tax which took the form of a percentage on their sector's wage negotiations (Meyer, M., production Ministry's secretary of entrepreneurs and SMEs (2015-2019), 12 June 2018, personal interview).

The subsequent military and civilian governments stopped state-directed corporatism. Compulsory membership was eliminated so that firms were free to join any business association they wished – or to refrain from joining any – and no business association was granted regular and consistent access to the state (Shadlen, 2004). In response to this, CLFs joined business associations linked to the *UIA*, while SMEs joined those linked to the *CGE* (Caggiano, 1975, chapter 1; O'Donnell, 1978; Szusterman, 1993; Niosi, 1974; Freels 1968; Cuneo, 1967; Smith, 1991; Acuña, 1995, all cited in Shadlen, 2004).

Having optional membership to business associations made Argentinian business associations financially weaker when compared to their Brazilian counterparts prior to 2017. However, those Argentinian associations that succeeded in negotiating sectoral wage levels with unions collected a fee, deducted from each payroll, in return for doing so.²⁹⁹ The industry has many small collective agreements that have depended on subsectors and have provided business associations with steady revenues.³⁰⁰

For example, the Argentinian chamber of commerce and services (*Cámara Argentina de Comercio y Servicios: CAC*) was established in 1924 as 'a voluntary association' with optional registration, unlike other chambers of commerce to which affiliation and registration was mandatory³⁰¹. *CAC* is wealthy, however, because it brings all shops and retailers into the wage negotiations, after which the collective agreement 'applies to over a million of workers'³⁰². Thanks to this, it has developed great organisational infrastructure³⁰³ and even opened its own university in 1991³⁰⁴.

By the mid-twentieth century, the *UIA* had become a credible umbrella association and the main government interlocutor. The *UIA*'s affiliates included firms in finance, commerce, and agriculture, and such wide representation gave *UIA*'s claim to be an umbrella association greater credibility (Brennan 1998, p. 83, cited in Schneider 2004 p. 176). *UIA* was represented on 24 government committees or consultation bodies, including the board of the Industrial Bank (*Banco Industrial*), which had up to three *UIA* representatives (Schvarzer, 1991, 84, cited in Schneider 2004).

However, the membership fee to *UIA* is voluntary and dependent on members' willingness and ability to contribute financially. Consequently, *UIA* has often been weakened by economic crises, as its affiliates' profits have fallen. With

²⁹⁹ 10/05/2018 and 16/05/2018 and Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews; Meyer, M., production Ministry's secretary of entrepreneurs and SMEs (2015-2019), 12 June 2018, personal interview.

³⁰⁰ de León, G., institutional relations at CAC, 14 June 2018, personal interview.

³⁰¹ de León, G., institutional relations at CAC, 14 June 2018, personal interview.

³⁰² de León, G., institutional relations at CAC, 14 June 2018, personal interview.

³⁰³ 10/05/2018 and 16/05/2018 and Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

³⁰⁴ de León, G., institutional relations at CAC, 14 June 2018, personal interview.

reduced income it could not maintain its technical teams.³⁰⁵ The *UIA* was reportedly much stronger and more influential in the 1960s and 1970s than it was during the late 1970s to 1990s, when various economic crises hit Argentina and caused many firms to close.

This model of organisation of private interests can be described as competitive-corporatism. The umbrella association *UIA* was able to design cross-sectoral policies with the government whilst also competing for influence with other associations (such as *CAC* and those negotiating collective agreements) and the SME representative (*CGE*) which acted as a counterweight to CLF influence over policy.

This section showed how business associations were functioning well for SMEs and CLFs alike between 1956 and 1976, when the *Guerra Sucia* started. The next section documents how this war and the management of subsequent governments increased the costs and decreased the benefits of collective action. The last section confirms this thesis' theoretical expectation that this led to the decay of business' organisational capabilities. In the resulting pluralist mode of organisation, individual strategies have prevailed over organisations and business associations have lost nearly all their relevance.

2. THE ORGANISATION OF ARGENTINIAN PRIVATE INTERESTS (1976-2015)

This section argues that the weakness of the Argentinian corporatist legacy, due to both the alternating of power between military and civilian governments and the repeal of the law of professional associations in 1953, has raised the cost of collective action. The cost of collective action was increased further by the deeply rooted polarisation inherited from the *Guerra Sucia*. The way in which the governments of Nestór and Cristina Kirchner used a divide and rule strategy in their relations with the private sector further increased the cost of collective action.

Concomitantly, since the 1980s, the benefits of collective action have been low and inconsistent. Business participation in policymaking has been uneven, varying over time, and has generally been better for leading individual capitalists than for sectoral business associations or umbrella associations like *UIA* (Schneider, 2004). This has further decreased incentives to organise collectively. This thesis' theory expects this combination – high costs of collective action alongside inconsistent benefits of collective action – to have made Argentina's business organisation increasingly pluralistic, as depicted below in table 7.

³⁰⁵ Coatz, D., *UIA's* CEO, 27 June 2018, personal interview.

Table 7. Argentina: from competitive-corporatism to pluralism

		COST of collective action	
		HIGH	LOW
BENEFIT of collective action	HIGH	<p>Cartelism</p> <p>Vital subsidies and protections for CLFs</p> <p>CLFs depend on government policies</p> <p>SMEs are disorganised, associations fight for existence or are underrepresented</p> <p>Colombia</p> <p>Brazil after 2017?</p>	<p>Competitive-corporatism</p> <p>Profitable subsidies and protections for CLFs, but not vital</p> <p>SMEs are organised along regional and sectorial lines, compete for influence with CLFs</p> <p>Brazil 1988-2018</p> <p>Argentina 1958-1976</p>
	LOW	<p>Pluralism</p> <p>Low and changing subsidies and protections for CLFs</p> <p>Individual strategies prevail</p> <p>CLFs fight each other for influence but form punctual ad-hoc coalitions</p> <p>SMEs are disorganised, underrepresented</p> <p>Argentina since 1976</p>	<p>Sectorialism</p> <p>SMEs are organised along regional and sectorial lines</p> <p>Sectorial representatives are the state's main interlocutor and efficiently negotiate at their level</p> <p>No peak associations nor CLFs domination</p> <p>CLFs lobby individually</p> <p>Germany (Martin & Swank, 2012)</p>



This chapter's last section confirms this theoretical expectation and documents the pluralist mode of organisation among Argentina's private interests.

2.1. Higher cost of collective action: perpetuating political polarisation

After the law of professional associations was revoked, with the consequences explained above, the period from 1955 to 1972 was marked by significant political violence and polarisation (Lewis, 2015). After Peronist governments were forcibly removed, new military rulers favoured *UIA* and rescinded *CGE* privileges, which led to members defecting and institutional capacity plummeting (Schneider, 2004). Facing economic chaos and civil disorder, the desperate military government called Perón back from exile. He proved unable to stop Argentina's fall into violence, social anarchy and economic chaos. In 1974, just two years after his return, Perón died of a heart attack. By 1975, the Argentinian economy neared collapse (Lewis, 2015).

This polarisation was further deepened by the violence of the *Guerra Sucia*. The next section explores how the political polarisation inherited from the *Guerra Sucia* further increased the cost of collective action.

2.1.1. *Polarisation from the Guerra Sucia*

After Perón's death, the most extreme wing of the military seized power and reasserted authority by launching the National Process of Reorganisation (*Proceso de Reorganización Nacional*). The programme was a military campaign of repression, torture, assassination and intimidation. Armed groups from the extreme left and right contributed to the violence, while Peronists and unions, who had committed to resistance in 1955, fought back against both the regime and the terrorists. Even though the regime's counter-terrorist actions against guerrilla groups were successful, it deepened its repression by launching the '*Guerra Sucia*'. This consisted of using police and military personnel and resources to detain and kill ('disappear') thousands of suspected enemies of the state, such as union activists, leaders of community aid groups, and even students who had petitioned for schools to be supplied with more paper and pencils. Through the US-sponsored Operation Condor, the regime collaborated with other dictatorships in Brazil, Chile and Uruguay to pursue its enemies abroad.

When Argentinian troops invaded the Falkland Islands, their rapid defeat to British forces brought discredit on the military regime. Civil unrest raged, and the military looked for a way out of power. In exchange for a return to civilian rule following elections in 1983, however, military leaders were granted immunity from prosecution for atrocities conducted during the *Guerra Sucia*, (Lewis, 2015).

Despite the deep polarisation created by the recent armed conflict, the first democratic government, led by Raúl Alfonsín, tempered its condemnation of the *Guerra Sucia* and worked closely with former members of the previous regime. This was, in large part, because these military personnel and civil servants were regarded as the only men with the required experience of governing.³⁰⁶ The Peronists who had previously held power had – along with their supporters, trade unionists and even students – either been 'disappeared' or forced into exile.³⁰⁷

Additionally, the government had to work closely with members of the former regime because military leaders still controlled the country's armed forces and

³⁰⁶ Lenicov, J.-R., Minister of economy and production (January-April 2002), 13 June 2018, personal interview.

³⁰⁷ For example, Jorge Remes Lenicov, who was Minister of Economics and Production in 2002 and is responsible for Argentina's abandon of a fixed exchange rate, explained that: 'During the military dictatorship, I was outside of the country, [...] in Bolivia, preventively. I left in the months that followed the [1976] coup. At this time, I was a convinced Peronist, and a civil servant at the university. They had fired me from university first, where I was professor. I was also a technical assistant of the Minister of Economics and they fired me from this position as well. So, I understood that I could not stay' (Lenicov, J.-R., Minister of economy and production (January-April 2002), 13 June 2018, personal interview).

threatened to foment another coup if they were faced with prosecution. As an illustration of the difficulties facing the new government, President Alfonsín once sent a courier to request that a military general attend a meeting, only for the courier to never come back – ‘the message was crystal clear’³⁰⁸. Moreover, the military still had the support of the United States, the sponsor of the *Guerra Sucia* through Operation Condor (Campbell, 2003). The United States was still suspicious of Alfonsín, viewing him as too politically left-leaning (US State Department, 1984). Against this backdrop, both torturers for the former regime and those who had been tortured decided to work with and assist the new government:

The past is for historians and for justice, but not for the executive power [which has to] aim for the people living today to live better tomorrow. The public service has a different logic than morality [...]. [When] we had to discuss the budget for the year ahead, we could not discuss this and also the prosecution of military and their removal from the state administrations. By discussing the latter, I would lose strength in negotiating the former. What will be more beneficial to the people, discuss the first or the second? This is a problem of political strength and one has to pick his battles.³⁰⁹

The mining sector provides an example of the impact of polarisation on the organisation of private interests. The government had unsuccessfully attempted to unify the sector’s three business associations because communicating with them separately created confusion regarding the sector’s priorities and challenges.³¹⁰ The man who eventually managed to unify the mining sector recalls that ‘in 1988 there were four crazy cats leading three different business associations. It looked absurd’³¹¹. To aid with unification, he established a fourth entity called the Argentinian Chamber of Mining Businessmen (*Cámara Argentina de Empresarios Mineros: CAEM*). Two factors were crucial to his success. Firstly, the older mining leaders accepted the new association: ‘for a generational reason they accepted the idea to create another entity led someone younger that would not be one of them’³¹².

³⁰⁸ Lenicov, J.-R., Minister of economy and production (January-April 2002), 13 June 2018, personal interview.

³⁰⁹ Lenicov, J.-R., Minister of economy and production (January-April 2002), 13 June 2018, personal interview. The interviewee who is a Peronist of Jewish origin lost his position as a technical advisor to the government (working on the exchange rate and convertibility), then as a professor at the university, when the military took over. He declared that ‘informed by [his] ancestor’s fate’ he went into exile to Bolivia preventively, where he remained until the return of democracy in Argentina. In this in-text quotation, he makes a reference to the Nuremberg trials rulings to explain why only the most prominent members of the military would be prosecuted.

³¹⁰ Crevatin, G., and Beghini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

³¹¹ Dedeu, M., former government Secretary of mining and former CAEM president, 04 June 2018, personal interview.

³¹² Dedeu, M., former government Secretary of mining and former CAEM president, 04 June 2018, personal interview.

Secondly, 'they died of old age, which helped a lot the unification of the sector under CAEM'.³¹³ It is now the only association representing the mining sector.

Twenty years after Alfonsín's first democratic government, President Néstor Kirchner started prosecuting those responsible for the *Guerra Sucia*. In 2006, the first guilty verdict was handed down. Julio Héctor Simón, was sentenced to 25 years detention for the crimes of illegal arrest and torture committed in 1978 (Human Rights Watch, 2006). Subsequent rhetoric from Kirchner governments has continued to be polarising, while their divisive actions towards business associations have meant the costs of collective action remained high.

2.1.2. *Kirchner's divide and rule strategy*

Nestór Kirchner became presidential candidate after being proposed by a small group that organized one of the three Peronist factions which contested the 2003 national elections. As head of the small Justicialist Party (*Partido Justicialista: PJ*) of the Patagonian province of Santa Cruz, Kirchner did not have an important role in national politics nor in the fragmented organizational structure of Peronism (Sidicaro, 2011). He even defined Peronism as 'a party emptied of content, without ideas' (Néstor Kirchner-Torcuato Di Tella, 2003, cited in Sidicaro, 2011, p. 84).

Kirchner gradually forged a new political identity, so-called 'Kirchnerism' (Montero & Vincent, 2013). Using the 'heretic' type of discourse (Bourdieu, 1998) typical of those who, as outsiders, seek to increase their influence by emphasising the deficiencies of the incumbent (Sidicaro, 2011), he revived the campaign for justice for the victims of the *Guerra Sucia* and moved aggressively against the military personnel involved. He promised relief from the economic crisis while working for the many, not the few – echoing Perón's rhetoric. He established more formal public assistance programmes and challenged the U.S. over its efforts to limit its neighbours' policy choices in order to dominate the continent's markets. In 2005, he successfully negotiated the restructuring of the country's debt payment with the IMF, swapping more than \$100 billion overdue for government bonds. He then announced that Argentina would settle its accounts for \$9.81 billion (Lewis, 2015).

He aligned Argentina with its progressive neighbours in Venezuela, Brazil and Bolivia, respectively led by Hugo Chavez, Lula da Silva and Evo Morales, and promised that, once again, the state would protect the poor and the oppressed. He partially reversed his predecessor Carlos Menem's policies by re-nationalising companies and services that had been sold to the private sector in the 1990s (Lewis, 2015).

³¹³ Dedeu, M., former government Secretary of mining and former CAEM president, 04 June 2018, personal interview.

In 2007, Nestór's wife, Cristina, ran for president and won election, enabling the Kirchners to plan to avoid the constitutional limit of two consecutive terms by alternating in power (Lewis, 2015). Together, the Kirchners have reformulated the development model in Argentina from neoliberalism (under Carlos Menem's government in the 1990s,) to a neo-developmental state-centric model. However, Argentina's rejection of neoliberalism did not facilitate a return to old models of development, such as ISI policies. Their new model, so-called *neodesarrollismo* (new developmentalism), led to a significant economic recovery after 2003, coupled with significant poverty reduction and a moderate decrease in inequality (Wylde, 2016).

The Kirchners' rhetoric has employed a polarising discourse, frequently using the notion of 'us' against 'them' (Meléndez, 2017). Nestór Kirchner expanded the government's perceived room for manoeuvre by leading high-profile battles against the institutions that had constrained his predecessors: the military, bond holders, the IMF and foreign and domestic capitalists (Levitsky & Murillo, 2008). Cristina Kirchner has used recurring metaphors and analogies that link directly to the military dictatorship, such as 'this time they have not been accompanied by tanks, this time they have been accompanied by some multimedia 'generals'' or 'I have not become President of the Republic to become a gendarme for the profitability of businessmen'³¹⁴ (Fernández de Kirchner, C., 2008, cited in Meléndez, 2017). The government also resuscitated the old division of 'the people versus the oligarchy' during the 2008 agricultural sector strike³¹⁵ (Sidicaro, 2011).

This political polarisation predated the Kirchners, being inherited from the alternation between military and civilian rules during the twentieth century, but it has directly impacted the running of the government's institutions. For example, in 2015, after ending twelve years of Kirchner governments, right-wing President Mauricio Macri sought to retain the government's technical and administrative staff because it had experience of the day-to-day running of governmental institutions. However, old and new staff 'were just shouting at one another all day long, so that we had to sack all former staff'³¹⁶.

Other institutions were directly affected, such as the Argentine Chamber of Fluid Facilities (*Cámara Argentina de las Instalaciones para Fluídos: CAIF*). Before the Kirchner's came to power, the association coordinated easily with the other representatives of its sector's value chain. This ended when one of these

³¹⁴ Both citations are quoted in Meléndez (2017) and are extracts from Cristina Fernández de Kirchner's discourse on April 1, 2008.

³¹⁵ This strike was in protest against the increase in taxes on agricultural exports, a case explored in more details in the next chapter.

³¹⁶ Meyer, M., production Ministry's secretary of entrepreneurs and SMEs (2015-2019), 12 June 2018, personal interview.

associations named a fervent Kirchnerist as director in order to facilitate its relations with the government. Consequently, ‘the new leader kept shouting at meetings, it was impossible to organise and discuss any topic’³¹⁷.

The Kirchners have also used divisive strategies when dealing with business representatives, which has kept the costs of collective action high. Cristina Kirchner and Guillermo Moreno, the secretary of trade from 2005 to 2013, bypassed the *UIA* to negotiate directly with firms and associations. The government offered a particular to the poultry sector, for example, in exchange for its disaffiliation from the *UIA*.³¹⁸ Similarly, the government ‘called the textile sector directly to offer to enact a rule of exportation that textile had always wanted in exchange for not going to *UIA* anymore.’³¹⁹ According to *UIA*’s chief executive, this was a deliberate strategy on the part Cristina Kirchner’s government to weaken the *UIA* and divide its affiliates.³²⁰ Other examples include the case of the wheat value chain business association *Argentrigo*. It was established in 2007 but only approved as a legal entity in 2010, which made it a *de facto* outlaw association for three years. During some meetings, ‘outside of the building there was a car with parabolic antenna to eavesdrop on conversations, but in such an obvious way that it turned into outright intimidation’³²¹.

This harassment was intended to discourage collective action from the entire chain, in the midst of the agricultural sector’s clash with Cristina Kirchner over her increase of soy export taxes. The strike action that followed paralysed the country for months and ultimately led to the cancellation of the tax increase. Six other interviewees also reported acts of harassment and intimidation by a fiscal agency – *AFIP (Administración Federal de Ingresos Públicos)* – but asked not to be named nor quoted on this particular topic. They feared retaliation in the event Cristina Kirchner’s party was re-elected (as it was in 2019).

This divide and rule strategy proved effective. Some sectors, including the automotive and the textile sectors, have supported the government in exchange for concessions and for the government addressing their specific issues – something the weakly coordinated *UIA* had been struggling to do.³²²

The strategy was also enforced by the use of fiscal harassment to punish political opponents, non-compliant firms and business associations, thereby further increasing the cost of collective action. *AFIP* was also employed to intimidate and discourage collective action, playing a ‘role of punishing and persecuting

³¹⁷ Vommaro, L., CAIF’s president, 05 June 2018, personal interview. It is interesting to note that the interviewee identified himself as a Peronist as well.

³¹⁸ Coatz, D., *UIA*’s CEO, 27 June 2018, personal interview.

³¹⁹ Coatz, D., *UIA*’s CEO, 27 June 2018, personal interview.

³²⁰ Coatz, D., *UIA*’s CEO, 27 June 2018, personal interview.

³²¹ Hughes, D., *Argentrigo*’s president, 15 June 2018, personal interview.

³²² Coatz, D., *UIA*’s CEO, 27 June 2018, personal interview.

opponents³²³. As the head of an agricultural SME which spearheaded the coordination of the wheat value chain through *Argentigo* recalled, ‘the government sent me inspectors from *AFIP*, who would look under the carpets in every room, as if to see there was something below.’³²⁴

After Mauricio Macri won the presidency in 2015, his government quickly changed the role of *AFIP*. Most symbolically, as ‘it used to be a gloomy place, a building painted in black colour, terrifying, that Macri made paint in white in the first days of his mandate’³²⁵. More concretely, ‘the pressures from *AFIP* [were] not felt anymore. [The government] does not persecute opponents nor punish anyone through *AFIP* harassment and intimidation anymore.’³²⁶ Subsequently, the Inter-American Development Bank (Inter-American Development Bank, 2017) and the OECD (OECD, 2019) supported the government’s efforts to rebuild the institutional capacity of *AFIP*.

However, Macri’s government has also actively sought direct input from firms, further discouraging collective action. For example, the executive branch sought to promote exports and foster investment via the Argentine Investment Agency (*Agencia Argentina de Inversiones*). The government would contact different firms to encourage them to invest more in Argentina and ask what the government could do in terms of regulations, fiscal incentives, or anything else, to make this such investment faster and easier. Afterwards, the company would typically present a list of demands to the government, before the parties then held two or three meetings.³²⁷ Similarly, the government directly contacted a significant number of SMEs from across the country to gather information for the formulation of the ‘SME law’ (*Ley Pyme, Ley 27264*). The resulting law focused on SMEs’ main priorities: cutting bureaucracy, optimising taxes, improving access to funding and reducing labour costs.

