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## The Third Chessboard: How the Multinational Companies influence International Environmental Governance

*Gilberto Sarfati*<sup>1,2</sup>

### Abstract

The main objective of this work is to identify how the multinational companies (MNCs) act as negotiators in the international environmental governance. The main hypothesis is that the MNCs try to influence the States and their coalitions, nationally and transnationally, through its structural power as well as its soft power. The defense of their corporate interests depends on the confluence of their interests with those of the states as well as the state's vulnerabilities to the corporations activities. Moreover, the MNCs should be able to influence the strongest state's coalition in the multilateral process of negotiation. In the first part of the paper I present the theoretical framework related to the Complex Interdependence Theory and the three level chessboard of Nye since its allows us to understand the MNCs preferences as independent of those of the states. I recognize the limitations of the MNCs' influence power through an extension of the Frieden-Rogowsky model, where I propose that: (a) the sectors damaged by the process of internationalization tend, nationally and transnationally, to oppose to the political actions of the MNCs. The second part of the work shows the role of MNCs in the negotiations of the Cartagena Protocol of Biosafety, a complementary instrument of the Biodiversity Convention (CBD), which regulates the genetically modified organisms (GMOs). An important theoretical contribution is to explain under which circumstances the MNCs are able to act as negotiators in the environmental governance, through influence, utilizing its structural and soft powers, by forming transnational coalitions and by helping the formation of state's coalitions willing to defend their interests in intergovernmental negotiation processes.

Key words: multinational companies, multilateral negotiation, environmental governance, genetically modified organisms.

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<sup>1</sup> Gilberto Sarfati is Ph.D. (São Paulo State University) and MSc. (Hebrew University of Jerusalem) in International Relations. He teaches international relations at FAAP, Rio Branco College and Facamp.

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## *Introduction*

The objective of this article is to identify how multinational companies (MNCs) act as negotiators in international multilateral processes. The main hypothesis is that the MNCs try to influence the States and its coalitions using their structural power as well as their soft power in order to affect their interest. Its effectiveness depends on the confluence of the state's interests with those of the corporations as well as the States vulnerability to the companies activities.

The MNCs structural power is associated to the relative importance of the company in the domestic economy while the soft power is the ability to get the preferred results persuading people instead of coercing them.

However, the MNCs power is not unlimited. Through HOSS and Rogowky models I created the two following propositions: (a) the sectors damaged by the internationalization process tend to oppose, nationally and transnationally, to the MNCs political actions.

A second crucial moment in a multilateral processes is the moment of coalition formation. When it happens, MNCs have the opportunity to show alternatives and solutions for the subject in discussion. Therefore, the corporations can influence the States composition in a coalition and their common positions. If the MNCs cannot influence the coalitions positions during the coalition processes, their influence in the end of the multilateral negotiation tends to decrease.

Finally, the third important moment is the negotiation between the coalitions. During this process, the MNCs proposals can fall as a consequence of the bargain between states coalitions.

The model is concluded indicating that the relation between the MNCs and the States in the intergovernmental context is delimited fundamentally by: (a) States vulnerability related to the MNCs, (b) the convergence of interests between MNCs and States.

In the second part of the article I present a case-study: the negotiation of the Cartagena Protocol on Biosafety, a complementary instrument to the Convention on Biodiversity (CBD), that rules the genetic modified organisms (GMOs).

At the negotiations of the Protocol, the adoption of a text that somehow would restrict trade and lead to an increase in obligations was not interesting to biotechnology companies and to the food industry. This could put pressure on their cost structure. In general, the Protocol result did not completely satisfy the interests of these companies, mainly because the precautionary principle was used widely and the Protocol's scope has included organisms that are destined for human or animal feeding and their processes. Moreover, some obligations related to labeling and notification were created.

An important conclusion of this work is that although MNCs are very important actors in contemporary international economic relations, their power is not unlimited. Since they still depend on state decisions and actions in international negotiations, they have to shape state preferences. At the same time, these preferences can also be shaped by other actors such as NGOs that can block the political actions of MNCs.

Another important theoretical contribution was to explain under which circumstances the MNCs act as negotiators of a multilateral process, through influence, using structural and soft powers, looking for creating transnational coalitions and by stimulating the creation of coalitions between states that would defend their interests in intergovernmental contexts.

### **The MNCs influence in International Economic Relations**

As Korten (2001:128) notes, the more closed is a market by specific regulations, the more probable the company will have to produce inside the country. This would prevent the company from getting returns of scale. Therefore, it makes sense for the international operation of these companies to lobby for regulations determined intergovernmentally. As noted by Rowlands (*in* Josselin and Wallace, 2001) the transnational lobby can be conducted by the MNCs in intergovernmental forums and by associations of these companies in these forums.

The MNCs recognize that the states still are the main actors reflected by their status in international law. Therefore, in order to get what they want they must play the game by the book. In other words, they must convince the states to support their position in international negotiations. In the end, it does not matter if the MNCs or any other non-state

actor are not sitting on the negotiation table of an international organization. What is really important, is that in the end of the process their interest are kept.

In this context, the influence refers to the MNCs role during the formation of States preferences and their coalitions in multilateral negotiation processes. Since the States are the fundamental actors of any international political negotiation processes the companies must try to shape their preferences.

As the Penguin dictionary shows, influence is defined as action, power, or ability to produce an effect through indirect or intangible ways (Manster and Turton, 1997:359). Therefore, influence is the final result of power.

The MNCs exercise two kinds of power influencing States: the structural power and the soft power. The structural power is associated to the relative importance of the company in a domestic economy. In other words, national economies may be, more or less, structurally dependent on capital (Berhangen and Brauning, 2003 and Gill and Law, 1993). Thus the structural power of MNCs is connected to the company's size and to the capital movement. The bigger a company is in general terms, the more powerful it will be.

In other words, The MNCs structural power could be measured by the concepts of sensitivity and vulnerability presented by Keohane and Nye (2001: 10-17). Sensitivity is the response degree to political changes. How quickly do changes in one country brings costly changes in another. The vulnerability measures the relative availability and cost of alternatives in the interdependence situation.

In this sense, sensitivity concerns to how quickly the corporation activities bring costly changes to a country, while vulnerability concerns to the costs and alternatives related to MNCs activities in the country. The more economically dependent on MNCs activities a country is, the more sensitive it will be. The same thing happens when the less alternatives a State has, the higher its vulnerability will be to these corporations.

In practical terms, states sensitivity to a MNCs is related to the following business decisions:

- Entry / exit strategy in a country: investment decision in greenfield, joint ventures, turn-keys projects, acquisitions and mergers. Exit strategy decision.

- Corporate strategies: opening or closing decisions related to production and services.

