Transforming Legal Capacity in Brazil: International Trade Law and the Myth of a Booming Practice.1

Rubens Glezer2
Vitor M. Dias3
Adriane Sanctis de Brito4
Rafael A. F. Zanatta5

Introduction

The establishment of the World Trade Organization (WTO) created a demand for lawyers who could understand the WTO’s rules and defend Brazil’s interests in the organizations’ dispute resolution system. Lawyers were needed to use WTO law to support Brazilian exporters seeking access to foreign markets and to protect domestic policies and market players against complaints in the WTO. To meet this need, the Brazilian Ministry of Foreign Affairs (MRE in Portuguese) alongside organizations from the private sector created in 2003 a program in Geneva to train Brazilian lawyers in WTO law and practice (Shaffer, Sanchez, and Rosenberg 2008). This project created a cadre of lawyers familiar with international trade law and WTO legal procedure. The reason was also political. As claimed by the one Brazilian ambassador, the program aimed to “train professionals able to understand and master

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2 Professor, coordinator of the project Supremo em Pauta and researcher of the Justice and Constitution Center at São Paulo Paulo Law School of Fundação Getulio Vargas (FGV Direito SP). Professor of Legal Theory at São Bernardo do Campo Law School. Glezer received his Ph.D. from São Paulo University Faculty of Law (FDUSP), his Master’s Degree in Law and Development from FGV Direito SP, and his Bachelor’s Degree in Law from the Pontifícia da Universidade Católica, São Paulo.
3 Research Fellow, Center on the Global Legal Profession, Indiana University Maurer School of Law. Graduate Student, Department of Sociology, Indiana University-Bloomington. Dias received his LL.M. from Indiana University Maurer School of Law (2015), his Master’s Degree in Law and Development from FGV Direito SP (2011), and his Bachelor’s Degree in Law from Centro Universitário do Pará (CESUPA) (2009).
4 Researcher at the Global Law and Development Center at FGV Direito SP. Brito is in the process of obtaining her Ph.D. from FDUSP, where she also obtained her Master’s and Bachelor’s Degrees. She also received a scholarship from the The Ryoichi Sasakawa Young Leaders Fellowship Fund (SYLFF).
5 Masters of Laws Candidate at International University College of Turin (LLM, 2015). Zanatta received his Master’s degree in Legal Sociology from the Law School at São Paulo University (USP) and his Bachelor’s Degree in Law from the Maringá State University, Paraná.
the rules of international trade” and to reduce Brazil’s “dependence on foreign experts” (Seixas Corrêa 2005, 4).6

The legal scholarship has already produced excellent studies about the Brazilian governmental effort to “build legal capacity” in the field of international trade law, as provided by Shaffer, Sanchez, and Rosenberg (2008) and Santos (2012).7 In this paper, we build on this literature to investigate how international trade lawyers in Brazil have adapted to the changing nature of demand for trade law and related expertise over the last 10 years.8 Our investigation tried to answer two questions regarding the Brazilian legal profession: (1) how did international trade lawyers react to the decline of WTO cases involving Brazil and the decline of the multilateral system as a whole? (2) Were they able to use their knowledge and networks inside the community of international trade lawyers for new forms of professional activity? If yes, how?

We claim that the initial capacity building efforts actually created an oversupply of trade law experts in Brazil. With the decline of WTO litigation work, these lawyers needed to find other areas to use their professional skills. The survival of these highly-specialized lawyers has required boldness and a shrewd approach to remodeling their own legal capacity to meet market demands. In sum, this practice has gravitated to trade remedies (defesa comercial), in particular, anti-dumping disputes that have been brought under Brazilian law.9 Demands made by Brazilian

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6 While the Geneva project and related efforts focused primarily on creating the technical capacity to handle WTO claims, Brazil’s effort went further. As Santos has pointed out, Brazil managed not only to build technical capacity; it also created “developmental” trade capacity, that is the ability to relate trade measures and WTO law to the country’s developmental policy and be able to protect core developmental policies in WTO litigation (Santos 2012). This meant that if Brazilian trade lawyers were to effectively fight for national interests, they had to understate domestic economic policy as well as trade law itself.

7 Such studies are representative of a line of social and legal investigation dedicated to understanding the development of legal capacity concerning foreign trade in developing countries. They analyze how the legal profession influences litigation and how it affects WTO rules, favoring or blocking developmental policies (Shaffer, Nedumpara, and Sinha 2014). In an investigation conducted in India, the authors chose to work with the following definition of legal capacity: “the ability to use law to engage proactively in the development and the defense of international and domestic policy”. (Shaffer, Nedumpara, and Sinha 2014). This definition, as well as the one discussed here, encompasses the ability of lawyers to work directly at the WTO, and it applies to the foreign trade rules that influence public policies on a domestic level.

8 In this sense, our approach is similar to the works of Dezalay and Garth (2010), Wilkins and Papa (2011), and Galanter and Robinson (2014).

9 Trade remedies (or trade remedy measures) are of three natures: anti-dumping (applied when “the product is sold to export at a value below the normal value that it was sold in the internal market of the exporting country”), countervailing (applied when “the product was subsidized by the exporting
and foreign clients interested in applying anti-dumping measures, along with the creativeness of the professionals in this area burgeoned new organizational models for legal practice in international trade law in Brazil. As we show in this paper, Brazilian lawyers in this field have increasingly participated in global consulting networks, created “foreign desks” in large law firms, worked at firms specialized in government relations, and lobbied government agencies.

This study attempts to provide several contributions to the literature on globalization and the legal profession. First, we assess how important “professional networks” are to lawyers working in foreign trade, strengthening the idea that attorneys play an active role in building an elite field (Dezalay and Garth 2002; Flood 2007). Second, we show that when disputes brought to the WTO declined and new industrial policies increased protection for Brazil’s domestic industry, legal capacity that had been developed for WTO litigation (Shaffer, Sanchez, and Rosenberg 2008; Santos 2012) was adapted and deployed in trade remedy litigation and foreign trade consulting. WTO trained lawyers became active in the Brazilian trade remedy system and set themselves up as consultants offering economic and business services as well as legal analysis. Lastly, we identified new ways by which these firms are working, going beyond the traditional American law firm format to embrace “consulting networks” and consulting firms specialized in government relations.

Aiming to analyzing this transformation, we have observed Brazilian attorneys at work and their different practice sets. We used ethnographic methods and carried out 21 interviews, between 2012 and 2013, with professionals in international trade law in the country. We interviewed lawyers from 7 of the 11 law firms in Brazil country”) and safeguards (applied when “the product has been in imported in increased quantities in a short period of time”). All the measures require the demonstration of injury and causality between the action of the exporter and the injury of the domestic industry. We quote Kramer (2015, 35).

For a precise description of the classic U.S. model, see Galanter and Palay 1994; Flood 2007; Dezalay and Garth 2010.

The fact that we have used interviews conducted with foreign trade attorneys in Brazil for a broader interpretation of the redefinition of legal capacity in a changing political and economic scenario could lead the reader to question two issues. The first is that our conclusions come from the premise that perceptions put forth by these agents are reliable, due to their place in the current market. This premise is not a product of naïveté, but of the limitations in the research. Obviously, there is bias in the interviewees’ words. However, we diversified our sample to understand the perspective of attorneys who work with different clients, whether they are Brazilian or foreigners. Also, we avoided any generalization that appeared in isolated comments or impressions. The ideas offered in this article are the result of a holistic analysis of primary data, based upon theoretical references. The second issue that could be directed at our work is that, by focusing on how these attorneys are impacted by the opening of the economy and by globalization, by relying on their perceptions it would not be possible to gauge
listed in trade law by Chambers and Partners (C&P). 12 We also used snowball sampling to expand our sample. 13 Specifically, we conducted semi-structured interviews, which consisted of previously-defined questions in a script focusing on the interviewees’ professional background as well as their perception on the changes in foreign trade legal practice in Brazil over the last two decades. 14

This chapter includes this introduction and three sections. First, we analyze the general perception about the decline of the WTO litigation and its impact in the work of international trade lawyers in Brazil. In the second section, we discuss the change in the international trade law market in Brazil, and the rise of trade remedies as the center of legal practice. Following that, we discuss how attorneys used their training in international trade law to diversify legal services and assess new organizational models for legal practice in foreign trade that have arisen in the post-2008 scenario.

how these attorneys have influenced and shaped such effects. In this case, the method adopted here has attempted to collect responses from the interviewees as to what they and their law firms have been doing in response to market changes. We are aware, however, of the limitations of our methods and possible interference from our data. Still, it is important to bear in mind that we are not interested in understanding perfectly how these attorneys influence changes in international trade law in Brazil. First, we want to provide a general overview of recent transformations in this area and how elite foreign trade attorneys have changed their legal capacity to work with new services, using new organizational models to meet clients’ demands. Actually, both issues open the door to further research. Namely, it would consist of gathering and systematizing data to question the narrative provided by the interviewees regarding how the market is structured (its supply, demand, and framework). In addition, it would consist of identifying the alumni from the most important Law Schools, especially the Geneva Program, analyzing the influence these agents have on the market. However, such research would require an initial exploration of elite law schools courses on international trade law. Our study is, therefore, a first necessary towards that direction. These points have been raised with extreme clarity, precision, and respect by Iagê Zendron Miola and Emerson Ribeiro Fabiani. Another possible research agenda from this investigation was suggested by Professor Fabiano Engelmann, which would focus on the perception of controlling agents, such as the Brazilian Bar Association and how it relates to the legitimacy of this new “institutional environment.”