While the costs of collective action have remained high in Argentina, the benefits of collective action have been inconsistent and low. The governments of Perón, Menem and the Kirchners provided businesses with a variety of benefits, generally awarded on an individual basis in exchange for political support. This precluded the cohesive organisation of CLFs, because individual strategies have proven more efficient than collective action when seeking to win exemptions or influence policies.

³²³ de León, G., institutional relations at CAC, 14 June 2018, personal interview.

³²⁴ Hughes, D., *Argentigo*’s president, 15 June 2018, personal interview.

³²⁵ de León, G., institutional relations at CAC, 14 June 2018, personal interview.

³²⁶ de León, G., institutional relations at CAC, 14 June 2018, personal interview.

³²⁷ Crevatin, G., and Beghini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

2.2. Low and inconsistent benefit of collective action

Between 1946 and 1976, Argentinian governments regularly provided trade protections (Casaburi, 1998) and public contracts to politically supportive businesses (Santarcángelo, et al., 2018; Lewis, 2015). Despite regime changes in 1955 (military) and 1958 (civilian), there was a consensus that the manufacturing sector should play a significant role in the economy. This led to the second phase of ISI policies (Casaburi, 1998). For CLFs, defending these privileges, protections and subsidies made collective organisation worthwhile.

This section argues that, in contrast, the inconsistent distribution of selective incentives since 1976 has reduced incentives for collective action, encouraging individualist behaviour.

By the 1970s, the economic situation had deteriorated due to very high rates of protection for the domestic market and the low competitiveness of the protected industries (Casaburi, 1998). The military government (1976-1982) linked this economic situation to the social unrest that had occurred throughout the decade (Casaburi, 1998) and deemed the protection of industry through ISI policies to be the cause of Argentina's problems. The government claimed ISI policies had led to increased urbanisation and greater population pressures – conditions favourable to the establishment of mass political movements and unionisation, which had altered what the military saw as the 'natural' order of society (Alberti and Castiglioni, 1985: 6, cited in Palacio, 2011).

The government began to privatise some state-owned enterprises and liberalised sectors, starting with the financial sector. Interest rates, which had been regulated under the previous governments, jumped. The government decreased import tariffs from 90% to 50% and adopted a market clearing exchange rate which led to a sharp devaluation of the currency (Casaburi, 1998). The majority of Latin American countries had borrowed significant amounts during the 1970s, when interest rates averaged ~3.4%. However, after industrialised countries tightened their monetary policies in response to the oil shock, interest rates jumped to 19.9% in 1981, 27.8% in 1982 and 17.4% in 1983 (Edwards, 1995). This increased Latin American countries' debt servicing obligations and led Mexico to default on its sovereign debt in 1982 (Boughton, 2001).

Argentina restored high import tariffs to cut imports and subsidised exporting companies in order to reduce the trade balance deficit (Casaburi, 1998). In early 1983, Argentina obtained a conditional loan from the IMF which entailed complying with an adjustment programme, but which ran into numerous difficulties and was suspended in 1983. Between October 1983, when President Alfonsín was democratically elected, and December, when he was sworn in, massive capital flight and dollarisation of transactions had taken place. The amount, length and conditions

of the IMF loan were renegotiated and it was resumed in March 1984 (Boughton, 2001). These decades of changing industrial policies and the dismantling of ISI trade protections have undermined the incentives for the collective defence of ISI recipients' interests. It was simply less costly for firms to find individual solutions to the issues they faced, be it entering the informal market, supporting the government, dollarizing transactions or pulling out of Argentina.

Since 1988, business participation and inclusion in policymaking has continued to be uneven and firms' access to policymakers has varied over time, generally with better access available to leading individual capitalists than to business associations (Schneider, 2004). After his election, Carlos Menem (1989-1999) pursued a form of 'selective capitalism' in which the state provided some sectors with various benefits (Bonvecchi, 2011). This attitude was pursued and amplified under the Kirchner (2003-2015), whose 'style of government was one without dialogue with firms nor business associations. [...] They would provide benefits to a firm and not to others, just because.'³²⁸

The Kirchner governments have also pursued a form of 'selective capitalism' in which market rules were abandoned in favour of the selection by the government of those sectors that were, at any given time, the most politically helpful (Bonvecchi, 2011). For example, in 2007, Kirchner approved the purchase of cable companies that gave the conglomerate *Clarín* control over 80% of the Buenos Aires market and a majority share nationally (Lewis, 2015). When the *Clarín* group's media outlet later questioned government policies³²⁹, its relationship with the government deteriorated. In 2009, Kirchner passed a bill imposing strict limits on the maximum market share that private media outlets could control, effectively dismantling *Clarín* (Lewis, 2015).

The Kirchner governments have sought to determine the revenues and profits of the private sector through restrictions, protectionist policies, subsidies and political rewards. If required, the government has used threats to convince reluctant businessmen to comply with these policies – whether regarding a firm's import permit or implicit threats that the firm could be nationalised. Additionally, interviewees³³⁰ also recalled being intimidated by the then commerce secretary, Mr. Moreno, who would leave a firearm on his desk during negotiations with business representatives.

³²⁸ Crevatin, G., and Beghini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

³²⁹ Specifically, this was when the economic conditions worsened in the wake of the farmers' strike and that export revenues fell while inflation grew to alarming levels, the government rigged the official reports to display lower inflation, unemployment, poverty rates, and higher tax collection (Lewis, 2015).

³³⁰ Eight interviewees asked to be anonymised on this part of the interview. Carlos Tomada confirmed the intimidating behaviour of Moreno (Tomada, C., former Minister of Labour (2003-2015), 26 June 2018, personal interview).

2.2.1. *Distributive macroeconomics*

Policy has been used to reward political allies or to punish political foes, making collective action essentially useless – if not counter-productive. Industrial policy under Néstor Kirchner was based on the movement of exchange rates post-convertibility (Ortiz & Schorr, 2009). Competitive exchange rates and soaring commodity prices supported Kirchner's export-led model: between 2002 and 2007 GDP growth was 9% and poverty and unemployment rates were halved (Levitsky & Murillo, 2008). These policies helped to partially reverse the trend of declining industrial output that occurred during the 1990s, but did not change the structure of the industrial sector in a meaningful way (Bugna & Porta, 2008).

The government's macroeconomic policies nonetheless had a clear distributive impact on different sectors. When the government combined competitive real exchange rates and a twin surplus, the industrial sector and agricultural exporters saw significant gains while the financial sector and the service sector both lost. But, when the real exchange rate started to appreciate and the fiscal deficit and commercial balance both deteriorated, the financial sector recovered, unlike SMEs in the industrial sector. Additionally, the government linked the agro-exporters' rentability to the government's need for cash through an export tax hike, nationalised public service companies and got more deeply involved in the governance of the largest firms (Bonvecchi, 2011).

To preserve Argentina's foreign exchange reserves and the domestic currency exchange rate, the Kirchner governments imposed heavy restrictions on imports.³³¹ This macroeconomic policy divided the largest firms, who saw no benefit in leading collective action alongside their sectoral business associations. For example, Michelin, which imports tires to Argentina from its plant in Brazil, lost a significant market share because of the import restrictions. The tire industry chamber (*Cámara de la Industria del Neumático: CIN*) refused to support Michelin because other affiliates had a strong interest in keeping the restrictions as they protected them from foreign competition. The Chamber of Commerce and Industry France-Argentina (*CCI-FA*) was most helpful to Michelin, helping the company to enter discussions with the government on an individual basis to negotiate quotas³³² – a case that is reviewed in detail in the next chapter.

This policy of distributive macroeconomics and 'selective capitalism' was sustained by rigged statistics which prevented external observers and firms from evaluating the real economic situation in their sector. It made companies even more reliant on the government's provision of inconsistent and individualised benefits.

³³¹ Crevatin, G., and Begnini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

³³² Crevatin, G., and Begnini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

Cristina Kirchner interfered heavily in the National Statistical and Census Institute (*Instituto Nacional de Estadística y Censos: INDEC*). She requested the change of inconvenient macroeconomic data, to alter the formula of basic macroeconomic indicators, and refused to reveal sectoral data useful to some businesses.³³³ Business, mistrustful of the government's use of the data, responded by providing fake information (or refusing to provide any information) which merely served to further undermine *INDEC's* credibility.³³⁴ For example, no agricultural sector census was undertaken between 2001-2002 and 2018. Throughout this period, firms simply did not know the structure of their own sector. The government attempted to conduct a census by requested precise production levels from each firm, as well as the owner's national ID number. Fearing this data could be used against them to impose a fiscal control or increase taxation, or even possibly to close or takeover some firms, farmers typically lied or refused to respond.³³⁵

In addition to their divisive macroeconomic policies, the Kirchner governments also used divisive trade restrictions and rents (subsidies and state contracts) which further incentivised individual lobbying strategies over collective action.

2.2.2. *Divisive rents and trade restrictions*

Energy subsidies and the allocation of public contracts were used as forms of political reward. Subsidies to energy and gas benefited to the most capitalistic firms, over the more labour-intensive firms, to ensure their political support.³³⁶ These subsidies were not provided directly to the consumer but instead to the energy supplier. The suppliers were free to re-invest the subsidy, retain it or lower consumer prices. Even if consumer prices were lowered somewhat, a significant part of the subsidy was retained by the company without creating further investment. Contrary to government claims, it was not used to modernise infrastructure³³⁷ because the subsidy was subject to yearly approval and, 'a firm will not invest with hope of recovering the profits in 10 years when it could lose this subsidy every year at the moment of the approbation of the budget.'³³⁸

³³³ Hughes, D., Argentrigo's president, 15 June 2018, personal interview; Coatz, D., UIA's CEO, 27 June 2018, personal interview; Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews; Muñoz, H., director of institutional relations at INDEC, 26 June 2018, personal interview.

³³⁴ Since government changed in 2015, INDEC has been improving and the government has been sharing essential data with business (Hughes, D., Argentrigo's president, 15 June 2018, personal interview; Muñoz, H., director of institutional relations at INDEC, 26 June 2018, personal interview; Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.). In 2017, the Inter-American Development Bank (IADB) started a programme supporting *INDEC* in rebuilding its statistical capacity (IADB, 2017).

³³⁵ Hughes, D., Argentrigo's president, 15 June 2018, personal interview.

³³⁶ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

³³⁷ Lenicov, J.-R., Minister of economy and production (January-April 2002), 13 June 2018, personal interview.

³³⁸ Lenicov, J.-R., Minister of economy and production (January-April 2002), 13 June 2018, personal interview.

The allocation of private and public contracts was also used as a means of reward in this selective capitalism system. The Kirchners have used their political influence to allocate construction and services contracts to firms that were either close to them or had direct or indirect links to them. Certain firms would always win public contracts in particular regions, guaranteeing these firms much higher growth compared to their competitors. Foreign companies were also forced to use specific Argentinian firms as subcontractors.³³⁹ The Kirchners claimed that their methods supported national firms with temporary or structural financial difficulties and fostered national growth and employment. While this may well have been the case, ‘the grey area between with corruption is wide and it probably crossed the line now and then’³⁴⁰.

The high degree of discretion in the licencing and regulation of foreign trade³⁴¹ was also exploited to punish companies that were not aligned with the government’s political objectives. This acted to decrease the benefit of sectoral collective action. All applications for import licences were submitted to the commerce secretary, Guillermo Moreno, for approval, whereas under President Macri, most licences were renewed automatically.³⁴² Under the Kirchners, import licenses could be revoked from any business at any time. The import restrictions allowed Fate, an Argentinian tire producer, to take large market shares away from Michelin and Goodyear but also from Bridgestone and Pirelli. Fate left their business association *CIN* in 2009 to lobby the commerce secretary and the presidency directly.³⁴³

The Kirchners explicitly used the renewal of import licences to blackmail firms. They would ask to see Michelin’s plans for investment, export and import for the coming year. When the firm presented the data, the government replied that Michelin must build a plant in Argentina or otherwise it would be forced to import less every year.³⁴⁴ The government acted on this threat and refused to grant further import licences to Michelin.³⁴⁵ As a result, Michelin had to begin individual negotiations with the secretary of commerce – as reviewed in more detail in the next chapter on lobbying techniques.

Distributive macroeconomics, selective subsidies, discretionary distribution of public and private contracts, and the use of licence and authorisation renewals to

³³⁹ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

³⁴⁰ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

³⁴¹ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

³⁴² Crevatin, G., and Begnini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

³⁴³ Crevatin, G., and Begnini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

³⁴⁴ Crevatin, G., and Begnini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

³⁴⁵ The firm could not open a plant in Argentina because its plant Brazil is enough to cover all the demand in Latin America so that opening a new plant in Argentina would have meant either unsold overproduction or forcing the plant in Brazil to produce way below its capacity and dismiss its workers. Concretely, Michelin lost significant market share and had to dismiss employees: in 2009 it had 80 employees which dropped to 48 at the worst of the situation. Their situation improved under Macri’s government and thanks to less stringent import quotas, the company recovered to count 63 employees in 2018. (Crevatin, G., and Begnini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview).

blackmail or punish firms drastically reduced the benefit of collective action for business. Instead, they encouraged individual initiatives. The combination of these high costs of collective action and the low benefits of collective action – due to political polarisation – led to the dismantling of competitive-corporatist structures. This resulted in an unmistakably pluralist system.

2.3. The (dis)organisation of Argentinian private interests since 1976

In a pluralist system multiple, often conflicting, groups claim to represent business interests. CLFs fight each other for influence and prefer to lobby individually rather than going over the hurdles required by collective action. Firms belong to several business associations which overlap in function, are narrower in scope than peak associations and sectoral associations, are not exclusive, and are not hierarchically organised nor centralised (Martin, 2010). Consequently, associations are highly risk-averse and have a limited ability to engender cooperation (Martin, 2010). Attempts to build more inclusive organisations and to foster a more effective coordination are likely to run into a web of issues including: collective action problems, anti-collective behaviour, the inefficient inertia that arise from accepting the sunk cost when agents are confronted to change, and the inability of firms to immediately offset their losses when they decide to change the way they function (Hancké, 2010). Associations have little influence over the policymaking process. They engage in limited coordinated action and there are few formal channels linking them to either labour or the state.

In the same way, business associations in Argentina have had a poor level of coordination, SMEs have struggled for representation, CLFs have developed weak coordination mechanisms, and firms have shown a strong preference for lobbying alone or in temporary ad hoc coalitions. The government has to listen to so many different voices that, in fact, the voice of the entire sector is suppressed and weakened.³⁴⁶

2.3.1. Business associations' poor level of representation

Argentinian business associations often overlap in function and inadequately represent their sectors. For example, the Argentine Confederation of the Medium Size Firm (*Confederación Argentina de la Mediana Empresa: CAME*) claims to represent SMEs from the service sector but has also integrated a branch for agriculture. The Argentinian Chamber of Commerce (*Camara Argentina de Comercio y Servicios: CAC*) has integrated firms from the service sector in addition

³⁴⁶ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

to commerce affiliates.³⁴⁷ Although *CAME* claims that *UIA* does not integrate SMEs, it does, and, conversely, although *UIA* accuses *CAME* of not integrating industry, it does so as well, if only marginally.³⁴⁸ Such overlaps are widespread.

Similarly, the textile sector has suffered from fragmentation because it includes business an association for manufacturers of textiles, an association solely for CLFs (called the 'big brands' but which also includes manufacturing), and an association for cloth called the Federation of the Argentinian Textile Industries (*Federación de Industrias Textiles Argentinas: FITA*) – established in 1932 and a legacy from the corporatist period. Additionally, there is *Pro-tejer* which represents insulated producers, often smaller ones,³⁴⁹ and which broke away from *FITA* following an internal conflict.³⁵⁰

Notwithstanding smaller regional groups, a non-exhaustive list of other associations representing overlapping interests in textile manufacturing would include:

- Argentine Chamber of Firms in the Industry of Jumpers (*Cámara Argentina de empresas de la industria del sweater: CAS*);
- Argentine Industrial Clothing Chamber (*Cámara industrial Argentina de la indumentaria: CIAI*);
- Argentine Chamber of Baby and Children's Clothing (*Cámara Argentina de indumentaria de bebe y niños: CAIBYN*);
- Argentine Federation of Clothing and Related Industries (*Federación Argentina de la industria indumentaria y afines: FAIIA*).

Natural fibre producers have their own separate associations such as the Fibre Industry Chamber (*Cámara de la industria de Fibras: CIFIM*) or the Argentine Chamber of Cotton (*Cámara Algodonera Argentina: CAA*). *CAA* incorporates the agricultural production of cotton as well as the industrial aspects of transforming cotton into cloth. Yet, it only has limited coordination with *FITA* and other manufacturing associations. Instead of tackling the sector's issues, the focus of *CAA* is instead on coordinating on prices.³⁵¹

When conflicts of interest arise, affiliates pitted against one another and many associations have split after failing to solve these conflicts internally. In the 2000s, for example, the agricultural machine producers' unified national business association split because a group from Santa Fe de Cordoba did not feel adequately

³⁴⁷ Meyer, M., production Ministry's secretary of entrepreneurs and SMEs (2015-2019), 12 June 2018, personal interview.

³⁴⁸ de León, G., institutional relations at CAC, 14 June 2018, personal interview.

³⁴⁹ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

³⁵⁰ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

³⁵¹ Almiroty, C., Argentine cotton chamber's president, 11 May 2018, personal interview.

represented on a particular issue. Even if, in general, affiliates' interests were aligned, they would not always lobby together.³⁵²

The tire industry is another example of a sector formally unified under one association, but that association is, in fact, disorganised, represents its affiliates poorly and is focused on defending circumstantial interests. The association *CIN* exclusively represents those tire producers that have a plant in Argentina. It nonetheless accepted the affiliation of Michelin and Goodyear, despite them having no plants in Argentina. *CIN* accepted their affiliation because, together with two other affiliates, Bridgestone and Pirelli, the firms control between 75 and 80% of the Argentinian market. No business association represents the SMEs that make up the remaining 20% of the market. Ironically, Fate, the one local producer which has a plant in Argentina and does not import, left *CIN* to lobby the presidency directly.³⁵³

For its part, Michelin has found better representation and assistance from the binational entities, the Chamber of Commerce and Industry France-Argentina (*CCI-fFA*) and the Chamber of Commerce, Industry and Services Argentina-Brazil (*Cámara de Comercio, Industria y Servicios Argentino Brasileña de la República Argentina: CAMBRAS*). *CAMBRAS* worked to support Michelin's exports from Brazil to Argentina.³⁵⁴

The agricultural sector is also poorly represented and badly fragmented, because 'the participation in business associations in agriculture is very low'³⁵⁵. In agriculture, the Agrarian Federation of Argentina (*Federación Agraria Argentina: FAA*), established in 1912, represents grain-producing SMEs. The Confederation of Agricultural Cooperatives (*Confederación Intercooperativa Agropecuaria: Coninagro*) and the Cooperatives and Rural Confederations of Argentina (*Confederaciones Rurales Argentina: CRA*), established in 1943, represent medium-sized producers. Established in 1866, the Argentinian Rural Society (*Sociedad Rural Argentina: SRA*) also represents medium-sized producers. Finally, *Argentigo* affiliates large firms (Bayers, Basf, Syngenta, Klein and Buck) and other associations, including the millers' chamber, the export chamber, the chamber of grain collection and storage, the chamber of stockbrokers, the grain stock exchange and the chamber of seedbeds.³⁵⁶

Many farmers 'do not belong to business associations, have no political representation and if they need something, they cannot claim it [because] they have absolutely no time and no local unions either'³⁵⁷. Most farmers do not own the land

³⁵² Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

³⁵³ Crevatin, G., and Begnini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

³⁵⁴ Crevatin, G., and Begnini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

³⁵⁵ Hughes, D., *Argentigo's* president, 15 June 2018, personal interview.

³⁵⁶ Hughes, D., *Argentigo's* president, 15 June 2018, personal interview.

³⁵⁷ Hughes, D., *Argentigo's* president, 15 June 2018, personal interview.

they cultivate, in general they are young people who establish a pool of planting. They benefit from loans provided by local notables such as dentists, general practitioners or lawyers in the municipality, and the profits are then shared between the borrowers. The system is called a *societativismo* rather than a cooperative as it is more informal, and the pools can range from 1,000 to 50,000 hectares.³⁵⁸ For an idea of scale, we can compare this with the United States where the size of a small family farm averages 231 acres (93 hectares), a large farm averages 1,421 acres (575 hectares) and a very large one 2,086 acres (844 hectares) (Dunckel, 2013).