In all these cases, the companies structural power, in absolute terms, can be measured by the project value, taxes creation impact, creation of direct and indirect jobs, political dividends<sup>3</sup>, etc. Thus, the higher these figures are, the more sensitive a State will be to a MNC action.

On the other hand, as vulnerability concerns to costs and alternatives that a country has regarding to MNC activities, it means that it is possible to assess its dependence degree related to the capital as well as to its attractiveness related to the foreign capital. The bigger a economy is, including the country's market (size, power, customers, etc), the less will be the capital dependence. In the same way, the more stable a business environment is, the more probable it will be that the country will be always attracting foreign investments and taking part of international business. The stability concerns to a predictable economic environment (macro and micro), a very clear tax policy and a predictable legal system that allow the free capital movement.

Obviously, it is expected that developed countries such as the USA, Japan and Germany, would be less vulnerable than developing like Brazil, India and Mexico.

The techniques used by MNCs to influence States, associated to its structural power, are based on induction (carrot) and coercion (stick) (Nye, 2004:5). As it is possible to note, the clearest expression to the structural power of corporations is associated to the entry and exit decisions of the companies and the closing or opening decisions of production lines and services.

Nowadays the corporations play negotiation games and lobby in many areas (direct international negotiations with States, negotiations in intergovernmental forums and negotiation to create business coalitions). Therefore, they must think about strategies that involve simultaneous and/or sequential actions in those areas, also including the creation of national and international coalitions to promote these common interests.

Besides their structural power, corporations also counts with their soft power in order to try to influence states preferences. As defined by Nye (2004:5), soft power rests on the ability to shape the preferences of another co-opting instead of coercing them.

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<sup>3</sup> Political dividends are associated to gains that a political group get by attracting investments to a region. This group, in the future election campaigns, will always be able to show that it helped to develop the region economically. Thus, the opposite also can happen if the company leaves the region because of political conflicts, causing political debts that the group will try to justify in nationalist speeches.

Therefore, it is the ability of an actor to shape the preferences of another actor through its attraction and seduction powers. The soft power is more than persuasion. People are led to agree because they feel attracted by what certain actor represents. The attraction not always determines the preferences, but it certainly can modify its perception and influence the desired results indirectly.

Although Nye (2004:90-97) recognizes that non-state actors have soft power, he does not explain exactly the source of their power neither its mechanisms. MNCs' soft power in international relations is associated to the customer/client identity (micro) as well as to States (macro) identity to the company activities within the country. The soft power of a MNC can come from its image (marketing builds this kind of identification with the general public) and from its relation with epistemic communities, specially scientific ones (epistemic groups can act as a legitimization source of the corporative activity).

The oldest and the most recognized soft power of the MNCs is the customer identification with the company's brand. One of the fundamental elements of marketing strategy in any company is to create brand awareness<sup>4</sup>, that is the public recognition of a brand. Basically, the companies want to make their brands recognized because it creates a difference between other companies.

Another institutional strategy associated to MNCs soft power is to fund philanthropy<sup>5</sup>. Accordingly to Rondinelli (2002:394) MNCs and their executives have taken the public role of giving international help through the development of philanthropy programs. According to the same author the companies are responsible for about 87% of help to poor countries (US\$ 296 billion). There are several examples of philanthropy supported by MNCs, such as the partnership between Coke and International Rotary. They help the Indian government to immunize the population against polio. Nokia created a US\$ 11 million fund with the money from its volunteer employees to help to teach children who have learning difficulties in South Africa, China, Mexico, Brazil, England and Germany (Rondinelli, 2002:395).

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<sup>4</sup> Check <http://www.onpoint-marketing.com/brand-awareness.htm>. Visited on 03/27/2005.

<sup>5</sup> The corporate world prefers to differentiate philanthropy from social responsibility because they associate the first one to charity and the second one to commitment with the community that the company acts. Obviously that philanthropy is as an important part of the image creation strategy and the company's soft power. Therefore, here we use these expressions as synonyms.

Another important factor related to MNCs soft power is their relation with the epistemic communities. The epistemic communities action in international relations may be understood in the policy coordination context. Adler and Haas (1992) say that the policy coordination (between States) is based on consent and the mutual expectation, but the basic theoretical question is: where do the expectations come from? According to those authors, they come from interpretative processes involving cultural and political structures, as well as institutions dedicated to define and modify the value and the meaning of the actions.

Thus, the more organized an epistemic community is, the more probable will be that it influences the states action. In this context, the more technical a product or a service is, the more the corporations will need the legitimacy given by an epistemic community. For example, in the debate about transgenics (Genetically Modified Organisms), the position of the epistemic community is essential in issues as security of the products regarding to ecosystem, human beings, approval process of new seeds, trading, etc.

The relation between MNCs and epistemic communities can happen in many ways, for example, the industry can hire professionals only to discuss the products in a technical way with the rest of its community. This is a technique largely used by the pharmaceutical industry that hires physicians, sponsor congress and fairs, fund independent researches in universities and distribute scientific prizes.

Obviously, the stronger the relation between a MNC and an epistemic community is, stronger will be the company's soft power. This relationship may give the legitimacy needed by the corporations in their political action.

Another important dimension of multinational companies' soft power is their relationship with the think-tanks that may be even created and supported by huge corporations. Stone (*in* Josselin and Wallace, 2001:114) defines think-tanks as a research institution, usually established as a non-profit organization and non-dependent of the States or markets. Only in the USA there are more than 1200 and in Western Europe at least 200.

As the same author points out, think-tanks are important actors (specially to MNCs) because they can influence public and media agendas. They are responsible for formulation, transference and legitimization of politics, producing studies that are against or in favor of some laws (national case) and topics in multilateral negotiations, such as at the World Trade Organization (WTO) and the European Union (EU).

To understand the negotiation game between the companies and States, specially in an intergovernmental context, it is necessary to define what are the corporations interests in international trading terms.

Basically, the MNCs interest is connected to its survival in the international business game. The survival in this game is associated to strategies that can assure the profits of the company, not only during the current financial year, but in a long term. Therefore, the companies interest is associated to its survival, taking into consideration strategies that can assure a business pipeline capable to generate earns today and tomorrow.

The company's preferences is associated to the stockholders interests. That means that the present and future profits are their basic interest. Thus, when we say that a MNC has power because its interests are kept in a multilateral process of negotiation, it means that somehow what is on the negotiation table affects the stockholder interests in long, medium and short terms.

### **The limits of the power of MNCs in International Economic Relations – extension of HOSS and Rogowski models**

One of the most important relation between economy and international politics is given by Rogowski (1989) that predicts the domestic coalitions around the traditional models of international economy: Heckscher-Ohlin and Stopler-Samuelson (HOSS):

Heckscher-Ohlin – a country will tend to export goods intensive in the factors it has in abundance, and to import goods intensive in which it is scare.