12 It is worth emphasizing that our sample of interviewees represents approximately 65% of Brazil’s law firms listed by C&P in the area of foreign trade/WTO. C&P organizes their ranking in bands. These bands are: Senior Statesmen, Bands that go from Band 1 to Band 4, Up and Coming, and Associates to Watch. With the exception of the Senior Statesmen and Associates to Watch bands, we interviewed professionals listed in all other bands. Visit C&P’s current list: http://www.chambersandpartners.com/41/455/editorial/9/1#RankedFirms_Tab.

13 Regarding the use of the snowballing method in legal research, in particular, in a relatively restricted market as international trade law in Brazil, please refer to the study conducted by Krishnan and Purohit (2014, 4) on law firms and attorneys that work with commercial disputes at the Dubai International Financial Centre (DIFC) Courts and in the Dubai International Arbitration Centre (DIAC).

14 The interviews were conducted mostly in person and over the telephone when required. As Marc Galanter and Nick Robinson did in their recent study on elite legal practitioners in India, we chose to keep interviewees anonymous in this article (Galanter and Robinson 2014). We believe that individual identification is not required to understand how legal capacity is redefined in this small professional niche.
I. The Myth of a Booming Field: Idle Capacity

Brazil is nowadays a strong player in the multilateral system of trade. In the 1990s, this was not the case. Since the early 2000s, there has been a strong effort by the Brazilian government, together with the businesses elites, to master the rules of international trade and to train young lawyers to negotiate and to litigate following the WTO rules. As claimed by many scholars, Brazilian lawyers took advantage of this scenario to build strong connections with diplomats in Geneva (Thorstensen 2009), obtain legal training in foreign law schools (especially universities in the U.S.) and generate legal capacity in the field of international trade law, carving out spaces for developmental policies inside the framework of rules of the multilateral system (Shaffer, Sanchez and Rosenberg 2008; Santos 2012; Sanchez Badin 2013).

In the mid-2000s, the field of international trade law (ITL) grew in Brazil, with more than a hundred lawyers trained in the “Geneva program”15. This was the period in which ITL became an autonomous field of practice inside big law firms. However, this growing sector of legal practice reached a limit years ago. The Brazilian lawyers in this field agree that “the positions have been taken.”16 In other words: there are no huge expectations for future expansion in the professional field, which has already been restricted to an elite group of Brazilian attorneys.17 While initially many thought there would be an increasing volume of WTO work, by 2005 it had become clear this was not going to happen. One interviewee noted:

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15 The most important training ground for Brazil’s elite trade lawyers was the Geneva Program, officially labeled the “Training Program for Young Attorneys in the Brazilian Mission in Geneva”, designed by Vera Thorstensen (senior economist). The Geneva Program began in 2003 and has trained over one hundred Brazilian attorneys who learned how WTO litigation worked “from within.” The Program stems from the cooperation between the MRE and two private organizations, the Brazilian Institute for Studies on Competition, Consumerism, and International Trade (IBRAC), and the Center for Studies on Law Firms (CESA).

16 The Chambers & Partners’ list of foreign trade attorneys in Brazil shows the market is small. In total, there are only 26 twenty-six attorneys listed as reference professionals in the country.

17 The concept of “elite lawyering” in Brazil has been discussed in the works by Fabiano Engelmann: “Attorneys with higher international involvement comprise a relatively small number if compared to the thousands of law firms in Brazil. Situated mostly in São Paulo, the large partnerships expanded with the privatization of publicly-owned companies in the 1990s, which is made evident in the increasing number of associates and the quantity of firms founded during this period. (...) Considering the biographical profiles of the most renowned partners published in the year books, one can see the presence of international capital retained in the form of education abroad and licenses to practice law internationally, as well as the presence of organizations and associations that emphasize their ties with the financial-corporate market and expertise related to the technical aspects of financial and business operations”. (Engelmann 2012).
It is a small market, with few professionals. Everybody knows everybody. I have spoken to a few colleagues: if you are in, you’re in; if you aren’t, you aren’t. Now, this is how it is going to be. These are the professionals, and that is it. The WTO lost the glamour it had when I was in law school. It was different in 2005. Nowadays, it is like: “What is this thing with the WTO? It never changes? Aren’t we going to close any deals?” People are moving to new areas: the Bribery Act, FPCA [Foreign Corrupt Practices Act], anticorruption. This is the cooler segment in the international area. There are many fads in law.

An analysis of WTO data reinforces the opinion offered by the attorneys interviewed. The table below shows the total of cases filed at the Dispute Settlement Body (DSB) involving Brazil since 1995, both as complainant and respondent.\textsuperscript{18} It shows that there was a ‘peak in demand’ by the beginning of the 2000s, the period in which Brazilian lawyers started training in the Geneva Program.

\textsuperscript{18} The following cases were analyzed, according to the order in which they were filed at the WTO: 1995 (DS4, DS22), 1996 (DS30, DS46, DS51, DS52), 1997 (DS65, DS69, DS70, DS71, DS81, DS112), 1998 (DS116, DS154), 1999 (DS183), 2000 (DS190, DS197, DS199, DS208, DS209, DS216, DS217, DS217, DS219), 2001 (DS222, DS224, DS229, DS239, DS241), 2002 (DS250, DS259, DS241), 2005 (DS332), 2006 (DS355), 2007 (DS365), 2008 (DS382), 2010 (DS409), 2012 (DS439) 2013 (DS472). All cases are available at: \url{http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm}
Bearing that in mind, there is a clear perception that the group of Brazilian attorneys who deal with international trade, in particular the multilateral system, has been consolidated and will roughly stall in the same size. Given this context, the respondents stress the idea that “everybody knows everybody.” The small Brazilian “network” is connected to a small “international network” of attorneys. According to a lawyer working at a large firm, such “network connections” are crucial in obtaining clients and mutual favors, that is, reciprocity among such professionals.

Most of the respondents did not expect major expansion of legal practice in international trade. There has been no substantial change in the number of WTO cases in which Brazil is either a complainant or a respondent, even though there is some oscillation in the number of cases in which the country features as the third party.

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The international network format will be addressed in the sections below.

The practice of international trade law is also a restricted niche in other countries, such as India (Shaffer, Nedumpara, and Sinha 2014, 10). Besides the Brazilian and Indian markets, it is possible to notice that the American market relies on a relatively small number of law firms that C&P recommends. Out of 212 law firms listed by C&P in the US, only 48 are listed in international trade when we filtered the search using the criteria “area of law.”

http://www.chambersandpartners.com/search#Locations:USA#225#1#1^LocationsPracticeAreas:USA#225#1#1International_Trade#89#1. Last visited on August 27, 2014.

