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The EU in International Trade Negotiations: Assessing the Role of the Single Voice through an Analysis of the Uruguay Round and the Doha Round

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Abstract

L'elaborato mira ad analizzare il ruolo della "voce unica" dell'Unione europea durante due negoziazioni commerciali internazionali nell'ambito del GATT (prima) e dell'OMC (poi) e di investigare quanto il suo utilizzo da parte dei negoziatori della Commissione europea sia efficace dati gli interessi dell'UE. Le due negoziazioni commerciali di riferimento sono: (i) i negoziati agricoli tra la Comunità europea e gli Stati Uniti durante l'Uruguay Round (1986-1994), (ii) il Doha Round, che ha avuto inizio nel 2001. È bene specificare che con "voce unica" non si intende che tutti gli Stati membri concordano sulla posizione esterna dell'UE. Significa invece che gli Stati membri non minano né prevalgono la posizione collettiva da difendere con una sola voce, anche se non sono d'accordo con essa.

Il tema della ricerca ha fondamento nelle numerose dichiarazioni da parte degli ufficiali della Commissione europea (l'organo esecutivo dell'UE) circa l'importanza per l'Unione europea di presentarsi ai negoziati internazionali sostenendo un'unica posizione espressa attraverso una "voce unica", in questo modo l'Unione mostrerebbe coesione e credibilità a livello internazionale e sarebbe in grado di ottenere risultati in linea con i suoi obiettivi. Questa tesi è stata supportata da studiosi dell'Unione europea che hanno confermato la correlazione positiva tra il parlare con una voce unica e l'efficacia dell'UE a livello internazionale (Meunier e Jupille sono due esempi utilizzati frequentemente nell'elaborato). In un secondo momento, altri studiosi dell'Unione europea hanno sì confermato l'importanza della voce unica per l'Unione europea, constatando però che essa non è un elemento sufficiente per garantire efficacia durante una negoziazione. Studiosi che difendono tale posizione sono Thomas, Niemann, Bretherton e Da Conceição. Gli studi condotti sul tema sono stati utilizzati al fine di delineare un quadro d'analisi completo per esaminare il ruolo della voce unica nelle negoziazioni commerciali internazionali scelte.

Il risultato che l'analisi mira ad ottenere alla sua conclusione è la seguente: la voce unica è sì un elemento fondamentale perché l'Unione si presenti in maniera coesa e credibile ai negoziati internazionali, tuttavia, essa non può essere considerato un elemento sufficiente per garantire l'efficacia dell'azione dell'UE. Infatti, fattori esterni alle

istituzioni UE e al loro funzionamento entrano in gioco e influenzano la capacità dell'UE di ottenere il risultato desiderato in una specifica negoziazione.

L'elaborato si articola in quattro capitoli ed è strutturata come di seguito: (i) un primo capitolo sul quadro legislativo europeo in merito ai negoziati di tipo commerciale; (ii) un capitolo sulle variabili utilizzate per l'analisi delle due negoziazioni che seguono; (iii) la descrizione e l'analisi dei negoziati agricoli tra Comunità europea e Stati Uniti durante l'Uruguay Round; (iv) la descrizione e l'analisi dei negoziati nell'ambito del Doha Round.

Il primo capitolo definisce il quadro legislativo europeo in merito alla politica commerciale dell'Unione. Sin dalla firma del Trattato di Roma (1957), le questioni commerciali sono state di competenza esclusiva dell'UE, e non dei suoi Stati membri. Ciò comporta che solo l'UE può legiferare e adottare atti vincolanti riguardo la politica commerciale comune sin dalla nascita della Comunità europea. Tuttavia, in quel periodo le questioni commerciali facevano riferimento a merci, tariffe, contingenti e questioni transfrontaliere. A partire dagli anni '80, investimenti, servizi e questioni non commerciali (questioni etiche, ambientali e del lavoro) sono entrati a far parte del dialogo in merito alla politica commerciale mondiale. Con la nascita di questi nuovi settori, la Commissione europea chiedeva maggiore competenza agli Stati membri. Tuttavia, nel corso degli anni fu sempre difficile trovare accordi in merito. Solo nel 1996, con il Trattato di Amsterdam, vennero inclusi servizi e diritti d'autore tra le competenze esclusive dell'UE, ma esclusivamente qualora il Consiglio avesse dato la sua approvazione votando all'unanimità. Precedentemente, tali questioni non erano di competenza esclusiva dell'UE, anche se in certi casi essa si poteva conferire de facto, come nel caso dell'Uruguay Round, in quanto la tematica era ancora recente e i negoziati sarebbero dovuti cominciare a breve. Nel 2000, con il Trattato di Nizza, i servizi entrarono a far parte delle competenze esclusive dell'UE, ad eccezione di casi specifici come i servizi culturali e audiovisivi, i servizi sociali, e servizi educativi, la salute pubblica e i trasporti. Nel 2009, con il Trattato di Lisbona, le competenze della Commissione sono state estese maggiormente: i servizi culturali e audiovisivi ricadono nella competenza esclusiva dell'UE, come anche gli investimenti diretti esteri e gli aspetti commerciali dei diritti d'autore.

Il primo capitolo affronta anche il processo decisionale interno che si applica durante i negoziati di trattati commerciali internazionali. La Commissione europea ha il ruolo di promotore delle negoziazioni, in quanto dirige proposte agli Stati membri che si riuniscono nel Consiglio dei Ministri (o Consiglio dell'Unione europea) e che hanno il compito di approvare o rifiutare il mandato negoziale e il trattato alla fine dei negoziati. Nel corso dei negoziati, i negoziatori della Commissione europea sono tenuti a seguire il mandato conferitogli dal Consiglio e a tenerlo costantemente informato dei progressi.

Nel secondo capitolo vengono definite le variabili utilizzate al fine di analizzare i negoziati. Le variabili si distinguono in: variabili istituzionali e variabili esterne. Le prime fanno riferimento ai regolamenti e al funzionamento interno delle istituzioni dell'Unione. Esse sono: (i) le regole di voto interne al Consiglio, (ii) la delegazione del mandato negoziale dal Consiglio alla Commissione e (iii) la natura dei negoziati.

Le regole di voto si dividono in maggioranza qualificata e unanimità, la scelta della modalità di voto dipende da ciò che viene negoziato. Esistono casi in cui i Trattati internazionali comprendono una tale vastità di argomenti che il sistema di voto è misto, un esempio è la votazione nel Consiglio per il mandato durante il Doha Round. Secondo gli studiosi dell'UE e gli ufficiali della Commissione europea, il voto all'unanimità porta al minimo comune denominatore, che significa che la posizione più protezionistica (lo status quo o vicino ad esso) sarà la posizione comune che l'UE difenderà se non viene trovata nessun'altra posizione comune. Infatti, il veto di un paese con interessi protezionistici è sufficiente per ostacolare una proposta innovativa. Pertanto, il voto all'unanimità può influenzare la formazione della voce unica rendendola più "conservatrice", seguendo il punto di vista degli Stati membri più protezionisti. Al contrario, quando si usa il voto a maggioranza qualificata, le posizioni estreme possono essere attenuate dal fatto che non è possibile usare il potere di veto. Studi hanno dimostrato che quando si utilizza il voto a maggioranza qualificata, le posizioni degli Stati membri tendono ad essere più vicine alla proposta della Commissione (tranne quando la posizione della Commissione è particolarmente estrema), proprio per il fatto che i paesi protezionisti non possono porre il veto a una proposta. Pertanto, l'uso del voto a maggioranza qualificata può contribuire alla formazione di una voce unica che non sia influenzata da tendenze protezionistiche. Ovviamente, può accadere che il voto a maggioranza qualificata porti ad una posizione comune protezionista. Tuttavia, gli

interessi degli Stati membri tendono ad essere diversificati in base al settore, è dunque difficile che tutti condividano la stessa visione. Per questo motivo, la votazione a maggioranza qualificata tende a mitigare le posizioni estreme piuttosto che a consolidarle.

La delegazione del mandato negoziale è una variabile fondamentale in quanto, in base agli interessi e alle preferenze degli Stati membri, i negoziatori della Commissione ricevono un mandato più o meno rigido. In caso il mandato sia flessibile, i negoziatori hanno più autonomia e sono in grado di fare più concessioni, mentre quando il mandato è limitato, essi dovranno seguire delle più precise indicazioni del Consiglio. La delegazione è correlata alle regole di voto, in quanto producono effetti combinati sul processo e sui risultati di un negoziato. Per le questioni commerciali, la Commissione tende ad avere una posizione liberale. Quando il Consiglio deve votare all'unanimità, ogni paese ha il diritto di veto. Ciò significa che, se gli Stati membri non sono in grado di trovare una posizione comune diversa dallo status quo, lo status quo rimane la loro posizione comune, consentendo allo Stato membro più conservatore di stabilire i termini del messaggio collettivo. In questo caso, il mandato negoziato a livello di Consiglio tende a riflettere la volontà degli Stati protezionisti, i quali vogliono tenere sotto stretto controllo i negoziatori affinché il mandato negoziale sia rispettato. Mentre, quando si utilizza il voto a maggioranza qualificata, i paesi con posizioni protezionistiche (se non sono la maggioranza, ma in materia commerciale è improbabile) tendono ad essere in minoranza a causa del diverso numero di voti assegnati a ciascuno Stato membro e in quanto non è previsto un potere di veto. In questo caso, la maggioranza qualificata degli Stati membri sostiene la posizione della Commissione, che ha maggiori probabilità di avere un margine di discrezionalità, poiché il mandato negoziale sarà più vago.

La natura dei negoziati dipende dalle preferenze dell'UE: i negoziati possono svolgersi in uno scenario conservatore (l'UE preferisce mantenere lo status quo o rimanere il più vicino possibile ad esso, in questo caso l'impulso a negoziare è di uno o più Stati esterni) o in uno scenario riformista (l'UE vuole un cambiamento a livello internazionale e solitamente propone o supporta l'inizio dei negoziati).

In uno scenario conservatore, se l'UE vota all'unanimità e il suo mandato negoziale è limitato, l'influenza dei suoi membri più protezionisti risuonerà e sarà più difficile per l'altra parte far sì che l'UE ceda. Infatti, il negoziatore può utilizzare la strategia "tied hands", ovvero dichiarare di avere le mani legate e che il margine di manovra è ristretto

da limiti istituzionali. In questo caso, l'UE è in grado di formare un'unica voce coesa, più difficile da modificare, sulla base dell'influenza degli Stati membri protezionisti. La maggioranza qualificata aumenta invece la probabilità di raggiungere un accordo, poiché non vi è incertezza sul fatto che l'accordo finale sarà approvato dal Consiglio. L'opponente può aspettarsi vantaggi maggiori di quelli che avrebbe ottenuto, a parità di distribuzione delle preferenze europee, all'unanimità. In tal senso, la maggioranza qualificata non rafforza il potere negoziale esterno dell'UE tanto quanto l'unanimità. Pertanto, se l'Unione europea vuole mantenere lo status quo, una voce unica che aumenta la sua influenza a livello negoziale è meglio raggiunta se si vota all'unanimità e con un maggiore controllo sui negoziatori da parte del Consiglio.

