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The changing politics of preference formation in
international trade negotiations: the European Union in the
Doha Round

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Introduction

Trade policy formation has for long been a prominent subject in the context of various disciplines. International relations, international political economy, public policy and comparative politics, in fact, have all tackled the question of how actors define their preferences over trade policies. Arguably, the so-called “politics of preference formation” represents the central concern of political scientists who aim at investigating the multiple aspects of trade policy-making. In this context, increasing scholarly attention has been devoted to analyzing one specific subset of “trade politics” of preference formation, namely the question of the determinants of trade actors’ preferences in international trade negotiations.

This study aims to offer an original contribution to this debate. However, it does not seek to do so either by proposing a refinement of existing theories, nor by empirically adjudicating between competing theories. Starting from the empirical observation that trade actors increasingly pursue simultaneously distinct sets of trade policies in international trade negotiations, the assumption this work rests upon is that theories have scope conditions and that a useful way to increase our ability to explain the social world is to outline the conditions by which variations in the relative explanatory power of different theories occur. More specifically, this study seeks to integrate into a single analytical framework two dimensions along which variations in the “politics of preference formation” can be organized: the configurations of power relationships among the relevant actors in the structures within which they interact as well as the logic and the motivations of the actors involved in the policy making process.

The changing dynamics through which a given trade actor shapes its policy preferences in international trade negotiations, therefore, represent the *explanandum* of this thesis. Issue characteristics and their variations, on the other hand, represent its *explanans*. Building on the “policy determines politics” argument, in fact, I suggest, that a causal relationship exists between issue characteristics and their variations, on the one hand, and patterns of “politics of preference formation” and their variations, on the other. More specifically, I hypothesize that the type of state-society configurations as well as the type of actors’ motivations in the “politics of preference formation” depend, respectively, on the degree to which a policy issue is perceived as politically salient and on the extent to which the distributional

implications of such an issue can be calculated by the relevant stakeholders in the policy making process. The empirical yardstick against which the validity of the theoretical argument proposed is tested in this study is drawn from evidence concerning the European Union's negotiating strategy in the context of the so-called WTO's Doha Development Round of multilateral trade negotiations.

The thesis is divided in two parts. In the first one (Chapter 1), I define the theoretical framework of my research by specifying the dependent and independent variables, politics of preference formation and its variations and issue characteristics and their variations. In order to do this, I review existing arguments concerning how actors define preferences over trade policies and construct a typology which identifies a number theoretically grounded hypotheses on how international actors define their policy preferences over trade policies in international on the basis of two analytical dimensions: configurations of state-society relations and actors' motivations. This typology distinguishes four types of politics of preference formation: executive politics, pressure politics, civil politics, and identity politics. Subsequently, after having reviewed some of the arguments that hypothesize about the issue-characteristic/politics nexus, I take stock of these arguments and propose my own analytical framework. At the end of the chapter, I briefly touch upon methodological issues.

In the second part (Chapter 2, 3, 4, 5), I subject the propositions developed in Chapter 1 to empirical scrutiny. On the basis of the analytical criteria set out in Chapter 1, I select four case studies to test the validity of the theoretical argument proposed. More specifically, I investigate the "politics of preference formation" of the EU in four instances of international trade negotiations. To control for the possible influence of different decision-making procedures, the four case studies have been selected from a single negotiating context, the so-called Doha Development Round. Consistently across the four case studies, I organize the theoretical analysis of the EU's politics of preference formation as follows. First, I provide a brief historical overview of the development of the EU's strategy throughout negotiations. Second, I carry out a preliminary "plausibility probe" of different hypotheses concerning the "politics of preference formation" on the basis of a deductive analysis. Third, I further discriminate about competing explanations by way of an in-depth process tracing approach. Finally, I systematically review alternative explanations highlighted throughout the analysis to further corroborate my argument.

In the conclusion, I summarize the main findings of the empirical analysis with a view to highlight the extent to which these fit with the analytical expectations set out in Chapter 1.

1. The research question: integrating the “whom” and the “why” of the politics of preference formation

The researcher who wishes to investigate the determinants of international actors' preferences in international trade negotiations today finds himself faced with a much more complex, although arguably also more intriguing, task than it would have been the case two decades ago. Not only has the empirical domain of this investigation changed dramatically, but also, and partly as a direct consequence of it, much broader is the spectrum of theoretical and conceptual tools he needs to build upon and confront to in order to offer an original and compelling contribution to the debate in the literature.

As far as empirical reality is concerned, over the past twenty years the nature of international trade has changed in terms of both content and process (Young and Peterson 2006). The terms used to describe such a change are numerous. Some have talked about “new trade politics” (Young and Peterson 2006), others of “post-modern trade agenda” (Dymond and Hart 2000, Falke 2005) or more simply about a “regulatory trade agenda” (De Bievre 2006, Woll and Artigas 2007, Hocking 2004). Despite these terminological differences, these authors are keen to recognize that a shift has occurred in international trade rules from negative prescription to positive rule making (Dymond and Hart 2000). Broadly speaking, the main feature of these ‘new trade issues’ can be understood in terms of an expansion of the world trade agenda from ‘at the border’ issues (tariffs and quotas) to ‘behind the border’ issues (national laws and regulations). When the Treaty of Rome was drafted, trade policy consisted essentially of lowering and eliminating tariffs or quotas. Successive GATT rounds, however reduced tariffs to minimum levels and extended the trade agenda to include first a range of non-tariff barrier issues (Tokyo Round) and then (Uruguay Round) domestic regulatory issues, such as services, environmental policies, food safety and animal health issues (Woolcock 2000). Trade policy is now open to questions that have very little to do with classic issues of market access (Falke 2005). In sum, today the international trade agenda includes issues which fall within the universe of domestic economic regulation and reaches deeply into the traditions and practices of domestic governance (Dymond and Hart 2000).

The implications of such a change are diverse. With enhanced interaction between

international and domestic issues, the trade environment has become more complex and politicized (Hocking 2004). On the one hand, actors traditionally involved in the trade policy making process have come to elaborate new concerns and demands focused on promoting multilateral disciplines on the adverse consequences of differences in domestic rules for international economic exchange (Young and Peterson 2006). On the other hand, new actors appeared on the scene. As Young and Peterson argue, ‘the deep trade agenda and the increased legalization of trade diplomacy have generated significant concerns among a number of groups that had not previously been engaged in the trade politics’ (Young and Peterson 2006:800). In fact, the increase in international regulation implies that trade policy in advanced industrialized countries is no longer an exclusive affair of trade officials acting only on behalf of import-competing and exporting industries, as was mostly the case until 1995. The emergence of the “new trade issues” resulted in a change in the balance of economic benefits of trade rules (Dymond and Hart 2000). New uncomfortable trade-offs brought about by clashes between multilateral trade rules and domestic regulations created incentives for new constituencies to mobilize. Among these, non traditional trade actors such as environmental and developmental NGOs entered the scene alongside other business and societal groups demanding regulation in diverse domains of public policy such as health, intellectual property, social policy, competition policy and investment.

Second, it must be stressed that the changes described above have taken place in the context of an international trading system whose characteristics have been substantially modified. With the establishment of the World Trade Organization in 1995, particularly as a result of replacing of the GATT’s model of political-diplomatic dispute settlement with a model of legalized dispute settlement, the international trading system has evolved into a quasi-judicial international regime. Without addressing all the details this transformation implies, its impact on the context within which domestic constituencies as well as governments decide over trade policies cannot be overlooked. Two effects are particularly relevant in this context. First, a more legalized trade regime provides more and better information about the distributional consequences of trade agreements. Second, legalization reduces the ability of governments to opt out of commitments by making international trade rules more tightly binding (Goldsteing and Martin 2000). While it is still open to debate whether these changes increase or hamper the pursuit of progressive liberalization, undeniably the set of incentives and constraints domestic groups and

governments face when formulating international trade policies have changed with respect to the pre-WTO context. In other words, both the international trading system and the environment within which trade policy-making takes place have gone through substantial changes which potentially broaden the scope of scholarly research on trade politics.

In parallel to these developments, and partially as a result of their effects, IR and IPE disciplines have witnessed a broadening in both their theoretical and empirical scope reflecting both theoretical developments in the “political science” world as well as the need to develop new research agendas and conceptual tools to take stock of the empirical transformations described above. As a result of both processes, IR and IPE scholars have found themselves confronted with both new challenges and stimuli in their efforts to theorize and conceptualize about how international actors define their preferences over trade policies. In the first place, what could be previously regarded as a realism/liberalism debate (a duopoly that resisted even when regime theory entered the scene), evolved into a more richer and multifaceted one as a result of the influence of the theoretical insights developed within the multiple strands of institutionalism and of social constructivism. The so-called institutionalist (Aspinwall and Schneider 2000) and constructivist (Checkel 1998) turns in IR and IPE, in other words, resulted in the development of overlapping and/or competing arguments which challenged both the traditional and voluminous pluralist literature which essentially analyzes trade policy preferences as a result of key interest groups pressures on governments and realist accounts interpreting trade preferences as a result of the system-driven, power-based government interests. In addition to these discipline-driven developments, the “trade politics” literature was further enriched as a result of the scholarly attempts to conceptualize the effects of the changing international trading system over the trade policy-making environment. Civil society, transnational advocacy groups and non-traditional trade constituencies increasingly became a matter of scholarly attention in reaction to the central role these actors came to acquire, both as targets and as input-providers, in the so-called “new trade politics”. Similarly, a new strand of research started to focus on the different implications of having made the international trading system “more binding”, with a predominant interest in the analysis of the various effects legalization on domestic politics and dynamics from both rationalist and ideational perspectives.

In sum, the broad IR/IPE debate on the politics of preference formation over trade

policies today has become much richer, more contested and more complex than it was two decades ago. Against this background, it is striking to note how little attention is paid within this literature to the fact that international trade actors increasingly pursue simultaneously distinct sets of trade policies in international trade negotiations and, consequently, that within each issue area different processes of preference formation can be observed. Surprisingly, only a limited amount of research has confronted with the theoretical challenges this empirical observation brings about. Most notably, the acknowledgment that in the new trade politics governments shape and define their policy preferences as a result of multiple and shifting “politics” across issues and institutional settings makes a strong and compelling case to move away from the entrenched debates between theoretical “camps” towards devising the conceptual and analytical tools that allow to uncover the conditions by which, within a single polity, one or another theoretical perspective is expected to provide a plausible account of observed patterns of preference formation.

The net result of having a larger number of smaller theoretical lenses to explain a broader empirical world is that each theory explains less and less of such an empirical world. Arguably, in this context it becomes more and more evident that theories have “scope conditions” and, consequently, that one way to increase our ability to explain the empirical world is to engage in an attempt to specify the conditions by which each theory is expected to provide a useful tool to interpret social phenomena. In other words, one would have expected research in this field to respond to the fact that we are confronted with an increasingly complex trade politics environment by shifting the analytical focus towards the organization and comprehension of these different types of politics of preference formations. As it has been argued, “if multiple and changing governance modes across issue areas exist empirically, then this methodological solution requires a more comprehensive theory or framework encompassing multiple types of politics in order to test the empirical evidence” (Yee 2003). In fact, the advantages of such an approach that aims at identifying the domains in which different theories hold relatively more explanatory power are certainly not overlooked in the literature. As Jupille et al. put it, ‘the domain approach works by identifying the respective turfs and home domains of each theory, by specifying how each explanation works and finally by bringing together each home turf in some larger picture. Each theory is specified independently and the result, if successful, is an additive theory that is more comprehensive than the separate theories’ (2003:21).

Despite the existence of compelling empirical and theoretical rationales for moving in this direction, however, very little efforts have been made to get “a broader picture”. In other words, while we are all ready to acknowledge that in different instances institutions, ideas, interest groups lobbying, international security concerns etc. may represent key variables in shaping actors’ policy preferences in international trade negotiations, little attention has been paid to theorizing about when can one plausibly expect one of these analytical perspectives to be more relevant than others in accounting for the causal mechanisms result in a given policy outcome.

This is so for a number of reasons, mainly related to methodology. In general, it seems fair to argue that simultaneous processes of preference formation are difficult to explain for scholars accustomed to using either singular cross-national concepts to analyze or refine one stable type of trade politics, or methodological tests to empirically adjudicate between competing singular types (Yee 2004). The argument Yee develops, although in a different context, is illustrative here,

the emergence of multiple governance modes both intra-nationally and supra-nationally has posed vexing analytical problems for scholars accustomed to ascertaining and illuminating singular patterns of governance. When confronted with the apparent coexistence of multiple governance modes, they have often relied either on concept refinements to enhance the accuracy of their descriptions of singular governance modes, or on methodological adjudication between competing governance modes to ascertain the one model that best explains the empirical evidence. However, both analytical strategies encounter difficulties when the empirical reality consists of irreducibly multiple and repeatedly shifting modes of governance (2004:515).

Of course, by claiming that only little attention has been devoted to addressing this theoretical challenge I do not mean to disregard the few attempts that have been made in these direction. In fact, by explicitly or implicitly building on Lowi’s insights about variation in politics and policy-making across issue areas (1964), a number of analytical frameworks have been proposed to account for “trade politics” variations. These studies, however, suffer from two major weaknesses. First, often they tend to adopt a descriptive rather than a theoretically-driven approach, thereby failing to specify the causal mechanisms that link issue-characteristics and their variations with “politics” dynamics and

their variations. In other words, while these studies suggest that a certain pattern of “trade politics” is to be expected in relation to particular issue-characteristics they fail to explain why is it so (see, for instance, Peterson and Bomberg 1999, Young 2007). Second, even when these attempts are based on a theoretically rigorous specification of the issue characteristic-politics nexus, they do not tackle the question of how to integrate into a single framework theories that deal with the configuration of power relationships among the relevant actors in the structures within which they interact, on the one hand, and theories that investigate the logic and the motivations the actors involved in the policy making process, on the other.

As far as the first dimension is concerned, for instance, the key question different studies address is understanding whose preferences should a policy outcome be conceptualized as a function of. A variety of different perspectives have been proposed looking at the preferences different actors such as interest groups, parties, domestic institutions (or specific bureaucracies within the institutional structure), international organizations, transnational actors, etc. In this context, for instance, a number of authors have sought to overcome theoretical divisions by developing some arguments as to how to explain when one or another hypotheses is expected to be more powerful in shaping policy outcomes. Besides the traditional arguments which conceive interests groups influence as a function of the expected distributional consequences of alternative policy options, for instance, it has to be noted that various arguments have been developed suggesting that patterns of policy-making can be understood by looking at variables such as variations in issue salience (Mahoney 2007, Verdier 1994), issue transparency/divisibility (Ugur 1998), issue complexity (Pollack 1998, 2003), issue divisiveness (Verdier 1994).

With respect to the second dimension, in addition, a theoretical division has emerged between rationalists and constructivists, with the former group studying the trade politics through the lenses of a rationalist research agenda, thereby treating policy outcomes as the result of strategic exchanges among actors with pre-existing material-informed interests and the latter group privileging theories that emphasize the role of ideas and cognitive factors in both shaping and constituting actors’ preferences and influencing social processes of interaction among them. Even in this context, a number of authors have taken up the challenge of identifying the conditions under which each hypotheses holds true by pointing at issue-characteristics and their variations as a promising way to achieve this objective

(Checkel 2001, Finnemore and Sikkink 1998, Garrett and Weingast 1993, Niemann 2004, Risse 2000).

Despite these attempts within each strand of the literature, however, no attempt has been made to develop an analytical framework that takes into account variations along these two dimensions simultaneously. No attempt has been made to devise a unitary framework to account for variation in the relative explanatory power of different hypotheses derived from theories that deal with governance dynamics and from theories that are concerned with the motivations driving actors' behaviour in social interactions. This is the central puzzle this research aims to address. More specifically, I build on existing research and put forward my own proposal as to how variations in the explanatory power of different hypotheses concerning how international trade actors shape their preferences over policies can be systematically combined with variations in issue characteristics with a view to integrate the two analytical dimensions described above into a single framework. The central question this research addresses, therefore, is not only that of identifying the conditions by which different actors succeed in having their policy preferences transformed into policy outcomes. Nor only that of explaining the factors that influence whether actors shape their preferences on the basis of ideas rather than interests. The ambition of this study is to integrate these sets of question and to develop an analytical framework that allows to take stock of variations in the relative explanatory power of propositions along both dimensions. In other words, the aim is to provide the conceptual tools to put forward some plausible arguments both on questions of "whom", who dominates the politics of preference formation, and on questions of "why", what logic drives that actor in a particular negotiating instance.

As far as the empirical side is concerned, this research takes the European Union (EU) and, more specifically, the EU's politics of preference formation in the context of the so-called Doha Round of multilateral trade negotiations as the yardstick to test the theoretical propositions it develops. The reasons for this choice are numerous. From an empirical viewpoint the EU and its approach with respect to the Doha Round represent a particularly relevant test case for my research purposes. First, while there is considerable controversy as to whether the EU represents a 'power' on the world stage in those fields normally associated to traditional 'power politics' (Allen and Smith 1991, Zielonka 1998, Ginsberg 1998, Gordon 1998, Hill 1993), it is almost unanimously recognized that it has indeed

acquired such status in the field of international trade (Meunier and Nicolaidis 2006, Bretherton and Vogler 1999, Woolcock, 2005). To give just some figures, the EU has become the world's second largest economy (just behind the US), the world's largest merchandise exporter accounting for nearly one fifth of world trade as well as the world's largest services exporter, accounting for over a quarter of world trade. In terms of imports, the EU ranks first as importer of commercial services and second as importer of goods. Moreover, the EU is also a major home to and source of foreign direct investments (Youngs and Peterson 2006). As these figures suggest, therefore, the EU is a central player in the international economy arena. It can exercise substantial leverage not only because its economy and share of global imports mean that its policies have important implications for its trading and investment partners, but also because the EU purposefully seeks to wield influence by the use of commercial instruments (Meunier and Nicolaidis 2006).

Second, while the change that involved the international trade environment was not unique to the EU, quite distinctive is the way in which the EU responded to the new pressures brought by it. A variety of analyses point out that the EU has been the most prominent advocate of the so-called deep trade agenda (Young and Peterson 2006, De Bievre 2006, Falke 2005, Van den Hoven 2002, 2004, Baldwin 2006, Damro 2006). As Young and Peterson put it, 'arguably the EU has responded more quickly and energetically than any other major trading power to the new domestic politics of international trade' (Young and Peterson 2006). The very idea of a new Millennium Round (come to be known as Doha Development Round) aimed not only to the opening of markets in agriculture, manufacturing, services and free electronic commerce but also to regulation in the areas of environmental protection, labour standards, FDI and competition, under the auspices of the WTO was very much a European idea (Kerremans 2004, De Bievre 2006). In this context, quite differently from other international trade players such as the US (Falke 2005), the EU responded to the incentives and constraints of the new trade politics with a strategy based on the simultaneous pursuit of distinct sets of trade policies within which different "trade politics" can be identified (Young 2007). The fact that the EU set itself as the leading advocate of a comprehensive round of trade negotiations, therefore, makes it a particularly attractive subject for my research purposes.

In addition, from a theoretical viewpoint, the larger bulk of the "trade politics" literature concentrates on American trade policy. In fact, it has been stressed that the literature on

European trade policy is surprisingly underdeveloped, both at the theoretical and empirical level, in comparison with the huge and detailed literature focusing on the US (Dur 2006, Dur and Zimmermann 2007). By looking at the EU's negotiating stance in the Doha Round in a number of issue areas, this research contributes to an expansion of both the narrow range of empirical knowledge about EU trade negotiations and of the theoretical debate concerning EU trade politics. Moreover, EU studies have for long developed in isolation from broad theoretical debates emerged within the IR and IPE literature, hence undermining the possibility both to draw from insights provided within these traditions and to contribute to such debates both theoretically and empirically. By looking at the existing literature on EU trade policy as well as at the empirical developments concerning the EU's role as an international trade negotiator through the lenses of the concepts and theories on trade policy preference formation developed within the most consolidated and broader IR/IPE literature, this work seeks to give a contribution towards a to the de-isolation of the study of the EU. Of course, this choice also brings a number of challenges. Most notably, the complex and somehow unique characteristics of the EU's institutional structure and decision-making processes make it a rather difficult subject for the study of the processes of preference formation. Having acknowledged this, however, I support the view that the advantages of taking the EU as the test-case for this analysis outweigh the disadvantages. Not only it is gaining widespread acceptance the idea that the conceptual tools used to study public policy at the national level can also be appropriate for analysing the EU policy process (Yee 2004, Hix 1999, Richardson 2001) but, in the following sections, I also suggest how some of these conceptual challenges can be overcome.

In the remainder of this chapter I proceed as follows. First, I offer a brief overview of the main arguments put forward in the IR/IPE literature dealing with the question of how international trade actors define their preferences over trade policies and connect them with the main theoretical arguments developed in the EU trade politics literature. Second, I suggest how can a typology of politics of preference formation be constructed to integrate into a single framework variations in both governance dynamics and logics of actors' behaviour. As a result, I develop a number of theoretically grounded hypotheses which specify a set of competing causal mechanisms through which policy preferences come to be shaped, and describe them. Third, I briefly review some of the existing arguments that hypothesize that a causal relations between variations in issue characteristics and politics of preference formation exists and, building on these insights, I construct my own analytical

framework. Finally, I deal with questions of methodology and provide a preliminary overview of the case studies which will be dealt with in the following chapters.

1.1. Trade policy preferences and outcomes: a literature overview

As briefly mentioned above, the question of the determinants of preferences in international trade negotiations can be tackled from different theoretical perspectives. In this section I offer a brief overview of some of these arguments. Consistently with the aims identified above, this literature review is organized with a view to connecting theoretical insights developed within the EU trade politics literature into the broader IR/IPE debate on “trade politics”. It goes without saying, the review does not aim at being fully exhaustive and, moreover, a variety of different criteria regarding how to map out the theoretical arguments could have been used. Having said this, however, such an exercise is essential to move on with the argumentation I seek to develop in the following sections.

A first strand of the literature looks at the preferences of societal groups. In the rationalist tradition, the so-called pressure politics literature, conceives government choices over trade policy as a function of demands made by domestic groups. The trade policy orientation of governments, in this view, are determined by underlying economic interests and the influence of lobby groups on policy (Davis 2005). The logic of the argument is the following. First, domestic actors have clear policy preferences which are shaped by the expected distributional consequences of cooperative agreements. As Milner puts it, “the effect of cooperative agreements on societal actors’ income is the major determinant of their support or opposition to such agreements” (Milner 1997:60). Cooperative agreements or policy changes which are expected to increase the income of a given set of societal actors will be preferred by such set of actors over those that decrease it. Second, these dynamics concerning societal actors have a direct influence on policy-makers’ choices. Preferences and political pressures emanating from interest groups become key determinants of policy-makers’ choices because politicians depend on societal groups’ resources for re-election (Dur 2007, De Bièvre and Dür 2005, Milner 1988, 1997, Frieden 1991, Rogowski 1989). Since politicians tend to act as office seekers, they have strong

incentives to anticipate the reaction of societal groups and avoid policies that will weaken their electoral chances. In short, policy-makers have an incentive to avoid the mobilization of political enemies. Starting from these assumptions, this strand of the literature has developed in different directions concentrating on a variety of research areas such as attempts to model interests groups preferences over specific policy outcomes - protection versus liberalization, choice over venue for trade negotiations (Schattsneider 1935, Dur 2007, Milner 1988, Hiscox 2002, Chase 2003, Davis 2005, 2006, Frieden 1991, Rogowski 1989) - or investigate the conditions under which a group is expected to be more or less influential than others (Olson 1965, Dür and De Bièvre 2007).

When one looks at the literature on EU trade policy, it is striking to note how little appeal pluralist explanations have among EU trade politics scholars. Indeed, implicit in much of this literature is the ambition to go beyond economic pluralist explanations of government preference formation. The predominant view is that classical economic theory is of little use to analyse a complex and unique entity such as the EU. Of course, a number of relevant exceptions exist. Dur, for instance, has undertaken a study of EU's participation in multilateral trade negotiations – the Kennedy Round and the Doha Development Agenda - finding that in both cases there were striking parallels between the positions defended by economic interests and that the EU's negotiating position was largely in line with the demands voiced by economic interests (2008). Similarly, in another study Dur shows that the impact of economic interests on the EU's trade preferences has often been underestimated. He relies upon a 'protection for exporters' perspective to show that the EU's agreements with Mexico (2000) and Chile (2002) can be seen as a response to European exporters' lobbying which mobilized in reaction to the discrimination that they faced in these two markets as a result of Mexico's participation in the North American Free Trade Agreement and Chile's pending conclusion of a bilateral trade agreement with the US (2007a). The core of the argumentation is that decision makers responded to exporters' pressures when embracing the idea of concluding bilateral free trade agreements with these countries. In another study, Dur and De Bievre (2007). seek to assess the role of nongovernmental organisations concerned with issues such as development, human rights and protection of the environment in shaping EU trade policy showing that the impact of NGOs on trade policy outcomes has been limited although not irrelevant in the agenda-setting stage. Again, these authors counter the claim that that the delegation of trade policy authority to the European Commission allows it substantial autonomy and argue that

rather such delegation merely serves the functional need to reduce the transactions costs at both the individual and collective level by making trade policies under the condition of heterogeneous constituency demands (De Bièvre and Dür 2005). Despite these contributions, however, pluralist interpretations of the politics of preference formation in the EU are largely neglected.

Taking an ideational perspective, one can theorize about the role of societal actors from a different angle than the one adopted in the rationalist tradition. Social actors are important not only because they seek to satisfy their economic interests but also because they become carriers of new ideas, values and principles about the conduct of trade policy. This literature concentrates on the role of civil society groups, non-governmental organizations, both national and trans-national. From this perspective, these groups become important to the extent that they influence, directly or indirectly, the way in which governments and decision-makers conceive the purposes and priorities to be assigned to trade policy (Young and Peterson 2006). Epistemic communities, also can play a fundamental role in influencing how policy-makers come to interpret social phenomena and, consequently, how they define their interests and preferences over policies (Drake and Nicolaidis 1992). Societal groups, also, can contribute to the spread of new ideas which in turn function as road maps to policy makers (Goldstein 1988, 1993).

A number of studies on EU trade policy have taken this bottom-up perspective about the role of ideas in shaping policy outcomes. A number of readings, for instance, have come to look at the role of non-state actors in the formulation of EU trade policy. The argument is quite straightforward and echoes, although deriving different implications, some of the insights of the pressure politics literature. Since the new international policy environment broadened the agenda to issues concerning domestic regulation, new constituencies found incentives to mobilize and defend their interests. In particular, not only businesses but also nongovernmental organizations started to voice concerns to public authorities demanding that trade policy be conducted to achieve policy objectives such as better international environment protection, the world-wide respect of minimum labour standards, socio-economic development and public health. Some authors find evidence of the influence of these new constituencies by pointing to the changing modes of trade consultation between the European Commission and interest groups. The newly established “Civil Society Dialogue” by former Trade Commissioner Pascal Lamy is seen, for instance, as an example

of the empowerment of NGOs in the trade policy making process. Hocking argues that there has been an evolution of trade consultative processes within the EU from a “club model” to a “multistakeholder model” (2004). Such a process is seen as having at its core a consensus building rationale by way of a broadening of participation in the policy-making process. Young, finds evidence of the importance of these new actors, suggesting that NGOs and social movements were crucial in raising the profile of development as an issue (Young, 2007). In the same perspective, it has been argued that politicians in the EU may be inclined to engage in social trade policy because public concerns about the environment and consumer safety have become more politically salient as class cleavages have eroded as such post-material concerns have more bearing on party competition in Western Europe (Young 2007).

A second strand of the IR/IPE literature concentrates on the role of institutions and sees the institutional framework as a crucial factor influencing the process of preference formation. Broadly speaking the rationalist argument is that different institutions empower different actors thus leading to different policy outcomes. From this view, institutions may play an important role by insulating policy-makers from societal demands (Grande 1996, Moravcsik 1993, 1994, 1998, Rogowski 1987) or by giving special access to a number of interest groups as well as by providing certain organizations within the institutional setting with a window of opportunity to pursue their preferred strategies. In a similar vein, although looking at the effects of institutions over time, other authors have conceived institutions as unintended constraints on policy-makers choices (Hanson 1998). From this perspective, institutions are not enabling tools for self-interested actors but rather unintended constraints that structure decision makers’ choices along determined paths. In this case, in terms of causal mechanisms, the emphasis is on the role of institutions as an autonomous independent variable disentangled from both public actors’ preferences and societal demands. According to this view, institutions influence and constrain the actors who have established them, forcing them to adjust to the obstacles in their path (Pierson 1996, 2000).

In addition, taking a sociological institutionalist view, a number of authors have also come to look at the way in which institutions, broadly defined, constitute actors’ preferences by shaping their identities (Eising and Jabko 2001). Sociological institutionalism rejects rational choice formal definitions of institutions and adopts a broader perspective including

informal rules and conventions, cognitive scripts and moral templates (Pollack 2004, 2005). This leads to a different interpretation of the relationship between institutions and behaviour: ‘institutions affect behavior not simply by specifying what one should do but also by specifying what one can imagine oneself doing in a given context’ (Hall and Taylor 1996:15). Institutions, therefore, can influence trade policy outcomes by reflecting a bias that is crucial in defining what can be considered as a legitimate claim (Goldstein 1988, Goldstein and Keohane 1993). In this vein, some authors have come to argue that ideas, values and norms embedded in a given institutional setting can influence policy outcomes through the so-called “logic of arguing” (Risse 2000). This perspective assumes that actors involved in foreign policy seek a reasoned consensus about which particular course of action is justified and appropriate to enact their collective identity on the international stage. Agreement, therefore, reflects that all participants are persuaded of the normative validity of the arguments presented for such action. In addition, the link between norms, institutions and policies can also be conceptualised in strategic terms. As some authors have suggested, actors can use normative arguments instrumentally in the pursuit of their self-interest (Schimmelfenning 2001, Van den Hoven 2004). Thus, from this perspective, an institutional environment provides a resources for actors that can justify their selfish goals with references to institutional norms or the collective identity, since claiming legitimacy for their interests increases their bargaining power.

Differently from pluralist perspective, these institutionalist approaches, both rationalist and sociological ones, have largely influenced the EU trade policy literature. A number of authors, for instance, stress the role of the EU’s institutional setting on preference formation of economic actors arguing that the multilevel and complex nature of the EU’s institutional structure allows “agents” to play an autonomous role in shaping EU trade policy preferences by creating incentives for economic interests to adopt rather than influence the position of decision makers (Van Den Hoven 2002, Woll 2005, 2006, Woll and Artigas 2007). Similarly, other studies point to a number of institutional features of the EU – the lock-in effects of agenda setting, the effects of diverging interests among collective and multiple principals, and the emerging obstacles for business to lobby within the EU’s multilevel setting – as determinants of the Commission’s capacity to influence the process of preference formation in the trade sphere (Elsig 2007). In the same vein, another strand of this literature concentrates on the EU’s institutional setting to show how the transfer of trade policy-making authority to the EU level enhanced the autonomy of public

actors in shaping EU trade policies (Nicolaidis and Meunier 2002, Meunier 2005, Woolcock 2005). The politics of preference formation in EU trade policy has also been looked at through the lenses of historical institutionalism. For instance, it has been claimed that the EU's decision making process fosters the emergence of "regulatory peaks" at the internal level (Young 2004) which, in turn, create incentives for the EU to seek the adoption of international regulatory standards to avoid race-to-the-bottom dynamics (Young and Peterson 2006).

However, sociological institutionalist perspectives are those that more abundantly have been applied to studying the EU's politics of preference formation. Van den Hoven, for instance, seeks to demonstrate how the European Commission used a "development discourse" to build external and internal support for the EU's position in the context of the Doha Development Round. Meunier makes a similar argument by stating that the adoption of the doctrine of managed globalization by the Commission impacted on the EU position in the Doha Round because it was conceptualized as the best consensual package of Member State interests and as the best response to the Commission's dilemmas about the future (2007). Other authors, instead, use the concept of communicative action to explain EU trade policy outcomes and suggest that the high levels of institutionalization and socialization of the EU negotiation setting make the EU likely to be involved in these ideational dynamics (Niemann 2004). Although from a different perspective, other studies also stress the role of ideas embedded in EU institutions. Falke for instance, suggests that the EU pursues a trade policy in which rules do not have an instrumental use but rather become part of an aesthetic design of global governance because it projects externally its "post-modern" identity. Similarly, Van den Hoven depicts the EU position in the WTO as driven by the intrinsic values of the EU system (2006). The argument is that the EU holds an overall vision of how the WTO should function as a system – namely that it should regulate the global economy to ensure that the economic gains from trade are redistributed fairly – that is based on its own belief in justice and its lack of trust in the market to deliver equitable distribution of economic gains.

Finally, a strand of the IR/IPE literature takes into consideration a third level of analysis: the international political system. Again, at this level of analysis a variety of theoretical arguments have been put forward. Probably, the most widely quoted studies in this field are those that investigate the relationship between power and trade from a realist perspective.

From this viewpoint, the so-called theory of hegemonic stability, for instance, has suggested that one can predict trade policy outcomes by looking at the international distribution of power (Krasner 1976, Gilpin 1987). Other authors, have suggested that in order to understand international trade patterns one must take into consideration international security alliances (Gowa 1994, Gowa and Mansfield 1994). Another relevant branch of this literature concentrates on the effects of international institutions on trade policy (Keohane 1984). More specifically, some authors have come to focus on the role of trade regimes and on their effects over national trade policies. From a rationalist perspective, for instance, one can think of those analyses which look at the role of international institutions as enabling or constraining tools for policy makers (Davis 2004, Moravcsik 1994, Putnam 1988) or interest groups (Davis 2005, 2006, De Bievre 2006).

In the context of EU trade policy studies, these perspectives have been applied in two ways. On the one hand, few scholars have attempted to analyze EU trade policy through the lenses of the realist tradition (Aggarwal and Fogarty 2004, Zimmermann 2007). These studies, suggest that a useful way to look at how EU preferences over trade policy are shaped is to take into consideration geopolitical and security motivations. Aggarwal and Fogarty, for instance, in their study of EU interregional trade negotiations tested a realist hypothesis and maintained that the EU might use its trade policy strategically to position its economy to respond better to the emerging powers of Asia and the US (2004). In the same vein, Zimmermann conceptualises the EU as a “mercantilist actor” applying a realist, systemic perspective to its negotiations with China and Russia in the framework of their accession to the WTO (2007). The argument is that the EU acted strategically in such international trade negotiations with the Commission and the Member States pursuing the same objectives and showing a consistent concern for relative gains in these negotiations. On the other hand, some authors have stressed the impact the high degree of judicialization in the WTO may have for the EU (De Bievre 2006). More specifically, it is argued that issue linkage and judicialization make the WTO an attractive institutional location for the EU to seek to satisfy constituencies’ demands for regulatory issues to be negotiated at the international level.

Finally, from a constructivist/sociological perspective, international institutions have also been conceptualised as encapsulating norms and principles which influence policy-makers choices and signal what can be defined as legitimate or illegitimate behaviour (Ruggie

1983). In the context of the EU, for instance, it has been suggested that international negotiations systems such as the WTO are carriers of guiding ideas, norms and rules which can influence policy making within the EU (Knodt 2004). According to this view, the formal organization of the policy process and the distribution of political power among the relevant actors could explain only parts of the political reality which is, thus, largely influenced by the governing principles and ideas of 'good' and legitimate order. Although primarily interested in identifying changes in the trade policy making process resulting from the EU' international embeddedness, Knodt's argument has direct implication also in relation to the analysis of the politics of preference formation in the EU. By arguing that expansion of the trade policy-making process to include civil society actors was largely resulting from institutional changes in the concept of legitimate order brought by the interlocking of the discourse arenas of both organizations, the author implicitly suggests that such civil society involvement has direct effects on policy outcomes.

1.2. Towards a typology of politics of preference formation in trade negotiations

As the above literature review shows, the question of how to construct a single analytical framework in order to account for variations in the relative explanatory power of different theoretical perspectives along the two dimensions identified above is a complex task. Indeed, while with respect to question of actors' motivations it is relatively easy to categorize these theories, it is much less easy to do so with regards to the question of how they hypothesize about power relationships among actors. As far as the first issue is concerned, in fact, it is possible to distinguish between theories which adhere to a rationalist research agenda and theories that approach this issue through the lenses of social constructivism. Of course, there are multiple dimensions along which the so-called rationalist/constructivist debate could be framed, ranging from ontological divisions regarding the assumptions about what social life is made of and what kind of relationships exist among these elements to more substantive issues concerning empirical research (Fearon and Wendt 2002). However, it is fair to argue that at the broadest level of abstraction one can draw a line between different groups of theories depending on whether they assign to ideas/beliefs/cognitive structures a causal role in shaping actors' policy

preferences or not. The key distinction in this context, is between theories that model actors' preferences in rationalist terms (materialist interest-driven explanation) as exogenously given to the social context and theories that, rather, conceive such preferences both constituted by and constituting the social context (ideational explanation). Consistent across other dimensions, therefore, is a distinction between theories that take a rationalist perspective assuming actors' rationality, goal-maximising behaviour and strategic thinking and theories that emphasize the role of ideas and cognitive factors in both shaping and constituting actors' preferences and influencing social processes. The first dimension along which I discriminate between different types of politics of preference formation, therefore, is concerned with variations in the relative influence of ideas in shaping actors' policy preferences in the policy-making process. In dichotomous terms, contending hypotheses along this dimension fall within two broad categories: those who seek to explain behaviour assuming actors' rationality and their willingness to pursue material interests and those who assume that ideas and cognitive factors motivate social behaviour.

More difficult, however, is to identify analytical categories of different kinds of power relationships among actors and their interactions with the institutional structures. In the above literature review, for instance, I have implicitly organized different theories on the basis of their level of analysis distinguishing between domestic, institutional and the international/systemic ones (see Milner 1999). This kind of categorization, however, poses numerous problems with respect to the objectives this research aims to attain. First, and most obviously, this categorization creates an analytical complexity that makes it difficult to develop consistent and parsimonious arguments about variations in the explanatory power of different hypotheses. Second, even if we were to confront with the task of seeking to bring into a single analytical framework six types of politics of preference formation, such a categorization does not help much in discriminating between different types of power relationships among actors. Within the "institutional level of analysis" category, for instance, can be placed both theories which assign a central causal role to institutions as "enablers" of policy-makers' capacity to pursue autonomous policy preferences and theories that simply show how institutions influence the process by which societal policy preferences come to be aggregated and result in undesired policy outcomes even in the absence of policy-makers' willingness to pursue such policies. Similarly, explanations which take an international/systemic level of analysis identify different types of causal mechanisms concerning how international/systemic pressures influence the politics of

preference formation. In some instances, for example, these pressures create incentives for policy-makers to counter societal demands while in other instances they influence the way in which social groups define their policy preferences. Even in this case, within a single category one finds theories that identify distinct configurations of power relationships among actors.

Moreover, while the relationship between the three analytical levels is quite easy to conceptualize from a rationalist viewpoint, it is much more difficult to do so in relation to constructivist/sociological theoretical perspectives. These theoretical approaches, by definition, are more interested in “understanding” processes through which dynamics of social interaction are both constituted by and constitute actors preferences and, consequently, less concerned with identifying clear and well specified causal mechanisms among variables. In this sense, such a categorization does not seem to fit well with the idea of constructing a common framework in which variations in the relative explanatory power of rationalist and ideational propositions can be accounted for.

One way to overcome these problems, I suggest, is to conceptualize this dimension as one along which different theories on the trade politics of preference formation can be categorized according to the type of state-society relations they identify. From this perspective, the question is not what level of analysis a given theory adopts, but rather what propositions it develops with respect to configurations of state autonomy and state-society relations. As argued above, considering different levels of analysis as discrete categories makes it extremely difficult to build a theoretical framework that looks at these variables simultaneously in a consistent manner. Instead, one can conceive alternative causal mechanisms as dynamic processes through which preferences come to be shaped by using the concept of autonomy as a term expressing a relationship between state and society. Drawing on the definition of autonomy as “the ability of a given actor to pursue its desired policy independently of another political actor” (Fioretos 1997:297), one can distinguish between two distinct processes of preference formation depending on the type of state-society relations they involve.

In one case, political phenomena are explained as the resultant of social factors: the state has no autonomy and plays only a subsidiary role. In this traditional approach to political economy, state institutions are treated merely as an instrument employed by individuals or

groups as a way of achieving private ends. As Caporaso and Levin put it, “whatever important differences exist among these approaches, one similarity stands out, the state is not essentially an active agent [...] and it is reduced to a dependent variable” (2002:181). In this view, in order to understand the sources of preferences in international negotiations one has to look at the preferences of social actors. Essentially, policy outputs should be seen as a result of politics “from below”. All theoretical perspectives which look at the role of social groups as the main determinant of trade policy, both in rational and ideational terms, fit in this category. Logically, also those readings that concentrate on how judicialization of the WTO influences the way in which interest groups define preferences conceptualize politics as a process from below.

From the opposite perspective, there are those approaches to political economy centering on the idea of an active state whose agenda is not reducible to wants emerging within the private sphere. In this view, not only national executives and interest groups have conflicting goals and compete with each other, explicitly or implicitly, over political outcomes but the former has the capacity to act independently from the latter. In this case, the causal flow is reversed. While in a society-centered view, the causal flow runs from private/societal preferences through organized political demands to the state, in state-centered theories the process of preferences formation is conceptualized in the opposite manner, placing state agenda at the beginning of the causal chain. In this case, policy outputs are seen essentially as a result of politics “from above”, made possible by the capacity of the state to act autonomously. The question of why a state acts autonomously, then, can be looked at from different perspectives at both the systemic (geopolitics or ideas) and state level (bureaucratic interests or ideas). The key factor, however, is that the policy preferences are shaped as a result of a dynamic process from above.

Obviously, treating the concept of autonomy in dichotomous terms is a simplification. Actors can be less or more autonomous and in the real world there is not such a thing as complete executive or societal autonomy. As Fioretos very clearly puts it, ‘devising quantifiable autonomy is very difficult since [...] social bargains are ubiquitous’ (Fioretos 1998:297). However, this way of conceptualizing alternative causal mechanisms through which policy preferences are shaped has a number of advantages. First, it allows to stress the fact that preference formation is a dynamic process that often involves the three different levels of analysis at one time. In this sense, it is useful to the extent that while

taking into consideration different analytical levels highlights alternative paths through which social groups, institutional factors and international constraints influence preference formation processes. Second, such conceptualization makes it possible to pigeonhole different theoretical perspectives into a simplified framework. On the one hand, it allows to treat in a single category different theoretical perspectives that look at the international political system and the institutional setting. Identifying autonomy from societal pressures as a key distinction between different paths towards policy outcomes, means being able to think of bureaucratic politics models or structural/systemic theories as single category. Both views, in fact, can be conceptualized as top-down processes of preference formation. On the other hand, the from below/from above distinction is agnostic with regards to the debate as to what are the fundamental factors that drive social actors' behaviour. One can think of a top-down or a bottom-up process of preference formation both in rationalist and ideational terms. The crucial element here is the direction of the causal process independently of different assumptions as to what drives behaviour in the social world. In this sense, this way of looking at how preferences are formed fits well with the overall objective I set out above. To think of two alternative processes of preference formation depending on the direction of the causal flux makes it possible to partly overcome these problems by simplifying the way in which relations among variables are conceptualized and, hence, to provide with a common framework through which rationalist and ideational propositions can be meaningfully compared. One way to conceive these alternative paths in ideational terms, for instance, is to draw a distinction between identities that arise within or outside political interaction at the EU level. According to March and Olsen, one can think of different ways in which identities connect to politics (1998). One way is to think of socio-cultural bonds, preferences and identities as formed outside of politics and prior to political interaction. Another way, in contrast, is to see the spread of understandings and identities as shaped by interaction and involvement in political activities. In this context, the key distinction, therefore, becomes whether preferences are shaped as a result of the influence of ideational factors developed within the society or within the European "executive".

The obvious criticism here is that the EU is not a state and, therefore, using the concept of autonomy to think the process of preference formation in terms of state-society relations could be misleading. Indeed, the decision making process within the EU is much more complex than it is in traditional state structures and it is clearly not possible to equate the

EU's "executive" to that of a traditional state. I will not describe here the complexities of the EU's decision making process in the field of trade. Suffice to say, that within the EU's institutional framework both Member States and the Commission are key actors and that policy outcomes result from a complex bargaining process involving both institutional layers (Council and the Commission). Not surprisingly, the EU's institutional framework and the role of different EU institutions and their interaction have already attracted a substantial amount of research. For this reason, also, a number of authors have proposed a modification to the two-level game metaphor and suggested that a decision making process within the EU should be studied as a three-level game (Frennhoff Larsen 2007, Young 2002). However, focusing on interactions at the institutional level implies treating only marginally the question of the sources of preferences. The focus is more on the effects of institutional mechanisms and procedures or bureaucratic dynamics rather than on the dynamics that drive the process of preference formation. This is not to say that such kind of analyses are irrelevant to the questions I aim to address here. To argue that the multilevel structure of the EU provides the Commission with the room of manoeuvre to pursue its preferred agenda, indirectly provides evidence in favour of a top-down view of preference formation. The problem is that all too often, the questions of where these preferences come from and of whether there is a correspondence or rather a divergence between domestic and institutional actors' inputs, remain unspecified. In addition, the very way in which these theories are designed shows a bias towards a rationalist research agenda. Testing alternative hypotheses to assess the relative validity of ideational versus rationalist explanations becomes very difficult to the extent that constructivist assumptions do not fit in such rationalist-oriented theoretical frameworks.