The number of cases that involved Brazil can be found in data published by the WTO: http://www.wto.org/english/tratop_e/dispu_e/dispu_by_country_e.htm. Last visited on August 27, 2014.
While the Lula da Silva (2003-2010) and Dilma Rousseff (2011-present day) administrations have encouraged anti-dumping as a way to protect domestic firms, even this activity may have leveled off. By the time the interviews were made, one lawyer noted that:

2012 and 2013 were high points. With a higher exchange rate, [the domestic] industry is already protected and the number of investigations tended to decrease in 2014. It does not stop, but it is a cyclical area. Foreign clients participate when the investigation is initially filed. If there is an investigation filed, they will participate if the market is important. They are reactive. 22

At the same time, there has been little progress in negotiating commercial agreements between Mercosur and the European Union (Thorstensen et al. 2013). The debate on exchange rates as trade violations seems to be stalled.23 In a pragmatic view – focused on “doing what can be done” and avoiding atrophy of the WTO – the administration of WTO, President Roberto Azevedo, has focused on trade facilitation.24 According to Brazil’s foreign trade attorneys, there will be neither a considerable expansion in the area, nor a return to a practice focusing on the WTO. To be sure, one lawyer noted:

22 As it has been broadcasted worldwide, the situation of the exchange rate in Brazil has substantially changed, in particular, since the beginning of Rousseff’s second term as President. Whether this new context will lead to an increase in the number of antidumping investigations is a question yet to be addressed by further research. However, Brazil has experienced some economic instability since the end of Lula da Silva’s tenure as President, and it as well as major companies within the country have maintained their antidumping strategies nonetheless. For that reason, and based upon the interviewee’s opinion that this is a “cyclical area,” it is expected that the current status quo persists, unless either the exchange rate changes in an unfavorable manner against Brazilian exporters, or import patterns become different vis-à-vis exports. In the end, it is too soon to have a precise answer, but it is possible to infer from the opinion of some lawyers interviewed for this project that, historically, the number of antidumping investigations is more deeply related to policy strategies than economic conjuncture.

23 “For countries with overvalued exchange rates, depending on the level of such appreciation, their bound and applied tariffs can be nullified and become negative, implying that the country is granting a stimulus to imports and waiving the tariff protection negotiated within the WTO. For countries with undervalued exchange rates, depending on the level of such depreciation, their bound and applied tariffs can be increased in greater proportions than the exchange rate.” (Thorstensen et al. 2013, 105-106).

24 “What we did, in Bali, was to unblock multilateral negotiations, which had been completely paralyzed for almost 20 years. Access to markets is not limited to a specific topic. It is not just agriculture, industrial goods or services, but the three areas at the same time. It is very difficult to negotiate progress individually, in only one of these areas. A developed country willing to make compromises in the agricultural area will want more access to its products and services in other markets. We already knew it would be impossible to reach a deal for the three areas.” Interview with Roberto Azevedo, in a *Istoé Dinheiro* article on January 1, 2014. http://www.istoedinheiro.com.br/noticias/entrevistas/20140110/comando-organizacao-mundial-comercio-omc-desde-setembro-2013-embajador-brasileiro-roberto-azevedo-passou-por-seu-primeiro-teste-impedir-morte-entidade-sediada-genebra/139525.shtml.
The WTO has lost most of its power due to successive economic crises, which have made countries more individualistically minded, establishing an “every country for itself” situation. Why should a client go to the WTO to claim that someone, like the U.S., is breaking a rule, in an extremely expensive case, if they can simply refuse to export to this country? [...] Until every door is closed, exports can always be transferred someplace else. With the exception of situations in which changing countries is more difficult, as is the case of subsidies, antidumping at the WTO is not interesting due to the current economic situation.

There is, however, a minority who see potential for market changes. For one lawyer working at a large firm in São Paulo, the work performed by Brazilian attorneys is still quite limited to topics such as trade remedies. For him, there are still matters that are not being discussed in Brazil and which are important to other foreign trade attorneys abroad:

I believe it is a relatively small group for the size of Brazil’s legal market. They are people who know each other and meet in seminars and events. The area has grown, no doubt. Fifteen years ago, it was a much smaller group of attorneys. It has expanded. Today, it is virtually an area unto itself, but it is still quite concentrated. Many attorneys now only handle anti-dumping. I do not mean that anti-dumping is not foreign trade; this is unquestionable. It is what the client asks for and what is on your desk. But international trade has a much broader spectrum, which we do not realize. For instance, there is an extremely important debate on controlling exports in American and European law firms. At the International Bar Association, this is a very important issue. Attorneys are concerned with prohibition, controls, and restrictions on exports that many countries impose. We do not see this discussion here.

But, in sum, most of our interviewees did not see a need for further capacity building in this area. The chances to work on WTO litigation cases are very limited. Since the Geneva program was created in 2003, there have only been four cases in which Brazil has featured as the complainant at the WTO and three in which the country was the respondent. There was a larger number in which Brazil has been the
third party, 59 since 2003 (WTO, 2014). Yet, generally speaking, they think the work is limited and could easily be handled by the existing group of specialists.

Given that situation, the international trade bar has had to reinvent itself. Professionals have migrated to other areas, offered new services, and developed new ways to attract businesses and communicate with foreign clients. The legal capacity initially created to help the government and a limited number of Brazilian economic groups at the WTO has been used to expand legal services for either clients affected by imports or engaged in exports. Two major areas with potential for growth have been litigating antidumping cases under Brazilian law as well as consultancy on governmental relations, which comprehends specialists in international taxation and specific foreign jurisdictions. In the next two sections, we will explore in details how the Brazilian lawyers managed to adapt themselves to a new political and economic scenario and how they actively created new fields of professional activity that were previously occupied by economists and “technicians” without legal training.

II. Reinventing International Trade Law

In this section, we will address the several transformations in the field of international trade in Brazil in recent years. Broadly speaking, Brazil’s economic policies have influenced the change in the structure of Brazil’s commercial relations. Consequently, attorneys in the country have adapted to new needs and restructured their firms as well as strategized new models to attract clients, as it will be outlined below.

In Brazil, political and economic transformations have altered international trade legal practice in the country. First, we will discuss the growing importance of trade remedies and the impact of this policy on legal services. Afterward, we will explain some characteristics concerning: how Brazilian law firms working with foreign trade are organized; how they have adapted to a period in which the WTO has lost predominance; and how competition and protectionist policies in Brazil and around the world have become more important. Finally, we will analyze how some professionals aimed at the nuances of international trade as it relates to governmental affairs.
A. Industrial policies and trade remedies

The pioneering generation of attorneys trained in Geneva and Washington has headed the development of several areas in international trade practice since the beginning of the 2000s.\textsuperscript{25} According to interviewees, the areas that expanded more were trade remedies,\textsuperscript{26} international contracts, and international taxation.

Namely, the areas mentioned above stem from a context in which WTO cases involving Brazil have declined. Accordingly, attorneys may handle international contracts and the respective disputes that arise from contractual disagreement. This means that firms are usually hired to advise on negotiating and writing contracts, and, in cases in which differences arise, to assist in disputes that will need to be decided, whether in arbitration or in courts.\textsuperscript{27} Furthermore, given the complexity of taxes on imports and exports, some firms have created an international taxation practice area. Even though some professionals in this area come from tax law, they emphasize that there are specificities in tax involving international trade that require qualified trade professionals to handle them. This may include negotiating with Receita Federal do Brasil (RFB in Portuguese) (the Brazilian Inland Revenue Service) of the Ministry of Finance, which handles payments related to anti-dumping cases, as well as dealing with customs officials about customs clearance, all areas that present substantial difficulties. One professional reported that, while other authorities with jurisdiction over international trade law, \textit{e.g.} DECOM (Department of Trade Remedies),\textsuperscript{28} encourages more interaction with the private sector, RFB and the structure of the Ministry of Finance itself are more restricted.

\textsuperscript{25} For a full description of how this triple alliance (diplomacy, business associations, big law firms) was formed for strategic reasons, see Shaffer, Sanchez & Rosenberg (2008) and Thorstensen (2009).

\textsuperscript{26} Brazil is considered one of the developing countries that most uses antidumping investigations, being only behind India. For instance, between 1995 and 2010, India was responsible for 1,394 antidumping investigations, followed by Brazil with 364 and China with 357 (Castelan 2012, 32). Yet, the data shows that the percentage of negative outcomes from dumping is higher in Brazil, because 16% of investigations ended with a negative result (Ibid., 33). According to more recent data, the situation is similar: in 2012, there were 16 cases with a negative outcome, while this number rose to 43 in 2013. \url{http://www.gazetadopovo.com.br/economia/conteudo.php?id=1460104}.

\textsuperscript{27} Although this area may be important to the changes in the legal profession, its complexity has left it beyond the scope of our research.

