

Political Competition, Emerging Democracies, and Assertiveness in the World Trade Organization: The Dual Logic of International Trade

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I. Overview

The politics of international trade have been thoroughly analyzed by the international relations literature (Mansfield and Milner 2012; Davis 2013 are examples). Comparative behavior by developed and developing countries in the World Trade Organization is at the center of several empirical studies. One of the major purposes of this agenda is to explain variation in their disputatious behavior, patterns of compliance, and relationship to the WTO regime vis-à-vis bilateral and regional initiatives.

Major contributions in this research agenda are driven by an underlying assumption that there is a unitary logic of behavior in the international arena. Plainly stated, this implies that there is no variation in the way developed countries engage with their developing counterparts to pursue an international trade agenda, which is mainly devised by economic and political power.

In this paper, we engage with this assumption and argue that this logic is dual in nature. At one level, developed countries engage with developing ones to pursue a trade liberalization platform shaped by the former and implemented through the wheels of international politics. At the second level, emerging democracies – defined as a subgroup of developing countries, pursue different strategies of behavior that are overlooked by the mainstream research. This paper is a first step to address this gap. In order to do this, we introduce the concept of assertiveness, which is more appropriate to grasp intensity of activity at the second level. Assertiveness encompasses requests under the Dispute Settlement Understanding, requests under the Committee on Sanitary and Phytosanitary Measures and the Committee on Technical Barriers to Trade, and trade defense measures (anti-dumping, safeguards, and countervailing measures).

We attempt to provide a political explanation for the variation in levels of assertiveness across emerging democracies. This explanation is driven by the hypothesis that domestic constraints matter. Political competition within emerging democracies leads them towards higher levels of assertiveness in the WTO. We argue that this outcome can be mainly explained by the role of political competition, political globalization, and the role of veto players.

Empirically, we examine ten major emerging democracies and provide a comparative model to explain variation of assertiveness at the second level for the period 1995 to 2012. The research question is “what does account for variation of assertiveness across these countries?” We model this phenomenon using panel data (random effects) and corrected standard error linear

regressions. The main empirical findings confirm the hypothesis that domestic political constraints matter.

II. Introduction

The literature on the World Trade Organization has focused predominantly on large-N studies that give priority to questions related to states' behavior in the WTO Dispute Settlement Mechanism. Several puzzles associated with the operation of the Dispute Settlement Understanding motivate this literature, adding to an ever-growing body of knowledge. One of these puzzles asks why WTO members enter Preferential Trade Agreements (PTAs), and why at that moment in time (Reinhardt and Mansfield 2003; Mansfield, Milner and Rosendorff 2002; Hollyer and Rosendorff 2011). This paper builds on this research agenda and asks whether the growing number of PTAs negotiated since the creation of the WTO in 1995 corresponds to more assertive behavior by emerging democracies in the organization. The paper also engages with recent work by Mavroidis and Sapir (2015), who find a correlation between the negotiation of PTAs and decreased disputatious behavior in the WTO. The authors observe that as the U.S. and the E.U. negotiate new PTAs, the number of disputes between them and their respective PTA partners in the WTO decreases. Emerging democracies do not feature often as PTA participants; we suggest that greater assertiveness on the part of emerging democracies can be understood as a response to the growing trend toward PTA negotiation. We argue that this dynamic can have important consequences for the long-term reputation and relevance of the WTO, as PTAs are arguably at odds with the goal of principled liberalization that the WTO embodies.

The analysis builds on prior research by: 1) concentrating on a group of countries that are understudied and, 2) taking a broader view of their behavior in the WTO. More specifically, we start by selecting a group of countries where democracy has prevailed in at least 75% of the time between 1945 and 2005. In order to arrive at a sample of "emerging democracies," we further eliminate countries that have been democratic throughout this period. We then conduct a cluster analysis and settle on a group of 11 countries that present common characteristics of interest. These 11 countries qualify as emerging democracies for the purposes of our analysis. The second innovation and key contribution of the paper involves investigating emerging democracies' level of assertiveness in the WTO. We take a comprehensive view of assertiveness, which encompasses actions in the Dispute Settlement Body, as well as actions at the committee level (i.e. the Committee on Sanitary and Phytosanitary Measures and the Committee on Technical Barriers to Trade).¹ This is in keeping with the recommendation of recent scholarship, for whom the focus on the Dispute Settlement system may underestimate the role of the organization itself, as an instance to resolve disputes (Horn, Mavroidis and Wijkström 2013). We complete our "snapshot" by looking at instances of trade defenses notified to the WTO. These original data are compiled to produce two distinct measures of assertiveness, which later inform the empirical analysis.

The paper looks for domestic reasons for the observed variation in levels of assertiveness amongst 10 of the 11 identified emerging democracies.² Following the important contribution of the literature with respect to the role of veto players (Mansfield and Milner 2012), we incorporate veto players in our analysis, but also investigate the impact of two other

¹ Busch and Pelc (2015) invite more research on specific trade concerns, such as issues involving the Agreement on Technical Barriers to Trade and the Agreement on Sanitary and Phytosanitary Measures. This chapter also provides the most current and comprehensive review of the literature on WTO dispute settlement.

² The original group of emerging democracies include: Brazil, Chile, Colombia, India, Indonesia, Mexico, Peru, Philippines, South Africa, Turkey and Russia. Russia is dropped because we only have data to analyze its behavior in the WTO after 2012, when it acceded to the organization.

explanatory variables: political globalization and political competition. Christina Davis' analysis of the domestic constraints on the autonomy of the executive was a stepping-stone for our thinking about the role of domestic institutions with respect to states' assertiveness in the WTO (Davis 2012). Whereas her analysis focuses on the WTO Dispute Settlement Mechanism (DSM), our paper goes beyond the DSM to look for evidence of assertiveness at the committee level (SPS and TBT committees) and through states recourse to trade defense instruments (anti-dumping, safeguards and countervailing measures).

The empirical analysis comprises an investigation of the role of political competition, political globalization, and the presence of veto players in explaining emerging democracies' level of assertiveness in the WTO. A case study of Brazil – who is by far the most assertive country in our sample – sheds light on some of the dynamics uncovered by the statistical analysis. The paper proceeds as follows: The next section discusses participation and assertiveness in the WTO, from the perspective of the International Economic Law and International Relations scholarship. A section on research design enunciates our hypotheses and contextualizes these hypotheses in the broader literature on WTO dispute settlement; this section also presents descriptive evidence of assertiveness by emerging democracies in our study. This is followed by a discussion on data and methods, where we present our two measures of assertiveness, our three independent variables of interest, and a group of control variables that we mobilize in the empirical analysis; data sources and the model per se are discussed here as well. The next section analyzes the statistical results, whereas a next to final section brings a case study of Brazil. A final section concludes.

III. Participation and Assertiveness in the WTO

III. 1) Traditional View

This paper focuses on the notion of assertiveness. We claim that when members of the WTO use the system they reaffirm its relevance and possibly its legitimacy as well (Bodansky 2013). We are particularly interested in assertiveness by emerging democracies, because we perceive the growing number of PTAs negotiated since the creation of the WTO as a challenge to the multilateral trading system. Developing countries, and emerging democracies among them, saw in the WTO the promise of a leveled playing field, where trade liberalization could be pursued on a non-discriminatory basis.³ As the proliferation of PTAs challenged this promise, emerging democracies would have engaged in more assertive behavior to signal their commitment to the WTO. To that end, we distinguish between assertiveness and participation in the system. There is a large scholarship on participation in the Dispute Settlement Mechanism (DSM), but not much has been written on assertiveness. Our focus on assertiveness accounts for participation by states in the DSM, but it goes beyond that in order to account for state action that provokes the system but does not amount to disputatious behavior. One of the reasons for incorporating instances of assertive behavior that are non-disputatious in nature has to do with the fact that states often face a trade-off between the costs associated with adjudication in the WTO and the likelihood of securing a favorable outcome. When the costs outweigh the benefits, we may still observe assertive behavior at the committee level, wherein states become more vocal in the SPS Committee or the TBT Committee, in spite of the absence of litigation.

³ For a comprehensive review of the literature on democratization and trade policy see (Mukherjee 2015). The dominant view in the international political economy scholarship speaks of a positive correlation between democratization and trade openness – or the reduction of trade barriers. Mukherjee (2015, 269) offers a few reasons to account for the variation in trade policy amongst new democracies.

In carrying out this investigation, we were surprised by how little has been done on the notion of assertiveness. On the other hand, the literature on state participation in the WTO is prolific. This literature is dominated by large-N studies that uncovered challenging paradoxes and recurrent dynamics. There is a traditional view expressed in the literature that concentrates on international mechanisms and focuses on explaining state behavior as a consequence of power and economic dynamics. Early work by Horn, Mavroidis and Nordström (1999) analyzes the rationale associated with disputatious behavior in the WTO. They observe that states with a diverse export sector and higher per capita GDP bring more disputes to the system. Recent work by Davis and Bermeo (2009) addresses a similar question, and concludes that the WTO remains heavily influenced by power asymmetries. This article also finds that the lack of legal capacity constitutes one of the most important impediments for developing country participation in the DSM. Guzman and Simmons (2005) operationalize a power hypothesis and a capacity hypothesis, and conclude that low-income states tend to file against high-income states because there is more at stake in these disputes, as opposed to disputes between developing countries. Legal capacity is also at the center of research by Reinhardt and Shaffer (2009), which makes significant progress when it comes to measuring legal capacity. The authors present evidence from surveys, which reveal that developing countries fail to file complaints due to their lack of legal capacity in 67% of the cases. Overall, developing countries have not secured better concessions under the WTO system, when compared to the GATT years (Reinhardt and Busch 2003).

A subset of the scholarship on participation analyzes the impact that the institutional changes enacted in 1995, with the creation of the WTO, has had on participation – especially participation by developing countries.⁴ To that effect, work by Reinhardt and Busch (2003) compare the level of concessions to developing countries under the WTO, in contrast to those granted under the GATT. They conclude that because the WTO system is somewhat more averse to settlement during the consultations stage, and because developing countries are less apt to strike favorable compromises before a panel is established, these countries fail to secure more concessions in the new system. Earlier work by the same authors had already analyzed the consequences of increased legalism for bargaining (Reinhardt and Busch 2000). This article discounts the implications of the major institutional reform of 1995 (and before that, the one of 1989), to report that the record of early settlement and the patterns of compliance did not change during the early WTO years, if compared to GATT's record. The analysis covers the period 1948 to 1999 and reveals that throughout this time period, democracies remain less likely to comply with an adverse ruling. Alter (2003) expresses a critical view of the same institutional reforms, and presents evidence of the new system's inability to resolve disputes with examples of protracted cases, such as the Beef Hormones and the Bananas disputes. On balance, the revised dispute settlement procedures that entered into force with the WTO did not seem to have substantively altered the set of incentives states confront; as a result, states disputatious behavior remained similar to the record during the GATT years.