The framework proposed here seeks to overcome the problem of accounting for intra-institutional dynamics by treating logically both the member states (either as such or within the Council) and the Commission as actors that, by intervening in the decision making process, determine whether preferences reflect a top-down or a bottom-up dynamic of state-society relations. This is not to deny that intra-institutional battles are often very important determinants for the content of trade policy outputs. However, if the key issue is the extent to which a given policy outcome reflects autonomy from societal demands, the problem of which actor is predominant within the EU's institutional context becomes marginal, although not irrelevant. From this perspective, the crucial question is not which institutional actor is most influential but rather what preferences are brought forward by

the most influential institutional actor, to what extent do these preferences reflect societal demands and whether these should be ascribed to interest-driven calculations or to the influence of norms and ideas. From this perspective, what matters is the direction of the causal flux in the process of preference formation, not the locus of the final decision or what actor has the final voice in the decision making-process.

Summing up, on the basis of the two analytical dimensions described so far, I argue that it is possible to construct an analytical framework that identifies the conceptual criteria that allow to distinguish between different politics of preference formation in a way that integrates both variations in power relations among actors and variations in the relative influence of ideational factors in shaping actors policy preferences. The resulting typology, therefore, identifies four theoretically grounded hypotheses on how international actors define their policy preferences over trade policies in international trade negotiations (see Table 1). It goes without saying that the hypotheses derived from this framework are neither exhaustive nor mutually exclusive. However, both for the sake of conceptual clarity and the purposes of this research, I will treat them as discrete. In the remainder of this section each one of these four hypotheses is described more in detail.

Table 1 –Types of politics of preference formation

		Factors driving actors behaviour	
		<i>Interests</i>	<i>Ideas</i>
State-society relations dynamics	<i>Top-down</i>	Executive politics	Identity politics
	<i>Bottom-up</i>	Pressure politics	Civil politics

1.2.1. Pressure Politics

Hypothesis 1: EU preferences are determined by the relative influence of specific interest groups within Europe

The basic idea of this proposition is that the trade policy orientation of governments is determined by underlying economic interests and the influence of their lobbying on policy. As Aggarwal and Fogarty put it, ‘in this “pluralist” view, European Union commercial policy is a forum for competition among various societal interests as they seek to capture

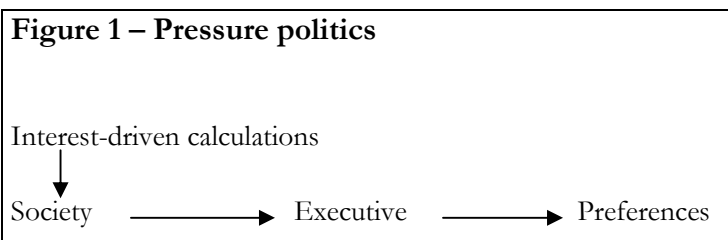
the EU policy making apparatus to promote policies that reflect their particular preferences' (Aggarwal and Fogarty 2004:7). The key point is that societal groups define their preferences rationally. A rational calculus about the distributional consequences of different policy options shapes preferences. In addition, these interest groups employ strategies that maximize the probability that their specific preferences will prevail. This means that they take into consideration the strategic context within which they are acting both at the EU and international level.

Following this line of reasoning, it is possible to identify two main interest groups on the basis of the demands they are likely to advance. Export oriented sectors are likely to favour policies which provide them with greater access to foreign markets (liberalization), while import competing sectors will prefer demands for protection from foreign goods and services. In addition, as noted earlier, new constituency demands have come from those affected by changes in the international political economy in the form of demands for international regulation. Negative integration is no longer the primary focus of international trade negotiations which have been complemented by beyond-the-border regulatory issues. Regulatory issues, however, can serve both protectionist or liberalizing demands. Attempts to establish strict international rules on patents clearly reflect societal demands for international regulation from, for example, intellectual property intensive industries. Similarly, international regulation in the field of environmental and social policy are clearly in the interest of import competing industries which can export costly regulation to foreign competitors. In other words, demands for international regulation can also be understood in terms of their distributional consequences for societal groups assuming that groups which are expected to gain from international regulation will favour it, while those who are expected to lose will oppose it.

Another important dimension concerns the expected capacity of different interests to influence outcomes. In particular, at the broadest level of abstraction, it is logical to assume that groups defending diffuse interests will be less influential than those representing concentrated interests. In addition, I expect that, since exporters face important disadvantages with respect to import-competing interests, *ceteris paribus* the latter ones should clearly dominate over the former ones. Moreover, given that interest groups define their preferences "strategically", I also expect that these will be shaped according to the set of constraints and incentives provided by the EU policy-making structure and the

international trade regime. In this context, the judicialization of the WTO plays an important role both in terms of what constituencies are expected to mobilize and with regards to the preferences of interest groups for the negotiating structures.

EU institutions and national executives, in this view, are purely instrumental to translating interest groups preferences into policy outputs. They have no preferences on their own and seek to maximize benefits without imposing concentrated costs on the society. In sum, a pressure politics account of EU trade policy preferences would start with group preferences and consider how successful different groups are in translating those preferences into EU action.



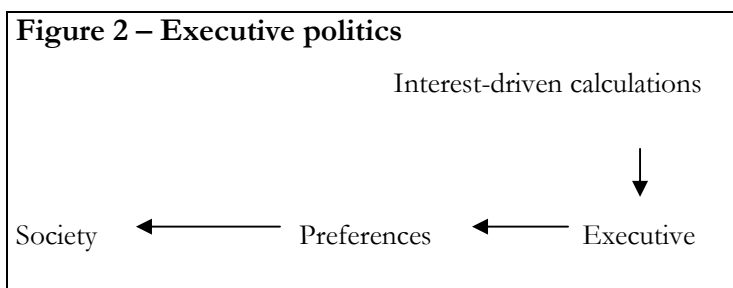
1.2.2. Executive politics

Hypothesis 2: EU preferences are determined by interest-driven calculations of institutional actors within the EU defined, at least partly, autonomously from societal pressures.

In the executive politics view, the driving force behind policy outcomes is not the pressure coming from below but rather the input provided by different non-societal actors involved in the decision-making process. Obviously, these actors do not act in isolation from such pressures. On the contrary, there is a constant interplay between these two opposite fluxes in the bargaining process. In this perspective, however, the hypothesis is that non-societal actors can exert at least a measure of autonomy, that is they can push forward their own preference (or at least a share of their set of preferences) regardless of pressures coming from below. Again, the crucial point here is that the preferences of these actors are defined as a result of rational calculations concerning the best ways to achieve a set of defined objectives.

This view is agnostic as to whether these preferences are shaped as a result of a second-level (state-centric approaches) or third level analyses (systemic approaches). In a way, different approaches and propositions come to be collapsed into a single hypothesis. Within this framework it is not relevant whether these autonomous preferences are shaped as a result of bureaucratic attempts to maximize influence over the European policy-making arena, by international systemic constraints and opportunities or by being part of an institutionalized international regime. What matters is that in the definition of preferences “executive” actors do not simply translate societal preferences into policy outputs but substantiate these outcomes with their own inputs.

It is important to clarify that from this perspective the crucial point is not to identify whether the source of autonomy comes from the member states (and the Council) or from the Commission. At the theoretical level, this framework concentrates on the direction of the causal process leading to trade preferences. At the empirical level, obviously, it becomes necessary to process-trace whether autonomy exists and where does it come from. However, the focus here is on the top-down/bottom-up distinction rather than on intra-institutional dynamics. For these reasons, the term “executive” refers here to the whole range of non-societal actors that contribute to the trade policy making process.



1.2.3. Civil politics

Hypothesis 3: EU preferences are shaped as a result of existing and emerging ideas, belief systems and common identities within the European society

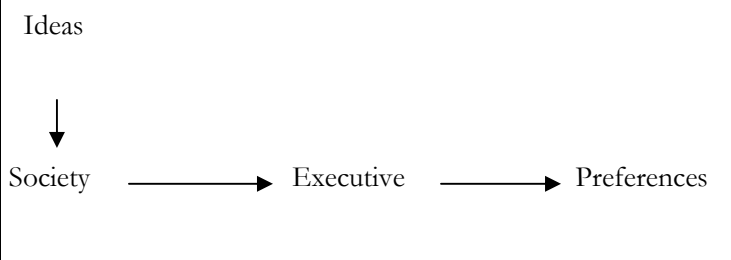
The civil politics perspective shares some features with the pressure politic view. Again, trade policy outcomes are seen primarily as a function of societal demands. However, in

this case social actors do not define their preferences on the basis of material incentives. Rather, their stance about what policies should be pursued by the EU reflects their underlying ideas, belief systems, conceptions and values concerning the priorities that should be assigned to the EU's external action, in general, and to trade policy in particular. The rationality of economic interests is relegated to a second rank and identity issues become the focus of the analysis. In this view, ideational factors are important in two ways. On the one hand, there is an emphasis on rule-making for its own sake, regardless to whether the rules help to achieve market access or, more generally, economic benefits. This relates in particular to the inclusion of non-trade-concerns within more traditional trade issues (i.e. development) and the inclusion of new issues on the European agenda. On the other hand, for what concerns more specifically the economic dimension, ideas can play a role also in the form of shared beliefs within the society as to what economic principles should be followed and how economic activity should be organized.

The basic hypothesis is that ideas shape preferences and that these ideas flow from the society to the actors involved in the policy-making process. As mentioned above, when dealing with constructivist-oriented approaches it is more problematic to conceptualize clearly the distinction between bottom-up and top-down dynamics. When one looks at the role of shared beliefs within the society, for instance, it is difficult to distinguish between the executive and the society. In the end, policy-makers are part of that society and constitute their preferences not only as members of a given institutional setting but also as members of the wider social context. Nonetheless, the hypothesis proposed here suggests that new demands of non traditional trade actors (in particular NGOs and civil society movements) as well as new ideational frames developed by traditional trade actors, altogether create an ideational flux from below that prompts the "executive" to define preferences according to such pressures.

In other words, preferences reflect the prevailing views within the society as to what priorities and purposes should be assigned to trade policy. Once again, the concept of autonomy is crucial. By conceptualizing the causal process in bottom-up terms, the executive is viewed as a simple translator of such inputs into concrete policy choices.

Figure 3 – Civil politics



1.2.4. Identity politics

Hypothesis 4: EU preferences reflect ideas, values, norms and common identities embedded in and producing effects through the EU’s institutional and political system.

The identity politics perspective is based on the idea that there is a connection between Europe’s internal identity and its “international identity”. The main distinction between civil politics and identity politics rests on the direction of the causal mechanism. In this case, the process of preference formation is seen as being driven from above. Again, from such a constructivist view, it is difficult to differentiate between the societal and institutional actors. As the literature review above illustrates, however, much of the scholarly attention has been devoted to assessing whether different EU’s institutional actors beliefs and values played a role in defining trade strategies and outcomes. It is useful, therefore, to understand whether a given policy outcome reflects a process of translation of societal inputs from institutional actors or rather the expression of the preferences of non-societal actors.

The focus here is on the autonomy of the “executive” and on the capacity of these constellation of actors to pursue their preferences autonomously from pressures emanating within the society. The core proposition is that what policy makers at the national and supranational level think as to what priorities, values and meanings should be assigned to trade policy is a key element in driving the content of EU trade preferences in international trade negotiations. Once again, this view holds that the principle of economic rationality is not (at least not only) the driving factor in the process through which these non-societal actors define their preferences. Rather, the EU’s political and institutional setting is seen as a social context in which ideas, values, norms and common identities are embedded and

through which the EU interprets the world and on the basis of which comes to conceive its global role and, subsequently, shapes its preferences and strategies.

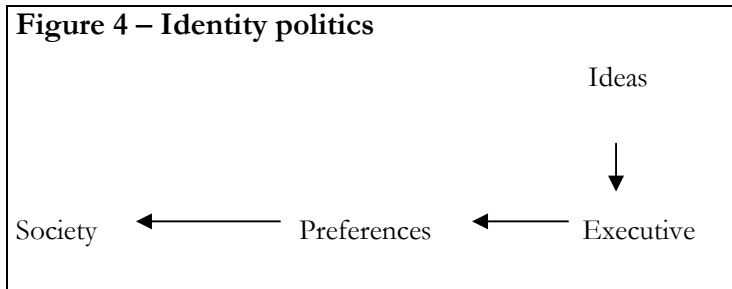


Table 2 – Elements characterizing different politics of preference formation

	Dynamics in state-society relations	Logic of action	Role of EU “executive”	Actors motivations
Pressure politics	Bottom-up	Consequentiality	Functional	Material- - Interests
Executive politics	Top-down	Consequentiality	Substantive	Material-interests
Civil politics	Bottom-up	Appropriateness/arguing	Functional	Non-material interests
Identity politics	Top-down	Appropriateness/arguing	Substantive	Non-material interests

1.3. Variation across types: how policies determine politics

Having identified these hypotheses regarding how preferences over trade policies come to be shaped, there remains the question of how can variations in the relative explanatory power of the sets of variables highlighted in each hypotheses can be accounted for. As mentioned above, the basic assumption this research relies upon is that a useful way to address this question is to hypothesize the existence of a causal relation between variations

in issue characteristics and variations along the two analytical dimensions identified above. In this section, I briefly review some of the arguments that have been put forward in regards to this question and draw on these insights to set a number of analytical expectations as to how variations across “policies” can be systematically linked with variations across “politics”.

1.3.1. Issue characteristics and the “why” of the politics of preference formation

First of all, I deal with the question of how to account for variations in the relative importance of ideas and interests-driven calculations in the shaping of actors’ policy preferences. On the basis of an overview of the existing literature which addressed this question, it seems fair to argue that a promising way to conceptualize the relationship between issue-characteristics and variations in actors’ motivations is to take into consideration the extent to which the set of actors involved in the policy-making process can calculate the expected distributional consequences of the alternative policy options they confront when engaged in decision-making. The examples of arguments who hypothesize that such a causal relation exists are numerous. Without pretending to be exhaustive I briefly review some of them here.

Goldstein and Keohane, for instance, in their widely quoted attempt to identify the conditions by which ideas and interests have causal weight in explanations of human actions suggest that,

if actors do not know with certainty the consequences of their actions, it is the expected effects of actions that explain them. And under conditions of uncertainty, expectations depend on causal beliefs [...] causal ideas help determine which of many means will be used reach desired goals and therefore help to provide actors with strategies with which to further their objectives [...] in sum when we view politics as an arena in which actors face continual uncertainties about their interests and how to maximize them, the need for ideas to act as road maps becomes apparent. Ideas serve the purpose of guiding behaviour under conditions of uncertainty by stipulating causal patterns or by providing compelling ethical or moral motivations for action (1993:13-16).

Although less explicitly, Haas' argumentation about the role of epistemic communities and their influence on policy-makers' choices also suggests that a similar causal relationship exists. In fact, after defining epistemic communities as "channels through which new ideas circulate from societies to governments as well as from country to country" (Haas 1992:27), the author suggests "in the face of inadequacy of available general knowledge needed for assessing the expected outcomes of different courses of action [...] decision makers have a variety of incentives and reasons for consulting epistemic communities" (Haas 1992:13-15). In other words, ideas brought forward within epistemic communities are expected to be influential in shaping policy-makers' preferences whenever these are confronted with complex and uncertain policy issues.

While from a different perspective, Young seems to follow a similar line of reasoning. In his study concerning the politics of international regime formation, the author puts forward two propositions that are particularly relevant in this context. First, he outlines the conditions by which actors are more likely to engage in integrative rather than distributive bargaining,

negotiators who know the locus of a contract curve or the shape of a welfare frontier to begin with will naturally be motivated primarily by a desire to achieve an outcome on this curve or frontier that is as favourable to their own interests as possible. They will, therefore, immediately turn to calculations regarding various types of strategic behaviour or committal tactics that may help them achieve their distributive goals. Negotiators who do not start with a common understanding regarding the contours of the contract curve or the locus of the negotiations set, by contrast, have compelling incentives to engage in exploratory interactions to identify opportunities for devising mutually beneficial deals (Young 1989:361).

Secondly, he also suggests that the existence of a veil of ignorance represents a facilitating factor for argumentative and learning dynamics,

To the extent that a person faced with constitutional choice remains uncertain as to what his position will be under separate choice options, he will tend to agree on arrangements that might be called fair in the sense that patterns of outcomes generated under such arrangements will be broadly acceptable regardless of where the participant might be located in such outcomes (Young 1989:362).

In other words, these arguments suggest that whenever actors involved in the policy-making process confront with issues the distributional consequences of which cannot be easily calculated, it is more probable that they will enter into argumentative processes in which ideas and belief systems, rather than rational calculations about end-means relations, play a significant role in shaping their policy preferences. Following the same line of reasoning, Garrett and Weingast put forward a similar argument when they stress, ‘the influence of [...] belief systems is likely to vary significantly with the structure of given strategic interaction. The lesser the distributional asymmetries between contenting cooperative equilibria and the smaller the disparities in the power resources of actors, the more important will be ideational factors’ (Garrett and Weingast 1993:168)

Similar arguments can be found in the work of authors who deal more explicitly with the question of identifying the conditions by which actors preferences may change as a result of argumentative interaction with other actors. Consistently with the arguments considered so far, these authors claim that ideational factors are expected to be more influential the less clear the interests of actors and/or the less the knowledge about the situation among actors (Niemann 2004, Risse 2000). More specifically, these scholars suggest that when actors lack knowledge or experience uncertain situations and then are supposed to be motivated to analyse new information, consider different views and learn.

Of course, these are not the only propositions that have been put forward in the literature with regards to the possible relationship between issue characteristics and variations along the ideas/interests dimension. Some authors have suggested that a useful way to look at this relationship is to consider the degree of “importance” of an issue. One view, for instance, is based on the idea that substantive stakes invite rational calculations while relatively low stakes allow for non-calculative decisions-making (Jupille et.al. 2003). As Aspinwall and Schneider put it, ‘plausibly as the perceived stakes rise, agents will become more “rationalist” in their actions as they carefully consider the costs and benefits, risks and opportunities of certain outcomes. Likewise in less costly, more mundane activity agents may be more likely to act on the basis of appropriateness’ (Aspinwall and Schneider 2000:27). A slightly different, but closely interconnected, view is that variation in the influence of ideational factors depends on the level of politicisation of an issue (Checkel 2001a, Niemann 2004). In this view, the key argument is that entering into an argumentative process can be obstructed when negotiations become politicised. In other

words, ideational factors become more relevant ‘in less politicised and more insulated, private settings’ (Checkel 2001a:563).

While these arguments deserve some attention, however, it seems fair to argue that the analytical distinction taken into consideration in the first place, namely certainty/uncertainty about the distributional consequences of alternative courses of actions actors face when confronting a given issue, logically precedes these other kinds of distinctions. In fact, actors may be more prone to engage in rational calculations when substantive stakes are discussed but it is not clear whether they will be able to do so in the absence of a clear understanding of the consequences, cost-benefit structures of alternative policy options. Similarly, even when actors discuss issues that involve low stakes, it is not implausible to argue that if they know with precision the distributive consequences of alternative policy scenarios they are likely to act strategically to achieve their preferred policy outcome. In other words, whether the gains and losses of alternative policy decisions can be quantified seems to provide with a more compelling reason than their importance for whether actors may be influenced by ideational factors in the policy-making process.

In light of these arguments, I set out the expectation that variations along the ideas/interests dimension of the typology are causally related to variations in the extent to which the issue discussed allows for the actors involved in the policy making process to interact knowing what would be the distributional implications of the set of alternative policy options they confront with. More specifically, I hypothesize that that interest-driven calculations will be prevalent in shaping actors’ choices when issue certainty is high and, on the contrary, that ideas will have a causal influence when issue certainty is low.

1.3.2. Issue characteristics and the “whom” of the politics of preference formation

The question of how to identify the causal mechanism that links variations in state-society configuration with issue characteristics is less straightforward. This subject has been debated for a longer time and a variety of different arguments have been put forward in the literature. Again, in order to develop my own argument, I briefly review some of these

arguments.

The key question I address here is the extent to which the policy preference of a given actor in a given international trade negotiation reflect a bottom-up process by which policy makers simply translate societal demands into policy strategies or, rather, a top-down process by which policy makers succeed in pushing forward their own preferences. To identify how variations in issue characteristic relate to variations along this dimension, therefore, implies to confront with the questions of what are the conditions by which societal groups' incentives to mobilize politically exist and when such a political mobilization constraints policy-makers capacity to counter societal pressures and pursue their autonomous preferences.

Along these lines of enquiry, to start with, it is useful to look at theories that deal with interest groups, the conditions by which they can influence the policy outcomes, and the incentives and constraints they face when engaging in the political process as a function of issue characteristics. In this context, the starting point of the analysis is the seminal work of Marcur Olson and his theory of collective action (1965). This theory explains the participation of people in groups according to the rationality of collective action by showing how the incentives to participate in joint action are high when private goods are sought while the "free rider problem" dictates non-participation as the rational response when public goods are under consideration. While this theory has been mainly applied to explain variations in the influence of societal groups depending on the type of interests they defend whenever they conflict, and while the question of state autonomy is not explicitly addressed, at a broader level of abstraction, one could plausibly argue that one implication of this argument is that, when concentrated interests are not influenced by a given policy decision, governments are less likely to be constrained by powerful societal political mobilization.

Similar argumentations can be found in other seminal studies. In a critique of Lowi's analysis which links politics dynamics to the dimensions of issue-coercion (1972), for instance, Kellow claims that 'individuals and groups do not participate in politics according to whether they are likely to be coerced, or how that coercion will be applied, but according to whether and how their interests are or opportunities are presented by either the status quo or by policy proposals' (1988:716) and borrows from Wilson's argument that a useful

way to conceptualize the relationship between issue characteristics and politics dynamics is to look at whether the costs and benefits involved in a given policy issue are widely dispersed or narrowly defined (Wilson 1973). Consistently with the above argumentations, while not directly dealing with questions of state autonomy, these authors suggests that policy makers are highly likely to be constrained by interest groups' political mobilization when concentrated interests are at stake in a given policy domain.

It is on the basis of these insights that the voluminous pluralist literature on the trade politics of preference formation builds upon. As already mentioned, a number of different refinements to these arguments have been put forward, with some suggesting that the prospect of avoiding costs is a more powerful incentive to political mobilization when the prospect of obtaining gains and other concerned with identifying the conditions by which the latter incentives prompts mobilization. Despite these differences, a common understanding in the literature regarding interest groups' role in the policy-making process is that these groups have strong incentives to constrain policy-makers choices via political mobilization whenever an issue entails concentrated distributional implications. Of course, the dynamics of interest groups political mobilization can take different shapes, confrontational or collusive for instance, depending on whether these distributional effects impact on one or more groups as well as on whether both gains and losses affect different groups simultaneously. In light of the conceptual dimension considered here, however, these differences are not of particular relevance. Whether through pluralist dynamics or log-rolling ones, what matters in this context is the extent to which policy-makers have to respond to bottom-up pressures in the formulation of the policy preferences they seek to pursue in negotiations.

Another way, but closely related to the one considered above, to look at the relationship between issue-characteristics and interest groups' influence in the policy making process is to consider the extent to which an issue is salient to the mass public. Mahoney, for instance, suggests that, as the salience of an issue to the public increases, the percentage of advocates fully attaining their goals decreases (Mahoney 2007). Similarly, although from a slightly different perspective, Verdier claims that interest groups dynamics are crucial determinants of policy outcomes when issues have "low salience" to the mass public. More specifically, this author identifies four distinct trade policy processes on the basis of two parameters: salience and divisiveness of the issue. As far as the "salience" dimension is

concerned, his theoretical framework suggests that a bottom-up trade policy process in which interest groups are crucial determinants of policy outcomes (either in the form of competition or in the form of logrolling) is predominant when the issues have a “low salience”. On the contrary top-down processes (executive or party politics) predominate when the issues have “high salience”. However, it needs to be stressed that none of the two arguments deals explicitly with the question of explaining variations in configurations of state autonomy and state society relations. In the first case, the high salience of an issue does not decrease interest groups’ capacity to attain their policy goals because it increases state’s capacity to act autonomously. Rather, it creates incentives for more groups to get involved in the policy-making process and therefore, it increases the number of societal pressures policy-makers have to respond to. Similarly, Verdier’s argument should be understood as a “theory of electoral control” by which the policy process, in its four different variants, is always derived from the preferences of the electorate. In such a theoretical framework the “state” is absent. What distinguishes interest group policy processes from party politics and executive politics is whether an issue is considered salient enough to be addressed by political parties. In this sense, therefore, all four distinct policy processes should be conceived as “bottom-up” ones. In other words, both arguments support the view that issue salience creates an environment in which interest groups’ bottom-up pressures become greater and, consequently, executives’ capacity to pursue autonomous preferences becomes more and more constrained.

Finally, a number of studies have addressed the question of how issue salience influences societal mobilization by switching the focus of the analysis from interest groups to the electorate at large. Although from a methodological viewpoint the question of how to measure the extent to which an issue is salient to the public is very problematic and subject to a heated debate (Wlezien 2005), there seems to be a general consensus on the idea that certain issues are politically more important to different people in different polities and that when the policy-making process touches upon these issues, policy-makers find themselves constrained in the range of policy options they might take into consideration. Of course this is not to argue that mass public opinion is the only determinant of foreign policy. As it has been rightly pointed out, domestic institutional structures and coalition building processes represent an important variable to understand different degrees of public opinion influence (Risse-Kappen 1991). Having said this, however, it is plausible to set the

expectation that the political salience of an issue to the mass public decreases policy makers' room for discretion.

The question at this point is how these arguments can be synthesized into a single dimension along which the relationship between issue characteristics and state-society relations can be conceptualized. Since both interest groups' propensity to mobilize politically and the broader electorate's orientation represent a constraining/enabling factor for policy makers' capacity to pursue autonomous policy preferences, and since the focus of this analysis is on the relationship between issue-characteristics and the extent to which societal pressures, broadly defined, constrain policy-makers in the pursuit of their autonomous preferences, the challenge is to identify an single issue-characteristic that encompasses both phenomena. In fact, by focusing only on whether a given issue involves diffuse or concentrated distributional stakes one might overlook the fact that policy-makers may be constrained by public opinion feelings. Similarly, the fact that an issue does not rank high in public opinion feelings does not imply that it may nonetheless have concentrated distributional implications that create incentives for interest groups to mobilize politically and influence the policy-making process.

I claim that one way to overcome this problem is to conceptualize the issue-characteristic dimension in terms of "perceived political salience". Whether an issue is politically salient because it entails concentrated distributional implications or because it is valued as an important issue in the context of broader societal values and preferences it is irrelevant here. Perceived political salience is broadly defined here as the extent to which societal actors perceive that their interests are threatened or opportunities are presented by political discussions concerning a given policy issue. The perceived political salience of an issue, therefore, is high either when concentrated distributional effects are expected or when they touch upon highly important values within a given society, or both. In this cases, societal pressures towards policy makers are expected to be sustained and, consequently, the room for policy-makers capacity to put forward their preferred agenda smaller. As a result, the politics of preference formation is expected to be characterized by a bottom-up dynamic. On the other hand, the perceived political salience of an issue is low, when both the costs and benefits of alternative policy scenarios are diffuse and such an issue is not considered as a priority for public opinion. In this scenario, the policy-makers are expected to face low resistance from societal groups and, therefore, to be able to enjoy ample

discretion in the range of policy choices they can successfully pursue. As a result, the politics of preference formation is expected to be characterized by a top-down dynamic.

1.3.3. Issue characteristics and politics types: integrating the “why” and the “how”

To sum up, being the prominent interest of this study that of mapping out the conditions that can account for variations in the relative explanatory of different theoretical perspective concerning how trade actors defined their policy preferences in international trade negotiations, I have developed four distinct hypotheses regarding how preferences could be shaped. In addition, I have taken into consideration a number of arguments concerning the relationship between these alternative models of preference formation based on the nature of the issue. From these arguments, a number of analytical expectations have been drawn.

More specifically, I hypothesized that state-society relations will be characterized by bottom-up dynamics when the perceived political salience of an issue is high and, conversely, by a top-down dynamic when the perceived political salience is low. Moreover, I hypothesized that the probability that actors involved in the policy making process define their preferences on the basis of ideational factors are higher when the distributional consequences of the issue they discuss cannot be easily quantified and, conversely, that such probabilities are lower when the structure of the costs and benefits of alternative policy options is clearer.

On the basis of these hypotheses concerning the causal mechanisms that link issue-characteristics and politics dynamics it is possible to sketch out an analytical framework that suggests how variation within and across issue characteristics relate to variations in the relative explanatory power of the four types of politics of preference formation identifies in the previous sections (see Table 3). More specifically, I claim that:

1. A pressure politics type of preference formation dynamic is to be expected when issues are characterized by high certainty and high perceived political salience;

2. A civil politics type of preference formation dynamic is to be expected when issues are characterized by low certainty and high perceived political salience;
3. An executive type of preference formation dynamic is to be expected when issues are characterized by high certainty and low perceived political salience;
4. An identity type of preference formation dynamic is to be expected when issues are characterized by low certainty and low perceived political salience.

Table 3 – Issue characteristics and politics types		B Issue certainty	
		High	Low
A Perceived political salience of the issue	High	<i>Pressure politics</i> A Bottom-up B Interest	<i>Civil politics</i> A Bottom-up B Ideas
	Low	<i>Executive politics</i> A Top-down B Interests	<i>Identity politics</i> A Top-down B Ideas

1.4. Methodological issues and preliminary snapshot of the case studies

The necessary premise that needs to be made explicit before dealing with methodological issues is that this research is about explaining policy outcomes. In fact, by supporting the view that a causal link between issue characteristics and distinct patterns of politics of preference formation exists, I set the ground for empirical analysis that is based on the need to demonstrate that in a given set of case studies previously designated hypotheses provide plausible accounts for actual empirical developments. In this sense, therefore, it is fair to argue that the main aim of this empirical research “is not to make inferences from a sample to a universe but rather to establish the causal mechanisms that brought about one or several specific events and thus to provide internally valid explanations for specific political or social phenomena” (Dur 2007a:9). In sum, by focusing on policy outcomes, in this study I adopt an “outcome-centric’ research design rather than examining the size of causal effects (‘factor-centric’ research design).

In light of this approach, hence, the first methodological principle this research relies upon is that of testing explicit falsifiable hypotheses drawn from competing theories. This is necessary because “only by discarding alternative explanations can a researcher establish the internal validity of her research finding, meaning that the postulated cause-effect relationship is really at work in a specific case” (Dur). Doing so allows to assess the relative strength of evidence for competing explanations rather than report confirmation or disconfirmation for one unicausal claim thereby avoiding to simply infer the validity of a theory from a post-hoc examination of outcomes (Moravcsik 1998). The goal, therefore, is not simply to provide a narrative reconstruction of events but, in doing so, to assess the importance of alternative causal processes which can be applied to a wide range of decisions of the EU in the field of trade.

In this context, the difficult task is to address the methodological challenges that such a research programme implies. Indeed, in too many studies of the EU questions of research, methodology and operationalisation have been neglected (Jupilee and Caporaso 1999). It is generally acknowledged that process tracing is the best suited technique to deal with these objectives (Bennet and George 1997, George and McKeown 1985). Various definitions of this technique have been proposed. George and McKeown describe it as ‘an attempt to uncover what stimuli the actors attend to; the decision process that makes use of these stimuli to arrive at decisions; the actual behavior that then occurs; the effect of various institutional arrangements on attention, processing, and behavior; and the effect of other variables of interest on attention, processing, and behavior’ (1985:35) Bennet and George suggest that this process involves “testing whether the observed processes among variables in a case match those predicted by previously designated theories” (Bennet and George 1997) and for Checkel it implies ‘uncovering the setting and reconstructing the mechanisms through which social agents take decisions’ (Checkel 2001). Despite the differences, all these definitions concur in pointing to the need of in depth qualitative analysis of the case studies to explain the decision process by which various initial conditions are translated into outcomes and, thereby, allowing for discrimination about rival hypotheses.

This technique is operationalized here in three ways. First, I focus on consulting official documentary records. In this context I take into consideration two broad sets of sources. On the one hand, I analyze documentation elaborated within the relevant institutions such as Commission communications, European Council conclusions, European Parliament

resolutions and WTO's documentary records. On the other hand, I also assess the content of policy statements and policy positions made available by key organizations representing European societal groups (interest groups as well as NGOs) before and during negotiations. Second, I carry out a qualitative content analysis of major media and specialist publications. This exercise allows to further the understanding of the case studies by providing an outline of the literature debate concerning the policy issues under investigation, by suggesting what might be the relevant lines of inquiry and by providing an overview of the empirical research already carried out. Third, I conduct interviews with individuals involved in the making of EU trade policy. Again, interviews are conducted with both EU officials (mostly Commission officials) and representatives of European societal interests. These are designed to capture both temporal and intersubjective dimensions. In fact, interviews, whenever possible, are conducted at two different points in time to assess the validity on interviewee accounts. These techniques multiply the observable implications of my approach and allow me to triangulate when assessing the degree to which different factors influenced the politics of preference formation in the case studies considered. In other words, the use of multiple process-oriented techniques allows for a reconstruction of actual agent motivations which, in turn, can cast a light on relative causal impact of the different variables considered.

This methodology is applied in this study to four case studies. More specifically, empirical research focuses on the analysis of the EU's negotiating strategy in the context of four different negotiating areas within the Doha Development Round. This choice has been made on the basis of the need to allow for a meaningful comparison between different cases. In fact, EU trade policy making processes are not uniform across different negotiating venues and issue areas. However, in the context of comprehensive differences concerning inter-institutional policy-making procedures across issue areas become blurred because there is an understanding that consensus decisions apply to all kinds of issues. This choice, therefore, allows for keeping constant, and thus controlling for, the "decision making procedure" variable.

Obviously, the four case studies have been selected according to the criteria identified in the theoretical framework developed above. The negotiating areas analyzed, therefore, have been chosen on the basis of their issue-characteristics:

- In relation to the “high perceived political salience”/”high certainty” cell, I concentrate on negotiations concerning agriculture. That agricultural negotiations are perceived as highly salient is corroborated both by the heated political battles that surround any attempt to reform the agricultural sector in Europe and by the fact that such negotiations clearly touch upon concentrated interests which are mostly defensive. At the same time, agricultural negotiations represent a typical case in which the distributional implications of different policy options can be easily quantified. Different commitments to reduce export subsidies or domestic support payments have consequences that can be quantified with precision by both policy-makers and affected interest groups because they are allocated through the budget. Similarly, reductions in tariff lines have clearly measurable effects on market prices and, hence, clearly measurable impact on farmers’ welfare.
- In relations to the “high perceived political salience”/”low certainty” cell, I focus on the so-called “trade and environment” negotiations. There is little doubt on the idea that environment has become one of the most politically salient issues in both domestic and international politics, at least since the early 1990s. As widely acknowledged, this is even more so in the context of European politics where environmental issues rank high in public opinion priorities and where green parties have gained substantial political importance in most of countries. Moreover, issues related to food safety have created substantial political mobilization in recent years and contributed to making environmental issues a key concern for European voters. At the same time, the WTO debate on environmental issues represents a case of “low certainty” from many perspectives. From an economic viewpoint, it is not clear to any of the players involved in the policy-making process what would be the direct economic implications of different policy alternatives. As the discussion shows, it is generally assumed that a “greener WTO” is in the EU’s interest but to whether it is really so and to what extent cannot be quantified with any precision. From a juridical viewpoint, it cannot be known how eventual clashes between WTO rules and multilateral environmental rules would be resolved. Finally, the whole debate, particularly as far as its food safety implications are concerned, is not based on any conclusive scientific evidence.
- In relation to the “low perceived political salience”/”low certainty” cell, I analyze the so-called “trade and competition” negotiations. Unsurprisingly, the question of

how to better regulate international competition matters does not rank high in European public opinion's preoccupations. In addition, while some positive stakes could result for European business as a result of the adoption of some kind of WTO-led regulatory agreement on competition issues, these benefits would not be concentrated upon any particular business sector. In other words, both in terms of its distributional implications and of its public relevance, "trade and competition" negotiations clearly represent an issue of "low perceived political salience". Moreover, the distributional implications of different policy scenarios are very difficult to evaluate not only because the benefits that would derive would be diffuse but also because questions of legal interpretation, litigation and implementation would make very difficult to measure such implications.

- In relation to the "low perceived political salience"/"high certainty" cell, I take into consideration negotiations concerning technical assistance and capacity building. Insofar as they deal with technical and very specific issues concerning the relationship between trade and development issues, these negotiations are not perceived as highly political salient in Europe. No concentrated European interests are concerned with these negotiations and, unsurprisingly they are of little appeal European public opinion. Even for development NGOS, these negotiations are considered of minor importance with respect to other ones that are considered of key relevance for their development implications. Their distributional implications, however, are clear and quantifiable. Of course, this is not so in terms of their development effects, but it is so for EU policy-makers and societal groups because these negotiations mainly concentrate on technical assistance funding which, by definition, can be easily quantified from a donor perspective.

2. The European Union and agricultural negotiations in the Doha Round

To describe how the EU approached and defined its positions during negotiations on agriculture in the Doha Round one has to recall two important pieces of evidence that are relevant in order to acquire a comprehensive view of the context within which such process took place. Firstly, it is important to remind that the Uruguay Round Agreement on Agriculture (URAA) included two important commitments on negotiating parties that were to have important effects on subsequent developments. On the one hand, the URAA through its Article 20, mandated WTO members to start a new round of negotiations on agriculture by the end of 1999 (WTO 1994). While concluding an very difficult and troubled round of negotiations, WTO members recognized that the agreement could no represent the an end-point to the reform process and committed themselves to a clear deadline to restart the negotiating process. On the other hand, and more importantly for what concerns the European Union, the URAA contained a provision, Article 13, by which WTO members promised to apply “due restraint” in bringing cases against the subsidization of the agricultural sector and to abstain from taking countervailing measures in response to such subsidization. In other words, countries against which legal action could be initiated on the basis of URAA provisions concerning domestic support and export subsidies were granted immunity for a given period. This provision, also known as “peace clause”, however, was due to expire nine years after the start of the implementation of URAA on December 2003, opening up the possibility for many EU policy instruments to be successfully challenged under WTO rules (Anania 2007, Steinberg and Josling 2003). Whether and how these factors had an impact on the EU’s approach towards and during negotiations in the Doha Round will be dealt with in the next section. Suffice to say here that given its share of global subsidy expenditures, the EU was at the front row of this debate (Anania 2007) and faced strong substantive and legal arguments that made threats to its subsidy policies emanating from competing exporting countries credible and pressing. Undoubtedly, as Steinberg and Josling argued, the prospect of an expiration of the ‘peace clause’ ended up lighting a fire under negotiation on trade-distorting agricultural subsidies and on the whole negotiating process concerning agriculture, more generally (2003:372).

Secondly, while the EU was defining its negotiating position on agricultural issue at the

international level, the parallel process of reform of the Common Agricultural Policy (CAP) at the internal level that went through the 1990s, reached a new stage with the adoption of the so-called Fischler reforms in 2003-2004. As widely documented, developments in the CAP did not occur at a steady speed over the years. After a series of sector-specific policy adjustments that took place since the early '80s, the first structural change of the CAP was designed in 1992 through the McSharry Reform that significantly reduced price support for beef and arable crops and introduced partially decoupled "compensatory" payments (Anania 2007). In 1999, the so-called Agenda 2000 reform brought progress ahead by further decreasing price support for beef and arable crops and by increasing partially decoupled "compensatory" payments. The last step of this process of reform was reached in 2003 when, through the "mid-term review" of the effectiveness of Agenda 2000, the EU ended up defining in June the most important reforms of the CAP ever made (Anania 2007). The Fischler reforms designed a new mechanism, the Single Farm Payment Scheme (SFP), which served as an instrument to decouple most of CAP support. Numerous analyses and assessments of both the economic effects of these reforms and of the mutual influence between domestic reforms and international trade negotiations have been put forward in the literature during in the last years (.....). An thorough analysis of the interactions between the domestic Fischler reform process and international negotiations in the context of the Doha Round as well as deeper look at different aspects of the technicalities involved in these processes will be dealt with in the next section. In fact, to understand the extent to which CAP reform set the boundaries of feasible negotiating strategies at the international level or, rather, was influenced and shaped as a result of bargains on the international stage is of utter importance to the purposes of my research questions. At this stage, however, I simply aim to underline, just to stress the obvious in accordance with the to the two-level game metaphor, that internal developments within CAP represent both an important "external parameter" and an enabling factor for any negotiating strategy carried out at the international level.

In sum, it is important to bear in mind that defining a negotiating position within the WTO on agriculture was just one part of a complex process of reorganization of the agricultural sector within Europe. Previous obligations at the international level as well as ongoing processes of internal reform concurred in defining the overall context within which came to set its negotiating proposal and bargain with its international partners.

2.1. *The “what” of agricultural negotiations*

Before turning to a theoretical assessment of the process of preference formation of the EU in the context of the Doha Round agricultural negotiations, this chapter will provide a brief historical overview of the main steps that characterized the negotiating process in this area. The investigation of the “why” and “how” of the EU’s strategy needs to be preceded by a careful description of the “what” of such negotiating strategies. For these reasons the following discussion will concentrate on the content of the negotiating proposals brought forward for discussion with WTO partners in the period between July 1999 when the European Commission first set out its views for a new Millennium Round and June 2006 when the EU tabled its latest proposal before negotiations were suspended.

2.1.1. Developments up to Doha

As already mentioned, the EU has taken an active role in the Doha Round from the very beginning. Already in 1996, in the process of analysis and information exchange established by the WTO Ministerial in Singapore within the Committee on Agriculture, submitted a number of papers and informal proposals (Swinbank 2005)¹. The first formal document with which the EU set its views on the new round of multilateral trade negotiations was produced by the European Commission in July 1999, a few months before the WTO Ministerial Meeting to be held in Seattle in December 1999. In its Communication to the Council and the European Parliament ‘The EU Approach to the Millennium Round’, the Commission first presented its proposal of a wide-ranging and comprehensive agenda for that included, apart from traditional trade issues such as agriculture, non-agricultural goods (also known as NAMA negotiations) and services, a range of non traditional issues such as investment, public procurement, competition, trade facilitation (come to be labelled as ‘singapore issues’) and other social trade policy issues such as environment, core labour standards and consumer health (European Commission 1999).

¹ The informal papers presented by the European Commission were focused on domestic support, in particular on the role of blue box measures in the reform process, and on non trade concerns on the role of multifunctional character of agriculture.

According to the Commission Communication, the EU would have approached negotiations having in mind three broad objectives. First, the need to maintain a number of provisions of the URAA on which key elements of the EU's agricultural policy was built. This was to be obtained through a defence of the "blue box"², a renewal of the "peace clause" after 2003, and a renewal of the special safeguard provisions under the URAA. Second, the need to ensure compatibility of certain rural and environmental policies in agriculture. Third, the need for improvements regarding access to third country markets. These was to be obtained through negotiations on the so-called three pillars established by the URAA – domestic support, market access and export subsidies (including export credits and state trading enterprises) (European Commission 1999). While setting these broad objectives on the eve of the Seattle WTO Ministerial to take place in December, the Commission was also aware of the fact that its negotiating mandate was constrained by decisions adopted regarding CAP within the framework of Agenda 2000 reform. In June 1999, the Berlin European Council made this clear in its conclusions by stressing 'the European Council considers that the decisions adopted regarding the reform of the CAP within the framework of Agenda 2000 will constitute essential elements in defining the Commission's negotiating mandate for the future multilateral trade negotiations at the WTO' (European Council 1999). On 26 October, the European Council substantially endorsed the broad platform defined in the Commission Communication for negotiations on agriculture (European Council 1999a).

The Seattle Ministerial ended up in a failure because it exposed significant differences among member countries concerning what should be on the WTO agenda as well as shortcomings in the manner in which the WTO conducts its business and interacts with other international organizations and NGOs (Schott 2000). What is relevant in this context, is that agriculture was not among the main reasons for not reaching an agreement (Anania 2007). The reasons were varied and complex involving both North-South issues and disputes among major industrial powers. Talks on agriculture were still at an early stage and could not possibly have caused such an unprecedented failure in the history of post-war

² The URAA introduced a distinction between different types of domestic support to agriculture. All domestic support measures that are considered to distort production and trade fall into the Amber Box (art. 6 of the URAA). These include subsidies and price support directly related to production. These support are subject to limits (5% of agricultural production for developed countries and 10% for developing countries). In the Blue Box (art.6 of URAA) is placed any support that would normally be in the Amber Box but that requires farmers to limit production. At present there are no limits on spending on blue box subsidies. Finally, in the Green Box(Annex 2 of the URAA) are placed all subsidies that do not distort trade or at most cause minimal distortion. These have to be government funded and must not involve price support.

global trading system. The EU responded to such a failure by participating actively in the negotiation process that started on agriculture and services in early 2000 (Anania and Bureau 2005). These efforts resulted in a more articulated proposal, the Comprehensive Negotiating Proposal, tabled by the EU in the Committee on Agriculture of the WTO in December 2000. For the first time, the EC went beyond identifying issues to be discussed and developed concreted proposals on each issue area.

On market access, the EC stressed its preference for continuing with the formula for tariff reductions adopted in the URAA, notably an average reduction of bound tariffs and a minimum reduction per tariff line. This formula leaves room for manoeuvre to members to the extent that allows them to take into account the particular situation of specific sectors by providing with flexibility in lowering tariffs.³ It also proposed the adoption of appropriate provisions to protect the right to use geographical indications and to regulate labelling as well as the continuation of the special safeguard clause instrument.

Concerning export competition, the EC vaguely made itself available to negotiate reductions in export subsidies provided that all forms of export subsidisation, such as food aid and State Trading Enterprises, were treated on an equal footing, thus, also subject to reduction commitments. On domestic support, the Commission's strategy was threefold. First, in relation to the "Amber Box", proposed to pursue a reduction in the Total Aggregate Measures of Support (AMS) and by a reduction of the "de minimis" clause for developed countries. Second, proposed that the concept of the "blue" and "green" boxes should be maintained. Third, requested that the criteria to be met by measures falling into the "green box" could be revisited to ensure minimal trade distortion and appropriate coverage of measures meeting important societal goals. In addition to these "three pillars", the proposal included claims for a recognition of non-trade concerns, for a better regulation of special and differential treatment and for a continuation of the "peace clause".