Stopler-Samuelson – the liberalization tends to benefit producers of abundant factors while protectionism tends to benefit producers of scare factors.

As a political extension of HOSS model, Rogowski (1989) assumes that:

- The beneficiaries of a change will try to continue and accelerate it, while the victims of the same change will endeavor to retard or halt it.
- Those who enjoy a sudden increase in wealth and income will thereby be enabled to expand their political influence as well.

- As the desire and the means for a political preference increase, the likelihood grows that political entrepreneurs will devise mechanisms that can surmount the obstacles of collective action.

As a consequence of HOSS and Rogowski models, we have the following relative propositions about the limits of power of MNCs in relation to States:

Proposition 1: the sectors damaged by the internationalization process tend to oppose to the MNCs political actions (in the domestic and transnational levels).

Collorary 1: Ceateris Paribus, if the local welfare level worsens due to the internationalization of the economy, it is likely that MNCs opposition succeeds.

An important source of opposition is given by political groups that feel affected by the internationalization process. Those groups can organize themselves in domestic and transnational terms to resist to the political actions promoted by MNCs.

In countries that society gets benefits from the MNCs activities it is expected that the resistance movement has less impact. On the other hand, when MNCs are seen as a factor that decreases the social welfare it is expected that those opposition groups succeed in the creation of coalitions that block the expansion of MNCs interests.

As a logical extension of HOSS/Rogowsky model, it is more likely that the opposition against MNCs come from groups associated to the production of scare factors.

Since most of the big MNCs are part of sectors characterized by economies of scale<sup>6</sup> it is expected that the opposition against them comes from those local companies that can be big for local patterns but fears the international competition. In the same way, the employees from those companies may tend to form coalitions with employees from other sectors damaged by the liberalization.

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<sup>6</sup> A sector characterized by economies of scale is, by definition, a sector where scales are essential to company's costs and competition. In those sectors, the opening of the world economy increases the advantages of huge companies. This advantage tends to increase as market access increases (Frieden and Rogowsky *in* Keohane and Milner, 1996:39). There are several sectors in this category, such as chemical, pharmaceuticals and even beer.

All opposition coalitions tend to succeed even more when the country does not get benefits from the internationalization process, or at least when the population does not realize the welfare raise. Therefore, MNCs tend (almost automatically) to be seen as the cause of all the problems in a country. In those cases, populist politicians tend to capture the collective anger easily and concentrate it in their own political interests.

Considering global governance it is possible that the coalitions that are against MNCs interests can be organized in a transnational level to block their political action. Those “loser” coalitions find a huge source of support in NGOs (the ones based in developed countries). We see that in many cases those organizations have intellectual and financial resources to hold the “loser” demands in international forums (using lobby with delegation of countries damaged by MNCs).

Therefore, in short, we have the following limits to MNCs influence in multilateral processes:

- The interests of MNCs does not coincide with the basic interests of the coalitions

When it happens the position that represent MNCs interests can fall either during the coalition creation or when the coalition negotiates with other coalitions.

- The interests of MNCs are represented by weak coalitions.

The strongest coalitions positions tend to overcome the interests of small coalitions. When it happens this may represent a defeat to the basic interests of the MNCs.

### **The rational model of negotiation applied to the MNCs actions in International Economic Relations**

Connecting the neoliberal model and the rational model of negotiation, we have the following hypothesis about how MNCs act as negotiators in international economic relations.

Hypothesis A: MNCs affect state's and their coalitions preferences accordingly to their relative economic importance (and potential) in the local economy (structural power).

Furthermore, they use their soft power through epistemic communities, marketing techniques to persuade local people and some other techniques associated to the company's image.

Hypothesis B: the higher the vulnerability of a country or a coalition is (related to MNCs activity), the higher the BATNA (*Best Alternative to a Negotiated Agreement*) of the MNCs will be and, therefore, its influence.

Hypothesis B-1: when the political and economic objectives of the States or of their coalitions coincide with those of the MNCs, it will be more likely that cooperation happens (integrative strategy along the ZOPA – *Zone of Possible Agreement*).

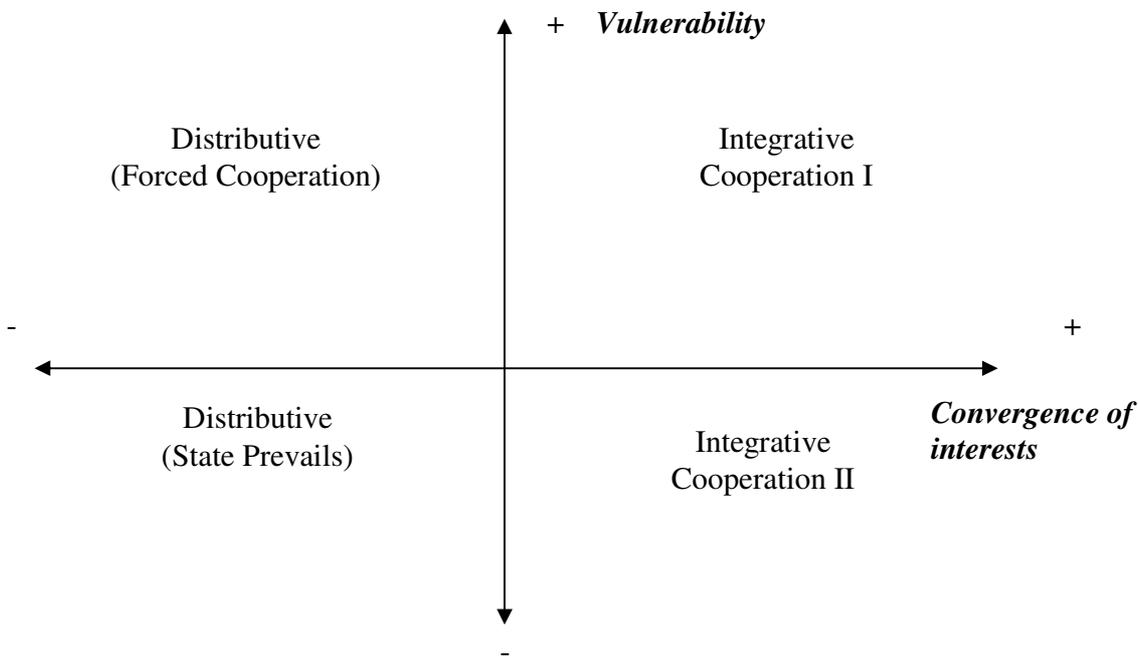
Hypothesis B-2: when the political and economic objectives of States or their coalitions do not coincide with those of the MNCs (which are very vulnerable), it will be more likely that a forced cooperation happens (distributive strategy along the ZOPA).