This literature has exhaustively discussed the role of power and the impact of economic characteristics on states' propensity to bring disputes to the WTO – or what we label participation. A segment of this literature has also investigated whether the institutional context that emerged with the creation of the WTO has had any noticeable impact on patterns identified during the GATT years. Underlying the contribution of this scholarship, there is an

⁴ The WTO reversed the consensus rule that existed under the GATT to require a veto by all member states in order to block adoption of a final decision in a trade dispute. It also established a second instance of adjudication, with the creation of a standing Appellate Body. In 2001, the system also benefited from the creation of the WTO Advisory Center, in Geneva, which was established to assist developing countries that might lack the legal expertise to file WTO disputes.

explicit concern with developing countries, a category that encompasses the emerging democracies that are the focus of the present study. The expectation that the WTO would have increased participation by developing countries in the dispute settlement mechanism was not borne by the data; similarly, the hopes that a legalized DSM would have translated into more favorable concessions to developing countries did not materialize. Added to these concerns, the literature on the negotiation of PTAs and their impact on WTO dispute settlement raises a new set of issues, which ultimately could put developing countries at a disadvantage.

More recently, scholars have seized the problematic relationship between the proliferation of PTAs and states' behavior in the WTO. An initial effort to map PTAs negotiated by the EU and the US (Horn, Mavroidis and Sapir 2010) was followed by a more direct analysis of the impact of PTA negotiation by the two major trading partners and the record of WTO disputes between each and their respective PTA partners (Mavroidis and Sapir 2015). The authors conclude that the negotiation of PTAs after the creation of the WTO in 1995 has markedly reduced the number of disputes amongst countries that belong to the same trade agreement. This is true for PTAs negotiated by the EU and by the US, and the finding holds for agreements negotiated before the entry into force of the WTO as well. The authors foresee several reasons to account for this phenomenon: a) fewer disputes could follow from a selection bias, whereby states that enter into a PTA are less likely to disagree on trade policy; b) fewer disputes in the WTO could result from a preference to resolve disagreement within a less open forum, wherein the political costs these disputes entail would be lower; c) fewer disputes could also be a result of more efficient dispute resolution frameworks offered by the PTAs themselves. Regardless of the rationale for the observed reduction in disputatious behavior in the aftermath of PTA negotiation, which Mavroidis and Sapir do not explore in their 2015 article, this empirical finding raises concerns for the WTO and for weaker parties – both within and outside PTAs (Mavroidis and Sapir 2015, 361).

Research on PTAs and the WTO thus far has ignored differences in the level of commitments entered by states. But not all PTAs are equal. Dür, Baccini and Elsig (2014) show that there is great variation in PTAs, in terms of content and design. Furthermore, variation matters for the impact that these agreements have on trade flows. The authors show that the increase of trade flows attributed to PTAs is mostly associated with deep agreements (2014, 367). Implications of variation amongst PTAs for disputatious behavior in the WTO remains unexplored, as far as we can tell. Similarly, certain categories of PTAs may have a different impact on the level of assertiveness by emerging democracies. These are some of the questions this project seeks to raise.

Missing in this research agenda is a broader view of participation, which we henceforth propose to call assertiveness. By that we mean behavior that goes beyond the filing of disputes and requests for consultations, to engage with the WTO committees, such as the SPS Committee and the TBT Committee, and side agreements, for instance, the Agreement on Anti-dumping, the Agreement on Subsidies, the Agreement on Safeguards and Countervailing Measures.⁵ Also absent is a systematic preoccupation with the role of domestic politics, in particular the influence of domestic political constraints on behavior by users of the system. Work by Christina Davis (2012) sought to fill this gap. We follow her trail to deepen the

⁵ An isolated contribution on the topic of anti-dumping is work by Reinhardt and Kucik (2008), where the authors find evidence that flexibility provisions, of which the Agreement on Anti-dumping is a prominent example, produce more cooperation in the WTO. More specifically, where a domestic anti-dumping mechanism is in place, states are more likely to join the WTO, to commit to /and to implement lower tariffs.

analysis of domestic constraints and to broaden the investigation in order to account for behavior that goes beyond participation.

III. 2) Domestic Institutions Model

Davis (2012) has shifted the focus of the analysis to incorporate domestic politics as an essential piece of the explanation for patterns of adjudication in the WTO. She enlists three main reasons that states take into account when deciding whether to bring a request for consultations forward or not: the costs associated with legal preparation of the case, diplomatic relations, and risk of a legal precedent. These costs have implications for international as well as domestic politics, and within the latter, Davis argues that constraints on executive autonomy are the main reason for states' recourse to adjudication. The higher the level of these domestic constraints, the more likely states are to turn to adjudication in the WTO (2012). As we explain in more detail below, we borrow from Davis' intuition and expect a direct relationship between the presence of domestic constraints and assertiveness by emerging democracies. Our analysis of domestic constraints comprises political competition and the presence of veto players. A broad interpretation of Davis (2012) empirical analysis of eighty one WTO members and their litigious behavior between 1975 and 2004 shows that countries with more checks and balances (her measure of domestic constraints on executive autonomy) are 27 percent more likely to file one or more cases in a given year (2012, 83).

Rosendorff (2015) analyses the role of domestic politics in international trade disputes, highlighting the link between this international dimension of a government's trade policy and the leadership's concerns with his/her political survival. To that effect, he sees preferential trade agreements (PTAs) as one more tool at the hands of the leadership, which at times may shift away from multilateral fora such as the WTO, toward more privileged arenas of negotiation like PTAs, because of electoral cycle demands. Domestic politics is not only taken into account, but at times it leads to deviation from obligations that states entered into under the WTO regime and even under PTAs. To that end, agreement flexibility increases the ex ante attractiveness of multilateral legal commitments, by foreseeing the need for and incorporating mechanisms that enable temporary derogation.

According to both authors, domestic politics is a key variable in the explanation of international trade policy, including states' pattern of disputatious behavior in the WTO. The two analyses discuss the role of regime type, and advance several propositions with respect to democracies and the DSM. For instance, Christina Davis captures the reasons for a more disputatious attitude concisely, when she explains that,

“Democratic institutions influence political behavior through multiple channels. (...) first, divisions of authority create demand for accountability mechanisms in a system of checks and balances; second, electoral competition creates incentives to maximize the general public interest through enforcement of free trade rules; third, democratic values privilege courts as the appropriate venue for dispute settlement (Davis 2012, 66)”

A case study of the US and a brief analysis of the Brazilian record of WTO disputes after the transition toward democracy in 1985 confirm the dynamic between Congress and the Executive, in the American case. It also suggests that the move toward democracy is often accompanied by increased assertiveness in the WTO, with the 34 disputes filed by Brazil between 1985 and 2004 as an example (Davis 2012, 64). Davis goes on to explain that it is precisely the checks on executive autonomy that influence trade policy choices, including the option to engage in more international litigation.

III. 3) Our Contribution

This project departs from these findings with respect to states' disputatious behavior in the WTO and deepens the analysis by looking into a broader research category – assertiveness, and by including other aspects of domestic politics not covered by the scholarship. The analysis is framed by an overarching question: whether emerging democracies display a distinct pattern of behavior vis-à-vis the North, as evidence of a dual logic of international trade.

The paper proposes three explanations for emerging democracies' greater level of assertiveness over time: political competition, veto players, and political globalization. There are four aspects of domestic institutions that count toward our measure of political competition: 1) political regime; 2) the sheer size of the legislature; 3) proportional representation; and 4) the percentage of votes of the government in the legislature. We argue that these four aspects are a good proxy for the challenges that the Executive encounters to govern and ultimately to remain in power. We expect that greater challenges domestically are met with higher levels of assertiveness internationally; we observe assertiveness in the WTO as a prominent instance of international trade politics. The influence of veto players domestically and of political globalization at the international level work in the same direction, i.e. greater presence of veto players and higher levels of political globalization are associated with higher levels of assertiveness.

In order to capture behavior by emerging democracies in the WTO, we create a measure of assertiveness that has two overall dimensions: Assertiveness 1 encompasses behavior vis-à-vis the Dispute Settlement Understanding, the SPS, and the TBT committees. Assertiveness 2 includes behavior with respect to the agreements on anti-dumping, safeguards and countervailing measures.⁶ We conduct statistical analyses on original data collected to measure both dimensions of assertiveness separately, analyze and report these results in section V below.

To better gauge the impact of our three explanations, we use several control variables. Institutional control variables include legal regime and colonial heritage. As countries become more democratic, executives face greater levels of political constraints, so we expect a positive correlation between democracy and assertiveness by emerging democracies in the WTO. With respect to legal regime, countries that inherited the British tradition of common law are usually associated with more efficient systems of checks and balances; in this case, we also expect a positive relationship between common law regimes and greater assertiveness.

Our economic control variables include foreign direct investment, trade openness, growth of per capita GDP, and military expenditure. Here, we want to know if assertiveness results from greater demands that arose within a context of increased economic activity, and the extent of this influence when compared to our three explanatory variables: political competition, veto players, and political globalization.

The analysis of trade policy within emerging democracies deserves special attention given the volatility of these regimes. We argue that the political instability and the institutional fragility that prevails among countries that underwent a recent transition from authoritarian rule, may

⁶ GATT members produced three agreements during the Uruguay Round that sought to further regulate states obligations under certain GATT provisions, as follows. The so-called Agreement on Anti-dumping regulates circumstances when states can impose anti-dumping measures, further clarifying the obligation contained in Art. VI of the GATT. In its official title: Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994. The Agreement on Safeguards provides “rules for the application of safeguard measures which shall be understood to mean those measures provided for in Article XIX of GATT 1994 (Art 1).” The Agreement on Subsidies and Countervailing Measures defines subsidies and other forms of price support, expanding on the discipline contained in GATT Art. XVI.

have consequences for trade policy in as much as these characteristics shorten the policy time horizon and may as well influence how leaders discount the future. The impact of executive constraints may be a lot harsher on emerging democracies, if compared to established ones. Thus, domestic institutions may be even more important when dealing with emerging democracies. The next section describes the research design, advances our hypotheses, and presents the data.