The Argentine Chamber of Commerce (CAC) has a similarly confusing and overlapping structure. To reflect 'the transformation that had already happened with the integration of gastronomy, tourism, among other new sectors'³⁵⁹, in 2016 CAC changed its name to the Argentinian Chamber of Commerce and Services. CAC represents both large and small businesses, and its president is the head of a legal firm of customs brokers with around 15 to 20 employees, *Di Fiori y Cía*. But large firms affiliated to CAC also include *Aeropuertos Argentinos 2000* (incorporating every Argentinian airport), the supermarket chain *Coto*, the shoe producer and seller *Grimoldi*, and *Dietrich*, a car dealer. *Dietrich* was an important member largely because its 'director is the father of the [then] Minister of transport'³⁶⁰. In 2018, CAC had around 2,000 to 3,000 direct affiliates – many of which were also affiliated to other associations and firms – but was unsure exactly how many firms it represented.³⁶¹

2.3.2. SMEs' struggle for representation and UIA's weak coordination mechanisms

SME representation is scattered between diverse, overlapping, changing and inconsistent business associations. All business associations seek to represent the interests of SMEs but none really does, not the least because 90% to 95% of firms in Argentina's commercial, agricultural and industrial sectors match the definition of an SME.³⁶² When the government wishes to communicate with SMEs, it would previously have called *CAME* and *CAC*, but '*CAME* opened an agriculture branch so it is not only services anymore while the *CAC* now integrates services. So, it is not at all clear where the SMEs are'³⁶³. The Macri government opted for direct contact with SMEs to more clearly understand their needs and challenges. Yet, the

³⁵⁸ Hughes, D., Argentrigo's president, 15 June 2018, personal interview.

³⁵⁹ de León, G., institutional relations at CAC, 14 June 2018, personal interview.

³⁶⁰ de León, G., institutional relations at CAC, 14 June 2018, personal interview.

³⁶¹ de León, G., institutional relations at CAC, 14 June 2018, personal interview.

³⁶² Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

³⁶³ Meyer, M., production Ministry's secretary of entrepreneurs and SMEs (2015-2019), 12 June 2018, personal interview.

government 'cannot bypass associations because there are 800,000 SMEs and [...] would need business associations to function better'³⁶⁴.

Informality is an additional obstacle to SME representation, though not a crippling one. SMEs are often 'entirely or partly informal, which gives them little legitimacy to ask for anything from government'³⁶⁵. All governments have nonetheless agreed to discussions with firms and associations employing workers informally 'otherwise [governments] would not listen to anyone'³⁶⁶. Informality remains an obstacle, however, because policies designed to support private enterprise such as credit lines, or the allocation of public funds to support investment, require the firms to be formal, to pay their taxes and to have social security coverage for their workers.

Large firms have struggled to coordinate as well. The *UIA* has affiliated sectoral associations, regional associations – such as the Business Association of Patagonia – and firms.³⁶⁷ But its representation of the industrial sector as a whole has been relatively poor, largely because its members' representation is itself poor, overlapping and disorganised. The *UIA* has been more successful at representing the interests of CLFs because they are fewer, better informed and are direct affiliates providing *UIA* with meaningful financial contributions. The *UIA* survives on the voluntary contributions of its affiliates, who pay depending on their level of participation on the board of directors – which in turn means that large firms have been the most prominent.³⁶⁸

Felix Peña, a top negotiator on Mercosur from the Menem government has described *UIA*'s lack of capacity, both in terms of technical capabilities and in solving conflicts of interest. First, Peña convened a meeting of 32 business association representatives to discuss coordinating macro policies with Brazil. He requested documents be submitted prior to the meeting, but not one association submitted anything. Second, he asked *UIA* for an opinion on a temporary change in Mercosur regulations. *UIA* responded around a week later, saying that *UIA* had no opinion because the members affected could not come to an agreement (Schneider, 2004, p. chap 8).

This incapacity has its roots in an acute internal polarisation within *UIA* which started in the 1980s. *UIA* is divided between two factions: the Argentinian industrial movement aka '*Lista celeste y blanca*' (MIA-Blanca) and the National industrial movement aka '*Lista industriales*' (MIN-Industriales) (Schteingart, 2011; Dossi,

³⁶⁴ Meyer, M., production Ministry's secretary of entrepreneurs and SMEs (2015-2019), 12 June 2018, personal interview.

³⁶⁵ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

³⁶⁶ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

³⁶⁷ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews; Coatz, D., *UIA*'s CEO, 27 June 2018, personal interview.

³⁶⁸ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

2009).³⁶⁹ The *MIN-Industriales* faction was established in the 1980s, by *CGE* members who had merged with *UIA* following decades of prohibition, expropriations and re-legalisation (Schneider, 2004, p. 182). Whereas the *MIN-Industriales* supported protectionism, the *MIA-Blanca* faction backed free trade. Unlike Schteingart (2011), this work does not consider that this difference is rooted in an ideological cleavage between liberal/heterodox over what the best route to development might be.

Rather, in line with the interviews conducted³⁷⁰ it argues that the differences are rooted in a conflict of interest. *MIA-Blanca* interests are aligned with a more open economy because it has typically been led by the foodstuff sector's firms, the most competitive sector in Argentina and hence the most likely to operate on international markets. The *MIA-Blanca* faction also supports free trade because its affiliates depend heavily on imports for the production of appliances. In contrast, *MIN-Industriales'* affiliates produce these inputs and so would prefer to see borders closed to international competition and to become the *MIA-Blanca's* sole providers. Additionally, *MIN-Industriales* was led by Techint (active in the steel sector), which had interests linked to the government's protectionist policies.³⁷¹

The *UIA* has been unable to reconcile these conflicting interests or to decide on a line all affiliates could accept. Consequently, the *UIA* has produced a trade policy position that demands protectionism, but not too much (Schteingart, 2011). For example:

UIA's position is to foster intelligent international negotiations that are at the service of the defence of national production and labour, protecting the internal market against unfair competition and taking into account productive asymmetries between different countries. (UIA, 2009, p. 9)

On taxation, the *UIA* has a similarly poorly articulated position, highlighting a lack of coordination between conflicting interests. Its director explained that the *UIA* does not even call for lower taxes because of the conflict that would create between importers and exporters. Instead, *UIA* argues that 'some sectors need to see their taxes reduced faster because they are key sectors which compete in the world scene, but that's all'³⁷².

³⁶⁹ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews; Coatz, D., *UIA's* CEO, 27 June 2018, personal interview.

³⁷⁰ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews; Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview.

³⁷¹ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

³⁷² Coatz, D., *UIA's* CEO, 27 June 2018, personal interview.

UIA has nonetheless reached a moderate level of coordination. *UIA* ‘does not produce as articulate and precise policy positions as *CNI* [in Brazil] because *CNI* is much bigger and has much more funding thanks to the mandatory financial contributions’.³⁷³ Instead of producing legislative, executive and judicial agendas as *CNI* does, *UIA* has two agendas, one defensive short-term agenda in response to proposed new laws, and an offensive agenda, which looks to the longer term and includes tax reform and financial reform. The short-term agenda is more important for *UIA* than the longer term agenda, because ‘conjecture is what commands [...], unfortunately’³⁷⁴.

For example, in May 2019 *UIA* published 10 proposals for regional development in Argentina, from which an extract about taxation is shown below. Figure 4 shows *UIA*’s national proposals: scrap the tax reform that suspends fiscal benefits and maintain those fiscal benefits as they are, because they are positive for employment.

Figure 4. Extract from *UIA*’s proposals regarding tax policy in 2019 (*UIA*, 2019)

3.2. PROPUESTAS TRIBUTARIAS UNIÓN INDUSTRIAL ARGENTINA

NACIONAL
REESTABLECIMIENTO DEL DECRETO 814/2001

- ✓ Suspensión del artículo 173 de la Ley 27.430 (Reforma Tributaria) que establece la progresiva eliminación en cuatro años de los beneficios del Decreto 814/2001.
- ✓ Mantener los beneficios tal cual estaban vigentes originalmente en el Decreto 814/2001 ya que esta normativa apunta a generar mayores incentivos para potenciar el empleo en el Interior.

REGIONAL
MODIFICACIÓN DE LOS REGÍMENES DE RECAUDACIÓN

- ✓ En el corto plazo acelerar la rebaja de Ingresos Brutos hasta lograr reemplazarlo por otra herramienta alternativa que resulte de más fácil liquidación y fiscalización, y que no genere distorsiones al superponerse los diferentes regímenes al interior de la cadena productiva. Existen más de 60 regímenes de recaudación provinciales que no sólo agregan carga tributaria, sino que también incrementan la carga burocrática y aumentan distorsiones entre impuestos municipales con distintos criterios de fiscalización.
- ✓ La Comisión Arbitral debiera fijar, de manera clara e inequívoca, los criterios de asignación de ingresos y gastos en el armado del coeficiente del convenio Multilateral, a fin de solucionar la dificultad en la liquidación

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Figure 4 shows shallowness and a lack of argument in *UIA*’s proposal which contrast sharply with *CNI*’s legislative agenda presented in Figure 2. In Figure 2, *CNI* details the proposed law, and calls for a regional tax not to be lifted because it would alter the base of calculus for another tax. *ANDI* in Colombia has also produced more detailed and better articulated documents than *UIA*. In 2015 *ANDI* proposed to

³⁷³ Coatz, D., *UIA*’s CEO, 27 June 2018, personal interview.

³⁷⁴ Coatz, D., *UIA*’s CEO, 27 June 2018, personal interview.

simplify the tax system by including keeping only income tax, tariffs and VAT, and eliminating territorial taxes and parafiscal contributions. This simple settlement, declaration and payment mechanism were designed to make it easier for all taxpayers to comply with their tax obligations (ANDI, 2015).

An interviewee who has worked with both *ANDI* and *UIA* directly acknowledged that *ANDI* is more easily organised because it coordinates only a few large and capable players:

the *UIA* [...] never reached a point of articulation sufficient to say: this is the industrial policy for the next ten years. Unlike Colombia where we managed to do it because there were only 10 leading companies. Coordination was straightforward.³⁷⁵

Since the 2000s, the *MIA-Blanca* and *MIN-Industriales* factions have maintained an agreement to alternate in power rather than compete in elections for *UIA*'s presidency.³⁷⁶ Instead of reaching a consensus, *UIA*'s positions are often decided on the basis of this alternation. One sector can have its way now, but next time another sector will get its way, balancing each other out over time.³⁷⁷ For example, between 2011 and 2013, the *UIA* was especially focused on the textile industry because the president was José Ignacio de Mendiguren, who came from that sector.³⁷⁸ As a consequence of the disorganisation in all sectors and in all business associations in Argentina, firms have preferred individual strategies over collective ones, as is showcased in the next section.

2.3.3. *Bypassing business associations and distributional coalitions*

The bypassing of associations to undertake individual lobbying has typically prevailed over attempting to reach a consensus within business associations. For example, under the Kirchners, the steel manufacturer Techint has lobbied through the Argentinian Chamber of Steel (*Cámara Argentina del Acero*) but has also had direct meetings with the executive branch.³⁷⁹ Under President Macri, several Techint employees were appointed to senior positions in government, giving rise to the reasonable assumption that business associations had become largely irrelevant to Techint's lobbying activities.³⁸⁰ Conversely, in Brazil Techint favours using business

³⁷⁵ Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview.

³⁷⁶ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews; Coatz, D., *UIA*'s CEO, 27 June 2018, personal interview.

³⁷⁷ Coatz, D., *UIA*'s CEO, 27 June 2018, personal interview.

³⁷⁸ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

³⁷⁹ Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview.

³⁸⁰ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

associations over direct contact with the government because it 'is more ordered and for all transversal topics, *FIESP* speaks with the government. If it is a problem related to a sector such as auto parts, the relevant association goes'³⁸¹.

The tire industry has also been routinely bypassing business associations. Michelin worked hand-in-hand with the association *CIN* on tire import regulations such as the Certificate of Homologation of Safety Auto Parts, 'but for all other topics [Michelin] deals individually with the government'. This is not unique to the firm, because 'when [Michelin's lobbyists] were at the government offices, many representatives of one firm or the other would come and go, literally waiting in line'³⁸².

Although firms have generally preferred individual approaches, they have also crafted ad hoc alliances to respond to specific issues which might arise suddenly. Olson has argued that the more numerous narrow associations there are, the more likely they will be to form 'distributional coalitions' (Schneider, 2004, p. chap 8). Mahoney (2007) has called this type of collective action a short-life ad hoc alliance, arguing they can be quickly created outside the usual channels, associations and structural divisions. Such coordination is more likely to occur when several actors identify a common threat and are able to overcome natural obstacles to collective action in order to respond to the threat. In short-life ad hoc alliance, '*el miedo es mas fuerte que el amor*'³⁸³.

Beginning in 1999, and especially in 2001, the *UIA* led what became known as the Productive Group (*Grupo productivo*), which incorporated other employers' organisations such as the Argentine Chamber of Construction and the Argentine Rural Confederations. In 2001, the Productive Group forged alliances with social institutions such as the Church, the General Confederation of Labour (*CGT*) and universities. The alliance supported a currency devaluation and proposed leaving the convertibility system, which it viewed as encouraging 'finance' over 'production'. The alliance effectively became a 'party' fighting against other 'parties', mainly the banking sector and privatised companies. The latter supported an opposing strategy – deepening convertibility from the dollarization of the economy (Schteingart, 2011). Additionally, in the 2010s the *UIA* and some of its affiliates teamed up 'with labour unions to seek a regulation with the great excuse that protecting your firm or industry will save jobs'³⁸⁴.

Similarly, presidents of the associations of corn, sunflower, and soy, as well as the representative of the business association of fertilisers (*Fertilizar*), regularly meet to discuss whether they should form a temporary alliance to undertake lobbying

³⁸¹ Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview.

³⁸² Crevatin, G., and Beghini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

³⁸³ de León, G., institutional relations at CAC, 14 June 2018, personal interview; Hughes, D., Argentigo's president, 15 June 2018, personal interview. Translation: Fear is stronger than love.

³⁸⁴ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

on specific issues. Such lobbying activities do occur ‘sometimes, depending on the necessity and the interest’³⁸⁵.

Finally, the most famous temporary alliance is the ‘G6’, which gathers CAC, UIA, SRA, ADEBA (banks), the Buenos Aires stock exchange and the Chamber of Construction. The G6 is informal, with no office or secretary, and ‘meets now and then, only when something happens’³⁸⁶ to issue a joint declaration. Under the Kirchner governments, the G6 rallied against the law of *abastecimiento* – a case reviewed in more detail in the next chapter. The proposed law granted the government the power to set the maximum price of goods and extensively regulated the functioning of firms. The G6 met to coordinate a media and communication campaign opposing the new law, but subsequently each member of the G6 chose to meet with ministers on an individual basis, not as a group.³⁸⁷

This section has highlighted the various aspects of Argentinian pluralism: the poor level of representation on the part of business associations, SMEs’ struggle for representation, UIA’s weak coordination mechanisms, firms’ preferences for lobbying individually rather than through associations, and how the perception of common threats can prompt the creation of ad hoc temporary alliances.

3. CONCLUSION

This chapter showed firstly that Argentina’s corporatism initially resembled that of Brazil and similarly turned into a competitive-corporatism mode of business organisation in which private interests balanced each other. This research confirmed the theoretical expectation of this thesis, namely that competitive-corporatism emerged as a consequence of consistent ISI policies increasing the benefits of collective action while, at the same time, the corporatist legacy was lowering the costs of collective action.

The chapter then traced the evolution of the costs and benefits of collective action. From 1976 onwards, the political polarisation inherited from the *Guerra Sucia*³⁸⁸ and the divide and rule strategies and harassment methods employed by the governments of Nestór and Cristina Kirchner – which encouraged individual negotiations with firms – have made the cost of collective initiatives high. In parallel, successive governments’ inconsistent distributive economic policies, divisive rents and trade restrictions, deployed as both political punishment and reward, have encouraged CLFs’ individualist behaviour. In line with this chapter’s theoretical expectation, competitive-corporatism turned into an unmistakably pluralist system,

³⁸⁵ Hughes, D., Argentigo’s president, 15 June 2018, personal interview.

³⁸⁶ de León, G., institutional relations at CAC, 14 June 2018, personal interview.

³⁸⁷ de León, G., institutional relations at CAC, 14 June 2018, personal interview.

³⁸⁸ The Dirty War, a campaign of repression from the state against Argentinians, lasted between 1976 and 1983.

in which business associations overlap, struggle for representation and have weak coordination mechanisms.

The next chapter explores the impact of firms' individual strategies on policy outcomes. It shows that, while the left-wing governments of the Kirchners may have sincerely tried to foster greater employment levels and industrialisation, they have done so by promoting some firms' individual interests on tariffs, taxation and regulation.

Chapter 9

The best politically connected companies' interests prevail

The president of a small business association from the IT sector, seeking to obtain special import exemptions and fiscal advantages, found it impossible to have a direct conversation with the executive branch under Mauricio Macri's government. Under the previous Cristina Kirchner government, an association director's 'niece was dating the minister's cousin, which made things a lot easier, she was a lifesaver'³⁸⁹.

This chapter examines what determines the varying degrees of success and failure when businesses attempt to influence policy outcomes in a pluralistic system. It finds that, in line with the above anecdote from the president of the IT business association, firms have few consistent channels, whether formal or informal, to connect with policymakers. Establishing personal ties to politicians (instrumental power) has been the most efficient way for a business to influence policy outcomes.

Often in Argentina, lobbying legislators has been pointless. Power is concentrated with the president and the executive branch – under the Kirchner governments, the presidents have also held legislative majorities. None of the multiple, conflicting and overlapping associations that claim to represent business interests have had much weight in influencing policy. Faced with multiple and contradictory demands, the government prefers to receive input from the best-connected firms or associations, those it deems trustworthy. In the words of a former secretary in the Ministry of Production, 'the sector-wide issues are solved that way, by listening to a narrow but strong part of the sector'³⁹⁰.

This chapter also seeks to determine the types of policy the business community promotes via lobbying and other political mechanisms in Argentina's pluralist mode of business organisation. The primary data presented in this chapter confirms that weaker business associations are more likely to engage in narrow and purely self-serving activities because their lack of institutional capacity limits their options for more public-spirited activities (Schneider, 2004). Such disorganisation in business largely accounts for the failure of past attempts at social pacts in Argentina (Schneider, 2004). The chapter illustrates this argument with case studies showing

³⁸⁹ Scimone, C., CAME's industrial department secretary and CAMOCA's representative to the government, 14 May 2018, personal interview.

³⁹⁰ Meyer, M., production Ministry's secretary of entrepreneurs and SMEs (2015-2019), 12 June 2018, personal interview.

how Argentine firms have lobbied on trade policy (import tax and quota regimes), regulations, and taxation.

Finally, the data collected does not confirm nor contradict the theoretical expectation that a high rate of informality and widespread tax evasion leads to the government replacing lost revenues by imposing export taxes and VAT.

The following sections explore how instrumental power has been firms' main strategy to influence the executive branch in Argentina. It then shows how business disorganisation has given government the upper hand, allowing it to impose tariffs, import quotas, regulations and taxes on firms or sectors in order to sustain its own development agenda or to punish political foes. This has further encouraged businesses to seek favourable arrangements informally and individually.

1. POLITICAL INFLUENCE STRATEGIES TO LOBBY THE PRESIDENCY

The existence of numerous overlapping and competing business interests in Argentina serves only to create confusion. Government officials avoid this confusion by favouring those companies and groups they personally know and trust. This attitude makes the use of instrumental power a lot more efficient when seeking to influence policy than any other lobbying tactic. Those companies with significant structural power fail to influence policy – such as the case of Techint presented in section 3.2 – while others, even without structural power, are able to obtain their favoured policies, as in the case of the small IT sector association. However, this also provides politicians with much greater leverage in policymaking. All the case studies presented here confirm that politicians maintain the upper hand over businesses when it comes to policies critical to their political agenda.

Under the Kirchner governments, lobbying the executive meant convincing the four people who had meaningful power. All others were either 'useless'³⁹¹ or only useful in convincing one of the main four.³⁹² The four were: Cristina Kirchner (the president), Julio de Vido (Minister of Planning and Public Works), Axel Kicillof (Minister of Economics and Production) and Guillermo Moreno (Secretary of Trade).³⁹³ Convincing any of them was enough to see one's demand written into law, be it a tax reduction, a specific regulation, or an import quota waiver.

Legislative lobbying became irrelevant under the Kirchners because their 'party was so dominant in Congress that anything produced in one branch would

³⁹¹ Hughes, D., Argentigo's president, 15 June 2018, personal interview.

³⁹² Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview; Hughes, D., Argentigo's president, 15 June 2018, personal interview.

³⁹³ Hughes, D., Argentigo's president, 15 June 2018, personal interview; Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview; Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

automatically get approved by the other'³⁹⁴. Many others agree.³⁹⁵ 'There was no debate at all, the executive would redact a law and send it to Congress for immediate approval. The Congress failed at its role of control and check and balance of the executive power (Cingolani, 2019). The lobby had to be on the executive branch'³⁹⁶. Consequently, business associations and firms lacked experience and interest in lobbying the legislative branch and had no particular strategy for doing so. Congress and its committees are so irrelevant that the institutional relations department of the steel sector's largest firm, Techint, has no employee dedicated to them nor any information campaigns aimed at promoting the firm's interests in Congress.³⁹⁷

As is the case with the executive branch, business associations' monitoring of laws in Congress is informal and relies on personal ties to legislators. For example, in agriculture, there is no formal monitoring of laws whatsoever, so association affiliates must 'have eyes and ears [to] transmit info to one another as soon as possible'³⁹⁸. In the tire industry, the association *CIN* undertakes legislative monitoring through its in-house analysts, 'but it is very poor, basically *CIN*'s president and his secretary are the analysts'³⁹⁹. Their monitoring consists of reading and commenting on extracts from other documents that discuss a proposed new law.