Hypothesis B-3: when the political and economic objectives of States or their coalitions do not coincide with those of the MNCs (which are not very vulnerable), there will be a little or none influence.

Hypothesis C: the MNCs may affect states and their coalitions preferences, therefore, the influence degree will depend on: a) the coalition's vulnerability related to the MNC and b) the coalition relative capacity in the negotiation game.

Considering these hypothesis, it is possible to see that the relation between MNCs and States in an intergovernmental context is limited by a) states vulnerability to MNCs and b) convergence or not of MNCs and states interests. Therefore, during multilateral negotiations processes we expect that interaction between MNCs and States produces the following results:

Figure 1: negotiation results between MNCs and States (States position in the beginning of intergovernmental negotiations)



When there is convergence between states and MNCs interests, we expect the position (of a country) closer to the desired by those companies. Thus, the Cooperation I result (right, above) indicates that MNCs and States tend to find integrative solutions that satisfy their needs. In the same way, The Cooperation II result (right, below) shows that even with low vulnerability, they tend to converge to an integrative solution that would satisfy their needs.

The forced Cooperation result (left, above) shows that the high vulnerability of a State in relation to MNCs together with the lack of convergence of interests may result in a distributive negotiation. In other words, the vulnerable State will tend to subject itself to part of the MNCs demands. It means that there is a typical bargain between the State and the MNC, where there is no value creation, only the fight for the distribution of an already existing value.

This result does not mean that this State will end up adopting all the demands that come from the MNCs. The negotiation process would follow the spirit of a “fixed pie” and,

therefore, this State would accept part of corporations demands while, on the other hand, the MNCs would not have all their demands accepted by this state.

Finally, the result States Prevail (left, bellow), the lack of convergence of interests between the state and the MNCs together with the low vulnerability of this state may produce a distributive bargain where this state would not take into consideration the MNCs interests.

### **The MNCs and the negotiations of The Cartagena Protocol of Biosafety**

The question of GMOs emerged in the 1970s and 1980s when scientists started to investigate the potential harm caused by the release of genetically modified seeds in the environment. In 1992 was concluded the Convention on Biological Diversity (CBD) that in its article 19(3) called the parties to discuss procedures and implement standards for the use of GMOs (Secretariat of the Convention on Biological Diversity, 2003). It followed a period of pre-negotiations between 1992 and 1995. Finally the negotiations that led to Cartagena Protocol of Biosafety took place between 1996 and 2000. This part of the article analyzes the role of MNCs in the process of negotiation of this protocol.

In this case there are three countries that we analyzed: the USA (which stands as the main country of the Miami Group), the European Union and Brazil (an important country of the Like-Minded coalition).

The Miami Group is a consequence of a fissure among the traditional coalition of developing countries. Argentina, Uruguay and Chile did not have convergent interests with other countries from G-77, especially in relation to its traditional partner, Brazil. Those countries already had most of their agricultural production based on genetically modified seeds and they were worried about a precautionary position that could work as an excuse to block their exports (especially for the European countries). Thus, they got closer to the USA and Canada that have already had a considerable tradition in transgenics. The Economist (2000), for instance, shows that Argentina has the second biggest agricultural area based on GMOs with 16,8% of the world. The first one is United States with 71,9%.

As we could notice in the TRIPs case, the USA has always had a strong relationship with industrial leaders. But more than that, agriculture represented an annual exports

income of US\$50 billion. More than a half of it used to come from genetically modified corn, soy and cotton (Sandblom, 2000). Since these products are commodities there is a great pressure to cut costs. The use of GMOs is seen by farmers as the only way to keep competitiveness in their markets.

Furthermore, the main MNCs in biotechnology focused on agriculture, are in the USA. The development of biotechnology is a very expensive activity and this favors the industrial concentration. We are talking especially about Monsanto which is responsible for 90% of genetically modified soy plantations in the world (Foe and Corporate Europe Observatory, 2003: 9). Besides Monsanto, DuPont and Syngenta are huge companies in biotechnology applied to agriculture, in a growing multibillionaire market of seeds that is getting more and more concentrated (Clapp, 2002 and Cadot, Suwa-Eisenmann and Traça, 2001).

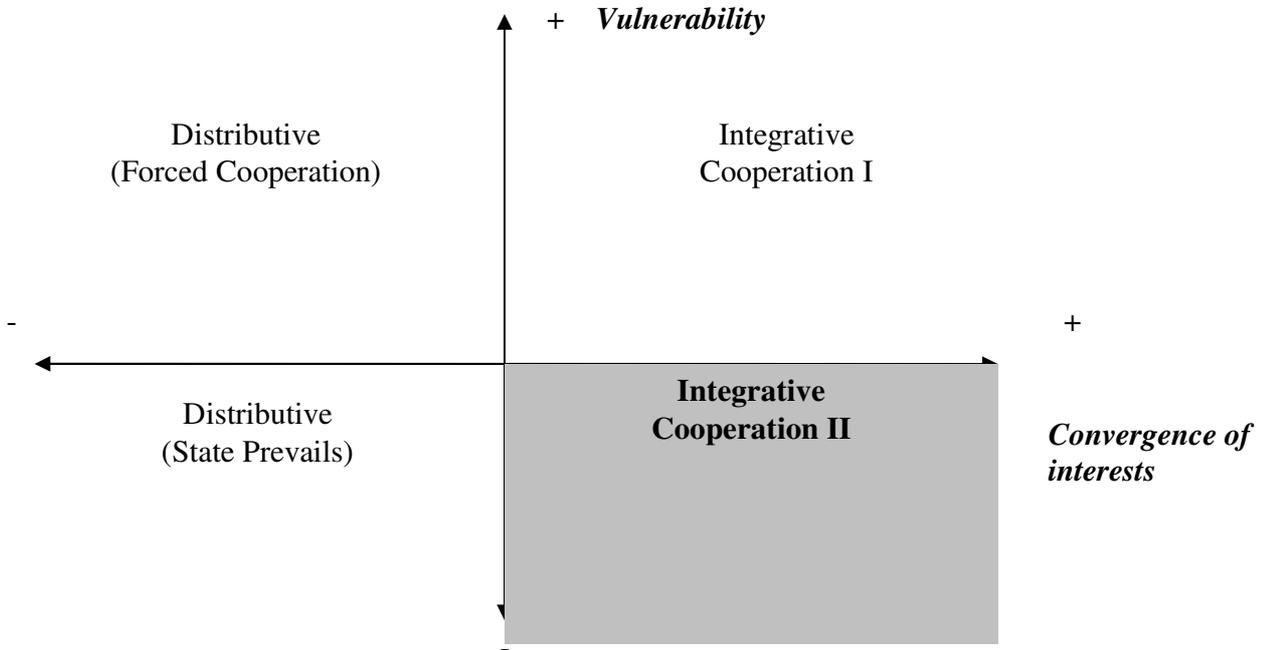
Therefore, behind the North-American positions at the CBD and the following pre-negotiation and negotiation of the Cartagena Protocol, there were a wide range of interests from agriculture, food and biotechnology sectors, represented by the main companies of the sector through organizations such as BIO, National Association of Corn Producers, etc.