IV. Research Design

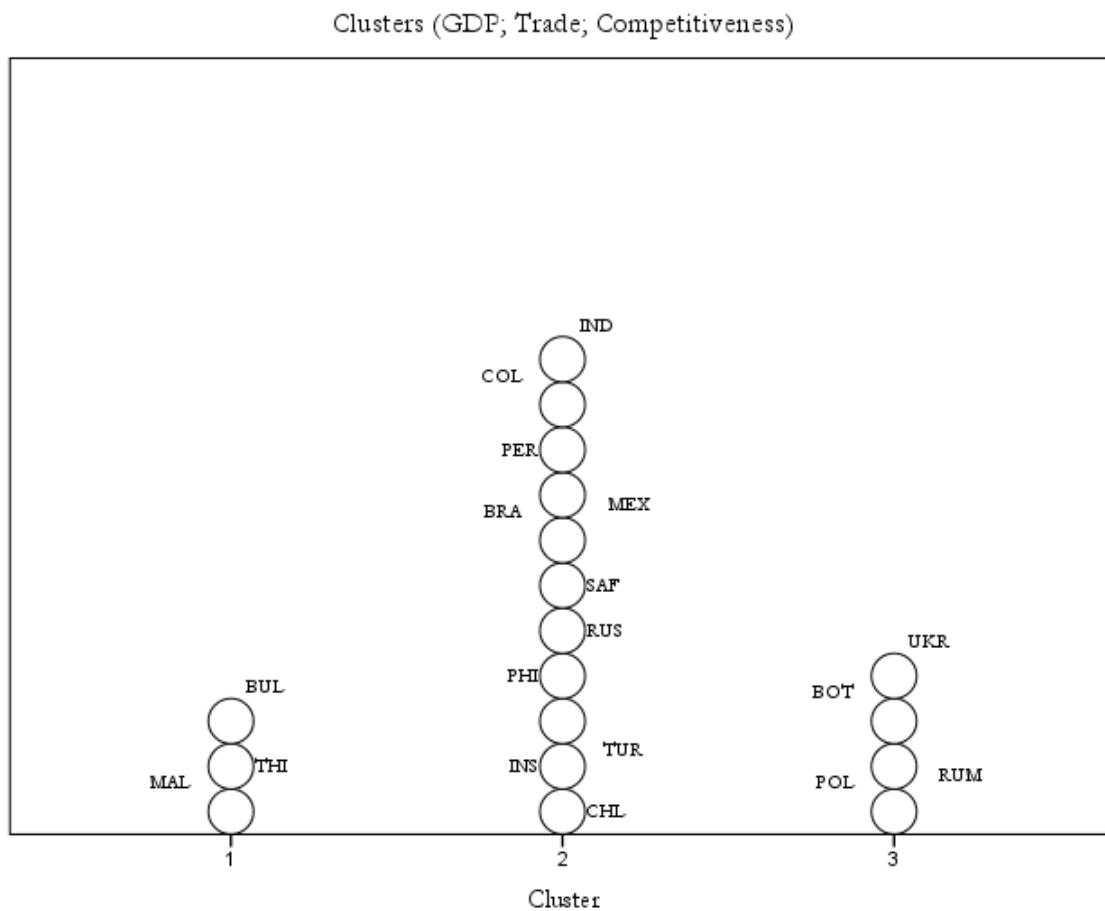
This section presents descriptive statistics for our measure of assertiveness, discusses measurement and case selection issues, and introduces the model. We start by reaffirming our interest in capturing assertive behavior by emerging democracies in the WTO, as the expression of a commitment to the multilateral trade regime and its promise of principled liberalization. This is in contrast to bilateral and regional initiatives that seek to establish regulatory pockets through PTAs and RTAs. It comes as no surprise that most emerging democracies do not take part in PTAs.

In order to arrive at the group of 11 emerging democracies, we conducted an initial analysis based on Polity IV's index of democracy exposure (1950-2013). Amongst the 180 countries included in the analysis, in 28 democracy prevailed in over 75% of the time; in 96 of the 180 countries, democracy prevailed less than 25% of the time; and 56 of these countries were democratic between 25% and 75% of the time. We further excluded small countries (territory smaller than 100.000 km²) and countries that featured as "low human development," according to the Human Development Report. Lastly, we excluded countries that are not characterized as highly competitive by the Global Competitiveness Report (position < 76 in the ranking). Our final group of candidates for the cluster analysis included 18 countries (non-OECD), territorially "big," with a medium to high Human Development Index, and economically competitive. To proceed with the cluster analysis we collected data on the following World Bank Indicators (average, 1995-2013):

GDP per capita (constant 2005 US\$)
GDP growth (annual %)
GDP per capita (current US\$)
Military expenditure (% of GDP)
Trade (% of GDP)

Figure 1 displays the result of the cluster analysis. We selected the countries gathered in cluster 2 to advance the empirical analysis.

Figure 1 – Cluster Analysis for Emerging Democracies



With the exception of Russia, which was dropped from the analysis because it is admitted to the WTO only in 2012, all other ten countries are subject of the empirical investigation. As we will discuss in the following paragraphs, there is great variation in levels of assertiveness amongst these ten emerging democracies over time.

The goal of measuring assertive behavior/attitude in the WTO led us to choose a cumulative approach to the data. We follow this approach in our assessment of the two dimensions of assertiveness described above. Thus, Assertiveness 1 consists of the cumulative sum of the following actions by states: 1) requests for consultation in the DSB that did not lead to a panel being established; 2) complaints brought to the DSB, both at the Panel and at the Appellate Body levels; 3) requests for arbitration under articles 21.3(c), 21.5, and 22.6 of the DSU; 4) concerns raised or supported at the SPS Committee; and 5) concerns raised or supported at the TBT Committee. Along the same lines, Assertiveness 2 consists of the cumulative sum of 1) anti-dumping measures notified to the system; 2) countervailing measures notified to the system; and 3) safeguard measures notified to the system.

Figure 2 shows the evolution of these two dimensions of assertiveness for the period 1995 to 2014. There is a clear upward trend, suggesting that emerging democracies become more assertive over time. But assertiveness outside of the DSB, as analyzed by our second dimension, grows a lot faster from 1998 on. Figure 3 disaggregates the data by country and shows that, with respect to our first dimension of assertiveness, some emerging democracies

are much more active than others. Brazil and Mexico are by far the most assertive countries, followed by Chile and India. South Africa and Turkey feature amongst the least assertive countries in our analysis.

Figure 2 – Assertiveness Over Time All Countries (1995-2014)

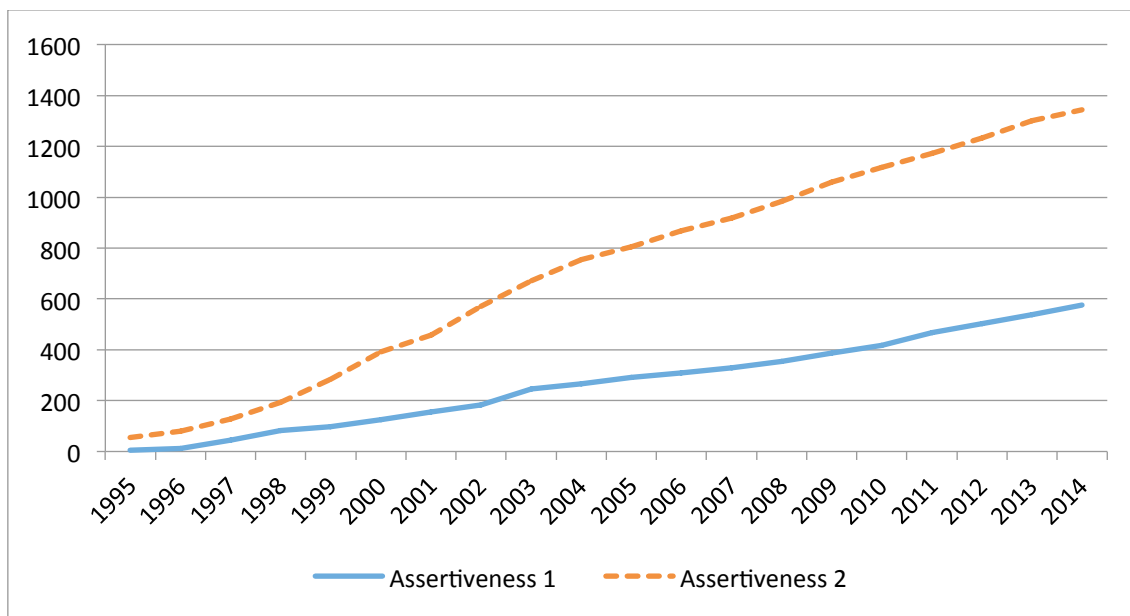
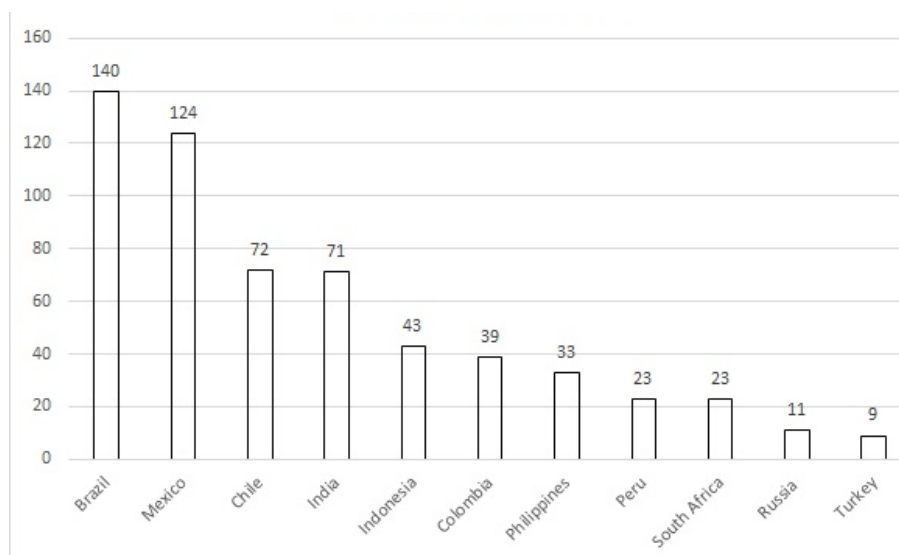


Figure 3 – Assertiveness (1) 1995 to 2014 (Distribution by Country)



Measure of our second dimension of assertiveness, which we call Assertiveness 2, equals the cumulative sum of the total number of anti-dumping measures, countervailing measures, and safeguards notified by the ten emerging democracies for the period 1995-2014. Table 1 shows the breakdown by country.