At a broader level, an agreement to start a new round of negotiations going beyond agriculture and services, and therefore signalling that the EU's efforts to building consensus on a wide ranging negotiating agenda was at least partially accepted by WTO members, was reached in November 2001 at the Doha Ministerial. With the Doha Declaration,

³ Provided that the average reduction of bound tariffs takes place, Members are free to determine which sectors would suffer from higher cuts or rather benefit from lower or no cuts.

agricultural negotiations became part of ‘single undertaking’ which was supposed to end by January 2005 (WTO 2001). In addition to agriculture and services, the Doha Ministerial meeting expanded the agenda to include non-agricultural market access, the “Singapore issues”⁴, environmental issues and trade-related aspects of intellectual property rights (TRIPs). Moreover, the text contained a quite pro-development language. As widely acknowledged, “the fact (the Doha Ministerial) took place only two months after the September 11th events certainly played a role in the fact that an agreement was found, as nobody was willing to bear the responsibility for another failure in such tense setting” (Anania 2007). At the same time agreement by all WTO members was made possible by the vagueness and ambiguities of the text that was finally adopted after last minute negotiations (Kerremans 2004). Keeping all member on board requested a text that could make everybody happy.

As far as agriculture is concerned, the Doha Declaration provided a better definition of the mandate for the negotiations but incorporated a few ambiguities. The text included commitments on the three pillars – *‘Building on the work carried out to date and without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support’* (WTO 2001, art.13) – and the need for special and differential treatment for developing countries as well as for non trade concerns to be taken into account were acknowledged. In addition, the Declaration provided that an agreement on “modalities” had to be reached by March 2003. The phrasing concerning export subsidies was particularly ambiguous. Apparently, “reductions of” was added to the sentence only at the very last minute of negotiations (Kerremans 2004). The phrase left the door open to ambiguous interpretations with some claiming that the new round could be targeted to eliminating export subsidies and others suggesting that it could be aimed only at reducing them. Clearly, the European Commission was in favor of the latter interpretation. As a whole, the outcome of this first phase of negotiations was clearly within the “win-set” of the EU.

⁴ Although the Doha Ministerial Declaration provided that on the start of negotiations on the Singapore issues a decision based on an explicit consensus would have to be taken at the next Ministerial.

2.1.2. From Doha to the July 2004 “Framework Agreement” via Cancun

The Doha Declaration claimed for negotiations on modalities to come to an end by March 2003 so to make possible to adopt modalities by September 2003 during the Cancun WTO Ministerial meeting. Meeting this deadline proved very difficult since while a number of participants submitted fully fledged proposals in due time, other partners failed to do so. The EU, in fact, was among those who were late in defining their position on modalities for agricultural negotiations. The difficult negotiation process that brought to the new round of enlargement and that ended in Copenhagen in December 2002, the mid-term review process of the Agenda 2000 reform which was initiated in July 2002 by the Commission (Commission 2002), the difficulties involved in striking a balance between these two processes (Daugbjerg and Swinbank 2004) as well as the need to take into account the implications of these processes before defining a proposal on the international negotiating stage, altogether made it difficult to the EU to advance an articulated proposal before January 2003.

On January 27th, the European Commission tabled its proposal, the ‘Specific drafting input’, for modalities in agricultural negotiations (WTO 2003). The proposal was articulated as follows:

- a) On market access, an overall average reduction formula for tariffs of 36% and a minimum reduction per tariff line of 15% as was the case in the Uruguay Round. In addition, (i) duty free and quota free access for exports from least developed countries to developed and most advanced developing countries, (ii) duty free access for developing countries’ agricultural exports to developed countries to represent no less than 50% of their total imports from developing countries, (iii) specific commitments for the protection of geographical indications (GIs), (iiii) maintain the special safeguard clause;
- b) On export subsidies, a 45% cut in the level of export subsidy expenditure (“in the level of budgetary outlays”) and a substantial cut in the volume of subsidized exports as well as a request to develop disciplines for export credits, food aid and state trading enterprises;

- c) On domestic support, a 55% reduction of domestic support falling in the amber box (the aggregate measurement of support⁵) coupled by the elimination of the “de minimis”⁶ provision for developed countries and the blue box left unchanged.
- d) The continuation of the “peace clause”.

The March 31st deadline for reaching an agreement on modalities, however, went unmet because of the inability to find a consensus on the draft agreement elaborated by the Chairman of the Committee on Agriculture, Stuart Harbinson. As far as the EU was concerned, in particular, the Harbinson draft text contained references to a number of elements - the elimination of export subsidies and a non-linear reduction of domestic support⁷ - that could not be accepted and did not include issues that were considered as a priority for the EU – a broad definition of export credits and non-trade concerns. In addition, the draft text was also criticized by other WTO members for not representing a solid basis for negotiations on agricultural modalities. In light of these developments, prospects for reaching an agreement in Cancun started to look grim and it became clear that in order to overcome existing problems an overall understanding between the EU and the US had to be reached (Kerremans 2004).

The agreement on the so-called Fischler reforms on 26 June 2003 attained by the Council of the European Union (Council 2003), paved the way for a new joint proposal launched by the EU and the US in August 2003. By decoupling most of agricultural from production through the introduction of the SFP, the undergone CAP reform made possible for the EU to present itself with a more dynamic and active negotiating position, particularly on topics related to domestic support,⁸ although it did little to accommodate demands for a rapid elimination of export subsidies and for a significant reduction in import barriers (Swinbank and Daugbjerg 2006). At the explicit request advanced in an

⁵ Includes all supports for specified products together with supports that are not for specific products, in one single figure.

⁶ Under the URAA, minimal supports are allowed (5% of agricultural production for developed countries, 10% for developing countries); the 30 WTO members that had larger subsidies than the de minimis levels at the beginning of the post-Uruguay Round reform period are committed to reduce these subsidies.

⁷ There are any number of non-linear formulae imaginable, however, in practical terms only one type of formula, the so called Swiss formula, has been used so far in tariff negotiations. The formula has the property of being a function of both the initial tariff and the coefficient a . The coefficient can be negotiated. The general impact of the Swiss formula is to widen the gap between the original and final tariff rate as the original tariff rate increases. The cuts are greatest for the higher tariff rates.

⁸ Decoupled direct payments could be switched to the blue box from the amber box and the money released from the reduction of direct payments to the green box for rural development measures.

informal ministerial in Montreal on 30 July, thus, the EU and the US responded with a joint proposal which was meant to provide a basis for discussion in the upcoming Cancun Ministerial (EU 2003). In this document, since it was designed to represent a possible base for a future agreement, no elements defining the extent in terms of trade liberalization of the commitments to be decided were included by it was limited to the reduction formulas to be used.⁹ However, other important elements were proposed:

- a) On domestic support there was an expansion of the scope of the blue box to make possible for the US to cover part of its domestic support by this box too,¹⁰ the acceptance by the EU of the principle that members having higher trade distorting subsidies should be making greater efforts, and the recognition that both AMS and the *de minimis* had to be reduced;
- b) On market access, the EU agreed to move on to a blended formula for tariff reductions by which the previous European approach (an average tariff reduction combined with a minimum reduction for each tariff line), a Swiss formula and duty free access were to be applied respectively to a percentage of tariff lines to be decided;
- c) On export subsidies, agreement was reached on the proposal for an elimination of subsidies, over a period of time to be decided, for a number of products of particular interest to developing countries, for a commitment to reduce budgetary and quantity allowances for export subsidies concerning the remaining products and a discipline of export credits, export state trading enterprises and food aid programs.
- d) On special and differential treatment, the document called for an adjustment of rules and disciplines with a view to create a new legal category for developing countries, called “significant net food exporting countries”, for which the requirements for differential treatment should be modified.

The EU-US joint proposal prompted an immediate response from what would, from then on, come to be known as the G20 group of developing countries. Dissatisfaction was

⁹ The extent of liberalization was to be defined by the parameters to be inserted in the formulas, to be negotiated at a later stage and had little to do with the formulas themselves.

¹⁰ As Kerremans (2004) notes, this expansion is a consequence of the fact that the Joint proposal neither refers to “production-limiting programmes” nor to “direct payments” as does the article of the URAA (6.5) that defines domestic support eligible for blue box exemptions to reduce domestic support. This opens the door for the inclusion of US counter-cyclical payments into the blue box.

concentrated on a number of issues. The joint proposal did not meet what developing countries were calling for, such as the elimination of export subsidies within a pre-determined timeframe, clear numerical commitments on the reduction of both domestic support and import tariffs. In addition, strong opposition was made against the proposal to review the applicability of preferential treatment. On August 20th, the G20 presented a framework proposal for directing agricultural negotiations that was to represent an alternative to the EU-US joint proposal. Specifically, the G20 proposed a number of drastic measures such as the abolishment of the blue box, a tighter discipline of the green box and the elimination of export subsidies for all products. This process of aggregation of previously diverging negotiating approaches of number of developing countries (Bjornskov and Lind 2005) around a common platform made clear that the only possibility for an agreement on modalities in agriculture could be reached in a last-minute deal in Cancun. Differences between the G20 text, on the one hand, and the EU-US joint proposal, on the other hand, could not be reconciled but in the context of comprehensive negotiations. In fact, the July 2003 draft agreement by the Chairman of the Committee on Agriculture Stuart Harbinson, the so-called Harbinson draft, was not adopted by member countries.¹¹

As expected, the September 2003 ministerial in Cancun failed to reach an agreement. Even though talks broke down on the ‘Singapore issues’ (Woolcock 2005), the stall of negotiations on agriculture certainly contributed to the deadlock. The bone of contention resulted to be the request by developing countries to drop off the agenda of all four Singapore issues with the EU only ready to accept only two of them – trade and investment and trade and competition – out of discussion. As it has been noted, however, the Cancun meeting failed before discussion got to agriculture, but it is highly likely that agriculture could have been the reason for the failure had the confrontation got to it, particularly in light of the rigidity of the EU’s position concerning export subsidies (Anania 2007). More importantly, at the political level, the whole negotiating process leading to Cancun made clear that an EU-US agreement would no longer suffice to provide a breakthrough in negotiations, that developing countries (in particular, middle-income developing countries) were ready to exert negotiating power, and, therefore, that their positions were to be considered fully part of the equation for any future deal in the

¹¹ It is important to note, however, that some authors stress that the draft continued to act as a reference point in the negotiations. Anania and Bureau (2004) argue that this was the case because it was the only document that proposed a set of precise commitments and appeared close to the centre of gravity of the positions of the various members.

multilateral trade arena. For the first time in the history of GATT/WTO, a major antagonism emerged between developed and developing countries rather than between developed countries (Woolcock 2005, Young and Peterson 2006, Anania and Bureau 2005, Anania 2007). As Sauvé puts it, 'Cancun offered the novel display of developing countries leading and maintaining negotiating coalitions even while the specific national interests of coalition partners differed' (Sauvé 2004).

Following the collapse the talks in Cancun, the EU felt it was important to reaffirm its commitment to the Doha round and did so through a Communication prepared by the Commission in November 2003. (European Commission 2003). In terms of negotiating positions, the document made no substantial proposals to move forward. The following month, however, the 'peace clause' finally expired, opening up the legal possibility for many EU instruments to be successfully challenged by other WTO members. In addition to this, the EU willingness to avoid negative repercussions for the WTO legitimacy following the Cancun failure, convinced Pascal Lamy and Franz Fischler to make a bold move and put forward a new proposal for re-launching negotiations. In a letter sent by the two Commissioners to their WTO counterparts in May 2004, the EU outlined its readiness to make substantial concessions on three key areas of particular interest to developing countries. On export subsidies, the EU made clear it was ready to phase out all export subsidies provided that full parallelism with all forms of export subsidization was obtained in return. Concerning the Singapore issues, the EU accepted to drop off the agenda public procurement and keep the least controversial one, trade facilitation (European Commission 2004).

This proposal as well as the political skill of the Chairperson Tim Groser during the early part of 2004 made possible the adoption by WTO members of the 'Framework Establishing Modalities in Agriculture' at the General Council meeting at the end of July 2004 in Geneva (WTO 2004). From a political viewpoint, the adoption of the Framework Agreement (FA) represented a strong political signal that a consensus was still there on the idea that the Round was not dead. In practical terms, the FA could not provide a significant breakthrough, since it simply laid down the basic pillars and a 'framework' for conducting future talks. On market access the text retained the tiered formula, which classifies tariffs into various bands for subsequent reduction from bound rates, the higher tariffs being cut more than lower ones. The actual modalities -- the number of bands, threshold for defining bands and type of tariff reductions within each band -- remained

subject to negotiation. As far as domestic support is concerned, the text required a substantial reduction of Members' overall trade distorting support¹² (20% of reduction in the first year of the implementation phase). Such reduction was to be subject to a tiered formula that would cut subsidies 'progressively' with higher levels of trade-distorting domestic support making greater reductions. Finally, on export competition, the agreement provided for significantly stronger language in favor of developing countries in its provisions for disciplining export competition. In fact, acknowledging the new position of the EU on the issue, the text provided for 'an end-date to be agreed' for the elimination of export subsidies. In sum, negotiations on modalities of substance was been left undetermined. Not only the formulae to be used for tariff and domestic support reduction were not specified leaving room for long and difficult negotiations. The agreement also explicitly opened the door for a number of 'flexibilities' which could limit considerably the scope of a future agreement (Anania and Bureau 2005). In particular, the text agreed on a number of tariff lines to be designated as 'sensitive products' to be subject to different disciplines. In fact, some argue that the agreement reached was much less ambitious than the agreement which many thought could have been reached in Cancun using the US-EU joint proposal as a basis (Anania 2007).

2.1.3 Toward the suspension of negotiations

When the FA was agreed the expectation was that a consensus on modalities could be reached before August 2005 and that an advanced draft representing a political compromise on unresolved issues could be adopted during the December 2005 Hong Kong Ministerial meeting. Despite after August 2004 much political and diplomatic effort was put on trying to identify a common ground on agricultural negotiations, at the beginning of summer 2005 few believed a deal could be reached within a reasonable time horizon (Anania and Bureau). As Tim Groser stated before his resignation and replacement by Crawford Falconer in July 2005, 'the agricultural negotiations are stalled – there is no way to conceal that reality' (WTO 2005).

¹² Which comprises the final bound total AMS (aggregate measure of support), plus the permitted de minimis levels, plus the permitted Blue Box levels.

With the Hong Kong meeting getting closer, however, negotiations seemed to regain momentum. In a month time, the three major stakeholders in the negotiation process put forward new ambitious proposals. As Anania puts it, ‘this was probably the time in the round when a real effort was made, at the political and technical level, to find the grounds for a possible agreement’ (Anania 2007:10). On October 10th the US tabled its new negotiating proposal covering all three pillars of the agriculture negotiations (USTR 2005). The same day, Commissioner Mandelson circulated a statement in which some preliminary proposals were brought to the attention of an informal ministerial meeting. After two days, on 12 October, the G20 group made its own proposal for domestic support and market access (G20 2005). Two weeks later, the EU tabled its formal proposal for discussions that reflected some slight changes with respect to the previously circulated document and that was described by EU Trade Commission Mandelson as ‘Europe’s bottom line’ (European Commission 2005). Quite differently from previous discussions, for the first time all actors were ready to put on paper concrete numbers and confront each other on such basis. The EU could deliver its formal proposal after having assessed both what was put on the table by its negotiating partners and their reactions to its initial draft. As a result, the EU proposed:

a) Domestic support

1. Cuts in Aggregate Measure of Support (AMS) by using a three-tier reduction in existing Amber Box ceilings. In the top tier - to be populated by the EU and perhaps also Japan - the cut would amount to 70%, while in the second tier a cut of 60% would apply. This would affect the US - and possibly Japan. For all other countries, the AMS would be cut by 50%
2. De minimis support reduction by 80% for all developed countries (this meaning that being 5% or less of the value of production exempted from reduction commitments under the URAA, under the EU's proposal the relevant threshold would be reduced to 1% of the value of production).
3. Overall reduction in trade-distorting support (Amber Box, Blue Box and de minimis combined) based on three bands, with cuts of 70%, 60% and 50% respectively.
4. Blue Box spending capped at 5% of total farm production and a commitment to negotiate new criteria for blue box entitlement.

- b) Export competition: phasing out by an un-specified end-date of all export subsidies on condition that full parallelism with all forms of export subsidization is guaranteed
- c) Market access:
 1. Tariff reductions based on a tiered (four-bands) formula by which different reduction commitments apply depending on the tariff levels. Specifically, EU would classify developed countries' farm imports into four tiers on the basis of their tariff levels: below 30 percent, 30-60 percent, 60-90 percent, and above 90 percent. Tariffs in the lowest band would be cut by between 20-45 percent, with an average of 35 percent for all of products within the tier. Tariffs on products in the other three would be slashed by 40, 50, and 60 percent, respectively.
 2. Capping tariff lines at 100%.
 3. Designation of up to 8% of tariff lines as sensitive products to be subject to reduced tariff cuts (between one third and two thirds of the reductions).

In addition, EU offers were made conditional on the acceptance by negotiating partners on a number of far reaching requests on other negotiating areas outside agriculture, in particular in the fields of trade in industrial goods, services and protection of geographical indications (European Commission 2005). The position expressed by the EU, however, was quite distant from both the US and the G20 proposals. On tariff reductions, for instance both made bolder proposals with the US asking for a 90% cut in highest agricultural tariffs and the G20 calling for a 75%. On sensitive products, both proposed to limit the number of 'sensitive products' to 1% of tariff lines. On domestic support, the US pledged it was ready to cut its AMS spending by 60% provided that the EU could accept cutting its AMS spending levels by 83%. At the same time, the US was only ready to accept a 50% cut in the de minimis spending. The G20 suggested an approach by which the EU would have seen both its overall trade distorting support and its AMS spending by 80%. On export subsidies, the US proposed a commitment to a complete phasing out by 2010.

The positions were clearly too distant to make any real breakthrough possible. All partners were interested in not sending the message of a second failure in a row. For this reason, the Hong Kong Ministerial produced a declaration in which few issues of symbolic relevance

were dealt with while on other substantial issues it was clear that ‘much remains to be done in order to establish modalities and to conclude the negotiations’ (WTO 2005a). The symbolic steps forward on agriculture contained in the final declaration were two: the agreement to provide duty-free and quota-free access to exports from least developed countries¹³ and the decision to ensure the parallel elimination of all forms of export subsidies and disciplines on all export measure with equivalent effect to be completed by the end of 2013. On the other major issues, namely market access and domestic support, no common ground on actual numbers could be found, apart from a general consensus on methodological issues.¹⁴ Although in the months preceding the Hong Kong Ministerial the major partners in the negotiation process seemed ready to put on the table the necessary political effort to conclude the meeting successfully, the declaration had to ratify that a sufficiently wide political consensus on how to deal with agriculture as well as with the other issues on the agenda was not there.

From Hong Kong on, no other major attempt to reach an agreement was carried out. As it has been argued, ‘it is reasonable to say that the failure in the negotiations had taken place in December 2005, in the weeks preceding the Hong Kong Ministerial, and that a consensus emerged to postpone the failure becoming explicit to a later date to lower its media noise and, as a result, to contain its impact on international relations as well as on the WTO as an institution’ (Anania 2002:11). The Hong Kong draft ministerial declaration asked for establishing modalities no later than 20 April 2006 and to submit comprehensive schedules on modalities no later than 31 July 2006. However, not much happened after the Ministerial and, since the stall was mainly political, no pressure emerged to overcome the impasse. Not surprisingly, therefore, trade negotiations were indefinitely suspended by WTO General Director Pascal Lamy on 24 July 2006, after an informal meeting of the WTO General Council. Furious recriminations followed the breakdown, particularly between the EU and the US, with the former blaming Washington for refusing to offer any new cuts to farm subsidies and the latter countering that the EU gave too little on market access to make any such movement possible. At the same time, the G20 group claimed that the collapse to talks was to be credited to a lack of political will from both the EU and the US and, in particular, the US unwillingness to make concessions on domestic support

¹³ It is important to note that the EU had already unilaterally decided to grant duty-free and quota-free access to imports from least developed countries in November 2001.

¹⁴ A three bands system for structuring reductions in domestic support and a four bands approach for tariff cuts.

(ICTSD 2006). Many observers noted, however, that while all parties shared responsibility for the deadlock, the US political calendar was key in determining the outcome of negotiations. More specifically, it has been noted that the US administration made the political judgement that it was better to delay an agreement on modalities until after the November 2006 Congressional elections and to avoid antagonizing powerful farm lobbies before the electoral turnout (Gifford 2006). The political landscape, however, was further complicated by the prospect of the expiration of the US administration trade promotion authority by July 2007 and, therefore, by the need to reach a compromise in spring 2007 at the latest.¹⁵ Otherwise, a resumption of negotiations could have not been possible after the 2008 US presidential elections. As it is well known, not only the November 2006 elections gave the US Democrats a majority in the Congress, but WTO talks could not reach a compromise on time for the US to be able to ratify an agreement.

2.2. A theoretical assessment: the “whom” and the “why” of agricultural negotiations

According to the theoretical framework defined in the previous section, there are two main questions that need to be addressed. The first concerns the extent to which the evolving negotiating position of the EU in this specific issue area can be described in terms of state-society relations. The second relates to the problem of identifying the logic driving actors' preferences thereby questioning to what degree these preferences are defined on rational basis or rather as the result of ideas, identities and core beliefs exercising an impact on policy debates and policy choices. In order to answer these questions, I will try to analyze both the process that led to the decision to participate to a new round of multilateral negotiations involving agricultural issues and the content of the negotiating positions displayed by the EU. As far as the first issues is concerned, it is relevant to question what were the driving factors that led to the very decision to embark in comprehensive multilateral trade negotiations involving agriculture. This is even more relevant given the active and leading role taken by the EU in pushing forward the idea of a new millennium

¹⁵ The Fast track negotiating authority (also called Trade Promotion Authority, TPA) for trade agreements is the authority of the President of the United States to negotiate agreements that the Congress can approve or disapprove but cannot amend or filibuster. Fast-track negotiating authority is granted to the president by Congress. The point here is that Without it, the US is not considered to be a credible negotiating partner -- multilaterally or bilaterally -- since Congress would then be able to pick apart carefully-assembled deals provision-by-provision, instead of having to give each package a straight up or down vote

round and in struggling for creating the necessary consensus for the Doha Round to take place. While different interpretations have been put forward on this issue, these accounts share the view that a traditional pluralist perspective cannot account for this specific outcome. The validity of these claims will be assessed by taking into consideration the implications of the judicialization process that resulted from the introduction of the new quasi-judicial dispute settlement mechanism within the WTO since 1995. With regard to the second issue, I seek to assess the relative explanatory power of different hypothesis in accounting for the evolution of the negotiating strategy of the EU throughout the negotiating process. In particular, I concentrate on the extent to which different actors exerted different degrees of influence and on the factors shaping actor's preferences. This implies seeking to measure the influence of interest groups, looking at the role of the European Commission and member states representatives vis a vis the various societal groups and interpreting actors' motivations.

2.2.1. Why negotiating agriculture multilaterally? A preliminary plausibility probe

The first question that needs to be addressed is why the EU chose the WTO framework to negotiate a comprehensive trade agreement, including agriculture. As recalled above, the EU was probably among the most fervent supporters of the new Doha Round and already in 1996 started to elaborate a strategy for the new multilateral round of negotiations (Ahnliid 2005). The very idea of a new comprehensive round of multilateral trade negotiations - aimed not only to the opening of markets in agriculture, manufacturing, services and free electronic commerce but also to regulation in the areas of environmental protection, labour standards, FDI and competition - under the auspices of the WTO was very much a European idea (Ahnliid 2005, Kerremans 2004, De Bievre 2006, Falke 2005, Meunier 2007, Woolcock 2005, Young 2007). Both developing countries and the US, although for different reasons, were not keen on embarking in negotiations on the basis of such a comprehensive agenda (Kerremans 2004, Falke 2005).

The EU's approach towards the Doha round, however, raises important theoretical questions. At first glance, this specific EU' venue choice for trade negotiations seems at odds with standard political economy theories that view government choices as a function

of the preferences and political pressures emanating from key interest groups within the society (Schattsneider 1935, Chase 2003, Davis 2005, Dur 2007, De Bievre and Dur 2005, Milner 1988, 1997, Frieden 1991, Rogowski 1989). As widely acknowledged, multilateral and comprehensive negotiating settings provide policy-makers with the optimal strategic context to counter the domestic bias that favours protection (Elsig 2007, Davis 2004, Moravcsik 1994). Given the strength and relative importance of European import-competing sectors such as agriculture, therefore, the EU's venue choice strategy seems to contradict the expectations one would derive from theories that conceive public actors' venue choice strategies as a function of interest groups preferences over such policy choices. In the end, the EU was not obliged to chose such multilateral venue. Bilateral or interregional venues are also available to actors willing to embark in a process of negotiation of trade agreements. It is certainly true that Article 20 of the Uruguay Round Agreement on Agriculture (URAA) mandated WTO members to start new negotiations on agriculture by the end of 1999. However, that the willingness to abide to this provision was the driving factor behind the EU's readiness to accept to put itself in a context where painful concessions on agricultural issues were to be expected seems a too simplistic and, somehow naïve, explanation. The EU was not under pressure by other WTO partners and in the absence of a clearly defined political will to start the process it would have been easy to find some justification for not complying with Article 20 provisions. In other words, the EU strongly and consistently wanted a new round of multilateral trade negotiations to take place. In light of the analytical perspectives confronted here, therefore, the first theoretical question that needs to be tackled is why did the EU behave this way.

In the following section I try to answer this question. First, I review some of the theoretical arguments that have been developed in the literature and suggest that prevailing non-domestic explanations developed so far tend to overlook the impact of the legalization of the international trade regime. In particular, I suggest that under conditions of potential vulnerability with respect to future legal challenges brought by trading partners import-competing interests can be best defended in a multilateral and comprehensive negotiating context. Second, I discuss some empirical evidence on the EU's agricultural sector and its relation with respect to WTO disciplines in the period preceding the launch of the Doha Round to support the claim that the EU was in fact in a vulnerable position and that, on a preliminary basis, it is not implausible to portray the Commission's venue choice strategy as a rational attempt to protect the EU's agricultural sector.

2.2.1.1. A theoretical overview of existing accounts and the logic of 'protection through multilateralism'

The studies that have addressed the question of why the EU decided to promote a new round of multilateral trade negotiations tend to privilege non-domestic explanations. The starting point of these accounts is that there is an evident contradiction between what one would expect on the basis of a pluralist theoretical perspective and the empirical evidence. Given the distribution of offensive and defensive commercial interests among European interest groups, the argument goes, one would have expected other strategies, bilateral or interregional, to prevail over multilateralism. Elsig makes clear this argument when stating that 'a simple pluralist model of interest- group competition [...] could not predict this venue mix. If trade agreements are to be undertaken, import-competing business actors prefer bilateral to inter-regional and inter-regional to multilateral agreements' (Elsig 2008:935). These studies suggest that standard pressure politics which conceive governments' choices of negotiating venues as a function of interest groups preferences fails to predict and account for the EU's choice to negotiate at the multilateral level and on a comprehensive negotiating package.

This arguments deserve to be analyzed in detail. By taking a pressure politics perspective on venue choice strategies one would derive the following expectations. First, import competing industries are expected to lobby for the status quo and if trade agreements are to be undertaken these actors prefer bilateral over inter-regional and inter-regional over multilateral frameworks (Aggarwal and Fogarty 2004). On the one hand, this happens because these groups generally opt for the trade regime in which opening new markets has only a marginal effects on their domestic market position and in which they have the greatest veto power during the negotiations. On the other hand, it is clear that trade-off deals are less likely in bilateral setting thus giving import competing industries more leverage not to be paying for the deal (Elsig 2008). As Davis puts it, 'protectionist interests in a position to veto a single issue have less influence over negotiations on a package of multiple issues that presents new new distributional stakes and wider policy jurisdiction in the domestic policy process' (Davis 2004). Second, export competing sectors' preferences are mixed and depend on their degree of competitiveness, strategic orientations and their

experiences with a multilateral approach. A preference for multilateralism, for instance, should be prominent among export industries that are globally competitive. A seminal study of Helen Milner has shown that industries and sectors with high levels of export dependence and multinationality lobby for free trade (1988). However, while at a general level export-competing interests are expected to lobby for opening new markets via multilateral approaches, these groups face a number of important obstacles to mobilization. The costs attached to information gathering, the uncertainty concerning the benefits from lowering foreign trade barriers and the vagueness of distributional effects of liberalization among exporters, increase the costs of mobilization and for engaging in political action to improve foreign market access (Dur 2007). In addition, exporting business groups may prefer interregional approaches when in need of larger-than-national markets to take advantage of economies of scale or to develop production-sharing networks (Chase 2003). The result of this line of reasoning is that given the clear preferences of import-competing groups and the mixed preferences of export-competing groups one should expect a bias in favor of bilateral or interregional approaches.

Given the presumed inability to account for actual developments, the EU's push for the Doha Round, of this standard political economy approach, a number explanations have been put forward stressing the autonomy of political and institutional actors as well as the influence of developments at the international level. In terms of the hypotheses defined in the previous section, it is possible to argue that some of these views see the process of preference formation as emerging from 'identity politics'. Elsig, for instance, argues that the Commission is a key actor in determining the EU's choice of regulatory venues (2007). The existing delegation design which provides the Commission with agenda-setting power, high thresholds for member states to sanction the Commission and the multi-level system allow the Commission substantial autonomy to act. The choice for a multilateral strategy, therefore, reflects the Commission's preference for a 'multilateralism first' approach. According to this view, thus, this specific policy outcome is explained as the result of the action of a relevant institutional actor whose preferences were defined mainly in terms of shared ideas as to how international trade relations should be pursued and who could act autonomously by virtue of the room of maneuver it could enjoy within the institutional setting it was operating. Van den Hoven stresses the role of the EU Trade Commissioner Pascal Lamy in using a "development" discourse to build up support, both internally and externally, for the Doha Round at the Doha Ministerial Conference (2004). Once again, the

outcome 'Doha round multilateral negotiations', is accounted for by pointing to the autonomous capacity of the European Commissioner to pursue norm-based strategy goals that would have not been possibly achieved without him playing an entrepreneurial role and creating a consensus on the basis of common belief systems.

Other analyses, rely on an 'executive politics' view. In this cases, the basic argument is that EU institutional actors, the European Commission in particular, were able to pursue their strategies autonomously with a view to implement trade policies against the resistance of protectionist forces. In this case, actors' preferences are framed in rational terms. Ahnlid, for instance, explains the EU's approach to the Doha Round as the result of the Commission's efforts to provide effective leadership to move the EU position in a free-trade oriented direction and of its capacity to do so in the context of a three level negotiating game (2005). The very decision to start negotiations on a single undertaking involving a broad range of issues is described as part of a strategy designed to facilitate linkage strategies and trade offs between negotiating issues and, therefore, to counter the domestic bias favoring protection. Kerremans uses a principal-agent framework to make a similar argument (2004). In his view, by expanding the negotiating agenda of the WTO, the Commission tried to create a negotiating environment in which agricultural concessions would be submerged in larger package deals containing concessions and counter-concessions. Quite differently, but getting to similar conclusions, Dur argues that the institutional propensity to facilitate issue linkages within the EU helps it to overcome the potential for blockade by a large number of veto players and applies this argument to the EU's involvement in the Doha Round (2007).

As mentioned above, the puzzle these analyses seek to account for is the logical contradiction between the multilateral and comprehensive negotiating strategy pursued by the EU and the expectations derived from the existing constellation of interests within the EU for negotiating strategies more suitable to defending the status quo and, therefore, to protecting import-competing groups and sectors. On this basis, these authors have revolved their attention to non-domestic variables. My argument is that the logical contradiction mentioned above is only an *apparent* contradiction. More specifically, I suggest that when deriving expectations concerning interest groups' preferences over venues for international trade negotiations one should take into account the impact of the high degree of legalization that resulted from the introduction of a quasi-judicial dispute

settlement mechanism in the WTO. Indeed, while it is true that some studies have looked at the link between WTO legalization and domestic reform in the EU (Davis 2007, Daugbjerg and Swinbank 2008), small attention has been paid to assessing the effects of the introduction of 'hard' law mechanisms in the international trade regime on the preferences of EU interest groups. Whether such a quasi-judicial mechanism is available to governments makes a difference on the set of interest groups' preferences over the choice of the institutional venues for trade negotiations (Goldstein and Martin 2000, Davis 2005, 2006). Before rejecting domestic explanations, therefore, one should make sure to have taken appropriately into consideration 'how increases in the legalization of the international trade regime interact with the trade related interests of domestic groups' (Goldstein and Martin 2000:603).

At the very general level, legalization in the international trade regimes has two effects. First, it changes the incentives of interest groups to mobilize by entailing a process of increasing rule precision that provides more and better information concerning the distributional consequences of commercial agreements. Second, it increases the obligatory nature of international rules thereby making difficult for governments to get around obligations, not only because rules become more transparent and precise but also because new WTO procedures for dispute settlement make penalties for rule violation more certain (Goldstein and Martin 2000). The policy implications of these effects are diverse. Overall, it is not clear whether making consequences of trade agreements clearer increases liberalization. Goldstein and Martin, for instance, suggest that legalization create incentives for both protectionist and free-trade interest groups to mobilize, thereby making difficult to put forward any conclusive generalization concerning the effects of this process on the degree of openness of the international trading system (2000).

Of particular relevance, in this context, are the effects on domestic groups' preferences over trade negotiating venues displayed by having made trade rules more binding through the new dispute settlement mechanism. The new third party adjudication mechanism under the WTO made important changes with respect to previous GATT procedures. First, whereas access to third party review under GATT was subject to unanimity, a member states' right to a panel is automatic under the WTO. Second, while in the GATT a ruling could be vetoed by the defendant, under the WTO the ruling can be vetoed only by a unanimous vote of the members. Third, and more importantly, in cases of non compliance

WTO adjudicators can authorize trade retaliatory measures. In brief, to retaliate against member states breaching trade rules becomes a viable and credible strategy under the new scheme. My argument is that these developments changed the strategic context within which domestic groups define their order of preferences over trade negotiating venues. More specifically, I suggest that a reduction in the scope for the member states' capacity to breach existing rules may change the order of preferences of import-competing groups that enjoy protection from WTO-incompatible policy instruments.

As argued above, in the absence of a quasi-judicial mechanism of dispute settlement, one would expect protectionist interests to favor those negotiating contexts that are less likely to impinge on the status quo. Bilateral and single-issue talks would then be preferred to multilateral and comprehensive negotiations. As already mentioned, in the latter context it is easier for governments to overcome domestic pressures. If it is true that international negotiations tend to reallocate political resources in favor of national executives (Moravcsik 1994, Putnam 1988), this is particularly true in the case of multilateral and multi-issue international negotiations. On the contrary, in the context of bilateral talks the side resisting liberalization holds a strong bargaining power since the costs of non-agreement are much higher for the side favoring liberalization. The side willing to promote liberalization, therefore, prefers to negotiate with more partners and on more issues. This happens because a passive response by the respondent state is sufficient to put the brakes on bilateral talks. The absence of enforcement mechanisms and the *de facto* veto power held by the side resisting liberalization in bilateral contexts, compel the initiating side to prefer strategies that, although more costly than bilateral ones, can produce some degree of liberalization.

The judicialization of enforcement mechanisms within the WTO changes the picture. Under the new scheme, states willing to liberalize are provided with a tool to act against states violating existing rules. Since third party adjudication and retaliation have become available options for member states, non-compliant members lose much of their bargaining power. The status quo is no longer an option for states resisting liberalization and breaching existing rules. Indeed, under the previous system, these states were in a position to veto any agreement that made them worse off with respect to the status quo. On the contrary, in the present framework, states know that costs can be imposed on them for their misbehavior. The country seeking liberalization can both unilaterally determine the

negotiation forum by pursuing adjudication and implement costly retaliation on the responding state. As a result, the respondent government has little choice in the matter of negotiation forum if the initiating government decided to file a complaint. As Davis clearly puts it, 'being singled out in a violation ruling issued by a WTO dispute settlement panel is the worst case scenario for the respondent state. A violation ruling represents an authoritative recommendation for an end to the protectionist policy' (2005:19). It is fair to argue, therefore, that Bargaining in the shadow of the law (Busch and Reinhardt 2001), impacts on the order of preferences interests groups have on institutional venues for negotiations and, therefore, changes the way in which executives' venue choice strategies have to be evaluated.

More specifically, I seek to argue that for protectionist interests vulnerable to WTO legal challenges, the choice of a multilateral forum for comprehensive trade negotiations could represent the optimal scenario to carry out a defensive strategy aimed at neutralizing and offsetting these external threats. Under the circumstances described above, there are good reasons to carry out a 'protectionism through multilateralism' strategy. Indeed, multilateral and comprehensive settings for trade negotiations provide legally vulnerable import-competing sectors with a number of strategic opportunities:

- (i) by promoting multilateral negotiations these groups would move from a worst case scenario setting to a negotiation forum that promises the most time and flexibility. Increasing the length of negotiations appeals to groups that have an interest in minimizing and delaying reform.. While being brought to adjudication implies almost-certain costs in the present, multilateral and comprehensive negotiations bring desirable delays by adding complexity to the negotiating process (Davis 2005). Given that the pattern of WTO rulings has overwhelmingly favored the complainants in past decisions (Reinhardt 2001), legally vulnerable groups know that there are high probabilities to be singled out by a WTO's ruling. Therefore, any strategy that allows the dispute to be brought away from a juridical dispute settlement context to a more politically oriented one appeals these groups. Among them, multilateral and comprehensive settings represent the best possible scenario. Indeed, since trade rounds generally stretch on for many years, this strategy allows to displace the costs of liberalization to an indefinite future.

- (ii) In addition, lengthy negotiations provide interest groups with the necessary time to develop lobby strategies aimed at pushing policy-makers to reach agreement on new international regulation that 'legalizes' the targeted policy instruments. A new round of negotiations may end up setting new international rules that allow for the use of policy instruments previously prohibited. At first glance it may look irrational for a complaining state to accept a negotiating outcome that legalizes a policy instrument that could be successfully targeted through legal action. In multi-issue negotiating contexts, however, the complainant state may be brought to accept such an outcome through issue-linkage strategies that allow it to obtain substantial gains in other issue areas;
- (iii) Lengthy negotiations may be appealing to interest groups for another reason. In the event of a failure of the strategy described above, a long time frame offers interest groups the opportunity to lobby for the implementation of processes of domestic reform of the targeted policy instruments that, while allowing to abide to international norms and rules, keeps the overall level of support provided to the sector substantially unchanged. A restructuring and a redefinition of the set of policy instruments in place to provide support to producers does not necessarily imply a reduction of the overall level of support. Even if the overall level of support were to decrease as a result of reform, however, the strategy could still be considered rational in case the costs of reform were to be lower than the potential costs imposed on the given sector as a result of an adverse WTO's panel ruling.
- (iv) Finally, multilateral and multi-issue negotiations facilitate trade-off deals that potentially enable actors to reach an agreement on less-than-expected costly concessions in the vulnerable sector in exchange for more concessions in less sensitive ones (Kerremans 2004). Any negotiating outcome implying less costs than those expected as a result of potential and probable retaliation following adverse rulings in a non-reform scenario would represent a pareto-superior outcome for these domestic actors. Even in the worst case scenario, namely an outcome of the negotiating process implying as much costs for the productive sector considered as those that would result from a adverse WTO's panel ruling, a multilateral and comprehensive negotiating setting allows the defendant state to bargain its own concessions in exchange for counter-concessions from negotiating partners. In other words, an adverse panel ruling compels the targeted state to put an end to the protectionist policy without getting something in exchange. In a multilateral and

comprehensive negotiating context, the phasing out of the same protectionist policy can be bargained against counter-concessions within the same issue area, in other issue areas and from a number negotiating partners.

Without taking into consideration these arguments, any theoretical argument that dismisses domestic accounts of EU's venue choice risks to overlook important and potentially essential causal mechanisms and, therefore, come to inappropriate conclusions with regards to EU's institutional actors' capacity to play an autonomous role in shaping trade policy outcomes. Indeed, if these conditions outlined above were to apply, one should be able to start questioning the theoretical consistency as well as the explanatory power of non-domestic accounts concerning the choice of multilateral venues for international trade negotiations. As the following section seeks to demonstrate, at the time a decision on whether a new round of multilateral negotiations was to be undertaken the EU was indeed in a vulnerable position with regards to WTO legal challenges. Of course, to highlight these factors does not suffice to demonstrate that the EU's negotiating strategy was actually determined by the influence of domestic actors. To do this, one must show that empirical evidence on domestic groups' preferences over the issue and institutional and political actors' responses to them was consistent with this line of reasoning.

2.2.1.2. The vulnerability of the EU's agricultural sector: an overview of the empirical evidence

The preliminary question to be addressed, therefore, is to what extent was the EU vulnerable to WTO legal challenges at the time a decision on whether a new round of multilateral negotiations was to be undertaken. An affirmative answer to this question would make worth further investigation as to what were the motivations behind the Commission-led strategy toward multilateral negotiations.

As already noted above, one of the important elements that characterized the URAA was the adoption of the so-called 'peace-clause' on subsidies. In the Uruguay Round, two sets of rules and commitments concerning the use of subsidies were negotiated and laid down in two separate legal texts, namely the Agreement on Subsidies and Countervailing Measures (SCM) and the URAA itself. The first was meant to disciplines the use of

subsidies and to regulate the actions countries can take to counter the effects of subsidies. Under the agreement, a country can use the WTO's dispute-settlement procedure to seek the withdrawal of the subsidy or the removal of its adverse effects. In addition, the country can launch its own investigation and ultimately charge extra duty ("countervailing duty") on subsidized imports that are found to be hurting domestic producers. The second test was designed to define a number of reduction commitments with regards to the three pillars of agricultural negotiations. The 'peace-clause', Art. 13 of the URAA, was agreed at the insistence of the EU to protect member states from the application of certain provisions of the SCM agreement until the end of 2003. In essence, the 'peace-clause' prohibited most challenges to agricultural subsidies under the SCM agreement as long as countries complied with their obligations under the URAA. The rationale behind the decision to adopt this provision was to avoid, since there was a feeling that SCM rules were more stringent than those adopted in the URAA, that legal actions could be undertaken against subsidizing countries fulfilling their reduction commitments. Undoubtedly, by addressing potential ambiguities in the relationship between the URAA and the SCM agreement, the peace clause represented an important cornerstone in the final deal worked out by the major players at the Uruguay Round (Chambovey 2002)

The 'peace-clause', however, had a precise expiration date: the end of 2003. The primary result of the expiration of this provision would be to open up the possibility for many EU policy instruments to be successfully challenged under WTO rules (Anania 2007, Steinberg and Josling 2003). As it has been argued, 'when the peace clause expires, the full substantive and procedural legal apparatus of the WTO may be used to challenge EC and US agricultural subsidies' (Steinberg and Josling 2003). This argument rests on the idea that the URAA is not legally prevailing over subsidy rules defined in the SCM agreement (Porterfield 2006, Steinberg and Josling 2003). Practically, this would have resulted in all kinds of trade distorting subsidies being challengeable under the provisions of the SCM agreement, irrespective of URAA reduction commitments being complied with.

To get a picture of the degree of vulnerability of the EU, it may be useful to look at the composition of the support provided to European farmers. The data available show that in

the pre-2003 CAP reform the EU's producers support estimate (PSE)¹⁶ was roughly composed by a 20-25% of blue-box spending, 40-50% of amber box spending, 20% of green box spending and 5-10% of export subsidies (Hart and Beghin 2006, Hoekman and Messerlin 2006, Elliott 2006). Since the largest bulk of the aggregate measurement of support (AMS)¹⁷ is accounted for by the market support component, it is possible to estimate that roughly 40-45% of the EU's support to agricultural producers was potentially to become vulnerable to legal challenges.¹⁸ Without any doubt, therefore, reaching the peace clause's expiration date without developing any strategy aimed at minimizing its potentially disruptive effects on the agricultural sector would have represented the worst case scenario for EU's agricultural interests. As Swinbank puts it,

if the Peace Clause is not rolled-over, we can readily predict that from 2004 the CAP will be subject to a succession of hostile panel reports which will progressively limit the EU's ability to grant export subsidies and provide domestic support to the farm sector, over and above the bound tariffs. This would lead to a radical CAP reform, but it would be a "death by a thousand cuts" (1999:45).

In addition, even if we were to accept the optimist contention that the expiration of the peace-clause would not immediately open up the possibility of EU agricultural subsidies becoming "actionable" on the basis of the SCM agreement (Chambovey 2002, Delcros 2002), it is plausible to question the extent to which was the EU in a position to meet present and prospective WTO commitments at the time the Doha Round was being launched. Indeed, different authors concur to the idea that Agenda 2000 CAP reform had been largely insufficient to allow the EU to meet its URAA commitments, particularly on export subsidies and market access (Anania 2007, Swinbank 1999, Swinbank 1999a, Tangermann 1999).

Indeed, different authors concur in stressing that although Agenda 2000 was at least in part aimed at strengthening the EU's position *vis a vis* its negotiating partners, it was largely insufficient to meet its commitments under the URAA. The most problematic area was

¹⁶ An indicator created to provide a summary measure of the producer subsidy that would be equivalent to all the forms of support provided to farmers including direct farm subsidies that may or may not encourage production domestically, as well as market price support provided by import tariffs and export subsidies

¹⁷ All domestic support measures considered to distort production and trade (with some exceptions) fall into the amber box. These include measures to support prices, or subsidies directly related to production quantities. The reduction commitments applying to the amber box are expressed in terms of an Aggregate Measurement of Support.