In uno scenario riformista l'obiettivo dell'UE è quello di proporre cambiamenti a livello internazionale. Votando all'unanimità, è meno probabile che il Consiglio adotti una posizione riformista. Infatti, se vi sono Stati membri con interessi protezionistici su una data questione (come normalmente accade), tale Stato ha la possibilità di esercitare il diritto di veto sulla proposta riformista. In questo caso, il voto all'unanimità in seno al Consiglio è un vantaggio per l'opponente. Tuttavia, quando il mandato comprende alcune questioni che richiedono il voto a maggioranza qualificata e alcune che richiedono l'unanimità, la Commissione può utilizzare strategie per far approvare il mandato evitando che venga posto il veto su qualche questione. In questi casi, la Commissione include in un unico pacchetto tutte le questioni da negoziare. In tal modo, i paesi che hanno interessi protezionistici vengono compensati con altre questioni di maggiore interesse per loro. In questo modo, la Commissione potrebbe essere in grado di aggirare il problema del voto all'unanimità in scenari riformisti e di formare comunque una forte voce unica. Con il voto a maggioranza qualificata, è più facile per l'Unione europea sfidare l'avversario, in quanto è più difficile che vengano ostacolate proposte riformiste. Di conseguenza, la voce unica a livello europeo sarà probabilmente priva dell'influenza degli Stati membri protezionisti, i quali non possono usare il loro veto. Inoltre, poiché l'obiettivo è quello di cercare una riforma (e non di ostacolare il cambiamento), è più probabile che il Consiglio sia disposto a concedere ai negoziatori della Commissione un maggiore margine di manovra per trovare un accordo.

Pertanto, il ruolo della voce unica nei negoziati commerciali internazionali dipende anche dalla natura dei negoziati. Se l'obiettivo dell'UE è quello di mantenere lo status quo

(scenario conservativo), l'unanimità e una delega di competenze più rigorosa sono generalmente migliori per formare una forte voce unica. Mentre, quando l'UE cerca un cambiamento sulla scena internazionale (scenario riformista), sono migliori la maggioranza qualificata (o regole di voto misto e la creazione di un pacchetto negoziale) e una delega di competenze più flessibile. Infatti, votando a maggioranza qualificata, chi ha interessi protezionistici non può porre il veto a una proposta riformista; inoltre un mandato flessibile consente ai negoziatori di fare più concessioni per raggiungere un accordo.

Le altre variabili sono esterne alle regole istituzionali dell'UE, non dipendono da esse ma dal contesto esterno della negoziazione. Esse sono: (iv) il potere relativo dei partecipanti alla negoziazione, (v) il tipo di negoziato e le strategie negoziali, (vi) le opzioni alternative alla conclusione del Trattato.

Il potere dei partecipanti alla negoziazione può essere simmetrico (le parti hanno un equivalente potere a livello internazionale) o asimmetrico (una o più parti sono più potenti delle altre). Il potere tende a dipendere dall'economia di un paese o da questioni relative alla sicurezza. Ad esempio, gli Stati Uniti sono un paese con un grande potere rispetto ad altri Stati, come i paesi in via di sviluppo. Il discorso è valido anche per l'UE, la quale detiene un grande potere, soprattutto di tipo economico. Tuttavia, nei due negoziati analizzati l'UE negozia con potenze a lei simmetriche: prima gli Stati Uniti (Uruguay Round), poi un insieme di Stati che, raggruppati in coalizioni, riescono ad accrescere il loro potere collettivo (Doha Round).

Il tipo di negoziazione (bilaterale o multilaterale) e la strategia negoziale (integrativa o distributiva) sono strettamente collegate in quanto, generalmente, in negoziati bilaterali l'UE tende ad usare strategie distributive, mentre in negoziati multilaterali essa tende ad usare strategie integrative. L'UE utilizza strategie integrative anche quando non ha una buona alternativa ad un possibile accordo negoziato (BATNA). In questo caso, l'UE tende a fare concessioni alle altre parti, con il rischio di allontanarsi dal tipo di accordo a cui aspira solo per evitare di terminare senza accordi in quanto non possiede una buona alternativa.

Le variabili esterne influenzano l'efficacia dell'UE a livello internazionale, in quanto i loro effetti possono condizionare positivamente o negativamente la presenza di una voce unica creata attraverso gli elementi analizzati dalle variabili istituzionali. In certi casi, il

contesto esterno della negoziazione favorisce l'UE, sostenendo la sua efficacia. In altri casi, nonostante la voce unica sia forte e la posizione presentata dall'UE sia credibile, il contesto esterno è tale da rendere inefficace la presenza di una voce unica coesa. Il primo è il caso dei negoziati agricoli durante l'Uruguay Round, il secondo è il caso del Doha Round.

Il terzo capitolo analizza i negoziati agricoli tra la Comunità europea e gli Stati Uniti durante l'Uruguay Round al fine di valutare l'efficacia della voce unica della Commissione (efficacia intesa come essere in grado di ottenere il miglior risultato possibile in base ai suoi interessi). Questi negoziati riflettono uno scenario conservativo in quanto la Comunità europea voleva mantenere lo status quo. La modalità di voto prevista era l'unanimità, e il mandato delegato alla Commissione era limitato. Per quanto riguarda le variabili esterne: si tratta di una negoziazione tra parti equamente potenti, l'UE utilizzò strategie distributive e aveva un buon BATNA (in quanto l'alternativa preferita ad un accordo era la situazione attuale).

L'analisi dimostra che quando l'obiettivo dell'UE (allora CE) è quello di mantenere lo status quo, l'influenza degli Stati membri più protezionisti (in questo caso, Francia principalmente) svolge un ruolo fondamentale nell'esito finale dei negoziati, specialmente se il metodo di voto è l'unanimità, che permette agli Stati membri di usare il loro potere di veto. In questo caso, i negoziatori sfruttarono l'intransigenza francese per dichiarare in modo credibile di non poter fare concessioni, costringendo gli Stati Uniti a venire incontro agli interessi europei. Il mandato conferito alla Commissione, come accennato sopra, era limitato. Tuttavia, dopo la riforma della PAC del 1992, i negoziatori riuscirono a sfruttare una maggiore flessibilità grazie ai tagli ai supporti alla produzione di specifici beni, che hanno permesso ai negoziatori di fare maggiori concessioni su questo tema. Questa maggiore flessibilità non fu accolta positivamente dalla Francia, che si oppose ai progressi fatti dalla Commissione e cercò di concludere negoziati bilaterali con gli Stati Uniti, senza avere esito. In questo frangente, l'UE non si stava presentando con una voce unica. Solo nel momento in cui le azioni dei negoziatori continuarono a rispettare i limiti del mandato originale, una posizione comune venne presentata a livello internazionale con una voce unica coesa.

Per quanto riguarda le variabili esterne, strategie negoziali distributive e un buon BATNA hanno contribuito al rafforzamento della voce unica.

In conclusione, questa analisi dimostra che la dichiarazione secondo la quale parlare con una voce unica a livello internazionale porta all'efficacia esterna è solo parzialmente vera. Parlare con una voce unica può rivelarsi efficace per la CE nei negoziati commerciali internazionali, ma dimostra anche che la sua efficacia dipende sia da fattori interni che esterni, ovvero da fattori analizzati dalle variabili istituzionali e dalle variabili esterne. Pertanto, nei negoziati commerciali internazionali, la voce unica della CE è più o meno efficace a seconda di come si forma a livello comunitario e di altri fattori esterni che possono variare caso per caso. Nel caso dei negoziati agricoli tra CE e Stati Uniti, i fattori istituzionali hanno portato alla creazione di una voce unica coesa, mentre i fattori esterni hanno contribuito positivamente alla sua efficacia.

Il quarto capitolo analizza i negoziati in seno del Doha Round. In questo scenario di tipo riformista, l'UE è riuscita a formare una forte voce unica. È stato dimostrato che, quando l'Unione mira a riformare lo status quo, per creare una voce unica forte sono necessari: un mandato flessibile e un voto a maggioranza qualificata, o l'uso di tattiche da parte della Commissione per ottenere un sostegno politico nel Consiglio. In questo modo, l'influenza di stati protezionisti può venire arginata. Per il Doha Round, la Commissione creò un pacchetto negoziale che comprendeva più questioni e ottenne un mandato abbastanza flessibile, ciò permise la creazione di una voce forte e coesa. Nonostante ciò, variabili esterne entrarono in gioco in modo tale che, sebbene la voce unica fosse forte, si rivelò insufficiente perché l'UE fosse efficace. Infatti, gli interessi delle parti negoziali erano così lontani che il ciclo di negoziati si fermò tre volte (a Cancún nel 2003, a Hong Kong nel 2005 e a Ginevra nel 2008). A causa della sua posizione di *demandeur* in un contesto multilaterale e del fatto che non disponeva di un buon BATNA, l'UE tendeva a ricorrere principalmente a tattiche di contrattazione integrativa, facendo concessioni, ma senza alcun risultato. Al contrario, le altre parti utilizzavano strategie distributive. Di conseguenza, nonostante si tratti di un caso in cui l'UE fu in grado di formare una forte voce unica, essa non fu sufficiente per essere efficace a livello internazionale. In questo caso, la dichiarazione secondo la quale parlare con una voce unica a livello internazionale porta all'efficacia esterna si rivela sbagliata. In questo caso, la voce unica non è stata sufficiente, poiché altri fattori esterni hanno influito durante i negoziati.

In conclusione, la tesi sostenuta dai *policymakers* dell'UE è una verità parziale. La voce unica non è un elemento sufficiente per assicurarsi l'efficacia a livello

internazionale. Essa dipende sia da fattori interni all'UE (attraverso i quali si forma la voce unica), sia a fattori esterni (che impattano sul suo utilizzo dall'esterno). Tali fattori vengono raccolti in una serie di variabili che devono essere considerate nell'analisi dei negoziati commerciali internazionali. Le regole istituzionali considerate dagli studiosi del primo periodo non sono sufficienti, se utilizzate da sole, per effettuare un'analisi completa del ruolo della voce unica. Tuttavia, gli studiosi del secondo periodo hanno spostato attenzione sul contesto esterno. Dunque, la voce unica non è efficace di per sé nei negoziati commerciali internazionali, ma una combinazione delle variabili (interne ed esterne all'UE) si rivela fondamentale al fine di indagarne il ruolo e di comprendere come e quando essa si possa definire efficace.