\textsuperscript{28} The Department of Trade Remedies (DECOM) is part of the Ministry of Development, Industry and Foreign Trade in Brazil.
Therefore, attorneys and law firms are hired to handle bureaucratic aspects of imports and exports, as well as to negotiate tax matters and the respective procedures that may involve fines or rebating tax(es) paid in excess. Finally, most of our respondents reported that many attorneys that were trained to help resolve disputes at the WTO currently work with trade remedies, in particular, anti-dumping. Attorneys interviewed on the proceedings involving anti-dumping investigations, in general, assessed them as positive. Even though there is a bureaucratic structure involving different secretariats and other governmental bodies, professionals have shown optimism regarding the possibility to dialogue with several organizations. Yet this is a positive sign of the Brazilian government, rendering high-quality and efficient services depends on the negotiating skills of these attorneys, which shall not be disregarded when we look at the official structure that exists in Brazil.

Namely, Brazil’s trade remedy system comprises the following entities. The Ministry of Development, Industry and Foreign Trade (MDIC) is responsible for directly organizing Brazil’s international trade system. It is responsible for the Chamber of Foreign Trade (CAMEX) and the Secretary of Foreign Trade (SECEX). The latter is responsible for the Department of Trade Remedies (DECOM), an administrative authority responsible for handle antidumping investigations. Although these are the main players in Brazil’s structure, after an investigation has been carried out and the decision regarding fines has been made, the Technical Group for Assessing Public Interest (GTIP) – connected to the CAMEX – can rule over anti-dumping matters in the case of an important public interest. Lastly, RFB applies and collects fines applied in the aforementioned cases. The table below outlines the activities performed by the authorities listed in this paragraph:

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29 The term anti-dumping is often used as a euphemism in relation to trade remedies, namely because the interviewees have informed us that anti-dumping has been the most required service derived from trade remedies.
### Table 1. Breakdown of Brazil’s Trade Remedies System

<table>
<thead>
<tr>
<th><strong>Camex</strong></th>
<th>Decides to apply anti-dumping laws and is able to determine retroactive charging; Extends anti-dumping laws when there is circumvention; Ratifies price commitments.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SECEX</strong></td>
<td>Decides to initiate, extend, or end investigations.</td>
</tr>
<tr>
<td><strong>DECOM</strong></td>
<td>Conducts the whole investigation; Provides assistance to Brazilian companies in investigations abroad.</td>
</tr>
<tr>
<td><strong>GTIP</strong></td>
<td>May recommend that CAMEX suspends and changes antidumping laws due to public interest;</td>
</tr>
<tr>
<td><strong>RFB</strong></td>
<td>Collects payment derived from antidumping enforcement fines</td>
</tr>
</tbody>
</table>

Source: Brazilian National Confederation of Industry (CNI 2013, 19).

Bearing that in mind, trade remedies have emerged as a major new source of employment and certainly profits for Brazil’s trade lawyers. The decreasingly number of WTO cases, along with the manner by the anti-dumping investigation system is organized in Brazil makes it possible for lawyers skilled in antidumping to find new trade-clients. Accordingly, one respondent noted:

 [...] The noblest practice in international trade would be to take part in [WTO] panels [...] but Brazil went from being a complainant and now participates often as a third party. However, considering the country’s current situation, I do not see Brazil opening a panel. This is a complex area in which there exist few qualified firms. What has grown significantly is anti-dumping investigation.
Indeed, some scholars have noted the growing importance of antidumping as being a result of new industrial policies instituted under Lula da Silva but continued and expanded under Dilma Rousseff. With the rise of Brazil’s “New Developmental State,” more emphasis has been placed on supporting domestic industry (Trubek et al. 2013). Under the Production Development Program (2008)\(^\text{30}\) and the Greater Brazil Plan (2011)\(^\text{31}\) the government has sought to facilitate exports and expand antidumping remedies. Through Executive Act Nº. 541/2011 (later converted into Act Nº. 12,545/2011), the federal government expanded the resources made available to the Export Financing Fund (FFEX) and created 120 positions for Foreign Trade Analysts. In 2013, the Dilma Rousseff administration, under pressure from the São Paulo Federation of Industries to strengthen trade remedies,\(^\text{32}\) issued new regulations of administrative procedures in anti-dumping actions.\(^\text{33}\) This created legal formalities and hence more opportunities for lawyers.\(^\text{34}\) In fact, one lawyer noted:

Currently, Brazil applies the highest number of anti-dumping measures in the world. This happened during the Dilma administration in particular, especially due to the Greater Brazil Plan, one of the pillars behind defesa comercial [trade remedies]. Besides industrial policy, this plan aims at desperately protecting our industry so that it does not suffer from freer trade; and that is where anti-dumping comes into play. […] With that, over the last two years, Brazil became the world leader in applying anti-dumping measures. The number of measures we [as a country] filed is scary. […] There is no political

\(^{30}\) The program aims at promoting long-term competitiveness for the country’s economy, in particular, because of its efforts to make the cooperation between the government and the private sector work. See http://www.pdp.gov.br/paginas/objetivo.aspx?path=Objetivos.


\(^{32}\) Considering Brazil’s de-industrialization caused partly by the increasing imports of Chinese goods, Brazilian businesspeople asked the federal government not only to “shorten deadlines in the investigation of unfair importations, but to be more strict regarding the inspection of suspicious products and extend the reach of surcharges or rights to goods that have proven unfairly damaging to domestic goods”. See Sergio Leo, “The government begins modernizing anti-dumping rules”, Jornal Valor Econômico, October 10, 2011. http://www.valor.com.br/brasil/1044186/governo-comeca-modernizar-regras-antidumping

\(^{33}\) Decree Nº 8,058/2013 creates the formal procedures to determine the existence of dumping through a formal system of petitioning, educating, and administrative decision making with fixed deadlines.

\(^{34}\) Prior to this time, anti-dumping was largely handled by technocrats as it was considered an administrative proceeding for which lawyers were not required. One respondent notes: “This has been another clear movement. Large law firms were able to take advantage, in a good sense, of a new niche. Rendering services in [trade remedies] defesa comercial was in the hands of consultants, who often were former DECOM technicians. They are people who retired and started consulting.” In Brazil, administrative legal proceedings do not require attorneys.
barrier to filing a case to investigate anti-dumping. [...] With the current protectionist policy, our work tends to grow.”

This view is also confirmed by the literature. Cynthia Kramer claims that “several countries are accusing Brazil of being protectionist” because the country “has started more investigations and applied more anti-dumping measures in the past two years” (Kramer 2015, 41). However, as she notes, “as long as the anti-dumping proceedings follow the procedure and rules established by the WTO Anti-dumping Agreement, nothing could be argued against Brazil” (Idem: ibidem).

Interestingly, this phenomenon has also had geographical effects and spurred trade services throughout Brazil. São Paulo and Rio de Janeiro – economic centers where you can traditionally find the largest corporate law firms in the country – are no longer the only places to practice international trade law in Brazil. Brasília, the country’s capital where the ministries are and the center of federal public bureaucracy, became an appropriate place to practice trade law as well. As we will explain in the next sections, the importance of anti-dumping measures and the legal procedures in the Department of Trade Remedies (DECOM) generated a strong demand for a new type of work, more connected with governmental relations and lobbying in the capital of Brazil.

**B. Organizing trade law practice and the inverted pyramid phenomenon**

The changing nature of trade law practice has led to a variety of organizational responses in the firms. The first deals with the flow of trade law cases and the problem it creates for staffing. At least until recently, it was hard to predict the annual volume of trade remedy cases. In fact, the government does not release longitudinal data on trade remedies used in Brazil, even though Brazil has been a major player in using such tools according to the existing literature. With that said, one observer noted that unlike customs law and other areas, international trade work itself is

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35Between 2011 and 2013, the government received proposals and suggestions to change the regulatory framework for trade remedies. This resulted in the publication of Decree Nº. 8,058 of July 19, 2013, which, among other aspects that are related to policies, drawn up in the Plano Brasil Maior. For an understanding of Plano Brasil Maior, besides antidumping investigations, it is interesting to note the context in which the plan was embedded while it was part of Brazil’s industrial policy agenda. For this, see Almeida (2009, 50-54).
episodic and disputes can drag on with long periods in which there is nothing for the attorneys to do. Therefore, that makes workload hard to predict.