This is in sharp contrast to the other two nations examined in this thesis, Colombia and Brazil, where power is more diffuse and business more organised. In Brazil, associations constantly keep legislators informed of the news in their industry through newsletters or invitations to visit plants or to attend events⁴⁰⁰. The *CNI* even went as far as developing software and making econometric regressions to coordinate and plan lobbying activities in Congress, on the executive and on the judiciary, as well as on government agencies.⁴⁰¹ Smaller Brazilian associations often provide their own system of legislative monitoring as a service to affiliates, although these are largely reliant on an automated thematic newsletter subscription from the Brazilian Congress website.⁴⁰² In Colombia, *ANDI* has an institutionalised system of legislative monitoring based on a shared excel sheet which is used to coordinate lobbying activities by multiple actors.⁴⁰³

³⁹⁴ Crevatin, G., and Begnini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

³⁹⁵ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews; Crevatin, G., and Begnini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview; Hughes, D., Argentrigo's president, 15 June 2018, personal interview; Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview; Meyer, M., production Ministry's secretary of entrepreneurs and SMEs (2015-2019), 12 June 2018, personal interview; Coatz, D., UIA's CEO, 27 June 2018, personal interview; de León, G., institutional relations at CAC, 14 June 2018, personal interview.

³⁹⁶ Hughes, D., Argentrigo's president, 15 June 2018, personal interview.

³⁹⁷ Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview.

³⁹⁸ Hughes, D., Argentrigo's president, 15 June 2018, personal interview.

³⁹⁹ Crevatin, G., and Begnini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

⁴⁰⁰ Sanovicz, E., ABEAR's CEO, 11 April 2018, personal interview; Zanao, C., 10 April 2018, personal interview.

⁴⁰¹ Cesario, P., executive director of CNI's lobbying department, 23 April 2018, personal interview.

⁴⁰² Netto, I., CitrusBr's executive director, 26 March 2018, personal interview; Guimaraes, C., 25 April 2018, personal interview.

⁴⁰³ Riveros Pineda, I. C., 4 July 2018, personal interview.

Under the Macri government, power was more decentralised than under those of the Kirchners. Any request could be addressed to the relevant sub-secretary or Ministry without having to get prior approval by higher authority.⁴⁰⁴ The regional executive organs also carried weight, such as the Ministry in charge of agriculture for the province of Buenos Aires⁴⁰⁵ or the Transport Secretary for the city of Buenos Aires, who helped to introduce new commercial solutions to pollution and traffic monitoring⁴⁰⁶.

Congress gained in relevance under Macri's government, but business did not change its methods. After twelve years of Kirchner governments, firms had 'lost the practice of being in touch with the legislative power'⁴⁰⁷. Under President Macri, businesses tended to maintain their focus on the executive. However, given that Macri's government lacked a disciplined majority in Congress, the President was forced to build legislative coalitions to pass laws. To help with this, he required business to support his efforts by lobbying opposition legislators to agree to pass the government's agenda.⁴⁰⁸

Macri's government actively sought direct input from firms, further encouraging individual lobbying tactics. The government would directly contact different firms to encourage them to invest more in Argentina and ask what the government could do in terms of regulations or fiscal incentives to make such investment faster and easier. Macri's government also asked for input and proposals from the private sector via sectoral workshops (*mesas sectoriales*). Again, the difficulty was that business associations seldom offered any input and nor could they be relied upon to articulate proposals.⁴⁰⁹ Such workshops were not new but, unlike those held under the Kirchners, 'at least [business] can make proposals and [be] taken more seriously, instead of only ending up on the group picture'⁴¹⁰.

In this pluralist system, lobbying efficiently relied on personal relationships and affiliation to an association to facilitate access to policymakers, rather than on an association articulating the preferences of its affiliates. Even for the CLF association *UIA*, informal and personal connections remained important channels of communication with the state. When President Macri found one of '*UIA*'s declaration unpleasant, he would phone up directly to say so⁴¹¹. The *UIA* organises a yearly event to gather diverse politicians and help affiliates cultivate personal links with

⁴⁰⁴ Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview.

⁴⁰⁵ Hughes, D., Argentigo's president, 15 June 2018, personal interview.

⁴⁰⁶ Crevatin, G., and Beghini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

⁴⁰⁷ Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview.

⁴⁰⁸ Crevatin, G., and Beghini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview; Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

⁴⁰⁹ Meyer, M., production Ministry's secretary of entrepreneurs and SMEs (2015-2019), 12 June 2018, personal interview; de León, G., institutional relations at CAC, 14 June 2018, personal interview.

⁴¹⁰ de León, G., institutional relations at CAC, 14 June 2018, personal interview.

⁴¹¹ Coatz, D., *UIA*'s CEO, 27 June 2018, personal interview.

current and future policymakers.⁴¹² Large firms likewise cultivate individual contacts with politicians. For example, Techint the largest steel producer in Argentina, directly ‘phones up the President, the ministers, arguing it represents the national industry whilst obviously arguing in defence of its own personal interests’⁴¹³.

Facilitating these personal ties is also a job that the Chamber of Commerce and Industry France-Argentina (*CCI-FA*) performs ‘very well, by organising lunches and breakfasts in which [firms] can be in contact with government officials and find business opportunities’⁴¹⁴. Largely, but not exclusively, sponsored by French companies, the *CCI-FA* organises monthly lunches with high level politicians and invites a wide range of business representatives. The lunches are advertised on *CCI-FA*’s website, but the names of the politicians in attendance are only shared via email with a private list of guests. Figures 5 to 7 below show invitations to meet with a Minister, a governor, and a senator.

Figure 5. Personal invitation for a lunch with the Minister of production, 26 Oct. 2018



⁴¹² Coatz, D., UIA’s CEO, 27 June 2018, personal interview.

⁴¹³ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

⁴¹⁴ Crevatin, G., and Begnini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

Figure 6. Personal invitation for a lunch with the governor of oil and mining rich region of Salta, 3 Dec. 2018

From: CCI FRANCE ARGENTINE CCI_FRANCE_ARGENTINE@mail.vresp.com
Subject: RECORDATORIO 13/12: Almuerzo con Gob. de Salta, Dr. Juan M. Urtubey
Date: 3 December 2018 at 12:36
To: eva.renon.16@ucl.ac.uk



RECORDATORIO



CCI FRANCE ARGENTINE

Dr. Juan Manuel URTUBEY



ALMUERZOS
CCI FRANCE ARGENTINE

13 DE DICIEMBRE | 12:30 Hs.

INVITADO DE HONOR
Dr. Juan Manuel URTUBEY
Gobernador de Salta

DÓNDE
Hotel Palacio Duhau - Park Hyatt Buenos Aires
Posadas 1350 - Salones Ginko I y Ginko II

VALOR DEL CUBIERTO
\$1800 (socios)
\$2700 (no socios).

RESERVAS E INFORMACIÓN
cci@ccifa.com.ar
Tel.: 4310 1001

Agradecemos el auspicio de:





10 AÑOS  **FRANCIA**

Figure 7. Personal invitation for a lunch with a senator, 30 May 2019

From: CCI FRANCE ARGENTINE CCI_FRANCE_ARGENTINE@mail.vresp.com
 Subject: (SPAM?) 03/06: Almuerzo con Miguel Angel Pichetto - RECORDATORIO
 Date: 30 May 2019 at 14:52
 To: eva.rencon.16@ucl.ac.uk

RECORDATORIO



ALMUERZOS 

CCI FRANCE ARGENTINE



Dr. Miguel Angel PICHETTO

03

JUN

INVITADO DE HONOR

Dr. Miguel Angel PICHETTO

Senador de la Nación

Perspectivas electorales y desafíos
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Other large and well-organised business associations such as the Chamber of Commerce of Argentina (CAC) also cultivate personal ties with politicians and government officials: ‘to influence policies, our links with civil servants and ministers are most useful [...] the personal relationships and the meetings with the executive power, are definitely the most efficient’⁴¹⁵. Unlike similar business associations in Brazil and Colombia, CAC does not hire consultants or lobbyists. Instead, the ‘institutional relations’ director is in charge of all lobby activities which he performs with in-house resources. He also relies on contacts with other business associations and civil servants who have personal connections to CAC’s staff.⁴¹⁶

Personal relationships and political alignment are so crucial to the representation of business interests in Argentina that CAC’s former president, who

⁴¹⁵ de León, G., institutional relations at CAC, 14 June 2018, personal interview.

⁴¹⁶ de León, G., institutional relations at CAC, 14 June 2018, personal interview.

led the organisation for over 13 years, had to resign when Cristina Kirchner lost the 2015 presidential election. His successor was chosen because of his greater affinities with members of Mauricio Macri's government. Similar to the strategy of *UIA*, *CAC* sought to build strong personal relationships with the new government by organising events and lunches and inviting President Macri, his cabinet, the president of the central bank and various ministers.⁴¹⁷

Smaller business associations representing SMEs also rely on personal ties to policymakers. For example, in 2013 the Argentine Chamber of Water Facilities (*Cámara Argentina de las Instalaciones para Fluídos: CAIF*) developed close ties with the then Minister of Labour, Carlos Tomada.⁴¹⁸ With the change of government in 2015, all outstanding negotiations and projects stopped and *CAIF* was no longer granted meetings with the Labour Ministry. Instead, *CAIF* was able to gain leverage in the municipal legislature of Buenos Aires, to which Mr. Tomada was elected in 2015. With his assistance, *CAIF* arranged several dinners with other local legislators before finally being allowed to present a proposal for a new local regulation that would benefit the association's affiliates.⁴¹⁹

Business has also used the media to gain leverage in private negotiations with politicians – a strategy that is commonplace in Colombia as well, as analysed in Chapter 5.⁴²⁰ Statements to the media are a useful way of reminding affiliates of an association's lobbying activities, especially following a successful lobbying campaign, and helps to secure the continued membership and financial contributions of affiliates.⁴²¹ Press releases openly criticising the government are a way to prompt it to come to the negotiating table with an association or firm. Alternately, press releases supporting politicians are a way to maintain good relations with members of the government.⁴²² The *UIA* has also leveraged the media when seeking to increase the salience of an issue and to gain popular sympathy, especially when the government is being unresponsive to a request for talks. 'President Macri told us that if we wanted him to support us, we had to make society think that things will improve when the government supports us'⁴²³.

Again, firms' links to the media rely on personal connections. For example, the agricultural sector association *Argentrigo* relies on its affiliates to call specific media directly to place a statement. Affiliates are likely to have stronger ties with the press because they often fund media outlets and have regular contact with them.⁴²⁴

⁴¹⁷ de León, G., institutional relations at *CAC*, 14 June 2018, personal interview.

⁴¹⁸ Vommaro, L., *CAIF*'s president, 05 June 2018, personal interview; Tomada, C., 26 June 2018, personal interview.

⁴¹⁹ Vommaro, L., *CAIF*'s president, 05 June 2018, personal interview.

⁴²⁰ de León, G., institutional relations at *CAC*, 14 June 2018, personal interview.

⁴²¹ de León, G., institutional relations at *CAC*, 14 June 2018, personal interview.

⁴²² de León, G., institutional relations at *CAC*, 14 June 2018, personal interview.

⁴²³ Coatz, D., *UIA*'s CEO, 27 June 2018, personal interview.

⁴²⁴ Hughes, D., *Argentrigo*'s president, 15 June 2018, personal interview.

However, businesses tend to be reluctant to use the media because it is a costly enterprise: it requires meetings, time and employees to prepare press statements. For the *UIA*, the media is the last resort and, wherever possible, the *UIA* avoids press exposure. Instead, it prefers to lobby behind closed doors, for example by setting up regular workshops or roundtables with the relevant ministries or, when necessary, with legislators.⁴²⁵

In contrast to Brazil and Colombia, however, Argentinian businesses' use of revolving doors has remained insignificant. They were seldom used during the Kirchner governments because the transition from the private to the public sector was widely perceived by businesspeople as a financial downgrade. Moreover, such a move was perceived in business as damaging to one's reputation, because the suspicion was that 'you worked there because you have a friend putting you in this position in order to facilitate corruption'⁴²⁶. This aversion worked both ways. Nestór Kirchner extended his government's perceived room for manoeuvre by leading high-profile battles against people and institutions that had constrained his predecessors, including fights against foreign and domestic capitalists (Levitsky & Murillo, 2008).

Revolving doors were more common before and after the Kirchner governments. As the then Secretary of Industry and Mining for the Ministry of Production recalls, under Eduardo Duhalde in 2003:

The Minister of Production phoned me up to offer me the position of Secretary of Industry – which I accepted. But then he called back to withdraw the offer and suggest the position of chief of cabinet instead. The reason was that the position of Secretary of Industry was reserved to Techint people who had good relations with President Duhalde. I told him that I was not interested in the position of chief of cabinet. The Minister called a third time to say that he had dealt with the issue and that I could be Secretary of Industry. I laid back on my chair for a minute to let the news sink in but then a fourth phone call came. I heard 'Hi Sir Secretary... congratulations', to which I replied, 'son of ****, how do you already know?'. It was [...] a good old friend from Techint on the phone.⁴²⁷

Under Macri, the *UIA* would provide the government with technical staff upon demand.⁴²⁸ However, individual firms retained the most influence: Techint had at least 15 employees appointed to senior levels in the executive branch.⁴²⁹ Former

⁴²⁵ Coatz, D., *UIA's* CEO, 27 June 2018, personal interview.

⁴²⁶ Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview.

⁴²⁷ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

⁴²⁸ Coatz, D., *UIA's* CEO, 27 June 2018, personal interview.

⁴²⁹ Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview.

employees of Techint and other CLFs are in high demand in business associations, multinational companies, and non-Kirchner governments because they have gained a reputation of producing skilful and competent staff.⁴³⁰ In effect, Techint informally steps into the void created by the absence of a national school of administration.⁴³¹ This has also been the case for other CLFs and multinationals which have become, in essence, a human resources pool to private and public sectors alike.⁴³² Techint is, of course, keenly aware that it can use these former employees as government contacts when required.⁴³³

This section reviewed the main influence strategies employed by business in a pluralistic mode of organisation, with the most efficient strategy being to cultivate personal ties to politicians. The next section delves into the types of policies firms have promoted through these influence strategies. It finds that firms have regularly promoted particularistic interests in the areas of trade policy (tariffs, import quotas), fiscal policy (export tax) and regulation, but that government has consistently maintained the upper hand.

2. PARTICULARISTIC INTEREST PROMOTION IN REGULATION AND TRADE POLICIES

Because they lack coordination, it is impossible for business associations to set out the demands and preferences of an entire sector. Consequently, business associations and firms tend to make demands that are mostly particularistic, and sometimes confused and contradictory. As an example, a former secretary recalls that, 'a business association once asked [him] for cheaper taxes, to give them subsidised loans, and to write a law obligating the terminals to buy from them'⁴³⁴. In general, a business association would ask for commercial protection and the prohibition of imports in their sector. Aside from these demands, they 'remain without anything to say because they do not know what else to ask for to solve their competition issues'⁴³⁵. This is, in large part, because business associations lack sufficient resources to afford the services of consulting companies or to hire enough in-house staff who are able to identify the problems in their sector and design constructive solutions.

⁴³⁰ Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview.

⁴³¹ Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview; Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews; de León, G., institutional relations at CAC, 14 June 2018, personal interview.

⁴³² Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

⁴³³ Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview; Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews; de León, G., institutional relations at CAC, 14 June 2018, personal interview.

⁴³⁴ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

⁴³⁵ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

This section shows that, at the individual level, firms have focused their lobbying activities on obtaining tariff exemptions, revoking regulations they perceive as damaging, and opposing tax hikes. Overall, businesses have registered very few successes when seeking to influence these policies.

2.1. Trade policy: export taxes and import tariffs

In the 1990s and early 2000s, decision-making on regional integration was mostly dependent on presidential initiatives and was state led, rather than made in consultation with the wider business community or the peak association (Mazzetti, 1993, cited in Schneider, 2004). Furthermore, business interests were often not represented in these negotiations by large established associations, but rather by individual firms, businessmen or narrow sectoral associations. Unlike in Mexico and Chile, business participation remained inconsistent. This was because large associations lacked staff and institutional capacity, but also because internal divisions limited the effectiveness of business associations in trade negotiations (Schneider, 2004).

The primary evidence collected for this work supports this scholarship. *UIA* does not take a position on conflicts of interest in trade negotiations. One *UIA* faction, *MIA-Blanca*, wants to maintain high tariffs whereas the *MIN-Industriales* faction supports free trade in order to access new markets.⁴³⁶ The *UIA* has no mechanism for conflict resolution and its members advocate for their specific priorities on tariffs and commercial issues individually.⁴³⁷ Often, the government makes unilateral decisions on tariff levels.⁴³⁸

Under the Kirchner administrations – especially that of Cristina Kirchner – import/export ratio controls were also individualised to the firm level. The decision-making process encompassed a degree of coercion and discretion that only allowed for individual solutions, some of which were also undoubtedly corrupt (González, 2019; Rivas Molina, 2019). On trade policy, the Trade Secretary in the Ministry of Economics and Production had such independence that he ‘ended up having more importance than the Ministry itself’⁴³⁹.

The Trade Secretary, Guillermo Moreno, explained to Michelin that to import one million dollars, the company needed to justify an equivalent export of one million dollars. All firms faced the same situation, leading them to seek individual solutions – some of which were more creative than others. For example, to be able to export wheat, firms had to request an export permit and ‘depending on the conditions and

⁴³⁶ Coatz, D., *UIA's* CEO, 27 June 2018, personal interview.

⁴³⁷ Coatz, D., *UIA's* CEO, 27 June 2018, personal interview.

⁴³⁸ Coatz, D., *UIA's* CEO, 27 June 2018, personal interview.

⁴³⁹ Crevatin, G., and Begnini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

the mood, you had to pay in bribe an average of 10% of the value exported'⁴⁴⁰ simply to obtain the permit.

In another instance, a former employee of a firm specialising in importing paper reported that his company had struck a deal with another company which exported honey from Argentina. Foreign clients would declare they had bought honey from the paper firm, which then allowed the paper firm to argue that it was bringing dollars to Argentina. It was therefore granted a licence to import a quantity of paper equivalent to the amount of dollars it claimed to have brought into the country.⁴⁴¹

Michelin's only activity in Argentina consists of selling the tires it has imported from its plant in Brazil. To be allowed to continue operating, it had to argue that tourist visits generated by Michelin travel guides should be counted as an export by the Michelin tires company, because foreign tourists spend in their own currency. To support its tire business Michelin produced new travel guides to Argentina, including one in 2014 dedicated to 'Road 40' which runs from the north to the south of the country. Michelin also argued that car accessories produced by its domestic franchises should be counted as exportable goods, 'although this was more symbolic than financially significant'⁴⁴². Attempting to equate the value of imported tires with the foreign exchange brought by tourists attracted to Argentina by the Michelin guides – as well as potential but largely insignificant exports from Michelin franchises – is far from an exact science. Nonetheless, this argument allowed Michelin to regain its license to import tires, albeit in small quantities than before. The company survived but lost two thirds of its market share.⁴⁴³

With a change of government, Michelin had hoped to see the immediate lifting of the restrictions on its imports.⁴⁴⁴ They soon realised, however, that they had lost access to the government and so had to build a personal relationship with the new Secretary of Commerce, explain the firm's situation and negotiate a solution. To this end, Michelin participated in the Industry Forum, an event organised in 2016 by the *CCI-FA* through the Foreign Affairs Ministries of Argentina and France. Both the French peak business association (*Mouvement des Entreprises de France: MEDEF*) and the then Argentinian Minister of Production and Economics, Mr. Cabrera, were in attendance. At the end of the forum, Michelin's representative 'talked to Cabrera and convinced him to accept a meeting to speak about importing tires'⁴⁴⁵. After this first meeting, Michelin were granted a second one, this time with the Secretary of

⁴⁴⁰ Hughes, D., Argentrigo's president, 15 June 2018, personal interview.

⁴⁴¹ Crevatin, G., and Begnini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

⁴⁴² Crevatin, G., and Begnini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

⁴⁴³ Crevatin, G., and Begnini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

⁴⁴⁴ Crevatin, G., and Begnini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

⁴⁴⁵ Crevatin, G., and Begnini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

Trade and lasting 30 minutes. They agreed to progressively ease import restrictions and meet again in six months to re-evaluate the situation. After six months, ‘the economic conditions were good enough and so, little by little, [Michelin] could recover the level of imports that [it] had before’⁴⁴⁶.