Analyzing the relation between MNCs and the North-American position, it is clear that there was in the private sector, mainly the farmers and the biotechnology companies, a huge structural power that economically and politically represented a strong bargain power in relation to the government. On the other hand, the government identified a convergence of interests taking into consideration the economic impact of transgenics exports, the increase of competitiveness of the local agriculture, as well as an increase in the international political reach as the multinationals of the sector grows abroad.

The creation of the Miami Group would not be possible without the role of the MNCs in the countries that took part of the coalition. In other words, the MNCs helped to transform the agriculture of those countries. Therefore, they adopted a new position that allowed the creation of a *suis generis* coalition in a multilateral processes of negotiation (the isolated alliance of a few, thou important, South-American countries with the USA).

The figure below shows the convergence of interests between the MNCs and the North-American government leading to an arrange type integrative cooperation II.

Figure 2 – Result of negotiations between the MNCs and the United States (representing The Miami Group)



In relation to the EU, the establishment of a common position about the GMOs was extremely difficult to reach since food safety regulations was still a subject defined by internal regulations from each country part of the group.

In the context of the EU, in 1990, the Directive 90/220 ruled the introduction of GMOs in the environment. Through its Article 11, importers or producers should warn the regulatory authorities of each State their intention of introducing GMOs in the environment. The local authorities are in charge of authorizing or not the seed. Accordingly to Article 13 other Member-States could oppose to the report and authorization of a second Member-State. Nevertheless, if none country raises objections, it may be used without further notification throughout the Community (mutual recognition).

However, Article 16 includes a precautionary provision related to risks to the human health and the environment. Since the adoption of this directive five Member-States made use of this clause in relation to eight varieties of GMOs. Finally, in 1998, during the process of negotiation of the Cartagena Protocol, the European Commission imposed a *de*

*facto* moratorium in the authorization of new GMOs (Anderson and Nielsen, 2000 and Cadot, Suwa-Einsemann and Traça, 2001: 7).

Newel (2003a) argues that the directive 90/220 clearly indicates that during the 1980s the biotechnology industry in Europe was not organized and, therefore, it was not able to block a regulation that affected their interests deeply. On the other hand, the *White Paper* of the European Commission president, Jacques Delors, in 1993, indicated that biotechnology industry should be strategic to the European economic development. This position was reaffirmed by the European Commission president, Jacques Santer, in the European Council Meeting, in 1996 (Balanyá Et Al., 2003: 81).

Somehow, during the 1990s, EuropaBio (European Association of Bioindustry)<sup>7</sup>, the organization that manages the biotechnology companies' interests in Europe, had to work in a hostile environment. That is because the public opinion was favorable to the precautionary principle. For a long time, NGOs such as Greenpeace, Friends of Earth and Corporate Europe Observatory have already been against GMOs. Therefore, EuropaBio appears too late to get the minds and hearts of the public opinion in the continent.

In the EU, consumers defense groups such as the European Bureau of Consumers Union, succeeded in campaigns against "Frankenstein food". In a survey of 1998, about 86% of the European population indicated that transgenic foods must always be labeled. Furthermore, more than a half of the interviewers said that they believed more in consumers associations than in their own governments or the EU authorities in relation to food safety. Because of that, political parties have sensed the public mood and adopted the theme in their political agenda, specially the Green Group of the European Parliament that criticizes government of being negligent in assessing the impact of GMOs on health and environment (Nelson, 1999).

During the protocol negotiation, in 1997, the EU adopted the Regulation 258/97 concerning novel foods and novel foods ingredients. The regulation follows similar procedures of 90/220. In the same year, it was adopted a label requirement for foods with more than 1% of GMOs in their content.

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<sup>7</sup> EuropaBio was established in 1996, representing 600 companies of the biotechnology sector. It is supported by big companies such as Bayer, Solvay, Unilever, Danone Group, Novartis, Rhonê-Poulec and Nestlé, as well as the European offices of North-American MNCs such as Monsanto, and small and medium companies (*start ups*) organized around some researchers (Balanya Et. Al., 2003).

In the end of 1990s, the European public opinion was widely against foods produced with GMOs. Between 1996 and 1999, the popular movements increased more and more. Maybe the highest peak in the protests was the invasion and demolition of a McDonald's Restaurant by furious farmers led by José Bové in 1999. They protested against "the crazy food from multinationals" (Sandblom, 2000: 17).

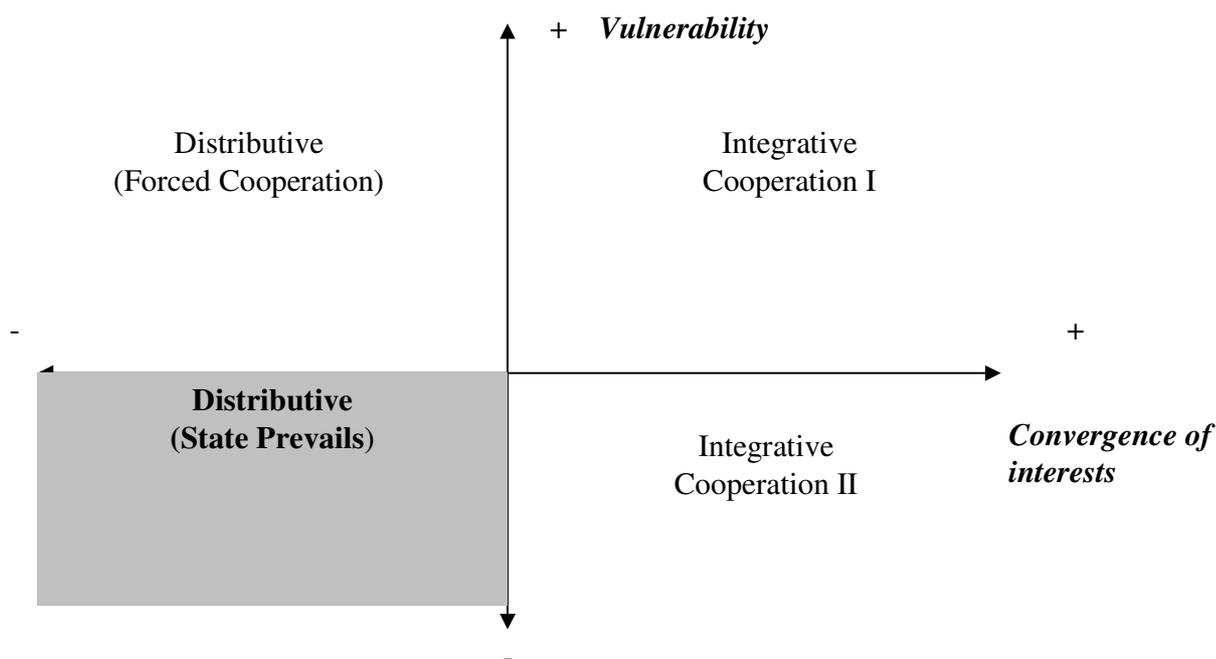
From the EU point of view, there was still the case of protection of local farmers. The GMOs created one more opportunity to block imports of agricultural products, especially those related to extensive cultures such as soy and corn. The exports of these two products to the EU represented about 14% of the total of agricultural products exports from the USA. It meant more than US\$ 1 billion per year (Cadot, Suwa-Einsenmann and Traça, 2001: 4).