While the new laws passed by the Brazilian government may change this situation as the volume of actions increases, firms have needed to find ways to keep attorneys at work during trade law down-time. Largely for this reason, in most of the law firms examined, the team working with trade remedies also handles competition law cases. The explanations offered by interviewees stress two factors: (i) that competition law professionals have taken advantage of their expertise and started working in an area with growing influence on general trade regulations, not restricted to international trade only; and (ii) that clients’ demands prompted synergies in complex international trade law disputes within law firms, which forced professionals to simultaneously deal with competition problems and trade remedies altogether.

In other organizational models, trade remedies cases are handled by the same team that deals with taxation. Specifically, one or a few tax attorneys are deployed exclusively to international trade, usually the most experienced. These attorneys are in direct contact with the client in key matters, and they define the general strategy for handling cases, while other team members – who deal with a variety of trade remedy and other issues – work on everyday tax legal proceedings.

Despite the focus on competition or tax law, we noticed some specific team formats within the organization of law firms. Even though the number of lawyers per team may vary according to the size of each firm – which are different, for example, between full service offices or boutiques – it is not so common to see the pyramid model that is common to the legal profession, in which the lesser the qualification and

36 “In the old law, we were talking about one year or one year and a half of work [on a trade remedy case], with seasonal peaks. (...) In certain months, you might not bill one minute to that client. But in the customs area, it is the opposite. There are ad hoc consultations, whether they are smaller or larger, with more or less recurring clients, but it demands the attorney’s time. So, if we work only with trade remedies, at certain times, attorneys will have to work many nights, and during others they will have nothing to do. We are under the impression that, with the new law, this seasonality will become more predictable. (...). The forecast is that investigation lasts ten months. (...) As a rule, [work with trade remedies] is very seasonal, so it is good to have a large volume of consultations, customs matters, contracts, etc.”

37 “Boutique has come to refer to highly specialized small firms residing in the corporate ‘hemisphere’. These firms cultivate their comparative advantages in selected specialties and suppress any push general coverage in order to maintain their attractiveness for referral work from big firms” (Galanter and Palay, 1994, 916).
experience, the larger the number of professionals.\textsuperscript{38} In fact, many teams, according to the interviewees, had the same number of interns, junior, and senior attorneys. In sum, some interviewees indicated that the international trade law market is marked by a phenomenon known as the “inverted pyramid:” some teams have more experienced attorneys than newcomers.

The “inverted pyramid” is coherent with the narrative that “the positions are taken” in the field of international trade law in Brazil. However, considering the scope and method of this research, there is still no way to tell how permanent and widespread is this trend. We gathered this perception from small and large firms alike, but it would be a mistake to conclude that all the main international trade law firms are affected by the "inverted pyramid" feature. However, it is certainly a new facet of the Brazilian market that is deeply connected to cyclical rhythm of international trade law demands.\textsuperscript{39}

\textbf{C. Trade lawyers onto government relations}

Finally, another development has been the rise of consultancy firms specialized in international trade and the ascension of lawyers within them. The growing role of public policy in the trade area, including efforts both to stimulate exports and protect domestic industry from imports, has created a demand for information about these

\textsuperscript{38} According to Marc Galanter and Thomas Palay in a classic study on the “tournament of lawyers,” firms working with business law in the U.S. are structured as follows: they have a large group of salary-based junior attorneys, selected from the best law schools in the U.S.; they impersonalize relations with clients (the relationship is with the office), promoting hierarchy and “full time” and “senior” attorney are separated; and they promote competition within the “up or out” logic (attorney makes partner or moves to a smaller firm) (Galanter and Palay 1994, 77-120).

\textsuperscript{39} Categorizing attorneys as junior, senior, and partner appeared in several interviews, even if there was not a specific criteria to define how each firm handles this classification. Yet, it was possible to note that higher education, e.g., graduate degrees abroad, and time of service are the main criteria mentioned by the interviewees to classify attorneys working with international trade law. For instance, a female professional reported that all attorneys participating in the Geneva Program are currently in leading positions, i.e., in seniors or partners in their firms. For a comparative view of the internal organization of law firms, refer to a study conducted by Gabbay, Sica and Ramos in this volume, who gathered the followed information: “We have an assessment of what weight varies depending on whether you are a junior or senior attorney. Obviously for seniors, what matters the most? Relations with the client. For a junior, what matters the most? If they are learning, if they are evolving. So, even a sophisticated assessment, which varies according to seniority, can generate importance. According to this importance, you may be promoted annually until you make partner.”
policies and well as for lobbying efforts to influence them.40 Within this context, over
the last few years in Brazil, new consultancies specialized in government relations
and lobbying have appeared. These groups develop relations with the key decision-
makers who determine how export policies are structured and import protections
enforced. This business, largely based in Brasilia, has attracted trade lawyers as
well.41

In the next section, we will explain how the rise of consultancy firms in
international trade law is part of a bigger transformation in the field in Brazil, spurred
by the move from WTO litigation to trade remedies and the return of protectionism in
a context of global economic crisis. This transition has also produced effects in the
way that these lawyers work and collaborate globally. Some lawyers have created
international desks inside big law firms, while others have developed new
organizational models to work in this field via “consultancy networks” and firms
specialized in governmental relations. These changes are evidences of how these
professionals are actively creating new fields for a high valued legal work.

III. Reinventing services and ways to attract clients – desks, networks and
government relations

The literature on the sociology of professions has emphasized the existing
tensions in implementing a “single model” law firm, which was promoted by the
international law firms in the U.K. and the U.S. with presence in several European
and Latin-American countries (Morgan 2009; Muzio and Faulconbridge
2013).However, it is problematic to assume that the globalization of the legal
profession has led to mastering a “single method” to attract clients and work in the

40 Such movement had already been identified by Richard Baldwin and Simon Evenett after the
financial crisis of 2008: “Trade is experiencing a sudden, severe and globally synchronized collapse.
Protectionist forces have already emerged and will strengthen as the recession gets worse. But this is
not 1930-style protection. Governments’ crisis-fighting measures have spawned new, murkier forms of
protection which discriminate against foreign firms, workers and investors – often in subtle ways. The
use of WTO-legal protection, such as antidumping measures, is also up sharply.” (Baldwin and Evenett
2009, 1)
41 A good example is Welber Barral. A former professor of international trade law and Secretary of
Foreign Trade under Lula, Barral now runs a foreign trade consultancy in Brasilia.
http://www.barralmjorge.com.br/
international trade area. In fact, there is still some “heterogeneity” in organizational models in legal practice across countries, with different ways to work with and aim at clients. According to the interviews, this seems to be true regarding international trade law in Brazil and the diversity in the structures of Brazilian international trade firms.

Indeed, in Brazil, it is common to separate full-service from boutique firms (Ghirardi 2014, 74). The former work with all the main areas of law and render services to clients of different sizes, with a large team of attorneys in different hierarchic positions that eventually work together in big projects. The latter offer services focused on specific areas of the law and rely on a “small team” of attorneys, which often includes legal academics in their teams. Yet interviewees were skeptical about the possibility to create new boutique firms focusing on international trade today. Namely, they highlighted the following reasons for that perception: the unpredictable demand, the specificity of the work, and the challenges to have specialized attorneys working solely in international trade. Therefore, in Brazil, over the last two decades, there has been a trend for the larger full service firms to handle international trade.

Despite the limited size of the international trade area in large firms in Brazil, it was possible to see some other important transformations over the last ten years (2004-2014), which are related to the impact globalization has had on this segment of the legal profession. The first is the rise of specific units (“desks”) to work with foreign clients. The second is the appearance of “network firms” focused on

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42 Recently Galanter and Henderson (2008) explained that the concept of large law firms and the promotion-to-partnership tournament might be revised, considering the transformations taking place in the organizational models in corporate business in the U.S..

43 According to the “Análise 500” ranking in 2012, the main full-service offices in São Paulo are: Pinheiro Neto Advogados; Machado, Meyer, Sendacz e Opice; Mattos Filho, Veiga Filho, Marrey Jr. e Quiroga Advogados; Demarest e Almeida Advogados; Siqueira Castro Advogados; Dannemann Siemsen Advogados; Tozzini Freire Advogados; Verano Advogados; Barbosa, Müssnich & Aragão Advogados; Souza, Cescon, Barrieu & Flesch; Trench, Rossi e Watanabe Advogados.

44 Also according to the “Análise 500” ranking in 2012, the boutique law firms are: Advocacia Mariz de Oliveira; David Reshulski Advogados; Gusmão & Labrunie; and Kasnar Leonards Propriedade Intelectual.