Introduction

The European Union is one of the largest traders in the global arena. According to the EU website, 16.5% of the global imports and exports are detained by the EU.[1]The Union is the largest single market (meaning the EU being one territory without any internal borders or other obstacles to the free movement of goods and services[2]) and it has in place numerous trade agreements with third countries. So far, the EU is in a customs union (a free trade bloc) with other external countries, i.e. Andorra, San Marino, Turkey, and it has in place other types of agreements with its economic partners, which are based on different objectives. In fact, there are two main typologies of trade agreements besides the Customs Union. Firstly, there is a group that comprises Association Agreements, Stabilization Agreements, Free Economic Agreements and Economic Partnership Agreements, whose objective is to bilaterally reduce customs tariffs in trade. Secondly, there are Partnership and Cooperation Agreements, which aim is to support the democratic development of a country and to provide a frameworks for bilateral relations, leaving customs tariffs untouched.[3] Considering the fact that the European Union has a great influence in global trade due to (i) the many trade agreements it has in place, (ii) its shares of imports and exports (as stated above, 16.5% of the global imports and exports are detained by the EU), (iii) the dimension of its single market, it is clear that its trade policies have a significant impact on the international trading system.

Therefore, due to the importance trade has for the EU, ever since the Treaty of Rome of 1957[4], which led to the creation of the European Economic Community, negotiations in trade matters have fallen under the category of subjects for which the European Commission (EU's executive branch and main negotiator) has exclusive competence – i.e. areas in which the EU alone is able (has the competence) to legislate and adopt binding acts.[5] Trade negotiations were perceived as an area for which a single negotiator that

[1] European Union website. Available at: https://europa.eu/european-union/topics/trade_en

[2] European Union website. Available at: https://ec.europa.eu/growth/single-market_en

[3] For the complete list of trade agreements (and their legal texts) in place between the EU and other economic partners consult the website of the European Commission. Available at: http://ec.europa.eu/trade/policy/countries-and-regions/negotiations-and-agreements/

[4] Treaty establishing the European Economic Community, 1957.

[5] Treaty of the Functioning of the European Union (TFEU), art. 3.

could speak on behalf of member States was the best option, as with such a system it was possible to negotiate with the opposing party looking more cohesive rather than presenting several different positions. However, saying that a matter falls under exclusive competence does not necessarily mean that EU member States agree on the matter or on how negotiations should be carried on, it just means that the legal framework of the EU allows the Commission to negotiate on behalf of the EU as a whole on trade matters. As a result, it can happen that the Commission, having to negotiate on behalf of multiple countries that have different interests and positions, is in difficulty to display unity at the negotiating table with other partners, sometimes undermining the credibility of the Union. This is the reason why, for a very long time, many officials working in the EU institutions (some examples are cited later in this section) have been claiming that world trade affairs should be led speaking with a "single voice" in order to provide the EU with more bargaining leverage. The "single voice"[6] refers to the common position held at the international level by the negotiating actor (the European Commission). However, it is key to note that a negotiator being able to negotiate speaking with one voice does not mean that inside the EU there is homogeneity in the positions of the single member States. In fact, member States can disagree with the common position displayed at the negotiating table, but for the sake of creating a strong single voice, they do not try to oppose it.[7]

The vast support of the thesis that speaking with a single voice is important to have more bargaining leverage and to be more effective in international trade negotiations (with effective meaning that the EU is able to obtain a good outcome considering its interests) is clear if we look at the rhetoric of the European Commission. Indeed, European policymakers have been advocating the necessity to speak with a single voice for a long time. In 1985, Willy DeClercq (Commissioner for External Relations and Trade), declared that the Community should speak with a single voice at the discussions held at the international level.[8] The same concept was supported by Jacques Santer in 1996[9], Pascal Lamy in 2002[10], Peter Mandelson in 2005[11], and basically every EU official

[6] To better understand the importance of this concept for EU officials, read the notes of Javier Solana (former High Representative for Common Foreign and Security Policy) at https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/articles/81462.pdf).

[7] Da Conceição-Heldt & Meunier, 2014, p. 964.

[8] European Commission, 1985.

[9] European Commission, 1996.

[10] European Commission, 2002.

[11] European Commission, 2005.

that had a say in trade matters, from European Commission Presidents to EU Trade Commissioners. Following the words of EU policymakers, the correlation between the single voice and increased effectiveness at the international level has been supported also by scholars that studied the European Union (e.g. Jupille, Meunier, Elgstrom) who started to analyse this correlation, mainly in relation to the institutional nature of the EU. Only in a second moment did other scholars (e.g. Thomas, Niemann, Bretherton, Da Conceição), start to challenge this assumed link, claiming that the single voice is not always a sufficient element in order to obtain effectiveness in international trade negotiations, and that other elements affect the outcome of the negotiation.[12] Their arguments, however, do not mean imply that the EU should not speak with a single voice, they limited to analyse cases in order to refute the common assumption that the single voice is always necessary in order to be effective in international negotiations, claiming that the single voice is not enough to ensure a favourable outcome for the EU.

Given the EU officials' assumption that there is a link between speaking with one voice and external effectiveness, and given the analytical work on the subject conducted by the scholars, the aim of this thesis is to investigate the actual role of the single voice in international trade negotiations. The objective is to understand whether speaking with one voice really leads to increased EU bargaining leverage and effectiveness, as EU policymakers claim, or if the effectiveness of the single voice is actually dependent on different factors (be it internal to the institutional nature of the EU or external) and, therefore, it can happen that even though it is present, it does not lead to a favourable outcome. In order to investigate this point, this work will be divided into four sections and will have the following structure:

1. A first chapter in which the legal framework related to EU trade matters is explained. This chapter has the aim of reporting the functioning of the EU in an effort to lay the basis for the analyses of the negotiations that will come afterwards;
2. The second chapter introduces the literature about the single voice that has been useful in order to structure the analysis around the main objective of the thesis. In fact, the literature was used to set the variables, also presented in the chapter, that will be used to analyse the two case-studies that form the latter half of the thesis.

[12] Da Conceição-Heldt, 2014; Niemann & Bretherthon, C., 2013; Thomas, 2011.

The variables exist for the sake of identifying the factors that must be considered when assessing the role of the single voice in international trade negotiations. The variables are divided into two groups: institutional variables (factors that are dependent on the institutional rules of the EU) and external variables (factors that do not depend on the institutional setting, but rather on the specific context of the negotiation). Depending on these variables, the effectiveness of speaking with one voice can vary. This is the reason why they are fundamental in order to investigate the role of the single voice in international trade negotiations.

3. The third chapter covers the first case study: the EC-US agricultural negotiations during the Uruguay Round (1986-1994). Here, the EU eventually managed to form a strong single voice. Institutional and external variables are used to investigate if the single voice led to an effective outcome.
4. The fourth and last chapter analyses the Doha Round negotiations that were launched in 2001. This is a case in which, from the outset, the EU managed to form a strong single voice, and, again, institutional and external variables are used to understand whether it led to effectiveness at the international level.

The two case-studies have been chosen because they are both negotiations in which the EC/EU at some point spoke with a cohesive single voice. In order to investigate whether it leads to effectiveness and under which circumstances, it was necessary to examine two cases in which the single voice is present and is strong. By analysing the two cases if the third and fourth chapter, this work will conclude that speaking with a single voice can lead to an effective outcome for the EU. However, the single voice itself is not sufficient to ensure a favourable outcome, especially because of two reasons: (i) the institutional variables determine how the single voice is formed at the EU level, therefore, if the single voice is not created with a favourable combination of these variables, it is probable that it will not be cohesive enough to be effective, (ii) even if the single voice is strong, external variables come into play determining the external nature of the negotiation, which can affect positively or negatively the use of a single voice. Hence, this research will conclude that speaking with a single voice can be effective in international trade negotiations, however, depending on the combination of institutional and external variables. The final aim is to refuse the absolute assumption that speaking with a single voice always leads to effective outcomes for the EU.

Chapter 1: The Trade Policy of the European Union

Since the foundation of the European Community, the common assumption for trade matters has been that a unified EU is better than a disaggregated one.[1] Indeed, trade matters have always been a priority due to its fundamental role for every member State and for the economy in general. This is why ever since the Treaty of Rome, in order to achieve uniformity, trade has been a subject for which the Commission has been authorized to negotiate by itself, with a previous authorization of the mandate by the member States and in consultation with a special committee.[2] Hence, for trade policy matters, including the conclusion of trade agreements, the EU has been granted the competence to negotiate on behalf of its member States.

In this chapter, the aim is to define the legal framework of the European Union with regards to trade policy. In order to do so, I will: (i) outline the three existing types of competences, (ii) describe the evolution of the EU legal framework on trade matters since the Treaty of Rome and, lastly, (iii) describe the decision-making process of the EU in relation to international trade agreements.