The EU as a whole had a strong BATNA because they had a very low economic vulnerability, a strong interest in protecting local farmers, as well as also due to the public opinion mood about this issue. NGOs organized in group actions used all their soft power in order to form a strong public opinion against GMOs. As we have already noted, the MNCs were too slow in organizing themselves to answer to the NGOs actions.

It does not mean that the EU has simply ignored the MNCs. Its intermediate position between the Miami Group and the Like-Minded Group, indicates that there was a distributive bargain between the MNCs and the EU. The companies were able to structure the problem of biotechnology as a matter of competition with the USA. They showed to the national governments as well as to Brussels that it was a very risky game to be out of the biotechnological market.

Therefore, as shown in figure 3, the European position was a result of a distributive bargain where the states interests prevailed. In this distributive bargain prevailed the interests of different political actors acting in the EU such as farmers, unions and NGOs.

Figure 3 – Results of the negotiations between the MNCs and the EU.



As noted by Newel (2003b), before the Cartagena Protocol most part of the other states, especially the big group of developing countries, did not have specific legislations that addressed the GMOs issue. Somehow, the theme was widely unknown by the public opinion of these states. The G-77 Group and the later split that resulted in the creation of the Like-Minded Group comprised a big and heterogeneous group of interests. They only had in common a fear of losing the commodities markets to GMOs products and that it could also mean a higher vulnerability to the United States.

Among the developing countries it is worth to highlight the African positions. These countries were frequently pushed by the MNCs, directly and through interest organizations, in order to support a regulation that could favor the trade of GMOs seeds. The MNCs argued that the adoption of GMOs seed could finally solve the hunger problem in the continent. Accordingly to Tewolde Berhan G Egziabher, head of the Ethiopian delegation, and, later on Chief Negotiator of the Like-Minded Group, the technical support offered by the NGO Third World Network was essential in order to evaluate the MNCs and the North-American statements. This was fundamental in order to build a common African position<sup>8</sup>.

<sup>8</sup> See the discussion at <http://www.biosafety-info.net> (biosafety negotiations – flashbacks). Visited on 05/12/2006

Since the beginning of the Cartagena Protocol negotiations, Brazil was an active participant of G-77 and later of Like-Minded. It is interesting to note that when this group was established in 1999, Brazil opposed its partners in the Mercosul: Argentina and Uruguay. As we pointed out before these countries joined the Miami Group together with the USA, Australia and Canada.

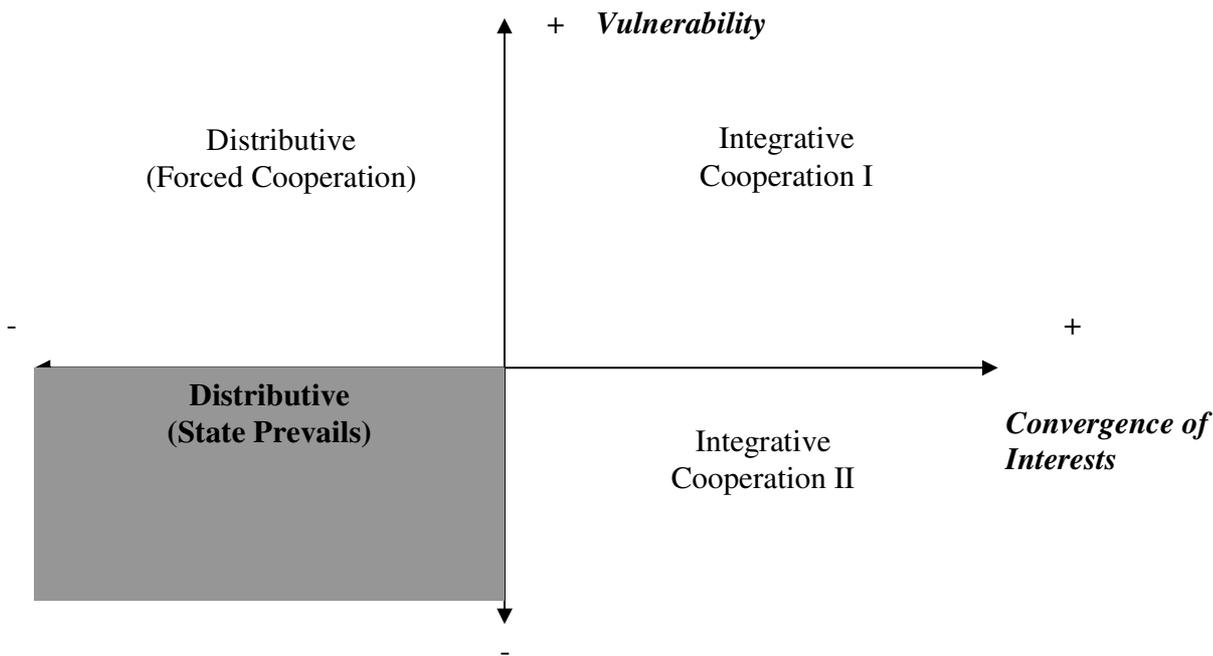
At the time of the Cartagena Protocol negotiations the country did not have a specific legislation for GMOs and the issue did not awake the public opinion. Thus, free of huge social pressures, the Brazilian government articulated its positions around its traditional preferences in agriculture. The country was free of GMOs, and restrictive rules could favor the trade position of the country in relation to China, and especially to the EU. Therefore, the country tended to treat the question as a market access issue.<sup>9</sup>

As the figure 4 below shows, Brazil had a low vulnerability position in the beginning and during the Cartagena negotiation. The low economic importance of the biotechnological MNCs in the country led to an independent position.