45 Concerning this classification, the paper “Corporate Law Firms: the Brazilian Market” places these denominations into relative terms. The common meaning of a full-service firm is one with broader practices in several areas of law, while a boutique firm is more specialized in one or a few areas. However, due to the respect that these terms have acquired over the last years, some firms call themselves boutiques for more prestige, to escape the fame of little personalization that the so-called full-service firms have. (Gabbay, Sica and Ramos, this volume)

46 Work with international trade, however, is found in different types of firms, in boutiques and large full-service firms. Differently, in India, there are more boutique firms working in areas involving international trade. (Shaffer, Nedumpara, and Sinha 2014, 10-11)
consulting for international trade, relying on professional relations constructed globally. The third is the growing importance given to government relations, and the growth of consultancies focusing on anti-dumping and other trade remedies.

A. The rise of international desks at large-scale law firms

The first important transformation seen in the organization of firms working with international trade was specialized relations with foreign clients. Some firms, of large and medium size, implemented desks to attend clients from specific countries, an approach established in the 2000s that seems to be expanding. In 2001, for instance, *Felsberg e Associados* created a “China Desk” for “matters related to business between Brazil and China.”47 In 2005, *Trench, Rossi e Watanabe* announced the inclusion of a desk to “tend to clients in business with companies from Brazil and the Popular Republic of China.”48 In 2011, *Machado, Meyer, Sendacz e Opice* also announced their “China Desk,” “in response to the intense demand for consulting services and advisory generated by business involving China”49.

Basically, the desk model consists of (i) allocating within the firm professionals with experience in other countries’ legal systems; and (ii) allowing and facilitating communication with foreign clients in their local languages. It is a modality of work that is easily identifiable in large law firms in other countries, such

47 Later, in 2005, Felsberg e Associados hired an attorney in China. In 2008, they began operating an outpost office in Shanghai, which allows “not only to offer Brazilian clients the infrastructure required to make deals in China, but also direct contact with local clients and partners, as well as allowing for constant update on the legal and business environment in China and Asia.” See http://www.felsberg.com.br/desks/china-desk/
48 The “China Desk” at “Trench, Rossi e Watanabe” was taken on by Daniel Cheng Chen, who graduated from Universidade Presbiteriana Mackenzie and worked at Baker & McKenzie International in Shanghai and Hong Kong.
49 In the case of “Machado, Meyer, Sendacz e Opice”, the China Desk is led by a Chinese attorney who graduated from Law School at the São Paulo University. According to the information provided by the firm, “an important differential for the China Desk at Machado Meyer is the support provided the attorney Tang Wei, consultant for matters related to China. Tang was born in the capital city, Beijing, and has lived in Brazil since 1988. Here, he learned to speak Portuguese and attended Law School at Largo São Francisco, São Paulo University. Today, besides being the head of the China Desk, Tang is the General-Secretary at the Brazil-China Chamber of Economic Development (CBCDE) and offers consultancy to most of the Chinese companies operating in Brazil.” See http://www.machadomeyer.com.br/noticias/para-atender-demanda-crescente-nos-negocios-com-a-china--machado-meyer-advogados-lanca-seu-china-desk
as the United Kingdom\textsuperscript{50} and Turkey\textsuperscript{51}. Among the law firms analyzed in our research, most of them in São Paulo, it was possible to identify the predominance of “national desks,” focused on working with clients from certain countries, instead of “regional desks.”\textsuperscript{52} There are examples of “Korean desks” as well as the “Chinese desks” mentioned above, similar to those in Italian and other U.S. and European law firms that focus on the Chinese market (Bocconcelli and Pagano 2013, 7). To better understand how desks in Brazilian offices work, we refer to the description by an attorney working at a desk in a full-service firm in São Paulo:

> We used to work with approximately 90\% Korean companies. We provide attorneys with the theoretical and practical background in national law. The most significant challenge for firms with desks is to have attorneys who are not merely translators. [...] By offering qualified attorneys in technical aspects, the firm started to attract larger cases from the Asian market. In parallel, I took part in creating the Korean Desk at the firm and then other desk areas were created from the perception that it was necessary to show the client that there are people here who understand their culture. The attorney who does not have the flexibility to meet communication standards imposed by the client has no way of surviving in this market. Understanding the best format to communicate with the clients is key to standing out [in the international trade law market].

The desk model enhances services in international trade law, initially, not due to a simple matter of a expertise in international trade law, but rather to a receptive structure for foreign clients, strengthened by the presence of a fellow countryman attorney for the foreign client (for instance, this situation can be visualized when one sees a Chinese attorney providing services to Chinese clients in a Brazilian firm). It is

\textsuperscript{50} David Wilkins and Mihaela Papa, in a study on the impact of globalization in India, noted that most international firms work actively in cross-border transactions related to India. The most important firms in the United Kingdom have an “Indian Desk” with dozens of attorneys. These professionals are hired from the best Indian schools and their work consists of dealing with Indian clients and handling commercial transactions related to India (Papa and Wilkins 2011, 185-187).

\textsuperscript{51} “Kiliç & Partners,” a law firm based in Turkey, also has “special desks” to provide services focused on specific regions and legal systems. The firm’s model revolves around “regional desks” (African Desk, American Desk, Asian Desk, CIS Desk, EU Desk, Middle East Desk) and does not have “national desks”, as identified in Brazil. See: http://www.kilicandpartners.com/international.php

\textsuperscript{52} An exception is the Tozzini Freire Advogados firm, which, besides having desks for China, Japan, and South Korea, also offers “regional desks” for German-speaking and Latin American countries. See: http://www.tozzinifreire.com.br/areas-de-atuacao/
a work model that has already been adopted by several large law firms worldwide, impelled by the need of searching for new strategies to strengthen ties with clients from different origins, but involved in commercial relations on a global scale. For the globalization Brazilian profession, this seems to be an organizational framework that can be adjusted to work with law firms in international trade (Papa and Wilkins 2011).

B. Building “networks” and the rise of new consultancies

The second important change that this research sheds light on is the development of “collaborative” work between international trade law firms in Brazil and elsewhere. These joint efforts have been improved by the rise of “network consultancies” that adopt a flexible work model based on projects.

Legal representation in cases involving Brazil at the WTO tended to be done through the association between Brazilian firms and specialized offices from abroad (Shaffer, Sanchez, and Rosenberg 2008, 430-435). As Brazilian firms expanded their expertise in this area, they maintained relationships with major firms in the U.S. and Europe. At the same time, because of the increasing number of Brazilian attorneys, including trade lawyers, who received their LL.M.s at American universities (Engelmann 2010, 18-20) and stayed on for internships at U.S. firms, ties with U.S. firms also strengthened. As a result of the prosperous relationship between the small elite group of trade lawyers in Brazil and those elsewhere, this confirmed that Brazil was aligned with global trends. (Shaffer, Sanchez, and Rosenberg 2008).

Namely, international networks for Brazilian law firms became more available, playing a key role in international exchanges. Many of the demands for work in international trade law come from such “networks,” with no formal ties at horizontal or vertical levels. Brazilian law firms are often hired by foreign offices to clarify specific points or to work together on cases involving Brazilian matters. This

53 Namely, when the firm works for the client investing abroad, it does so in partnership with local firms.
54 We have adopted the concept of “network” from David Wilkins and Mihaela Papa, which, in general terms, means any collection of actors pursuing continuous relationships for exchange, but does not have any legitimate organizational authority to solve or arbitrate conflicts that may emerge in this relationship, constituting a horizontal socialacentric organization (Wilkins and Papa 2013, 1165). See other forms of internationalization of Brazilian law firms in the Paper Corporate Law Firms.
has favored the creation of informal partnerships and facilitated the expansion of the network between international trade offices. According to one interviewee working with tax law, informal partnerships with foreign firms are crucial to obtaining foreign clients, sometimes even splitting fees:

When it comes to customs, much of the work comes from other firms. There are always specific questions from their clients or studies on how [organizations] in several countries work. (...) In [anti-dumping], when an investigation is filed, we let our contacts know. They often have clients who they refer us to, and we handle the case directly with the company. (...) They get part of the fees because they will have to do something.