1.1. The Division of Competences

The European Union has the competence to take decisions in different relevant policy areas, but only according to the extent that the EU Treaties confer to it.[3] The Treaty of Lisbon of 2009 officially defined the division of competences of the EU and its member States.[4] Besides this, article 114 TFEU and article 352 TFEU discipline two types of competences: "the harmonization competence" and the "residual competence".[5] The former refers to the fact that the EU can adopt measures in order to harmonize national

[1] Meunier, 2005, p. 40
[2] Treaty of Rome, 1957, art. 113 (p. 41).
[3] Schütze, 2012, p. 59.
[4] Treaty of Lisbon, 2009, art. 2A-2E.
[5] TFEU, art. 114 (ex. Art. 95 TEC) and art. 352 (ex art. 308 TEC).

laws "which have as their object the establishment and functioning of the internal market".[6] Here, the Union must limit to harmonize national legislations that give rise to obstacles in trade and distortion in competition.[7] Article 352 TFEU establishes that:

"If action by the Union should prove necessary, within the framework of the policies defined in the Treaties, to attain one of the objectives set out in the Treaties, and the Treaties have not provided the necessary powers, the Council, acting unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament, shall adopt the appropriate measures".[8]

The residual competence of the Union means that, when the Union finds it necessary, it can take measures in policy areas that already exist, or it can develop a new policy area. An example of the latter case is the addition of the environmental policy in the policy areas of the EU Treaties prior to the Single European Act. Here, it was made a "small amendment" in order to develop a new European competence. The limitation to the residual competence of the EU lays in the fact that it cannot legislate in areas in which Treaties exclude harmonization, for instance in cases in which the Union can only support the competence of member States. Moreover, it cannot be used for common foreign and security policy matters and to radically change the constitutional identity of the Union.[9]

Another fundamental matter, especially in trade policy, is the parallelism of internal and external powers. Indeed, following various Court judgements and opinions, when the Union has explicit internal competence in a given area according to the Treaties, it also has implicit external competence to conclude agreements with other non-EU countries in that field. Therefore, the EU (previously the EEC) has a "parallel treaty-making power running alongside internal legislative power".[10] This parallelism has been now codified in article 216 TFEU, which recites as follows:

" The Union may conclude an agreement with one or more third countries or international organisations where the Treaties so provide or where the conclusion of an agreement is necessary

[6] TFEU, art. 114(1).
[7] Schütze, 2012, p. 65-66.
[8] TFEU, art. 352.
[9] Schütze, 2012, p. 68-69.
[10] Schütze, 2012, p. 73.

in order to achieve, within the framework of the Union's policies, one of the objectives referred to in the Treaties, or is provided for in a legally binding Union act or is likely to affect common rules or alter their scope."[11]

The thematic competences are cited in the Treaties, however, there is a different degree of responsibility of authorities (European or national) given the specific field. The categories are three and have been codified by the Lisbon Treaty: exclusive competences, shared competence, and supporting competences. In the previous Treaties there was not a defined categorization of the competences of the EU, only exclusive competence was defined (it was given that name officially in the Maastricht Treaty – TUE – in 1992), and it was established how the Community shall act in other cases that did not fall under exclusive competence. However, the current categorization is the following:

- Exclusive competences: the EU having exclusive competence in something means that the EU alone is able to legislate and adopt binding acts.[12]
- Shared competences: the EU and EU member States are able to legislate and adopt legally binding acts. In this case, EU member States exercise their own competence when the EU does not exercise, or has decided not to exercise, its own competence.[13]
- Supporting competences: the EU has only the competence to support, coordinate or complement the action of EU member States. Legally binding EU acts must not require the harmonisation of EU countries' laws or regulations.[14]

[11] TFEU, art. 216.
[12] TFEU, art. 3.
[13] TFEU, art. 4.
[14] TFEU, art. 6.

Exclusive Competence	Shared Competence	Supporting Competence
•Costums Union; •Establishing of competition rules necessary for the functioning of the internal market; •Monetary Policies for countries of the euro area; •Conservation of marine biological resources under the common fisheries policy; •Common Commercial Policy; •Conclusion of international agreements.	•Internal Market; •Social Policy; •Regional Cohesion; •Agriculture and fisheries; •Environment: •Consumer Protection; •Transport; •Energy; •Freedom, Security, Justice; •Public health (limited); •Research, Technological Development, Space; •Development cooperation and humanitarian aid.	•Protection and improvement of human health; •Industry; •Culture; •Tourism; •Education, youth and sport; •Civil Protection; •Administrative cooperation.

Figure 1 Competences and Policy Areas[15]

However, when the European Community (EC) was established with the Treaty of Rome (1957), the only competence it was granted to the EC was the power to conclude international agreements with third countries or international organizations in Common Commercial Policy matters. However, at the time, trade policy did not include all of the current areas of trade. Indeed, before the 1990s trade referred to trade in goods, tariffs, quotas and cross-border issues. Only in the last decades of the 20th century did investments, services and non-trade issues (ethical, environmental, labour issues) become crucial elements at the international level.[16]

Thus, trade policy has always been an exclusive competence of the European Union. Nonetheless, the Union has acquired more and more competence over time, and even now it does not have exclusive competence on every single aspect of trade. The treaties of the European Union have been amended more than once in the course of history, changing some rules and procedures or conferring more power to EU institutions. In fact, it is important to remember that "under the principle of conferral, the Union shall act only

[15] TFEU, art. 3-4-6.
[16] Woolcock, 2005, p. 378-379

within the limits of the competences conferred upon it by the Member States […]".[17] Hence, the actions of the EU are dependent on its legal framework.

Following the norms related to competence, the European Union has exclusive power on the negotiation of international agreements in the domain of trade. However, in the case in which the agreement is comprehensive of issues that fall also under areas of shared or supporting competence – besides exclusive competence – the situation is more complex, as more actors are involved. During negotiations, the mix of competences affect the choice of the negotiator: if the issues are of exclusive competence, a representative of the Commission is chosen; if it is mixed, it can be either a Council or Commission representative; and if it is member States' competence, they are responsible for the decision.[18] Moreover, in cases of mixed competences, during the ratification process, the agreement must be approved by both the EU (the Council of the European Union, representing EU countries' governments) and the member States' national parliaments. In this case, the Council decides on the provisional implementation of the part of the agreement that falls under EU's exclusive competence. Whereas, as the ratification by national parliaments often take years, the rest of the agreement enters into force later in time.[19]

In the area of trade policy, as stated above, member States have granted exclusive powers to the European Union, but in the Treaty of Rome only a few aspects of trade were included – meaning trade in goods, tariff rates and trade agreements. It was only with the extension of the international trade agenda (with new aspects as trade in services) that the treaty was later amended multiple times and that Community competence was redefined.[20] However, even though in the past the EU did not have exclusive competence on every trade issue that arose internationally (e.g. services and intellectual property in the 1980s), member States often recognised the Union as a *de facto* exclusive negotiator because, even though such issues were under mixed competence, they pragmatically agreed on the fact that the supranational level was more appropriate to negotiate in the international arena. An example of this situation is the TRIPs and investment negotiations during the Uruguay Round, when the member States conferred to the EU *de facto*

[17] Consolidated versione of the Treaty on European Union, art. 5(1).
[18] Elgström and Strömvik, 2005, p. 118.
[19] Meunier, 2005, p. 38.
[20] Reiter, 2005, p. 150.

exclusive powers.[21] If not already conferred by the existing treaties and if the member States agree to do so, the European Union can be granted *de jure* competence in Intergovernmental Conferences (IGCs), during which treaty provisions can be amended. For instance, trade in services was categorised under exclusive competence during the Nice Conference in 2000, with the exception of a few sensitive areas as the audio-visual sector.[22]

1.2. The Evolution of the Legal Framework on Trade Policy

EEC member States agreed to confer exclusive competence in trade policy to the supranational level with art. 113 of the Treaty establishing the European Economic Community (EEC Treaty). Therefore, it is from 1957 that the EEC[23] has the competence to elaborate, negotiate and implement trade policy. This transfer of competence was at two levels: the negotiation stage and the ratification stage. In both cases, the member States gave up the power to formally negotiate and ratify international trade agreements. This transfer of competences, however, became possible because other measures were used to ensure that the member States still had a voice in the matters negotiated under exclusive competence, as the possibility to veto a proposal and the use of unanimity voting for specific cases in the Council, which can leave national authorities a tight control on decision-making in the EU. In this way, the EU managed to obtain exclusive competence without taking the whole authority of national governments.[24]

The European Community's aim was mainly economic. It is quite clear that, initially, the desire for bargaining leverage in trade issues was superior to the national economic interests of single states.[25] For the majority of the second half of the 20th century, no problems related to trade issues arose. However, when international trade negotiations – which took place under the GATT system (WTO after 1995) – started to include new issues that were not included in the original scope of trade policy, it became

[21] Woolcock, 2012, p. 68.
[22] Treaty of Nice, art. 133(5-6).
[23] From now on referred to as "EU" or "European Union" for linearity.
[24] Laura Cram, Desmond Dinan And Neill Nugent, 1999, p. 6-7.
[25] Meunier, 2005, p. 22-23.

difficult to understand who should have the competence for them (as it will be seen later). Actually, the Treaty of Rome did not contain a precise definition of trade policy, and the general agreed-upon aspects of trade were mainly related to goods. In the 1980s, the agreements started to encompass services, foreign direct investments and intellectual property rights. In each of these cases, the responsibility for the extension of issues in international trade negotiations was of the United States.[26] Among the EU countries, much disagreement existed on the legal procedures that had to be applied when negotiating and ratifying. The core principles of exclusive competence began to be questioned, and, after the Uruguay Round, member States tried to regain some of the supranational authority that they had conferred to the EU level decades before.[27] It is important to remember that, as stated previously, sometimes states agreed upon giving *de facto* competence to the EEC when *de jure* competence was not present.[28] This is what happened during the Uruguay Round. However, as disagreements related to the new issues came up in that period, member States decided only to postpone the debate on competence after the round, granting competence to the EU over the new trade matters and approving the launch to the first round in 1986.[29] From these new tensions, it is clear that the issue of granting supranational competence to the EU and giving up on national power was a sensitive matter. The exclusive competence for trade in goods was agreed upon in 1957 with the chance for member States to veto what was against their national interests. In the 1980s, with an enlargement of trade issues, this sensitive topic revived the problem of finding a balance between supranationalism and intergovernmentalism (here meaning giving competence to the supranational level or treating the member States as the primary actors).[30]A general timeline of GATT negotiations that included new issues follows with the aim to understand how the dynamics of international negotiations are related to the evolution of EU trade policy.

Indeed, in the 1960s and 1970s, the EU successfully negotiated on behalf of its member States in two rounds of the GATT: the Kennedy Round (1963-1968) and the Tokyo Round (1973-1979). In both cases, the US tried to challenge the Common

[26] Woolcock, 2012, p. 46-47.

[27] Dür & Elsig, 2011, p. 325-326; Meunier, 2005, p. 22-23.

[28] *De jure* meaning according to the legal texts of the EEC/EU, *de facto* meaning what it is decided in practice, something not (or not yet) recognised by legal texts.

[29] Meunier, 2005, p. 24.

[30] Read Laura Cram, Desmond Dinan And Neill Nugent, 2013 for further information.

Agricultural Policy (CAP) – a cornerstone of EU policy – and to establish discipline on national subsidies and on preferences that favoured national industries of the EU countries. The negotiations ended with successful outcomes for the EU because of the defensive stances held by the negotiators in both cases. Moreover, the member States allowed the EU to negotiate with exclusive competence on issues that fell under shared competence.[31]

Again, in the 1980s, US demands shaped the new round of negotiation by asking the inclusion of services, intellectual property rights and investments. In these instances, it was the pressure from US sectors (respectively, financial sector, pharmaceutical sector and IT sector) that shaped US demands.[32] In the EU territory, these issues were considered of high domestic sensitivity, and the disagreements between the EU and EU countries were dampened by the member States granting *de facto* (and temporary) exclusive competence on all trade matters.