In a rare instance of well-coordinated business association activity, the automobile sector successfully negotiated import quotas with Macri’s government. The automobile sector’s leading business association (*Asociación de Fabricantes de Automotores: ADEFA*), agreed its own import/export ratio with Brazil by promoting a ‘flex’ of 1.5 in the period between 01/07/2015 and 06/30/2020. The ‘flex’ is a ‘ratio between the import and export value’ (ADEFA, 2015). It meant that ‘for each dollar of export, you can import 1.5 dollars. This is to regulate the market a little bit before being able to establish complete free trade’⁴⁴⁷. Some affiliates of ADEFA were satisfied but others, businesses which imported substantially more than they exported, were forced to pay a penalty. They complied with this, however, because the flex that had been negotiated was the result of internal coordination.

At first, some members had argued for a very high flex which would have exempted ADEFA affiliates from any penalties, and so rendered the flex irrelevant. Others debated the length of the period over which the flex was calculated (a two-year period, yearly, monthly, etc.). ADEFA sought weekly discussions with government in order to find a compromise position which would have the least impact on all affiliates, before finally settling on a 1.5 to 1.7 ratio over five years.

President Macri lowered tariffs on industrial inputs but ‘barely touched tariffs on sectors that could compete with local industry. [...] Tariffs remained widely in place and [...] Argentina remains a country quite close economically’⁴⁴⁸. One of the rare exceptions to this ultimately caused the first national strike under the Macri’ government. The government brought in immediate reductions in tariffs on imported technology, which placed the domestic IT sector in extreme difficulty. Previously, tariffs on the importation of tablets and computers were so high that they made prices in Argentina 50% more expensive than in Chile, 80% higher than in Colombia and 200% higher than in the US. Basic computers in Argentina cost around 2,500 dollars, ‘and there was a line of cars three hours long at the border with Chile to go there to buy computers’.⁴⁴⁹ The Macri government believed this to be unjustifiable because computers and tablets are crucial to both production and learning. Subsequently, it offered an unemployment allowance to any workers in the domestic technology

⁴⁴⁶ Crevatin, G., and Beghini, C.-G., president of Michelin Argentina, 25 June 2018, personal interview.

⁴⁴⁷ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

⁴⁴⁸ Meyer, M., production Ministry’s secretary of entrepreneurs and SMEs (2015-2019), 12 June 2018, personal interview.

⁴⁴⁹ Meyer, M., production Ministry’s secretary of entrepreneurs and SMEs (2015-2019), 12 June 2018, personal interview.

sector who faced redundancy, and established a programme for retraining. Most technology firms have since converted themselves into importing firms.⁴⁵⁰

The first part of this section has shown how firms have promoted, with moderate success, their particularistic interests on tariffs and import quotas under the Kirchner and Macri governments. The second part of this section looks at export taxes.

Taxes on exports were a significant revenue source for the Kirchner governments. Despite the strong opposition of business associations across multiple sectors, they remained in place until the Macri government took power in 2015.⁴⁵¹ High global demand for soybeans and sunflowers seeds provided an opportunity for the Kirchner government to increase its revenues. In 2008, tax on soy exports was at an already high 30-35% when the government sought to introduce an additional variable component: for every 10 peso price increase on the soy market, the export tax would hike. Given that most producers rent their agricultural machinery, and the rental costs are a function of the cereal market price,⁴⁵² with each soy price increase producers' profits would increase at a smaller rate than – or at best equal to – their production costs. Consequently, many farmers would lose money.

Farmers, represented by the Argentine Agrarian Federation (*Federacion Agraria Argentina: FAA*) and the Rural Society of Argentina (*Sociedad Rural Argentina: SRA*), threatened to strike. In response, Cristina Kirchner implemented the tax hike by decree. As promised, farmers went on strike, disrupting shipments of grains to international and domestic markets. The production of soybeans fell significantly while the production of wheat, corn and beef also dropped, leading to shortages in urban areas.

The farmers protested in a disorganised and uncoordinated manner, however, largely following their own initiatives. A key actor recalls that different forms of strikes were organised for each city and decisions to block roads were made independently on the day. The movement was entirely uncoordinated from the start, and only later did business associations get involved.⁴⁵³ Despite its usual internal divisions, *UIA* joined the strike.⁴⁵⁴ *CAC* joined as well and justified doing so on the basis of its support for international trade. The agricultural sector associations started to coordinate protesters through what was called the 'liaison table' (*mesa de enlace*) and became the sectors' voice when dealing with the government. Protestors would 'meet on the day, vote, call the people blocking roads elsewhere

⁴⁵⁰ Meyer, M., production Ministry's secretary of entrepreneurs and SMEs (2015-2019), 12 June 2018, personal interview.

⁴⁵¹ Meyer, M., production Ministry's secretary of entrepreneurs and SMEs (2015-2019), 12 June 2018, personal interview.

⁴⁵² Hughes, D., Argentrigo's president, 15 June 2018, personal interview.

⁴⁵³ *SRA, Confederaciones Rurales Argentina, CONINAGRO and FAA.*

⁴⁵⁴ Coatz, D., *UIA's* CEO, 27 June 2018, personal interview.

to ask what they wanted to do [and] send one representative from a point to speak with the liaison table from another blocked point and report.¹⁴⁵⁵

The government, forced into a truce, promised to seek legislative approval on the bill. Despite the Kirchner's control of both chambers, the bill passed Congress but was defeated in the Senate (Lewis, 2015). Even though the variable component of the tax hike was repealed, it was not ultimately victory for business: 'we lost those battles, we failed in slowing them down, and we failed in defeating them'¹⁴⁵⁶. The main tax remained in place despite widespread opposition and many businesses made significant financial losses as a result of the protests and road blockages.

This section showed how businesses' individual negotiations were predominantly focused on their own narrow interests when it came to trade policy. Changes to export taxes were protested by most of the business community. While they achieved a very modest victory, these protests led to huge financial losses for both private and public sectors. The next section examines CLF failures to exercise influence over the Kirchner governments' reforms of specific regulations.

2.2. AFJP nationalisation and the company's law reform

This section focuses on those regulations promoted by the Kirchner governments that firms have attempted, but failed, to influence. In particular, it looks at the reform of the companies law (*ley de sociedades*) in the wake of the nationalisation of pension funds (*Administradora de Fondos de Jubilacions y Pensiones: AFJP*). The *AFJP* held significant shares in a wide range of companies, all of which became the property of the state after nationalisation and enabled the government a certain degree of influence over those companies.

In 1994, the Argentinian government changed the country's pension system from a public provisional system by distribution towards a private system by capitalisation. The private pension funds which managed the investments were called the *AFJP*. In 2008, the government nationalised *AFJP* by passing law 26.425 and thereby returned to the previous pension system. By doing so, the state became the owner of all the assets and shares managed by the private pension funds. The funds had invested in assets perceived as profitable and stable, and hence had bought shares in some of the largest Argentinian firms as well as a range of foreign firms.

Each pension fund had been prohibited from holding more than a 5% stake in any one company⁴⁵⁷ but by nationalising several pension funds, the state became

⁴⁵⁵ Hughes, D., Argentigo's president, 15 June 2018, personal interview.

⁴⁵⁶ de León, G., institutional relations at CAC, 14 June 2018, personal interview.

⁴⁵⁷ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

a major shareholder in numerous companies. As shown in figure 8 below, the state came to hold over 5% in some firms and even obtained enough shares to be able to weigh in on some companies' internal decision-making. For example, figure 8 shows that in 2008 the Argentine state controlled approximately a 20% stake in the Clarín group,⁴⁵⁸ providing the government with a not-insignificant presence of 10% in any voting undertaken by the board.⁴⁵⁹ Two companies, Tenaris and Siderar (whose shares are highlighted in red in figure 8), are both part of the same group, Ternium (Reuters, 2019). This group has been cited previously in this work under the name Techint, another of its subsidiaries. After *AFJP* nationalisation, the Argentinian government held approximately 25% of Ternium's shares.⁴⁶⁰

⁴⁵⁸ The Argentine state obtained 179,234,944 Argentine pesos of shares (B category, allowing for 1 vote per share) of the Grupo Clarín which, in its yearly report, entered the year 2008 with a social capital of US\$287,418,584 (Grupo Clarín, 2008, p. 118). In 2008, the exchange rate of the peso and the dollar was on average 3.144 (OECD, 2019) so that:

$$\frac{179,234,944}{287,418,584 \times 3.144} \times 100 = 19.83$$

⁴⁵⁹ The shares were from category B which provide with one vote per dollar thereby the State inherited from 57,008,570 votes (179,234,944/3.144). The total votes available were of the 5 provided by each dollar of the 75,980,304 category A shares, and the 1 vote provided by each dollar of the 186,281,411 shares (Grupo Clarín, 2008, p. 118):

$$\frac{57,008,570}{186,281,411 + (75,980,304 \times 5)} \times 100 = 10.07$$

⁴⁶⁰ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

Figure 8. Extract from 'Crítica de la Argentina', Friday 24 October 2008 (Glanz, 2008)

ACCIONES DE SOCIEDADES ANÓNIMAS 8.734.378.559		TÍTULOS VALORES EXTRANJEROS 4.924.421.052		OTROS FIDEICOMISOS FINANCIEROS 1.204.324.575			
Alpargatas S.A.I.C.	15.748	Superfondo Renta Latinoamérica FCI cuotas clase B	3.603	Merrill Lynch & Co Inc Cedear de Acciones Ordinarias	11.905.047	Garbarino XLV en Pesos Vto. 05/09 Clase A VD	11.648.002
Akuar Aluminio Argentino S.A.I.C.	472.736.577	Superfondo Mix II Clase A	6.835.920	3M Co. Cedear de Acciones Ordinarias	521.970	Garbarino Serie XLVI en Pesos Vto. 07/09 VD Clase A	41.827.433
Alto Palermo S.A.	17.266.544	Toronto Trust	25.029.633	Merck & Co. Inc. Cedear de Acciones Ordinarias	11.486.308	Gafrust I - Clase B	170.370.013
Banco Patagonia S.A. Ordinarias Clase B	104.437.436			Newmont Mining Corp Cedear de Acciones Ordinarias	29.884.163	Galcia Personales V Clase A	365.195
Banco Bansud	774.988.769			Nokia Corp. Cedear de ADR de Acciones Ordinarias	36.812.189	Galcia Personales VI Clase A	13.462.624
Capex S.A.	82.467.731			Nucor Corp. Cedear de Acciones Ordinarias	7.948.851	Galcia Personales VII Clase A	27.703.303
Central Costanera S.A.	62.339.048			Oracle Corp. Cedear de Acciones Ordinarias	11.994.145	Galcia Personales VIII en Pesos Vto. 03/10 Clase A	59.520.986
Central Puerto S.A.	14.813.071			Pepsico Inc. Cedear de Acciones Ordinarias	34.350.647	Grimoldi Serie I	2.275.813
Cresud S.A.	40.285.930			Pfizer Incorporated Cedear de Acciones Ordinarias	12.792.203	CGM Leasing IV Clase A Pesos Renta Variable	164.122
Consultatio S.A. I voto	223.889.343			Procter & Gamble Co. Cedear de Acciones Ordinarias	5.574.387	CGM Leasing V Clase A Pesos Renta Variable	397.449
Distribuidora de Gas Cuyana	129.294.184			Phillips Electronics N.V. Cedear de Acciones Ordinarias	8.183.600	CGM Leasing VI Clase A Pesos Renta Variable	1.948.200
Edenor S.A. Acciones Ordinarias Clase B	228.846.282			Repsol S.A.	85.177.494	CGM Leasing VII Clase A Pesos Renta Variable	4.685.792
Emdersa S.A.	108.113.306			Rio Tinto Cedear de ADR de Acciones Ordinarias	2.474.412	CGM Leasing VIII Clase A Pesos Renta Variable	263.580
Siderar S.A.	1.548.850.312			SBC Communications Inc. Cedear de Acciones Ordinarias	16.331.578	CGM Leasing IX en Pesos Vto. 02/11 Clase A	5.285.189
Euromayor S.A.	4.625.958			Banco Santander Central Hispano Ordinarias	13.130.557	Secupyme XXVIII	1.694.100
BBVA Banco Francés S.A.	125.642.552			Schlumberger Ltd. Cedear de Acciones Ordinarias	201.982.936	Secupyme XXIX	1.044.898
Gas Natural BAN	179.597.094			Telefonica S.A.	1.127.352.606	Secupyme XXX	1.010.070
Grupo Clarin S.A. Ordinarias Clase B	179.234.944			Total S.A. Cedear de ADR de Acciones Ordinarias	112.683.274	Secupyme XXXI	2.662.960
Grupo Financiero Galicia S.A.	238.850.575			Tenaris S.A.	1.412.020.072	Secupyme XXXII en Dólares Vto. 08/09 VD	108.837
Solvay Indupa S.A.	248.235.043			Texas Instruments Inc. Cedear de Acciones Ordinarias	6.031.960	Bonesi XX en Pesos Vto. 10/09 VD Clase A	8.049.782
IRSA Inversiones y Representaciones S.A.	53.273.824			Unilever N.V. Cedear de Acciones Ordinarias	2.983.975	Italcred V Clase A	1.555.800
Juan Minetti S.A.	58.387.187			United Technologies Corp. Cedear de Acciones Ordinarias	65.976.662	CMR Falabella en Pesos Vto. 02/09	6.504.117
Molinos Río de la Plata S.A.	443.794.332			CEDEAR Acciones Ordinarias Viacom Inc.	4.946.972	Tarjeta Elebar en Pesos Vto. 07/09 Clase A	414.900
Metrovías S.A.	3.654.690			Vodafone Group Plc. Cedear de ADR de Acciones Ordinarias	38.325.711	Lombardi V	343.196
Grupo Consejero del Deste	19.622.776			Wachovia Corp. Cedear de Acciones Ordinarias	2.410.351	Lombardi VI en Pesos Vto. 05/09 VD Clase A	528.410
Pampa Holding S.A.	301.804.213			Wells Fargo & Co. Cedear de Acciones Ordinarias	3.982.435	Supervielle Personales IV Tasa Variable	3.561.600
Imp. y Exp. de La Patagonia S.A.	175.698.232			Wai-Mart Stores Inc. Cedear de Acciones Ordinarias	7.291.238	Metroshop V	449.679
Quickfood S.A. Ordinarias Clase B	12.759.330			Wyeth Cedear de Acciones Ordinarias	6.234.392	Metroshop VI	151.350
Petrobrás Energía Participaciones S.A.	720.374.670			Exxon Mobil Corp. Cedear de Acciones Ordinarias	23.552.639	AMFA Y S Clase 4 Serie A	339.375
Pecom Energía S.A.	78.913.817					AMFA Y S Clase 5 Serie A	3.029.985
S.A. San Miguel	45.636.029					AMFA Y S VII en Pesos Vto. 02/11 VD Clase A	2.608.750
Socothem Americas S.A.	115.352.078					Megabono XXVI Renta Variable	260.110
Telecom Arg Stet-France Telecom S.A.	1.691.110.644					Megabono XXVII	2.215.767
Transportadora de Gas del Norte S.A.	2.497.288					Megabono XXVIII Renta Variable	527.73
Transportadora de Gas del Sur S.A.	227.969.002					Megabono XXIX	4.970.653
						Megabono XXX	5.873.478
						Megabono XXXI en Pesos Vto. 07/09	16.536.634
						Megabono XXXII en Pesos Vto. 08/09 VD Clase A	12.803.734
						Mila II Interés Variable	447.429
						Montemar IX en Pesos Vto. 06/09	166.623
						Red Mutual IV Senior	36.221
						Red Mutual V Senior	304.268
						Red Mutual VII en Pesos Vto. 11/10 VD Senior	5.962.208
						Consubono XIX Clase A	134.815

FONDOS COMUNES DE INVERSIÓN 3.669.853.564

Fondos comunes de inversión abiertos	1.848.321.118
1784 Inversión Pesos Clase A	302.340.219
1784 Renta Capital Pesos Clase A	286.314
1784 Ahorro Pesos Clase A	1.484.719
AL Renta Variable Clase B FCI en Pesos	1.168.821
Optimum CDB Pesos Clase B	104.956.224
FBA Ahorro Pesos Clase M	4.916.408
FBA Calificado B	1.321.098
Súper Ahorro \$ -clase B-	291.890.844
Rembrandt Ahorro Pesos	226.797.991
CMA Argentina Clase B	694.870
FIMA Premium Clase B	136.267.008
Gainvest FF Clase B	123.159.640
Galileo Argentina en Dólares FCI Clase A	4.633.796
AL Ahorro Clase B FCI en Pesos	2.029.578
Goal Capital Plus Clase B	1.732.540
HF Ahorro Pesos Plus Clase I	2.625.159
Lombard Capital	511.089
Fondo nuevo Renta en Pesos	11.887.597
Optimum CDB Pesos Plus Fondo Común de Inversión	69.318.137
Pionero Pesos	183.567.946
Pionero Renta Ahorro	5.228.647
Pionero Renta	793.182
RIG Renta Fija	250.206
RJ Delta Acciones Clase B	2.795.826
RJ Delta Ahorro Clase B	2.041.602
HF Pesos Clase I	254.587.228
Premier Renta CP en Pesos	76.118.693
SMIM Renta Variable	305.895
Supergestión Mix VI	5.226.316
Superfondo Renta Variable Clase B	1.566.818
FBA Renta Pesos Clase M	27.816.708
Fondos comunes de inversión del MERCOSUR	1.821.532.446
FBA Acciones Globales B	9.291.049
Compass Renta Fija Clase B	43.975
Cardinal Renta Variable Clase B	116.352.980
Consultatio Growth Latin American Fund	84.542.796
Consultatio Income Latin America Fund	13.332.973
Consultatio balance Latin American Fund	1.339.188
Galileo Super Ahorro Clase B	1.270.225

Groupe Danone Cedear de ADR de Acciones Ordinarias 11.098.027

Exxon Mobil Corp. Cedear de Acciones Ordinarias 23.552.639

Supervielle Creditos Banex XXIII Tasa Variable Clase A 3.010.000

LOS NUEVOS SOCIOS

Aquí están éstas son



Con acciones directas, fondos de inversión, fideicomisos, bonos y títulos de las AFJP, el Gobierno entrará a todas estas empresas.

Dell Inc. Cedear de Acciones Ordinarias	7.116.181
The Walt Disney Co. Cedear de Acciones Ordinarias	6.266.034
Deutsche Telekom Ag. Cedear de ADR de Acciones Ordinarias	6.570.421
EMC Corp. Massachusetts Cedear de Acciones Ordinarias	3.284.713
E. ON AG Cedear de ADR de Acciones Ordinarias	9.760.831
Ericsson LM Telephone Co. Cedear de ADR de Acciones Ordinarias	925.348
FedExp Corp. Cedear de Acciones Ordinarias	6.614.014
France Telecom S.A. Cedear de ADR de Acciones Ordinarias	2.288.347
General Electric Co. Cedear de Acciones Ordinarias	16.508.065
GlaxoSmithKline Plc. Cedear de ADR de Acciones Ordinarias	2.730.218
HSBC Holdings Plc. Cedear de ADR de Acciones Ordinarias	22.901
Home Depot Inc. Cedear de Acciones Ordinarias	3.631.458
Honeywell International Inc. Cedear de Acciones Ordinarias	1.160.796
Hershey Foods Corp. Cedear de Acciones Ordinarias	496.521

Red Mutual VIII en Pesos Vto. 11/10 VD Senior	5.962.208
Consubono XIX Clase A	134.815
Consobono XXI Clase A Renta Fija	640.500
Consobono XXII Clase A Renta Fija	1.711.655
Confibono XXII Renta Fija	3.024.408
Consobono XXIV Clase A Renta Fija	2.500.975
Consobono XXV Clase A	3.277.500
Consobono XXVI Clase A	3.128.171
Consobono XXVII Clase A	7633.138
Consobono XXVIII en Pesos Vto. 06/09 Clase A	7.699.703
Consobono XXIX en Pesos Vto. 07/09 VD	2.703.967
Consobono XXX en Pesos Vto. 08/09 VD Clase A	9.322.747
Confibono XXX	558.342
Confibono XXXI	3.938.150
Confibono XXXII	2.563.471
Confibono XXXIII Renta Variable	3.104.640
Confibono XXXIV Renta Variable	7.356.453
Confibono XXXV Renta Variable	3.532.500
Confibono XXXVI en Pesos Vto. 06/09	16.576.357
Otero VIII en Pesos Vto. 06/09	1.540.200
Banco Piano X	8.625.267
Banco Piano VII Clase B	406.912
Banco Piano VIII Clase B	886.318
Banco Piano IX	1.844.173
Pluralcoop IV Clase A	1.251.182
Tarjeta Privada IX	528.500
Tarjeta Redonda I Clase A	488.487
Ribeiro XXII	130.765
Ribeiro XXIV	632.748
Ribeiro XXV	2.659.800
Ribeiro XXVI	5.101.204
Ribeiro XXVII en Pesos Vto. 06/09 VD	18.963.000
Rio Personales I Clase A	8.150.894
Tarjeta Shopping XXXVI Clase A	1.503.710
Tarjeta Shopping XXXVII Clase A	4.655.525
Tarjeta Shopping XXXVIII Clase A	6.053.395
Tarjeta Shopping XXXIX Clase A	7.242.562
Tarjeta Shopping XL Clase A	591.159
Tarjeta Shopping XLI Clase A	5.508.111
Tarjeta Shopping XLII Clase A	7132.384
Tarjeta Shopping XLIV en Pesos Vto. 22/03/2010 Clase A	11.925.399
Tarjeta Shopping XLV en Pesos Vto. 05/09	1.592.274
Tarjeta Shopping XLVI en Pesos Vto. 06/09 VD Clase A	9.587.090
Tarjeta Shopping XXXVIII Clase B	402.160
Tarjeta Shopping XLVI en Pesos Vto. 10/09 VD Clase B	054.944

At the time, any institutional shareholder with a 5% stake had the right to one representative on the firm's board, while holding a stake greater than 10% permitted two representatives on the board, the maximum allowed.⁴⁶¹ After the *AFJP* nationalisation, the government passed a law restricting the sale of public sector assets and reformed the companies law to increase the maximum number of representatives to three.⁴⁶²

Eight Argentinian firms in the sectors of banking, gas transportation, the distribution and commercialisation of natural gas and the generation of electric energy were particularly affected by these regulatory changes. Among them were Clarín Group, Telecom Italia, Molino Rio Plata and Ternium.⁴⁶³ At first, Ternium attempted to prevent the regulatory reform by challenging it in the courts. It then decided to pursue its opposition via business associations such as *UIA* and the Argentine Business Association (*Association Empresaria Argentina: AEA*). This initiated a national discussion, and the reforms were debated in Congress.⁴⁶⁴ The *UIA* led a lobbying campaign in support of Ternium and the affected banks,⁴⁶⁵ while the banks also conducted simultaneous, but uncoordinated, actions through their own sectoral business association.⁴⁶⁶ The oil, financial and steel sectors 'did not build any coalition to organise a collective defence'⁴⁶⁷.