Figure 4 – Result of the negotiation between the MNCs and the countries from Like-Minded Group, for example, Brazil.

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<sup>9</sup> This position is similar to Arthur H. V. Nogueira (*in* Bail, Falkner & Marquard, 2002: 129-137), who was vice-head of Brazilian delegation to the CBD between 1997 and 2000. He claims that the two main Brazilian objectives during the Cartagena process were: biodiversity preservation according to the current Brazilian law and; to reach an international agreement that would not harm the Brazilian trade interests in the WTO negotiations.



We observed distributive bargains in both cases, the EU and the Like-Minded (Brazil). Nevertheless, in the European case the position was more balanced in distributive terms along the ZOPA while in the Like-Minded case, the balance favored states positions.

As a whole, the Cartagena Protocol text was a result of convergence and negotiation of positions between the Like-Minded Group and the EU, with the support of the Commitment Group and the East European Group. On the other side there was the Miami Group, almost always isolated. Nevertheless, this group was consistently able to block advances in the process of negotiations. It seems that the group was fully aware that the Biosafety Protocol would be adopted anyway. Therefore, their strategy became: minimize the losses.

The Miami Group blocked the meetings BSWG-6/ExCOP in Cartagena, trying to exclude from the Protocol GMOs intended for direct use as a food of feed, or for processing. Nevertheless, Article 11 and Annex II use this terminology. Therefore, in the end, the group was defeated in this point.

Besides that, the group was not able to exclude other articles that were against their interests, such as Article 12 (which compels the notification of the involved parts about the adverse effects of GMOs) and Article 14 (which does not include the desired text that allowed the rules of the regional agreements being exempt to the rules of the Protocol).

In relation to the MNCs, the transatlantic industrial interests were convergent. The biggest biotechnology MNCs were in the United States and Europe. In the American side, there were companies such as Monsanto, DuPont and Sygenta while on the other side of the Atlantic there were companies like Novartis, AgrEvo, Zeneca and Aventis, besides other MNCs with special interest in the field such as Unilever and Bayer. The basic interest that put them together was clear rules concerning to manipulation and trading of GMOs worldwide.

The MNCs interest in the Cartagena Protocol negotiations increased during the process. According to Clapp (2002), 8 industrial groups were in Aarhus, in Denmark, in 1996, while in Cartagena, in 1999, there were 20 industrial groups with their own representatives such as Monsanto, DuPont and Syngenta. Furthermore, there were representatives from Business Interest Non Governmental Organizations (BINGOs), such as BIO, BioteCanada, Japanese Bioindustrial Organization e International Trading House. All of them looked to guarantee that restrictive rules on GMOs would not be approved. Therefore, their interests were similar to the Miami Group.

During the process, the MNCs tried to lobby all the delegates, especially those from developing countries. In all the meetings they issued press releases, briefing notes and had audiovisual sessions trying to show the industry position directly. According to lobbyists that attended to the events, delegates from USA and the EU did not tend to look for their material, but the delegates from developing countries looked for it to have information (Newel and Glover, 2003: 7).

The interests of the companies were convergent with some organizations related to the scientific community. These organizations claimed that the biotechnological development applied to feeding could lead to the end of hunger in all over the world. Third World Hunger and AgBioworld are examples of organizations that praised that. Obviously, the issue did not was a consensus among the scientific community and part of the debates reflected these disagreements.

Somehow, biosafety is a subject that has a strong scientific component. It demands that political issues should be structured by scientific arguments. Thus, trying to define key concepts, it was created the Contact Group 1 (CG-1). Its objective was not to negotiate, but to reach a mutual agreement about scientific issues. However, as Gupta notes (*in* Biermann,

Brohm and Dingwerth, 2002), scientists tended to represent the Miami Group, the EU including Switzerland and other non European members from OECD and developing countries.

The MNCs associated themselves to scientists that were connected to the Miami Group, demanding assessments based on clear scientific grounds. European scientists tended to favor a precautionary perspective, which would favor the national assessment to the approval of GMOs imports. Scientists from developing countries supported by scientists connected to environmentalists, pressured for the adoption of a wide definition of biosafety (including social-economic issues) trying to give more power to the countries, so that they could rule and hold responsible MNCs nationally (Gupta *in* Biermann, Brohm and Dingwerth, 2002: 241).

Basically, for the MNCs it was not interesting the adoption of a Biosafety Protocol that could restrict trade and would lead to an increase of their obligations. In other words a restrictive Protocol could put pressure in there structures of costs. Analyzing the private sector agenda in the negotiation process we can observe the following points of interest:

1 – To restrict the application of the precautionary principle (even better if it is left out of the Protocol).

2 – To ensure that if there is a conflict between the Protocol's mechanisms and the WTO regulation, the later prevails.

3 – To prevent the wide use of the terminology “GMOs intended for direct use as a food of feed, or for processing”

4 – To prevent the adoption of obligations related to labeling, transport and notification.

5 – To prevent the adoption of mechanisms of liability and financial compensations.

6 – To prevent the adoption of terminology social-economic concerns related to the assessment of GMOs risks.

7 – To prevent the inclusion of pharmaceuticals products in the Protocol.

In the end, the MNCs were not able to influence a Protocol that represented their interests, mainly because the precautionary principle was widely used as well as the

terminology “GMOs intended for direct use as a food of feed, or for processing”. Moreover, it created new obligations related to labeling and notification.

On the other hand, without the blocking action of the Miami Group the final result could be even worse. At least the Protocol did not overlap the WTO rules, pharmaceuticals were left out of the protocol and they prevented the adoption of obligations related to liabilities and financial compensations. In prospective terms they at least were able to control the damages.

Therefore, it becomes clear that the MNCs were not able to influence the coalitions (only Miami Group, where there was a clear convergence of interests). The business coalition was largely transnational but it was not able to persuade the EU<sup>10</sup>.

The figure 5 below shows that the MNCs were able to influence the United States and were indirectly responsible for the creation of the Miami Group. This coalition tried to do bargains that were consistent with the MNCs interests. However, it did not take part of the *winning set* and, therefore, the companies were not capable to influence widely the final content of Cartagena Protocol.

In other words, in the context of the Cartagena Protocol negotiation, the Miami’s Group BATNA was smaller than the EU and the Like-Minded Group, especially when these coalitions were together. For the Miami Group their BATNA was: no Protocol at all or a very limited Protocol. Since the majority of the other States wished the Protocol and as the CBD indicated that should be a biosafety regulation the real issue was what should be scope of these rules.