¹⁸ The figure is obtained by adding export subsidies, a large share of blue box subsidies and the subsidies component of the AMS.

certainly that concerning export subsidies. It was clear to both commentators and the European Commission itself that under the URAA the main constraint on the CAP would stem from export subsidies (Anania 2007, Swinbank 1999, Swinbank 1999a, Tangermann 1999). Whereas in the first years of the implementation period (1995/196) of the URAA the EU had no major difficulty in meeting the reduction targets, it became clear that since export subsidy commitments declined over time the EU would have needed to restrain its subsidized exports to fit into its commitments for the year 2000 (Tangermann 1999). Moreover, there was a perception that the accession of several states for eastern and central Europe would exacerbate the problem even more (Swinbank 1999). In other words, just before the beginning of the Doha Round there was a widespread awareness that with an unchanged CAP, WTO's constraints on export subsidies would become very problematic. As Tangermann put it,

of even more immediate and pressing importance is the fact that the current and even more so any further reduced, export subsidy commitments simply force the Union to adjust its agricultural policies [...] EU agricultural output continues to grow in most product sectors while EU consumption is essentially stagnant. As a result, export availability is on an upward trend while the scope for subsidized export declines. The pressure for policy adjustments, therefore, is likely to grow in many product sectors (1999:1165).

As for market access, the situation was more complex. On the one hand, the commitments of the EU were rather generous as a result of a combination of dirty tariffication, the special safeguard provisions in the URAA, specific EU arrangements in tariffication and the use of preferential trading agreements the EU had to fulfill access commitments under the URAA (Tangermann 1999). In general, therefore, EU tariff bindings provided with a rather comfortable room of maneuver. On the other hand, the decline of world market prices at the end of the 1990s and the reduction of tariff bindings over time highly reduced the margin between actual levels of import protection and tariff bindings in relation to important products such as cereals (Tangermann 1999). In addition, Art.5 of the URAA was clear in stating that the special safeguard provisions, particularly important in protecting high cost butter and sugar in the EU, would lapse if the reform process provided for in Art.20 was to falter (Swinbank 1999). In other words, while existing commitments under the URAA were not giving cause for immediate concern in the 2000/2001 period, there still was a perception that in the years to come some problems

could emerge of in some specific but relevant sectors of agricultural production as a result of a combination of factors.

Whether and how these factors had an impact on the EU's approach towards and during negotiations in the Doha Round will be dealt with in the next section. Suffice to say here that given its share of global subsidy expenditures, the EU was at the front row of this debate. At the time, the EU was indeed greatly concerned about the fact that in a few years the protection provided by peace-clause to blue box spending was going to expire (Blandford 2001). Indeed, the EU perceived it was going to face strong substantive and legal arguments that made threats to its subsidy policies emanating from competing exporting countries credible and pressing. In fact, the EU was aware that other relevant trade partners, such as the US and the Cairns Group, strongly favored the elimination of the blue box and export subsidies and were ready to use the full array of legal instruments at their disposal to challenge these policy instruments after the expiration of the peace clause (Potter and Burney 2002). Unsurprisingly, therefore, the prospect of an expiration of the 'peace clause' ended up lighting a fire under negotiation on trade-distorting agricultural subsidies and, more generally, on the whole negotiating process concerning agriculture, (Steinberg and Josling 2003:372).

Since breaching existing WTO rules and commitments could not be considered a cost-free strategy anymore, it is not implausible to argue that promoting a multilateral and comprehensive round of negotiations represented a rational strategy for public actors, willing to defend European farmers. As Swinbank very clearly puts it,

if a Millennium Round were not launched it would, paradoxically, be in the interest of the EU's farm and food sectors to engage positively in the mini round. This is because of the structure of the agreement on agriculture [...] and because in joining the WTO, signatories also agreed to be bound to a strengthened procedure governing the settlement of disputes (1999:45).

In short, the EU was soon going to become highly vulnerable when the decision to support and actively participate to a new round of multilateral negotiations was taken. Indeed, as a result of the establishment of a quasi-judicial dispute settlement mechanism, to breach existing WTO rules and commitments could not be considered a cost-free strategy anymore. In light of these considerations, one can plausibly argue that promoting a multilateral and comprehensive round of negotiations was the most rational strategy available to European policy-makers willing to protect the agricultural sector from the

disruptive effects that could result from the lapsing of the peace clause. To embark in a presumably long-lasting exercise of negotiations on a multiplicity of issues was to provide the European Commission with room of maneuver to restructure its domestic subsidy disciplines, to shape new international norms with a view to avoid legal challenges and, at the same time, to maintain the level of protection to the agricultural sector substantially unchanged. As it has been widely acknowledged, the Commission's approach to the new round represented a good example of a pre-emptive strategy aimed at dealing with agriculture (Kerremans 2004). That this pre-emptive strategy was largely consistent with the defense of import-competing agricultural interests, however, has not been stressed yet.

2.2.2. An in-depth assessment theoretical assessment of the negotiating process

To stress that the consistency of a “pressure politics” interpretation of the EU's decision to negotiate agricultural liberalization within the context of a new comprehensive round of trade talks, however, is just the first step. In this section I seek to demonstrate that the empirical evidence concerning how the EU's negotiating strategy evolved until the suspension of negotiations in 2006 is consistent with the analytical expectations set out in the previous section. If the aim is to establish the superiority of one over all other accounts, it is crucial to analyze how the EU's negotiating platform evolved throughout the talks with a view to assess whether the EU's “executive” attempted to play an autonomous role in shaping policy outcomes in and to evaluate the relative importance of interest-driven calculations vis a vis ideas in driving actors' behavior. To do this, I rely on three broad methodological approaches: process-tracing, gauging the degree of actors' preference attainment and, finally, assessing the “attributed influence” of different groups and actors (Dur 2008).

2.2.2.1. Approaching the new round

The stance of the European Commission as well as the positions adopted by agricultural interests and national agricultural ministers up to the adoption of the Doha Round seem

confirm this line of reasoning. The analysis of the position developed by the EU in the months before the launch of the Doha Round shows that its approach was twofold and apparently contradictory. On the one hand, it set itself as the most fervent supporter of a new round of talks. On the other hand, it sought to set the agenda in line with its conservative preferences.

The first document elaborated by the Commission to outline its approach towards the incoming Millennium Round in July 1999, put emphasis as much as possible on the preservation of the status quo, thereby indicating that those – both interest groups and member states – favoring a more liberal approach could not impose their views (Agra Europe 1999). In fact the position outlined in the document – defense of the blue box as an essential element to ensure implementation of CAP reform, renewal of the peace clause, renewal of the special safeguard provisions and recognition of the concept of multifunctionality and of non trade concerns - was wholly defensive. In addition, the communication reiterated the Agenda 2000 commitment that the reformed CAP would constitute the essential parameter defining the Commission's mandate in the future round of negotiations. According to this document, therefore, the EU was not ready to go beyond what already agreed at the internal level. It is interesting to note that the March 1999 Berlin European Council agreement on CAP reform actually increased support to the agricultural sectors (Agra Europe 1999). To reinforce the perception that while pushing for a new round the EU was playing on the defensive, a few months later agriculture Commissioner Fischler made clear that the domestic priorities would not be sacrificed in the forthcoming negotiations by claiming that while he was ready to work towards a further liberalization of agricultural trade, the EU would only be able to accept an agreement would allow it fulfill its domestic priorities and that any attempt to push for a global harmonization of agricultural policy was doomed to failure (Agra Europe 2000).

At the same time, the EU was among the most pro-active supporters of the talks and was working hard for making possible an agreement on the start of the new round after the Seattle debacle. The February 2001 EU's unilateral decision to grant duty and quota free access to imports from least developed countries through the Everything but Arms initiative was clearly geared towards gaining developing countries support for the new round (Ahlid 2005, Kerremans 2004). In other words, the EU's effort to convince other relevant WTO partners to embark in a new round of negotiations was coupled with a negotiating stance that was clearly skewed towards protectionist interests. To shed a light of this apparent

contradiction it is important to stress that at the time there was a clear perception among diplomats that the forthcoming end of the peace clause in 2003 was acting as a spur to the negotiation process (Agra Europe 2000a).

In the following months, the 1999 Seattle WTO ministerial that was meant to launch the new round ended up in a failure because it exposed significant differences among member countries concerning what should be on the WTO agenda as well as shortcomings in the manner in which the WTO conducted its business and interacted with other international organizations and NGOs (Schott 2000). The EU responded to such a failure by participating actively in the negotiation process that started on agriculture and services in early 2000 (Anania and Bureau 2005). These efforts resulted in a more articulated proposal tabled by the EU in the Committee on Agriculture of the WTO in December 2000 (WTO 2000). For the first time, the EC went beyond identifying issues to be discussed and developed concrete proposals on each issue area. However, the new document substantially repeated what was already set out in the 1999 Communication. Apart from a vague commitment to reducing export subsidies and amber box spending, nothing was there to signal that the EU's defensive approach had changed.

A deal on the agenda of the new round of trade negotiations was finally reached on 14 November 2001 at the Doha WTO Ministerial meeting. On that occasion, important external factors - the terrorist attacks on the USA on 11 September 2001 - certainly contributed to creating a cooperative atmosphere among negotiators and to shore up support of the few remaining skeptics such as France (Agra Europe 2001, Ahlid 2005). As far as agriculture is concerned, the deal was very close to what the EU had hoped for. As already noted above, the only problematic issue concerned export subsidies. In particular, the EU battled on two points of the draft agreement presented by the WTO General Council Stuart Harbinson. First, it was questioned the wording of the text which referred to a phasing out of export subsidies. Commissioner Fischler argued that the EU could not accept such wording because it represented a pre-negotiation of the outcome of the round (Agra Europe 2001a). In the end, an agreement was reached on a new wording which retained the commitment to "a reduction with a view to phasing out all export subsidies" but in which it was also made clear that the objectives set out in the agenda were "without prejudice to the outcome of the negotiations", a formula which satisfied those within the EU who had strongly opposed to the former text, namely France and Ireland, and considered it as an unacceptable blow at the very heart of European farm policy (Agra

Europe 2001b). Not only the Commission could claim that text did not commit the EU to phasing out export subsidies but also that the wording “all forms of export subsidies” included both US export credits and the subsidy element seen to lie within the operations of state trading enterprises in some Cairns Group members. Second, but less important, the EU fought to oblige WTO member to submit their agricultural market access proposals only after the WTO’s next ministerial conference due to take place at the end of 2003 . The Commission’s strategy was aimed at holding back on the market access offers in order to ensure that the EU could get the negotiations on other issues – investment, competition, public procurement, environment, etc. - included on the agenda of the new round. On this point, however, the opposition of other negotiating partners- in particular India but also some other developing countries - could be overcome and it was agreed that talks in these areas would only be decided on in late 2003 by unanimous agreement of all WTO members whereas agreement on modalities in agriculture was to be reached by March 2003 (Agra Europe 2001b, Ahlid 2005). In return for this minor concessions the Commission got acceptance for its part of the agricultural agenda relating to non-trade concerns (Ahlid 2005). In particular, the agenda provided for some additional work on the protection of geographical indications of food products and trade and environment which represented an important ‘offensive’ interest for the EU.

Unsurprisingly, the deal was greeted with enthusiasm by EU farm leaders and member states’ officials. It has been reported that behind the scenes EU farm and trade officials could barely hide their glee with the agenda agreed in Doha. There was a general impression that the EU obtained more than expected (Agra Europe 2001c). To make an example of the level of support enjoyed by the Commission, it is interesting to note that after having made clear its priorities to the Commission through a number of documents and statements (COPA-COGECA 2000, COPA-COGECA 2001), the leading association representing European farm interests issued a statement during the negotiations, in which full support for the Commission’s approach was expressed (COPA-COGECA 2001a). In particular, European farmers asked the Commission to stay within the limits set by the CAP reform agreed in 1999, to resist efforts aimed at the dismantling of export subsidies, to keep non-trade issues as an integral part of WTO discussions, to maintain or even to expand the scope of the ‘blue-box’ and ‘green-box’ payments, and, more generally, to protect the integrity of the European model of agriculture. Evidently, European farm leaders felt that their priorities had been defended by the Commission. Indeed, the

resemblance between the Doha Development Agenda and the EU proposals was very marked.

Finally, it has to be stressed that the question of the extension of the peace-clause was not directly addressed in Doha. Undoubtedly, however, the issue was very much in the mind of EU negotiators. Almost one year before the Doha Ministerial, Commissioner Fischler stated that while he believed that the issue of extending the peace-clause would not be discussed in Doha, it would not be difficult to find a solution to the problem were the round to last longer than 2003 (Agra Europe 2001a). Indeed, the tacit understanding among negotiators was that while the Doha Round would be in progress, countries hostile to the CAP and other agricultural policies worldwide would largely avoid mounting new Dispute Settlement cases that would become feasible following the demise of the peace clause (Swinbank 2005). In other words, EU negotiators knew that with the start of the new round a moratorium on legal challenges to the CAP would have also started. This long time frame provided the EU with a double window of opportunity to defend European agricultural interests. The new round provided with a battleground in which the EU could exert its leverage to gain support from other members to develop new rules that could make CAP instruments “legal” or, alternatively, it could offer the necessary time to put forward the necessary adjustments to CAP with a view to make it consistent with WTO rules on subsidies while keeping the level of protection of the sector at a level above the one that would have resulted in a non-reform scenario and with the demise of the peace clause exerting its full effects. In addition, bringing agriculture within a broader negotiating context allowed the EU to gain concessions in other sectors in exchange for its own concessions to other partners on agricultural issues and provided it with a setting through which it could bargain for acceptance of its own offensive agricultural interests.

According to this analysis, therefore, it is difficult to conceptualize the EU’s venue choice for negotiating agricultural issues in the Doha round as an exercise of agency autonomy. On the contrary, the Commission’s stance, in line with that of member states, can be more plausibly described as that of an agent choosing the best strategy to defend interest groups demands for protection. To argue that the new round would likely result in a lower level of protection for the European agricultural sectors is not a sufficient condition to claim that the Commission or the Member states acted autonomously from agricultural interest groups. The relevant question is whether European farmers could have been better defended had the EU not entered negotiations and had it become subject to legal

challenges after the expiration of the peace-clause. Any outcome of the negotiating process ensuring that the level of protection of European agriculture could be kept at a level above the one resulting from the latter scenario could be interpreted as a rational strategy for public actors seeking to satisfy interest groups demands for protection. From this viewpoint, it is difficult to deny that alternative strategies would have been less effective in maximizing European farmers welfare. Besides maintaining the status quo, the only viable strategy would have been to reform CAP without participating to a new round of trade talks. In this case, however, the EU would have found itself in the position to bear the costs of internal reform without asking for counter-concessions from WTO partners.

The European farmers' response to the Commission's venue-choice strategy seems to confirm this line of reasoning. If the choice to embark in a new round of trade negotiations involving agriculture had been opposed by agricultural interest groups, one would have expected a stiff and vocal opposition. On the contrary, European farmers did not oppose the process and, rather, implicitly supported this prospect by providing European decision-makers with their own views and inputs for shaping the European negotiating platform and applauded the EU's negotiating strategy during the Doha WTO ministerial as well as the outcome of the meeting which set the agenda of the trade round.

2.2.2.2. The impossible task of keeping the status quo

The first phase of the negotiating process can be portrayed as a defensive strategy characterized by the attempt to maintain the structure of the URAA as much intact as possible. The Doha Declaration claimed for negotiations on modalities to come to an end by March 2003 in order to allow for modalities to be adopted during the 2003 Cancun WTO ministerial meeting. Meeting this deadline, however, proved very difficult. The difficult negotiation process that brought to the new round of enlargement and that ended in Copenhagen in December 2002, the mid-term review process of the Agenda 2000 reform which was initiated in July 2002 by the Commission (Commission 2002), the difficulties involved in striking a balance between these two processes (Daugbjerg and Swinbank 2004) as well as the need to take into account the implications of these processes before defining a proposal on the international negotiating stage, altogether made it

difficult for the EU to advance an articulated proposal before January 2003 (WTO 2003). Unsurprisingly, the Commission shaped a proposal that by corresponding very largely with the policy reforms already agreed was fundamentally conservative (Agra Europe 2002). That maintaining the structure of the URAA was the key priority for the Commission was made very clear in the proposal itself:

the Uruguay Round structure constitutes a well-consolidated agreed framework which has proven its effectiveness [...] maintaining this structure and combining it with serious joint efforts by all members is the most straightforward way to achieving ambitious further progress down the road defined in the Agreement on Agriculture (WTO 2003:2).

In the EU's view, keeping the URAA structure meant, among other things, retaining the concept of blue box, ensuring the continuation of the peace clause, addressing non-trade concerns and maintain protection instruments such as the special safeguard clause

In addition, the concessions the EU declared itself in a position to make were essentially cost-free. Through the Agenda 2000 reform, the EU had already made available the necessary room for maneuver to propose further reduction commitments without cutting the sectors' levels of protection. The proposed cut by 55% of domestic support would reflect the reduction which the EU had already made since the adoption of Agenda 2000 (Agra Europe 2002). The statistics available show that in 2002/2003 the EU's AMS had already dropped well below 50% of the maximum domestic support allowed as a result of the implementation of Agenda 2000 (Anania 2007). On export subsidies, the proposed cut by 45% referred only to budgetary outlays and not to export volumes. In addition, the proposal was made 'on condition that all forms of export subsidization are treated on an equal footing' (WTO 2003). Finally, the call for a 36% cut in import tariffs was to be implemented through a Uruguay Round-type formula which would allow for tariffs on sensitive products to remain at relatively high levels. The Commission itself made clear that, given the recent CAP reform, the EU's concessions to its WTO partners were substantially cost-free. At the time, Commissioner Fischler publicly stated that since previous reforms had created enough negotiating capital, 'what was proposed was a confirmation the existing situation of the EU and not a commitment to go further' (Agra Europe 2002:6). In sum, the first phase of the EU negotiating strategy on agriculture was largely aimed at allowing itself to maintain the status quo: none of the proposals advanced

to its WTO counterparts were to harm the interests of European farmers. On the contrary, had the EU's proposal been accepted, the European agricultural sector would have found itself protected against the challenges posed by the expiry of the peace clause without any decrease of the sectors' overall level of protection.

The first phase of the EU's negotiating strategy, therefore, fits well with a "pressure politics" interpretation of preference formation. There is no evidence of the Commission seeking to attain autonomous preferences with respect to agricultural interest groups' demands. On the contrary, evidence allows to portray the Commission as a neutral agent translating into policy strategies agricultural constituencies' preferences in the international trade arena.

2.2.2.3. Changing everything to change nothing

Meanwhile, the EU was involved in a parallel process of a further internal reform of CAP. In July 2002, the Commission released its proposal for a mid-term review (MTR) of Agenda 2000 in which it was stated that that the MTR 'provided the EU with the opportunity to examine its agricultural policies and ensure that they better meet the objectives established in Agenda 2000' (Commission 2002). As already mentioned, what was initially thought of as merely a technical review and, eventually, a minor adjustment to Agenda 2000, was transformed by the European Commission in a proposal for the most important reform of European agriculture. As Swinbank and Daugbjerg put it, 'the reader was left in no doubt that the Commission was embarked upon a further reform of CAP and not just technical adjustments to the commodity regime (2006:52).

In light of the alternative theoretical perspectives that are confronted here, it is important to look at the relationship between this process of internal reform and the development of the EU's negotiating strategy in the WTO context. By demonstrating that CAP reform was prompted by interactions at the international level, one could plausibly make the claim that the Commission strategically used the external constraints of the Doha Round to define the content of internal reform autonomously from interest groups demands. Indeed it has often been underlined the extent to which the delegation of trade authority to a supranational agent increases autonomy of public actors and enables them to overcome

protectionist interests (Putnam, Patterson, Meunier, Grande 1996, Moravcisk 1994). Whatever the specific causal chain suggested, all these explanations support an 'executive politics' view of the process of definition of EU's trade preferences: public actors exploit the autonomy there are provided within the context of interaction to overcome demands for protection and pursue liberalization. The question is particularly relevant in this context because a variety of authors concur in stressing that WTO concerns were indeed the major driving force in the 2003 CAP reform (Swinbank and Daugbjerg 2006, Daugbjerg and Swinbank 2007). My argument, however, is that while it is impossible to deny that WTO concerns had become an integral part of context within which the CAP evolved (Daugbjerg and Swinbank 2007), the main motivation driving the Commission's and the Member States' behavior when adopting the Fischler reform was not to liberalize agriculture against European farmers' wishes but rather to enable the EU to maintain the level of protection of the agricultural sectors at higher levels than those that could be possibly kept without reform.

It is important to remind that at the time the Fischler reform was discussed, EU domestic support and export subsidies were soon to become vulnerable to legal challenges from WTO partners. In this context, therefore, reforming CAP can be consistently seen as a strategy aimed at pre-empting the effects of the expiry of the peace-clause in the face of the probable failure of the conservative negotiating platform developed that far. The key point is to demonstrate that as a result of CAP reform the EU would have found itself in a more suitable position to defend the agricultural sector, more than it could have done had the reform not taken place. The analysis of the policy-making process which led to the Fischler reform, as well as of the relationship between CAP reform and international negotiations, seem to corroborate this argument.

At first, Commissioner Fischler plans for the MTR were met with strong resistance from both Member states, notably France, Spain and Ireland, and European farmers. Even before knowing the details of the reform, France and representatives of Europe's biggest farmers federations made clear they were opposed to any substantial change to the CAP until the end of Agenda 2000 review period in 2006 (Agra Europe 2002a). Despite this opposition, Commissioner Fischler went on and presented the above mentioned Commission's formal proposal for the MTR in July 2002. This initial document contained a rather radical proposal for a change in the treatment of direct payments to European farmers. More specifically, Commissioner Fischler proposed a reduction in the level of

payments (modulation) with a switching of funds to the second pillar (rural development) and, above all, to decouple direct payments from any production requirement through the creation of the Single Farm Payment Scheme (SPS). The concept elaborated in a later proposal was that farmer's entitlement to what was referred to as SPS was to be established on the basis of that farmer's prior claims for area and headage payments. In addition, the plan included a reduction in the intervention prices for some products, notably cereals. At the display of the details of the proposal, initial opposition grew even stronger with France leading the group of opponents (Agra Europe 2002b). In terms of the effects of the reform on the EU's international stance in the Doha round, the Fischler proposal would have put the EU in a strong position to meet international demands in relation to domestic support because, by decoupling direct aid to production requirements, the proposal would have allowed the EU to switch most of its amber and blue box direct payments into green box.

At this point, it is important to recall what the main factors behind reform were. As already mentioned, the external constraint of the WTO was a pressing and concerning problem for the EU. It was clear that domestic support, notably amber, blue-box payments and export subsidies, were to become the most likely targets of international attacks had a final agreement not been reached. The second factor was related to EU's domestic developments. In particular, long-standing budgetary pressures were exacerbated by the ongoing enlargement process and by the prospect of the accession of 10 new member states in 2004 (Elliott 2006, Dur 2008). Absorbing all farmers in these countries created enormous pressures for reforming CAP by confronting the member states with a stark choice of either large increases in the CAP budget or lower levels of support (Elliott 2006). In the July 2002 Commission's document itself the need for reform was justified on the grounds that it would 'provide a major advantage in the WTO [...] and facilitate the integration of the new Member States into the CAP' (European Commission 2002:19). In the face of the strong opposition to prospect of new CAP reform, however, it soon became clear that the timetable for enlargement and that for CAP reform had to be disentangled. The deal on enlargement was to be reached by the end of the year and, clearly, an agreement on CAP reform could not possibly be reached in such a short time.

Against this background, France and Germany worked together to strike a deal on CAP financing which, by setting the principles governing CAP spending in an enlarged EU, created the necessary, although not sufficient, conditions for the adoption of the Fischler

reform.¹⁹ Having successfully settled the question of CAP expenditure for the impending enlargement, negotiation on the accession of the ten new member states could be brought to an end at the December 2002 European Council meeting in Copenhagen (Daugbjerg and Swinbank 2004).²⁰ France, however, continued to voice its opposition to Commissioner Fischler plans. Since many Member states were still opposed to the Fischler proposal for CAP reform and since it had become clear that Council deliberations on the Commission's proposal would continue for several months (Swinbank and Daugbjerg 2006), the Commission's could not but accept to take a conservative stance in relation to the Doha negotiations. The result was the above mentioned January 2003 proposal for modalities.

An agreement on the Fischer proposals for a CAP reform was finally reached on 26 June 2003. The agreement, however, could be reached only once the Commission's initial plan had been watered down (Swinbank and Daugbjerg 2006). The opponents to the reform plan, the most vocal being France, succeeded in bringing in important changes which clearly limited the scope of the reform. Without going into the details of the intricacies of CAP, the package that emerged in the June compromise expanded the list of product specific payments to remain tied to production, introduced the possibility for Member states to keep 25% of the payments tied to production and gave Member States the freedom to opt for a regionalized scheme for payments (Council of the European Union 2003). In the end, the Fischler reform ended up being less radical than it was initially foreseen. As it has been suggested, as a result of the changes introduced on demand of the most conservative member states 'the reform package provided new opportunities for member states to shape the CAP in accordance with national preferences' (Swinbank and Daugbjerg 2006:56). According to an OECD study, for instance, as a result of the

¹⁹ In October 2002, President Chirac and Chancellor Schroeder meeting in a pre-summit bilateral deal agreed on a financing plan for the CAP through 2013 that was then endorsed by the European Council. The agreement was that for an EU of 25, over the period 2007-2013, CAP expenditure under heading 1A could not exceed in real terms the amount agreed for the year 2006 increased by 1% per year (European Council 2002). Expenditure for rural development, on the contrary, was not subject to any capping. Having successfully settled the question of CAP expenditure for the impending enlargement, negotiation on the accession of the ten new member states could be brought to an end at the December 2002 European Council meeting in Copenhagen. As far as agriculture was concerned, the Copenhagen agreement involved extending the current CAP to the applicant states although with some important transitional arrangements including that of a phased introduction of direct payments (Daugbjerg and Swinbank 2004). Specifically, the proportion to which farmers in the accession countries were considered eligible was from a starting point of 25% to a final 100% only in 2013.

²⁰ As far as agriculture was concerned, the Copenhagen agreement involved extending the current CAP to the applicant states although with some important transitional arrangements including that of a phased introduction of direct payments

flexibilities introduced in the final agreement, most of France's farm payments would remain trade distorting (OECD 2005).

Therefore, it is possible to argue that the timing of the different processes describe above indicates that while both the enlargement process and the international negotiations taking place within the WTO were driving the process of CAP reform, domestic concerns were overriding in determining the policy making process. Without France's consent to a plan for CAP financing it would have been very difficult to strike a deal of the accession of the new member states. In order to move on with negotiations concerning enlargement and to finalize an agreement on CAP reform, the EU had to wait for the consent of the most vocal defender of farm interests in the EU. Even then, the final deal on the Fischler reform was postponed until the concerns of France had been taken into consideration. Timing is important also with regard to the relationship between the CAP reform and international negotiations. The need to meet the March 2003 deadline for modalities did not prompt internal reform. The January 2003 proposal presented by the EU did not take into consideration eventual changes that would arise as a result of the CAP reform and that could have created some bargaining leverage in the negotiating process.

The reform of CAP was adopted only once the concerns of conservative member states were met and, very importantly, only a few months before the WTO peace-clause would expire. In this sense, therefore, it is appropriate to argue that pressures emanating from the international trade arena were important in determining the outcome of the internal reform process. This, however, was not, at least not primarily, the result of the concern that 'a breakdown caused by an unconstructive EU would have seriously hurt the EU's credibility among developing countries' (Swinbank and Daugbjerg 2006:59). More simply, the Commission and the member States were aware something had to be done to avoid facing serious losses as a result of the legal challenges that could soon be brought before the WTO's appellate body by WTO members against its export subsidies trade distorting direct payments. A watered-down CAP reform represented an optimal solution to cope with these problems without decreasing support provided to European farmers.

The analysis of the economic effects as well as of the repercussions of the reform on the negotiating platform of the EU seems to confirm this line of reasoning. Interestingly, the CAP reform had the most pronounced impact precisely on the likely targets of legal challenges and, more specifically, on those that accounted for the largest share of the EU's

PSE. Indeed, the new SPS was explicitly aimed at enabling the EU to allocate the new direct payments into the green-box. As a result of reform, most of the amber-box and blue-box domestic support payments had become eligible for green-box expenditure. To provide some figures, it has been suggested that, as a result of the reform, AMS will decrease by 50% in 2013 (from 44 billion in 2000/2001 to 22.6 billion in 2013) with the market support component decreasing the most (from 31 billion to 10 billion) and the subsidy component only slightly (from 12 billion to 11 billion). It is on the blue box, however, that the largest impact of the 2003 reform package is observable because almost all the direct payments classified in the blue box became eligible for decoupling. It has been estimated that up to 90% of the EU's blue box payments could be switched to the green box as a result of the reform (Swinbank 2005, Kutas 2006). On the other two pillars of the agricultural talks in the Doha round, instead, CAP reform did little to appease international critics (Swinbank and Daugbjerg 2006). Indeed, the reform did not introduce substantial progresses in relation to CAP's reliance on export subsidies and did not allow for a significant reduction in import protection (Daugbjerg and Swinbank 2007, Elliott 2006, Anania 2007). In other words, CAP reform transformed the largest bulk of potentially vulnerable support provided to European farmers, roughly one third of the EU's PSE, into WTO-legal support and did little to provide the EU with negotiating room on policy areas, notably market protection, that were not legally targetable. With respect to export subsidies, CAP reform did little to prevent future legal challenges. As it will be explained in detail later, however, export subsidies were relatively much less important. In fact, they accounted for a much smaller share of the EU's PSE and the ratio of export subsidies to EU production was declining to the point of becoming negligible (Hoekman and Messerlin 2006).

There is still an open question concerning whether the SPS will actually qualify for green-box status, (Swinbank and Tranter 2005, Swinbank and Daugbjerg 2006, Anania 2007). What matters here, however, is that European negotiators were clearly convinced that this was the case and based their strategy on this assumption. In the 2002 Commission proposal for CAP reform, for instance, it was explicitly stated that the planned reform would provide a major advantage in the WTO context given the green-box compatibility of the scheme (2002). After the adoption of the Fischler reform, EU negotiators were ready to insist on the idea that the agreement reached represented a 'significant decision' for WTO talks (Agra Europe 2003). Commissioner Fischler himself declared that 'today we have

largely said goodbye to an old system of support which distorted trade. The new agricultural policy is trade-friendly [...] this will put us on the offensive at the WTO negotiations in Cancun in September' (Fischler 2003).

In addition, while the Fischler package clearly had a pronounced impact in terms of a reduction of the distortionary effects of the CAP, it had only a marginal effect on levels of support provided to European farmers (Anania 2007, Elliott 2006, OECD 2007). The data available show that the ratio between the EU's PSE and the total value of EU's agricultural production is very stable over time and that the impact of the Fischler reform on that figure has been minimal. While this figure has declined in recent years, the decrease in the 1986-2006 has been only by a modest 11% (from 43% to 32%). The 2006 figure of 32% implies a reduction of agricultural producers support of only 1% with respect with the previous year. In other words, in recent years changes in these figures seem to relate more to variations in the amount of agricultural production than to variations in the level of support provided to farmers. In addition, economic projections of the future effects of CAP reform suggest that these trends will continue to be stable. The OECD analysis of the 2003 CAP reform reveals, for instance, that in 2008 'overall, the level of support to producers (as measured by the Producer Support Estimate, PSE) would be close to 2% lower than in the base year [...] as intended, the estimated impact of the reform on the level of support is modest but there are large changes in the composition of support to producers (OECD 2004). In sum, the 2003 CAP reform did much in terms of changing the structure and the composition of European agricultural support but did not intervene on the level of support provided to European farmers.

In short, the above discussion seems to support the claim that CAP reform was instrumental in defending European farm interests. Indeed, with respect to the international negotiating process, it strengthened the EU's position on two fronts. First, through the introduction of the SPS, the reform had the effect of transforming a large share of EU agricultural subsidies into WTO compatible instruments to provide support to the agricultural sector. As a result, European agricultural producers were secured against legal challenges arising from WTO partners without having to cope with a diminution of the overall level of support provided to the sector. Second, the reform provided the Commission with new negotiating room to bargain in the Doha round. From this perspective, therefore, it is appropriate to claim that external pressures played a role in prompting and shaping a reform of CAP. The international context, however, was not

strategically used to free one's own hands from internal protectionist interests. On the contrary, as a result of internal reform the agricultural sector's level of protection had been secured against legal challenges that could be brought against EU agricultural subsidization schemes by WTO partners.

2.2.2.4. Something in exchange for the new status quo?

At this point, it is important to demonstrate that the story of the evolution of the negotiating position of the EU after June 2003 is a story of the EU keeping itself within the perimeter delineated by the CAP reform. To demonstrate that what the EU came to offer remained within the negotiating space provided by the 2003 CAP reform is crucial to support the claim that EU negotiators acted to defend agricultural interests. Had this not been the case, it would be possible to argue that a reform-alone scenario would have represented a more rational strategy to defend agricultural interests.. It is the prospect of obtaining benefits in exchange for what could be offered as a result of the internal reform process that allows to claim that engaging in multilateral negotiations was a “more rational” strategy with respect to securing domestic support from external legal challenges through internal reform alone. In other words, were the analysis of the EU's negotiating platform to demonstrate that the EU's proposals, if accepted by WTO partners, would have imposed additional cuts to support provided to European farmers with respect to what already agreed through the 2003 CAP reform, the very logic of the ‘pressure politics’ view proposed here would be undermined.

As already mentioned, the adoption of the Fischler package allowed the EU to start playing on the offensive on a number of negotiating issues. At the practical level, the immediate result was that the EU could start working on the EU-US joint compromise with a view to strike a deal at Cancun on modalities. At the time there was still the hope that if the two giants could bridge their differences the resultant compromise would stand some chance of getting approval from other WTO members (Agra Europe 2003a). The joint proposal, however, represented only a very small step forward (European Union 2003). In the end, the joint plan was only meant to provide a basis for discussion in Cancun and suggested the formulas to be used to define the extent of liberalization. The only concessions made by

the EU to its partners' requests were the readiness to use a blended formula for tariff reductions, the acceptance of the principle of having to make higher cuts in domestic subsidies and the offer to eliminate export subsidies of particular interest to developing countries. In exchange for these offers, the plan asked for a continuation of the discussion regarding geographical indications for agricultural products and for an extension of the peace clause (Agra Europe 2003a). The Cancun Ministerial, however, showed that the existence of a convergence among the two 'giants' was no longer a sufficient condition for an agreement to be reached. The differences between the US-EU, on the one hand, and the G20, on the other hand, were irreconcilable.

As result of the Cancun failure, the EU realized that some real offers had to put on the table to keep the Doha round alive. Had the round stalled, the EU would not have been able to maximize the gains that could be obtained in exchange for the concessions it was ready to make as a result of the internal reform process. Unsurprisingly, in the following months the EU took the lead to reinvigorate the talks and decided to use the bargaining chips at its disposal to keep WTO partners on board. The timing, again, is not coincidental. The first substantial concession put forward by the EU, namely the offer to phase out all of its export refunds by an end date to be agreed, notably came in May 2004, only a few months after the peace-clause had expired at the end of year 2003. The first steps that characterize the negotiating strategy following the Cancun failure, therefore, seem consistent with the argument developed above. It was important to keep the talks alive to capitalize on the negotiating room made available by the internal reform process.

The following steps corroborate the argument even further. For the sake of clarity I will look at how the EU's negotiating platform evolved with respect to each of the three main pillars of negotiations- export subsidies, domestic support and market access- going through the four main relevant negotiating events that followed the Cancun failure - the May 2004 joint Fischler and Lamy proposal to relaunch negotiations, the adoption of the so-called Framework agreement in July 2004, the December 2005 Hong Kong Ministerial Meeting and the July 2006 decision to suspend negotiations.

Let us first consider export subsidies. As mentioned above, in the May 2004 proposal the EU accepted the principle of phasing out export subsidies to resume the talks after the Cancun debacle. The general welcome given by WTO partners to the May 2004 announcement (Agra Europe 2004) was certainly among the key reasons that paved the

way for the possibility of reaching an agreement on modalities, the so called ‘Framework Agreement’, in July 2004. At the 2005 Hong Kong Ministerial the offer was pushed further with the EU accepting the year 2013 as the end date to eliminate export subsidies. Undoubtedly, great symbolic importance was attached to the issue of the elimination of export subsidies both by WTO partners and, for the opposite reason, by the most conservative European Member States. This issue is of great importance in this context. Indeed, at a first look the EU’s offer contradicts the claim the no additional cost would have been imposed on the EU’s agricultural sector as a result of the adoption of an eventual agreement at the WTO level. As mentioned above, the 2003 CAP reform did little to lessen the EU’s reliance on export refunds and, therefore, technically such a bold move on the issue could be seen as an example of the Commission acting beyond the perimeter defined by CAP reform. In addition, in view of the strong opposition to the prospect of phasing out export subsidies voiced by France after the May 2004 proposal (Agra Europe 2004a), the Commission’s stance has been interpreted as an example of the Commission’s capacity to push forward a value-driven agenda (Van den Hoven 2006).

In order to evaluate these claims, however, two elements need to be stressed. First, it has been questioned whether, in light of the decreasing use of export subsidies, the EU has offered a rapidly ‘depreciating’ asset to its WTO partners (Hoekman and Messerlin 2006). It is certainly true that the EU is by far the largest provider of export subsidies. However, when one looks at the EU’s data on export subsidization as a share of both agricultural production and the overall support provided to European agricultural producers, it immediately becomes clear that their importance is on a declining trend. As already mentioned, the ratio of export subsidies to EU production has been declining to the point of becoming negligible (1% or less). As far as the ratio of export subsidies to the EU’s PSE is concerned, it is worth noting that it constantly decreased from 7.6% in 1995 to around 2% in 2006 (OECD 2007, European Commission 2007). Moreover, this trend is likely to continue. It has been suggested that as a result of Fischler reform, EU enlargement and growth in demand, most of commodity surpluses are likely to disappear thereby meaning that a prohibition on export subsidies will be less problematic than expected (Swinbank 2005). In other words, despite the highly symbolic relevance that the issue of export subsidies has come to acquire, their relative importance in providing support to European producers is marginal at best.

Second, EU negotiators were aware that export subsidies were the main and most vulnerable target of potential legal challenges from WTO partners. Without taking this into consideration it would be difficult to justify the EU's decision without getting to the conclusion that export subsidies had been sacrificed on the altar of keeping the Doha round alive. In the end, although having only a marginal impact on the level of support to European agricultural producers, this concession was not cost-free. For certain products export refunds were still important elements of policy intervention (Hoekman and Messerlin 2006,) and it could not be excluded that the EU offer might lead to renewed pressure for CAP reform (Swinbank 2005, Anania and Bureau 2005). However, when the vulnerability in the face of legal challenges of EU's export subsidies is added to the equation, the EU's offer can be seen under a new light. EU export subsidies, irrespective of the outcome of the Doha talks, were unlikely to survive the end of the protection provided by the peace-clause. Instead of having to dismantle this instrument without getting something in exchange, therefore, it was rational to try selling this (non)concession to trading partners to obtain counter-concessions in the negotiation game. In other words, while it is true that the offer to eliminate its export subsidies by 2013 brought the Commission beyond the 2003 CAP reform perimeter, and technically beyond its negotiating mandate, the agreement did not worsen the EU's situation with a respect to a non-phasing out scenario. On the contrary, using export subsidies as a bargaining tool allowed the EU to capitalize on the inevitable adjustments that would have resulted even in the absence of the Doha talks.

The EU's strategy seems coherent with this interpretation. On the one hand, the offer was made strictly conditional to an equal treatment of all forms of export subsidization. In particular, the EU agreed to the 2004 Framework Agreement only after extracting a binding language in the final text to ensure that the export subsidy elements within the US's export credit and food aid programs and export selling bodies were similarly disciplined (Agra Europe 2004b). The issue was discussed again at the 2005 Hong Kong ministerial, where the EU obtained an even more detailed language on the issue of alternative forms of export subsidization as a quid pro quo for the acceptance of defining an elimination date (Agra Europe 2005). On the other hand, the EU battled to trade the (non)concession on export subsidies with the acceptance of its offensive interests in the context of the non-trade agenda, especially the protection of geographical indications. Unsurprisingly, the EU finally won acceptance of its priorities in this area and the issue of

geographical indications was included in the text adopted at the 2005 Hong Kong ministerial meeting.

As a result of this trading-off strategy the Commission was able to overcome the opposition of the recalcitrant member states. France withdrew its opposition to the proposal once the US had agreed to phase out the subsidy element in its export credit scheme at the same rate as the EU's elimination of its own export subsidies (Agra Europe 2004b). Interestingly, even European farmers did not perceive the EU offer as a substantial threat to their interests. On the contrary, their reaction on the 2004 July framework was rather positive. On the occasion, for instance, the representative of COPA-COGECA declared:

since the WTO ministerial in Cancùn, COPA-COGECA have urged the European Commission to conduct further negotiations in such a way that the EU policy and the multifunctionality of agriculture in Europe would also be safeguarded in future. COPA-COGECA believe that the framework agreement makes this possible and is therefore a solid basis for the continuation of the WTO negotiations (Agra Europe 2004c).

A final word on the agreed end-date. While many countries had been pressing for the elimination of export subsidies by 2010, the EU finally won acceptance on agreement to set 2013 as the elimination date (Agra Europe 2005). This date clearly coincides with the EU's next financial perspective period. This implies that the EU will not have to embark in the difficult process of reducing support for certain commodities and carrying out the necessary adjustments to the policies in place within the present financial framework. In addition, it must be stressed that in June 2006, as a result of the legal challenge brought against the EU's sugar regime in 2005 and of the unfavorable subsequent WTO appellate body's ruling, a four-year process of adjustment started, in one of the most export refunds-dependent sectors such as sugar. The key element of the reform is a significant reduction (36%) of the support prices with a compensation payable to farmers which is expected to result in a substantial reduction of sugar production in the EU (Daugbjerg and Swinbank 2008). As a result, the EU has limited even further the losses that it will have to face in order to abide to the WTO agreement on export subsidies.

The Commission's approach to the domestic support pillar, also perfectly illustrates the logic driving the EU's negotiating strategy. As mentioned above, the most relevant impact of 2003 CAP reform in terms of providing new negotiating room in the Doha round was

in the area of domestic support. Recent analysis have tried to calculate the room for negotiation on domestic support in the Doha round taking into account the impact of the 2003 reform package and the enlargement process (Kutas 2006). These studies estimate that the EU would be in a position to decrease its AMS by around 70%, to reduce the *de minimis* component at 0.5% of the total value of production (even more since caps would be calculated as a percentage of EU 25 value of production), to cap blue box spending at 2% of the total value of production, and a reduction by 77% of the overall trade distorting support. Taking the last offer made by the EU at the 2005 Honk Kong ministerial meeting as a baseline to evaluate the Commission's negotiating strategy, one immediately notes that the Commission remained well within the boundaries defined by the CAP reform. The only area in which the EU used all the negotiating room available was that concerning cuts in the AMS. As far as blue-box payments are concerned, the EU was in a comfortable position. Indeed, while by keeping some payments tied to production the CAP reform did not completely free the EU from need to rely on the blue box (Jensen and Zobbe 2006), the proposed 5% capping provided the EU with large room of maneuver. The EU's proposal on the *de minimis* - a reduction by 80% ,thereby capping amber box spending exempted from reduction commitments and 1% of the value of production – did not even exploit all the potential available and nonetheless was sufficient to compel on the defensive an extensive user of the *de minimis* provision such the US (Agra Europe 2005a). Finally, the offer to cut its overall trade distorting support by 70% could be coped with comfortably given the large space provided by the unused *de minimis* ceilings (Kutas 2006). In other words, none of the offers put forward by the EU in the area of domestic support were to represent a binding constraint on the new CAP.

A final word on market access. Undoubtedly market access is the area in which negotiations were more complex and the obstacles to a consensus greater (Swinbank 2005, Anania and Bureau 2005). Indeed, market access is the crucial area for determining the degree of liberalization of agricultural trade and it is this area which raised the most defensive concerns in the EU (Anania 2007). At a first look, the EU's approach in this area of negotiations seems to corroborate the EU's own rhetorical claims about its 'constructive' attitude in the Doha round. Both in relation to the tariff reduction formulae to be used and in terms of the level of magnitude of the tariff cuts envisaged, the EU made substantial efforts to meet the demands of its trading partners. With respect to tariff reduction formulae, for instance, the EU moved from its initial proposal to adopt a

Uruguay Round-type formula and in the 2004 July framework agreement accepted the principle of progressivity in tariff reduction through deeper cuts in higher tariffs through by accepting to negotiate tariff cuts on the basis of a 'tiered formula'. In light of its defensive concerns in this area, this certainly represented a substantial concessions to its WTO partners. As Jean et.al clearly put it, 'by moving from the flawed and fundamentally deceptive average cut methodology embedded in some earlier proposals, the framework provides scope for an agreement that would not only increase market access but also lower the highest and most distorting tariffs. Further it avoids the commitment to essentially unlimited flexibility inherent in the preceding proposal' (2006:112). The proposals put forward in relation to the tariff cuts to be applied within each band were quite substantial as well. At the 2005 Hong Kong ministerial the EU made itself available to cut the highest agricultural tariffs by 60% and to undergo an average reduction of 46%. In a last attempt to the round on track in July 2006, the EU seemed prepared to accept an offer to cut EU farm tariffs by an average of 48.3%, thereby getting very close to the 51% average reduction demanded by the G20 group (Agra Europe 2006). By taking as a point of reference these figures alone, it would be logical to come to the conclusion that the Commission was ready to accept a lowering of EU's market protection in some of the more protected sectors and, consequently, a reduction in market prices and farm incomes.