Ultimately, this lobbying failed to prevent the reform, and the state's shares in Ternium allowed it to place three representatives on Techint's board of directors. One of the representatives was Axel Kicillof⁴⁶⁸, later Minister of Economics from 2013-2015. The atmosphere was very tense because Kicillof, who had significant decision-making power in the government, was present at meetings in which Techint took decisions about 'investments, productive policies, customers, employees [...]'. The government did not only want representation as a shareholder in the board, but clearly also get involved in [Techint's] business.⁴⁶⁹

This constituted a significant danger to Techint, especially considering that profit margins were discussed at those meetings and that Kicillof's attendance coincided with the enactment of the supply law (*ley de abastecimiento*) – which allowed government to expropriate and take action against businesses it believed had 'inappropriate' profit margins.⁴⁷⁰

⁴⁶¹ Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews; Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview.

⁴⁶² Sica, D., Minister of production (2018-2019), 10 May, 16 May and 08 June 2018, personal interviews.

⁴⁶³ Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview.

⁴⁶⁴ Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview.

⁴⁶⁵ Coatz, D., *UIA's* CEO, 27 June 2018, personal interview.

⁴⁶⁶ Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview.

⁴⁶⁷ Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview.

⁴⁶⁸ He is also one of the main figures of the 'Kirchnerist' Peronism. He has been the governor of the Buenos Aires province since 2019, which makes him a potential candidate for the next presidential elections in 2023.

⁴⁶⁹ Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview.

⁴⁷⁰ In 2014, congress approved a law project regulating the activity of CLFs. The new law said of *abastecimiento* gave the state power to close down businesses, confiscate merchandise in the event of proven 'unjustified price increases' or 'abusive profits' and the government-designated agencies authority to monitor prices. The government argued that the law would help reducing high levels of inflation (STEP, 2014) To oppose it, the informal business coalition of 'G6' made declarations in the media (Infobae, 2014a; Infobae, 2014b) but given that they had little leverage, the government convoked the six business associations independently and negotiated small adjustments to the law for each of them, so that 'the minor modification of some points was a

During the board meetings, two major conflicts erupted – over Techint’s price setting and its growth strategy of internationalisation. The group, Ternium, registered growth in Argentina, Brazil and Mexico and chose to invest profits in other branches and markets it wished to develop. The Argentine market was one that Techint already largely dominated and which offered little prospect of further growth in sales. Nonetheless, the government strongly opposed Ternium’s strategy because ‘it did not want the money made in Argentina to be invested in another country, [arguing] that with the money of the Argentine people Techint was investing in a factory in Mexico.’⁴⁷¹

The choice of Kiciloff to sit on Techint’s board was politically motivated – a show of force directed at the electorate and a way of favouring politically-connected firms over those that had not been politically supportive. This analysis was confirmed by the second area of conflict between Techint and Kiciloff at a board meeting that focused on price-setting. The government requested that metal sheets (*chapa*) be sold to the agricultural machinery and construction sectors at a much reduced price, one their production cost. State-owned firms can choose to have subsidised prices for those sectors it wishes to develop, as is the case if a state-owned airline maintains unprofitable routes – but this does not apply to the Techint case. In this case, it is notable that the government specifically asked for metal sheets to be sold at reduced prices to the construction sector when, as was revealed by the ‘*cuadernos*’ scandal, this sector regularly overcharged the state for contracts. Reduced prices would have squeezed Techint’s profit margin whilst at the same time increasing the corruption margin on public works for certain influential people. Many of those people have since faced prosecution, including Julio De Vido, Carlos Wagner (head of the construction business association) and Cristina Kirchner, among others (Blanco, 2019).

3. CONCLUSION

This chapter has demonstrated that Argentinian firms operate in a pluralist system, characterised by a high level of disorganisation. Consequently, the government has gained the upper hand in policymaking while remaining relatively blind as to what policies would actually support the development of certain sectors. In nearly all instances, CLFs and SMEs alike have failed to influence policy outcomes, except in cases when they had personal relationships with key politicians who could assist in furthering their particularistic interests. Even in such cases, such policies remained

lobbying success, but the maximum objective of blocking the law completely failed’ (de León, G., institutional relations at CAC, 14 June 2018, personal interview).

⁴⁷¹ Deleonardis, L., director of institutional relations at Techint (Argentina), 05 June 2018, personal interview.

in place only while the politician in question remained in office, before it was quickly overturned by their successor. This resulted in highly restrictive imports tariffs being imposed, only to then be partially waived for politically well-connected firms. Export taxes remained high and were a source of substantial revenues for the government. They remained widely in place despite the opposition of almost the entire private sector. Lastly, when the government changed regulations to allow it additional seats on the boards of CLFs, firms again seemed unable to resist.

This case contrasts sharply with that of Colombia, where the executive branch and CLFs have shared such cosy relationships that their roles have often merged and, as a result, policies have been very stable. It also contrasts with Brazil, where generally well-organised business interests have helped to formulate more consensual and widely beneficial policies, which are less easily overturned.

Chapter 10

Conclusion

This work is built on the application of Olson's collective action theory (1965) to a type of firm for which resources and information are limited. In defining such a firm, I was inspired by the work of Coase (1937), North (1990), Shadlen (2004), and Ostrom (2009). The thesis places this imperfect and limited – but rational – firm in the context of Latin American 'hierarchical capitalism', in alignment with the work of Schneider (2013). I analysed the selected opportunities created by this type of capitalism and the corresponding set of mutual dependencies between firms and the state (Culpepper, 2015). This analysis is helpful in determining the strength of private interests' structural power (Culpepper, 2015). Finally, the work of Fairfield (2015) was a guiding framework used to understand the tactics firms use to influence policy.

The resulting theory developed in this thesis posits that the cost of collective action determines the ability of SMEs to coordinate in defence of their interests. In contrast, the benefits of collective action determine the willingness of CLFs to coordinate among themselves, before then promoting their interests and priorities to politicians via lobbying. This thesis finds that the degree of organisation of SMEs and CLFs explains well the differences between firms' varying levels of success and failure when communicating their policy preferences to politicians – thereby answering the work's first research question.

In the cartel mode of business organisation, CLFs coordinate well and are able to communicate their policy preferences clearly to politicians. However, SMEs struggle to do the same. This situation determines the types of policies promoted by the business community through lobbying and other political mechanisms, which is an idea addressed by this work's second research question. The inability of SMEs to articulate their preferences and communicate them clearly means that CLFs become the government's uncontested, privileged interlocutor. CLFs can claim to represent the entire private sector and there is no voice to contradict them. Consequently, they promote their own narrow interests through various lobbying techniques. This combination – a lack of challengers and the resources to deploy a wide range of lobbying techniques – explains the high degree of success enjoyed by CLFs in attempting to influence policy outcomes. This idea answers the third research question.

In the competitive-corporatism mode of business organisation, CLFs and SMEs coordinate well and are able to communicate their policy preferences clearly

to politicians. The ability of SMEs to articulate their preferences and communicate them clearly means that the influence of CLFs is contested. The business community provides the state with a varied input on policy. CLFs cannot claim to represent the entire private sector and have to coordinate with SMEs prior to lobbying if they want to influence policies. In this process of coordination, CLFs need to compromise on those priorities which may negatively impact SME operations. This explains how CLFs can have occasionally 'surprising' preferences, such as when they ask to bear a greater share of their sector's tax burden in order to relieve SMEs.

However, this dynamic is sometimes more complex. The peak business association can successfully aggregate nearly all CLF and SME interests in cases where conflicts are not too acute. Yet the Brazilian peak association *CNI* has been unable to coordinate interests in tariff negotiations, during which firms' instrumental power outside business associations seems to matter the most. On fiscal policy, *CNI* has defended a sub-optimal status quo, seemingly because firms fear of losing the tax breaks they have already acquired. In parallel, Brazilian regional governments have been adjusting their fiscal incentives in order to facilitate imports and offset tariffs, and so linking trade to fiscal policy preferences.

In 2020, however, *CNI* changed its position to support the drafting of a comprehensive fiscal reform proposal which clearly shifted the tax burden from larger companies to SMEs. This was consistent with this thesis' theory, as the 2017 labour law reform led to the disaffiliation of many firms, particularly SMEs, from the corporatist business associations. In consequence, by losing their influence on the crafting of *CNI*'s policy preferences, SMEs lost the ability to clearly communicate their preferences to the state. CLF influence over *CNI* policy preferences is therefore likely to face fewer challenges. Hence, *CNI*'s decision to support a reform that shifts the tax burden from larger companies to SMEs is theoretically consistent.

Finally, in pluralism, CLFs and SMEs struggle to coordinate well and are unable to communicate their collective policy preferences clearly to politicians. In this situation, the policies promoted closely align with firms' individual preferences. The diverse, overlapping, and often contradictory input that businesses – even from the same sector – provide to government creates confusion. Politicians consequently tend to favour firms they know and trust, and they maintain the upper hand on policymaking. Companies' instrumental power becomes the only factor that matters when determining their degree of success in influencing policy outcomes.

This thesis' theory and resulting typology also demonstrates the limits of the private sector's coordination with the state. In each of the three cases examined in this thesis, business associations and the government have failed to find optimal tariffs that could reconcile the upstream and downstream producers' acute conflicts of interest. In Colombia, tariffs are set by the undisputed preferences of CLFs at the

expense of domestic firms and SMEs. In Brazil, sectors seem to spend considerable time and resources internally fighting over tariffs that other segments of the sector can simply offset by obtaining large fiscal breaks. In Argentina, the government provides firms with tariff exemptions on an individual basis depending on personal contacts, their ability to bring foreign exchange, or their participation in corrupt activities. In no case has this work found a collaborative decision-making process that leads to the setting of tariffs which benefit all the different segments of a value chain.

More widely, this thesis' theory is potentially applicable in numerous other regions, such as Sub-Saharan Africa, where political science scholarship is scarcer but where states and economies face similar challenges to those in Latin America. For example, Benin's entrepreneurs have been heavily dependent on direct support from the state and from foreign development agencies. Their firms are organised in a variety of competing business associations – many of them established in response to the demands of donors (Badou & Bierschenk, 2019) – in what is a likely case of selective incentives provided to CLFs, leading to a cartel mode of coordination. One study found that the outcome is a form of capitalism in which a class of businessmen are under the tutelage of the state whilst also coexisting with numerous formal and informal small and micro firms (Badou & Bierschenk, 2019) – a case very similar to that of Colombia.

I hope this thesis provided an original solution to developing states' embedment with domestic and international oligarchic interests. I hope to have opened the black box of 'business' in a manner that is useful. In conclusion, this study shows that the political representation of SMEs is key to improving the quality of employment and implementing social security policies by reducing rates of informality. The political engagement of SMEs is also crucial to improving the transparency of policymaking and the accountability of Latin American democracies because SMEs act as an efficient check on CLF influence over policy.

If 'the world is not so governed from above that private and social interest always coincide,' (Keynes, 1926, part III) this thesis has hopefully laid out the conditions and mechanisms under which private and social interests can coincide.

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Annex 1 – List of interviewees

Ecuador (pilot, 2)

Date	City	Surname	Name	Institution	Position	Type	Sector
2018-02-27	Quito	Rojas	Fabián	Humanitas	Founder	SME	Construction
2018-02-27	Quito	Sanchez	Dixto	Electmatica	Founder	SME	Electricity

Brazil (39)

Date	City	Surname	Name	Institution	Position	Type	Sector
2018-04-23	Rio Grande do Norte	Albuquerque	Pedro	FIERN	Technical advisor	Regional association	Industry (Rio Grande)
2018-04-12	São Paulo	Arbix	Glauco	University of São Paulo	Professor	Academia	Academia
				Brazilian Agency for Innovation (INEP)	President	Government	Ministry of Science, Technology and Innovation
2018-04-24	Brasília	Átila	Carlos (with Ciro Rosa)	Government	Cabinet Officer of Ministers of Foreign Affairs Affonso Arinos de Melo Franco and Hermes Lima	Government	Government
2018-04-17	Rio de Janeiro	Bittencourt	Luciana	ABIFINA	Executive coordinator	Sectorial association	Pharmaceuticals and biology
2018-04-25	Brasília	Catanant	Ricardo	ANAC	Director	Government	Aviation
2018-04-16	Rio de Janeiro	Cerqueira Reis	Patricia	ESPM	Coordinator of the Rio Brand Observatory	Academia	Marketing

2018-04-23	Brasília	Cesário	Pablo	CNI	Lobbying department's executive director	Peak association	Industry
2018-03-26	São Paulo	Cintra	Eduardo	ABRAFAS	Executive director	Sectorial association (CLFs)	Textile
2018-04-16	Rio de Janeiro	Cintra	Marcos	ABITAM	Member	Sectorial association	Oil and gas
				Tenaris	Institutional relations director	CLF	
2018-04-17	Rio de Janeiro	de Alcântara Gomes	João Paulo (with Cesar Kayat Bedran)	FIRJAN	International manager (and Affiliates' manager)	Regional association	Industry (Rio)
2018-04-24	Brasília	de Felippes	Marcelo Augusto	CIT	Special Adviser to the Secretary General	Sectorial association	Road transport
2018-04-16	Rio de Janeiro	de Viveiros	Claudio Luiz	Wilson sons	Director of institutional relations	CLF	Port and maritime logistics
2018-04-13	São Paulo	Deboni	Guilherme	Febraban	Governmental relations	Sectorial association (CLFs)	Banking
2018-04-25	Brasília	Guimarães	Cesar	Senate	Chief of cabinet of a PMDB senator	Government	Government
2018-04-09	São Paulo	Jardim	Renato	ABIT	Superintendent of industrial and economic policies	Sectorial association (SMEs and CLFs)	Textile
2018-04-12	São Paulo	Lazzarini	Sérgio	Insper São Paulo	Professor	Academia	Academia
2018-03-22	São Paulo	Leite	Hamilton	Secovi	Secovi university's CEO	Sectorial association	Construction

2018-03-21	Rio de Janeiro	Lira	Roberto	Sinduscon-Rio	Technical advisor	Employers' union	Construction
2018-05-04	Skype	Mancin	Rinaldo (with Cinthia Rodrigues)	IBRAM	Director of Institutional Relations	Sectorial association (CLFs)	Mining
2018-04-27	São Paulo	Momesso Pelai	Fernando	FIESP	Economist	Regional association (CLFs)	Industry
2018-04-17	Rio de Janeiro	Moreira Portella	Carlos Eduardo	AEB	Representative	Association	Exports
2018-04-19	São Paulo	Neil	Michel	Patri	Partner-director	Firm	Lobbying
2018-03-26	São Paulo	Netto	Ibiapaba	CitrusBr	Executive director	Sectorial association (CLFs)	Agriculture
2018-04-13	São Paulo	Nobre	Lionel	Dell	Head of Latin American tax department	CLF	IT
2018-04-25	Brasília	Noura de Moraes Rego	Carolina	ADIAL	Institutional relations' manager	Firm	Lobbying
2018-03-29	São Paulo	Pedregal	Luciano (with Chesky Lissa)	Sindipeças	Director of institutional relations	Sectorial association	Automotive
2018-04-20	São Paulo	Petrini	Francisco	SIMEFRE	Executive director	Employers' union	Industry (railways)
2018-03-28	São Paulo	Pralon Mancuso	Wagner	University of São Paulo	Professor	Academia	Academia
2018-04-18	Rio de Janeiro	Rabetim	Andreia	Vale	Intersectoral articulation manager	CLF	Mining
2018-04-10	São Paulo	Rocha	Andre	UM Brasil	Director	Think tank	Lobbying

2018-04-09	São Paulo	Rodrigues de Abreu	Claudio Nelson	ABRATI	Director	Sectorial association	Road transport (passengers)
2018-04-19	São Paulo	Rosenberg	Luis Paulo	Rosenberg associados	President	Firm	Lobbying
2018-04-18	Rio de Janeiro	Rotmeister	Alex	CBC	Executive director	Sectorial association	Containers
2018-04-11	São Paulo	Sanovicz	Eduardo	ABEAR	CEO	Sectorial association (CLFs)	Aviation
2018-04-13	São Paulo	Silberfeld	Jean-Claude	Fecomercio São Paulo	International Relations Manager	Regional association	Commerce
2018-04-20	São Paulo	Silberfeld	Jean-Claude	Fecomercio São Paulo	International Relations Manager	Regional association	Commerce
2018-04-11	São Paulo	Vaccarezza	Cândido	Parliament	Legislator for São Paulo region (2007-2015) and head of the governing coalition in parliament under the governments of Lula da Silva and Dilma Rousseff	Government	Government
2018-04-10	São Paulo	Zanao	Claudio	ABIMAPI	Executive president	Sectorial association	Food
2018-04-26	São Paulo	Zanotto	Thomaz	FIESP	Director of the department of international relations and foreign trade	Regional association (CLFs)	Industry

Argentina (45)

Date	City	Surname	Name	Institution	Position	Type	Sector
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2018-05-07	Buenos Aires	Airoides	Juan Manuel	UIFRA	Executive president	Sectorial association	Food
2018-05-11	Buenos Aires	Almiroty	Carlos	CAA	President	Sectorial association	Agriculture (cotton)
2018-05-14	Buenos Aires	Álvarez	Marcelo	CAEM	President	Sectorial association (CLFs)	Mining
				Goldcorp	Country manager	CLF	
2018-05-30	Buenos Aires	Anzulovich	Darinka	COPAL	Food and Beverage Industries Coordinator	Sectorial association (CLFs)	Food
2018-06-27	Buenos Aires	Boot	Nicolaas R.	Kooiman group	Representative	CLF	Industry (ship building)
2018-05-04	Buenos Aires	Brande	Jaime	Law firm	Fiscal lawyer and lobbyist	Firm	Lobbying
2018-05-09	Buenos Aires	Carretero	Rodolfo	AEV	Director	Sectorial association	Construction
2018-06-27	Buenos Aires	Coatz	Diego	UIA	CEO	Peak association	Industry
2018-06-25	Buenos Aires	Crevatin	Guillermo (with Carlos Gustavo Begnini)	Michelin	President	CLF	Automotive and Tourism
2018-06-14	Buenos Aires	de León	Gonzalo	CAC	Institutional relations	Peak association	Commerce
2018-05-31	Buenos Aires	Dedeu	Martín Wilfredo	CAEM	Former president	Sectorial association	Mining
				Law firm	Founder	Lobbying	
2018-06-04	Buenos Aires	Dedeu	Martín Wilfredo	CAEM	Former president	Sectorial association	Mining
				Law firm	Founder	Lobbying	