Table 1 – Assertiveness (2) 1995 to 2014 (Distribution by Country)

| COUNTRY | TOTAL | Relative |
|---------------------------------|-------|----------|
| Brazil | 183 | 13,6% |
| Chile | 20 | 1,5% |
| Colombia | 34 | 2,5% |
| India | 548 | 40,8% |
| Indonesia | 68 | 5,1% |
| Mexico | 105 | 7,8% |
| Peru | 55 | 4,1% |
| Philippines | 18 | 1,3% |
| South Africa | 139 | 10,3% |
| Turkey | 173 | 12,9% |
| Assertiveness 2 (All Countries) | 1343 | 100,0% |

Here it is interesting to note that India is by far the most assertive country, responsible for a total of 40.8% of all notifications. The visibility that Brazil and Mexico enjoyed with respect to Assertiveness 1 (measuring behavior at the DSB and at the SPS and TBT committees) no longer holds for Assertiveness 2. This pattern evidenced by the data suggests strategic choices made by countries with respect to assertiveness broadly defined. We explore possible reasons for this phenomenon in the following sections of the paper. Another trend in the data on Assertiveness 2 is the sheer preponderance of anti-dumping measures over safeguards and countervailing measures. Anti-dumping by far dominates the policy choice of countries, as can be observed in Table 2. It accounts for 92.8% of the total notifications.

Table 2 – Assertiveness (2) 1995 to 2014 (Distribution by Type of Measure)

| Year | AD - Anti-dumping Measures | CV - Countervailing Measures | SG - Safeguard Measures | Assertivity 2 (Cumulative) |
|------|----------------------------|------------------------------|-------------------------|----------------------------|
| 1995 | 42 | 13 | 0 | 55 |
| 1996 | 67 | 13 | 0 | 80 |
| 1997 | 113 | 13 | 1 | 127 |
| 1998 | 174 | 13 | 5 | 192 |
| 1999 | 265 | 13 | 6 | 284 |
| 2000 | 366 | 16 | 9 | 391 |
| 2001 | 429 | 19 | 10 | 458 |
| 2002 | 535 | 21 | 16 | 572 |
| 2003 | 633 | 22 | 17 | 672 |
| 2004 | 711 | 23 | 20 | 754 |
| 2005 | 757 | 24 | 24 | 805 |
| 2006 | 813 | 24 | 30 | 867 |
| 2007 | 862 | 24 | 32 | 918 |
| 2008 | 923 | 25 | 36 | 984 |
| 2009 | 989 | 26 | 43 | 1058 |
| 2010 | 1046 | 28 | 43 | 1117 |
| 2011 | 1091 | 28 | 53 | 1172 |

| | | | | |
|------|------|----|----|------|
| 2012 | 1146 | 30 | 57 | 1233 |
| 2013 | 1212 | 30 | 58 | 1300 |
| 2014 | 1246 | 30 | 67 | 1343 |

Having discussed how we arrived at the ten emerging democracies that will be the subject of the analysis and presented our two measures of assertiveness, descriptively, now we turn to the variables that will inform the model.

The five aspects of political competition that we capture are: 1) the number of seats the government has in the legislature; 2) political regime; 3) the sheer size of the legislature; 4) proportional representation; and 5) the percentage of votes of the government in the legislature. The first aspect is the percentage of government seats as a share of the total number of seats in the legislature. Political regime equals (0) if presidential, (1) if strong president elected by assembly, and (2) if parliamentary. Source: Database of Political Institutions (Beck et al 2001). Years: 1975-2012. The size of the legislature is total number of seats in the legislature, or in the case of bicameral legislatures, the total number of seats in the lower house. This variable includes appointed and elected seats. Data come from the Database of Political Institutions (Beck et al 2001). Years: 1975-2012. From the same source, proportional representation (PR) is a dummy variable that equals 1 if PR is used as electoral rule to select any candidate in any house. Years: 1975-2012. The last aspect of political competition captured by our analysis is the total vote share of all government parties in percent. Source: Database of Political Institutions (Beck et al 2001). Years: 1975-2012.

Our measure of veto players is the Political Constraints Index V. This index follows the same logic as Political Constraints Index III⁷ but also includes two additional veto points: the judiciary and sub-federal entities. Note that the coding reflects information as of January 1 in any given year. Henisz (2000) uses this index to measure the impact on cross national growth rates of a government's ability to provide credible commitment. (Henisz 2000). Years: 1946-2012.

Political globalization is measured by the number of embassies and high commissions in a country, the number of international organizations of which the country is a member, the number of UN peace missions the country has participated in, and the number of international treaties that the country has signed since 1945. Source: KOF Index of Globalization - Dreher (Dreher 2006; Dreher et al 2008). Years: 1970-2010.

Control variables range from institutional to economic. Institutional control variables include democracy, legal regime, and colonial heritage. The democracy scale ranges from 0-10 where 0 is least democratic and 10 most democratic. It is derived from the average of Freedom House

⁷ h_polcon3 - Political Constraints Index III - This index measures the feasibility of policy change, i.e. the extent to which a change in the preferences of any one political actor may lead to a change in government policy. The index is composed from the following information: the number of independent branches of government with veto power over policy change, counting the executive and the presence of an effective lower and upper house in the legislature (more branches leading to more constraint); the extent of party alignment across branches of government, measured as the extent to which the same party or coalition of parties control each branch (decreasing the level of constraint); and the extent of preference heterogeneity within each legislative branch, measured as legislative fractionalization in the relevant house (increasing constraint for aligned executives, decreasing it for opposed executives). The index scores are derived from a simple spatial model and theoretically ranges from 0 to 1, with higher scores indicating more political constraint and thus less feasibility of policy change. Note that the coding reflects information as of January 1 in any given year. Henisz (2002) uses this index to demonstrate that political environments that limit the feasibility of policy change are an important determinant of investment in infrastructure. (Henisz 2000). Years: 1946-2012.

(fh_pr and fh_cl) and Polity (p_polity2). These variables are averaged into fh_polity2. Source: Hadenius & Teorell 2005. Years: 1972-2011. Legal origin identifies the legal origin of the Company Law or Commercial code of each country. There are five possible origins: (1) English Common Law (2) French Commercial Code (3) Socialist/Communist Laws (4) German Commercial Code (5) Scandinavian Commercial Code. (La Porta et al 1999). Years: 1946-2012. Colonial Origin is a tenfold classification of the former colonial ruler of the country.⁸

Our economic control variables include foreign direct investment, trade openness, growth of per capita GDP, and military expenditure. Data on FDI, per capita GDP (growth), and military expenditure come from the World Bank. The trade freedom score is our proxy for trade openness; it is based on two inputs: The trade-weighted average tariff rate and non-tariff barriers (NTBs).⁹ The country's trade freedom ranges between 0 and 100, where 100 represents the maximum degree of trade freedom. Source: Heritage Foundation. Years: 1944-2012.

Given the nature of our dependent variable, we estimate a series of linear regressions, with panel corrected standard errors, to mitigate the problems of time-series cross-section data (Beck and Katz 1995). We run separate regressions for Assertiveness 1 and Assertiveness 2, as observations for these two variables are not naturally comparable mathematically. For both variables, the models follow a unitary logic, whereby the level of assertiveness – we posture – is a function of political competition, veto players, and political globalization. As mentioned earlier in this section, we apply a set of institutional and economic controls. We test the following hypotheses:

H1: As the level of political competition domestically rises, emerging democracies engage in more assertive behavior in the WTO;

H2: The presence of veto players domestically increases the level of assertiveness by emerging democracies in the WTO;

H3: Greater levels of political globalization are associated with more assertiveness by emerging democracies in the WTO.

The next section presents the results, discusses some properties of the model, and specifies a second category of models using random effects, as a robustness check.

V. Empirical Evidence

V. 1) Results from the model (Assertiveness 1)

The empirical analysis shows that variation in assertiveness by emerging democracies in the WTO is explained largely by political competition, the presence of veto players, and political globalization. The R-squared ranges from .47 to .52, depending on which of the six models one looks at, indicating that up to 52% of variation in assertiveness is explained by the model.

⁸ Following Bernard et al (2004), we have excluded the British settler colonies (the US, Canada, Australia, Israel and New Zealand), and exclusively focused on "Western overseas" colonialism. This implies that only Western colonizers (e.g. excluding Japanese colonialism), and only countries located in the non-Western hemisphere "overseas" (e.g. excluding Ireland & Malta), have been coded. Each country that has been colonized since 1700 is coded. In cases of several colonial powers, the last one is counted, if it lasted for 10 years or longer. The categories are the following: (0) Never colonized by a Western overseas colonial power; (1) Dutch; (2) Spanish; (3) Italian; (4) US; (5) British; (6) French; (7) Portuguese; (8) Belgian; (9) British-French; (10) Australian; (Hadenius & Teorell. 2005). Years: 1946-2012.

⁹ Weighted average tariffs is a purely quantitative measure and accounts for the basic calculation of the score. The presence of NTBs in a country affects its trade freedom score by incurring a penalty of up to 20 percentage points, or one-fifth of the maximum score.

Table 3 presents the results for Assertiveness 1, which accounts for behavior at the WTO Dispute Settlement Body as well as at the SPS and TBT committees.