One of the reasons behind the coordination of such networks is the active search for clients through referrals, considering the limited size of the market in this area. Recurrent demands are usually related to international trade practice, which requires the attorney to work in the structuring phase of commercial operations with the client. In the end, trade remedies matter for everyday trade lawyering, whereas international litigation at the WTO occur in episodically and unpredictably:

You do not have WTO cases every day. Neither here nor in the U.S. You do not have law firms dedicated exclusively to the WTO. You have stages. Even in trade remedies, you do not get a recurring demand. Recurring demand is operational aspects of foreign trade. So, the main issue is actually that we [the lawyers] need to generate demand all the time.

These three factors – (i) a random flow of work, (ii) high specialization, and (iii) cooperation to strengthen international trade law – have helped form a coherent network of professionals in this legal field. As our interviewees attest, international trade law in Brazil is a small field but is relatively well connected to attorneys from other parts of the world. One attorney, for instance, said that all Chinese companies that her company served have become clients due to referrals and contacts from Chinese attorneys. Such referrals are crucial to creating “social capital”55 in order to

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55 We use the expression “social capital” in the definition given by French sociologist Pierre Bourdieu, who became influential in the sociology of law (Bourdieu 1987; Dezalay and Garth 2002). The concept of “social capital” puts emphasis on conflicts, on the role of power and on the social relations that increase an actor’s ability to further their interest.
stabilize expectations and “build trust” among agents from different locations (Chinese companies and Brazilian attorneys):

All of our work, our client referrals, comes from attorneys. We have referred our clients to foreign attorneys and receive clients from attorneys abroad. All my Chinese clients were referred to me by Chinese attorneys in the international trade area with whom I deal, namely because the international trade market is small, not only in Brazil. It is small everywhere. Everybody knows who is who all over the world. There are very few here, very few in China, there are very few in the U.S., very few in Brussels. So everybody knows everybody. Attorneys specialized in international trade in China know who I am. They refer me to their Chinese clients. Attorneys specialized in international trade in the U.S. know who I am and refer me to their clients from there. And so on. There is a very well established network of contacts. (...) Most have graduate degrees from the same places. (...) There are people who have a graduate education, but there are also those who work in the area and know each other from conferences and law school.

Over the last few years, the importance given to building “professional networks” has been noticed by some Brazilian attorneys, who decided to experiment with new ways of working, using foreign models for consulting firms. The clearest example is Uno Trade Strategy Advisors. Founded in 2006, Uno is based on connections between international trade attorneys from different countries (Brazil, Argentina, India, the US, among others). It is a flexible work model, in which consultants with different abilities are called in for specific cases to assist companies, associations, and governments. According to one of the interviewees, Uno is based on

56 The process of building trust, according to one of the attorneys interviewed, is multifaceted: “It is difficult to answer how relationships of trust are built among these professionals. The relationships are very much word of mouth. It is case by case. ‘You did well, you showed you master the subject.’ ‘You either won or lost, but it was not your fault, you could have foreseen the defeat.’ I have some contacts from Georgetown, but only one still works in the area. The rest of them jumped on a plane, went to visit the consultancies, shake hands, ask for referrals from other consultants, this type of approach”.

57 See, for example, the World Trade Advisors: [http://worldtradeadvisors.com/]

58 “UNO offers a full range of consulting services related to international trade strategy: trade remedies, market access, tariff and non-tariff barriers, customs, trade creation and enhancement, capacity building, negotiations for preferential arrangements, among others. UNO is a network of multidisciplinary advisors with different professional backgrounds and nationalities, whose experience and diversity uniquely position UNO to analyze complex issues creatively and accurately, and assist governments, business associations and companies develop and implement tools for maximizing the results of their international operations.”
relationships between professionals from different parts of the world. It is a model for network-based and multidisciplinary consultancy:

Some professionals are independent, some are partners. We have a firm here, in Washington, and a consultancy in Argentina. This is who we are. Now, in other parts of the world, it always [works through] partnerships and other professionals like us. What is interesting in international trade is that the legislation is the WTO, so all of our background is the WTO. All of our legal framework is there, even if each country has internalized the rules their own way. So, with my knowledge of the WTO and dumping and subsidies, I can work without much difficulty in the U.S., in South Africa, in Europe, in Argentina or in South Korea. What happens? Usually, there are attorneys who defend exporters who sell to Brazil, petitioners here, or there are attorneys defending our exporters in other parts of the world. So there is this confluence of works. I may be here working in Brazil, on an investigation that Argentina started against Brazil, and the basis is going to be more or less the same. What do I need to know? A lot of accounting, a lot of figures, preparing the company to present an answer, it is good for me to have a local partner to remind me of specific deadlines there, which are different, and a contact with the authorities. Thus, we work on a lot with global partnerships. We have reliable consultants in Indonesia, Thailand, South Africa, India, etc.

Such a consultancy model sets itself apart from traditional law firms in at least three aspects. First, because consultants are not formally connected to the office, and the work is referred to as “ad hoc.” Second, because professionals who engage in these different consulting projects work in different parts of the world and communicate electronically. Third, because there is the flexibility to discontinue or suspend the professional relationship with the consulting firm at any moment, considering that these professionals work with specific projects. Therefore, such a model is different from the traditional Brazilian law firms, which mostly have stable working relationships with their attorneys (Gabbay, Sica and Ramos, this volume).

59 According to Galanter and Palay (1994), one of the main characteristics of the organizational model at a large law firm is salary-based work and the hierarchical relationship among professionals.
Besides the characteristics described above, it is possible to see that the model for consulting firms specialized in international trade helps create professional “networks” on a global scale (Dezalay and Garth 2010), considering that the flexibility in hiring consultants from different countries allows new professionals to be referred by members already connected to the network. In other words, the existence of a “network” model for professional organizations generates the potential to expand existing connections among and between these professionals.

C. The legal profession onto government relations

The third important change in Brazil’s legal practice in international trade is the appearance of consultancies and law firms focused on government relations (or public affairs). This phenomenon is connected with at least three factors: the fragmentation of the multilateral trade system and the strengthening of industrial and commercial defense policies; economic destabilization resulting from the 2008 financial crisis; and, in Brazil, modernization of trade remedies as a pillar in the Greater Brazil Plan of the Dilma Rousseff administration (Ramaswamy, 2014; Kramer, 2015).

It is a fact that working with government relations has always existed at law firms. However, it was decentralized with no organized practice group. Conversely, this is currently coordinated, and the area is increasingly seen as important to Brazilian law, with potential to expand to a larger number of firms seeking to solve their clients’ demands. While in the U.S. this kind of activity is regulated, in Brazil there is still some resistance to regulating the relationship between public and private organizations, as talking about “lobbying” has a very negative connotation. Interviewees offer the idea that cooperation between the public and the private sector is something that still needs to be developed in the country. According to one interviewee:
Government relations are directly related to trade. Because trade, it effectively has this contact with the government, that is where it was developed, and it is from this point on that the [law] firm also nurtures the new area for us [lawyers], which is an area a little… it is an unusual area, there are few firms where you are going to find it. My office already did it in a decentralized manner, that is, many areas have, albeit with their own attributions, a relationship with the government, but not in a coordinated, centralized way, using the Brasília teams, and that is what we started to do. And, clearly, it is an activity for the future. American firms have had government relations for much longer. It is a regulated activity in the U.S., and in Brazil it is not. But we believe that at some point lobbying will be regulated, and I believe firms have to pay attention to this, this will take up some room. As for quality services, our legal knowledge is crucial in the relationship with the government due to matters of compliance, even in formulating proposals for public policies. So I think this is the side Brazil has yet to develop, right? Today very few proposals that are being discussed by our congress, or that are put forward by the Executive Branch – which is the driving factor behind legislation here in Brazil – come from the private sector. Thus, law firms will acquire this capacity, and I am totally against this theory that “oh, the private sector cannot…” you have to be hands on. Of course, the government has to play its part in understanding whether it is something that will benefit a company or if it is beneficial from the public interest point of view, this is something else. The private sector should be the main motivator for reform and legislation proposals, but it is not.

Among some interviewees, whose firms have developed a specific area for government relations, there is the notion that public affairs will grow and that Brazil will adopt the American model to regulate lobbying.