Between 1986 and 1994, during the Uruguay Round, the EU relaunched the SEM programme (Single European Market) through the Single European Act, which had the aim of establishing a single market by 1992. This new approach shaped the European Union's line of action in trade, fostering the support of liberalization and multilateral rules in external negotiations. Clearly, even though the common position of the EU became more liberal, the stance of the single states depended on their national preferences and positions.[33] If the SEM programme and the entry into force of the Maastricht in 1993 drifted towards a more liberal EU common position, the member States did not seem to share this spirit. In fact, when the Uruguay Round ended, there had been discussions on who had the responsibility to sign the final act. Eventually, the signatories were the Council of Ministers' President, which at the time was Greece, and the External Trade Commissioner, Leon Brittan, with the representatives of each state symbolically signing on behalf of their national governments.[34]

At the end of the Uruguay Round, the final decision included the creation of a permanent organization that covered world trade matters, the World Trade Organization (WTO). Here, the problem of competences became problematic. States did not want to

[31] Woolcock, 2012, p. 47-48.
[32] Woolcock, 2012, p. 48.
[33] Woolcock, 2012, p. 49-50.
[34] Meunier, 2005, p.24-25.

give up their sovereignty, and even though the European Commission was willing to lose some of its authority – by granting member States and the European Parliament veto power in approving the WTO agreement – a solution seemed to be impossible to find. Hence, in 1994, the European Commission (EC) decided to ask to the European Court of Justice (ECJ) an advisory opinion, convinced that it would back its position. However, the Court's Opinion (1/94) stated that it was not possible to deduce from its Treaties that the Community had exclusive competence to conclude an agreement on the "establishment and access to service markets". Its competences ended to the "subject of cross-border supplies within the meaning of GATS, which are covered by Article 113".[35] The ruling of the ECJ did not favour the want of the Commission, but the language of the Opinion was kept imprecise in order to allow further interpretation on the matter in case of future conflicts.[36]

In 1996, a new Intergovernmental Conference (IGC) took place in Amsterdam. The Commission approached the IGC very cautiously, by claiming that it was not necessary to include new issues of the common commercial policy as environmental aspects of trade or social standards, but it wanted to be granted exclusive competence in the negotiation of services and intellectual property, supporting its demand by claiming that it was impossible to separate issues of exclusive and shared competence in the framework of the new international agenda. Disentangling the issues would only have weakened the EU's position during negotiations and slowed down the decision-making process. Eventually, with the Amsterdam Treaty, article 113 of the Treaty establishing the European Community (which regulated EEC's trade policy) was slightly amended and renumbered article 133. The modified article claimed that exclusive competence was extended to services and intellectual property rights when the Council deemed it necessary and by voting exclusively by unanimity. Therefore, this meant that the expansion of competence for services and intellectual property rights should have been decided depending on the specific case.[37]

It took only a few years for the Commission to start insisting again on being granted complete exclusive competence in trade in services. The rationale was because it would have been more efficient. Trade in services was increasing very fast, and according to the

[35] ECJ, Opinion 1/94, 1994, p. 24.
[36] Meunier, 2005, p.26-27.
[37] Treaty of Amsterdam, art. 133 (ex art. 113 TEC, new art. 207 TFEU), p. 35.

Commission, a single voice (which was often mentioned as a positive consequence of negotiating under exclusive competence) was becoming necessary. In a speech to the French Institute of Internationalization, the Commission's President Jacques Santer stated that during the Uruguay Round, the EU faced "procedural difficulties". This is what Santer stated:

> "we also ran into a number of procedural difficulties which could be traced to the fact that the article of the Treaty which gives the European Community exclusive competence in trade matters is now distinctly out of date. Thirty years ago, international negotiations were concerned primarily with trade in manufactured goods, whereas the key issues today include trade in services, direct foreign investment and intellectual property. Hence the heated debates about who has the authority to negotiate in GATT and now the World Trade Organization - the European Community or the Member States. The European Commission is proposing a rewording of the treaty to take account of the new forms of international trade, to enable us to speak with a single voice without sacrificing any impact."[38]

In 2000, the new Intergovernmental Conference took place in Nice. The issue of voting here was a top priority. As in past IGCs, France was the strongest opponent to the neoliberal position of the EU. The Commission – which, with the vote of the Council, is granted a mandate, proposed to extend qualified majority voting in the Council to every trade issue except in cases in which important societal values could be affected. The Commission tends to propose qualified majority voting as, with unanimity, it is easier that a member State vetoes a policy which is not in its national interest.[39] Whereas, with qualified majority the voting rules are less stringent. Eventually, the rule for trade became the following: exclusive competence for trade in services with some exceptions – i.e. cultural and audio-visual services, social services, education, transports and human health services, which fell under shared competence.[40]

Entered into force in 2009, the Treaty of Lisbon (TFEU) changed some rules. Firstly, article 133 (ex art. 113 TEC) became article 207 (TFEU). Exclusive competence is now extended to trade in services, the commercial aspects of intellectual property and foreign direct investments. According to art. 207(4), in order to give mandate to the Commission, all the above-mentioned fields are voted by the Council following unanimity rules in cases

[38] European Union Press Release, 1996.
[39] Laura Cram, Desmond Dinan And Neill Nugent, 2013, p. 6.
[40] Treaty of Nice, 2000, art. 133.

in which unanimity is required for the adoption of internal rules, otherwise qualified majority is used. Moreover, cultural and audio-visual services are now under exclusive competence, as they are part of trade in services, but must be voted unanimously by the Council when they prejudice the Union's cultural and linguistic diversity. Concerning health and education services, they are under exclusive competence too, and they must be voted unanimously when the responsibility of member States to deliver them is in danger.[41]

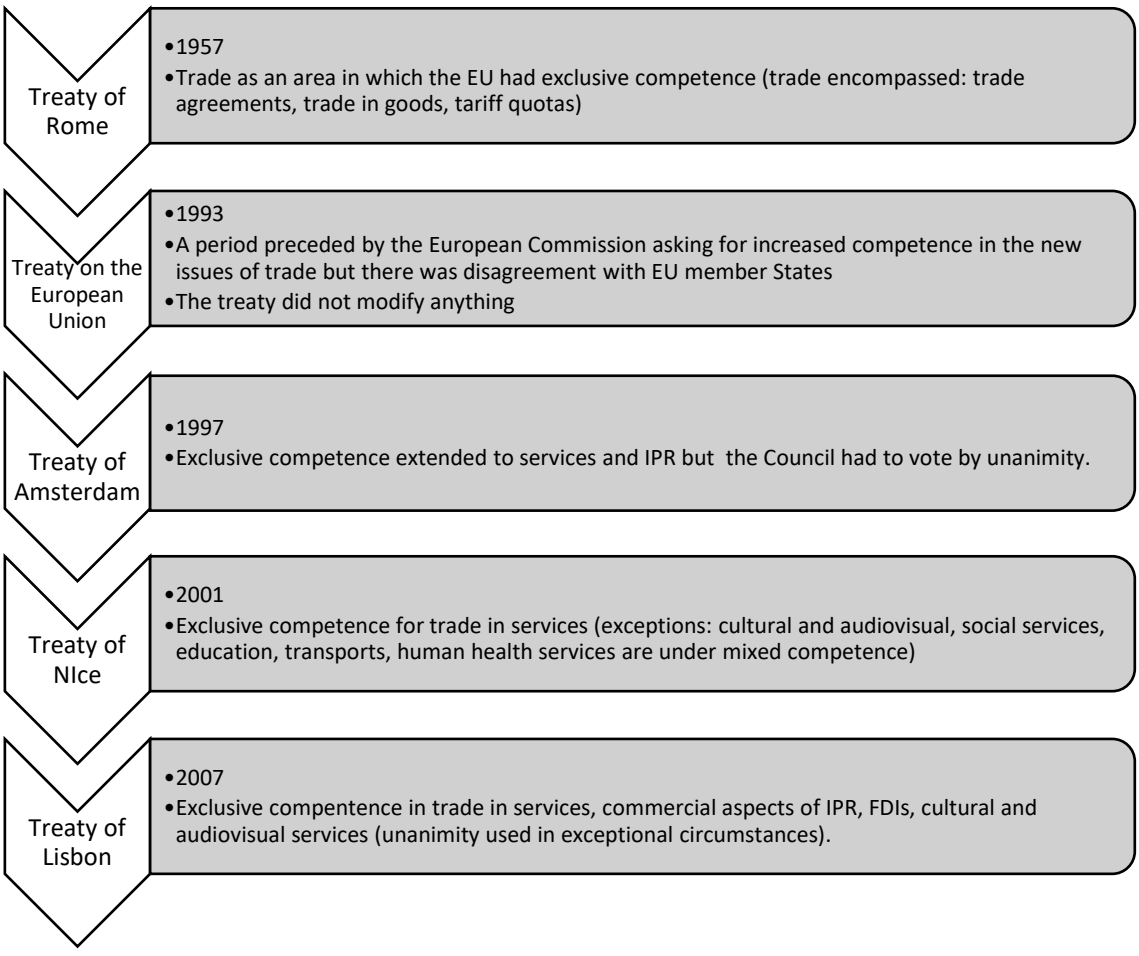

Figure 2 The evolution of the legal framework on trade matters

[41] TFEU, Article 207.

1.3. The Decision-Making Process

In the decision-making process for the negotiation of international trade agreements are involved three institutions: the European Commission, the Council of Ministers and, since the entry into force of the Lisbon Treaty, the European Parliament. Clearly, trade policy-making is not limited to international negotiations, it encompasses also other aspects of the common commercial policy, such as the achievement of liberalization, the protection of trade through anti-dumping measures and subsidies or export policy.[42] However, for the sake of this thesis, the only focus is going to be on the procedures for international trade agreements according to the latest version of the Treaty on the Functioning of the European Union. The main steps of the procedure cited here were valid also previous to the latest version amended with the Treaty of Lisbon in 2009 (except of the ones related to the function of the Parliament, which is now granted more competence). According to article 207(3) TFEU, for the decision-making process, article 218 TFEU(ex. Art. 300 TEC) shall apply. Such article lays down the procedures that must be followed when negotiating and concluding international trade agreements between the Union and third countries or international organizations.

In order to understand the actors that are involved in the decision-making process, a brief explanation of their roles follows:

- European Commission: The Commission is the executive branch of the EU. Generally, its aim is to foster collective goals and to ensure the implementation of treaties. The European Commission should act independently from the influence of member States. In international trade negotiations, the Commission proposes, prepares, and negotiates the EU's international trade agreements.
- Council of the European Union (Council of Ministers): in the Council, EU member States are represented. The Council decides whether to give mandate to the Commission to negotiate an agreement, after the Commission presents its proposal. Currently, it decides jointly with the European Parliament

[42] TFEU, Article 207(1).

whether to approve EU trade agreements. Before the Treaty of Lisbon, it was the only legislator. Thus, the Council gives authorization both in the negotiation and ratification stage.