Table 3 – Assertiveness (1) 1995 to 2014
Linear Regression (Panel Corrected Standard Errors)

| Variable | M1 | M2 | M3 | M4 | M5 | M6 |
|-----------------------------|--------------------|--------------------|-------------------|--------------------|--------------------|--------------------|
| Constant | -77,2 (0,000)* | -105,6 (0,000)* | -99,3 (0,000)* | -62,7 (0,007)* | -74,2 (0,000)* | -96,9 (0,000)* |
| Government seats (%) | | | | -46,31 (0,000)* | | |
| Proportional representation | -10,22 (0,030)* | -3,93 (0,277) | 2,83 (0,484) | 15,63 (0,000)* | -1,15 (0,812) | -10,07 (0,010)* |
| Seats legislature | | 0,07 (0,000)* | 0,69 (0,000)* | | 0,06 (0,000)* | 0,08 (0,000)* |
| Regime type | -4,71 (0,033)* | -7,85 (0,082) | -9,15 (0,003)* | -9,38 (0,050)* | -11,36 (0,003)* | -15,9 (0,000)* |
| Government vote share | -0,28 (0,001)* | | | | -0,26 (0,007)* | |
| Veto players | | | 18,87 (0,061) | 47,86 (0,000)* | 22,44 (0,031)* | |
| Political globalization | | 0,24 (0,183) | | 0,28 (0,137) | 0,17 (0,380) | 0,40 (0,022)* |
| Democracy | 2,03 (0,009)* | 3,02 (0,000)* | 2,84 (0,001)* | 0,32 (0,789) | 1,11 (0,223) | 2,62 (0,002)* |
| Colonial origin | 7,25 (0,000)* | 5,25 (0,000)* | 4,77 (0,000)* | 4,72 (0,004)* | 5,26 (0,002)* | 4,48 (0,001)* |
| Legal origin | 11,49 (0,017)* | 12,78 (0,015)* | 10,32 (0,029)* | -1,50 (0,864) | 1,47 (0,842) | 4,35 (0,432) |
| FDI | | 2,67 (0,007)* | 2,68 (0,005)* | 0,94 (0,287) | 1,74 (0,090) | |
| Trade openness | 0,54 (0,000)* | 0,29 (0,082) | 0,38 (0,026)* | 0,56 (0,000)* | 0,54 (0,000)* | 0,38 (0,028)* |
| Military expenditure | | | | | | 3,90 (0,003)* |
| PerCap GDP growth | 0,53 (0,239) | 0,70 (0,135) | 0,97 (0,040) | 0,65 (0,154) | 0,66 (0,158) | 0,76 (0,120) |
| N | 180 | 180 | 180 | 180 | 180 | 180 |
| R-Squared | 0,50 | 0,49 | 0,49 | 0,50 | 0,52 | 0,47 |

* 95% Confidence level

The five aspects of political competition captured by the models perform largely as expected. As the percentage of government seats in the legislature increases, we observe less assertiveness. This variable has by far the largest impact on variation of Assertiveness 1 (46.31), amongst the measures of political competition that we use, indicating the preponderance of the status of government representation in the legislature for political competition in comparative terms. Proportional representation is expected to increase political competition domestically, so the positive coefficient in Model 4 is consistent with our hypotheses. There are inconsistent and significant results for this variable as well (Models 1 and 6). The size of the legislature is expected to impact assertiveness directly, as big legislatures suggest more political competition. This variable is signed correctly and presents significant results, nevertheless it exerts a relatively small influence on assertiveness when compared to the other variables measuring political competition. Regime type is consistently significant and signed correctly (Models 1, 3, 4, 5, and 6); as expected strong presidential

systems and parliamentary systems indicate less political competition domestically, and are associated with lower levels of assertiveness internationally. The last variable that measures political competition expresses the share of government votes in the legislature as a percentage of the total. The higher this share the lower the level of assertiveness. This variable is significant and signed correctly in Models 1 and 5.

Our two other independent variables, veto players and political globalization, reach significance and are signed correctly in three of the six models presented above (Models 4 and 5, for veto players, and Model 6 for political globalization). It is important to notice that veto players has a strong impact on the level of assertiveness, as the coefficients in Model 4 (47,86) and Model 5 (22,44) indicate. The impact of political globalization is more marginal: the coefficient in Model 6 is .40.

V. 2) Results from the model (Assertiveness 2)

The empirical analysis of our second dimension of assertiveness by emerging democracies is also explained largely by political competition, the presence of veto players, and political globalization. The R-squared ranges from .54 to .65, indicating that up to 65% of variation in assertiveness is explained by the model. Table 4 presents the results for Assertiveness 2, which accounts for states' recourse to trade defense measures – most prominently among them, anti-dumping measures.

Table 4 – Assertiveness (2) 1995 to 2014
Linear Regression (Panel Corrected Standard Errors)

| Variable | M1 | M2 | M3 | M4 | M5 | M6 |
|-----------------------------|--------------------|---------------------|---------------------|---------------------|--------------------|--------------------|
| Constant | 116,1 (0,012)* | -100,78 (0,004)* | -100,01 (0,012)* | 25,98 (0,600) | 123,58 (0,011)* | -70,16 (0,034)* |
| Government seats (%) | | | | -106,60 (0,001)* | | |
| Proportional representation | -7,65 (0,359) | 40,36 (0,000)* | 33,11 (0,004)* | 37,16 (0,002)* | -15,07 (0,210) | 18,90 (0,011)* |
| Seats legislature | 0,05 (0,004)* | 0,11 (0,000)* | 0,12 (0,000)* | 0,08 (0,003)* | 0,06 (0,003)* | 0,12 (0,000)* |
| Regime type | 45,2 (0,000)* | 29,1 (0,004)* | 44,9 (0,000)* | 32,9 (0,005)* | 53,6 (0,000)* | 7,0 (0,506) |
| Government vote share | -2,20 (0,000)* | | | | -2,29 (0,000)* | |
| Veto players | | | -16,1 (0,467) | 27,93 (0,267) | -13,24 (0,555) | |
| Political globalization | | 1,12 (0,038)* | | 0,62 (0,242) | -0,49 (0,375) | 1,63 (0,005)* |
| Democracy | -6,87 (0,020)* | 2,17 (0,340) | 4,72 (0,100) | -3,20 (0,277) | -6,01 (0,052) | 1,31 (0,584) |
| Legal origin | -114,8 (0,000)* | -92,6 (0,000)* | -68,6 (0,000)* | -105,6 (0,000)* | -103,9 (0,000)* | -114,9 (0,000)* |

| | | | | | | |
|-------------------|------------------|------------------|-------------------|------------------|------------------|-----------------|
| Colonial origin | 20,6 (0,000)* | 7,2 (0,034)* | 11,4 (0,000)* | 9,9 (0,004) | 23,2 (0,011)* | 5,00 (0,165) |
| FDI | 3,88 (0,044)* | 9,18 (0,000)* | 10,41 (0,000)* | 8,46 (0,000)* | 4,22 (0,035)* | |
| Trade openness | 2,90 (0,000)* | 1,16 (0,150) | 1,32 (0,087) | 1,61 (0,024)* | 3,02 (0,000)* | 1,39 (0,095) |
| PerCap GDP growth | 1,9 (0,090) | 3,6 (0,009)* | 4,1 (0,005)* | 3,4 (0,012)* | 2,0 (0,111) | 3,8 (0,009)* |
| N | 180 | 180 | 180 | 180 | 180 | 180 |
| R-Squared | 0,65 | 0,56 | 0,55 | 0,58 | 0,65 | 0,54 |

* 95% Confidence level

The results of the statistical analysis for Assertiveness 2 reveal that political competition has a strong explanatory power. The five aspects of political competition included in the analysis behave more or less as expected, with the exception of regime type, which is significant and signed positively in five of the six models. A possible explanation for this counter-intuitive result is that strong presidential regimes as well as parliamentary regimes are less sensitive to foreign economic pressure and would, as a result, be more predisposed to defend the interests of their domestic industries. This attitude would result in a greater willingness to implement anti-dumping measures. This is consistent with the positive influence of FDI in these models. The most important aspect of political competition with respect to Assertiveness 2 remains the percentage of government seats in the legislature. It is negatively associated with assertiveness at the international level, suggesting that the more competitive the political context domestically, the more states' mobilize trade defense instruments. The coefficient is negative and big, when compared to the other aspects of political competition in our models (-106.60).

With respect to the two other independent variables, our measure of veto players does not reach significance in any of the models, and political globalization is significant in models 2 and 6. The impact of political globalization is clearly stronger here than within the context of Assertiveness 1 (Table 3 above).

Noteworthy here is the negative relationship between legal origin and Assertiveness 2. Greater numbers in our measure of legal origin signal proximity to the civil law model, whereas lower numbers suggest that these countries are closer to the British common law regime. The negative correlation between this categorical variable and our measure of assertiveness indicate that affiliation with characteristics of the common law regime raise the probability of implementing trade defense measures, in particular, anti-dumping measures.

Based on the results discussed above, we were able to confirm our three hypotheses. Political competition, veto players, and political globalization do impact the level of assertiveness by emerging democracies internationally. With respect to the role of veto players, the impact is limited to assertiveness in the WTO Dispute Settlement Body and in the SPS and TBT committees (Assertiveness 1). The strength of the influence will vary between the two dimensions of assertiveness that this paper analyzes, and there seems to be a relationship between economic factors, such as FDI, and recourse to anti-dumping. The next section will explore the relationship between the three explanatory variables and the level of assertiveness of one country, Brazil, through a case study. This analysis tracks the multiplication as well as

the strengthening of domestic veto players within Brazil, and the simultaneous rise in Brazilian assertiveness in the WTO.

The case study also identifies peaks in one measure of assertiveness, namely disputatious behavior in the DSU, and matches this government policy to an observed rise in political constraints on the Executive; the qualitative analysis documents how the observed assertive behavior came as a response to pressure originating from domestic groups. Ultimately, we make the case that single instances of assertiveness constituted a response from the Executive to specific domestic political constraints, thus contributing to cross out the possibility of a spurious relationship between independent and dependent variables under study (Rezende 2011).

VI. The Brazilian Case

Amongst the ten emerging democracies that are the focus of the empirical analysis, Brazil stands out as the most assertive country in the WTO. It is also one of the largest emerging economies in the world, oscillating with India and Mexico, as the highest GDP for the years 1995-2014. Brazilian assertiveness in the WTO is especially evident in the record of requests for consultations brought to the DSU by Brazil. This section seeks to analyze the evolution of domestic political constraints since the democratization process, in 1985, and the year 2014. This time frame is marked by the institutionalization of private sector participation in the formulation of commercial policy and by the creation of Mercosur. We will explore how Mercosur itself amounts to an important political constraint to Brazilian commercial policymaking, and how it is in part responsible for the timid number of PTAs to which Brazil is a member. This section will also argue that Brazil's greater assertiveness in the WTO is in many aspects associated with its success in taming hyperinflation, after the Real Plan was implemented in 1994. This stabilization package reduced inflation from 30% per month to less than 1% per month, enabling the government to shift its focus to pressing issues in the international agenda (Pereira 1991, 129).¹⁰

In the aftermath of the democratization process, Fernando Collor de Mello is the first president elected through universal and direct vote since the military had seized power in 1964. His tenure was shortened by impeachment procedures that culminated with him being ousted from power in 1992. Collor de Mello's short-lived government (1990-1992) focused on taming inflation and on opening the Brazilian economy in order to increase competitiveness. An aggressive tariff-reducing policy, coupled with attempts to generate alternative sources of market access via bilateral trade agreements, marked his Presidency (Carneiro & Oliveira 2014, 24)¹¹.