As it has been widely acknowledged, however, beside tariff reduction formulae and their parameters, the way countries can define 'sensitive products' is crucial for a final agreement to result in some genuine liberalization (Swinbank 2005, Anania and Bureau 2005, Anania 2007, Jean et.al. 2006, Anderson et.al. 2006a). These analyses converge in stressing that the scale of the benefits from agricultural trade liberalization as well as the extent of reduction of market protection are highly dependent on the number of tariff lines to be treated as sensitive and therefore to be subject to no or lower tariff cuts. Jean et.al., for instance, calculate that excluding 2% of tariff lines from tariff cuts by treating them as 'sensitive' is enough to reduce the extent of delivered liberalization by more than two thirds and to weaken the harmonizing impact of the tiered formula (2006:98-100). As these figures show, allowing for minor exceptions is enough to undermine the goal of expanding market access and, hence, to empty an agreement of any substantive liberalization. In other words, the impact of the EU's proposals needs to be evaluated not only on the basis of the size of the cuts but also on the extent of the suggested exceptions. As Anania puts it, 'not knowing what the agreement will say for sensitive products makes it impossible to assess the extent

of the actual market opening or of the downward pressure on prices and farm incomes induced (2007:15).

When this factor is taken into consideration, the EU's approach in terms of market access immediately looks much less far-reaching. Unsurprisingly, to compensate for the acceptance of a 'tiered formula' the EU obtained the 2004 July framework specification that 'members may designate an appropriate number to be negotiated of tariff lines to be treated as sensitive' (WTO 2004). In the EU's subsequent proposals, the tariff cut offers have been consistently coupled with the request to allow a large share of tariff lines to be self-designated as sensitive, going from the 8% of the October 2005 formal proposal to the 5% said to have been attached to the June 2006 informal proposal (Anania 2007). Clearly, for the EU it was vital to come to an agreement that by including generous provisions regarding 'sensitive products' would allow for continuing protection of the sectors most vulnerable to market opening through tariff reductions.

That market access represented the real 'red line' for the EU seems confirmed by the reactions of the main defenders of agricultural interests to the offers on market access and by the dynamics that brought to the suspension of the negotiating process. Predictably, the EU was subject to a strong and consistent lobbying effort against the possibility of substantial improvements in market access offer. The EU's October 2005 proposal was greeted with a certain degree of concern by agricultural interest groups and conservative Member states both eager to make clear that any proposal should not go beyond what would allow the EU to maintain the necessary flexibilities to allow for only minor lowering of market protection. At the time, COPA-COGECA claimed that Commissioner Mandelson was close to overstepping its mandate while France, backed by other member states, threatened to veto any agreement 'going beyond what is acceptable', namely involving excessive concessions in the field of market access (Agra Europe 2005b). The strong lobbying against further concessions in the area of market access continued consistently until July 2006 (COPA-COGECA 2005, 2006). In the end, the talks collapsed mainly as a result the divergent positions among WTO members on agriculture. More specifically, the stall was caused primarily by the EU's inability to meet demands for further concessions in the area of market access and by the US unwillingness to reform its domestic farm support programme (Agra Europe 2006). It is worth noting that what distanced the EU from its WTO partners in relation to market access was not only the extent of the tariff cuts but also, and more importantly, the position concerning 'sensitive

products'. Beside the differences in relation to tariff cuts, the EU was not in a position to meet the US's demand for designating only 1% of tariff lines as 'sensitive'. As mentioned above, to couple tariff reduction commitments with flexibilities in the form of allowing for the designation of a share of tariff lines as 'sensitive' was a necessary condition for the EU to keep farmers' support unchanged. Unsurprisingly, the EU preferred to let the talks collapse rather than accept an agreement that, particularly in the field of market access, would result in a substantial lowering of the market protection in some of the more protected sectors of European agriculture.

To sum up, the analysis of the evolving negotiating platform of the EU following the adoption of the 2003 CAP reform confirms that the primary motivation of European negotiators was to maximize the benefits that could arise from trading-off the new negotiating room provided by the reform process in exchange for counter-concessions in key offensive and defensive issue areas. The contradiction between this logic and the EU's approach on export subsidies is only apparent. Although the 2003 CAP reform did not provide new bargaining space with respect to export subsidies, undoubtedly it was rational to try to pre-empt the potentially disruptive consequences of the expiry of the peace-clause on EU export subsidies schemes by proposing a gradual and managed phasing out of these instruments in exchange, again, for counter-concessions from its WTO partners. When confronted with the alternative courses of action available to European decision-makers, it is difficult to deny that the strategy pursued was the most rational strategy to defend and to maximize European farmers' interests. In a reform-alone scenario, the costs would have been the same but without the possibility of trading them off against counter-concessions in issue areas where the EU enjoys offensive interests within and beyond agricultural negotiations. Hence, it is fair to argue that the patterns of policy-making described so far is consistent with the 'protection through multilateralism' strategy described above. EU negotiators seem to have been consistently preoccupied with defending agricultural interests rather than by the desire to acquire further liberalization at their expense. The EU's negotiating position throughout the talks has been clearly in line with the preferences and demands for continued protection of concentrated European agricultural interests.

The results of a recent survey of business and farm groups with an interest in EU trade policy provide further evidence in support to this line of reasoning by showing that European farmers' representatives perceive themselves as influential actors in the formulation of European trade policies (De Bievre and Dur unpublished). The researchers

approached 100 groups, among all groups registered in the Commission's civil society database. The response rate was 47%. One of the questions posed was how these groups themselves evaluate the extent to which their activities affect European trade policy with the possible responses being: to a large extent, to some extent, not really and not at all. Unsurprisingly, all the 8 organizations representing farmers and agro-food sectors surveyed responded with 'to a large extent' or 'to some extent'. These findings point to the existence of a shared satisfaction by European farmers' groups regarding the extent to which EU policy makers respond to the demands they formulate.

2.3. Alternative explanations

In order to further corroborate the claims put forward so far, I proceed by assessing whether more convincing and plausible accounts of observed patterns of policy-making and policy outcomes can be provided by alternative explanations. Implicitly, 'competitive testing' has already been carried out throughout the analysis developed above. In this section, I attempt to assess the validity of alternative accounts more systematically and explicitly.

As argued above, the EU's decision to embark in a comprehensive round of multilateral negotiations is not inconsistent with a pressure politics view of preference formation once the effects of the WTO's judicialization process are taken into consideration. It is not necessary to retort to autonomy-based explanations to provide a coherent account of this EU's specific venue choice for trade negotiations. But what is the performance of these arguments with respect to development of the EU's negotiating strategy? Explanations that embrace an 'executive politics' view of the process of preference formation do a poor job in accounting for empirical evidence available. The basic idea of these arguments is that the agents of EU's trade policy make use of the autonomy they gain as a result of the EU's specific institutional features to adopt negotiating strategies that, in turn, allow them to counter societal demands for protection. In other words, these explanations assume that EU negotiators are liberalization-seekers and that they act strategically to pursue this objective at least partly in opposition with respect to interest groups demands. As widely discussed, however, had WTO partners reached an agreement on the last proposal put

forward by the EU in July 2006, the EU's agricultural sector would have not suffered from a substantial reduction of the level provided, neither in terms of direct payments nor in terms of market protection. On the contrary, it is more plausible to argue that the 2003 internal reform process avoided that larger costs would be imposed on European farmers. In addition, rather than use the international negotiating context as a constraining tool against protectionist demands, European negotiators seem to have exploited the opportunities it offered to capitalize on the reduction of CAP's distortionary effects resulting from reform and to get something in exchange for its (non)concessions with respect to a number of legal instruments that were unlikely to survive independently from the result of the negotiating process. In sum, EU public actors involved in trade policy seem to have acted much more to respond to interest groups' demands for protection than to pursue their preferences for more liberalization.

Another possible 'executive politics' explanation be that the EU's approach to the Doha round was largely driven by security concerns stemming from pressure within the international system. According to this reading, the EU's decision to support the new round can be explained by the need to protect multilateral institutions in the face of post-September 11th global political and economic crisis. While this argument captures part of the reality, there are good reasons to think that impact of security concerns was limited to determining the timing of the launch of the new round. As described above, the EU had been supporting the idea of a new round of trade negotiations since 1996, well before November 2001, and worked hard to get WTO partners on board. That the new round was formally launched at the first WTO ministerial meeting after the terrorist attacks is certainly not coincidental. This said, however, it is difficult to argue that the EU would have accepted to embark in this process had an underlying interest in participating not been there. In addition, this view postulates that the EU has an overarching interest in protecting multilateral institutions. As shown in the above analysis, however, the EU was not ready to sacrifice the interests of European farmers on the altar of multilateralism. One of the main reasons for the suspension of negotiations in July 2006 was the EU's rigidity in defending its positions on market access. The prospect of stall in the negotiating process and, hence, of a serious loss of credibility of the whole international trade regime was not sufficient to convince the EU to take the necessary steps to reach an agreement.

Alternative explanations relying on a 'identity politics' perspective also show important shortcomings. The key feature of these arguments is that public actors preferences

influence policy outcomes and that these preferences reflect public actors' ideas, belief systems and values. One prominent argument is that the EU's behavior in the Doha round was influenced by the intrinsic values embedded in the EU system such as its own belief in global justice, the desire to strengthen global governance and lack of trust in the market as the only instrument to deliver equitable distribution of economic gains. According to this view, therefore, the EU's approach to the new round was at least partly driven by the EU's own vision of how the WTO should function as a system to manage globalization by ensuring that the benefits of economic liberalization are redistributed fairly. However, the evidence available shows that this was hardly the EU's main concern. As claimed above, the areas in which the EU took a more constructive approach were domestic support and export subsidies. In the area of market access the request to designate a relatively large share of tariff lines as 'sensitive' would have emptied the liberalizing effects of the tariff cuts proposed. A variety of economic analyses, however, concur in stressing that in terms of agricultural reforms the overwhelming majority of potential gains to developing countries derive from improved market access (Hertel and Keeney 2006, Anderson and Martin 2005, Anderson et.al.2006, Anderson et.al. 2006a). Anderson and Martin, for instance, have calculated the relative importance of the three pillars in terms of contribution to global welfare costs of current agricultural distortions and concluded that import tariffs, domestic support and export subsidies account respectively for 93%, 5% and 2% (2005). In addition, import barriers account for 85% of the trade reducing impact of the three measures (Anderson et.al.2006). In other words, an agreement on the basis of the EU's proposal would do very little to decrease existing distortions in the international agricultural trading system. These figures clearly indicate that domestic priorities were crucial in defining the EU negotiating strategy. Had the EU wanted to contribute to a more just and equitable world, as some authors have come to conclude given the EU's acceptance of eliminating its export subsidies, its negotiating position on market access would have been much different.

Other scholars do not tackle explicitly the question of EU's participation in international trade negotiations but argue that management of European agriculture has been strongly influenced by a set of common beliefs about economic rationality entrenched in the EU's society and institutional framework. To a certain extent, these authors rely on a 'civil politics' view of preference formation within the EU. According to this view concepts such as exceptionalism and multifunctionality are key elements of the interpretive framework

within which policy making on agricultural issues takes place (Skogstad 1998, Potter and Tilzey 2005). Following the logic of these arguments one might wonder whether these set of ideas and values concerning the appropriate management of the European agricultural interest influence the way in which the EU presents itself in the international trade arena. However, there is no evidence of the relevance of these ideational factors in shaping the EU's negotiating platform. Indeed, while the EU has always claimed that multifunctionality was one of its non-trade concerns, during the Doha round the EU failed to table any proposal that would have given multifunctionality any operational significance in the agricultural agreement (Daugbjerg and Swinbank 2008). As Swinbank notes, 'the word multifunctionality no longer forms part to the EU's language in the WTO, although it still has resonance in domestic policy debates. This in marked contrast with the late 1990s and early 2000s, when the EU's advocacy of multifunctionality was much pilloried by many of its trading partners' (2005:557-558).

2.4. Concluding remarks

Several existing accounts of the EU's choice to support and embark in the Doha round stress the relative independence of decision makers from societal interests. The argument is that given the presence of strong protectionist interests in the EU's agricultural sector, this particular venue choice for trade negotiations cannot be accounted for by theoretical perspectives that conceive public actors' choices as a function of interest groups preferences. In this chapter, I contend that in order to properly conceptualize how interest groups define their order of preference over alternative venue choice strategies, the effects of the WTO's legalization process need to be taken into consideration. Import-competing interests enjoying protection through a set of legally vulnerable policy instruments may come to see multilateral and comprehensive trade negotiations as the best strategy available to have their interests defended.

In fact, little evidence support the view that the EU's approach to the Doha round was aimed at extracting liberalization against agricultural interests' wishes. On the contrary, empirical evidence shows that, had the EU not embarked in the negotiating process, European farmers' welfare costs would have been greater. Consistently with a 'pressure

politics' view of how the EU defines its preferences in international trade negotiations, the evidence provided here supports the claim that European public actors acted to translate EU interest groups demands for protection into policy outcomes. Indeed, the Doha round allowed the EU to displace the costs of liberalization in the future, to secure a large share of legally vulnerable policy instruments through internal reform, to lobby for changing or keeping existing international rules with a view to preserve the status quo, and to get something in exchange for the little concessions that were to be made independently from the negotiating process. In addition, alternative explanations fall short in providing a more convincing account for the empirical evidence available. Overall, therefore, it is fair to argue that the analytical expectations set out in the first chapter have been corroborated by this investigation.

3. The European Union and competition negotiations in the Doha Round

Cooperative initiatives aimed at tackling the international spillovers of national competition policies are not new. During the aborted negotiations for the adoption of the Havana Charter in 1948, for instance, competition law had already emerged as a possible key element of the world trading system (Doern 1996, Fox 1999, Bilal and Olarreaga 2002). Since then, various initiatives on harmonized or coordinated competition policy have been pursued within the Organization for Economic Cooperation and Development (OECD) and the United Nations Conference on Trade and Development (Fox 1999). In addition, several provisions concerning private anti-competitive behavior have been included in the WTO's post-Uruguay round agreements such as the General Agreement on Trade in Services (GATS), the Agreement on Trade-Related aspects of Intellectual Property Rights (TRIPS) and the Agreement on Trade Related Investment Measures (TRIMS) (Bilal and Olarreaga 2002).

International economic developments occurred since the late 1980s and the early 1990s, however, prompted a qualitative leap in the debate regarding the international dimensions of national competition regulations. Since the early 1990s, cooperation between national competition authorities has become one of the hottest topics in the world of antitrust (Jenny 2003) and a consensus has emerged on the idea that competition policy increasingly needs to be international in scope (Graham 2003, Bode and Budzinski 2005). In particular, this change of perspective resulted from the increase in economic liberalization, deregulation and technological development that took place through the 1980s and from the impact these developments had on business activities. More specifically, these changes fostered an expansion of markets from the domestic to the international level by way of the increased reliance on two interrelated tools such as foreign direct investments (FDI) and acquisitions and mergers with firms in other jurisdictions (Bertrand and Ivaldi, Damro 2006, 2006a).

As far as competition policy is concerned, the most tangible result of these processes was that firms became active in multiple national and regional jurisdictions and therefore became subject to multiple national and regional competition laws (Damro 2006). This

situation created a number of new problems and exacerbated existing anti-competitive practices thereby increasing the perception that regulators must find ways to expand their national jurisdictions in order to avoid losing their ability to ensure fair competition in domestic markets. In particular, four types of problems called for a solution (see Tarullo 2001). First, national competition authorities could not fully protect their citizens from a set of transnational anticompetitive conducts such as international cartels. Second, given the increased number of countries adopting national competition laws following the end of the cold-war (Jenny 2003), the probability of international conflicts over the propriety of a nation's antitrust enforcement actions also arose (Tarullo 2001, Damro 2006). Thirdly, duplicative or conflicting national competition enforcement started to represent a significant burden on international economic activity by increasing the transaction costs of such activities. Finally, and probably more importantly, competition policies created 'market access' problems by allowing for anticompetitive conducts that exclude a foreign company from a national market as effectively as a high tariff would. In other words, the changing nature of the international economy brought about new challenges for the management of anti-trust policies at the national level. As Graham puts it,

in simple, classical antitrust terms, many relevant markets increasingly spill across national boundaries. Accordingly, practices or conduct of firms that bear upon competition also spill across national boundaries [...] and while problems created by competition that is global in scope have been addressed with some degree of effectiveness by national authorities, there is a sense that some problems do exist that simply are too big, or too international, to be handled by such authorities (2003:947-948).

However, by no means such a consensus on the need for some form of internationalization of competition policy translated into a consensus on how to achieve the desired end of such internationalization (Anderson and Holmes 2002, Fox 2003, Graham 2003). Several alternative approaches have been proposed over time, ranging from strengthening the extraterritorial reach of national jurisdictions to setting up a supranational competition authority with global reach and enforcement capabilities. The EU has consistently positioned itself in the camp of supporters of far-reaching solutions to this problem and has acted concretely to push its agenda in the WTO framework. As a result, the Commission has been regarded as a global norm entrepreneur who is taking the lead in the setting of a global competition agenda (Wigger 2004). The US, on the contrary, has

consistently taken a much more conservative stance, opposing any proposal resulting in the setting up of binding multilateral rules on competition policy and supporting a loose regime for coordination and harmonization.

The following sections investigate the determinants of the EU's policy preferences in the context of discussions before and during the Doha Round over the prospect of setting up of a competition regime in the WTO framework. Consistently with the theoretical framework adopted, the following analysis seeks to assess the relative explanatory power of the four alternative hypotheses identified. The analysis proceeds as follows. First, I provide a brief description of the EU's evolving negotiating strategy. Second, I begin my theoretical analysis from a very general perspective to provide with some preliminary insights as to how approach a more focused investigation of the EU's evolving negotiating stance. Third, I narrow down the focus of the theoretical analysis to the actual content of the EU proposals to come to some tentative conclusions about the relative explanatory power of the different analytical perspectives taken into account. Fourth, I review more systematically competing explanations to further validate the argument proposed.

3.1. The 'what' of competition negotiations

Before turning to a theoretical assessment of the process of preference formation of the EU in the context of the Doha Round negotiations on competition issues, this section provides a brief historical overview of the main steps that characterized the negotiating process. The following discussion concentrates on the content of the negotiating proposals brought forward for discussion with WTO partners in the period between 1992, when the European Commission first set out its views on how to internationalize competition, and September 2003, when at the Cancun WTO ministerial meeting a decision was taken to put an end to such negotiations.

3.1.1. Approaching the Doha Round

As already mentioned above, European leaders have been at the forefront in suggesting that competition policy be brought into step with trade liberalization (Fox 1997). Already in

1992, former External Affairs Commissioner Brittan launched the idea of including a competition policy regime in the WTO (Brittan 1992). This concept was taken up by Commission officials on many occasions thereafter. In 1994, for instance, Claus Dieter Ehlermann, Director General of the Commission's Directorate General IV (competition) claimed that 'as part of its immediate agenda, the WTO should cover competition policy issues [...] any multilateral agreement on competition would have to provide for agreement on competition rules, for reinforced cooperation procedures between the competition authorities involved, for an improve exchange information, as well as for effective enforcement measures' (quote in Fox 1997:9). Following on these efforts, former Competition Commissioner Karl Van Miert gave prompted a concrete step forward by convening a group of experts which submitted its report in 1995 (European Commission 1995). In view of the forthcoming December 1996 WTO ministerial conference in Singapore, the Commission decided to push for competition policy to be included on the agenda of the meeting (Fox 1997). In June 1996, the European Commission forwarded a proposal to the European Council urging the launching of a process through the creation of an exploratory group on the development of an international framework of competition rules and the Community to 'take the lead on this issue and initiate efforts to build international consensus and encourage other WTO members to support multilateral work in this field' (European Commission 1996:10). According to the Commission proposal, the working group would be asked to consider a request to ask WTO members to commit themselves to assuring the existence of domestic competition structures, the adoption of common rules, the establishment of cooperation mechanisms among competition authorities and the implementation of the dispute settlement procedures. The proposal was endorsed by the Council but at the WTO ministerial meeting, while the issue of international cooperation in competition law was considered of relevant interest by most parties involved, no consensus on substantial actions to be taken could be achieved (Montini 1998). The only tangible result was the establishment of a Working Group with the aim of examining 'the interaction between trade and competition policy, including anti-competitive practices, in order to identify any areas that may merit further consideration the WTO framework' (WTO 1996).

Despite the non-satisfactory outcome of the Singapore WTO ministerial meeting, the European Commission continued to advocate the establishment of an international competition policy along the lines of the 1996 proposal. Indeed, on many occasions,

Commission officials reiterated that the concepts contained in the 1996 proposal, particularly with respect to the adoption of common rules and the application of the dispute settlement mechanism, would represent the ideal basis for further discussions in the WTO framework (Van Miert 1997, 1998, Schaub 1998). The more articulated EU proposal in the pre-Doha period was expressed by former External Affairs Commissioner Brittan on June 1999, in the run-up to the December 1999 WTO ministerial meeting in Seattle (Brittan 1999). According to Commissioner Brittan, a WTO agreement on competition policy would need to touch upon the following elements:

1. Compatibility of approaches: the recognition that bilateral, regional and multilateral approaches should be considered as compatible;
2. Fundamental competition objectives: the agreement should emphasize transparency, non-discrimination, cooperation and convergence;
3. Binding rules: the binding WTO dispute settlement mechanism should be used if a member's legislation and enforcement structure are not in accordance with their WTO commitments or if a pattern of non-enforcement of domestic competition law can be shown. These multilateral rules, however, would not give a direct right of action to private parties;
4. Core principles such as the commitment to introduce progressively domestic competition legislation backed by enforcement structures, the inclusion of core principles on competition law based on non-discrimination and transparency, provisions for cooperation procedures among competition authorities including transfer of non-confidential information and non-binding 'positive comity'²¹, and gradual convergence of approaches to anticompetitive practices.

In this context, the inclusion of a binding dimension through the WTO's dispute settlement mechanism certainly represents the most distinctive element of the proposal in

²¹ The traditional comity principle represents a form of non-binding cooperation among competition authorities and means to waive the extraterritorial enforcement of the domestic antitrust laws against the explicit resistance of the target country. This form of cooperation can be undertaken in two different ways. 'Negative comity' simply means that each competition authority must respect serious interests and the sovereignty of the other jurisdictions. 'Positive comity' is a more far-reaching cooperation mechanism which implies that if a domestic market is negatively affected by an anticompetitive arrangement of practice from the partner's jurisdiction, its antitrust authority can demand its associate to take enforcement actions on behalf of the affected country. The cooperating authority applies its own antitrust laws with a view to avoid outbound restriction on competition which affect the partner jurisdiction, while the affected jurisdiction waives an own procedure and relies on its cooperation partner to protect its interests (see Bode and Budzinski 2005:7).

particular when compared with the approach of other actors such as the US. Brittan himself made it clear that this was the key element in the EU vision on how to internationalize competition policy by stating: ‘a WTO agreement on competition would have no added value unless it was binding on governments. Even if there was consensus on a list of substantive rules, these would have not teeth or credibility if they remained purely paper obligations’ (Brittan 1999:5)

While the EU position on international competition policy can be described as a desire to pursue binding multilateral measures through the WTO, the US approach pursued non-binding bilateral measures (Damro 2004). Indeed, the US administration reacted with skepticism to claims about the need to include competition in the WTO framework from the very beginning. Already in 1996, Joel Klein, Assistant Attorney General of the US Antitrust Department, made clear the US opposition to such prospect by stating, ‘for the WTO to study what is going on elsewhere and to analyze the significance of those developments might well make sense. But only if such work is not seen as a precursor to negotiations in the WTO competition policy’ (Klein 1996). Unsurprisingly, in response to Brittan’s desires to competition issues being inserted in the 1999 Seattle WTO ministerial agenda, Klein opposed that the run-up to Seattle should not consider competition policy (Klein 1999). Klein stressed the utility of bilateral cooperation mechanisms, the lack of experience with matters displaying trade-competition linkages and the risk of politicization of competition issues resulting from the incorporation of competition policy issues in the WTO’s binding dispute settlement mechanism as key reasons to oppose the EU proposal. In addition, it was suggested that trade and competition should be treated as separate spheres. As Damro observes, ‘Klein did offer alternative mechanisms as necessary components of any preliminary efforts at the multilateralization of competition policy’ (2004:278). In particular, Klein endorsed the provision of technical assistance to developing countries and ‘peer-review’. In his view, these mechanisms would have been instrumental in creating a culture of competition that would serve the interests of all nations better than short reliance on the binding WTO (Klein 1999).

After the Seattle debacle, EU and US positions started to get closer to each other. As far as the EU is concerned, there was a perception that a common ground could be found only after having moderated its position regarding the incorporation of the WTO’s dispute settlement mechanism into the future agreement. In the following months, the newly

appointed Competition Commissioner Monti publicly stated that the Commission was ready to follow a new approach as a pragmatic means to building the necessary impetus to include negotiations on the development of a multilateral framework of competition rules in the next round of trade talks (Monti 2000). According to the new approach, the scope of future negotiations was to be narrowed down to three issues: an agreement on core principles of domestic competition law and policy, the establishment of basic cooperation modalities and the inclusion of a development dimension. The request to include the WTO's dispute settlement mechanism had disappeared from the European agenda:

I should perhaps stress, for the avoidance of any misunderstanding, that there is no hidden European agenda here. The end objective we have in mind is not the establishment of an international competition authority, with its own powers of investigation and enforcement. Nor do we wish to create a framework which could interfere directly with enforcement actions in individual jurisdictions (Monti 2000:11).

On the other hand, the US also moderated its opposition towards a multilateral agreement on competition issues. Following the adoption of a report by the International Competition Policy Advisory Committee (2000), Klein endorsed the idea that a multilateral approach was necessary but continued to oppose the inclusion of competition within the WTO framework preferring to keep competition and trade issues separated. In practical terms, the US proposal centered around the idea of establishing a 'Global Competition Initiative' to be joined on a voluntary basis and with the aim of exchanging information and views, strengthening coordination and promoting technical assistance for emerging competition authorities (Klein 2000).

3.1.2. The Doha Round compromise

Despite existing differences, competition policy was ultimately included in the Doha Declaration in November 2001. As it has been argued, 'the resulting Doha Declaration reflects an EU-US compromise, which laid the groundwork for the possible multilateralization of competition policy through the WTO' (Damro 2004:283). The compromise is laid down in articles 23, 24 and 25 of the Doha Declaration. Art. 23 recognizes the case for a multilateral framework to enhance the contribution of

competition policy to international trade and development. Art. 24 stresses the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building in this area and promises to work through relevant intergovernmental organizations as well as through the appropriate bilateral and regional channels to achieve this goal. Finally, Art. 25 calls for work in the Working Group on the Interaction between Trade and Competition Policy to clarify core principles, including transparency, non-discrimination and procedural fairness, provisions on hard-core cartels, modalities for voluntary cooperation and support for progressive reinforcement of competition institutions in developing countries. In addition, the Doha Declaration provided that negotiations would commence after the Cancun fifth Ministerial, which would be held within two years of Doha, subject to a decision to be taken by explicit consensus on modalities.

Clearly, the compromise reached was one by which both the EU and the US could claim victory. The EU succeeded in bringing competition into the Doha Declaration and the US achieved that no mention of the binding dispute settlement mechanism was included in the Declaration. Undeniably, however, the outcome of the Doha talks was much closer to what the US had in mind. As Bode and Budzinski put it, ‘the original WTO approach to an international competition policy, calling for a multilateral, binding framework of international competition rules leading to comprehensive harmonization was revised by the Doha Ministerial Declaration’ (2005:7). On this basis, even if an agreement were to be reached, it is difficult to imagine that cooperation on competition under the WTO could have resulted in something more than a loose framework for coordination and voluntary harmonization. Such a prospect closely resembles what the US had been advocating for. In the end, the EU was in a difficult negotiating position. Only a few days before the signing of the Doha Declaration, on October 25, the US had given concrete shape to the idea of a Global Competition Initiative by establishing the International Competition Network (ICN), an informal network of antitrust agencies from developed and developing countries which deals with antitrust enforcement and policy issues of common interest (Todino 2003) through informal cooperation and the implementation of non-binding, consensus-based best practices (Bode and Budzinski 2005). In other words, the US had already put into place the framework for cooperation on competition issues that suited perfectly with its preferences. In such context, the EU found itself in the very weak bargaining position

and was compelled to accommodate US demands in order to keep it on board and, as a result, to keep competition negotiations in the WTO alive.

3.1.3. Towards suspension of negotiations

Discussions that followed the adoption of the Doha Declaration reflected the substance of the new agenda agreed as a result of the compromise between the EU and the US. Earlier calls for the development of a detailed multilateral code on competition policy or related calls for the establishment of an international competition law enforcement agency were left aside (Anderson and Holmes 2002). Those, such as the EU, who aimed at a comprehensive harmonization of competition law were not in a position to push their agenda forward. The Chairman of the Secretary and the Secretary of the Working Group on Trade and Competition recognized this by stating, ‘perhaps contrary to the expectations so some, the Working Group has shown little or no interest in the international harmonization of competition law [...] indeed the observation that “one size does not fit all” in competition law and policy has become a staple of the dialogue in the working group’ (Anderson and Jenny 2003:3). More specifically, the emphasis that was previously put on spillover rationales for cooperation, most notably market access concerns, was gradually reduced in favor of more ‘systemic’ arguments such as the strengthening of national competition authorities in developing countries (Hoekman and Saggi 2005)

At a very general level, discussions within the Working Group centered around four areas. First, a commitment to a set of core principles. Proposals were mainly framed in terms of adherence to certain core principles and other elements that embody fundamental values of both competition policy and the multilateral trading system. Clearly, this approach leaves broad scope for continuing adaptation of national approaches to competition policy. Second, a commitment to taking measures against export cartels. Third, the development of modalities for cooperation. Of particular importance is that these were called for to be voluntary in nature and, therefore, much less ambitious than proposal advanced in the past that called for binding cooperation. Fourth, discussions placed much emphasis on support for technical assistance and capacity building in order to respond to a key concern of developing countries (Anderson and Holmes 2002).

The EU took a very constructive stance contributing to all relevant areas of discussion (see Clark and Evenett 2003)²². As already mentioned, however, the Doha Declaration called for the fifth WTO ministerial meeting to decide whether to start negotiations on competition issues building on the work carried out that far in the Working Group on Interactions between trade and Competition. The September 2003 Cancùn ministerial, therefore, was to represent the first real test about the solidity of the EU-US compromise. These talks, however, collapsed without an agreement on how to move forward the international trade agenda (Damro 2004). While the collapse was not exclusively related to the competition issue, the linking of competition and other policies to trade ended up being a very contentious issue and provoked a strong reaction from developing countries. The critical question for participants was whether to include the ‘Singapore-issues’ (competition, investment, public procurement and trade facilitation) within the Doha Development Agenda. Developing countries objected to these new issues and, in addition, the US withheld unequivocal support for the inclusion of competition in the WTO framework (Damro 2006, Wigger 2004). As a result of these divergences as well as contrasts concerning negotiation modalities for agriculture the Cancùn Ministerial ended up in a failure. In the end, the talks could be re-launched only once the EU accepted to drop the ‘Singapore issues’ off the agenda.

3.2. A theoretical assessment: the ‘whom’ and the ‘how’ of competition negotiations

²² As far as core principles are concerned, for instance, the EU submitted a number of proposals. First, it supported the inclusion of transparency provisions and advocates means in the future multilateral agreement. Second, it suggested the development of disciplines against de jure discriminations in the domestic competition law framework of member countries. Third, it advocated the inclusion of the principle of procedural fairness in the final multilateral framework. In addition, the EU put forward perhaps the most comprehensive proposal for WTO disciplines on private international cartels by supporting the inclusion of a clear statement that hard core cartels are prohibited, a definition of what type of anti-competitive practices could be qualified as ‘hard-core cartels’, a commitment to provide for deterrent sanctions and appropriate procedures in the field of voluntary cooperation and exchange of information. On modalities for voluntary cooperation, the EU proposed the setting up of a competition policy committee to monitor all notifications and transaction between parties. Finally, on capacity building and technical assistance the EU suggested the establishment of binding rules and multilateral cooperation modalities to be undertaken in cooperation with other relevant international organizations.

The theoretical framework developed in the first chapter asks for an analysis that discriminates the relative explanatory power of competing hypotheses as to how the EU defines its preferences over policy issues in international trade negotiations. How do competition negotiations fare in this regard? To what actors and interests did the EU respond by pushing forward the idea of a multilateralization of competition issues in the WTO framework? Can such an approach be explained solely on the basis of material incentives and constraints or, rather, ideas and cognitive structures played a role in shaping the preferences of the actors involved in the policy process? The following sections deal with these questions. First, I approach the issue from a very general perspective with a view to carry out a preliminary theoretical assessment of the logic and the motivations of the relevant actors involved. In particular, I seek to assess, deductively, the extent to which such a strategy fits with preferences of different social actors with respect to the prospect of establishing some form of international cooperation in competition matters. Second, I proceed in this theoretical exercise by looking at the content of the negotiating approach displayed by the EU over time, until suspension of negotiations in 2003.

3.2.1. Why negotiating multilaterally? A preliminary plausibility probe

The preliminary question I address here, before dealing with the details of the EU's negotiating strategy, is what sets of preferences over the prospect of multilateralizing competition policy can be plausibly expected by relying on well established theoretical arguments developed in the political-economy literature. More specifically, I question whether from a deductive perspective it is more plausible to expect that EU negotiators acted to translate into policy outcomes preferences of social actors or, rather, that they had their own agenda and succeeded in pushing it forward against either opposition or indifference of social groups. First of all, let us consider what does political-economy theory allow us to infer regarding the preferences of business groups over the prospect of internationalizing competition policy. Had economic groups a common interest in international competition policy? Was this sufficiently strong to compel them to mobilize and pressure governments? It is particularly relevant to address these questions because one possible interpretation of the EU's approach is that it resulted from transnational economic actors' efforts to compel public actors to make binding rules in policy field

where existing or non-existing nationally based regulatory rules were a hindrance to them (Wigger 2004).

The starting point answer these questions, is to evaluate what would the distributional consequences of a multilateral agreement on competition policy be for these groups. At a very general level, it is very difficult to deductively infer which industrial sectors or key multinationals would lead or resist a move towards a greater internationalization of competition policies, practices and institutions (Doern 1996). This is so because it is not easy to have a precise picture of the net gains and losses of an eventual multilateral agreement on competition. As Clark and Evenett very clearly put it,

the case for binding international collective action in the area of competition policy differs from that in traditional reform, such as cutting tariffs and reducing quotas [...] it must be recognized that firms are both buyers of materials, energy, labor and service as well as sellers of goods and services. This can produce conflicting interests for individual firms as the desired intensity of competition law enforcement because a firm may well be engaged in anti-competitive conduct as a buyer or as a seller. The result is a fragmentation of producer interests on the desirability of strengthening competition laws, preventing the creation of wide-ranging and united producer lobbies in favor of (and for that matter, against) strengthening competition law and enforcement [...] therefore, international initiatives on competition policy are unlikely to break any bottlenecks to domestic or unilateral reform, as is the case of multilateral initiatives on tariff reductions (2003:43)

Having said this, however, multinational enterprises are generally assumed to be in favor of internationalizing competition law (Bertrand and Ivaldi, Dabbah 2003). This is so for the reasons I have already briefly described above. On the one hand, because firms are concerned about the potential costs that may arise from being subject to multiple competition jurisdictions. Higher transactions costs resulting from differences in laws and procedures, inconsistencies in decisions of different anti-trust agencies and burdens resulting from duplicative or conflicting enforcement policies may raise costs for firms' international transactions. On the other hand, firms may be concerned about anti-competitive practices of companies located in a foreign jurisdiction that limit market access for goods and services that could otherwise be exported in that jurisdictions. Practices that can impede market access are many – vertical market restraints, import cartels, private standard setting activities and state trading, exclusive or special privileges and monopolies

— and are usually intertwined with governmental actions that tolerate or encourage them (Anderson and Holmes 2002). Hence, multilateralizing competition policy can be regarded as one means to address these problems. Alternative ways to deal with these obstacles would be to rely on national measures such as the strengthening of existing tools of extraterritorial enforcement, namely the capacity of national antitrust authorities to prosecute anticompetitive behavior in foreign jurisdictions, or to foster informative exchanges among competition authorities. As demonstrated by a variety of analyses, this way of dealing with negative spillovers, however, presents relevant shortcomings and practical problems that enormously constrain the effectiveness of these tools (Bertrand and Ivaldi, Fox 2003). In particular, due to difficulties in obtaining relevant information and documentation regarding activities conducted in foreign jurisdictions, the practical enforcement of the extraterritoriality principle is very problematic.

A priori, therefore, it is not implausible to expect business groups to prefer multilateral strategies rather than unilateral ones. It must be noted, however, that dealing with such negative spillovers via a multilateral approach is also likely to be problematic. As far as market access issues are concerned - certainly the most relevant ones to business groups with respect to competition cooperation – some problems might result from confusing the aims and premises of trade policy and those of competition law (Tarullo 2000). Since competition law regulates only private conduct and most anticompetitive practices result from governmental actions, it is not clear to what extent could international competition regulation contribute to opening up market access opportunities for firms. As Tarullo clearly points out, ‘one finds few credible complaints of private anticompetitive conduct leading to the effective exclusion of foreign producers of goods and services. Thus the assumption that failure to enforce competition laws is itself a generalized and significant trade barrier seems not to have been established (at least not yet)’ (2000:478). Even in relation to existing burdens firms face as a result of high transaction costs, the idea that these necessarily requires multilateral cooperation is not undisputed. It has been argued, for instance, that while disagreements in antitrust enforcements are inevitable, these do not necessarily require a solution given the existing convergence of views and growing respect that characterizes relations between competition authorities in developed countries (Tarullo 2000). This speculation points to the fact that multilateralization of competition policy could result, with all the limitations described above, in positive distributional stakes for big business groups in the EU and certainly would not result in concentrated costs being

imposed them. The theoretical implication, therefore, is that at the deductive level there is no reason to expect any opposition to any strategy aimed at pursuing this objective. In light of this argument, hence, if by autonomy it is intended the capacity to pursue a given policy in the face of societal opposition to that policy, the idea of promoting multilateral cooperation on competition matters cannot be regarded as an exercise of agency autonomy.

At the same time, it is questionable whether it can be plausibly claimed that this set of distributional stakes is sufficient to expect strong and consistent societal support for such a policy strategy. Indeed, it is widely acknowledged that while interest groups who potentially profit from increased market access opportunities by way of reciprocal trade agreements may engage on political action to support such policy, they also face relevant obstacles of to political mobilization. The costs attached to information gathering, the uncertainty concerning the benefits from lowering foreign trade barriers and the vagueness of distributional effects of liberalization among exporters, altogether increase the costs of mobilization for engaging in political action to improve foreign market access (Dur 2007). As Martin and Goldstein put it, 'exporters only know that some market will open up, not whether they will be able to capitalize on this opportunity in the face of international competition' (2000:608). Hence, for these groups the costs of mobilization are likely to outweigh the anticipated benefits, thereby making them only rarely engaging in political action. Of course, this standard political economy approach does not predict exporters to be completely absent from the political process (Dur 2007). Rather, the expectation is to see export-competing groups to engage in active political mobilization only when positive distributional stakes of a given policy are high, discernible and easily accessible.

In light of these theoretical arguments, thus, one would not set high expectations about business groups' propensity to engage in active political mobilization to support a process of setting up international rules on competition policy. There is no indication that the conditions of a multilateral agreement on competition policy, whatever the shape of it, could fulfil the criteria set out above. First, it is fair to argue that business groups' stakes in multilateralizing competition policy would not be high. As mentioned above, both in terms of lowering transaction costs and with respect to increasing market access opportunities, multinational enterprises would not be likely to reap major benefits as a result of an eventual multilateral agreement on competition policy. Second, and more importantly,

while it is can be plausibly argued that a such an agreement would entail at least slightly positive stakes for business groups, its distributional consequences would not be easily discernible. Business groups not only don't know precisely to what extent market access opportunities would increase (or transaction costs decrease) but also cannot predict what particular group from what country would capitalize on these opportunities. Third, the potential benefits of such a policy outcome would not be easily accessible because these would require engaging in long-lasting litigation processes. As Fox argues, even in the presence of a multilateral agreement on competition policy,

for businesses that believe they are excluded from foreign markets by anticompetitive restraints, the course will still be rough. Proof of anti-competitive restraints will remain difficult to establish, as it is in nearly every complex controversy. The fruits of discovery may be difficult to obtain even in nations that comply with their obligations to provide adequate discovery rights. The injunction to business managers to focus their efforts on competing, not litigating will remain wise advice (1997:24).

In terms of the expected preferences of business groups within the EU with respect to the choice of engaging in a process of multilateralization of competition matters in the WTO framework, the theoretical arguments examined above seem to corroborate the view that public actors' efforts at pursue this objective would bump into neither strong opposition nor strong support. In light of these arguments, thus, the most plausible reaction to be expected from these groups is indifference, or, more specifically, the absence of any substantial political mobilization to favour or oppose this policy.

What does this deductive exercise about expected preferences of business groups over the very choice of supporting a multilateral agreement on competition matters tell us with respect to the theoretical questions this research aims to address? These arguments suggest that the theoretical grounds to attempt an explanation of this specific EU policy choice, namely lobbying for the establishment of a multilateral competition regime, from a 'pressure politics' perspective are not solid. At the same time, whether it can be seen as an exercise of agency autonomy depends on the definition of autonomy. As argued above, strong and consistent interest groups' opposition cannot be expected either. If this is the criterion to define autonomy, thus, these arguments fall short in providing support for an autonomy-based rationale for this specific venue choice strategy. However, if the concept

of autonomy is relaxed to include public actors' actions that do not directly respond to interest groups political mobilization, one might come to different conclusions.

A brief overview of expected and actual preferences of other societal constituencies with respect to this issue makes the argument even stronger. At the theoretical level, we would expect broader social groups – i.e. consumers, NGOs – to be even less concerned and, hence, less politically mobilized in favour or against the prospect of multilateralizing competition policy. At best, a multilateral agreement on competition matters would imply diffuse benefits for European consumers as a result of potential interventions on international cartels. Collective action problems, however, run counter the expectation of political mobilization of these constituencies (Olson 1965). European NGOs may also have had a stake in competition discussions, but only insofar as such an agreement could be expected to have an impact on third countries, especially developing ones. Again, in light of collective action problems these groups face, one would expect little or no mobilization from groups that would accrue diffuse benefits. If some mobilization is to be expected, this would be targeted at opposing the adoption of multilateral rules on competition policy. At least in the short-term, ideological or value driven motivations of groups such as NGOs could represent an incentive to mobilize politically to oppose a given policy choice. Indeed, empirical evidence seems to corroborate these theoretical expectations. First, there is no indication of any political support for the Commission's strategy by diffuse interests such as consumer groups. Second, the European Commission, and in particular its DG competition have repeatedly been accused by anti-globalist movements and development NGOs of following a strongly liberal and anti-interventionist strategy in its competition enforcement, serving the interests of business only (Wigger 2004). More specifically, the attempt of finding a multilateral solution to competition governance by removing regulatory barriers and harmonizing competition rules and practices has been opposed on the basis of the claim that it would adversely affect poor countries by way of facilitating cross-border mergers and acquisitions at the expense of less competitive domestically settled industries (Lee and Morand 2003).

Finally, a bottom-up view of the EU's decision to support a multilateral regime on competition policy holds little explanatory power even when it rests on an 'epistemic community-type' explanation. As already mentioned, while there was a consensus on the idea that problems facing national competition authorities transcend national borders,

‘there is no such a thing as an ultimate competition theory according to which the future impact of deals among companies can be calculated and the necessary remedies assessed’ (Wigger 2004:13). Indeed, at the time the EU had first set out its views on these matters, a fundamental source of division among experts, practitioners and scholars as to how address these problems concerned the very idea of establishing a multilateral competition regime. In very broad terms, two positions can be identified. On the one hand, stood those who believed that a world initiative was necessary. On the other hand, some believed that horizontal national enforcement and nation-to-nation cooperation would suffice (Fox 2003). In the end, such a division reflected different understandings about the effects of anti-competitive behaviours and the degree of flexibility to be allowed to governments in the pursuit of their respective economic policy goals. As Doern puts it, ‘the discussion of competition policy ideas suggests that, even though the debate is occurring largely within the confines of a liberal economic paradigm, there is still ample room for dispute as to what competition policy is, and ought to be’ (1996:283). In other words, the EU seemed to favour a ‘one size fits all’ competition policy recipe for which there was no consistent consensus within the competition ‘epistemic community’.

In sum, this deductive analysis was aimed at setting out some preliminary analytical expectations concerning the type of state-society relation that characterized the EU’s decision to address global competition problems by establishing a global completion regime. At the level of theoretical speculation, the above arguments suggest that a bottom-up perspective on preferences formation in this case does not rest on solid theoretical grounds. The next section moves from broad theoretical speculation to a more focused and empirically-grounded analysis of the evolving EU’ negotiating strategy.

3.2.2. An in-depth theoretical assessment of the negotiating process

So far, an attempt has been made to evaluate the EU’s decision to support the prospect of establishing a multilateral competition policy regime. The above discussion represents a preliminary, and mostly deductive, effort to discriminate between contending views as to how the EU defines its preferences over policies. This general assessment shows that, despite calls for the multilateralization of competition matters respond to pressures

emanating from international economic developments, there are no reasons to believe that these pressures have been sufficient to prompt political mobilization neither from key economic groups nor from diffuse interests in the European society. The above discussion, stresses that in order to trace the genesis of the EU's preferences in this particular issue area a useful analytical perspective might be to look at the preferences of public actors involved in the policy process. Before fully rejecting societal explanations as implausible, however, one needs to take into consideration the specific elements that characterize the EU's proposal and how this evolved throughout the negotiating process. This section, thus, assesses the validity of the above claims not only against the general question of why did the EU support a multilateral competition regime but also with respect to the more specific question of why a specific model of multilateral competition policy regime was proposed. In addition, an attempt is made to investigate the sources of these preferences by suggesting what could have been the most plausible motivations that led EU public actors to pursue such a strategy.