This is an area [government relations] I believe will tend to grow. Brazil needs to lose a little of that old feeling that it had: fear of lobbying. (...) A law firm offers the client a guarantee that all this [government relations] will be done as ethically and as correctly as possible. (...) Another important part that is also taking place is negotiations with governments, at different levels, municipal,
state, regarding tax incentives and benefits. You are going to set up a factory somewhere – and we have been doing this a lot – a greenfield project, something new, (...) we negotiate and there was a time when there was an entire floor of our office dedicated to negotiating with several different cities, with several governments, with corporate people, who set up camp here [for] weeks, negotiating with everybody. (...) And discussions [being held] like this: (...) what is the package of benefits each state and municipal legislation allows and what is each government willing to offer in order to receive a new factory with all the benefits it will bring?

Trade remedies work invariably involves government relations, according to many interviewees. In fact, there is no uniformity in their discourses regarding precise services provided, but a common aspect lawyers pay attention to is to offer a service that encompasses negotiation skills to handle the many faces of the Brazilian government, i.e., federal, state, and municipal. Negotiating, for instance, tax subsidies to implement factories, as well as more complex import and export operations that require negotiations with federal level entity is increasingly becoming part of these lawyers’ agenda. There are also those who negotiate trade remedies tools, proposing services that require a safe conversation with government agencies. Even though professionals prepare and build up expectations to develop this market, according to some interviewees, not every agency regulating international trade is willing to maintain a conversation with the private sector and their respective representatives. The opinion of one attorney working with international trade since before Brazil opened up commercially highlights how Brazil still needs to develop intra-organizational communication mechanisms:

Inside this area [government relations], when the government – The Ministry of Industry and Trade, the SECEX – has to make a decision (...), regarding international trade, it has to look to inside and outside. There has to be a certain balance. So, what we tell our clients who are here [in Brazil], who manufacture, who are settled, that you [the client] cannot be anonymous. The Secretary of Foreign Trade cannot ignore you. You need to go there, (...) [and] when it does something there [inside the Secretariat’s normative attributions] that will affect us here [the private sector], it needs to listen to people. (...) This usually
happens within the scope of the Ministry of Industry and Trade and there are always those public hearings. (...) It is important for the company to have a relationship, in the positive sense of being there [in the arena of communication with the government] constantly, informing the government of what it is doing, what it is investing in, where it is going to. (...) Within the framework of the Ministry of Industry and Trade, this dialogue is very easy. But in the framework of the Ministry of Finance, it is a lot more distant. (...) There is virtually no [contact with customs authorities]. That is, there is the customs control, the government [exists], but for you to go there and ask to speak to the [customs] authority that is working on the clearance and explaining something “look, this is wrong because of this, this, and that”, forget it. It is the “middle-man” who goes there and has extremely limited access. If there is constant turnover of agents, (...) regarding the decision-makers, the [administrative] processes are ruled upon in other regions (...), so there will be no contact, there is no influence. Which, on the one hand, of course, is noble in the sense of avoiding any problems with corruption (...), but also you cannot overdo this thing [the justification to restrict communication], on the other hand, you cannot speak with the person because presumably (...) you want to corrupt them.

There are evidences that, besides the focus on government relations offered by large law firms, consultancies specialized in trade remedies and public relations have appeared in Brazil. They offer consulting services in foreign trade focusing on accompanying investigations, adjusting to meet special customs regimes, obtaining appraisals and import licenses, just to name a few.60 In this consulting work, obtaining clients is similar to how large law firms and network consultancies operate. In sum, the “networks” are crucial to forming truthful relationships with foreign clients.

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60 Guidance offered by law firms for trade remedies and public relations is, in a certain way, related to Brazil’s industrial policy and the close relationship between the Executive Branch and leaders from the industrial sector. As noted by Muruga Ramaswamy, given the exponential growth of China, “Brazil has reviewed its anti-dumping legislation and broadened the scope” (Ramaswamy 2014, 94). Behind this “modernization” there is “growing domestic pressure and an industrial lobby to rejuvenate the manufacturing sector,” forcing the Brazilian government to “appeal to litigation measures such as antidumping”. The reaction the Brazilian government had was to “announce its intention to use this remedy to mitigate concerns held by the domestic market” (Ramaswamy 2014, 95). Law firms have followed this trend, actively participating in lobbying through institutions, such as IBRAC, and started offering specific services to Brazilian and foreign clients, focused on consulting for foreign trade and commercial trade.
Despite the different ways to work and organize international trade practice in Brazil, the narrative offered by Brazilian attorneys shows that they are strongly connected to foreign professionals and work constantly to find foreign clients, generating demand for legal services and expanding contact networks in the area. Creating desks and network consultancies corroborates the interpretation that globalization and the increase in cross-border transactions have modified part of the Brazilian legal profession, making it more connected to and dependent on international contacts and services. Conversely, the return of industrial policies in a post-crisis moment and pressures from applying anti-dumping measures to protect domestic industry, have had an impact on the focus of work for some clients and on the strategy to attract clients, whether it is Brazilian companies interested in anti-dumping measures or foreign companies that feel harmed by barriers blocking exports to the Brazilian market. In the end, while it is true that external factors have impacted the Brazilian legal profession, it is also noteworthy how ably and savvy Brazilian trade attorneys have been in protecting their field by expanding their connections abroad and with representatives from the government.

As shown in this paper, international trade law in Brazil is a small legal field in which law firms compete with new “network consultancies” and consultancies specialized in governmental relations.

**Conclusion**

The globalization of the legal profession in Brazil, particularly in the field of international trade law, comprises “multiple carefully negotiated and highly complex processes at the intersection of the local and global realms of legal activity” (Papa and Wilkins 2011, 27). The changing pattern of litigation at the WTO, the decline of the multilateral system for trade, and the rise of protectionism in a scenario of global crisis have affected how Brazilian lawyers organize themselves and how they envision their activity in this field. In fact, while this work was being written, a panel on international taxation involving Brazil – respondent in this case – was composed at the WTO on March 26, 2015, which shows that the “WTO-market” is indeed changing, but not extinct. Purposely, this case was omitted from Graph 1 in order to reinforce the idea of adaptation that international trade lawyers face. Currently, Brazil
has able legal professionals to handle this type of dispute and this is good news. However, such fluctuations in this legal market can make one wonder whether Brazil has trained more professionals that it needed.

Our research allows us to draw some conclusions on the nature of these changes in this field. First and foremost, the fear that Brazil could not develop legal capacity was substituted by the anxiety created by the perception that there is no room for more international trade lawyers, which is consistent with lawyers’ accounts of organizational structure, innovation in the workplace, as well as the different models for rendering services that each firm offers. The low demand for litigation and dispute solution services at the WTO, an important issue that was not covered in the previous work of Shaffer, Sanchez & Rosenberg (2008) and Santos (2012), had several impacts on the market recruitment to the field. Regarding law firms structure, the services slowed down to the point where an “inverted pyramid” organizational model (were the cohort of skilled senior attorneys is significantly larger than the number of newcomers) has increasing relevance. In addition, although taxation and international taxation have been important areas to Brazilian law firms, the boundaries between international trade and international taxation have become ‘blurred,’ to use Sida Liu’s (2013, 676) words when he writes that globalization makes "the distinction between professional jurisdictions ambiguous." To be sure, the interviewees acknowledged the necessity of having specialized teams to work on international taxation matters that arise from international trade disputes; in fact, these teams usually deal with cases brought either to the WTO or DECOM in Brazil.

Bearing that in mind, to face the issues related to demand, attorneys started offering their services in correlated areas, such as tax law and, especially, trade remedies. They also created international desks inside big law firms and developed new organizational models, such as “network consultancies” and “government relations consultancies.” These innovations should be understood as a response to a changing pattern in the field of international trade law in Brazil, namely that lawyers are working much less with WTO cases. Trade remedies, such as anti-dumping measures, constitute the major demand for legal work in this field – an administrative procedure that involves domestic industries injured by imports and exporters from foreign countries. This fostered a double movement inside legal profession of trade
law: a closer attention towards international clients (via desks and networks of lawyers) and governmental relations.

Finally, the interviews indicated that Brazilian lawyers have been successful not only in ‘building’ legal capacity for international trade law, but also in ‘adapting’ it in order to prosper in an unstable context, changing the services they offer and seeking Brazilian and foreign clients as well as strategic partners in different ways. Instead of relying passively on demand, law firms had to prepare new types of services and reach out for clients offering an array of options. These lawyers demonstrated skills not only in the law, but also in business strategy, organizational methods, and marketing. Although none were prepared for these challenges by their legal education, they developed the appropriate aptitudes and relevant contacts through a variety of strategies, which allowed them to adapt to a changing market and overcome its vicissitudes.

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