Collor de Mello oversaw the signature of the Tratado de Asunción, which created Mercosur in 1991, a soon-to-be common market venture between Brazil, Argentina, Paraguay, and Uruguay. He was also responsible for the creation of the Ministry of Economics, Finance and Planning, which would be in charge of trade policy, together with representatives from the private sector. For the first time, the private sector had institutional mechanisms, the sectorial chambers, to engage with public authorities in the policymaking process. We argue that both the creation of Mercosur and the restructuring of trade policymaking at the ministerial level

¹⁰ It comes as no surprise that Brazil had a passive role during the Uruguay Round (1986-1994). It sided with India in an attempt to defend the interests of developing countries with respect to liberalization in agriculture, but failed to exert a powerful influence.

¹¹ From 1990 to 1993, Brazil reduced its weighted applied tariff from 18.95% to 13.02% (-31.29% in three years)

had a significant impact on the autonomy of the Executive vis-à-vis its ability to engage with other trade partners. In the case of Mercosur, an important institutional development in 2000 would limit member states' ability to negotiate bilateral preferential trade agreements; with respect to the sectorial chambers, now the private sector had better access to valuable information and could influence the decision-making process from much closer. The increased level of political constraints on the Executive that followed from these two developments is no doubt intrinsically associated with Brazilian greater levels of assertiveness in the WTO. We will make this argument below.

VI. 1) Mercosur

In 1995, the year the WTO Agreements entered into force, Mercosur's common tariff schedule was implemented amongst its members. Even though Brazil had not been an influential voice during the Uruguay Round – given the severe economic troubles the country faced and the demands of the democratization process – Brazil joined a coalition headed by India that sought to influence the outcome of the negotiations on intellectual property and agriculture (Batista 1992; Abreu 1994). Soon after the WTO was created, Brazil brought a case against the US, challenging certain gasoline standards that were harming Brazilian exports (DS2 – US Gasoline). This is the first case brought by Brazil to the new system, a case that would be decided in favor of the complainant.¹² The case represents the first step in the direction of a growing level of Brazilian assertiveness in the WTO; it is important to notice that Brazil – different from India, for example – privileged requests for consultations in the DSU over trade defense measures. In the case of India, as the empirical section demonstrated, assertiveness has been mostly expressed through recourse to antidumping litigation. This dynamic suggests a division of labor, wherein Brazil would lead with the filing of disputes whereas India would push on trade defense.

At the same time, Mercosur became increasingly important for Brazilian exports: from 1995 to 2014, Brazilian exports to Mercosur partners rose by 232%, according to official statistics. But this evolution was not linear. After the positive impact of the first few years, the Brazilian financial crisis of 1999, and the Argentinian crisis two years there after, cooled down the excitement with Mercosur (from 1991 to 1997 exports grew by 292% and from 1998 to 2002, exports contracted by 63%). The timing of Mercosur's first crisis coincided with international frustration over the outcome of the 1999 WTO Ministerial Conference in Seattle. Discontentment resulted in pressure amongst Mercosur's small members to engage with larger economies in pursuit of better terms of access, often for commodities. In response, Brazil sponsored a measure by Mercosur's Common Market Council, Decision 32/2000, which made Mercosur's most favored nation clause operational. From then on, member states could no longer sign a free trade agreement without the other members' consent; moreover, Mercosur's Common Market Council was to retain legal competence to negotiate such agreements on behalf of all members.¹³

¹² The case first brought by Venezuela, a few months before Brazil filed its own request for consultations, was later appended to the Brazilian case.

¹³ CMC Decision 32/2000 clarified the meaning of Article 1 of the Treaty of Asunción, which determined that Mercosur's members should have the same foreign trade policy. Therefore, almost all bilateral trade agreements to which Brazil is a member are, in fact, agreements between Mercosur and another country, such as Mercosur-Israel (2007); Mercosur-Egypt (2010); Mercosur-Chile (1996); Mercosur-Sacu (2008); Mercosur-India (2009) and others (Carneiro and Oliveira 2014).

Institutional developments within Mercosur, coupled with member states' increasing reliance on intra block commerce, consolidated Mercosur as an important veto player with respect to Brazilian trade policy. Prior to Decision 32/2000, which tied the hands of member states with respect to PTA negotiation, the 1998 Ushuaia Protocol had already strengthened the regime by providing that democratic breakdowns would entail suspension of concessions under Mercosur. Here again, we understand this outer layer of checks and balances as another political constraint on the Executive. We argue that these constraints are associated with greater levels of assertiveness in the WTO. In our view, as the Executive encounters new hurdles to pursue trade-related interest group demands, the President turns to alternative international arenas, and the WTO features prominently amongst those. It is not a coincidence that the early 2000s saw increased disputatious behavior on the part of Brazil, who initiated requests for consultation on highly sensitive trade matters (EU Sugar and US Cotton are prominent examples).

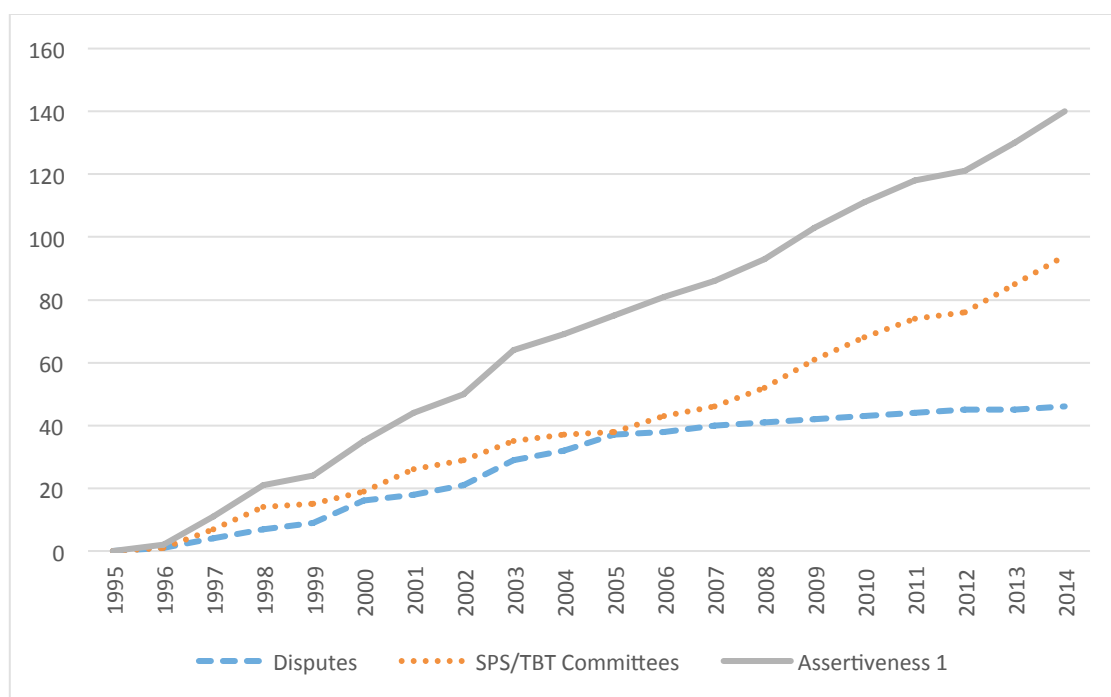
VI. 2) Brazil and the WTO

Brazil has traditionally been a very active member in the WTO. It was a founding member of the GATT and had a consistent presence at GATT/WTO ministerial conferences and rounds of negotiation. The relationship is evidence of a commitment to multilateral diplomacy, which is a trait of Brazilian foreign policy. The reform of the DSU arguably encouraged the filing of a greater number of disputes, now that members could no longer veto the establishment of a panel or the adoption of a final ruling. Moreover, the presence of a standing Appellate Body was expected to increase the legal weight of the decisions, which would now present a more solid interpretation of the covered agreements. Brazil seized the moment and embarked on a steady road of engagement with the system, through close coordination between its Permanent Mission to the WTO in Geneva and instances of power close to the Executive in Brasilia. The result was a growing presence of Brazil in the dockets of the WTO.

The rise in the caseload can also be explained by the creation of a special division within the Brazilian Ministry of Foreign Affairs, charged with WTO litigation. At the same time, there was an effort to foster a more direct dialogue between the government, on one side, and the industrial and agriculture sectors. A development in the same direction came with the establishment of an internship program to host lawyers working in the private sector within the Brazilian Permanent Mission to the WTO, in the early 2000s (Badin, Schaffer, Rosenberg 2012). The economies of scale, coupled with the visibility that several cases enjoyed (for example, the Embraer-Bombardier litigation), paved the way for a dramatic increase in the number of requests for consultations brought by Brazil. This trend was accompanied by a new dynamic, whereby Brazil would lead the litigation and a long list of developing countries would participate, as third parties. This strategy added weight to already highly divisive and visible trade disputes, such as the cotton litigation against the US and the sugar case against the EU.

Figure 4 below brings evidence of the rise in the number of requests for consultation and formal cases filed by Brazil (blue line). Between 2000 and 2005, the number of instances when Brazil provoked the DSU went from 20 to 40. The rise in disputatious behavior continues less sharply, between 2005 and 2014. The orange line, which displays the level of Brazilian assertiveness at the SPS and TBT committees, shows an even clearer pattern of rise in assertive behavior. The grey line represents our first measure of assertiveness. It equals the sum of the observations on disputatious behavior by Brazil and on instances when Brazil mobilized the SPS Committee and/or the TBT Committee.