3.2.2.1. Understanding the preference for a binding WTO agreement

As already described in the previous sections, the EU approach towards global competition rules can be described as one that aimed at pursuing binding multilateral measures through the WTO. The core of this proposal was the identification of a number of common principles and the possibility of relying on the WTO's dispute settlement mechanism in order to adjudicate conflicts between WTO partners. It must be clarified that the EU did not envisage that the future agreement should empower WTO members to submit disputes involving substantive decisions reached by national competition authorities to resolution under the dispute settlement mechanism. The proposal was less ambitious and foresaw the submission of disputes only over procedural aspects of such decisions (i.e. the respect of core principles set out in the future agreement). Despite the limited scope of the agreement's bindingness, the EU proposal would have resulted in some degree of sovereignty pooling that was considered unacceptable to its WTO partners, most notably by the US.

The arguments developed in the previous section referred to the prospect of setting up a multilateral competition regime. A first question that needs to be addressed, therefore, is whether adding a 'binding' dimension to the equation changes the substance of such arguments. More specifically, from a theoretical viewpoint, one needs to assess whether the prospect of setting up a WTO binding multilateral competition regime creates sufficient incentives for key economic interests to mobilize in support for such a strategy. Indeed, a number of arguments have been put forward to suggest that this might be the case. Tarullo, for instance, suggests that, as a result of the adoption of a binding WTO agreement on competition policy, the dynamics of trade ministry activities and the WTO process would reflect a market access orientations (2000). In other words, in such a context it would be likely that the motivations for bringing cases would invest the competition code with the quality of trade policy rather than competition policy alone. Similarly, De Bièvre argues that legalization plays an important role insofar it makes the WTO an attractive institutional location for governments willing to negotiate regulatory issues demanded by its constituencies in exchange for concessions that liberalize access to their own markets (2006). In sum, both argumentations stress how adding a binding dimension in a future agreement on competition agreement would likely enhance its market access potential and, hence, increase the positive stakes that business groups would attain as a result of the adoption of such an agreement.

A number of counter-arguments, however, can be opposed to these claims. First, the evolution towards attributing priority to trade rather than competition rationales would likely strain cooperative relationships between competition authorities of different countries, thereby increasing the likelihood of politicising competition conflicts. This has two potentially negative implications. On the one hand, politicization may end up raising diplomatic disputes between countries and allow for other-than competition policy or market access considerations to be brought into the dispute. This certainly runs counter business preferences for conducting activities in stable and non-politicised environments. On the other hand, these disputes risk undermining the legitimacy of the WTO system as a whole and, as a result, elicit grass roots reactions against liberalization objectives. In light of these potential drawbacks as well as of uncertainties concerning these groups ability to reap the benefits of increased market access opportunities described in the previous section, one might question whether potentially increased benefits that would result from the inclusion of a binding dimension would suffice to prompt active political mobilization by business

groups. In addition, under the EU proposal private firms would not be able to lodge a complaint with the WTO dispute settlement body. Such body, thus, would only be asked by governments to check that domestic competition laws in foreign countries respect core principles eventually stipulated in the WTO agreement and, thus, the costs of multiple reviews would not entirely disappear (Bertrand and Ivaldi). Second, the incorporation of the dispute settlement mechanism into the future agreement could also have the effect of decreasing business groups' capacity to 'capture' regulators. It is generally believed that competition enforcement agencies in both the US and the EU are not overtly subject to this type of capture and 'tend far to the low end of the spectrum of the degree to which such capture commonly occurs, when ranked against other governmental regulatory agencies' (Graham 2003:963). Nonetheless, no regulatory agency is entirely free of regulatory capture and the perspective of pooling competences to a supranational body to adjudicate over competition matters would undoubtedly reduce the capacity of key economic groups to have their concerns being taken into consideration by regulators. For this reason, one would expect economic groups to prefer cooperative solutions that involves no loss of power over competition law to any external agent. Third, interest groups cannot but be aware that given the broad membership and the need of consensus in the WTO as well as the different views among WTO partners, any eventual agreement on competition policy in such a framework would be unlikely to fully address the problems that most concern them (Graham 2003). As mentioned above, realistically, nothing more than some sort of agreement on core principles and procedural standards could be expected. In this context, the incorporation of a binding dimension would not add up much value to the future agreement in the eyes of key economic interests. In addition, the establishment of a framework based on minimal agreed rules might also lead to inefficiencies. As Bode and Budzinski put it,

considering the differences between national competition laws, an agreement on insufficient minimum standards could induce countries with higher standards to adjust their regulations, thereby setting off a 'race to the bottom' until all national competition policies reach the minimum level. At the end, the protection of international competition might be less effective than in the beginning (2005:18).

In other words, this overview of theoretical arguments does not suggest that supporting a binding dimension in a future WTO agreement on competition policy was to substantially

change its distributional consequences and, as a result, the incentives of key economic groups to mobilize to support it. In fact, empirical evidence indicates that the theoretical speculations developed in the previous and in this section point in the right direction. The analysis of policy statements, documents and policy positions of key organizations representing European business groups confirm that the way in which the EU approached negotiations on competition matters was hardly a response to business lobbying. The International Chamber of Commerce (ICC), for instance, has consistently rejected the idea of a dispute settlement mechanism and supported the view that the WTO mandate on competition matters should not go beyond informative and educational discussions. In 1998 the ICC's policy statement on WTO and competition issues stated,

the ICC does not believe that, at this time, the mandate of the WTO working group should go beyond educational and informative discussions among its members on market access issues related to competition and trade policies. ICC believes that any consideration by the WTO working group of an international dispute settlement mechanism coupled with new international rules governing competition policy would be premature (ICC 1998).

Two years later, the ICC reiterated that,

the WTO is not an appropriate forum for the review of private restraints and [...] should not develop new competition laws under its framework at this time. ICC also agrees that a dispute settlement mechanism within the framework of a multilateral agreement on competition law raises many complex issues and is premature at the current time [...] therefore endorses ICPAC's view that the WTO can serve as a deliberative and educational body (ICC 2000).

In a similar vein, the Union of Industrial and Employers' Confederation in Europe (UNICE), clearly expressed its preference for a voluntary approach and its concerns with respect to the Commission plans,

UNICE is concerned about a binding multilateral agreement on specific competition rules concluded in the WTO as opposed to clear objective or guidance for a voluntary set of rules [...] UNICE regards as highly undesirable the review of decisions on individual competition cases given by national jurisdictions. In this context it opposes binding review of individual cases in the framework of a WTO settlement procedure. UNICE understands that the Commission is not in favor of a review of individual decisions [...] but fails to understand how such a dispute could be

considered without entering into the substance of more than one case leading to gross legal uncertainty. In this area it is impossible to distinguish form from substance (UNICE 1999).

The European Roundtable of Industrialists did not even comment explicitly on the EU's proposal, assigned only a minor role to the WTO in this context and, rather, pointed to the US proposal for a Global Competition Initiative as a possible example of cooperation in the area,

ERT supports the activities within OECD and UNCTAD that are aimed at developing criteria for common approaches to anti-competitive practices [...] however, these discussions are complicated and highly time-consuming. ERT therefore welcomes the proposal that the Global Competition Initiative should again be taken up [...] The initiative should first develop the exchange of information and views between competition authorities and, second, explore opportunities for enhanced cooperation. The initiative could include interested jurisdictions (such as the EU and the US), and also the OECD, WTO, UNCTAD, World Bank and representative world business organizations (ERT 2000).

Finally, the European Service Forum, although taking a much more positive stance with regards to EU's efforts in this context, also refused the idea of making an eventual WTO competition agreement 'binding' through the use of the dispute settlement mechanism,

while a worldwide system of directly enforceable rights may be a desirable long term objective, a more pragmatic approach would be, on the one hand, to develop a basic set of competition standards to be respected by national systems of competition law, on the other hand, to address the increasing need for convergence in the application of competition law and policy to worldwide business activities through appropriate bilateral/plurilateral arrangements. The European Commission is currently promoting the concept of the development of recognized norms or common principles that will underpin the world's system of competition law. This mechanism can be regarded as a more desirable means of achieving the aim than a wholesale reworking of the system (ESF 1999).

As this brief overview of the policy preferences of the main European business organizations illustrates, the EU's approach did not reflect demands 'from below'. These groups' preferences at the time the EU was supporting the idea of a binding WTO agreement on competition policy ranged from voluntary, informative and educational

mechanisms of cooperation - an idea that would be given concrete shape with the establishment of the ICN in 2001 as a result of a US initiative - to a light form of agreement based on the identification of a set of core principles and cooperation tools without enforcement mechanisms. In other words, key economic interests did not perceive the EU proposal as the most rational strategy available.

The question, therefore, is where did the Commission's preference come from if not from societal demands. Alternative explanations, I suggest, need to focus on the preferences of the relevant public actors involved in the policy process. More specifically, in light of the theoretical arguments and the empirical evidence reviewed so far, it seems fair to argue that the key to understand the EU's approach is to investigate the motivations of the European Commission.²³ In this context, two possible explanations need to be scrutinized. According to the theoretical framework set out in the previous chapter, one needs to assess whether the Commission strategy represented a rational and consequential response to a set of interest-driven material incentives or rather was the result of the adherence to a set of ideational factors such as beliefs, cognitive templates and value-systems. It goes without saying, discriminating between these alternative hypotheses is not an easy thing to do because it implies confronting the daunting task of tracing actors' motivations. However, a plausibility probe of these alternative analytical perspectives may help in this task.

As widely commented, the EU strategy does not necessarily respond to broad criteria of economic rationality. In particular, it is questionable whether dealing with world competition matters in a trade-oriented organization such as the WTO represents the best strategy to actually pursue efficient strategies responding to competition rationales. The Commission's strategy, therefore, can hardly be described as a welfare enhancing strategy unbiased towards interest groups. Hence, the most prominent potential 'executive politics' argument in this context would be a bureaucratic politics-type of argument. According to this view, the EU approach could be explained as a result of the Commission's self-interest in pursuing strategies that allow for competence maximization. As Wigger puts it,

²³ Alternative ideational "bottom-up" explanations are not subject to further investigation because, as already mentioned, the preliminary theoretical overview of their preferences did not challenge an autonomy-based explanation of the EU preference formation process in this issue area.

resulting from the increased market interdependence, the competence boundaries in external economic policy domains came to be blurred. In particular, the development of the WTO and the subsequent proliferation of issue-linkages in terms of so-called “trade and...” issues gave the Commission an opportunity to maximize the spectrum of its external negotiation mandate in trade affairs. Moreover, according to the principle of parallelism which has been interpreted in expansive way by the European Court of Justice, the existence of internal policy competences of the Commission can be paralleled by external powers. Hence, this entails that the Commission can conclude international agreements in the name of the EU without having the explicit competences delegated (2004:17).

In other words, the argument suggests that the key driving factor behind this choice was that an international agreement on competition matters in the WTO framework would have allowed the Commission to expand its foreign economic policy competences to a new issue area at the expense of Member States. It is not clear, however, whether the strategy pursued was the most rational one to attain this objective. In fact, it has been convincingly argued that the claim that a binding WTO agreement on competition policy was instrumental to the Commission’s pursuit of self-interest objective is not consistent with a rigorous and theoretically grounded analysis of the Commission’s preferences over alternative venues for negotiating competition matters. Damro, for instance, deconstructs the Commission as a unitary actor and employs the concept of ‘venue shopping’ to show that a binding WTO agreement was not the preferred choice of DG Competition (2006). This is so for two reasons. First, because, when in search for solutions to international competition problems, competition regulators generally prefer avoiding that competition decisions may be linked to trade negotiations and other non competition issues. Second, a binding mechanism would remove the discretion of regulators and limit their ability to pursue their own interests as well as creating political tensions. Thus, a more rational strategy for DG Competition would have been to pursue increases in convergence and cooperation in areas that fall under its discretionary authority avoiding international organizations that deal with non-competition issues and that are legally binding. In other words, had the EU position reflected DG Competition self-interest, other initiatives, ICN-type for instance, would have likely been preferred.

This argument, however, is not in itself sufficient to dismiss a bureaucratic politics-type of explanation as implausible. One could argue that while the EU strategy did not reflect the

preferences of DG Competition, DG Trade had an interest in the expansion of the WTO mandate to include competition issues. Indeed, the linkage between trade and competition that would result by way of the adoption of a competition agreement in the WTO framework would likely result in an expansion of DG Trade's role and competences. In support to this claim, it could be noted that DG Trade was indeed the primary advocate of the EU position. However, while this argument can explain why the Commission was in favor of bringing discussion on competition matters within the WTO framework, it is not clear in what regard would the inclusion of a dispute settlement mechanism in the agreement fit with DG Trade's institutional self-interest. Even if the dispute settlement mechanism was not to be given competences over individual cases, its creation would nonetheless imply some pooling of sovereignty and competences to an independent body and this is undoubtedly at odds with the assumption that the Commission acted as a competence-maximizing actor.

In light of the seemingly little explanatory power of the hypotheses considered so far, I argue that a useful way to understand the formation of preference of the EU in this negotiating instance is to look at the role of ideas and, more specifically, at how the European non-parochialist economic vision concerning the trade/antitrust nexus, informed by the experience of market integration in the EU, acted as a road map for EU policy-makers under conditions of uncertainty with respect to both their preferences and the expected consequences of their actions.

From a theoretical viewpoint, this argument rests on the idea that 'under conditions of uncertainty, expectations depend on causal beliefs (which) help determine which of many means will be used to reach desired goals and therefore help to provide actors with strategies with which to further their objectives; embodied in institutions, they shape the solutions to problems' (Goldstein and Keohane 1993:13-14). As the analysis conducted so far demonstrates, how to face international competition challenges was a question that could be addressed neither by relying on a solid body of knowledge regarding the distributional consequences of alternative strategies nor regarding the interests and preferences of the constellation of actors involved. In fact, neither a single recipe on the best way to handle global competition challenges existed nor it was easy to calculate with precision the expected distribution of costs and benefits of different courses of action. In such a context, it seems plausible to argue that relevant actors involved in the negotiating

process defined their position on the basis of the respective underlying belief systems which, in turn, had resulted from different historical experiences. As Damro puts it, ‘due to different historical experiences, the EU’s position can be characterized as a belief in “non-parochialism” while the US position reflected a belief in “leave good enough alone”’ (2004:280).

At the broadest level of abstraction, the ideational context within which EU trade policy took shape in that particular historical moment can be exemplified by the concept of “managed globalization” (Meunier 2007). This concept, put forward for the first time by Trade Commissioner Pascal Lamy in 1999 but deeply rooted in the history of the European integration process, expresses the underlying belief that for globalization to deliver its beneficial effects some kind of political management and guidance is necessary. As it has been put, ‘talking about managed globalization was a way of showing that policy-makers have not abdicated their role in the face of external challenges; on the contrary, they actively try to make the best of these challenges by channeling their positive implications and protecting against their negative effects’ (Meunier 2007:910). The key tenets of this doctrine were the belief in need of strong international institutions, in multilateralism and in the widening of trade-issues to subject to rule-making (Abdelal and Meunier 2007). This doctrine, however, was itself the result of the EU’s own historical experience with economic integration (Young and Peterson 2006). As Lamy stressed, ‘European trade policy is more than ever necessary to harness some of the ill effects of globalization. The European blend of market integration, common rules and social safety net mechanisms can serve as an inspiration for many countries in coping with the effects of globalization’ (Lamy 2002). In other words, the EU itself represented a successful model of “managed globalization” and the lessons learned in such a context could provide with a road map in confronting similar challenges at the global level. However, in such a broad guise this argument tells us little about why the EU defined such a policy option – a binding WTO agreement – as its preferred one. In order to address this question, one needs to look at how the particular way in which the trade and competition nexus had been dealt with in the context of EC internal market project and the extent to which this historical experience provided with a cognitive map to devise the preferred strategy to cope with global competition challenges.

Fox has convincingly articulated this argument by stressing that ‘there is a unified vision of trade and competition, free of parochial restraints; and the founders and implementers of the European Economic Community have studied and attempted to harmonize the three branches of law and policy relevant to that vision: liberal trade law, competition law and national industrial policy’ (1997:4). According to this view, the EC internal market model embodies the concepts to which EU negotiators have relied upon to define their response to the competition challenges brought about by growing international economic interdependence. When the EC was created, the set of trade/antitrust problems that European leaders faced were similar to those discussed in the context of the debate regarding global competition challenges that developed in the 1990s. At that time, confronted with similar challenges, European leaders opted for a non-parochialist response by which rules were put in place that, while recognizing the legitimate role for national and provincial governments to act in the interests of their citizens, would have as key objective that of defending the interests of the entire community without regard to nationality. In addition, it was recognized that the system’s overall effectiveness depended upon acceptance of Community law into the law of member states as well as the upon the existence of a system of enforcement. In other words, the integrative effort of the internal market coupled with the enforcement capabilities of the European Court of Justice represented the European response to the need of internalizing the potentially negative economic spillovers that could arise as a result of private firms’ activities or governmental policies. As Fox put it,

the set of trade/antitrust problems confronting the world is conceptually well-known in Europe. The leaders of the European Union have long understood the symbiosis between trade law and competition law [...] the founders understood that trade liberalization can be defeated by private restraints and, indeed, that the removal of border barriers fuels the incentives of nations and firms to find ways to re-erect barriers and keep their historical advantage [...] given these conditions, as well as the goal of deeper integration, it made sense for the European Community to internationalize competition policy, to integrate competition and free movement policy, and to limit industrial or regulatory policies that might conflict with free competition/free trade in the internal market [...] given the richness of the EC body of knowledge and the obvious possibilities for applying it, though less robustly, to a world liberalizing trade, it is not surprising that European leaders have been in the forefront in suggesting that competition be brought into step with trade liberalization (1997:4-8).

In short a convincing argument has been made that the EC internal market model, and the way in which in such a model trade/competition problems were managed, served the purpose of guiding behavior of EU policy makers by stipulating causal patterns under conditions of uncertainty. While one can argue that the theoretical consistency of this argument is stronger than that of the arguments reviewed so far, it remains to be seen whether such a view finds support in empirical evidence. In fact, the parallelism between the EC internal market model and the EU vision of how to manage international competition challenges is striking and touches upon different elements. First, all EU proposals for international cooperation in competition matters consistently stress the interrelatedness and symbiosis of free trade and competition objectives and, therefore, the need to tackle these problems into a single regulatory framework. For this reason the EU has constantly stressed the importance of integrating a competition regime within the WTO framework. Second, the insistence on the inclusion of a dispute settlement mechanism in the future competition agreement clearly reflects that internal market modelled causal belief that the setting up of enforcement mechanisms was necessary to attain these objectives.

In addition, the analysis of EU documents and officials' speeches on the issue shows that the EU's own experience is consistently mentioned as an example and point of reference with respect to discussions on how to multilateralize competition policy. In the 1995 report commissioned by Karl Van Miert which laid out the foundations of the EU vision on international competition matters, for instance, its recommendations were put forward after having recognized that 'some of the main aspects of international cooperation in the field of competition have been or are being in varying degrees experimented within the Union, and increasingly so in the last few years' and that 'the European Union has a wealth of experience in cooperation between competition authorities and in the development and enforcement of internationally applicable competition rules' (European Commission 1995). Again, the 1996 Commission Communication 'Towards an International Framework of Competition Rules', stressed that 'in the Community, anticompetitive practices are effectively dealt with in an even handed and non-discriminatory way across Member States' and added,

the relation between the elaboration of a competition framework and the functioning of existing trade instruments is a key issue in the trade competition debate. It is true that the incorporation of

competition provisions into trade law and/or more comprehensive and effective enforcement of competition policy through increased international cooperation would lessen the need to have recourse to instruments of commercial defence. However, competition instruments cannot be seen as substitutes for trade instruments. The latter only lose their *raison d'être* in the context of fully integrated markets. A framework of competition rules would, therefore, complement present trade law and create new instruments to tackle anticompetitive behavior in markets which are not fully integrated [...] the above is illustrated by practice within the EC itself. Antidumping action is excluded on intra-Community trade, as this is a fully integrated market. This integration has meant for Member States the elimination of all tariffs, the elimination of measures of equivalent effect to tariffs and the adoption of the four freedoms. Competition law has been applied effectively, amongst other things, with an explicit objective to integrate the markets of Member States, by an authority with autonomous powers of investigation and enforcement. All of these elements are absent in present day world trade (European Commission 1996:9).

Finally, Brittan has noted the positive EU experience with its own competition policy when discussing the possibility of multilateralizing competition policy (Damro 2004).

To sum up, the above overview of existing theoretical arguments as well as of existing empirical evidence, points to the role of ideational factors and their influence on European policy-makers as the more plausible and compelling explanation for the EU's preference for a binding WTO agreement on competition policy. First, that the EU strategy responded to societal demands has been confuted both on theoretical and empirical grounds. Not only standard political economy theories suggest that given the stakes involved in the prospect of establishing a binding multilateral regime on competition policy political mobilization by business groups was not to be expected but empirical evidence shows that, in fact, the EU strategy did not reflect these groups' preferences. If any mobilization at the societal level took place, this was against the prospect of the 'Singapore issues' to be discussed in the Doha Round. Second, the same can be said about the claim that such a strategy resulted from the Commission's ability to pursue its institutional self-interest. Such an argument is neither theoretically convincing nor supported by empirical evidence. On the contrary, given the uncertain environment in which discussion on the prospect of setting up multilateral competition policy regime took place, it seems plausible to argue that ideas played a role in the formation of preferences of European public actors. The historical experience with economic integration in the EU provided a road map, a model of cause-effects relationships, that could be relied upon to be provided with a guide in the

absence of certainty about the distributional consequences of alternative pathways and, a result, about end-means relationships in this issue-area.

3.2.2.2. A reality check on EU ambitions: narrowing down the initial proposal but still in the WTO framework

As already discussed above, in order to reach a compromise with the US, at Doha the EU had to change its initial position and accept a negotiating agenda much less ambitious than it had hoped for. The dispute settlement mechanism was not to be included in any future agreement and its scope was to be limited to identifying core principles, establishing modalities for voluntary cooperation and setting up mechanisms for assistance to developing countries. This shift in the EU's negotiating position, therefore, did not respond to an endogenous process of preference change. Rather, such a shift represented a pragmatic response to the acknowledgment that the conditions for creating a consensus on its preferred policy did not exist. In fact, the understanding that the US could not be brought on board without a significant narrowing down of the scope of the future negotiating agenda had emerged before the beginning of negotiations in Doha.

What is relevant to stress in this context, however, is that despite the inability to push forward its preferred policy option, the EU believed that even a watered down agreement in the WTO framework was a desirable outcome to be pursued. Why was it so? A multilateral framework for cooperation, harmonization and convergence on competition matters, for instance, had already been established with the creation of the ICN in October 2001. In addition, not only the EU was aware that the US continued to be reluctant to play a constructive role in this issue area but also knew that developing countries would likely oppose any substantive agreement. It also needs be stressed that while business groups were in favor of some kind of harmonization and cooperation between national antitrust authorities, throughout negotiations they grew more and more disillusioned about the prospect of this being achieved in the WTO framework. In the run up to the 2003 ministerial in Cancun, for instance, the ICC stressed that,

while efforts are being made to achieve a workable level of soft harmonization and convergence in the application of the world's already large number of competition regimens, there remain

significant differences [...] bridging those differences will require time and a great deal of cooperation among governments, competition authorities, private sector interests and other stakeholders. The issue of the inclusion of a competition framework in the WTO system thus should be assessed very carefully as the WTO proceeds at its meetings later this year (ICC 2003).

The ESF took a more skeptical position by pointing out,

it is of vital importance that, as multilateral action through the WTO is taken to ensure that WTO members adopt and apply basic common standards on competition law, progress is also made towards harmonization and convergence of the best elements of different national regional competition policies. We therefore support attempts to address the increasing need for convergence in the application of competition law and policy to world-wide business activities through appropriate bilateral/plurilateral arrangements, in particular between the EU and the US (ESF 2003)

Finally, overall it is not clear what would have been the advantage of having a competition framework under the WTO auspices on the basis of such a negotiating agenda. In the end, if some value-added was to be brought about by reaching an agreement in the WTO framework, this was clearly to be defined in terms of increasing market access opportunities. As widely commented above, however, even in the optimist scenario in which a future agreement were to include some sort of dispute settlement mechanism, it is questionable whether increased market access opportunities could be attained. As Hoeckman and Saggi put it, 'if the focus of discussions and potential negotiations is not clearly on negative spillovers and/or market access constraints associated with a set of policies (or there are not such spillovers) then the rationale for negotiating rules and disciplines for such policies is weakened' (2005:2).

From a theoretical viewpoint, hence, why did not the EU abandon this idea and decide to pursue its objectives in competition matters through the other already available fora is certainly a question that deserves some attention. Undoubtedly, keeping competition negotiations alive could have been part of a broader negotiating strategy. As it has been argued, many of the EU's demands may well have been bargaining chips in an attempt to extort concessions from others in exchange from dropping some of its own demands (De Bievre 2006). While this may explain part of the reality, it needs be noted that not only such a version of events has been consistently denied by EU negotiators (De Bievre 2006:861),

but that given the outcome of the Cancun meeting and of subsequent developments such a strategy did not prove successful. In addition, the Commission insistence on continuing negotiations in the WTO, even on the basis of such limited agenda, is consistent with bureaucratic politics perspective which assumes that the Commission, in particular DG Trade, pushed for an solution that would broaden its competences.

Although these interest-based accounts of the Commission's preferences cannot be completely disregarded as inconsistent, it is not implausible to argue that, alongside these factors, ideational factors influenced the way in which negotiators defined their preferences even in this phase. In the end, such an approach is fully in line with the guiding doctrine of EU trade policy epitomized by the concept of 'managed globalization' which, in turn, is based on the assumption that the EU itself is a successful experiment in managed globalization that can be taken as a point of reference when devising strategies to cope with global regulatory challenges (Abdelal and Meunier 2007, Meunier 2007). As already mentioned in the previous section, one of the implications of this doctrine is the belief that trade and competition problems cannot be disentangled and, rather, should be dealt with within a single framework, which would possibly include enforcement mechanisms. This wide conception of trade problems is not limited to the 'trade and competition' nexus. As it has been noted, a key component of the doctrine of managed globalization was the widening of trade issues subject to rule making (Meunier 2007). As Meunier puts it,

since world trade is regulated by a powerful international institution whose rules apply to a very large number of countries, the more issue-areas fall under the aegis of the WTO, the more managed globalization will become. Therefore, an important objective of the EU position in trade negotiations in the past decade has been to bring as many issues as possible into the fold of the WTO [...] the EU championed in particular the "Singapore issues", addressing and establishing rules for the conditions under which trading takes place (2007:913-914).

In other words, the insistence on keeping competition negotiations alive in the Doha framework in the absence of compelling rationales to do so suggests that ideational factors may have continued to play a role even when it was clear that the EU's preferred policy solution would not have been attained. The belief in the interrelatedness of trade and competition issues, which is part of a broader conviction about the EU model of integration as an experiment of combining market liberalization with regulatory

harmonization, as well as the underlying belief in the need of globalization being constrained by a set of regulatory constraints, concurred in making EU policy-makers believe that a WTO agreement on competition matters was an objective worth being pursued even if on the basis of such a narrowed down negotiating agenda.

3.3. Alternative explanations

In the above discussion, I have argued that the ideas played a crucial role in shaping EU's preferences over discussions concerning the establishment of multilateral competition regime in the run-up to Doha and that these elements continued being relevant even in the subsequent phase when it became clear that an agreement on the basis of its initial proposal could not be obtained. Throughout the analysis the strength of available alternative explanations for the development of the EU's negotiating strategy have been taken into consideration and their explanatory power assessed. In this section, these arguments are further reviewed in a coherent fashion with respect to the hypotheses considered here.

Let us first consider 'pressure politics' explanations. While it is true that some form of international cooperation could have resulted in business groups with a strong international outlook being able to reap some positive gains, particularly if the agreement was to open new market access opportunities, the prospect of obtaining such benefits cannot be taken as a sufficient condition to expect political mobilization in favor of such political initiatives. This is so even if the most market access oriented proposals, i.e. the EU proposal of a binding WTO oriented, had been adopted. From a theoretical viewpoint, therefore, one would have expected at best a tepid support and at worst indifference from these groups. Declarations and policy statements delivered before and during negotiations by the main organizations representing business groups in the EU confirm that while some form of loose cooperation was welcomed, a binding WTO agreement was not perceived as the best policy option. Moreover, these groups grew increasingly skeptical about the usefulness of discussing competition matters in the WTO framework. The Commission's approach, thus, cannot be regarded as a response to lobbying efforts from key interest groups.

Neither a 'civil politics' perspective offers a convincing account of the preferences of EU negotiators. Representatives of diffuse interests and development NGOs were either

indifferent or strongly opposed to developments in this issue area. In addition, there was not something as an EU-wide epistemic community supporting the ideas put forward by the Commission. Rather, a wide array of recipes and positions as to how confronting international competition challenges existed ranging from objecting the very idea of setting up a multilateral competition regime to supporting a fully fledged supranational competition agency with regulatory and enforcement powers. Ideas developing within societal groups in the EU, hence, did not provide the impetus for the Commission to define its policy posture.

These findings, suggest that in order to identify a compelling interpretation one needs to look at the preferences of the Commission and investigate its determinants. A number of 'executive politics' explanations have been implicitly addressed so far. In fact, it cannot be denied that an underlying motivation for the EU could have been that of maximizing welfare gains and economic efficiency for the EU society as a whole. In other words, one could conceptualize the Commission approach as an exercise of agency autonomy to counter interest groups demands and pursue policies in the public interest. There is no compelling reason, however, to believe that the initial EU proposal would have been a more efficient means to attain these objectives than other policy options on the table, included the idea of cooperating outside the WTO framework. Rather, a preference for the WTO seems to signal that if some attention to societal demands was there, this was more about market access-mercantilist ones than about defending diffuse interests. One could also claim that Commission was motivated by the willingness to pursue its bureaucratic self-interest. As argued, however, there was not a unitary interest within the Commission to develop competition negotiations in the WTO framework. It was not so, for instance, for DG Competition. Even in the DG Trade, case, it is not clear what would have been its bureaucratic self-interest in delegating powers to an independent agency in the WTO. On theoretical grounds, however, this interpretation as well as the claim that competition talks could have represented a bargaining chip for the EU in the overall negotiating process cannot be dismissed as clearly inconsistent accounts of the EU insistence in keeping negotiations alive even after the significant narrowing down of the scope of negotiations. It must be noted, however, that both interpretations have been consistently denied by EU negotiators and that the close parallels between the EU ideational framework and its negotiating stance suggest that these ideational factors have, at least, concurred in shaping the EU position.

In sum, it seems fair to argue that the ‘identity politics’ interpretation proposed here fares better than potentially alternative explanations both on theoretical and empirical grounds. This is particularly so with respect to the first phase of the EU’s preference formation process. It cannot be excluded that other more ‘rationalist’ goals also played a role in the second phase. Both ideational and rational elements, however, pointed in the same direction and it is, therefore, very difficult to assess the relative explanatory power of each variable.

3.4. Concluding remarks

This analysis has argued that in order to understand why the EU acted as it did during competition negotiations in the Doha Round, policy makers ideas need to be taken into account. More specifically, I have suggested that given the uncertainty about the consequences of the alternative policy options available to them, these actors’ choices were guided by concepts and ideas that had been shaped as a result of the EU’s own experience of managing the trade/competition nexus in the context of the internal market project. This claim is supported not only by drawing on empirical evidence but also by showing that alternative explanations are either theoretically inconsistent or not validated by existing empirical data.

These findings corroborate the expectations set out in the theoretical section of this research. Given the low stakes as well as low certainty of this issue, I expected policy makers to be unconstrained by societal mobilization in the pursuit of their preferences and ideas to play a significant role in the formation of such preferences. It must be clarified, however, that the Commission did not pursue, or did so only partly, its agenda in the face of consistent and strong opposition from key interest groups. In this context, the Commission defined its preferences autonomously more in the sense that it did not respond to interest groups demands rather than it acted ‘against’ their demands. Nevertheless, this seems not to weaken the validity of the argument proposed here, namely that the ideas held by negotiators explain the formation of preferences of the EU in this specific issue-area.

4. The European Union and environment negotiations in the Doha Round

Throughout the 1990s environmental concerns became a central topic of discussion about the future of the multilateral trading system. As it has been put, ‘the 1990s marked the coming of age of the trade-environment debate’ (Cameron 2007). During these years, an increasing public awareness and attention towards environmental issues prompted governments to more forcefully address existing bi-directional links between trade and environmental protection, consisting of both the impact of environmental policies on trade as well as the impact of trade on the environment. To be fair, the trade-environment debate was not new. In 1971, for instance, in preparation of the United Nations Conference on the Human Environment to be held a year later, GATT members decided to ponder the connection between trade and environment by creating the Group on Environmental Measures in International Trade (EMIT). The group was established because GATT members anticipated that measures taken by governments for environmental reasons could have a negative impact on trade (Halle 2006). At that time, however, there were little overlaps between the two policy areas and environmental concerns were not a controversial topic in the context of multilateral trading discussions. Unsurprisingly, not a single issue was brought to the attention of the EMIT by a GATT member during the first two decades of its existence.

During the 1990s, however, a number of developments resulted in the raising of the trade-environment debate profile. In 1992 a UN Conference on Environment and Development (Rio Earth Summit) was convened, which resulted in the recognition of the substantive links between international trade and environment and in the agreement to make policies in the two areas mutually supportive in favor of sustainable development. In addition, the entry into force and implementation of several major multilateral environmental agreements (MEAs) that included trade restrictions as enforcement measures was starting to draw the concern of the trade community. More importantly, the increasing politicization of the trade-environment debate resulted from two GATT panel decisions at the beginning of the 1990s. In fact, as a result of the GATT dispute settlement panel decisions in the so-called Tuna-Dolphin cases which prohibited the adoption of trade

restrictions on the basis of violations of environmental standards²⁴ the trade-environment debate was fuelled and became a matter of contention for a number of different actors. The trade community started to fear attacks to the principle of non-discrimination on environmental grounds. Environmentalist, on the contrary, became concerned about the disruptive effects GATT rules might have on domestic and international environmental rules. Finally, these decisions also provoked major concern on the part of developing countries about the risk of a “green protectionist” strategy by developed countries.

In this context, environment came into the work program of the nascent WTO. At the GATT’s April 1994 ministerial meeting, when the Uruguay Round was formally ratified, and the WTO established, agreement was reached to undertake a systematic review of “trade policies and those trade-related aspects of environmental policies which may result in significant trade effects for its members.” A Committee on Trade and Environment (CTE) was formed to undertake this task (Vogel 2002). That environmental concerns had entered the multilateral trade agenda was further reiterated with the adoption of the Doha Declaration in November 2001 when, in setting out the mandate for a new comprehensive round of multilateral trade negotiations, members of the WTO decided to devote an entire chapter to Trade and Environment

In other words, in the 1990s the relationship between trade and environment had not only become a politicized and contested issue but also a key element of the new trade politics. In this context, the EU experienced a transformation from laggard to leader in international environmental governance and replaced the US as the most prominent green *demandeur* in international politics (Falkner 2007, Vogler 2005, Vogler and Stephan 2007, Zito 2005). In fact, in all major global environmental fora the EU has been one of the few actors to consistently argue in favor of institutional reforms and the speedy and

²⁴ The first case was brought before the GATT by Mexico, which argued against a United States (U.S.) law imposed in 1990 that prohibited tuna imports from countries lacking appropriate dolphin conservation programs. Mexico believed that the U.S. legislation violated its GATT rights by prescribing extraterritorially how it should catch its exported tuna. The U.S. defended its action on the grounds that its neighbor was taking insufficient measures to prevent the accidental capture of dolphins by its tuna fishers. The GATT panel ruled in 1991 that the U.S. could not suspend Mexico’s trading rights by prescribing unilaterally the process and production methods (PPMs) by which that country harvested tuna. The U.S. eventually lifted its embargo following an extensive domestic “dolphin safe” labelling campaign and negotiations with Mexico. A subsequent case brought against the U.S. tuna embargo by the European Union (EU) on behalf of the Netherlands Antilles in 1992 found that the U.S. *dolphin conservation policy* was GATT-consistent and could be applied extraterritorially. However, it broadly upheld the first panel decision by ruling that the *actual measure used* (i.e., the tuna embargo) was neither “necessary” (along the lines of Article XX), nor GATT-consistent.

accountable implementation of existing commitments to strengthen global environmental governance (Vogler and Stephan 2007). As far as the WTO is concerned, the EU has set itself as the most prominent advocate of the inclusion of an environmental agenda in the multilateral trading system before, during and after negotiations for the adoption of the Doha Declaration.

This chapter aims at assessing what actors shaped the policy preferences of the EU in this issue area and what were their motivations. More specifically, the chapter questions the extent to which the EU's trade-environment agenda responded to societal pressures or was driven by public actors as well as whether the motivations of the relevant actors were interest-driven or rather based on broad non-instrumental concerns. The analysis proceeds as follows. In the first section, I provide a brief overview of the EU policy position concerning the trade and environment debate before and during the Doha Round of negotiations. In the second section, I carry out discriminate a preliminary plausibility probe of competing hypotheses on the basis of a deductive analysis of actors' preferences. In the third section, I carry out an in depth theoretical assessment by providing a narrative reconstruction of events. Fourth, I provide a brief overview of competing explanations to further validate the argument proposed.

4.1. The “what” of environment negotiations

Before turning to a theoretical assessment of the process of preference formation of the EU, in the context of the Doha Round negotiations, on the relationship between trade and environment, this section provides a brief historical overview of the main steps that characterized the negotiating process. The following discussion concentrates on the content of the negotiating proposals brought forward for discussion with WTO partners in the period between 1995 and 2006 when negotiations were suspended.

4.1.1. Approaching the Doha Round

The EU position with respect to the trade-environment debate before November 2001, when the Doha Declaration was adopted, has changed quite substantially. Two phases can

be identified. In the first phase, between 1995, when the CTE was established after the ratification of the Uruguay Round, and 1999, in the aftermath of the ill-fated attempt to agree on a Multilateral Agreement on Investments in the OECD framework, the EU supported only timidly the idea of an inclusion of environmental concerns in the multilateral trading regime. The CTE had been established with a broad-based mandate, formally consisting of identifying the relationship between trade measures and environmental measures in order to promote sustainable development, and making appropriate recommendations on whether any modifications of the provisions of the multilateral trading system were required (WTO 2004). In addition, the Marrakech meeting also identified 10 specific items for the CTE to examine, including (most prominently) the relationship between the trading system and MEAs (item 1) and the relationship between the dispute settlement procedures of the trading system and those of MEAs (item 5) (Eckersley 2004). At the substantial level, however, such a mandate was largely a one-sided mandate to examine the impact of environmental measures on trade (Halle 2006). Indeed, the position of developed countries, including the EU, with respect to the CTE was more about protecting trade concerns from potential environmental incursions in reaction to the perception of environmental groups' growing success in promoting environmental regulation than about allowing the WTO to address environmental concerns and to integrate them into trade law (Shaffer 2001, Thomas 2004).

This is not to say that the EU did not attempt to play a positive role in this context. The parallels between NGOs demands and the EU proposals in the CTE show that at least at a formal level the EU tried to bring to the attention of its WTO partners issues that were of interest for environmental groups. In particular, both the EU and the US showed considerable interest in the examination of "environmental items" such as existing environmental exceptions in GATT and GATS, their adjudication before WTO panels, as well as relations between the WTO and non-governmental organizations (Shaffer 2001). When analyzed in relation to developing countries opposition to what was perceived as a hidden protectionist agenda, however, it is difficult to assert that the EU position in the CTE context was clearly a proactive one. In the end, the EU seemed more interested to paying lip service to NGOs demands than to effectively seek to mould the negotiating context to attain such objectives (Shaffer 2001).

Unsurprisingly, the CTE ended up making no recommendations for any modifications to the WTO rules in relation to any item on its agenda. Notwithstanding the numerous proposal of the relatively greener members, such as the EU, the majority of members generally believed that the environmental exemptions in the current WTO rules were able to accommodate environmental concerns (Eckersley 2004).

Beginning in 1998, however, things started to change and the EU became more and more serious about the trade-environment debate. The abortive multilateral agreement on investments had shown governments of developed countries that anti-globalization movements, including some environmental groups, were ready to mobilize, mould public opinion and exert significant influence on the trade policy making process (Hocking 2004). At the same time, as a result of mounting social groups' pressure the WTO itself had been prompted to increase its engagement with civil society groups (Mason 2004). In addition, during this period environmentalists gained political influence across a number of powerful member states and at the EU level (Kelemen 2007). As a result, in the 1999 Commission Communication which laid down the priorities of the EU in the wake of the Seattle WTO Ministerial Conference, one entire paragraph was devoted to "trade and environment" (European Commission 1999). Moreover, in the subsequent months the EU submitted a number of proposals to the WTO through which the concepts of the 1999 Communication were further elucidated. In terms of general principles, the Communication stated,

trade and environment policies should play a mutually supportive role in favor of sustainable development. Accordingly, environmental considerations should be integrated into the EU's approach and therefore effectively addressed throughout the negotiations so as to achieve by the end of the Round an overall outcome where environmentally friendly consequences can be identified in the relevant parts of the final package [...] it is equally important to avoid the establishment of requirements that would unduly constrain the development of effective environmental policies by WTO Members (European Commission 1999:14)

In addition, the communication identified three key areas where clarification between WTO rules and instruments of environmental policy was considered especially important. First, greater legal clarity on the relationship between WTO rules and trade measures taken pursuant to Multilateral Environmental Agreements (MEAs). In this context, the EU

suggested that consensus should be sought on the accommodation within WTO rules of MEAs' trade measures and on the types of multilateral agreements which constitute MEAs. In the proposal submitted to the WTO this concept was clarified by suggesting a number of basic principles regarding the relationship between WTO rules and MEAs, including 'confirmation that WTO rules and MEAs are separate but equal bodies of international law and that, accordingly, MEAs are not subordinate to WTO rules and vice versa'; the adoption of an accommodation mechanism in case of challenges brought by non-MEA parties to MEA parties for specifically mandated trade measures taken pursuant to the MEA itself; ensuring continued dialogue with MEA Secretariats; and agreement on some form of "code of good conduct" to be jointly developed and "owned" by the WTO, MEA secretariats and UNEP (WTO 2000).

Second, a clarification of the relationship between WTO rules and Non-Product Related Process and Production Methods requirements and, in particular, of the WTO-compatibility of eco-labelling schemes. The EU supported the view that there was room within WTO to use such market based, non-protectionist instruments as a means of achieving environmental objectives and of allowing consumers to make informed choices. Third, a clarification of the relationship between multilateral trade rules and core environmental principles, notably the precautionary principle. The premise upon which the EU approach relied was that it was necessary to maintain the right of WTO Members to take precautionary action to protect human health, safety and the environment while at the same time avoiding unjustified or disproportionate restrictions. Such clarification was to be aimed at securing, within the relevant WTO rules, the importance of the precautionary principle, and to agree on multilateral criteria for the scope of action possible under that principle (WTO 2000a).

In sum, the EU approached the Doha Round with an articulated and far-reaching conception of how environmental concerns could be integrated into the international trading system. By supporting the view that WTO and MEAs were to be conceived as equal bodies of international law, the EU was *de facto* proposing to rebalance the relationship between WTO rules and MEA rules in favor of the latter. According to the EU, in addition, environmental concerns were to be given further relevance in the overall legal framework of the WTO by according legal recognition to the precautionary principle and by broadening the scope for the use of trade restrictions on the basis of

environmentally-unfriendly production methods. Neither the US nor developing countries, however, backed EU efforts. As already mentioned, developing countries were skeptical about a strategy that was perceived as an attempt to develop some form of “green protectionism”. The US, on its side, had grown increasingly tepid about the prospect of modifying WTO rules to accommodate environmental concerns alongside the EU proposals (Vogel 2002)

4.1.2. The Doha outcome

Despite these constellation of interests, the EU succeeded in obtaining the necessary consensus for the Doha Declaration to include a negotiating mandate on the trade-environment link. The compromise reached, however, significantly narrowed down the scope of negotiations with respect to the agenda proposed by the EU. In November 2001, at the *Doha Ministerial Conference*, it was agreed to launch negotiations only on certain issues related to trade and environment. Paragraph 31 of the Doha Ministerial Declaration narrowed down the formal negotiating mandate negotiations to the following issues: (1) relationship between WTO rules and specific trade obligations (STOs) set out in MEAs, specifying that negotiations would be limited in scope to the applicability of such existing WTO rules as among parties to the MEA in question and that negotiations would not to prejudice the WTO rights of any Member that is not a party to the MEA in question; (2) procedures for information exchange between MEAs and the relevant WTO committees, and on the criteria for the granting of observer status in WTO bodies; (3) the reduction or, as appropriate, the elimination of tariff and non-tariff barriers to environmental goods and services. Negotiations on these issues were to be conducted in a Committee established for this purpose, the Committee on Trade and Environment Special Session (CTESS). Moreover, under paragraph 28 of the Doha Declaration it was agreed to “clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries” with explicit reference to paragraph 31 call for mutual supportiveness of trade and environment.

In addition, the Doha Ministerial Declaration provided the CTE with a special mandate, although not a formal negotiating one, in other issue areas. Paragraph 32 focuses the work

of the CTE on three areas: the effect of environmental measures on market access; the relevant provisions of the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS); and eco-labelling. Paragraph 33 outlines the importance of capacity building and encourages environmental impact assessments. Paragraph 51 instructs the CTE and the Committee on Trade and Development to “each act as a forum to identify and debate developmental and environmental aspects of the negotiations, in order to help achieve the objective of having sustainable development appropriately reflected. Discussions on these matters were to be conducted in CTE regular meetings (see WTO 2004). In sum, the Doha Declaration granted full status of negotiating issue only to few items , most notably the WTO-MEAs relationship, while merely reaffirmed the CTE’s mandate on the other topics, though with some additional specification.