2018-06-11	Buenos Aires	del Campo	Silvia (with Pablo Tiscornia)	CCI Franco–Argentina	Communication director	Binational association	All sectors
2018-06-06	Buenos Aires	Deleonardis	Lisandro	Techint (Ternium group)	Director of institutional relations	CLF	Oil and gas
2018-05-03	Buenos Aires	Eduardo	Detoma	FITA	Director	Sectorial association	Textile
2018-06-01	Buenos Aires	Elías	Aldo	AHTRA	President	Sectorial association	Tourism
2018-06-26	Buenos Aires	Fernandez Taboada	Ernesto	Chamber Argentina-China	Executive director	Binational association	All sectors
2018-06-21	Buenos Aires	Garcia Mansilla	José-Manuel	CEPH	Executive director	Sectorial association (CLFs)	Oil and gas
2018-05-15	Buenos Aires	Gómez	Hernán Adrián	ANAC	Consultant and advisor	Government	Aviation
2018-06-08	Buenos Aires	Gounaridis	Katia	Georgalos	Institutional Relations Manager	CLF (familial)	Food
2018-05-11	Buenos Aires	Guida	Alberto	CADAM	President	Sectorial association	Wholesale and retail
2018-06-15	Buenos Aires	Hughes	David	Argentigo	President	Sectorial association	Agriculture
2018-06-11	Buenos Aires	Icasatti	Norberto	CADEA	Executive director	Sectorial association	Industry (aerosol)
2018-06-25	Buenos Aires	Iglesias	Alejandro	Alladio	Institutional relations	Sectorial association	Home Appliances
				CAFED	director	CLF (familial)	

2018-06-19	Buenos Aires	Lopez	Marc-Antoine	Business France Argentine	Director	Government (French)	Lobbying
2018-06-12	Buenos Aires	Meyer	Mariano	Production Ministry	Secretary of entrepreneurs and SMEs (2015-2019)	Government	Government
2018-06-22	Buenos Aires	Meyer	Mariano	Production Ministry	Secretary of entrepreneurs and SMEs (2015-2019)	Government	Government
2018-06-26	Buenos Aires	Muñoz	Hernan	INDEC	Director of institutional relations	Government	Statistics
2018-06-21	Cordoba	Pelliza	Carlos	CaCEC	Executive director	Association	Exports
2018-06-27	Buenos Aires	Peña	Andres	Ministry of Production and Labour of the Nation	Undersecretary of Productive Institutional Development (2016-2018)	Government	Government
				Argentine chamber of construction (<i>Cámara Argentina de la Construcción</i>)	development manager (2009-2016)	Sectorial association	Construction
2018-05-08	Buenos Aires	Porcel	Roberto	Estudio Doctores Porcel	Main associate	Law firm	Lobbying
2018-06-18	Buenos Aires	Prida	Javier Prida	CAPIA	President	Sectorial association	Agriculture (eggs)
2018-05-15	Buenos Aires	Ramírez	Alejandro Horacio	ASEA	Institutional relations	SMEs' association	All sectors

2018-06-22	Buenos Aires	Ramos	Marisa Ramos	OCPLA	Consultant	Association of lobbyists	Lobbying
2018-06-13	La Plata	Remes Lenicov	Jorge	Ministry of economy and production	Minister (January-April 2002)	Government	Government
2018-06-04	Buenos Aires	Sánchez Zinny	Martín	Member of ' <i>carapintadas</i> ' (military personnel refusing the return of civilian rule in Argentina and who led uprisings)	Former military personnel under house arrest		
2018-05-14	Buenos Aires	Scimone	Carlos	CAMOCA	Director	Sectorial association	Industry
2018-05-10	Buenos Aires	Sica	Dante	Government	Minister of Production of Argentina (2018-2019), Secretary of Industry, Commerce and Mining (2002-2003)	Government	Government and
				Consulting firm	ABECEB consulting	Lobbying firm	Lobbying
2018-05-16	Buenos Aires	Sica	Dante	Government	Minister of Production of Argentina (2018-2019), Secretary of Industry, Commerce and Mining (2002-2003)	Government	Government and

				Consulting firm	ABECEB consulting	Lobbying firm	Lobbying
2018-06-08	Buenos Aires	Sica	Dante	Government	Minister of Production of Argentina (2018-2019), Secretary of Industry, Commerce and Mining (2002-2003)	Government	Government and
				Consulting firm	ABECEB consulting	Lobbying firm	Lobbying
2018-05-04	Buenos Aires	Soldano	Juan	Diverse firms	Director	Firms	Agriculture, IT and lobbying
2018-06-19	Buenos Aires	Starke	Roberto	StakeLabs	Founder	Think tank	Lobbying
2018-05-16	Buenos Aires	Tanoira	Manuel	ASEA	Institutional relations	SMEs' association	All sectors
2018-06-26	Buenos Aires	Tomada	Carlos	Government	Minister of Labour (2003-2015), Member of Buenos Aires regional legislature (2015-2020)	Government	Government
2018-06-05	Buenos Aires	Vommaro	Luis	CAIF	President	SMEs' association	Plumbing

Colombia (47)

Date	City	Surname	Name	Institution	Position	Type	Sector
2018-08-03	Barranquilla	Acosta	Deysi	Foundation for transparency in Atlántico (<i>Fundación pro-transparencia Atlántico</i>)	Member	NGO	Anti-corruption
2018-07-09	Bogotá	Aguirre	Luis Fernando	ANDI - Providers of different distribution channels chamber	Director	Sectorial association (CLFs)	Wholesale and retail
2018-07-13	Bogotá	Amore	Claudia	ANDI - Law department	Executive director	Sectorial association (CLFs)	All sectors
2018-07-27	Bogotá	Angel Urdinola	Santiago	Colombian mining association (<i>Asociación Colombiana de Minería</i>)	President	Sectorial association (CLFs)	Mining
2018-07-26	Bogotá	Avellaneda Fuentes	Sandra Milena	ANDI - Rice	Director	Sectorial association (CLFs)	Food
2018-08-10	Bogotá	Barbosa	Rafael	Ministry of commerce, industry and tourism	Main government negotiator (agriculture) in the FTA with the US	Government	Government
2018-07-11	Bogotá	Calad	Juliana	ANDI - Textile and fashion chamber	Director	Sectorial association (CLFs)	Textile
2018-07-30	Barranquilla	Carbonell	Alfredo	Asoportuaria	Executive director	Sectorial association	Maritime
2018-07-12	Bogotá	Casas	Mauricio	Techint (Ternium group)	Head of institutional relations	CLF	Oil and gas

2018-07-04	Bogotá	Castro Lozano	Juan Carlos	ANDI - Cosmetics, toilet, and absorbents chamber	Director	Sectorial association (CLFs)	Industry (cosmetics)
2018-07-27	Bogotá	Contreras	David	Fasecolda	Deputy director	Sectorial association (CLFs)	Insurance
2018-07-30	Barranquilla	Elia Abuchaibe	María (with Estefania Alfaro)	CAMACOL Atlántico	Executive manager	Sectorial association (CLFs)	Construction
2018-07-10	Bogotá	Gomez Zuluaga	Andres	Moebius consulting	CEO	Firm	Lobbying
2018-07-12	Bogotá	González Ávila	Patricia (with Johanna Alejandra Mora)	Chamber of commerce (Bogotá)	Vice-president of institutional relations	Peak association and CLF	Commerce
2018-08-02	Barranquilla	Gonzalez Garza	Felipe	Acesco	Executive president	CLF	Industry
2018-08-08	Bogotá	Henao	Camila Emilia	Naval group	Institutional relations	CLF	Armament
2018-08-01	Barranquilla	Henriquez	Maria Alejandra	Pro-Barranquilla	Investment's coordinator	Regional government	Government
2018-07-26	Bogotá	Herrera Fonseca	Carolina	ANDI - Port companies, port operators and providers of port and maritime services chamber	Director	Sectorial association (CLFs)	Industry (maritime)
2018-08-08	Bogotá	Humberto Botero	Jorge	Fasecolda	President	Sectorial association	All sectors
				CGN	President	Peak association	
				MinCIT	Minister	Government	
2018-07-05	Bogotá	Jiménez Villarraga	Jaime	ANDI - Fedemol chamber	Director	Sectorial association (CLFs)	Food (wheat and derivatives,

							bread, pasta and cookies)
2018-08-03	Barranquilla	Julliard	Mireylle (with Augusto Melendez)	Chamber of commerce (Barranquilla)	Vice-president	Peak association and CLF	Commerce
2018-07-09	Bogotá	Jurado Moncayo	Carlos Eduardo	ANDI - Sectorial health chamber	Director	Sectorial association (CLFs)	Pharmaceuticals and biology
2018-07-31	Barranquilla	Lavergne	Cecile	Consulate (French)	Consular Advisor	Government (French)	Lobbying
2018-08-08	Bogotá	Le Hen	Romain	BCF Life sciences (affiliated to CCI-FC)	Representative	SME	Pharmaceuticals
2018-07-06	Bogotá	Leal del Castillo	Florencia	ANDI - Home appliances chamber	Director	Sectorial association (CLFs)	Industry (home appliances)
2018-07-24	Bogotá	Lesmes	Juan Manuel	ANDI - Fedemetal	Executive director	Sectorial association (CLFs)	Industry
2018-08-08	Bogotá	Lesmes	Juan Manuel	ANDI - Fedemetal	Executive director	Sectorial association (CLFs)	Industry
2018-07-26	Bogotá	Martiquet	Frédérique (with Roberto Diez)	Business France Colombie	Director	Government (French)	Lobbying
2018-07-10	Bogotá	Mejía Lurduy	Olga Lucía	ANDI - Ceramic chamber	Director	Sectorial association (CLFs)	Industry
2018-08-10	Bogotá	Morales	Gustavo	AFIDRO	Director	Sectorial associations (CLFs)	Pharmaceuticals
				CAMACOL	Director		Construction

				ACP	Vice-president		Oil and gas
2018-07-16	Bogotá	Narváez Barbosa	Pablo	ANDI - Leather chamber	Director	Sectorial association (CLFs)	Industry and agriculture (Leather)
2018-08-03	Barranquilla	Oliva	Manuel	Pro-Barranquilla	Heavy industry investments coordinator at Pro-Baranquilla	Regional government	Government
2018-07-10	Bogotá	Osorio	Antonio	ACOPI	Director	SMEs' association	All sectors
2018-08-06	Bogotá	Palomino	Alex	Civil aviation of Colombia	Coordinator of international affairs and commercial air policy of Colombia	Government	Aviation
2018-08-03	Barranquilla	Piñeres	Vanesa	Barranquilla townhall	Mayor's office of competitiveness and investments	Local government	Government
2018-07-31	Barranquilla	Plata Cepeda	Ricardo	Committee for cross-sectorial business associations from Atlántico (<i>Corporación Comité Intergremial e Interempresarial del Atlántico</i>)	Executive president	Regional association	All sectors
2018-08-01	Barranquilla	Plata Cepeda	Ricardo	Committee for cross-sectorial business associations from Atlántico (<i>Corporación Comité Intergremial e</i>	Executive president	Regional association	All sectors

				<i>Interempresarial del Atlántico)</i>			
2018-07-10	Bogotá	Reyes Rey	Ingrid Marcela	ANDI - Industrial and medicinal gases chamber	Director	Sectorial association (CLFs)	Pharmaceuticals and biology
2018-11-11	Amsterdam	Reyes Villamizar	Francisco	Government	Superintendent of companies (2014-2018) and former Chairman of the United Nations Commission on International Trade Law (UNCITRAL)	Government	Government
2018-07-04	Bogotá	Riveros Pineda	Isabel Cristina (with Adriana L. Gavilán Vallejo)	ANDI - Paper pulp, paper and paperboard chamber	Director	Sectorial association (CLFs)	Industry and agriculture (Paper)
2018-08-01	Barranquilla	Rosado	Carlos	Camara Colombiana de Infraestructura (seccional norte)	Director	Sectorial association (CLFs)	All sectors
2018-07-19	Bogotá	Saez	Anabel	Service économique (French embassy)	Deputy Head	Government (French)	All sectors
2018-07-06	Bogotá	Sánchez González	Marisol	ANDI - Medical devices and health supplies chamber	Director	Sectorial association (CLFs)	Pharmaceuticals and biology
2018-07-23	Bogotá	Solarte	Luis (with Daniel Tocaría Diaz)	Senate	Economic advisor to Senator Paloma Valencia Laserna (Democratic Centre party)	Government	Government

2018-07-09	Bogotá	Tatis Gil	Hernando Rafael	ANDI - Transport	Director	Sectorial association (CLFs)	Road transport
2018-07-19	Bogotá	Vega	Paulo	Biopas	Institutional relations' director	SME	Pharmaceuticals and biology
2018-07-25	Bogotá	Vega	Paulo	Biopas	Institutional relations' director	SME	Pharmaceuticals and biology

Annex 2 – Semi-structured interviews

question list

Please note that the questions below were translated in Spanish and Portuguese. Two interviews were led in English and the interviews with French embassy's staff were led in French. The text in parenthesis was used as personal guiding instructions and were not asked to interviewees.

(PART 1 – What explains the differences between firms' varying degrees of success and failure in communicating their policy preferences to politicians?)

A. Your firm and yourself

1. What is the sector of activity of your company?
2. Is it important in its sector? And in your country?
3. Is it a very competitive sector?
4. Is your firm diversified and why?
5. Does it operate only in Latin America or elsewhere?
6. What does it do exactly, what is its difference from other similar companies?
7. What is your role within this company and for how long have you been working for it?
8. What type of access to finance has your firm?
9. Does your firm offer formal contract to its employees or does it employ them informally on a large scale? What is the main factor that prevents from employing formally? (taxes, regulation... other)
10. Does the state hold shares in your company?
 - If yes, does your firm have to be attentive to the state's demands?
11. Would you say that there is a monopoly or oligopoly in your sector? If so, what is the cause of their growth and dominance? What blocks your firm in its growth in general?

B. Collective action and political representation

12. Do you engage with other firms/business associations your sector? Which? Why? How often?
13. Does this engagement happen at in state-sponsored meetings with all sectors and unions? At the sectorial level? On an individual basis?
14. What advantages do SMEs find in the membership to an association?
15. Do they use business associations in a creative way? Such as:
 - support service and representation
 - networking to develop the firm
 - qualify for public procurements

- present products and develop international partnerships
- others?

16. If firms have the necessary resources, do they override associations?

17. In the business association you know:

(1) What is the number of participants involved (because as the size of the group increases, the share of each individual's benefit is reduced – if the good sought after is a common pool resource – and this also makes free-riding easier because less noticeable;

(2) Are benefits subtractive or fully shared (i.e. public goods vs. common-pool resources);

(3) Is the heterogeneity of participants high, in terms of assets, wealth, sectors, information, payoffs? Does it increase transaction cost and is a serious deterrent to cooperation?

(4) Is face-to-face communication important?

(5) Is information about past actions useful to you?

(7) How are individuals linked?

(8) Can individuals enter or exit voluntarily?

18. Do CLFs seek to control a wide array of policies? Or do they rather focus more on their immediate interests?

19. Do members in general engage in divisive struggles in which only narrow interests prevail?

20. Have you had a conflict of interest with another member of the association?

21. How was it solved?

(PART 2 – What determines the type of policies the business community promotes through lobbying and other political influence mechanisms? What does determine business' varying degrees of success and failure in influencing policy outcomes?)

C. Relations with government

22. Is there a political party that represent your interests well?

23. If there is a single party representing business interests, it is likely to help focusing and coordinating? Do firms/associations share their resources with parties (personnel, campaign funds, IT capacity, offices...)?

24. What is the public authority most relevant to you, federal or central, and why?

25. Was business more included in the policymaking process in the 1980s, when crafting neoliberal reforms? Did the government listen to you more back then?

26. Do you feel like the government listens to your requests? To the requests of other firms/associations?
27. Do you know about specific instances of policies in which business elites or associations have successfully imposed their policy preferences to the government? Describe how (insist on the steps).
28. Do you know about specific instances of policies in which business elites or associations have collaborated with the state to reach socially beneficial agreements on wages and prices? Describe how.
29. Is there a high policy instability (do they change often)?
 - Do you have to spend time making sure that the policy outcome you have obtained does not get overturned?
30. (Influence channels) Is your association or firm's influence limited to engaging in legislative lobbying? Do you contact senators directly?
31. In legislative lobbying do you prefer individual contacts with legislators? Political parties?
32. Do you leverage think tanks and similar reports? Pooling? Send prepared editorial to the press? Fund research? Pressure foes? Employ lobbyists, lawyers or consultant to focus on specific issues?

D. Coalitions pro/con reforms

33. Fiscally, has something changed since the renewed state intervention of the 2000s and its consequent increased need for fiscal resources?
34. Was the increase of social policies linked to a change in state-business relations, in your opinion?
35. Is organised business rather supportive of social policies?
36. (If yes) was this support to the point of supporting the funding of reforms with progressive taxation tools?
37. (If no) Were there such efforts of reform? Has business opposed the reforms?
38. What is the contribution of SMEs to employment and economic growth?
39. Does the taxation system encourage SMEs' contribution? Do industrial policies support SMEs' growth? Or on the contrary, are SMEs suffocated by policies and would rather avoid them or lobby against them? (ask for specific instances and examples)
40. Do you think that the large or small firms avoid taxes more?

E. Business preferences and industrial policies

By industrial policies, I mean:

(1) financial benefits, in the form of budgetary allocations, participation of the state in the capital of the firm by becoming minority shareholder or state-sponsored loans at discounted rates;

(2) regulations, in the form of relaxation of sectorial constraints;

(3) in-kind subsidies, in the form of promotion of specific skill development, directly addressing coordination problems in specific sectors or among specific actors to stimulate a more effective collective action thereby improving public and private actors'

41. Would you say that the industrial policy has helped burgeoning companies to take off or has rather been a vast rent-seeking and corruption operation?

42. Are state regulations, protection and policies essential for your business to continue existing or to continue growing?

43. Do you think that state regulation or policies are protecting some industries over others? Would a change in that be beneficial to your company? To your country's economy, in your opinion?

44. Would you say that you know of twists in tax codes that would actually be at the advantage of specific firms or industries (and support their growth)? (If necessary, mention that most countries' tax codes hide subsidies to specific industries in tax expenditures)

F. Questions to ask to government representatives (in addition to the questions from parts B, C, D and E)

45. What leverage and arguments have business used to attempt influencing your decisions?

- Do firms threaten policymakers to withdraw their investments thus provoke an economic crisis?
- Do firms organise disruptive mobilisations and threaten of a coup?
- Other arguments?

46. Do organised business interests prevent left-wing government from funding reforms with progressive taxation tools?

47. Do you pass tax reform easily against compensation to some association in other policy areas?

48. Are business associations reliable and credible partners? CLFs and SMEs representatives alike?
49. Once a transfer of allocative authority (favourable regulation, tax cuts, subsidies...) is established, is the flow of resources sufficient in itself to sustain a supportive coalition contributing to a sustained dialogue between governments and recipients?

Annex 3 – Information sheet provided to the interviewees

Please note that the following information sheet was translated in Spanish and Portuguese and provided to the interviewees in their preferred language.

Participant Information Sheet		
Study title:	Bringing the Firm back in: Business Coordination with the State in Latin America	
Locality: Study based in London, conducted in Argentina, Brazil, Colombia and Ecuador		UCL Ethics Project ID Number: 12629/001
Lead investigator:	Eva Renon	Contact phone number: 0044(0)7-570-240-184

You are invited to take part in a study on the role of business associations in shaping policies. Whether or not you take part is your choice. If you don't want to take part, you don't have to give a reason, and it won't affect the care you receive. If you do want to take part now, but change your mind later, you can pull out of the study at any time.

This Participant Information Sheet will help you decide if you'd like to take part. It sets out why we are doing the study, what your participation would involve, what the benefits and risks to you might be, and what would happen after the study ends. We will go through this information with you and answer any questions you may have. You do not have to decide today whether or not you will participate in this study. Before you decide you may want to talk about the study with other people, such as family, friends, or healthcare providers. Feel free to do this.

If you agree to take part in this study, you will be asked to sign the Consent Form on a separate sheet. You will be given a copy of both the Participant Information Sheet and the Consent Form to keep.

This document is 3 pages long. Please make sure you have read and understood all the pages.

WHAT IS THE PURPOSE OF THE STUDY?

This study aims at understanding better how business associations contribute to influencing tax policies. It is part of my PhD thesis at UCL Institute of the Americas. UCL has contributed to fund this research. The study will have ethical approval by the 19th of February 2018.

WHAT WILL MY PARTICIPATION IN THE STUDY INVOLVE?

You have been chosen to participate in this study because you are part of a business association or work for a firm of interest for this study, are a lawyer aware of the relations of firms with government, or are a public official aware of how the government deals with business associations and firms' input in policy discussions.

Your participation is limited to one interview of between 30 and 60 min or to filling up a questionnaire. Your answers will be taken into account and compared with other participants' answers. All answers will be anonymously referred to in the final PhD thesis.

WHAT ARE THE POSSIBLE BENEFITS AND RISKS OF THIS STUDY?

There are no risks involved in participating to the interview and filling the questionnaire

WHO PAYS FOR THE STUDY?

Participation is free of charge. The researcher will come to your preferred place to conduct the interview. The study is partly funded by UCL and partly by the researcher.

WHAT IF SOMETHING GOES WRONG?

If you were injured as a result of treatment given as part of this study, which is unlikely, you **won't** be eligible for compensation from ACC. However, compensation would be available from the study's sponsor, UCL, in line with industry guidelines. We can give you a copy of these guidelines if you wish. You would be able to take action through the courts if you disagreed with the amount of compensation provided.