Figure 4 – Brazilian Assertiveness in the DSU (1995-2014)



More recently in 2012, and hand in hand with the rise in litigation in the DSU, Brazil revived the dormant Committee on Technical Barriers to Trade (Comitê de Barreiras Técnicas ao Comércio, or CBTC), which had been created in 1992 but was not active until the Brazilian government's decision to strengthen its stand on technical barriers to trade. The Committee has been tasked with identifying trade barriers disguised into technical measures, which may be contrary to the WTO agreements; to that end, it is constantly in consultation with the private sector in order to gather evidence and hear complaints. It is yet to be seen how the CBTC will influence the pattern of behavior within the WTO Committee on Technical Barriers to Trade, since the Brazilian internal agency became operational only in 2014.

The reestablishment of CBTC in Brazil signals a commitment to further institutionalize the dialogue between the public and private sectors, which comes at a time when technical barriers to trade are proliferating internationally. Moreover, negotiations toward new preferential trade agreements and mega regional agreements often contemplate technical regulations, which are insulated from scrutiny by the WTO. The Brazilian decision reaffirms its choice for multilateralism and indicates that the country is embracing an even more assertive course of action in the WTO.

VI. 3) Domestic Political Constraints and Brazilian Assertiveness in the WTO

This section analyzes the circumstances that led Brazil to engage with the WTO in one particular instance: the Sugar litigation against the European Union. The goal is to demonstrate how the request for consultations and subsequent legal actions by the Brazilian government helped a constrained Executive strengthen its tenure in power. To that end, we chose to explore the facts that preceded the request for consultations by Brazil in the Sugar case (EC – Export Subsidies on Sugar). According to the argument offered in the theoretical section, the Executive's recourse to the WTO would come as a response to greater levels of political constraints domestically (or regionally, with respect to Mercosur). In order to fulfill its role,

greater assertiveness would have to result in tangible benefits for the Executive. We will develop this argument through an in-depth study of the Sugar Subsidies case.

Brazil's request for consultations was received on September 2002. The case challenged the European sugar export subsidies program, which granted preferential access to the EU market to ACP countries and other former European colonies. The Appellate Body decided in favor of Brazil on April of 2005, addressing indirect concerns of no less than 24 other WTO members, who joined the case as third parties.¹⁴

Sugar featured prominently within the Brazilian balance of trade. The country accounted for 22% of the exports of sugar (Food and Agriculture Organization 2000). Increases in Brazilian productivity were in part responsible for a global oversupply that pushed prices down. In February of 2000, the price of sugar in the international markets reached a 14-year low (Food and Agriculture Organization 2000). Thus, the Sugar case was a natural battleground for Brazil.

The decision to submit the case takes place in a context wherein Brazil was struggling to diversify its export destination partners, given the consequences of the economic contraction within Mercosur. Exports amongst members had dropped by 63% between 1998 and 2002. Pursuant to Mercosur's Common Market Council Decision 32/2000, member states were prohibited from negotiating preferential trade agreements, so the alternative was to pursue lower tariffs on a non-discriminatory basis – through the WTO most-favored-nation principle. The strategy was apparently simple and it presented itself as a natural course of action to a weakened President, halfway into his second term.

Fernando Henrique Cardoso took office in January of 1995, tasked with the Herculean goal of taming inflation and bringing the country back to a path of economic growth. In February of 2000, when discussions around the filing of the Sugar case started, his popularity was down, with 34% of respondents rating his government "very bad," and another 17% rating it "bad (Vox Populi Survey 2000)." Though President Cardoso's popularity was never stellar, at this junction, mid-way into the road to the next Presidential election in 2002, securing support of the agribusiness was essential to improve the position of his party as a viable contender for the Presidency. In December of 2002, the last year of President Cardoso's second term in office, he secured approval by 45% of the business community (Datafolha Survey 2002). We argue that the decision to move ahead with the Sugar case was part of an electoral strategy; President Cardoso's party, the PSDB (Partido Social Democrata Brasileiro, or Brazilian Social Democracy Party) wanted to signal to the business community – in particular to the export sector, that they would have their priorities heard by the PSDB candidate. A good way to lend credibility to this signal was to pursue international litigation at a highly visible and divisive arena. The Sugar case accomplished this goal.

This closer look at Brazil sought to highlight the development of institutional constraints on the Executive, both domestically and as a result of Mercosur, and their role on trade policy. We argue that the rise of Executive constraints is associated with the observed increase in Brazilian assertiveness in the WTO. It is plausible that these constraints have a distinct impact on the forms of assertiveness that we chose to observe. Clearly, Brazil has recently shifted its focus away from litigation in the DSU toward a stronger presence in the TBT and SPS committees.

¹⁴ The countries that joined the case as third parties were: Australia; Barbados; Belize; Canada; China; Colombia; Cuba; Fiji; Guyana; India; Jamaica; Kenya; Madagascar; Malawi; Mauritius; New Zealand; Paraguay; Saint Kitts and Nevis; Swaziland; Tanzania; Thailand; Trinidad and Tobago; United States; and Côte d'Ivoire (WTO website).

This pattern can be the result of higher levels of constraint or simply a reaction to new regulatory trends, which privilege non-tariff barriers. Future research can further clarify this question.

VII. Conclusion

In this paper we argue that there is a dual logic to international trade. Emerging democracies would react differently than other developing countries to the proliferation of PTAs sponsored by developed countries. One aspect of this distinct behavior by emerging democracies would be greater assertiveness in the WTO. We proposed to investigate empirically whether emerging democracies displayed a greater level of assertiveness over time. Our analysis innovates by conducting a rigorous selection of countries that qualify as emerging democracies for the purposes of this study. We do that through a cluster analysis, which yields 11 countries with common characteristics. We settle on ten emerging democracies for whom we were able to observe behavior in the WTO for the period 1995-2014. The second innovation is the proposed measure of assertiveness, in its two dimensions: assertiveness as engagement with the Dispute Settlement Body, the SPS Committee, and the TBT Committee, and assertiveness in the form of notifications of trade defense measures to the WTO.

Our empirical results consistently show that emerging democracies become more assertive over time. The descriptive statistics reveal some interesting trends, showing for example, that Brazil is by far the most assertive country when it comes to behavior in the DSB, SPS and TBT committees, but that India leads with respect to the imposition of trade defense measures. We also observed that emerging democracies privilege anti-dumping measures as opposed to countervailing and safeguard measures.

Three explanations are offered to account for the observed trend toward assertiveness by emerging democracies over time. We argue that political competition, veto players, and political globalization play a prominent role in accounting for the observed higher levels of assertiveness. The statistical results corroborate three hypotheses to that effect. These results are robust to a specification using random effects, which can be found in the annex.

We embraced a rigorous approach to the statistical analysis, using Panel Corrected Standard Errors and specifying alternative models to augment the robustness of our results. Similarly, we approached the measurement of our independent variables, as well as the control variables mobilized in the analysis, with the goal of finding the data that would best capture the dynamic of behavior that we sought to analyze.

As we see it, the findings in this paper invite a more general investigation of patterns of assertiveness by emerging democracies in other international fora. We would also like to compare behavior by emerging democracies to that of established democracies. These are natural venues to expand the research presented here. Some effort in the direction of selecting a small number of cases that could validate the statistical results through qualitative analysis is already underway. For now, we examine the case of Brazil more closely in order to analyze institutional developments domestically and within Mercosur, and their impact on Brazilian trade policy. So far, the analysis corroborates the argument we make throughout the paper: domestic political constraints on the Executive and veto players are associated with greater assertiveness in the WTO.

This paper makes an important contribution to the massive scholarship on the political economy of international trade by calling our attention to the dual nature that informs the relationship between developed countries and emerging democracies. There are clear implications for policymaking, especially at a moment when the ongoing negotiation of mega

regional agreements is understood by some as a challenge to the WTO system. This paper is a first step toward a dialogue that postures a lively role for the WTO in this scenario.

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Assertiveness 1 – Panel Data – Random Effects GLS Regression.