- European Parliament: since 2009, the European Parliament (EP) has had a role in trade policy. With regards to the common commercial policy, decisions must be taken following the Ordinary Legislative Procedure (OLP: co-decision between the Council and the EP).[43] Furthermore, article 218(6) TFEU states that the Council shall adopt a decision related to the conclusion of an agreement only if the consent of the Parliament is present (generally, in those cases in which OLP usually applies) or after consulting the Parliament in other specific cases. Before the Lisbon treaty, however, there still was a *de facto* involvement of the EP in trade negotiations. In 1999, with the Trade Commissioner Pascal Lamy, there was the will to treat the Parliament as if it had more power.[44] In 2005, the International Trade Parliament Committee (INTA) was established. However, even though in the past the Parliament was not granted a major role in trade, ever since the 1960s, there was an informal procedure in place in order to keep the Parliament informed (Luns-Westerterp procedure[45]). Only with the TFEU, according to which the EP must be fully informed of all the processes of negotiations, the institution gained *de jure* competence.

1.3.1. Preparation

The process starts from the European Commission, more precisely from the Directorate General for trade (DG Trade). The staff of the DG Trade responds to the EU trade commissioner, who is nominated by the member States and elected by the Parliament every five years.[46] DG Trade's proposals shape the international strategies of the EU, and the fact that, it consults with other directorate generals depending on the issue

[43] Article 207(2) TFEU
[44] Woolcock, 2012, p. 55-56.
[45] It was an informal arrangement: the EP was constantly informed by presidency of the Council of progress in the negotiation of international agreements with third parties.
[46] TEU, art. 17.

(industry, agriculture, environment, and so on), ensures coherence in EU decision-making. As its aim is to foster trade globally, DG Trade tends to be more liberal compared to the other departments, which may be biased towards specific interests of their sectors. The Commission's positions are also generally based on precedents, as its interests are usually linear through the years. In order to understand the impact of negotiations, the Commission launches a public consultation and an informal scoping exercise, which sets out what both parties wish to negotiate. The proposal of the Commission is discussed in a Council special advisory committee now named Trade Policy Committee, or TPC – the former 133 Committee, which took the name from the TEU article. It is formed by the top trade officials of the governments of the member States, depending on which ministry is responsible of trade issues, and it meets one Friday a month in Brussels. At the deputy level, the committee gathers once a week, as they tend to be Brussels-based officials working in the permanent representations of their countries in Belgium. The deputies tend to deal with more technical issues.[47]

After the dialogue within the Trade Policy Committee, which takes decisions under consensus, the proposal is transmitted to COREPER (Committee of Permanent Representatives), which is responsible for the coordination of member State positions across policy issues and for the preparation of the work of EU Councils. After having discussed the proposal, it passes it to the Foreign Affairs Council, which has to decide on the negotiating mandate by QMV or unanimity depending on the issue (and, depending on the historical period that one examines, depending on which Treaty applied). Its position usually does not differ much from the one of the TPC, as its analysis is carried out by specialized trade officials.[48] The Council then adopts a decision authorising the Commission to start negotiations, and the EU's negotiator in the DG Trade assembles a negotiating team.[49]

1.3.2. Negotiations

After the Council adopts the negotiating mandate, the actual negotiation is led by the European Commission. In theory, as long as the EC respects the limits of the mandate,

[47] Meunier, 2005, p.34; Woolcock, 2012, p. 53-54.
[48] Woolcock, 2012, p. 54-55; Meunier, 2005, p.35.
[49] European Commission, 2012, p. 4.

the negotiators can adopt the negotiating strategies they wish. In practice, the extent to which the EC can act as it wants depends on the control that the Council wants to exert on the negotiations. The mandate can be either a set of specific directions or a vague document.[50] The only negotiator in trade is DG Trade, it can be the Commission officials at Director level or at Heads of Unit level; the Director General; or the Deputy Director General of DG Trade. Only on matters of agriculture it is DG Agriculture that leads negotiations. The Trade Policy Committee assists the Commission during the process, and at every step of the negotiations the Commission keeps the Council and the Parliament informed.

Negotiations of the mandate can encompass formal, semiformal or informal stages. During formal meeting, member States can be observers but only the negotiator can act. At semiformal stages, they are not present during meetings. After every negotiating session, the Commission reports to the member States, and if they disagree with its actions, it is up to the Commission to decide whether to continue or to change strategy claiming to the other party that the Council is limiting its scope of action. During informal meetings, few people are present, and the Commission usually does not report back to its member States.[51] A great part of the work takes place at the informal level, but when meetings are formal it is normal that member States are present, especially during the last key sessions. This is fundamental in order to avoid that the agreement is eventually rejected by the Council. Communication between the two institutions has proven necessary if an agreement has to be ratified immediately. When the Commission has a final text, it sends it to the Council and the Parliament.

1.3.3. Signature and conclusion

After the conclusion of negotiations, the Commission reviews and corrects the text of the agreement. After its revision, it sends it to the Council and the Parliament. The Council revises the language of the text too, and then it sends it back to the Commission, who drafts proposals for: the signature, provisional application and conclusion of the

[50] Meunier, 2005, p. 37.
[51] Meunier, 2005, p. 37-38.

agreement. After the proposals have been adopted by EU Commissioners, it sends them to the Council with attached the text of the agreement translated in all EU languages.[52]

After approval of the Council, the Commission appoints the person that will sign the agreement, who is often a government minister of the country currently holding the Council presidency, or the EU Trade Commissioner. It is possible that the Commission proposes a provisional partial application of the agreement, at least for the areas that fall under exclusive competence. If the agreement includes areas that do not fall under exclusive competence, it can take longer to enter into force, as national parliaments have to approve it. It is up to the Council to approve the provisional application.[53]

After the text has been signed by all the parties, the Council examines the text and sends it to the Parliament, who votes on it fist in the INTA committee, and then in a plenary session (this only after the Lisbon Treaty). When approved also by the Parliament, the agreement can enter into force if it only encompasses exclusive competence areas (or if it does not but partial application has been approved by the Council). An agreement that includes areas that fall under mixed competence will enter into force only after national parliaments have ratified it.[54]

For the duration of the whole procedure, voting in the Council for exclusive competence issues takes place under qualified majority. Unanimity is used only is specific and exceptional cases and depending on the EU Treaty consulted.

[52] European Commission, 2012, p. 5.
[53] European Commission, 2012, p. 6.
[54] European Commission, 2012, p. 6.

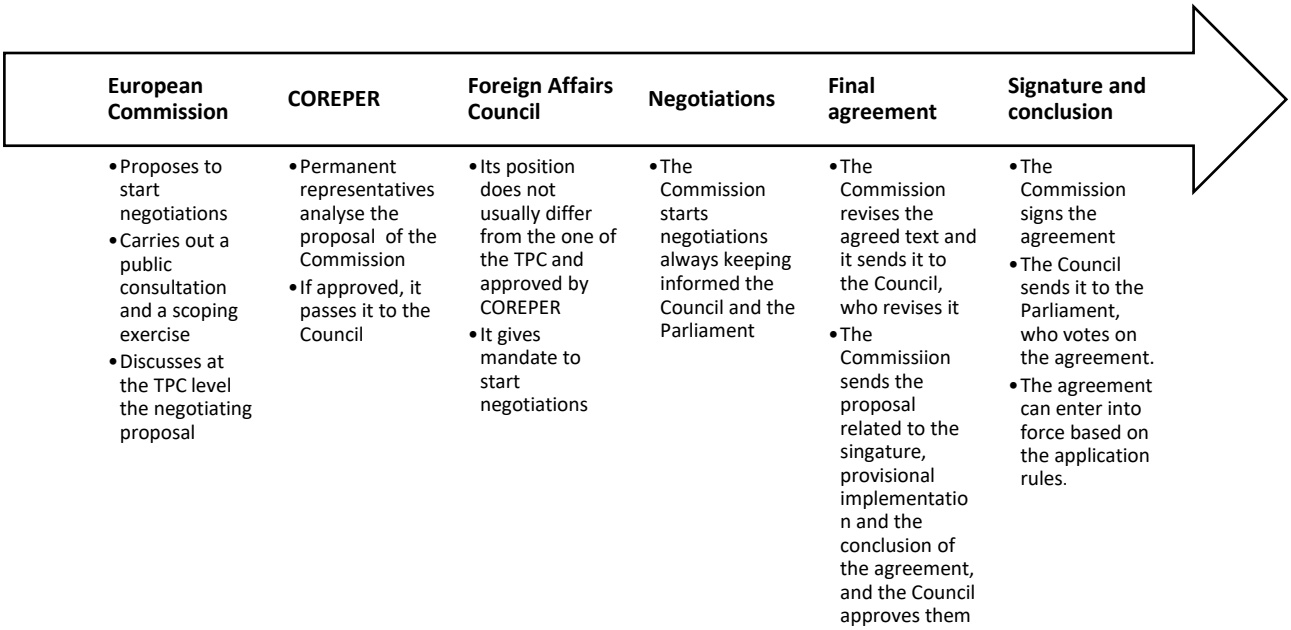

Figure 3 Main Steps of the Process

1.4. Conclusion

This chapter attempted to define the legal framework of the European Union when negotiating international trade agreements. However, it is important also to clarify the difference between "exclusive competence" and "single voice". Indeed, exclusive competence refers to the fact that the EU (represented by the European Commission in negotiations) is authorized to negotiate on behalf of member States. Whereas, the "single voice" is the common position of the EU displayed at the international level by speaking with only one voice. As explained in the introduction, speaking with one voice does not imply that every member State agrees with the common position that the Commission defends at the international level. It just means that the dissident State does not interfere or oppose the position of the Commission. Indeed, it means that "the member states neither undermine nor overrule the collective position to be defended with a single voice,

even if they disagree with it."[55] There can be at the same time a "single voice" and heterogeneity among the positions of member States.

Therefore, the fact that the EU has the right to negotiate international trade agreements under exclusive competence does not imply that the Commission will always be able to negotiate with a single voice. This is something that was not often differentiated by people who advocate for more exclusive competence to the European Commission, who associate the demand for exclusive competence with the necessity to speak with one voice. Instead, the single voice, as it will be explained in the next chapter, can be either present or not. When the single voice is present, it can be strong or weak (more or less effective and credible at the negotiating table) depending on various factors internal and external to the functioning of the EU.

[55] Da Conceição-Heldt & Meunier, 2014, p. 966.