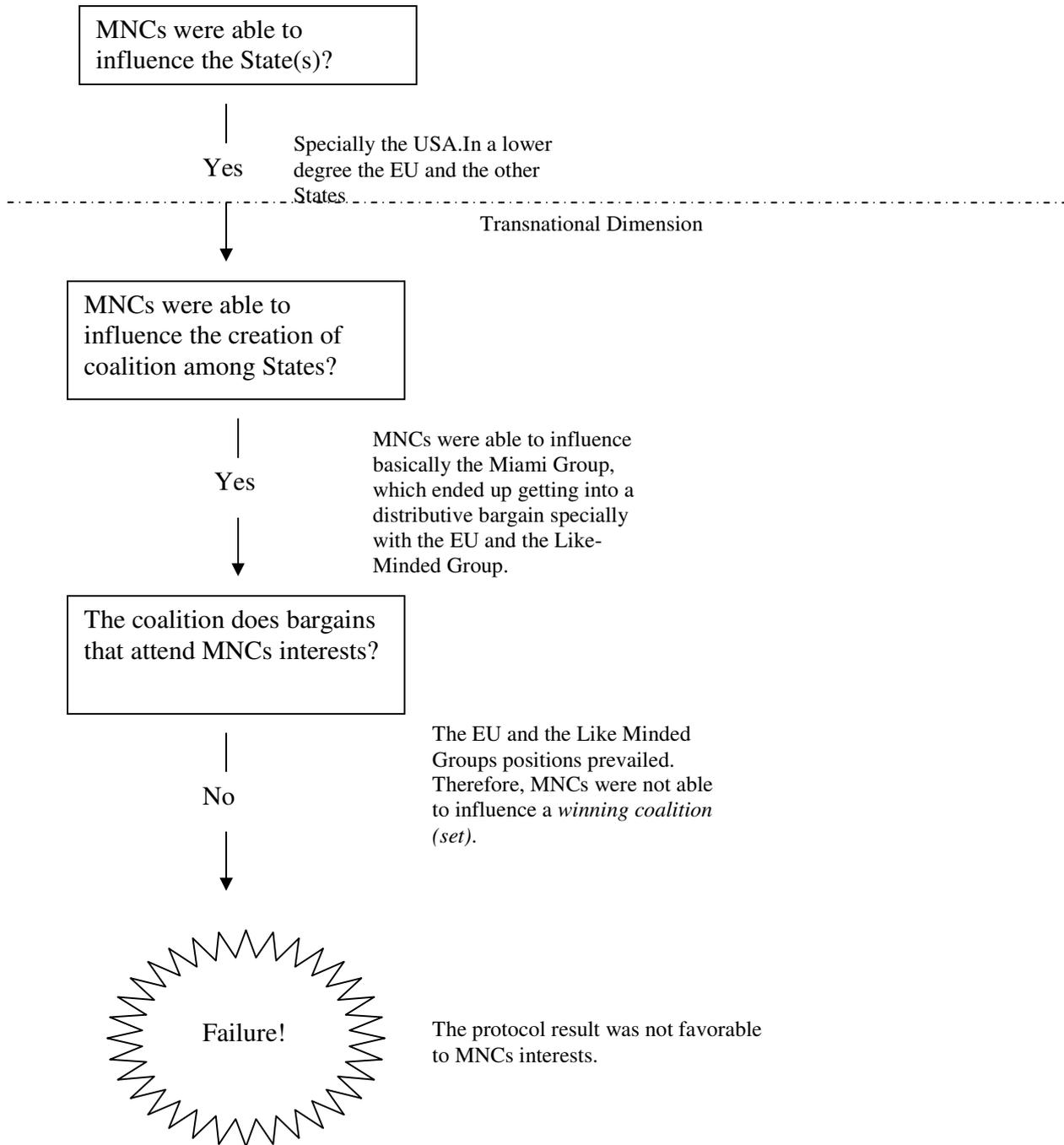
On the other hand, the BATNAs of the other coalitions were not strong enough to leave the Miami Group out of the game, especially the USA as one of the main stakeholders in this issue. Therefore, the coalitions made some concessions in order to keep the country “into the game”. At the same time, the USA recognized that small victories are better than none. Therefore, they did not leave the table and were involved in all the negotiation process until the last moment.

Figure 5 – MNCs influence in the negotiation process of the Cartagena Protocol of Biosafety

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<sup>10</sup> The EU position was decisive for the outcome of the Protocol. A position closer to the business interests could probably make a different history.

Dimension inside the state



**Conclusion**

In this article I have shown a model of how MNCs influence multilateral negotiation processes. In the last decade these companies have increased their importance in the world economy. Therefore, as a fundamental stakeholder, we should expect that its importance in the definition of key issues of international economy should also increase. Nevertheless, they still depend on States in two levels: in an internal regulatory level of each State and in an intergovernmental regulatory level where States together define rules that constraint MNCs' behavior.

I suggested as a general hypothesis that the MNCs try to influence the States and its coalitions using their structural power as well as their soft power in order to affect the their interest. In a multilateral bargain process it is necessary to identify if the MNCs influenced the "right" coalitions. In other words, if the MNCs have aligned its interests with the core interests of a coalition willing to sustain this position in the entire bargain process. But if the MNCs end up aligning with a coalition that somehow has low importance in the process or is not willing to push for it, their interests will not be fully represented and will be lost during the bargains between the coalitions.

In a multilateral context the MNCs have to follow a long way from national influence, through alignment of interests with other corporations in a transnational level, alignment of interests of MNCs with states coalitions and finally they should be able to influence the *winning set* of the negotiation process.

At the negotiations that lead to creation of the Cartagena Protocol of Biosafety the MNCs were able only to influence the Miami Group and in a lower degree the EU. Although the Miami Group had all the weight of the USA the coalition was not able to impose it will on other countries. Very soon the Miami Group and MNCs companies strategy shift to minimize the losses trying to block some advances in the negotiations but mainly preserving the WTO as an alternative forum of negotiations were the game could continue.

In the end, thanks to work of many NGOs that have supported many developing countries positions along the negotiation process and their work at all EU countries convincing the population about the perils of GMOs, the MNCs and the Miami Group had to accept a very tight Protocol imposing restrictive rules on GMOs.

Therefore, an important conclusion of this work is that although the MNCs are very important actors in contemporary international economic relations their power is not unlimited. Since they still depend on states decisions and actions in international negotiations they have to shape states preferences. At the same time these preferences can also be shaped by other actors such as NGOs that can block the political actions of MNCs.

Another important theoretic contribution was to explain under which circumstances the MNCs act as negotiators of a multilateral process, through influence, using structural and soft powers, looking for creating transnational coalitions and by stimulating the creation of coalitions between States that would defend their interests in intergovernmental contexts.

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