Despite the narrowing down of the EU agenda, the compromise reached in Doha represented a significant step forward. In fact, for the first time, WTO Members decided to launch negotiations that would include trade and environment as part of the negotiating agenda. This undoubtedly represented a success in itself , given the constellation of interests among WTO members on this issue. The narrowing down of negotiating mandate’s scope represented a necessary condition for the EU to get other WTO members on board despite their resistance. The US support could be obtained only at the condition that negotiations would not open up more space for consideration of the precautionary principle in WTO rules. Similarly, developing countries agreed to the MEA-WTO linkage mandate from Doha, but only as part of a wider package that contained other trade-off issues, including reductions in agricultural subsidies and, more importantly, on the basis of a defensive strategy aimed at ensuring that at least some disciplines could be put into place to reduce the scope for green market protectionism (Cameron 2007, Halle 2006, Yu 2007). The need to accommodate these demands, however, restricted the potential for further advancements in the negotiating phase to an extent that seriously undermined the potential for any substantial achievement (Eckersley 2004, Halle 2006, Thomas 2004).

4.1.3. After Doha

In the context of this narrowly defined negotiating mandate, however, the EU continued to play a constructive role, trying to find a consensus on the objectives set out in the Doha Declaration. This is evident from the analysis of the EU policy stance in a number of areas during the negotiating phase. Let us first consider paragraph 31 of negotiations concerning WTO-MEA relations. A first source of division among WTO members concerned definitional problems around the notion of “specific trade obligations (STOs)”, with, on the one hand, a group of members seeking a highly restrictive interpretation of STOs and, on the other, those who defended a more generous interpretation to give more flexibility to MEAs. In this context, for instance, the EU clearly defined its position in terms of a “green demandeur” by identifying very broad categories to define the concept (WTO 2002). A second contentious issue regarded whether to examine the STOs in a small handful of MEAs that are in force on a case by case basis or rather to follow a more “conceptual approach” in order to develop criteria that can cover amendments to existing MEAs and the negotiation of new MEAs. Again, the EU took a proactive environmental stance by submitting a proposal to WTO partners in 2002, in which it suggested that “the use of trade measures should not necessarily be regarded in a static way. In fact, their application should rather be considered in a dynamic context insofar as the nature of trade measures in a specific MEA might evolve over time depending on the effectiveness of the initial trade measure and/or the need to take other considerations into account” (WTO 2002:7). In addition, the EU also supported the view that while negotiations focused on the applicability of WTO rules as among Parties to MEAs, it could be recognized that MEAs represent important elements of interpretation of WTO law in disputes involving non-Parties. A similar pattern can be observed with respect to paragraph 31 negotiations on observer status. While many members (particularly developing countries) continued to resist to the presence of MEA secretariats in the WTO framework, the EU has strongly supported the view that UNEP and the MEAs Secretariats could be allowed to attend CTE normal and special sessions (WTO 2002a). Finally, the EU worked hard to reach an agreement on the last item included in paragraph 31, namely the reduction and/or elimination of tariffs for environmental goods and services. In fact, the EU by proposing the adoption of a “list approach” by which a member of the CTE special sessions would negotiate a list of goods to be liberalized (Bernasconi-Osterwalder et.al.2007).

Despite these efforts, however, no substantial progress has so far been achieved in the context of paragraph 31 negotiations. So far as MEA-WTO relations are concerned,

negotiations have largely resulted in a stalemate between a minority of WTO members, such as the EU, who have sought clear and explicit rules to exempt MEAs from WTO challenges and those who oppose any further environmental compromise of the trade rules. Negotiations on liberalization of environmental goods are still stuck into definitional discussions as to what constitute “environmental good”. The only step forward of some relevance, although a minor one, concerns the acceptance of EU’s demands that MEA Secretariats, UNEP and UNCTAD be allowed to attend with observer status during the negotiations (see Eckersley 2004). Similarly, on the other non-negotiating items mentioned in the Doha Declaration, the EU took a constructive stance by submitting proposals on issues such as eco-labelling (WTO 2003), technical assistance and capacity building in the field of trade and environment to developing countries (WTO 2003a) and the effects of environmental measures on developing countries market access opportunities (WTO 2004a) but progress has been negligible.

Perhaps, the most concrete result of the EU proactive negotiating stance concerns paragraph 28 negotiations on fisheries subsidies. After some initial difficulties in advancing discussion, a considerable shift has taken place during 2004, mainly due to changing positions by the EU and Japan, moving the negotiations from the question whether new rules are needed to the question of nature and extent of such rules (Von Moltke 2007). As a result, at the 2005 Hong Kong Ministerial meeting it was agreed to set the goal of prohibiting fisheries subsidies that lead to overfishing and overcapacity, with the mandate explicitly including environmental criteria for the new disciplines. Negotiations are still going on, centering on discussions about how to define the structure of prohibited and allowed subsidies, but solutions being discussed are not confined to disciplining the trade-distorting factor in the subsidies and seriously include environmental concerns (Halle 2006).

In sum, the EU clearly set itself as the leading “green power” in the context of the Doha Round negotiations on trade-environment issues. It played an active political role to have environmental issues discussed in the new round of negotiations and, even though the mandate agreed was significantly narrow in scope, it continued to play such a role during the negotiating phase. Despite these efforts, however, only some minor progress has taken place and no substantial result has been achieved in the context of the formal negotiating

mandate (paragraph 31), mainly as a result of the skeptical approaches of both the US and developing countries.

4.2. *A theoretical assessment: the “whom” and the “why” of environment negotiations*

The above analysis has shown that, despite the limited success of its strategy, the EU has consistently set itself as the leading “green demandeur” in the trade-environment debate before and during the Doha Round negotiations. Why has it been so? Which were the relevant actors in shaping the EU’s agenda and, in turn, what were their motivations? By responding to these sets of questions, this section aims at discriminating between the competing hypotheses set out in the first chapter regarding how the EU defines its preferences over trade policies. This section is structured as follows. Coherently with the approach adopted so far, in the first part I carry out a preliminary deductive exercise to assess the likely order of preferences of different social and institutional actors over the prospect of disciplining trade and environmental relations in the context of the WTO and, consequently, whether some of the hypotheses considered here can already be disregarded as implausible at a very preliminary stage of the analysis. In the second part, I build on the preliminary insights developed and further elaborate on them with respect to the specifics of the position displayed by the EU throughout the negotiating process and by focusing on the empirical evidence available concerning actors’ preferences.

4.2.1. Why negotiating multilaterally? A preliminary plausibility probe

In this section, I will provide a preliminary map of the constellation of interests of the relevant societal groups as well as public actors in this area of negotiations. What social groups can plausibly be expected to oppose or to favor a policy strategy aimed at disciplining trade and environment policy interfaces? What are the stakes involved for the relevant public actors implicated in the policy process? In answering these questions, the analysis developed in this section aims at providing with a preliminary assessment of the

lines of inquiry worth being pursued through a more focused and detailed empirical investigation in the next section.

Broadly speaking, it is fair to argue that the EU has consistently positioned itself in the camp of those advocating a more balanced relationship between trade/commercial imperatives and environmental concerns. In the end, the whole trade-environment debate is about how to discipline the interrelatedness of global trade regulation and global environmental regulation and where to draw a line whenever the two clash. The fact that these global regulatory systems overlap is not a problem in itself. What makes this overlap politically contentious from an environmental point of view is that trade rules appear to have the upper hand. As Eckersley puts it,

the upshot is that any environmental restriction (such as a ban, a quota, a licensing arrangement or even a labeling requirement) that discriminates against the imports of a GATT party vis a vis others prima facie offends these rules unless it can be brought within the environmental exemption provisions of the GATT in Art.XX. This article has traditionally been interpreted quite narrowly and, in the aftermath of the infamous Tuna Dolphin decisions, has been a major bone of contention [...] and central to claims by ENGOs that the global trading system rules systematically undermine efforts towards international and national environmental regulation (2004:29).

With respect to this debate, the position of the EU can be generally described as one that favors the incorporation of environment protection rationales into legal and operational framework of the international trade regime through the changing of WTO rules. In other words, the EU has consistently sought to rebalance what is perceived as a “lop-sided” state of affairs in which trade priorities prevail over environmental ones. In this context, what sets of preferences can one plausibly expect to be held by the various societal and public actors involved?

Let us start with societal groups and their expected order of preferences over this policy strategy. Quite obviously, consumer and environmental groups are expected to favor any attempt aimed at “greening” international trade relations. It is not implausible, therefore, to anticipate that these groups would mobilize politically to have these policy objectives pursued by public actors. As widely acknowledged, however, these groups face substantial collective action problems when they engage into political mobilization since they represent

diffuse interests. This does not necessarily exclude the possibility for this set of actors to exert significant influence in the policy-making process. Taking organizational capabilities as constant, the degree to which these groups can be expected to play a decisive role in shaping the public policy agenda depends on a number of factors. First, the influence they can exert depends on the degree to which they can make their voice heard in the public policy debate. Whether the decision-making process in a given, both national and international, polity allows for consultations and cooperative procedures with these groups can make a difference on the level of political influence they can exert. Similarly, the level of public legitimacy policy-makers enjoy influences the extent to which they can insulate themselves from societal demands. More specifically, when states face legitimacy crisis, they may have strong incentives to increase involvement and participation of civil society groups as a source of legitimacy. Second, success of lobbying activities carried out by organizations representing diffuse interests depends on the level of political salience among the general public of the issue they defend. The more salient any given issue for public opinion and the more consistent the policy preferences of these groups with wider societal values, the easier for diffuse interests to overcome collective action problems and, consequently, the more difficult for policy-makers to counter their demands.

When assessed in light of these set of conditions, it is not implausible to expect environmental groups within Europe to have played a significant role in the shaping of the EU agenda. As it has been pointed out, in fact, the multilevel governance structure of the EU includes several layers of decision-making and opens up new channels of influence, making it easier for diffuse interests to influence policy outcomes (Pollack 1997; Smith 2001). In addition, since the Commission is not immediately accountable to constituency interests, it may have strong incentives to allow for the involvement of a broader cross-section of societal interests, as represented in civil society organizations, to cope with a perception of an existing legitimacy deficit (Hocking 2004). More importantly, it is well acknowledged that European public opinion values environmental protection highly (Falkner 2007). According to this view, therefore, the EU strategy could have represented the policy-makers response to the value-driven policy preferences of civil society forces in the EU, either in the form of rational calculations or by way of sincere adherence to such a principled view of how to manage trade-environment potential clashes. In sum, the institutional and societal characteristic of the EU polity suggest that, despite the expectation of low capacity to influence the policy-making process due to collective action

problems they face, the hypothesis that environmental groups advocating a cosmopolitan and value-driven agenda with respect to how to organize the relationship between trade and environmental governance did play a substantial role in the shaping of the EU agenda cannot, on theoretical grounds, be preliminarily disregarded as inconsistent.

A similar line of reasoning applies to key economic interests. In abstract, one would expect both support and opposition by economic interest groups to the prospect of incorporating broader criteria for applying trade restrictions on environmental grounds in the international trade regime. Support is expected from economic sectors relying upon environmentally-friendly technologies or production methods as well as from sectors facing stiff competition from exporting countries with lower environmental regulatory standards. In the former case, tighter environmentally-based restrictions in the international trading system would favor activities where these groups enjoy a comparative advantage, thereby opening up new markets for exports. In the latter, they would serve as an instrument to protect the internal market from foreign competition and to internationalize costly environmental regulation. In fact, in the absence of such an international regulatory convergence, if EU member states choose to maintain environmental standards, for example prohibitions on genetically modified organisms (GMOs), these could be struck down by the WTO as illegal non-tariff barriers to trade. At the same time, economic interests have an incentive to oppose such policy option if they produce in an environmentally unfriendly manner. In fact, in this case tighter environmental disciplines on the functioning of the international trading system could result in substantial losses for these groups by way of decreased market access opportunities abroad.

The key variable to predict the likely distributional consequences of such an agreement, and consequently, the extent of economic interest groups support, therefore, is the level of environmental regulation in a given market. The higher the environmental standards economic interests must cope with to carry out their activities, the higher the incentives for these groups to have these standards spread internationally. As Kellow puts it, ‘so-called first mover strategies, whereby states impose tighter regulation, create incentives to pressure other into adopting the same standards, in order both to create export markets for environmental technologies and to ensure that laggards do not gain comparative advantage over vanguard states’ (2000:15). The level of internal environmental regulations is a useful proxy for another relevant variable in this context, namely the number of MEAs to which a

given country is committed. As widely commented, the major bone of contention of the trade-environment in the WTO concerns the relationship between MEAs' trade provisions and WTO rules. The more one states is committed to respecting environmental provisions in the context of MEAs, the less likely are interest groups to fear the incorporation of MEAs' provisions into the working of the WTO.

Given the score of the EU on both dimensions, one would set the expectation of a balance of preferences among key interest groups in the EU in favor of a policy strategy aimed at greening the WTO. As Kelemen acknowledges, 'beginning in the 1980s the EU has erected the most comprehensive and strict body of environmental regulation of any jurisdiction in the world, ranging from rules on air and water pollution, to waste management and recycling, to GMO regulation, to chemical safety regulation' (2007:2). In other words, the EU has clearly sought to flank its single European market initiative with a drive to harmonize environmental standards across Europe at high levels of protection. Unsurprisingly, such an environmental regulatory activity has provided a blueprint for countries wishing to introduce or strengthen environmental regulatory standards (Falkner 2007). In addition, the EU is a signatory of around 60 MEAs (Vogler 2005) and since the 1990s is widely recognized as one of the major international political forces behind the establishment of new MEAs (Kelemen 2007, Falkner 2007, Vogler and Stephan 2007, Zito 2005). This is not to deny that, despite these conditions, opposition to the EU strategy among key interest groups is likely to be absent. As illustrated by Falkner, for instance, the whole process of setting up environmental standards in the EU as well as the prospect of internationalizing such regulatory standards through the inclusion of environmental exceptions in the WTO context has been contested and opposed by the European biotech sector (2007). However, given these conditions one would expect the overall balance of economic interests in the EU not to be opposed to such a policy strategy. In sum, in light of the above arguments, the prospect of obtaining gains in the form of increased market access opportunities to foreign markets or to avoid losses through the de facto market closure effect that such international regulatory standards might have with respect to some sets of foreign imports represent sufficient conditions to expect active political mobilization from this groups to support such a policy strategy. Indeed, while it is true that the distributional effects of such a policy move cannot be easily quantified a priori, it is likely that these groups would anticipate that the benefits they could reap would outweigh the costs of mobilization.

From a deductive standpoint, explanations that stress the autonomous preferences of public actors as the main causal factor driving the EU strategy cannot be dismissed as inconsistent either. Even if we were to assume that such a policy strategy did not result as a response to societal pressures, a number of plausible autonomy-based interpretations, both ideational and rationalist, could be put forward. The EU's negotiating strategy, for instance, might have simply resulted from a rational calculation about the optimal negotiating strategy to be carried out, given the EU's vulnerability in sensitive negotiating areas such as agriculture. More specifically, it is not implausible to argue that EU negotiators simply anticipated that the Doha Round would centre on the theme of agriculture and that it was in their interest to have as broad an agenda as possible to maximize trade-offs (Kerremans 2004, Halle 2006). Also, EU negotiators could have perceived an "environmental reform" of the WTO as the most rational strategy available to avoid regulatory race-to-the-bottom dynamics that would likely involve EU member states in order to maintain international competitiveness. In other words, EU negotiators might have anticipated the long-term preferences of key economic interests despite their eventual indifference towards the issue. Less plausible is the argument by which the EU strategy resulted from the pursuit of the Commission bureaucratic self-interest. Differently from other negotiating areas, such as competition, the Commission already plays a considerable international role in the area of environment through a number of different fora such as UNEP and the OECD and, thus, it is not likely that a WTO agreement on trade-environment matters would have added much in terms of "competence maximization".

From an ideational perspective, one could also plausibly claim that, in the face of societal indifference on the issue, the EU approach towards trade-environment matters in the Doha Round reflects the particular values that the EU is based on as a polity and that it seeks to export abroad. This argument builds on the idea that the EU's international standing departs from the *realpolitik* tradition in foreign policy and promotes the global common good over and above the national interests (Manners 2002, Lucarelli and Manners 2006). In this context, therefore, one cannot exclude a priori that the EU acted as it did because it represents a "normative green power" guided by distinctive values in the making of international environmental diplomacy. Similarly, but from a slightly different theoretical perspective, it can also be argued that ideational factors influenced EU policy makers by acting as "road maps" in a context characterized by uncertainty regarding the distributional

consequences of alternative policy options. More specifically, given that the WTO appellate board jurisprudence with respect to how to interpret the relationship between trade and environmental priorities has changed over time²⁵, EU negotiators might have relied on the EU's own experience – namely a bias towards greater environmentally-oriented precaution – to set its own views about how these matters should be managed on the international stage.

In sum, from a deductive viewpoint, there are no strong arguments to exclude any of the hypotheses developed in the theoretical chapter as clearly inconsistent. Both civil society groups, such as environmental NGOs, and key economic groups had a stake in having more stringent environmental regulation being incorporated in the WTO. Even if societal pressures had not played a significant role in shaping EU preferences, the policy strategy pursued by the EU is *prima facie* consistent with the hypotheses that the EU strategy represented a rational attempt to maximize its negotiating leverage and/or to avoid a regulatory race-to-the-bottom dynamic within its own market as well as the reflection of its peculiar international identity. To discriminate among these contending hypotheses, therefore, the next section looks at how the decision making process evolved, at the actual preferences of the set of relevant stakeholders and at how were these reflected in how the EU's negotiating position displayed over time.

4.2.2. An in-depth theoretical assessment of the negotiating process

The above argumentation shows that, in order to discriminate among competing hypotheses, one needs to proceed with a in-depth narrative reconstruction of the process through which the EU came to define its negotiating platform throughout time. None of the hypotheses considered in this study can be disregarded as inconsistent on the basis of a preliminary deductive analysis of the set of actors' preferences over this policy issue. In this

²⁵ In 1998, for instance, in the context of a legal challenge brought by India, Malaysia, Pakistan and Thailand against the US (the so called Shrimp Turtle cases) the WTO appellate board's decision largely overruled the Tuna Dolphin cases with significant implication for the environmentalist critique. In fact, the AB acknowledged that the existence of an international treaty protecting a certain endangered species could, *prima facie*, bring it within the Art.XX exemption in the GATT as a legitimate environmental purpose. This decision has led WTO members skeptical about the EU proposal (particularly the US) that no clarification of the WTO/MEA relationship is needed. However, there is considerable uncertainty about the outcome of eventual future dispute that may arise given that panels decisions and AB reports are not formally binding in the sense of the common law doctrine of precedent (see Eckersley 2004).

section, therefore, I go through some of the empirical evidence available in order to provide an overview of the evolution of relevant actors' preferences, how these actors interacted and, as a result, how initial conditions translated into policy outcomes. In other words, I aim to test the extent to which observed processes and causal mechanisms fit with the previously designated hypotheses and, therefore, to come to some tentative conclusion about their relative explanatory power.

4.2.2.1. Approaching the new round: from paying lip-service to consistent pro-activism

As already mentioned in the brief historical overview, the CTE was intended more to discipline the potential negative effects of growing success of global efforts at protecting the environment through the establishment of MEAs, than to make the world trading system environmentally friendly (Shaffer 2001). Gabler well describes the CTE's cultural orientation when she states 'the majority of CTE actors only peripherally accommodated a restricted meaning of environmental policy integration in their identities and interests, with the mandate and structure of trade and environment institutions in the WTO such as the CTE reflecting this marginalization' (2005:11).

So far as the EU is concerned, in the context of the CTE's debate it certainly positioned itself among those who were more prone to integrate effectively environmental concerns into the WTO framework. An overview of the proposals put forward by the EU on the relevant topics of discussion in the CTE bears witness to this statement (see Gabler 2005, Shaffer 2001). It seems fair to argue that such a policy stance was mainly due to domestic pressures, particularly from environmental groups. At the time, environmental concerns had become a politically salient issues in the EU and the US and had fostered political mobilization from civil society groups. In addition, EU and US business groups aligned with these groups because of fears of a backlash in terms of an increased political clout of anti-globalist movements and, as a result, of growing public opinion resistance to further trade and investment liberalization initiatives (Shaffer 2001). According to this reading, therefore, the early phase of the EU's approach towards the so-called trade-environment debate seems to fit with a civil politics interpretation of the politics of preference formation. However, the extent to which value-driven demands of civil society groups

actually succeeded in shaping the EU's agenda beyond forcing it to paying lip-service to integrating trade and environmental rationales in the WTO framework remains questionable. As Shaffer very clearly puts it,

in the end analysis, the United States and EC were simply unwilling to adopt any of the available strategies—from targeting threats or concessions, linking issues, manipulating information, or offering side payments—to induce developing countries to agree to amend WTO rules in a manner that developing countries justifiably believed would adversely affect their economic interests. Rather, under pressure from certain domestic constituencies, U.S. and EC representatives took issues to the WTO's Committee on Trade and Environment [...] about which they felt ambivalently, and which they knew could not be resolved through the WTO political process unless they took a strong stance and were willing to offer trade concessions in return (2001:105).

As already mentioned, that the CTE ended up making no recommendation to the WTO General Council clearly demonstrates that for key developed countries such as the EU and the US the issue was not a priority. Had this been the case, a number of political strategies to gain support from reluctant developing countries could have probably been put into place.

Starting in 1998, however, the EU strategy changed substantially. It became the most vocal and consistent advocate of the opening up of “environmental windows” in the WTO framework to ensure that it would be guaranteed that the trade measures taken pursuant to MEAs would be accommodated in the functioning of the world trading system. As already argued, this shift in the EU position represented the single most important explaining factor to account for the emergence of environment at Doha as a topic for negotiation. So, what are the political dynamics that explain such a change? A closer look at the preferences of key economic interests and ENGOs in the EU and at the timing with which the EU articulated its approach on this matter suggests that the EU agenda was mainly shaped as a result of political mobilization by societal actors seeking to secure that political initiatives aimed at further liberalization of the international trading system would not result in the erosion of the global environmental regime set up in the 1990s.

The analysis of the preferences of some of the key economic interest groups over the issue suggests that, despite the theoretical expectation of high levels of support towards such initiatives, a “pressure politics” perspective holds little explanatory power, at least in early

stages of the shaping of the EU's agenda. In fact, the position of business groups on the issue was fragmented, ranging from indifference to overt opposition, with only a few groups supporting an EU proactive stance in the context of the trade-environment debate. No reference to this debate can be found in position papers and documents of business organizations such as the European Roundtable of Industrialists (ERT) or the European Service Forum (ESF). The Union of Industrial Employers' Confederations in Europe (UNICE), for instance, clearly disagreed on how the Commission approached negotiations on one of the key pillars of its negotiating stance, namely the widening of the scope for the application of the precautionary principle by WTO members. In a 2000 position paper, UNICE supported the view that a rigid interpretation of the precautionary principle would create a bias against the development of new technologies and bluntly stated 'the European business community does not believe that the WTO should attempt to define this principle' (UNICE 2000:5). The Foreign Trade Association (FTA) implicitly opposed the EU approach by asking for solutions 'to ensure that trade limitations laid down in MEAs will be in line with the basic rules of the WTO' and for 'preventing a protectionist misuse of eco-labeling' (FTA 2003). Unsurprisingly, the European Association of Bio-industries (EuropaBio) expressed the view that WTO rules provided sufficient scope for a sound application of the precautionary principle, implicitly opposing any amendment to WTO rules (EuropaBio 2006). Even groups defending agricultural interests, arguably the one that would most likely benefit from a "greening" of the WTO, showed little interest in the trade-environment debate. COPA-COGECA, the main association representing agricultural interests in the EU, referred to the trade-environment agenda only in the context of discussions regarding the use of gene technology in agriculture and, more specifically, by supporting the establishment of a labeling system for GMOs in the WTO (COPA-COGECA 2000). In sum, little empirical evidence lends support to the view that the EU approach to the trade-environment debate resulted from EU policy-makers' willingness to satisfy demands emanating from economic interest groups.

Rather, for a number of reasons, it seems plausible to argue that EU policy makers upgraded environment to the status of negotiating priority as a response to key civil society groups' political activism and to their capacity to raise the salience of the trade-environment debate in a context where issues such as protection of the environment and food and health safety are highly salient among voters. Indeed, that the EU agenda was the result of a bottom-up process by which ideas as to how govern the trade-environment link

fed into the policy process seems supported by the analysis of the constellation of actors preferences, by the timing of the decision-making process as well as by some institutional developments within the EU. Let us take into consideration some of these developments. First, unlike other developed countries, by the mid-1990s environmentalists had started to gain significant political influence in the EU. As Kelemen puts it,

Across much of western Europe the position of environmental activists in general, and Green parties in particular, strengthened throughout the late 1970s and 1980s. Green parties emerged as a significant political force, first in Germany and later in Sweden, France and Belgium. They remained in the parliamentary opposition throughout the 1980s, but by the 1990s they had entered the mainstream and joined coalition governments alongside social democrats in a number of countries [...] influenced by the rising power of green movements, governments in a number of member states supported strict domestic standards and enhanced their commitments to international environmental cooperation (2007:2)

Therefore, when the EU got involved in the trade-environment debate it did so against a background in which popular support towards the values of environmental protection was deeply rooted (Halle 2006) and, more importantly, in which it was very difficult to resist rhetorical injunctions to pursue policies inspired by “ecocentric morality” (Kellow 2000). Second, starting in the late 1980s and continuing in the 1990s the EU has gone through a number of institutional changes that empowered environmental policy communities. Gabler well describes this process by stressing,

treaty changes, Council acts, Environmental Action programmes and Community communications and positions [...] resulted in an increase in the perceived levels of compatibility between trade and environment principles [...] such decisions also successively altered the way in which policy-setting occurred between institutions and the Community with the net result constituting a qualified majority voting that generally empowered environmental actors. In terms of policy shaping, most of the important framing originally took place in the Commission, where the relevant actors were generally prone to attempt a balance of trade and environmental principles in regularized, complex and inter-service consultations (2005:13).

In other words, not only environmental issues were highly salient among European societies but the institutional changes that took place created the conditions for increasing environmentalists’ ‘voice’ in the EU policy-making process. These factors, however,

represented only the permissive conditions for environmentalists to exert significant political leverage on EU policy-makers. Three important events that took place in 1998 crucially influenced the EU trade policy-making environment by compelling strong political mobilization which, in turn, created enormous pressures for EU policy-makers to raise the EU's role as international green demandeur. First, in 1998 the OECD-led attempt to reach an agreement on a Multilateral Agreement on Investments (MAI) ended up in a failure, most prominently because of political mobilization and the challenges brought to it by a number of so-called anti-globalist movements. These groups opposed the agreement on a number of different grounds, claiming it was "undemocratic", an instrument pushed by big business, the handmaiden of multinational corporations (Graham 2003). Whether these claims were correct is not relevant here. What is important to note is that, as a result of this highly publicized political mobilization, policy makers across the Atlantic were forced to retreat and to put an end to negotiations. More importantly, the abortive experience of the MAI showed policy-makers in developed countries that the spectrum of domestic constituencies to be consulted and involved in the crafting of trade-policy had to be broadened if support for trade liberalization was to be sustained and anti-globalization forces resisted (Hocking 2004).

Second, in 1998 the EU witnessed the beginning of what has been defined as the "the perfect storm of European biotechnology policy" (Falkner 2007:516). In fact, in the early 1990s policy-makers in developed countries started to confront with the question of how to regulate the growing biotechnology industry. From the very beginning the potential risks of developing such technologies have been a source of disquiet by ENGOs and broader publics, most notably in the EU. In response to such mounting health, consumer safety and environmental concerns in Europe, the EU established a stringent regulatory regime for GMOs through the adoption of a number of regulations in 1990. Such regulations put the EU at the forefront of developing precautionary risk regulation, at the cost of setting of a dynamic that slowed down the commercialization of agricultural biotechnology in Europe (Falkner 2007). In substance, such regulations and subsequent directives required that genetically modified food seed varieties had to be assessed and authorized prior to being released on the EU market (Kelemen 2007). The salience of this issue was further raised in 1996 when the EU received the first shipment of GM crops from the US. Such an event attracted widespread media coverage and fuelled fears about food safety among European consumers. It must be stressed that these events took place in a context where a shadow had

been cast on the use of new technologies in relation to food production as a result of the so-called “mad cow disease”. Against this background, the public salience of the issue received a further boost by the US threats to take legal action in the WTO against the EU’s regulatory regime on GMOs on grounds that it provided for unjustified trade restrictions, particularly that the EU was not abiding to the provisions on the application of the precautionary principle contained in the WTO agreement on Sanitary and Phytosanitary Standards (SPS) (Kelemen 2007). A popular backlash against “Frankenstein foods” mounted as a result of political mobilization of activists such as Friend of Earth and Greenpeace and succeeded, unlike in the US where public remained largely indifferent to GMO food, in fostering rising anti-GMOs sentiments among a public concerned more with food safety than agricultural productivity (Falkner 2007). Faced with such domestic pressures, EU policy makers had no choice but to introduce a de facto moratorium on GMO approvals that lasted until 2003.

These events had two major implications for what concerns the EU approach to the trade-environment debate in the WTO. On the one hand, they made clear to EU policy-makers that environmental priorities – the application of the precautionary principle to biotechnology agriculture in this case – had widespread support among European citizens, arguably more than trade liberalization and competitiveness concerns had. ENGOs had a fertile ground on which they could build to pursue their political goals. On the other hand, they prompted EU policy makers to raise their profile as international environmental leaders. Not surprisingly, in 1998 the EU took the lead in creating the conditions for the ongoing talks of an international protocol to protect biodiversity to take shape and to include stringent standards to regulate the trans-boundary movement of living modified organisms, negotiations which successfully concluded in 2000 with the adoption of the Cartagena Biosafety Protocol. Not only ENGOs played a crucial role in shaping the EU agenda in this context (Arts and Mack 2003) but the Protocol increased the incentives for these groups to push the EU in seeking that the precautionary principle be incorporated in international trade law (Vogel 2002).

Third, and somehow paradoxically, the 1998 so-called Shrimp Turtle ruling of the WTO’s appellate body increased public concerns about the potentially negative environmental consequences of not clarifying the WTO-MEA relationship. Indeed, while the AB ruling provided a generous interpretation of the environmental exemption in WTO rules it also

highlighted number of potential tensions. More specifically, it made clear that there was a clear hierarchy between WTO rules and MEAs rules by demonstrating that, since the question of the compatibility of the two regimes is decided by the dispute settlement proceeding of the WTO, 'parties to MEAs do not have the ultimate authority to decide when trade rules should be waived in the interests of more effective global environmental protection' (Eckersley 2004: 37). More importantly, by reminding that a WTO legal challenge remains an option, the AB ruling also created concerns about the potential chilling effects both on the implementation of trade restrictive obligations under existing MEAs and on ongoing multilateral environmental negotiations which are becoming increasingly self-censorship in terms of trade restrictions (Conca 2000, Eckersley 2004).

However, while this arguments clearly stresses that the broad context in which the Commission elaborated its 1999 Communication was one in which there was a wide and strongly rooted societal support for environmentally friendly amendments of WTO rules, it falls short of disregard autonomy-based interpretations of the EU's approach as implausible. In the end, bottom-up pressures might have simply matched pre-existing normative or interest-based policy preferences of EU policy-makers. In order to provide with a few more insights as to what was the direction of the causal path which shaped the EU policy position on this issue, I will take into consideration two further elements of analysis: the timing of the adoption of changes in the trade-policy making mechanisms for consultation with societal groups and the comparison between ENGOs preferences as expressed in policy statements and documents and the Commission proposal.

On the first issue, it is worth noting that, following the collapse of the MAI negotiations, and with the approach of the Seattle WTO Ministerial, the incumbent Trade Commissioner Sir Leon Brittan announced the inauguration of a consultative meeting with civil society groups in November 1998 and from then onwards approached NGOs during the preparations for a new trade round.. As a practical result, for instance, the European Commission delegation to the WTO ministerial conference in Seattle for the first time included representatives not only from traditional trade constituencies but also from NGOs (Dur and De Bièvre 2007). This process progressed even further when, because of the strength of the public backlash to the WTO in Seattle and its subsequent failure, the new Commissioner for Trade, Pascal Lamy, decided to institutionalize this consultation mechanism through the setting up of a forum, the DG Trade Civil Society Dialogue, in

which business representatives, NGOs, and officials from the European Commission could be brought together with a view to develop a confident working relationship between all interested stakeholders in the trade policy field and ‘to ensure that all contributions to EU trade policy can be heard’ (European Commission, DG Trade 2005). Although by no means as extensive or comprehensive as in other countries, EU consultations with these set of stakeholders allowed for a further broadening of the trade policy-making environment and, therefore, resulted in an increased capacity for these groups, including ENGOs, to exert pressure on EU policy-makers (Hocking 2004). What needs be noted here is that this gradual opening up of the EU trade-policy milieu to include a new set of constituencies – an evolution towards a “multistakeholder model” of consultation in trade matters -- represented an attempt to accommodate and respond to the mounting opposition to the goals of free trade brought by civil society groups. Confronted with growing challenges against what was perceived as a legitimacy deficit in the EU trade-policy-making, EU policy-makers had no other option but to provide these groups with increased “voice” opportunities. In other words, the timing with which the trade-policy consultation mechanisms had been changed lends support to the view that pressure “from below” had a substantial impact, at least in changing the EU trade policy-making environment, at the time the EU was developing its strategy towards the new round of negotiations.

The comparison between the policy proposals of key ENGOs in Europe and the agenda with which the EU came to approach negotiations in Doha, in addition, suggests that such a bottom-up pressure was not only influential in changing the context of the EU trade policy-making environment but also in shaping the content of the EU strategy on this particular issue area. For instance, it is striking to note the similarities between, on the one hand, the policy input provided by WWF in March 1999 to WTO members in view of the November WTO Ministerial in Seattle and, on the other, the content of the “trade and environment” chapter of the July 1999 Commission’s Communication. Key principles, amongst others, contained in the WWF’s position paper were,

To ensure that countries which are members of Multilateral Environmental Agreements (MEAs) can use non-protectionist trade restrictions to make those agreements effective [...] ensuring that voluntary eco-labelling which provides consumers with the information necessary to identify environmentally friendly methods of production lies outside the scope of TBT disciplines [...]ensuring that on national policies and measures used to implement MEAs, the WTO defers to

members of those agreements and their decisions on how to implement them, seeking only to discipline measures with a trade protectionist intent [...] amend or interpret the Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary Agreements to fully respect the Precautionary Principle [...] establishing more open, effective and balanced collaboration with other intergovernmental bodies with relevant mandates and expertise, such as UNEP, UNCTAD and UNDP (WWF 1999).

This is strikingly similar to the contents of the 1999 Commission communication. That the EU at the time was informed of environmental groups' concerns can be ascertained also by looking at the policy positions of other ENGOs such as Friends of Earth (FOE) that, while rejecting the idea of a new trade round, stressed the risk of WTO challenges brought against national and international environmental regulations, the risk of a "chilling effect" on global environmental protection initiatives and the WTO incompatibility of eco-labeling as the main factors behind their position (FOE 1999). Moreover, the parallels between the EU negotiating stance and the policy preferences of these ENGOs became even more evident throughout the period in the run-up to Doha (see WWF 2001, FOE 2001).

In sum, that as a result of increasing popular attention and political mobilization in 1998 the EU opened the doors for key ENGOs participation in the EU trade policy-making process and that the EU position on the trade-environment debate closely parallels these groups' demands, suggest that societal pressure for upholding the values of environmental protection in the WTO framework was the crucial influential factor in the shaping of the EU's agenda. It is true that the call for an incorporation of environmental concerns in the context of the WTO framework was one of the many "trade and" which characterized the so-called doctrine of managed globalization with which Trade Commissioner Lamy took office. However, the formulation of such a doctrine postdates the widespread political mobilization of civil society groups that took place in 1998 and the challenges to the EU trade policy-making as well as to the international trade regime they represented. Even if we were to accept that something like an EU global normative environmental identity exists, why was it not sufficient to prompt the EU to exert leadership to uphold environment to the status of a WTO priority issue before 1998? It is also true that adding a "trade and environment" chapter to the Doha declaration fitted with EU's preference for a negotiating agenda as much comprehensive as possible, in order to increase the negotiating leverage against demands in sensitive sectors such as agriculture. It must be stressed,

however, that such an agenda was by no means fully supported by key economic interest groups in the EU and that such an objective had already been achieved by including in the Doha agenda other issues, the “Singapore issues” for instance, where the EU’s comparative advantage was stronger. Again, it cannot be denied that once the EU had set up stringent environmental regulatory standards at home, it was rational to seek spreading them internationally. It cannot be overlooked, however, that such environmental standards had been made more stringent in response to societal political mobilization and not on the basis of a rational top-down strategy to make the working of the EU market “more rational”. As a matter of fact, Pascal Lamy himself recently acknowledged the crucial role played by civil society groups such as ENGOs in the context of “trade and environment” negotiations by stating ‘the fact that the nexus between trade and the environment, which had been debated for many years in both GATT and WTO, was finally elevated to a "negotiating" stage is also in large part due to civil society’ (WTO 2007).

This is not to deny either that once the EU decided to respond to the societal pressures framed the trade and environment debate in the context of a “doctrine” that was consistent with broad EU interests (Meunier 2007), or that the way in which the issue was approached was not unbiased towards a specific “northern ENGOs’ perspective” on how to handle the trade-environment relationship (Shaffer 2001). More simply, the argument proposed here is that EU policy-makers had to respond to rhetorical injunctions brought forward by key civil society groups backed by strong popular support “to protect the environment” from challenges emanating from the international trade regime. In other words, it was the idea of “protecting environmental protection” from the perceived threat of the WTO – an idea championed by ENGOs and which found strong support in European public opinion – that prompted the EU to take the lead in having a “trade and environment” chapter included in the Doha Declaration.

4.2.2.2. Back to paying lip-service?

As already widely demonstrated, the outcome of negotiations in Doha significantly reduced the ambitions of the EU with respect to the trade-environment debate. Only one of the three priorities identified in the 1999 Commission Communication, the clarification of the relationship between WTO and MEAs, had been actually elevated to the status of full

negotiating issue. Even in this context, however, the text agreed upon largely reflected the need to accommodate the conservative views of the US and the skepticism of developing countries. As Eckersley puts it,

The various qualifications attached to the Doha negotiating mandate have effectively enabled the CTE to side-step the two areas where conflicts between the WTO and MEAs are most likely to arise: the case of conflicts between parties and non-parties to MEAs, and the case of nonspecific trade obligations. By explicitly preserving the rights of WTO members to bring legal actions under the WTO dispute resolution procedures, the opportunity for changing the trade rules or negotiating a new agreement to exempt MEAs from future WTO challenge was effectively ruled out (2004:32).

In the end, the “trade and environment” chapter of the Doha Declaration ended up including three relatively more innocuous issues such as the procedures for information exchange between MEAs and WTO and the granting of observer status, the issue of reduction of tariff barriers to the movement of environmental goods and services, and the disciplining of fisheries subsidies. On the other two EU priority issues, at Doha it became clear that no discussion on the incorporation of the precautionary principle in the WTO would take place and that the question of eco-labeling would remain a second-rank negotiating issue. This is not to say that the other issues that gained full negotiating status could not have a positive impact on both in practical terms and in increasing the WTO’s capacity to address environmental matters in the longer term. The question of opening up the working of the WTO to the presence of transnational NGOs and civil society actors, for instance, has been pointed at as one means to increasing the WTO democratic legitimacy, responsiveness and efficiency (Esty 1998, 1999) and has been for long a policy priority of ENGOs (Mason 2004). Moreover, both fisheries subsidies and environmental goods and services offered an opportunity to achieve win-win-win outcomes by addressing simultaneously problems concerning liberalization, development and environmental protection (Halle 2006). In addition, the question of disciplining fisheries subsidies has also been for long an issue of concern for ENGOs (FOE 1999, Joint NGOs 2001, WTO 2007, WWF 1999, 2001). However, it is fair to argue that on the main bone of contention in the run-up to Doha, namely redressing the imbalance between multilateral environmental agreements and the multilateral trading system to protect the former ones from challenges brought in the name of the latter, the Doha Declaration fell short of environmentalists expectations.

It is against this background that an assessment of how does the EU's negotiating strategy fare with respect to the alternative hypotheses on the process of preference formation considered here needs to be developed. Indeed, it is very difficult at this point, to disentangle and discriminate between societal influence and other potential variables such as, for instance, policy-makers' strategic calculations and trade-off tactics in the wider Doha Round negotiating context. "Trade and environment" is just one of the many negotiating areas of the Doha Round and, arguably, does not stand among number one priorities in the negotiating process. Moreover, the strong opposition of a coalition of developed countries (the US, in particular) and developing countries clearly reduced the scope for any meaningful action on the EU's side. To a certain extent, the very inclusion of a "trade and environment" chapter in the Doha Declaration could be considered as a success, given the constellation of interests among WTO members prior to Doha. Having said this, however, a number of factors suggest that a "civil politics" perspective can still provide a useful lens through which the EU's evolving negotiating stance can be looked at. First, it is worth stressing that ENGOs were keen to acknowledge the constructive role played by the EU in the negotiating process at Doha. In the immediate aftermath of the adoption of the Doha Declaration, for instance, both the WWF and FOE praised the political leadership and determination of the EU to put MEAs and other trade and environmental issues on the WTO agenda (FOE 2002, WWF 2001a). While this does not prove much in itself, it suggests that ENGOs perceived a correspondence of views between their policy preferences and how the EU dealt with negotiations in Doha.

Second, in the subsequent phase the EU consistently attempted to push for substantial advancements in the negotiating areas defined in the Doha Declaration. Again, the similarity between ENGOs demands and policy priorities and the policy proposals submitted for discussion by the EU during negotiations is striking. In particular, by striving to achieve a consensus on a broad interpretation of the narrow mandate set out in Paragraph 31 of the Doha Declaration²⁶ the EU defined itself as the international trade actor whose policy preferences were the closest, relatively to other WTO members, to ENGOs' ones. That an agreement of ENGOs preferred policy option had not been

²⁶ For instance with respect to discussion concerning the definition of relevant MEAs, the definition of specific trade obligations, hierarchy between MEAs and WTO, relationship between parties and non-parties to MEAs.

secured by the EU does not necessarily mean that its efforts have been wasted. In the end, had the EU's pressure not been there, negotiations could have ended ratifying rules whose practical result could have been to make environmentalists worse off with respect to the pre-Doha scenario.

Third, on the basis of the analysis of the policy proposals put forward by the EU throughout the negotiating phase, it seems fair to argue that an attempt has been made to "buy out" a more sympathetic approach from developing countries. EU proposals on trade-related technical assistance to developing countries in the field of trade and environment as well as a proposal to address developing countries' concerns about the market access effects of environmental measures, bear witness to this argument.

Finally, recent research which analyzes the attendance of NGOs and business groups at WTO Ministerial Meetings indicates a substantial increase in lobbying activity of European NGOs over time. While, for instance, of all groups lobbying in Seattle, 11 per cent were NGOs from the EU; in 1999, this number increased to nearly 14 per cent in 2005. As a share of all groups coming from EU countries, NGOs also became more prominent: from 45 per cent in 1999 up to 52 per cent in 2005. In short, the number of NGOs active in lobbying on EU trade policy has increased substantially over time. Moreover, it is worth stressing that in marked contrast with the late 1990s, in 2005 NGOs accounted for 50 per cent of the 540 groups registered with the EU's DG for External Trade (Dür and De Bièvre 2007). In other words, these trends suggest that civil society groups' monitoring and lobbying activities have not decreased over time and, therefore, that there are few reasons to believe their capacity to influence the policy-process has decreased.

Of course, these arguments do not suffice to categorically claim that EU policy-makers negotiated as they did as a response to the irresistible bottom-up pressures brought by civil society groups and not, for instance, that they simply used environment as a bargaining chip in the negotiating game. To be able to do so, one would have to answer a number of questions which are, arguably, impossible to answer without entering the realm of speculation. Why was it not possible to convince WTO members to agree on a text on WTO-MEA relationship? Did EU negotiators play all the negotiating cards at their disposal and were faced with too strong opposition or, rather, they did not push hard as they could have? What can "to push hard as they could have" mean in such complex and wide-ranging

negotiations? In fact, while these questions may apply to all negotiating instances, they are particularly difficult to address in a context where a variety of theoretical perspectives provide a plausible interpretation of the causal paths that led to the observed policy outcomes.

Despite this note of caution, a few comments can be put forward. First, while it seems plausible to argue that the EU was willing to achieve a positive outcome in the context of trade and environment negotiations, this was not to be achieved at the expense of unacceptable concessions in the most sensitive areas of negotiations. It has been argued that developing countries could have been brought to agree to the EU's trade and environment negotiating platform in exchange for substantial concessions in the agricultural chapter of negotiations. When assessed against this benchmark, the EU strategy cannot be described as one by which all was done to reach a positive outcome. As widely commented already, EU negotiators were not ready to sacrifice agricultural protection on the altar of an agreement on trade and environment. At the same time, it cannot be argued that EU negotiators only paid lip-service to ENGOs demands and raised the profile of the trade and environment issues merely on strategic and tactical grounds. The truth probably lies in between these two extremes. ENGOs' rhetorical injunction to greening the WTO had become difficult to resist and once they had been upheld they became an integral part of a broader negotiating strategy they happened to be consistent with. In fact, a WTO agreement on "trade and environment" provided EU negotiators with the opportunity to spread EU's regulatory standards internationally and avoid race-to-the-bottom dynamics to take place within the EU itself as well as to widen the scope for bargaining tactics in the negotiating game. However, these ideational and interest-driven dynamics were not sufficient to compel EU negotiators to sacrifice sensitive sectors such as agriculture on the altar of trade and environment negotiations.

4.3. Alternative explanations

The argument proposed in this chapter is that the EU's policy preferences with respect to the trade-environment debate before and during negotiations in the Doha Round have been largely shaped by the need to respond to the value-based demands brought by key civil society groups. More specifically, I argue that a number of factors, most notably the

high salience these issues came to acquire for a public opinion were the principles of environmental protection are highly valued, prompted policy makers to take a pro-active stance to translate such demands into policy outcomes both in the domestic and international arenas. In this section, I briefly take stock of the alternative arguments already taken into consideration throughout the analysis with a view to further corroborate the argument proposed.