Chapter 2: The variables used to analyse EU's effectiveness in trade negotiations and its relation to the single voice

The basic assumption of the officials of the European Commission is that if the European Union is able to speak with a single voice, the higher its effectiveness *vis-à-vis* international competitors in trade negotiations[1] – with effectiveness meaning that, thanks to its bargaining leverage, the EU is able to obtain a favourable outcome considering its interests. Here, it is key to keep in mind that the single voice is often mentioned in association with exclusive competence, and that when EU policymakers asked for increased competence in trade areas, they cited the importance to speak with one voice. Therefore, even though there can be exclusive competence without a single voice, the rhetoric of the EU tends to positively associate them.

The main aim of this chapter is to outline the variables that will be used in chapters three and four in order to analyse the two negotiations (EC-US agricultural negotiations in the Uruguay Round and the Doha Round). The analyses will be carried out with a view to assess whether speaking with one voice actually led to effective outcomes for the EU. However, in order to make this assessment, such analyses have to be structured keeping in mind the variables described below.

The structure of this chapter is as follows: firstly, a section is dedicated to explaining the literature used in order to retrieve the variables that will be explained later. Then, two sections are dedicated to two sets of variables: institutional variables – the institutional rules of the EU that have a role in the formation of an internal single voice – and the external variables – variables that are related to the context of the international negotiation rather that to the EU institutional rules. External variables are fundamental because, even though the institutional variables play an important role for the EU to be effective, other factors related to the external setting of the negotiation always come into play. It would not be realistic to expect that the international context is not relevant for the effectiveness of the EU.

[1] Da Conceição-Heldt & Meunier, 2014, p. 961.

2.1. The Existing Studies

The assumption that effectiveness and bargaining leverage are linked to the idea of speaking with one voice has been advocated by EU policymakers for a long time. For this reason, this research starts from the speeches and statements published by the European Commission. In 1996, Leon Brittan – at the time, European Commissioner for External Relations – claimed that the "Community's common commercial policy needs a clear framework which ensures that […] the Community speaks with a single voice."[2] In 2005, EU Trade Commissioner Peter Mandelson, stated: "We are stronger if we act as a single market with a single voice, not only internally but also in our trade relations."[3] The rhetoric of the European Commission often refers to the necessity of speaking with a single voice in order to be stronger at all levels.

Based on the words on EU policymakers, this correlation has been supported also by a first wave of scholars that studied the European Union. Two examples are Joseph Jupille and Sophie Meunier. Both of the studies are relevant for this dissertation because they made observations on the structure of the EU and its relevance to the formation of a single voice. Jupille claimed: "The EU can decisively shape international outcomes by concentrating the weight of its fifteen member States on a single substantive position and rendering that position critical to any internationally negotiated agreement."[4] Jupille (1999) concentrated in the analyses of the voting system of the EU, claiming that it affects European bargaining positions and international outcomes.

Meunier (2005) has studied the correlation between the internal rules of the European Union and the capability of the EU to affect the distributional outcomes in different trade negotiations, finding that speaking with a single voice determined an increased bargaining leverage depending on different institutional variables – thus on the internal functioning of the EU. Meunier's analysis has been useful to retrieve the institutional variables for this work. However, her study did not take into consideration possible external factors

[2] European Commission, 1996.
[3] European Commission, 2005.
[4] Jupille, 1999, p. 409.

that could potentially affect EU's capability to be effective in an international trade negotiation. For this sake, the second wave of scholars proved fundamental. This second wave started to challenge the direct correlation between the single voice and external effectiveness.

According to the new literature, the single voice is not sufficient in order to secure a successful outcome during international trade negotiations. For instance, Eugénia da Conceição-Heldt, claims that it also depends on other factors whether a negotiation ends successfully. In cases where exclusive competence applies, it can occur that the EU, because of external variables related to the international setting, does not conclude the agreement in the best way possible or it does not conclude it at all.[5]

Scholars of the same wave include Daniel C. Thomas and Niemann and Bretherton. The former claims that the scholars that supported the direct correlation failed to find a way to measure it, as each of them focused on too many different variables in order to do so.[6] Moreover, he states that an internal common and coherent position may be necessary for the EU to shape international negotiations and to exert power in the global arena, however, it is not sufficient in a globalized world where multiple international players act in order to pursue their national goals – which often do not coincide with EU preferences.[7] Niemann and Bretherton also claim that, as the European Union is composed by 27[8] member States and it has a multi-level structure, the positive correlation between the single voice and external effectiveness cannot be taken for granted.[9]

Thanks to the contribution of the second wave of scholars, the debate on the single voice of the EU and external effectiveness at the international level made some steps forward. However, their analyses have to be considered more as an incrementation than as a substitution for the older theories. The points made by the first wave of scholars are not void, although now there is proof of the fact that they are insufficient in order to make a complete examination. The findings of the above-mentioned scholars contributed to the definition of the external variables of this thesis, so that a complete analytical framework

[5] Da Conceição-Heldt & Meunier, 2014, p. 962 and 974.
[6] Thomas, 2011, p. 3.
[7] Thomas, 2011, p. 25.
[8] The paper was published in 2013, when Croatia had not become a member yet (its accession was on July 1st, 2013).
[9] Niemann and Bretherton, 2013, p. 1.

could be formed – a framework that not only includes the institutional rules of the EU, but that keeps in consideration also the external international setting.

2.2. Institutional Variables

The structure of the EU has a significant impact on how decisions are made for trade policies. The negotiating position of the Union is highly determined by its structure. The institutional variables correspond to the internal rules of the EU. In this section, the three variables are: (i) the voting system of the EU, (ii) the delegation rules and (iii) the nature of the negotiation (whether it is a case in which the EU has conservative or reformist objectives). It is important to keep in mind that the single voice is formed at the institutional level. Therefore, the single voice will be formed depending on how institutional variables interact. The different variables determine also the cohesiveness of the single voice, in the sense that its strength or weakness at the international level depends on the institutional rules. As a result, the effectiveness of the single voice in international trade negotiations highly depends on the institutional variables that assess how it is formed at the EU level (and also on the external variables explained later in the chapter). For instance, there are cases in which the institutional rules are used in a better way in order to be effective, and there are instances in which the EU is not able to create a strong single voice in order to conclude a successful agreement. Therefore, these variables are used in order to demonstrate that bargaining leverage and external effectiveness do not necessarily depend on the single voice *per se*, but more on the way in a which it is formed at the institutional level.

2.2.1. The structure of the European Union

The European Union is formed by a multitude of States that have their own internal preferences. These preferences depend on various factors that go from societal ideas, domestic institutions and interests, their market structures and their domestic industries.[10]

[10] A. Moravcsik, 1997, p. 513.

Influential domestic groups that hold specific interests in certain areas usually detain power *vis-à-vis* the government. This is based on the fact that, besides the negotiations at the EU or international level, the member States have to deal with interests at the domestic level.[11] On the topic, according to Moravcsik:

"In the liberal conception of domestic politics, the state is not an actor but a representative institution constantly subject to capture and recapture, construction and reconstruction by coalitions of social actors. Representative institutions and practices constitute the critical ''transmission belt'' by which the preferences and social power of individuals and groups are translated into state policy."[12]

The trade preferences of a country are largely shaped by domestic social actors. For example, French farmers hold a large influence when it comes to agricultural policies, and France's position in this domain is usually protectionist and in support of the requests of farmers. Therefore, the preferences of a country change in relation to the circumstances. Generally, France tends to be protectionist in agriculture and cultural matters, but more liberal on service issues. Germany is usually liberal in trade in goods, but less on agriculture and services. Sweden is generally on the liberal side, being a social-democratic country, whereas Italy, Spain and Portugal tend to have a protectionist stance.[13] Due to the different interests of the EU member States, they often face difficulties in agreeing on issues. Indeed, European Commission negotiators have claimed that the protectionist positions of some countries lead to solutions that are "lowest common denominators", which is problematic because it hinders the possibility to make innovative proposals during international negotiations. This, according to negotiators, fosters the status quo[14] – which does not go hand in hand with the attempts of the Commission to foster progress and liberalization in trade issues. Another institutional constraint is the fact that, due to the various steps involved in the EU during international negotiations and due to its multilevel structure, negotiating with the European Union is a very time-consuming process. Moreover, coordinating at all those levels (regional,

[11] Putnam, 1988.
[12] Moravcsik, 1997, 518.
[13] Woolcock, 2005, p. 390.
[14] Strömvik & Elgström , 2005, p. 119.

national and EU level) becomes very complex. Therefore, it is clear that the capacity of the EU to be an efficient and effective actor is sometimes made more complex due to the presence of multiple countries with multiple preferences. For this reason, negotiators usually ask for more competence.

However, there can be situations in which the complexity of its institutional structure can become a bargaining asset for the EU. The theories of Schelling and Putnam become crucial in order to understand the previous claim. In *The Strategy of Conflict*, Schelling affirmed that during a negotiation, an actor could exploit its constraint in an effort to gain an advantage. By claiming that its hands are tied, the actor shows its opponent that it has no room for manoeuvre, and it forces the other party to make concessions.[15] This can be the case for the European Union: its negotiators can use the institutional complexity of the EU in order to claim that their hands are tied. At the end of the 1980s, Robert Putnam developed a theory based on the Schelling conjecture. Putnam elaborated the concept of the two-level game, according to which a negotiation has to work at two levels, i.e. the international negotiation level and the domestic level. In the case of the EU, the number of levels increases, as the European Union level also exists in between the ones established by Putnam. The negotiator has to find an agreement acceptable at all of the levels involved. According to Putnam, the smaller the win-set (i.e. the alternatives preferred to a no agreement), the bigger the constraint for the negotiator, and the higher the probability that the outcome will be closer to the small win-set. The reason behind this assumption is that if a negotiator has a smaller win-set and, consequently, its hands are tied, the most likely the other party will be obliged to budge in order to find an agreement.[16] Anyhow, these theories can become very general if the context is not taken into consideration. For the case of the EU, its internal rules for international trade negotiations and the specific context should be examined.

[15] Schelling, 1960.
[16] Putnam, 1988.

2.2.2. Variable 1: Voting System

In the European Union system, the voting rules that can apply are: qualified majority voting or unanimity voting. The former provides every country with a number of votes weighted on the size of its population – since 1st November 2014, QMV consists in the approval of 55% of Member States that, together, represent at least 65% of the EU's population.[17] The latter implies that every member State has a veto power, and therefore it can block a proposal and the final deal. As decisions under this rule must be agreed upon by each member State, this means that every one of them has the power to block an initiative and to maintain the status quo.