| | Model | | | | | | | | | | | | | | | |
|------------------------|-------------------|---------------------|-------------------|--------------------|-------------------|-------------------|---------------------|-------------------|-------------------|---------------------|-------------------|-------------------|-------------------|-------------------|---------------------|--------------------|
| Variable | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 |
| N | 180 | 172 (unbalanced) | 180 | 180 | 180 | 180 | 172 (unbalanced) | 180 | 180 | 172 (unbalanced) | 180 | 180 | 180 | 180 | 172 (unbalanced) | 180 |
| R-Squared (overall) | 0,44 | 0,49 | 0,50 | 0,49 | 0,49 | 0,50 | 0,50 | 0,51 | 0,44 | 0,47 | 0,49 | 0,47 | 0,47 | 0,51 | 0,49 | 0,50 |
| _cons | -88,0 (0,001)* | -103,2 (0,000)* | -77,2 (0,002)* | -105,6 (0,000)* | -99,2 (0,000)* | -62,7 (0,000)* | -98,7 (0,000)* | -74,2 (0,003)* | -73,8 (0,003)* | -93,8 (0,000)* | -64,4 (0,007)* | -96,9 (0,000)* | -88,9 (0,000)* | -46,6 (0,060) | -90,73 (0,000)* | -62,12 (0,013)* |
| gov(%seats) | -40,8 (0,000)* | | | | | -46,3 (0,000)* | | | -40,8 (0,000)* | | | | | -46,9 (0,000)* | | |
| dpi_tf | | 23,8 (0,076) | | | | | | | | 27,6 (0,076) | | | | | 21,6 (0,201) | |
| dpi_gvs | | | -0,3 (0,007)* | | | | | -0,3 (0,021)* | | | -0,3 (0,001)* | | | | | -0,32 (0,008)* |
| dr_pg | | | | 0,2 (0,222) | | 0,3 (0,167) | 0,3 (0,185) | 0,2 (0,420) | | | | 0,4 (0,043)* | | 0,26 (0,194) | 0,38 (0,095) | 0,21 (0,342) |
| h_polcon5 | | | | | 18,9 (0,078) | 47,8 (0,000)* | 24,2 (0,037)* | 22,4 (0,039)* | | | | | 19,54 (0,093) | 52,4 (0,000)* | 26,9 (0,028)* | 26,0 (0,023)* |
| fh_polity2 | 3,1 (0,043)* | 2,5 (0,116) | 2,0 (0,177) | 3,0 (0,041)* | 2,8 (0,053) | 0,3 (0,844) | 1,4 (0,405) | 1,1 (0,478) | 3,3 (0,034)* | 2,6 (0,105) | 1,9 (0,216) | 2,6 (0,088) | 2,9 (0,048)* | 0,3 (0,867) | 1,3 (0,445) | 0,9 (0,572) |
| dpi_pr | 0,8 (0,896) | -8,7 (0,212) | -10,2 (0,121) | -3,9 (0,534) | 2,8 (0,703) | 15,6 (0,024)* | 1,9 (0,821) | -1,2 (0,884) | -6,4 (0,275) | -15,9 (0,016)* | -16,3 (0,007)* | -10,1 (0,091) | -3,7 (0,622) | 10,7 (0,099) | -2,8 (0,731) | -4,8 (0,530) |
| dpi_seats | | 0,07 (0,000)* | 0,07 (0,000)* | 0,07 (0,000)* | 0,07 (0,000)* | | 0,06 (0,000)* | 0,06 (0,000)* | | 0,07 (0,000)* | 0,06 (0,000)* | 0,08 (0,000)* | 0,07 (0,000)* | | 0,06 (0,003)* | 0,05 (0,003)* |
| wdi_fdi | 1,5 (0,111) | 2,7 (0,009)* | 2,1 (0,031)* | 2,7 (0,005)* | 2,7 (0,004)* | 0,9 (0,306) | 2,3 (0,027)* | 1,7 (0,074) | | | | | | | | |
| hf_trade | 0,49 (0,000)* | 0,45 (0,002)* | 0,54 (0,000)* | 0,29 (0,028)* | 0,38 (0,003)* | 0,56 (0,000)* | 0,43 (0,005)* | 0,54 (0,001)* | 0,45 (0,002)* | 0,52 (0,001)* | 0,63 (0,000)* | 0,38 (0,007)* | 0,46 (0,001)* | 0,50 (0,000)* | 0,50 (0,003)* | 0,60 (0,000)* |
| wdi_megdp | | | | | | | | | | 0,43 (0,874) | 1,06 (0,634) | 3,90 (0,075) | 1,83 (0,434) | -3,80 (0,031)* | -0,11 (0,971) | -0,32 (0,897) |
| dpi_system | 6,14 (0,039)* | -5,05 (0,150) | -4,71 (0,165) | -7,85 (0,054) | -9,14 (0,026) | -9,4 (0,055) | -13,2 (0,010)* | -11,3 (0,024)* | 6,53 (0,034)* | -6,6 (0,203) | -6,9 (0,135) | -15,8 (0,002)* | -12,8 (0,006)* | -8,64 (0,066) | -15,4 (0,019)* | -12,6 (0,033)* |
| gpperc growth | 0,38 (0,425) | 0,65 (0,177) | 0,53 (0,253) | 0,69 (0,138) | 0,97 (0,037)* | 0,65 (0,163) | 0,75 (0,126) | 0,66 (0,162) | 0,44 (0,361) | 0,73 (0,144) | 0,55 (0,245) | 0,76 (0,109) | 1,09 (0,021)* | 0,73 (0,116) | 0,79 (0,115) | 0,66 (0,168) |
| lp_legor | 22,9 (0,001)* | 10,8 (0,163) | 11,5 (0,100) | 12,8 (0,091) | 10,3 (0,181) | -1,05 (0,865) | -0,96 (0,918) | 1,47 (0,866) | 24,63 (0,001)* | 9,94 (0,230) | 9,00 (0,238) | 4,35 (0,612) | 7,53 (0,356) | -0,10 (0,991) | -3,29 (0,734) | -0,76 (0,932) |
| ht_colonial | 8,76 (0,000)* | 5,58 (0,000)* | 7,25 (0,000)* | 5,25 (0,000)* | 4,77 (0,000)* | 4,72 (0,001)* | 3,39 (0,024)* | 4,72 (0,001)* | 8,58 (0,000)* | 5,50 (0,000)* | 7,43 (0,000)* | 4,47 (0,000)* | 4,58 (0,000)* | 4,33 (0,060) | 2,94 (0,051) | 5,23 (0,002)* |

Assertiveness 2 – Panel Data – Random Effects GLS Regression.

| | Model | | | | | | | | | | | | | | | |
|---------------------|--------------------|---------------------|--------------------|-------------------|-------------------|--------------------|---------------------|--------------------|--------------------|---------------------|--------------------|--------------------|-------------------|--------------------|---------------------|-------------------|
| Variable | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 |
| N | 180 | 172 (unbalanced) | 180 | 180 | 180 | 180 | 172 (unbalanced) | 180 | 180 | 172 (unbalanced) | 180 | 180 | 180 | 180 | 172 (unbalanced) | 180 |
| R-Squared (overall) | 0,57 | 0,56 | 0,65 | 0,56 | 0,55 | 0,57 | 0,56 | 0,65 | 0,55 | 0,54 | 0,65 | 0,54 | 0,52 | 0,56 | 0,55 | 0,65 |
| _cons | -3,7 (0,963) | -91,8 (0,229) | 116,1 (0,111) | -100,8 (0,178) | -100,0 (0,188) | -3,7 (0,963) | -98,2 (0,202) | 123,6 (0,099) | 45,0 (0,571) | -61,7 (0,421) | 154,1 (0,029)* | -70,2 (0,353) | -60,1 (0,436) | 56,9 (0,494) | -69,5 (0,370) | 177,8 (0,017)* |
| gov(%seats) | -118,6 (0,000)* | | | | | -118,6 (0,000)* | | | -121,5 (0,000)* | 128,7 (0,012)* | | | | -118,6 (0,000)* | | |
| dpi_tf | | 90,1 (0,042)* | | | | | 76,8 (0,094) | | | 128,7 (0,012)* | | | | | 96,9 (0,086) | |
| dpi_gvs | | | -2,2 (0,000)* | | | | | -2,3 (0,000)* | | | -2,5 (0,000)* | | | | | -2,6 (0,000)* |
| dr_pg | | | | 1,1 (0,086) | | | 0,8 (0,244) | -0,5 (0,448) | | | | 1,63 (0,014)* | | 1,0 (0,124) | 1,1 (0,151) | -0,6 (0,334) |
| h_polcon5 | | | | | -16,2 (0,651) | | -5,9 (0,878) | -13,2 (0,686) | | | | | -15,5 (0,692) | 57,7 (0,107) | 7,2 (0,860) | 12,4 (0,717) |
| fh_polity2 | 0,5 (0,911) | 0,5 (0,929) | -6,9 (0,126) | 2,2 (0,658) | 4,7 (0,337) | 0,5 (0,911) | -0,3 (0,954) | -6,0 (0,202) | 0,9 (0,859) | 0,8 (0,878) | -6,7 (0,137) | 1,3 (0,797) | 5,2 (0,308) | -3,5 (0,515) | -0,7 (0,982) | -6,5 (0,168) |
| dpi_pr | 38,0 (0,056) | 20,9 (0,363) | -7,7 (0,697) | 40,4 (0,053) | 33,1 (0,183) | 38,0 (0,056) | 22,0 (0,434) | -15,1 (0,526) | 11,7 (0,528) | -6,7 (0,759) | -21,6 (0,222) | 18,9 (0,340) | 6,9 (0,784) | 34,7 (0,112) | 5,3 (0,847) | -21,4 (0,349) |
| dpi_seats | | 0,1 (0,013)* | 0,1 (0,171) | 0,1 (0,011) | 0,1 (0,005)* | | 0,1 (0,022)* | 0,1 (0,149) | | 0,05 (0,380) | 0,0004 (0,992) | 0,1 (0,023)* | 0,1 (0,029)* | | 0,06 (0,327) | -0,015 (0,763) |
| wdi_fdi | 7,8 (0,008)* | 8,6 (0,011)* | 3,9 (0,000)* | 9,2 (0,003)* | 10,4 (0,001)* | 7,8 (0,008)* | 7,9 (0,023)* | 4,2 (0,149) | | | | | | | | |
| hf_trade | 1,7 (0,000)* | 1,8 (0,000)* | 2,9 (0,000)* | 1,2 (0,009)* | 1,3 (0,003)* | 1,7 (0,000)* | 1,6 (0,002)* | 3,0 (0,000)* | 1,8 (0,000)* | 1,9 (0,000)* | | 1,4 (0,003)* | 1,6 (0,000)* | 1,7 (0,000)* | 1,7 (0,001)* | 3,2 (0,000)* |
| wdi_megdp | | | | | | | | | -0,9 (0,869) | -7,9 (0,378) | -8,7 (0,185) | 9,7 (0,183) | 8,2 (0,299) | -1,1 (0,855) | -3,5 (0,729) | -11,8 (0,108) |
| dpi_system | 59,1 (0,000)* | 42,1 (0,000)* | 45,2 (0,000)* | 29,1 (0,030)* | 44,8 (0,001)* | 59,1 (0,000)* | 34,2 (0,047)* | 53,6 (0,000)* | 52,4 (0,000)* | 50,0 (0,003)* | 55,9 (0,000)* | 7,0 (0,682) | 29,4 (0,063) | 26,3 (0,094) | 30,9 (0,159) | 64,7 (0,000)* |
| gpperc growth | 3,2 (0,032)* | 3,7 (0,021)* | 1,9 (0,151) | 3,6 (0,019)* | 4,1 (0,009)* | 3,2 (0,032)* | 3,3 (0,043)* | 2,0 (0,153) | 3,5 (0,021)* | 3,6 (0,029)* | 1,7 (0,230) | 3,8 (0,015) | 4,5 (0,005)* | 3,5 (0,024)* | 3,4 (0,042)* | 1,9 (0,188) |
| lp_legor | -72,9 (0,001)* | -95,1 (0,000)* | -114,8 (0,000)* | -92,6 (0,000)* | -68,6 (0,008)* | -72,9 (0,001)* | -103,3 (0,001)* | -103,9 (0,000)* | -75,8 (0,001)* | -89,4 (0,001)* | -105,7 (0,000)* | -114,9 (0,000)* | -80,4 (0,003)* | -115,6 (0,000)* | -108,9 (0,001)* | -97,9 (0,000)* |
| ht_colonial | 15,9 (0,000)* | 9,0 (0,016)* | 20,6 (0,000)* | 7,2 (0,074) | 11,4 (0,007)* | 15,9 (0,000)* | 7,3 (0,146) | 23,2 (0,000)* | 15,4 (0,000)* | 9,1 (0,017)* | 22,6 (0,000)* | 4,9 (0,233) | 10,7 (0,014)* | 8,3 (0,084) | 5,8 (0,248) | 24,7 (0,000)* |