To start with, empirical evidence shows that a pressure politics interpretation holds little explanatory power. While from a deductive standpoint one could have expected some support for the EU to take action on these matters, empirical evidence shows that the policy preferences of key interest groups were fragmented and that those groups who might have had a stake in the “greening” of the WTO did not perceive this as a policy priority. It is true, however, that those who were opposed to such a policy prospect were not much vociferous either. In this sense, it is not wholly appropriate to describe the policy process as characterized by a civil society groups’ value-driven agenda “winning over” an economic groups’ interest-based one. It is more appropriate to argue that economic interest groups remained on the backstage while civil society political mobilization exerted pressure on policy-makers. Counter-factual reasoning, however, suggests that, had opposition from key interest groups been there, it would have still been very difficult for policy-makers to resist to civil society pressure. The popular support and media coverage that surrounded activism “in defence of the environment” in the late 1990s suggest that few policy-makers would have been ready to counter rhetorical claims put forward by environmentalists in defence of liberalizing and competitiveness rationales. In fact, that interest groups’ intensity of preferences over the issue was low might well have resulted from these groups’ willingness to take a low profile to avoid raising anti-globalist sentiments.

Autonomy based explanations also provide a less convincing account of observed patterns of preference formation with respect to the one proposed here. An executive politics view which interprets such a policy strategy as a result of the willingness to export costly environmental regulation abroad, for instance, needs to assume that EU policy-makers have an a priori interest in avoiding race-to-the bottom regulatory dynamics within the EU but this raises the question of why should we consider as “rational” for EU policy-makers to have such a preference, particularly in light of interest-groups’ indifference with respect to this issue. Given the scientific uncertainty, for instance, regarding the environmental

effects of the planting and use of GMOs, it is difficult to claim that seeking to avoid WTO rules to allow for the use of such crops is objectively “rational” on the EU side. It is certainly a rational means to support the normative preference for a defence of environmental and food concerns over liberalizing ones in cases of scientific uncertainty. But it is not a rational aim in itself. Moreover, such a perspective also fails to account for the timing of the EU’s decision to provide for leadership to uphold the “trade and environment” debate. Even if we were to assume that the Commission’s strategy represented an attempt to internationalize the precautionary principle in response to US threats to bring legal challenges to EU regulations, it needs to be recognized that the regulatory standards that could be potentially targeted by US legal action in the WTO framework had themselves been set up largely in response to popular and civil society political mobilization. That EU negotiators could have used “trade and environment” as a bargaining chip in the broad negotiating context cannot be irrefutably excluded. It must be noted, however, that the Doha Declaration already included a very wide range of negotiating issues.

Finally, timing is also the main element that weakens the explanatory power of an identity politics interpretation. If the defence of the environment in the WTO framework had resulted from the normative principles embedded in the EU’s institutional and political system, why is it that the EU became more proactive on this issue precisely after the popular mobilization that took place in 1998? Neither can one claim that the EU’s strategy was developed as a result of a presumed EU’s preference for supporting altruistic principles such as sustainable development, poverty alleviation etc. As widely commented, in fact, the prospect of “greening” the WTO has been consistently opposed by developing countries before the adoption of the Doha Declaration and during the negotiating phase.

4.4. Concluding remarks

This analysis points to the role of bottom-up and value-based pressures brought by civil society groups as the most compelling explanation for the EU’s stance with respect to the trade-environment debate in the context of the Doha Round. The explanatory superiority of a civil politics account with respect to alternative ones can be more easily ascertained in the first phase of the EU preference formation process. It is more difficult to discriminate

between contending views during the negotiating phase because once the issue once the entered the agenda it happened to be consistent with the broad EU ideational framework and its negotiating strategy. Overall, however, empirical evidence suggest that ENGOS continued to exert significant influence even during the negotiating phase.

These conclusions corroborate the analytical expectations set out in the first chapter. In the context of an issue area such the one analyzed here, characterized by a high degree of uncertainty regarding both the scientific and the economic implications of different policy alternatives as well as by a high degree of politicization, the politics of preference can be described as one in which EU policy-makers could not but respond to ideational bottom-up pressures emanating from civil society political mobilization.

5. The European Union and technical assistance and capacity building negotiations in the Doha Round

Beginning with the adoption of the Uruguay Round, discussions about technical assistance and capacity building (TACB) have become an integral part of the discourse on how to make the international trading system more responsive to developing countries' needs. That developing countries require assistance and should be assisted to maximize the potential gains of their participation in the multilateral trading system is something, at least in principle, today everyone is ready to agree upon. The implicit assumption upon which TACB activities rest is the recognition that the outcomes of trade negotiations are often asymmetric and that trade obligations place particular burdens on developing countries (Hoekman 2005). As a result, the principles that a development-friendly international trading system and that the necessary remedies to deal with these asymmetries need to be put into place has become a commonsensical statement. This is witnessed, for instance, by the fact that in adopting the Millennium Development Goals, at the UN Conference on Financing for Development held in Mexico in 2002 and at the World Summit on Sustainable Development held the same year in Johannesburg the importance of trade for development and the need to step up trade-related technical assistance have been widely recognized by the international community.

Since the mid-1990s, therefore, trade-related TACB has been mainstreamed in the work of all major international organizations and agencies with a stake in international development. As it has been suggested, 'trade-related assistance is a key element in building capacity in developing countries [...] trade and integration into the world economy must be part and parcel of each country's development programme, and should be considered by each donor' (European Commission 2003). This kind of TACB involves partnerships among a great number of agencies in both donor and recipient countries, each of which usually has its own distinct priorities, operating arrangements, timeframes and financial resources. Donors include multilateral and bilateral development agencies, NGOs, industry groups, academic centres, think tanks and philanthropic foundations. Key multilateral agencies involved in implementing trade-related TACB include a variety of actors such as UNCTAD, UNDP, the World Bank, WTO. Regional organizations and development banks are also actively engaged in the carrying out of these kind of activities (Deere 2005).

Predictably, the WTO has become to a key player in this area. Given the development-correctness that characterizes the Doha Round of multilateral trade negotiations, TABC discussions have become an important component of the broader negotiating game. In fact, it has been suggested that TABC should be seen as the key foundations on which consensual support for the Doha mandate rests (ICTSD 2003). More specifically, it seems fair to argue that developed countries' readiness to commit themselves to increasing TABC funds was key towards developing countries acceptance of a broad-based new round of trade talks. Unsurprisingly, the European Union has come to play a crucial role in this context. As the leading advocate of both a comprehensive approach to the new round and of the strong developmental rhetoric that characterizes it, it was the EU that had to shoulder the largest share of responsibility for showing developed countries good will in this trade talks. Contributing constructively to negotiations in the area TACB, hence, became one of the ways in which the EU was asked to show that its development-friendly attitude was not to be considered merely as a paying lip-service exercise to get developing countries on board in the negotiating process.

In this chapter, at least indirectly, I elaborate on this last point. This chapter seeks to shed a light on two sets of questions. First, who were the actors involved in the EU politics of preference formation who had a stake and succeeded in shaping the EU's agenda in this issue area throughout negotiations. Second, what were the rationales that motivated these actors in seeking to influence the EU's negotiating platform. Coherently with the approach chosen so far, this chapter is structured as follows. First, I provide a brief overview of the evolution of the EU's negotiating platform on TABC. Second, I conduct a preliminary "plausibility probe" on different hypotheses from a deductive perspective. Third, I further discriminate among competing hypotheses through an in-depth theoretical assessment and reconstruction of events. Finally, I seek further corroboration of the argument proposed by reviewing in a systematic fashion alternative explanations taken into consideration throughout the analysis.

5.1. *The "what" of TACB negotiations*

Before describing how the EU's negotiating platform on TACB evolved in the context of the Doha Round two elements need to be stressed. First, it must be clarified from the outset that while in this area Commission negotiators also draw up final negotiating positions, it is member states who are in charge of contributions to the WTO secretariat budget as well as of funding provisions for trade-related technical assistance for developing countries (Jawara 2003). The Commission directly funds and manages a number of programmes aimed at increasing trade capacities of developing countries as part of its development policies. This is not so, however, as far as the specific case of contributions to the WTO TACB activities is concerned. In this sense, therefore, it is fair to argue when negotiations touch upon this specific issue, the Commission speaks with one voice with its WTO interlocutors but cannot directly honor its commitments and, rather, has needs to be backed by member states funding. Second, TACB activities, as already mentioned above, are carried out in a variety of policy frameworks. In this chapter I mainly concentrate on WTO technical assistance but on occasions, whenever relevant for negotiating developments in the context of the Doha Round, I refer to EU commitments in other policy frameworks²⁷.

5.1.1. Pre-Doha

As widely argued already, the EU was the major supporter of a new round of comprehensive multilateral trade negotiations. From the very beginning of process of definition of this broad negotiating approach the EU recognized that a commitment to

²⁷ The frameworks through which TACB activities are carried out are numerous. Among these, the most relevant are the following. First, The Integrated Framework (IF). The IF is jointly managed by the WTO, UNCTAD, the World Bank, the IMF, the International Trade Centre, and the UNDP—was launched in 1997 to help maximize the effectiveness of the resources used to help least-developed and other low income countries respond to trade challenges and needs in the context of broader development strategies and policies.³⁰ By providing more coherent trade-related technical assistance, the IF aims to assist in integrating trade issues into national development strategies. Second the Joint Integrated Technical Assistance Programme (JITAP). This programme was developed jointly by the WTO, the ITC and UNCTAD to provide technical assistance to African countries. The JITAP began by providing capacity-building to eight African country partners to the end of 2002 (Benin, Burkina-Faso, Côte d'Ivoire, Ghana, Kenya, Tunisia, Uganda, and the United Republic of Tanzania—four of which are LDCs). A second phase of JITAP was launched in early 2003, adding an additional eight countries (Botswana, Cameroon, Malawi, Mali, Mauritania, Mozambique, Senegal and Zambia) and proposing greater attention to needs arising from other TACB programmes in Africa, such as the NEPAD, the Cotonou Agreement and the Integrated Framework. In addition, both the IMF and the World Bank have increasingly stepped up their trade-related policy programmes in recent years. Moreover, the EU implements TACB activities in the context of its bi-regional relations with groups of developing countries such as the ACP group.

increasing TACB was to represent an key component of its strategy. In the face of developing countries skepticism on the idea a new multilateral round of negotiations, the EU sought to reassure its WTO partners that further costly obligations to implement resource-intensive disciplines that would eventually arise as a result of the adoption of a new agreement would be compensated by the provision of adequate funding to address the financial, institutional and human resource constraints these countries face.

The 1999 Commission Communication that outlines the EU's approach for the new round, for instance, recognizes the principle that 'the WTO must ensure that future trade liberalization and rule-making support sustainable development and take account of the capacities and constraints of developing countries' and, in suggesting a practical way forward to achieve this objective, suggests that

New rules should be accompanied by further capacity building going beyond standard forms of technical assistance. Cooperation to address human resource and infrastructure constraints, particularly in the least developed countries, must be integrated in a new Round, and not an adjunct. New agreements should include features which facilitate their implementation by all WTO members, including developing ones, and incorporate capacity building. Targeted technical assistance would also be particularly important to reinforce developing countries' regulatory capacity in connection with the creation of disciplines in new areas. A strong endorsement of capacity building should be given at Seattle' (European Commission 1999:19-20).

In addition to endorsing the idea that appropriate efforts on TACB were needed to make the new round of negotiations a development friendly one, the Commission was keen to point to the trade-related assistance already in place in the period preceding the adoption the Doha declaration, according to EU figures something as 700 millions (Euro) spent on trade-related technical assistance over the 1996-2000 period (European Commission 2003a), as a proof of its genuine commitment in this area. It has also been reported, for instance, that upon arrival in Doha, Trade Commissioner Lamy had offered some developing countries a total of 50 millions (Euro) in aid to meet their WTO commitments. In sum, in approaching the new round, the EU sought to convince its WTO partners, particularly developing countries, that it supported the view that new efforts on their part were going to accompanied by a commitment to address their capacity constraints and did so by incorporating this principles into its broad negotiating platform as well as by making

clear that it had already been and would continue to be ready to give a concrete contribution in this area.

5.1.2. The Doha outcome and beyond

In the end, TACB activities became part of the negotiating mandate set out in the Doha Declaration. Six paragraphs of such declaration ended up being devoted to sketching out WTO commitments in TACB with four of them (Par.38-41) dealing with overall technical assistance and capacity building and two (Par.42-43) focusing more specifically on assistance to least developed countries. Despite the ‘abundance’ of paragraphs devoted to TACB activities in the negotiating mandate, however, the only concrete commitment is embodied in Paragraph 41 by which the Doha Declaration ‘instructs the Committee on Budget, Finance and Administration to develop a plan for adoption by the General Council in December 2001 that will ensure long-term funding for WTO technical assistance’ (WTO 2001a). As for the other paragraphs, the text provides for broad declaration of principles such as the recognition that technical assistance should prioritize assisting developing countries in transition to adjust to WTO rules and disciplines (Par.38), the importance of coordinated delivery of technical assistance (Par.39), the need to report on the implementation and adequacy of TACB (Par.41) and the willingness to focus on the special needs of least-developed countries (LDCs) (Par.42-43).

In addition to these general commitments, the Declaration was peppered with specific technical assistance and capacity building provisions related to the various negotiating mandates (ICTSD 2003), notably in market access for non-agricultural products (Par.16), trade and investment (Par.21), trade and competition policy (Par.24), transparency in government procurement (Par.26), trade facilitation (Par.27) and trade and environment (Par.33). In sum, apart from vague commitments to enhance coordination and implementation capacity of trade-related technical assistance, WTO members agreed on the idea of setting up a WTO-led TACB fund and developed countries committed themselves to deliver on TACB in relation to different negotiating areas in the context of which, implicitly, it was recognized as legitimate the claim that developing countries needed flanking policies such as TACB activities to cope with the rules they might agree upon.

In the immediate aftermath of the Doha Ministerial meeting developed WTO governments sought to demonstrate their good will in this negotiating area by establishing, in December 2001, the so-called Doha Development Agenda Global Trust Fund to ensure long-term funding of the WTO's technical assistance activities and which was to rely upon voluntary contributions from members (Deere 2005). A few months later, at a financing conference organised by the WTO on 11 March 2002, members confirmed their contributions to the fund which received pledges of around 21.5 million Swiss francs (US 15.7 million) in 2002, more than double the amount anticipated. It is worth stressing that in this context the EC and Member States have pledged contributions worth some 63% of total contributions, thereby clearly setting themselves as the leading actors in this area (European Commission 2002). Since then, the DDA Global Trust Fund has been financed with an annual budget of around 24 million Swiss francs, with EU member states and the European Commission contributing to two thirds of its total funding (European Commission 2008). In addition to the "funding" dimension of the DDA Global Trust fund, it must be stressed that with the Doha Declaration the "conceptual" dimension of TACB also went through important changes and as a result WTO trade-related capacity building plans were modified and became somewhat more sophisticated over time (Shaffer 2005). The problems with trade-related technical assistance that characterized the pre-Doha period, for instance, spurred WTO members to endorse a "New strategy for WTO technical cooperation for capacity building growth and integration" whose stated aims were to make technical assistance more demand-driven, to create financial stability through the Doha trust fund, and to enhance the capability of the WTO secretariat to deliver products within its mandate in a manner that was both coherent and flexible to meet developing country needs (WTO 2001). In the following years, remaining problems and shortcomings were addressed also through the adoption of WTO technical assistance plans which sought to enhance the quality of WTO TACB activities (Shaffer 2005). As far as the contributions of developed countries to finance TACB activities in relation to specific negotiating mandates, it needs to be highlighted that three out of four of the so-called Singapore issues were dropped off the negotiating agenda as a result of the 2003 WTO ministerial in Cancun. Since then, the remaining negotiating areas in which efforts have been put forward, therefore, are trade facilitation, trade and environment and non-agricultural market access.

5.2. A theoretical assessment: the “whom” and the “why” of TACB negotiations

After having provided a brief overview of the main steps that characterized the EU’s negotiating stance on TACB, in this section I turn my attention to a theoretical assessment of this specific instance of “politics of preference formation”. Two are the questions that need to be addressed to come up with some conclusions about the validity of the arguments developed in the first chapter with respect to this case study. First, to what extent the EU’s policy strategy can be described as resulting from a top-down dynamic. Second, whether it is plausible to argue that such a strategy was motivated by the willingness to attain a set of rationally defined and interest-based objectives. Consistently with the approach adopted so far, I first conduct a preliminary plausibility probe of the alternative explanations considered here on the basis of a deductive analysis and, second, carry out an in-depth theoretical assessment by way of a narrative reconstruction of events and of an analysis of actual actors’ preferences.

5.2.1. Why negotiating multilaterally? A preliminary plausibility probe

In this section, I adopt a deductive analytical standpoint to map out the expected order of preferences of different actors with respect to TACB negotiations. The question I deal with in this section, therefore, is what stakes might one plausibly expect different EU actors to have with respect to the issue of providing technical assistance and capacity building to developing countries in the context of the Doha Round of trade negotiations?

In order to answer this question one must first identify what are the potential rationales for increasing WTO trade-related technical assistance efforts. In fact, TACB may serve a different purposes. In last instance, these can be grouped into two broad categories: donor-driven or recipient need-driven (Brazys 2007). At a lower level of abstraction, Shaffer identifies four rationales for engaging in TACB activities (2005). First, facilitating trade liberalization. The basic idea is that by fostering the capacity of developing countries to benefit from increased trade liberalization, TACB may contribute to increasing their propensity to increase in further liberalizing efforts thereby increasing global welfare. Second, supporting specific trade-related aspects of a country’s development strategy. In

this case, TACB would serve broader objectives than trade liberalization and would do so, for instance, by improving the way the activities carried out in the context of the international trading system can be coordinated with activities build up by other development institutions. Third, assisting with the costs of implementation of WTO agreements. This rationale is conceptually different with respect to trade liberalization and development promotion. Since the WTO's mandate has expanded to include intellectual property and other regulatory issues, implementing obligations under these new agreements entails significant costs, potentially distracting resource-strapped developing country officials from other priorities. If trade-related capacity building programs are simply created to help developing countries implement their WTO obligations, these programs would serve more limited (and possibly donor-driven) goals. Fourth, the aim of a WTO capacity building program could be to empower developing countries to better define their trade objectives, to integrate these objectives in development plans, and to advance them in international trade negotiations, monitoring, and enforcement, as well as in the shaping and sequencing of internal regulatory policies. Its aim, therefore, would be to enhance developing countries' capacity to define their own objectives and policies, as opposed to enhance "ownership" of substantive policies that others may have defined for them. I would add one more rationale. TACB might also be plausibly used as a "carrot" by developed countries to convince reluctant developing countries to get on board in the process of multilateral trade negotiations and, once this process was started, to "buy out" their agreement on contentious issues.

Against this background, one would expect the following set of actors' preferences. Key economic interest groups, for instance, may have a stake in increasing funding for TACB activities if these contribute to creating incentives for developing countries to strengthen their pro-liberalization profile and to the extent that they reinforce developing countries capacity in complying with existing WTO rules. In both cases, in fact, export oriented economic groups within Europe could reap some positive gains by way of increased market access opportunities that would result from the positive spillover of TACB activities. The extent to which these groups would support such a policy strategy, of course, depends on the perception these groups have with respect to TACB funding capacity to open up market access opportunities in previously closed markets where they enjoy a comparative advantage. In general terms, however, it seems fair to argue that given long-time frame necessary to benefit from these policies, the uncertainty concerning the benefits that would

result and the vagueness of distributional effects of liberalization among exporters, the costs of mobilization are likely to outweigh the anticipated benefits. At the same time, import-competing economic groups may oppose TACB activities if these contribute to strengthening developing countries' capacity to define their own trade objectives thereby increasing their ability to stand as equal negotiating partners in the international trading system and use of the instruments at their disposal to have their interests defended. Of course, protectionists in developed countries such as the EU are expected to have a long-term preference for maintaining a status quo in which developing countries face structural obstacles to fully participate in the WTO negotiating game, particularly if this implies strengthening developing countries capacity to challenge import-competing interests in developed countries (i.e. by way of TACB activities to strengthen developing countries capacity to use the WTO's dispute settlement process to defend and advance their rights). In sum, given this likely constellation of interests, it is plausible to set the expectation of low-to-inexistent support from key economic groups with respect to a policy strategy aimed at increasing TACB activities. As argued above, the overall balance of support/opposition from these groups would depend on the priorities these TACB funding address. In abstract, it is not implausible to think of a key interest group supporting a TACB program in a developing countries if this would open up export opportunities which are vital for the donor country. In the absence of this condition, however, deductive reasoning suggests that indifference is the most likely attitude to be expected from key economic groups with respect to these kind of activities.

The same conclusions apply to civil society organizations representing diffuse interests. Organizations representing consumers, for instance, may be expected to show some support for TACB activities if these would result in cheaper imports in their market by way of a strengthened capacity of developing countries to push developed ones to open up their markets via multilateral negotiations. In light of the collective action problems these groups face as well as of the overtly optimistic and long-term assumptions this argument rests upon, it is highly unlikely that these groups would consider TACB for developing countries a policy priority. On the contrary, this policy area may well be considered a priority by the multiplicity of civil society groups that deal with developmental issues. This would be particularly so with respect to TACB potential for supporting development strategy in poor countries and for enhancing their standing in the international trading system. However, these groups face a number of obstacles that allow to be skeptical about

their capacity to influence the policy-making process in this particular issue area. Most notably, by representing diffuse interests these groups normally have to cope with a scarcity of resource and the need to carefully prioritize their mobilization efforts. While it is true that TACB may have some potential in fostering development in poor countries, undeniably it does not represent priority number one for attaining this goal. Agricultural protectionism in developed countries and special safeguard mechanisms to protect industrial and services sector in developing countries represent the key policy priorities for any organization that deals with developmental issues. Also, it needs to be recalled that whenever the issues these groups lobby for are backed by a strong support by public opinion, the chances that their lobbying efforts might succeed increase (i.e. environmental NGOs). Even if we were optimistic about the existence of a strong support among European public opinion for the fate of developing countries, it is highly unlikely that this could be raised by campaigning on a technical and complex issue such as that of TACB. In light of these arguments, therefore, one can plausibly expect support for this policy strategy from developmental NGOs but, at the same time, he is allowed to be skeptic, at least from a deductive viewpoint, on their capacity to influence the policy-making process.

Let us now take into consideration potential autonomy based explanations. As the above argument concerning the possible rationales for engaging in efforts to increase TACB activities suggests, policy-makers may have a number of different incentives to pursue this policy strategy even in the absence of bottom-up pressures to do so, or against societal interests which oppose it. From a rationalist perspective, for instance, the promise to increase TACB funding may well be used as a bargaining chip in the broader negotiating context. If negotiators were to consider that increasing TACB activities would convince developing countries to accept a wider negotiating package which would result in the benefits for export-oriented interests far outweighing the costs of such activities, they may end up estimating it as price worth paying. This is even more so if one considers that increasing TACB funding in the short-term only imposes diffuse costs on the society while a positive outcome of trade negotiations may end-up having positive concentrated distributional implications for exporters. Without taking into consideration the broader negotiating game, the logic applies to negotiations within single issue area. Negotiators, for instance, may be aware that acceptance by developing countries of negotiating terms which would favor exporters in their country depend upon their readiness to provide their counterparts with TACB. Again, negotiators may anticipate these dynamics and come up

with a negotiating proposal that complements request for liberalizing efforts with offers on TACB. In both cases, TACB should be conceptualized as a rational means through which negotiators seek to attain a set of objectives that could not otherwise be attained.

Finally, one cannot *a priori* exclude that policy-makers in developed countries could be motivated by value-systems which compel them to positively engage in efforts to increase TACB activities to attain altruistic or, more generally, non interest-driven objectives. In this case, contributing to development in poor countries by both coordinating TACB efforts with development organizations and by strengthening the capacity of developing countries to define their trade policy objectives may be considered as necessary policy strategies to move towards a “fairer” international trading system or to contribute to shaping it according to a specific model of “managed globalization”. The basic assumptions this explanation would rest upon are either that EU policy makers value “development” as an objective in itself or that they have an understanding of how globalization should work by which developing countries should be empowered. In both cases, this policy preference would be explained as a result of the specific value-system and normative framework embedded in the institutional and political system. Given the potentially “altruistic” rationales of engaging in TACB, these ideational autonomy-based explanations cannot be preliminarily disregarded as inconsistent.

To sum up, this brief deductive exercise about the expected order of preferences of different actors with respect to TACB negotiations suggests that while under given conditions societal mobilization to support this policy strategy cannot be excluded *a priori*, there are good reasons to expect autonomy-based explanations to hold more explanatory power. Coming up with some tentative conclusions about the relative explanatory power of these hypotheses, however, requires an in-depth analysis which looks at the specific content as well as at the timing of the proposals brought forward by the EU throughout the negotiating process.

5.2.2. An in-depth theoretical assessment of the negotiating process

In this section, I seek to reconstruct the EU’s evolving strategy through a more detailed and focused analysis to shed a light on the deductive argumentation developed above. In

particular, I focus on three aspects: the content of EU proposals in the field of TACB and the timing of these proposals. In doing this, I aim to demonstrate that the policy preferences displayed by the EU throughout the negotiating process reflected a top-down rational strategy by which EU negotiators sought to build support among its WTO partners, particularly developing ones, in relation to its broader negotiating priorities.

5.2.2.1. Donor-driven priorities

A first element that needs to be looked at to understand what were the motivations that drove EU negotiators in this issue area is the content of its proposals. What can be inferred about EU priorities by examining the content of EU offers on TACB? What do these priorities tell us about negotiators motivations in engaging positively in this area of negotiations? These are the questions I seek to address here.

The starting point of this analysis is that,

capacity building programs can be controversial. Who defines the purpose of technical assistance and capacity building, and who oversees how funding is used, can shape programs toward different ends. Technical assistance programs can be relatively donor-driven to serve donor-defined interests, or they can be relatively demand-driven to serve interests defined within the recipient countries [...] Even if donor-driven technical assistance does not directly conflict with a developing country's interests, in a world of limited resources, technical assistance in one area can divert human and material resources from others that may be of greater priority (Shaffer 2005:7).

In other words, while TACB is formally meant to assist developing countries, in practice it may well be biased toward donor priorities and economic interests (Makombe 2003). Bearing this in mind, therefore, one can look at the content of TACB proposals and use it as a proxy for understanding donors' motivations. When empirical evidence concerning the EU's strategy in TACB is assessed through these lenses, it seems fair to argue that potential "altruistic" interpretations do not hold much explanatory power. In 2001, for example, TACB for the so-called 'new issues', represented over 50 percent of TACB spending for trade policy and regulation (23% trade and competition, 17% trade facilitation, 3% trade and investment, 8% trade and environment) whereas TACB devoted to agricultural issues, undisputedly the single major developmental priority for poor countries, was only 1%

(Oxford Policy Management 2003). As far as the EU is concerned, it must be stressed that in the same year it earmarked its contributions to WTO-administered TACB for work related to the Singapore issues (Deere 2005). Consistently with this general approach, at Doha the EU offered technical assistance to developing countries in relation to areas, such as the ‘Singapore issues’ where they were not keen to start negotiations. Unsurprisingly, the primary focus of funding pledged for the DDA Global Trust Fund, more than half of which had been pledged by the EU, ended up being devoted to TACB activities on the ‘Singapore issues’ and trade-environment negotiations (Jawara 2003).

At the 2003 WTO Ministerial in Cancun things did not change in substance. In fact, in the build-up to the Cancun ministerial meeting in 2003, of the 1048 TACB priorities communicated by Members to the WTO Secretariat, the largest number were to be ‘Singapore issues’, which were the primary demands of the EU (ICTSD 2003a). Of course, one may validly counter that without such technical assistance, developing countries would have been less effective in engaging with the Singapore issues, and many developing countries did not oppose their inclusion. The point remains, however, that the primary demander of the incorporation of these negotiating issues was the EU (Shaffer 2005). Interestingly, when the ‘Singapore issues’ were finally dropped off the negotiating agenda in July 2004, EU representatives started to question the future of EU funding of TACB activities (Shaffer 2005). In addition, following the 2004 WTO’s capacity building plan which suggested to adopt a “management of demand” approach, namely one in which recipients set priorities for TACB, the EU agreed on this approach and argued that the idea the WTO secretariat should assume a more proactive and strategic role in assisting those members that have difficulties in identifying their technical assistance needs. It goes without saying, many developing countries viewed the WTO secretariat’s approach to technical assistance with circumspection because the secretariat could be advancing the interests of those who oversee the WTO budget—the major donors. In parallel to these arguments about the biased choice of priorities for TACB, one should also take into consideration existing biases in its design and delivery. It has been convincingly argued that legal and technical advice provided through WTO-led TACB often devoted too little attention to ensuring developing countries know how to exploit options that could help them to accommodate public policy and development objectives (Deere 2005). As very clearly illustrated by Tandon,

capacity building was conceived narrowly in terms of compliance [...] as they do not for example analyze for the participants how the Uruguay Round agreements as negotiated, prejudiced their countries and how they might negotiate a better deal for themselves at subsequent round of negotiations [...] whilst helped to increase the individual knowledge of participants they did very little to help develop the infrastructural capacities of countries, nor to develop their supply side capacity, nor to overcome the very many hurdles developed countries erected against imports from developing countries (quoted in Jawara 2003:17).

To sum up, this brief overview of the priorities displayed by donor countries and by the EU in particular, seem to suggest that the main rationale the sought to pursue by committing themselves to increase TACB funding in the context of the Doha Round negotiations was not to support virtuous development processes in development countries. Priorities were mainly donor-driven. As far as the EU is concerned, more specifically, it clearly emerges that TACB funding was instrumental in convincing its developing WTO partners to agree on a negotiating package that included a set of issues, namely the ‘Singapore issues’, on which they were extremely reluctant to negotiate. Against this background, the relevant question is whether this interest-driven policy agenda resulted from pressures emanating from societal groups, or rather was autonomously shaped by EU policy makers. As already argued in the context of discussions concerning negotiations on competition, key economic interests had little or no interest in the EU’s strong support for the ‘Singapore issues’. As a Commission officials very clearly puts it, ‘we had no backing by European interests groups on the Singapore issues. This is one of the main reasons why we were obliged to drop them off the agenda after Cancun. Without that backing we could not credibly continue to push them forward in the negotiating game’ (Interview with Commission official, 2009). In this sense, therefore, the Commission’s strategy cannot be regarded as a rational response to further constituency interests. More plausibly, one should argue that the ‘Singapore issues’ represented a tool in the hands of EU negotiators to be used as a bargaining chip to submerge negotiations on sensitive sectors such as agriculture into a complex and broad package. To have the ‘Singapore issues’ in the negotiating agenda was an EU priority for tactical reasons and, in turn, TACB funding was used as a carrot to get developing countries to agree on this negotiating platform.

5.2.2.2. The timing of proposals and the amount of resources

The above argument is further reinforced by the analysis of the timing of the EU's proposals in this area. As already mentioned above, only a few months before the beginning of negotiation in Doha, had offered a US 50 million TACB programme for developing countries. Again, during negotiations at Doha the Commission, both through its own funding and with contributions from member states, supported the idea of establishing the so-called Doha Global Trust Fund and contributed for more than half of its funding. Subsequently, despite the biased content of its proposed TACB programmes, the EU has been particularly keen in publicizing its contributions to TACB activities in this context. As it has been argued, these initiatives need to be interpreted as an attempt to "persuade" developing countries to support the EU negotiating platform in the build-up of the Doha Round (Jalawara 2003, Shaffer 2005). With a similar tactic, during a meeting in Brussels with delegates of the ACP countries in July 2003, two months before the delicate WTO ministerial in Cancun where EU negotiators knew the 'Singapore issues' were going to be attacked by developing countries, Trade Commissioner Lamy announced the launch of 'Trade.com', a Commission's US 50 million trade assistance programme aimed at enhancing the capacities of these countries to negotiate and implement the rules of trade. While this initiative was taken outside the WTO context, it is well known that the main motivation behind this initiative was to buy-out ACP countries' support for its negotiating platform. In other words, these tactics seem to support the argument of those who have interpreted the EU's approach on TACB as an example of 'carrotization strategy' towards developing countries in the broader negotiating game (Jalawara 2003). In fact, it seems fair to argue that the EU's "genuine" commitment to increase developing countries capacities was particularly 'genuine' in the build-up of landmark negotiations and, more specifically, when the need to build support for what were perceived as the offensive interests of the EU, namely the 'Singapore issues', was more pressing. More generally, this skeptical view of the EU's motivations behind its approach towards TACB issues in the Doha Round is further corroborated by the prevailing idea among negotiators that WTO activities in this area were contingent upon negotiations. In fact, in the context of the debate that started among WTO partners in 2003 about whether TACB activities should become a permanent feature of the WTO's functioning or rather end with the conclusion of the Doha Round, the EU seemed to position itself in the former camp. As an EU representative warned following the Cancun ministerial when many developing countries rebelled against inclusion of these issues in the work program, 'the Cancun outcome required a re-assessment of TA priorities [...] Members needed to reconsider the scope of future

technical assistance since it was not clear what the scope of the DDA would be in the future (quote in Shaffer 2005:18).

Finally, it needs be noted that while it is true that the EU contributed to around two thirds of total TACB funding pledged by developed countries in the context of the WTO since the Doha round has been launched, these resources continue to fall short of developing countries' needs. Resources, moreover, are particularly scarce in key areas states a priorities by developing countries and donor commitments to increase trade-related TACB often represent a diversion of resources from other pressing development priorities rather than an allocation of new ones (Deere 2005).

In sum, both in terms of timing with which EU efforts on TACB have developed and in relation to the amounts it allocated to this negotiating area there seem to be good reason to argue that the EU strategy was mainly guided by broader negotiating priorities. EU's TACB offers were mostly directed at getting developing countries to accept a broad negotiating agenda that included the 'Singapore issues'. Developmental priorities clearly ranked low in EU's negotiators preoccupations. Offers on TACB were instrumental in attaining the objective of broadening the Doha Round negotiating agenda as much as possible. TACB, therefore, were used as a tactical tool to reach attain this aim. Unsurprisingly, it is in correspondence of crucial stages in the negotiating game that the EU used this bargaining chip more forcefully. When this rationale was not there anymore, it became clear that TACB could be relegated to a second-rank issue. The amounts of resources devoted to addressing TACB needs of developing countries further corroborate this view. As Halle argues,

the new found development-correctness of the WTO after Doha always looked suspicious. Since the talks have run into trouble, it appears little more than a public relations trick [...] concessions will be made to secure the support of the mass of countries that will gain almost nothing from the round – exemptions from new disciplines, technical assistance and capacity building, longer implementation deadlines, aid for trade etc. But that does not amount to an outcome whose essential purpose is to promote the end of poverty (2005:6).

5.3. Alternative explanations

In this section, I briefly review some of the potentially alternative arguments taken into consideration throughout the above analysis to further corroborate the argument proposed. Bottom-up types of explanations for this policy preference clearly do a poor job in accounting for observed empirical developments. Economic interest groups had not much to gain, or perceived so, from negotiations on the ‘Singapore issues’. Neither, of course, they would have gained from developing countries increased capacity to assert their interests in the negotiating process. In light of this set of preferences and given the actual priorities that characterized the EU’s position on TACB, there is no reason to believe that EU negotiators acted as they did to satisfy key constituency demands. As for civil society groups and their value-driven concern for development issues in poor countries, it clearly emerges from the above argumentation that the objectives pursued by the EU were all but ‘altruistic’. Again, therefore, empirical evidence allows to disregard a ‘civil politics’ variant of bottom-up interpretation of the EU’s politics of preference formation as inconsistent.

Competing autonomy-based explanations also seem less plausible with respect to the one proposed here. In fact, the argument by which EU policy-makers were motivated by ideational factors in shaping their strategy does not rest on a solid ground, neither theoretically nor empirically. Theoretically one could agree on the idea, as I do in this work in relation to competition negotiations, that EU policy preferences with respect to some of the ‘Singapore issues’ were motivated by concepts and ideas embedded in the EU’s political system. Even in this case, the EU’s readiness to contribute TACB for developing countries should only be understood as a rational means to achieve an ideational objective, not an objective in itself. This optimistic interpretation, however, does not seem to be supported by empirical evidence. In fact, had the EU’s policy strategy been motivated by the willingness to advance a particular vision of how globalization should work through the inclusion of the ‘Singapore issues’ in the functioning of the WTO system, there would have been no reason for the EU to support the view that this type of activities be contingent upon negotiations rather than become a permanent feature of the WTO.

5.4. Concluding remarks

The argument I propose in this chapter is that the EU's approach towards negotiations on TACB activities in the context of the Doha round fits an 'executive politics' type of preference formation. EU negotiators brought TACB into the negotiating agenda as a way to attain a number of rationally defined goals. More specifically, I contend that the purpose of an active engagement in this area of negotiations was not to foster development in poor countries but, rather, to compel them to accept a set of negotiating terms they would have not agreed upon in the absence of such a strategy. In other words, EU negotiators used their offers on TACB as a 'carrot' in the wider bargaining game. Both theoretical reasoning and empirical evidence suggest that this represents a more plausible explanation than ones that point to the role of societal pressures or to non interest-driven motivations held by EU negotiators. These findings confirm the theoretical expectations set out in the first chapter of this work where I argued that in the context of issues characterize by low perceived political salience but in which the distributional implications of alternative policy options,

Conclusions

The key argument I propose in this study is that by looking at issue characteristics and their variations we can take stock of variations in the way in which actors define their policy preferences in international trade negotiations. Empirical reality tells us that at times interest groups or civil society representatives exert irresistible pressure on policy-makers while in other instances the negotiating strategy brought forward by policy-makers is shaped independently from these pressures. Similarly, we cannot but acknowledge that on occasions trade actors clearly pursue an interest-driven negotiating strategy while in other cases ideational factors need to be brought into picture to come up with a plausible explanation of observed patterns of preference formation. In other words, a prominent feature of the empirical reality of the “politics of preference formation” in the present international trading system is that the ways in which trade actors go through these processes are irreducibly multiple and shifting. Rather than engaging in concept refinement to validate a single theoretical perspective or to attempt to discriminate between rival hypotheses, therefore, this research attempts at devising the conceptual tools “to get the broader picture”, to build bridges between different theoretical perspectives by outlining the conditions by which one or another theory can be plausibly expected to be more useful in explaining empirical reality.

This work, moreover, seeks to provide with an original contribution to this debate. Indeed, while many authors have taken up this challenge, very little attention has so far been devoted to the question of how to integrate into a single analytical framework questions of “whom” – who dominates the “politics of preference formation” – with questions of “why” – what are the rationales and motivations that drive actors in the “politics of preference formation”. The originality of this work consists in bringing both dimensions of “politics” variation into a single analytical framework and, in turn, to specify the causal mechanisms that link them with issue characteristics’ variations. As for the “whom” dimension, I claim that a useful starting point is to think of variations along this dimension is to conceptualize it in terms of different configurations of state-society relations, distinguishing between “bottom-up” and “top-down” politics of preference formation. In the first case, societal groups dominate the process, in the second this is dominated by public actors. Variation along this dimension, I suggest, need to be understood as a

function of the “perceived political salience” of the issue that is negotiated. The more the “perceived political salience” of an issue, I argue, the more the incentives for societal groups to mobilize to influence the policy-making process and, consequently, the less the room for public actors to pursue their autonomous preferences. In relation to the “why” dimension, I distinguish between politics in which actors define their policy preferences on the basis of rational, interest-driven calculations and ones in which ideas, cognitive factors and value systems play a role in the process of definition of actors’ preferences. In this context, my argument is that the extent to which the relevant actors involved in the policy-making process can calculate the distributive implication of alternative policy options available to them represents a key variable. The less certain the actors are about these implications, the more likely ideational factors will influence the way in which they will shape their preferences.

The empirical investigation carried out in the four case studies considered in this work largely confirms these analytical expectations. I briefly review the findings of this analysis here. Given the high perceived political salience as well as the clear distributive implications of alternative reform scenarios in the context of the agriculture-issue, I expected the politics of preference formation in this area to be characterized by a “pressure politics” logic, that is interest groups defining their preferences on the basis of interest-driven calculations to dominate the policy process. While falling short of providing an irrefutable evidence that EU negotiators acted in response to agricultural interest groups’ lobbying, the analysis shows that the EU’s negotiating strategy represented, given the context within which it developed, the most rational strategy to maximize European farmers’ welfare. Interestingly, moreover, potentially alternative explanations do a much poorer job in accounting observed patterns of preference formation. In sum, while further research would be needed to specify the mechanisms through which agricultural interest groups exerted influence in the policy-making process, both the evaluation on farmers’ income of the EU’s strategy on agricultural interests relatively to alternative policy options available and the relatively lower explanatory power of alternative hypotheses in accounting for actual empirical development suggest that a “pressure politics” represents the most plausible interpretation of the process through the EU came to define its policy preferences in this negotiating area.

As for negotiations on the establishment of a competition regime, I set out the expectation that “identity politics” type of preference formation would provide a plausible description

of the EU's "politics of preference formation" in this negotiating area. This is so because negotiations on the internationalization of competition regulatory standards is characterized by low "perceived political salience" and by high uncertainty regarding the possible distributive implications of alternative reform scenarios. The analysis I carried out confirms these anticipations. Given the relative indifference of both key economic groups and civil society organizations with respect to this issue, EU negotiators could pursue their preferred policy option. Interestingly, while economic interests did not perceive this negotiations as highly salient, they nonetheless expressed their preferences in terms of a loose, voluntary, regime for coordination and harmonization. The strategy pursued by EU negotiators clearly points to an existing willingness to move in another direction. Rational, interest-driven motivations, however, do a poor job in explaining why EU policy-makers acted as they did during negotiations. Both deductive reasoning and empirical evidence suggest that in the face of the uncertainty about the consequences of the alternative policy options available to them, these actors' choices were guided by concepts and ideas that had been shaped as a result of the EU's own experience of managing the trade/competition nexus. In sum, on the basis of the evidence presented in Chapter 3, it seems fair to argue that ideational factors influenced the way in which policy-makers put forward their own agenda.

In the case of negotiations concerning the so-called trade and environment debate, it is more difficult to argue that the empirical analysis straightforwardly corroborates the analytical expectations. This is so because in this particular negotiating instance a variety of different explanations are *a priori* consistent with observed patterns of "politics of preference formation". Indeed, in light of both the high perceived political salience and low certainty about the consequences of alternative policy reform scenarios, I expected the EU's process of preference formation to be characterized by "civil politics" dynamics. However, while a "civil politics" perspective seems to provide with the most plausible theoretical lens to interpret how the EU defined its agenda before and during the adoption of the Doha Declaration in 2001, it is more difficult to discriminate among rival explanations during the negotiating phase. In fact, it is difficult to refute the argument by the EU to set itself as the leading "green demandeur" in the WTO context as a result of the need to respond to a value-driven political mobilization "from below". When this happened, however, it became evident that this strategy fitted with the interests of a number of different actors. The existing parallels between the EU's evolving negotiating

position and the demands of key ENGOs support the view that these societal pressures continued to influence the EU's policy preferences.

Finally, I expected negotiations concerning technical assistance and capacity building to be characterized by an 'executive politics' type of politics of preference formation. In fact, both theoretical reasoning and empirical evidence support the view that in a context characterized by low perceived issue salience and high certainty about the distributional implications of alternative policy scenarios EU policy makers defined their policy preferences autonomously from societal demands and according to interest-based rationales. TACB negotiations offered the EU opportunity to overcome existing opposition by developing countries to get engaged into a comprehensive negotiating package that included issue on which they had defensive interests. By committing itself to compensate through TACB funding for eventual costs these countries would incur in, the EU succeeded, at least in the initial phase of negotiations, to get developing countries to agree on negotiations on issues such as government procurement, investment, competition and trade facilitation which were a key component of the EU's overall negotiating strategy.

Overall, therefore, it seems fair to argue that the causal mechanisms I hypothesized about in the first chapter provide with a useful template through which the 'politics of preference formation' in the context of international trade negotiations can be analyzed. This is the primary objective I aimed to address with this study. However, I hope the contribution of this study could expand beyond this, for a number of reasons. First, the relatively broad level of abstraction of the concepts I used to define variables and existing relations among them allow to argue that this approach suggests a easily expandable research programme, not only in terms of its empirical scope but also in relation to the issue area it applies to. In this study I dealt with the process by which trade actors define their policy preference in international trade negotiations and looked at EU's performance in the Doha Round. The dynamics linking issue-characteristics and both incentives for societal mobilization to influence the policy making process and the possibility for ideational factors to influence actors' preferences could well be used to analyze patterns of preference formation in other areas of policy-making or other contexts within which actors get involved in trade policy.

Second, by the very nature of the central research question, this thesis has been an essay in

interdisciplinary research. As already argued in the introduction, by placing itself at the crossroads of various disciplines, with the present enquiry I wish to make a plea for theoretical dialogue. All too often scholarly research characterizes itself in terms of a 'battle' between camps. The increasing complexity that connotes social relations in today's reality, not only trade politics, calls into question researchers' capacity to draw from different disciplines, conceptual tools and methodologies to contribute to its understanding. One way to do so, I seek to demonstrate in this study, is to engage in bridge-building, rather than stress divisions.

Third, this work also aims at demonstrating that to investigate the European Union does not necessarily implies casting oneself away of the broader 'political science' debate and isolate within the borders of the so-called 'European studies' camp. The concepts, variables and causal mechanisms I developed in this work do not aim to account for EU's peculiarities. On the contrary, this research seeks to show that, despite these peculiarities, there is much to gain from connecting from de-isolating the study of the EU. Of course, this approach is not cost-free. The risk of doing so is to overlook much of the inherent theoretical and empirical potential the EU's political and institutional system offers for social research. The costs of this choice, I hope to have demonstrated, may on occasions be compensated by the benefits that an attempt to apply the criteria of parsimony to the study of the EU could bring about.

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