If you have private health or life insurance, you may wish to check with your insurer that taking part in this study won't affect your cover.

WHAT ARE MY RIGHTS?

You participate to this study voluntarily. You are free to decline to participate or withdraw from the research at any practicable time, without experiencing any disadvantage. You have a right to access information collected about you. The privacy of data is ensured and has been checked by UCL and falls under the Data Protection Act 1998.

WHAT HAPPENS AFTER THE STUDY OR IF I CHANGE MY MIND?

After the study, the resulting PhD thesis will be made freely available by 2021 and might be published later. The data collected will be securely stored digitally for possible future use in academic work.

WHO DO I CONTACT FOR MORE INFORMATION OR IF I HAVE CONCERNS?

If you have any questions, concerns or complaints about the study at any stage, you can contact:

Eva Renon, PhD candidate at UCL Institute of the Americas
0044(0)7 570 240 184
eva.renon.16@ucl.ac.uk

If you want to talk to the supervisor of this study, you can contact:

Dr. Nestor Castañeda
Office 212, 51 Gordon Square, London WC1H 0PN

+44 (0)20 7679 9305
n.castaneda@ucl.ac.uk

You can also contact the ethics committee that approved this study on:

Helen Dougal
Research Ethics Coordinator
Office of the Vice-Provost (Research)
University College London
2 Taviton St, London WC1E 6BT

020 7679 8717
ethics@ucl.ac.uk

Annex 4 – Examples of the cover email requesting for an interview

1. Example of the cover email requesting for an interview (Portuguese)

Cara Carla,

Eu sou estudante de doutorado da UCL (Londres), da FGV EAESP (Escola de Administração de Empresas de São Paulo), e trabalhei pelo governo inglês sobre um seminário tratando de reformas tributárias, o qual Lionel Nobre participou também (<https://www.wiltonpark.org.uk/wp-content/uploads/WP1566-Report-1.pdf>).

Estou no Brasil até o fim de abril para realizar entrevistas com pessoas qualificadas que possuam vasto conhecimento na área. FGV me recomendou que entrei em contato com você. Nesse sentido, seria inestimável a sua contribuição com a minha pesquisa.

Estou investigando a coordenação de empresas com outras empresas através das associações empresariais, e de seu papel no apoio às políticas públicas dos governos. As entrevistas são mais detalhadas e abordam vários tópicos:

- as características da empresa e do seu setor,
- as instâncias de lobby, bem sucedidas e mal sucedidas,
- quais políticas a empresa está pronta para apoiar ou se opor na tributação e regulamentação,
- sobre se o Estado, com suas políticas industriais, apoia o setor da empresa,
- sobre a representação política que as associações de comércio oferecem à empresa,
- sobre as relações da empresa com o governo, qual autoridade é mais relevante para eles, se eles participam do CDES (Conselho Nacional de Desenvolvimento Econômico e Social)

Você ou um colega teriam disponibilidade na próxima semana ou em abril para me ajudar? Eu posso te encontrar no local de sua preferência, ou podemos nos encontrar na FGV-EAESP, rua Itapeva 286 (andar 10).

Desde já, agradeço a sua atenção.

Atenciosamente,

Eva

2. Example of the cover email requesting for an interview (Spanish)

Caro Martin,

Lisandro Deleonardis de Techint Argentina me recomendó de entrar en contacto con usted. Soy estudiante de doctorado de Ciencias Políticas por las universidades Torcuato Di Tella (Buenos Aires) y UCL (Londres).

Estoy investigando la area de relaciones institucionales y la coordinación de las empresas con otras empresas por medio de asociaciones empresariales y su papel en el apoyo de las políticas públicas del gobierno. Hago una comparación entre el caso Argentino y los casos de Brasil y Colombia, donde voy a viajar en los próximos meses. Por eso, hago entrevistas detalladas que aborden los siguientes asuntos:

- las características de su empresa/asociación y sector (competitividad, si exporta bastante o no...etc.),
- las instancias de participación en la creación y el mejoramiento de las políticas públicas (con y sin éxito),
- cuales políticas de gobierno la empresa esta de acuerdo: tributación, reglamentación
- sobre si el Estado, con sus políticas industriales, apoya el sector en que su empresa/asociación participa
- sobre la representación política que las asociaciones empresariales ofrecen a las empresas o a sus socios,
- sobre las relaciones de la empresa o de la asociación con el gobierno, cual autoridad gubernamental es más relevante para ellos (legislativo, ejecutivo, central o regional)

En este sentido, usted podría hacer una contribución significativa a mi tesis de doctoral y me encantaría citarlo en mi libro y artículos, a menos que usted prefiera firmar un acuerdo de anonimato conmigo, lo cual también es posible.

Estoy en Buenos Aires hasta fines de junio y estoy disponible para reunirme con usted después del martes 12 de junio y antes del fin del mes, a cualquier momento.

Si usted prefiere nos podemos encontrar otro día. Podemos hacer la entrevista en su oficina o en la mía, en la Universidad Di Tella, lo que usted prefiera.

Desde ya muchas gracias por su tiempo y atención,

Saludos cordiales,
Eva Renon

Annex 5 – Consent form provided to the interviewees

The below consent form was signed by all interviewees ahead of the interview. Interviewees were offered the option of modifying their choice for question 3.

INTERVIEWEE INFORMED CONSENT FORM



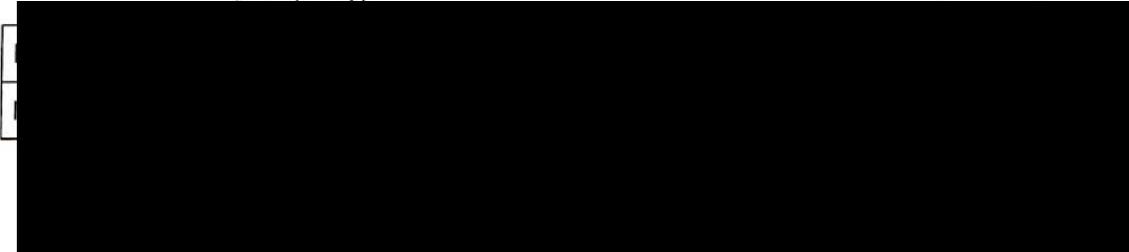
Research Project Title:

Bringing the Firm back in: Business
Coordination with the State in Latin America

Thank you for your interest in taking part in this research. Before you agree to take part, the person organising the research must explain the project to you. Please take a few minutes to read the information sheet provided.

If you have any questions arising from the Information Sheet that the researcher has given you or any explanation provided, please ask the researcher before you to decide whether to join in. You will be given a copy of this Consent Form to keep and refer to at any time.

1. I have been provided with an information sheet in relation to the above named research project, which has been explained to me to my satisfaction and I agree to take part by giving an interview
2. I understand that the interview will be recorded in a notebook and electronically.
3. Upon completion of the interview I consent to the information recorded during the interview being used as follows (please indicate your preferred option by ticking the relevant box):
 - Material may be attributed to me and quoted in the research papers and PhD Thesis of the above named student.
 - Material from this interview may be quoted in the research papers and PhD Thesis of the above named student, but I wish to remain anonymous.
 - My comments are confidential for the information of the above named student in the writing of his/her PhD Thesis only and may not be quoted.
4. I understand that if at any time I decide I no longer wish to take part in this project, I can notify the researcher and withdraw immediately.
5. I understand that at the conclusion of this particular study all recordings and transcripts of the interview will be destroyed other than material included in the completed PhD Thesis, which will be stored by the UCL Institute of the Americas as part of its research library and on UCL's online Research Publications Service.
6. If I have questions about the research project or procedures, I understand that I can contact the Institute Director at UCL Gower Street, London, WC1E 6BT
Tel.: +44 020 7679-9746; email: ucl-ia@ucl.ac.uk



Annex 6 – List of acronyms

Acronym	Original meaning	Translation
ABEAR	Associação Brasileira das Empresas Aéreas	Brazilian association of airline companies
ABIFINA	Associação Brasileira das Indústrias de Química Fina, Biotecnologia e suas Especialidades	Brazilian association of fine chemicals, biotechnology and its specialties
ABIMAPI	Associação Brasileira das Indústrias de Biscoitos, Massas Alimentícias e Pães & Bolos Industrializados Alimentícias	Brazilian association of biscuit, pasta and industrialized breads & cakes industries
ABIMAQ	Associação Brasileira da Indústria de Máquinas e Equipamentos	Brazilian machinery and equipment industry association
ABINEE	Associação Brasileira da Indústria Elétrica e Eletrônica	Brazilian electrical and electronic industry association
ABIT	Associação Brasileira da Indústria Têxtil e de Confecção	Brazilian association of the textile and clothing industry
ABITAM	Associação Brasileira da Indústria de Tubos e Acessórios de Metal	Brazilian association of metal pipes and accessories industry
ABRAFAS	Associação Brasileira de Produtores de Fibras Artificiais e Sintéticas	Brazilian association of artificial and synthetic fiber producers
ABRAINCO	Associação Brasileira de Incorporadoras Imobiliárias	Brazilian association of real estate developers
ABRATI	Associação Brasileira das Empresas de Transporte Terrestre de Passageiros	Brazilian association of land passenger transport companies
ACCYTEC	Asociación Colombiana de Ciencia y Tecnología Cosmética	Colombian science and technology association
ACOLFA	Asociación Colombiana de Fabricantes de Autopartes	Colombian association of auto part manufacturers
ACOPI	Asociación Colombiana de Medianas y Pequeñas Empresas	Colombian association of medium-sized and small companies
ACP	Asociación Colombiana de Petróleos	Colombian petroleum association
ADEFSA	Asociación de Fabricantes de Automotores	Automotive manufacturers association
ADI	ação direta de inconstitucionalidade	Direct action of unconstitutionality

AEB	Associação de Comércio Exterior do Brasil	Brazilian foreign trade association
AEV	Asociación Empresarios de la Vivienda	Housing business association
AF	Asociación de Fiduciarias de Colombia	Colombia trust association
AFIP	Administración Federal de Ingresos Públicos	Federal administration of public admissions
AFJ	Administradora de Fondos de Jubilacions y Pensiones	Retirement and pension fund administrator
AHTRA	Asociación de Hoteles de Turismo de la República Argentina	Association of tourism hotels of the argentine republic
ANAC	Agência Nacional de Aviação Civil Federal District	National civil aviation agency federal district
ANALDEX	Asociación Nacional de Comercio Exterior	National foreign trade association
Andesco	Asociación nacional de empresas de servicios públicos y comunicaciones	National association of utilities and communications companies
ANDI	Asociación Nacional de Empresarios de Colombia	The national association of entrepreneurs of Colombia
ANDI	Asociación Nacional de Empresarios de Colombia	National association of entrepreneurs of Colombia
ASEA	Asociacion de emprededores de argentina	Association of argentine entrepreneurs
ASEAN	Association of Southeast Asian Nations	
Asocaña	Asociación de Cultivadores de Caña de Azúcar de Colombia	Association of sugar cane growers of Colombia
Asocolflores	Asociación Colombiana de Exportadores de Flores	Colombian association of flower exporters
Asofondos	Asociación Colombiana de Administradoras de Fondos de Pensiones y de Cesantías	Colombian association of pension and severance fund administrators
BNDES	Banco Nacional de Desenvolvimento Econômico e Social	National bank for economic and social development
CAA	Cámara Algodonera Argentina	Argentine chamber of cotton
CAC	Cámara Argentina de Comercio y Servicios	Argentine chamber of commerce and services
CaCEC	Cámara de Comercio exterior de Córdoba	Cordoba chamber of commerce exterior
CADAM	Cámara Argentina de Distribuidores y Autoservicios Mayoristas	Argentine chamber of distributors and wholesale self-services

CADEA	Cámara Argentina del Aerosol	Aerosol chamber Argentina
CAEM	Cámara Argentina de Empresários Mineros	Argentine chamber of miner entrepreneurs
CAFED	Cámara de Fabricantes de Electrodomésticos	Household appliances manufacturers chamber
CAIBYN	Cámara Argentina de indumentaria de bebe y niños	Argentine chamber of baby clothes and children
CAIF	Cámara Argentina de las Instalaciones para Fluídos	Argentine chamber of fluid installations
CAMACOL	Cámara colombiana de la construcción	Colombian construction chamber
CAMBRAS	Cámara de Comercio, Industria y Servicios Argentino Brasileña de la República Argentina	Chamber of commerce, industry and services argentine brazil of the argentine republic
CAME	Confederación Argentina de la Mediana Empresa	Argentine confederation of medium enterprises
CAMOCA	Cámara Argentina de Máquinas de Oficinas, Comerciales y Afines	Argentine chamber of commercial and office and commercial machines
CAPADR	Comissão de Agricultura, Pecuária, Abastecimento e Desenvolvimento Rural	Committee on agriculture, livestock, supply and rural development
CAPIA	Cámara Argentina de Productores Avícolas	Argentine chamber of poultry producers
CAR	Corporación Autónoma Regional del Atlántico	Atlantic regional autonomous corporation
CAS	Cámara Argentina de empresas de la industria del sweater	Argentine chamber of companies in the sweater industry
CBC	Câmara Brasileira de Contêiner e Transporte Multimodal	Brazilian chamber of container and multimodal transport
CBIC	Câmara Brasileira da Indústria da Construção	Brazilian chamber of the construction industry
CBS	Contribuição sobre Bens e Serviços	Contribution on goods and services
CCB	Cámara de Comercio de Bogotá	Bogotá chamber of commerce
CCI	Cámara Colombiana de la Infraestructura	Colombian chamber of infrastructure
CCI-FA	Cámara de Comercio y Industria France-Argentina	Chamber of commerce and industry France-Argentina
CCI-FC	Cámara de Comercio y Industria France-Colombia	Chamber of commerce and industry France-Colombia
CCIT	Cámara Colombiana de Informática y Telecomunicaciones	Colombian chamber of informatics and telecommunications

CD	Centro Democrático	Democratic center
CDES	Conselho Nacional de Desenvolvimento Econômico e Social	National council for economic and social development
CEO	Chief executive officer	
CEPH	Cámara de Exploración y Producción de Hidrocarburos	Exploration and production chamber of hydrocarbons
CGE	Confederación General Económica	General economic confederation
CGN	Consejo Gremial Nacional	National guild council
CGT	Confederación General del Trabajo	General confederation of labor
CIAI	Cámara industrial Argentina de la indumentaria	Argentine industrial chamber of clothing
CIN	Cámara de la Industria del Neumático	Chamber of the tire industry
CIT	Inter-American Chamber of Transportation	Inter-American chamber of transportation
CLF	Conglomerate and large firm	Conglomerate and large firm
CME	coordinated market economies	Coordinated market economies
CNA	Confederação da Agricultura e Pecuária do Brasil	Confederation of agriculture and livestock of brazil
CNC	Confederação Nacional do Comércio de Bens, Serviços e Turismo	National confederation of trade in goods, services and tourism
CNI	Confederação Nacional da Indústria	National confederation of industry
COFINS	Contribuição para Financiamento da Seguridade Social	Contribution to social security financing
Colfecar	Federación Colombiana de Transportadores de Carga por Carretera	Colombian federation of road freight transporters
CONFAZ	Conselho Nacional de Política Fazendária	National council for farm policy
Confecámaras	Red de Cámaras de comercio	Network of chambers of commerce
Coninagro	Confederación Intercooperativa Agropecuaria	Agricultural inter-cooperative confederation
COP21	21st Conference of the Parties	21st conference of the parties
CosIng	Cosmetic ingredient database	Cosmetic ingredient database
Cotelco	Asociación Hotelera y Turística de Colombia	Hotel and tourism association of Colombia
COVID-19	coronavirus disease 2019	Coronavirus disease 2019

CRA	Confederaciones Rurales Argentina	Argentine rural confederations
CSLL	Contribuição Social sobre Lucro Líquido	Social contribution on net income
CTASP	Comissão de Trabalho, Administração e Serviço Público	Labor, administration and public service commission
DIAN	Dirección de Impuestos y Aduanas Nacionales	National tax and customs directorate
ESPM	Escola Superior de Propaganda e Marketing	Higher school of advertising and marketing
EU	European Union	
FAA	Federación Agraria Argentina	Argentine agrarian federation
FAIIA	Federación Argentina de la industria indumentaria y afines	Argentine federation of the clothing industry and associated products
FARC	Fuerzas Armadas Revolucionarias de Colombia	Revolutionary armed forces of Colombia
Fasecolda	Federación de Aseguradores Colombianos	Colombian federation of insurance companies
Febraban	Federação Brasileira de Bancos	Brazilian federation of banks
Fedegan	Federación Colombiana de Ganaderos	Colombian federation of ranchers
Fedepalma	National Federation of Oil Palm Growers of Colombia	National federation of oil palm growers of Colombia
FENALCO	Federación Nacional de Comerciantes	National federation of merchants
FGV	Fundação Getulio Vargas	Getulio Vargas foundation
FIBRA	Federação das Indústrias do Distrito Federal	Federation of industries of the federal district
FIERN	Federação das Indústrias do Rio Grande do Norte	Federation of industries of Rio Grande do Norte
FIESP	Federação das Indústrias do Estado de São Paulo	Federation of industries of the state of São Paulo
FINEP	Financiadora de Estudos e Projetos	Financier of studies and projects
FIRJAN	Federação das Indústrias do Estado do Rio	Federation of industries of the state of Rio
FITA	Federación de Industrias Textiles Argentina	Federation of textile industries Argentina
FITA	Federación de Industrias Textiles Argentinas	Argentine textile federation
FTA	Free-trade agreement	
GDP	Gross domestic product	
GPRD	General Data Protection Regulation	

HME	Hierarchical market economies	
HYSD	High Yielding Strength Deformed Bars	
IADB	Inter-American Development Bank	
IAPI	Instituto Argentino de Promoción del Intercambio	Argentine institute for promotion of exchange
IBRAM	Instituto Brasileiro de Mineração	Brazilian mining institute
ICMS	imposto sobre Operações relativas à Circulação de Mercadorias e sobre Prestações de Serviços de Transporte Interestadual e Intermunicipal e de Comunicação	Tax on operations relating to the circulation of goods and on provision of interstate and intermunicipal transport services and communication
IMF	International Monetary Fund	International monetary fund
INDEC	Instituto Nacional de Estadística y Censos	National institute of statistics and censuses
IRPJ	Imposto sobre a renda das pessoas jurídicas	Corporate income tax
ISI	import-substitution industrialisation	
ISS	Imposto sobre serviço	Tax over services
IT	Information technology	Information technology
LAPOP	Latin American Public Opinion Project	
LC	Lei Complementar	Complementary law
LME	liberal market economies	
MEDEF	Mouvement des Entreprises de France	French business movement
MINAS	Ministerio de Minas y Energía	Ministry of mines and energy
MinCIT	Ministerio de Comercio, Industria y Turismo	Ministry of commerce, industry and tourism
MSSD	Most Similar Systems Design	
OCPLA	Organización de consultores políticos latinoamericanos	Organization of Latin American political consultants
OECD	Organisation for Economic Co-operation and Development	
PCD	Cambio Democrático	Panamanian democratic change
PCPCC	Patient Centered Primary Care Collaborative	Patient centered primary care collaborative
PhD	Philosophy Doctorate	Philosophy doctorate
PIS	Programas de Integração Social e de Formação do	Programs of social integration and formation of the civil servant's heritage

Patrimônio do Servidor
Público

PJ	Partido Justicialista	Justicialist party
PL	Projeto de lei	Bill
PMDB	Partido do Movimento Democrático Brasileiro	Brazilian democratic movement party
PRB	Partido Republicano Brasileiro	Brazilian republican party
PSB	Partido Socialista Brasileiro	Brazilian socialist party
PT	Partido dos Trabalhadores	Workers party
PTP	Programa de Transformación Productiva	Productive transformation program
Pyme	Pequeña y mediana empresa	Small and medium company
RCN TV	Radio Cadena Nacional televisión	National radio station television
SAC	Sociedad de agricultores de Colombia	Colombia farmers' society
SEBRAE	Serviço Brasileiro de Apoio às Micro e Pequenas Empresas	Brazilian micro and small business support service
SENA	Servicio Nacional de Aprendizaje	National learning service
SIMEFRE	Sindicato Interestadual da Indústria de Materiais e Equipamentos Ferroviários	Interstate union of the railway materials and equipment industry
SME	Small and medium-sized enterprise	Small and medium-sized enterprise
SOE	state-owned enterprise	State-owned enterprise
SRA	Sociedad Rural Argentina	Argentine rural society
UCL	University College London	University college London
UIA	Unión Industrial Argentina	Argentine industrial union
UIFRA	Unión de Industriales Fideeros de la República Argentina	Union of pasta makers of the Argentine republic
UK	United Kingdom	
UN ECLA	United Nations Economic Commission for Latin America and the Caribbean	
US	United States	United States
UTL	Unidad de Trabajo Legislativo	Legislative work unit
VAT	value-added tax	
WTO	World Trade Organisation	