The voting rules in the EU have been changing in the years: according to the Treaty of Rome, unanimity rule had to be used for trade only until 1966. Then, qualified majority (QMV) would be instituted. However, this rule was not totally convincing for France, and the final solution resulted in the Luxemburg Compromise[18], according to which states could informally veto a decision taken under qualified majority if it put in danger a significant national interest. With the Single European Act of 1987, QMV was expanded in the Council of Ministers, althougsh only on matters pertaining to the internal market.[19] The Treaty on the European Union implemented by the Maastricht Treaty in 1992 established qualified majority as the voting rule for common commercial policy matters (services and intellectual property were still excluded) .[20] With the Nice Treaty, in 2000, QMV was extended to all trade matters, except for cases in which basic societal values of the member States were in danger.[21] Now, after the Lisbon Treaty, all aspects of trade are decided upon using QMV, excluding cases in which unanimity is required for the adoption of internal rules, or for certain aspects of cultural and audio-visual services or health and education services.[22]

The implications of which voting rule applies are different and outlined in this section. In fact, unanimity voting leads to the lowest common denominator, which means

[17] Article 238 TFEU).
[18] Final Communiqué of the extraordinary session of the Council Luxembourg, 1966
[19] Moravcsik, 1991, p. 20.
[20] TEU, 1992, art. 113.
[21] Meunier, 2005, p. 31.
[22] Article 207 TFUE

that the most protectionist position (the status quo or close to it) will be the common position that the EU will defend if no other common position is found. In fact, the veto of one country with protectionist interests is enough to hamper an innovative proposal. In practice, the threat of a veto from a strong country is more threatening compared to a smaller country. In theory, however, any member State can use its veto right to maintain the status quo.[23] Therefore, unanimity voting can influence the formation of the single voice making it more "conservative", according to the view of the most protectionist member States. Indeed, quoting Meunier: "Unanimity has the effect of amplifying the most conservative voice by giving it the weight of all member States when it becomes the common EU position".[24]

On the contrary, when QMV is used, the extreme positions of protectionist countries can be attenuated by the fact that they cannot use their veto power. Studies have shown that when qualified majority voting is used, the positions of the member States tend to be closer to the proposal made by the Commission (except when the Commission's position is particularly extreme), precisely for the fact that protectionist countries cannot veto a proposal.[25] Therefore, using QMV can contribute to the formation of a single voice that is not influenced by protectionist tendencies. Obviously, it can happen that voting with qualified majority leads to a protectionist common position. However, the interests of member States tend to be diversified based on the matter, thus, it is difficult that all of them share a protectionist (or liberal) view. For this reason, QMV tends to mitigate the extreme positions rather than to consolidate them.

2.2.3. Variable 2: Delegation Rules

In trade negotiations, by agreeing on the negotiating mandate the Council of Ministers decides the extent to which it will delegate competence to the Commission. If this process is analysed through the Principal-Agent approach (PA approach), the Council is the principal, i.e. who gives instructions, and the Commission is the agent, i.e. who acts during the international negotiation. The benefits of the fact that the Commission negotiates on behalf of member States are multiple. Firstly, the Commission is an agent

[23] Jupille, 1999, p. 411
[24] Meunier, 2005, p. 55.
[25] Meunier, 2005, p. 56.

with expertise on specific issues, therefore it can be more specialized on trade matters. Moreover, speaking with a single voice can be a good strategy at the international level because of the nature of the European Union. Noting that the EU was born as a customs union is crucial for this point, as allowing member States to individually negotiate trade agreements can be detrimental for the existence of the customs union.[26] A customs union is by definition a union of countries that form a free trade area, allowing separate negotiations would undermine the nature of the union itself.

The levels of delegation at the European level are multiple: from the constituency to the national parliaments, from the national parliaments to the government, from the government to the EU level. More specifically for trade policy, from the Council to the Commission. The focus of this section is on the last step of delegation. This is the level of macro delegation. However, micro delegation exists as well, and it encompasses day to day activities that aim at controlling the actions of the agent. Moreover, the situation of the EU can be complex with regards to principals, which are multiple. In fact, the Council is formed by multiple member States which all have different national interests and tendencies (more on the liberal or protectionist side depending on the issue).[27] A collective principal (the Council) can clearly have different preferences with regards to the competence that should be granted to the Commission.[28] Especially with member States, their trade preferences at the EU level stem from their economic interests on the issue at stake, which are highly dependent on powerful interest groups.

An important aspect is that agents have interests as well. It is easy to think that, being only an executor, the Commission might only respect the decisions of the Council and comply with the powers it has been conferred upon. However, practice is different: the Commission has interests too. Generally, its aim is to maximize its power by obtaining exclusive competence on all trade issues. If, in order to conclude a trade agreement the Commission is forced to make concessions on a specific area of trade, it usually does not renege. Its concern is the impact of the trade deal on the European community as a whole, and not the potential loss of specific EU countries in given areas. This fact also depends

[26] Dür & Elsig, 2011, p. 329-330.
[27] Dür & Elsig, 2011, p. 329-332.
[28] Dür & Elsig, 2011, p. 333.

on the apolitical nature of the Commission, as it is not concerned with short-term issues as governments are (for the sake of elections), but with long-term plans.[29]

Competences are delegated during the negotiating mandate and adjusted during the process of negotiations. They can be high or low, and they depend on different attributes: flexibility, autonomy and authority. Flexibility is connected to the nature of the mandate. It can be vague, therefore allowing the Commission to act as it wishes in the limits of general guidelines, or it can be more defined, where guidelines are more specific, and they can include the concessions that are allowed to be made by negotiators.

Autonomy refers to the extent to which principals are involved in the negotiating process. The agent can be obliged to report regularly, or, sometimes, the principal may want to supervise the negotiations.[30] However, this can be extremely difficult because of the high number of meetings and the restricted number of seats reserved for the EU in international meetings.[31] Furthermore, the degree of the autonomy of the Commission can largely vary based on the stage of the negotiations and the size and number of negotiating parties, e.g. when the other parties to the negotiation are powerful actors, EU negotiators may lose some of their autonomy.[32]Authority refers to the ability of the agents to make promises to the other party and the extent to which they can respect them.

Delegation rules are highly correlated to the voting rules that have been used in order to decide the negotiating mandate. In fact, *variable 1* and *variable 2* produce combined effects on the process and outcomes of a negotiation. Keeping in mind that the focus here is trade, and the Commission tends to have a liberal position in trade matters, the rationale behind the fact that the two variables have a correlation follows. As described above, when the Council has to vote by unanimity, each country has a veto. This means that, if the member States are not able to find a common position different from the status quo, the status quo remains their common position, "enabling the most conservative member State to set the terms of the collective message".[33] Here, influence of protectionist States can be more prominent, as they are those who prefer to avoid changes from the status quo. In this case, the mandate negotiated at the Council level tends to reflect the will of the protectionist States, who wants to keep a tight leash on the negotiators so that the

[29] Da Conceição-Heldt E. , 2011, p. 405-406.
[30] Meunier, 2005, p. 57-58.
[31] Da Conceição-Heldt E. , 2011, p. 414.
[32] Dür & Zimmermann, 2007, p. 781.
[33] Meunier, 2005, p. 55.

negotiating mandate is respected. In this case, the Commission has less flexibility and autonomy, as it is more controlled by the Council. Whereas, when QMV is used, countries with protectionist positions (if they are not the majority, but in trade matters it is unlikely) tend to be outvoted because of the different number of votes given to each member State[34], and because veto power is not foreseen. In this case, the qualified majority of member States supports the position of the Commission, which is more likely to have discretion, as the negotiating mandate will be vaguer.[35] Moreover, according to Da Conceição-Heldt (2011), when the Council gives the Commission a vague mandate, the latter will be able to interpret the guidelines and to have more room of manoeuvre. In such cases, the negotiators can make more concessions and an agreement will be found more easily. Usually, a vague mandate exists when there is preference heterogeneity among member States, and the Commission has more discretion at the international level.[36] However, having such a discretion may also be detrimental as, due to heterogeneity in interests, coordinating with the Council can be very complex. This becomes a disadvantage in international negotiations because other parties understand that the EU is divided and they can ask for further concessions.[37] Moreover, it can happen that a final agreement negotiated with flexibility is rejected by member States who claim that the negotiated mandate has been violated, as it occurred in the EC-US agricultural negotiations during the Uruguay Round.

Even though incomprehension on the mandate between principal and agent can happen, it does not mean that control mechanisms do not exist. Prior to delegation, control mechanisms take the form of selecting a particular agent and defining the mandate as the principal wishes. Once competence has been delegated, the principal still has different ways to control the actions of the agent. During the process, the principal may require monitoring or reporting mechanisms, whereas, afterward, it may decide to sanction or to not accept the agreement if it does not respect the mandate.[38] However, once an agreement

[34] The ones that have more weight are: Germany, France, the UK and Italy. [Source: europarl.europa.eu. https://www.europarl.europa.eu/RegData/etudes/ATAG/2014/545697/EPRS_ATA%282014%29545697_REV1EN.pdf]

[35] Meunier, 2005, p. 59.

[36] Da Conceição-Heldt E. , 2011, p. 413.

[37] Da Conceição-Heldt E. , 2011, p. 416-417.

[38] Dür & Elsig, 2011, p. 329.

has been negotiated, it is more difficult to veto it, therefore it is more likely that the Council asks to change provisions during the negotiating process.[39]

To this point, it is clear that the delegation of competence is not a simple matter. Different factors are involved when it comes to granting competence to the Commission. Furthermore, the two variables introduced so far are highly connected, as the rules that the Council uses to vote affect the room of manoeuvre of the agent, which can have a flexible or a stricter mandate.

2.2.4. Variable 3: Nature of the negotiation

The last variable includes the nature of a negotiation, distinguishing between two possible scenarios. The first scenario is a conservative case, in which the EU has a defensive position (its interest is to maintain the status quo or to stay as close to it as possible), whereas the second is a reformist case, where the EU is more prone to accept or push for change. The combination of the voting rules of the Council that apply to the negotiated matter (variable 1) and the mandate of the Commission (variable 2) produce different effects based on which scenario the negotiation can be categorized in.

Conservative Scenario

In a conservative negotiation, the European Union is closer to the status quo position, and its opponent is the furthest away from it. According to bargaining theory, the outcome of the negotiation will be closer to the position of the EU. However, the opponent, depending on the institutional rules (voting and delegation rules) used by the Union, can manage to obtain more or less concessions.

In a conservative scenario, if the EU votes by unanimity and its negotiating mandate is tight, the influence of its most protectionist members will resonate, and it will be more difficult for the other party to make the EU yield. In fact, the negotiator can use the strategy of claiming that their hands are tied, and their room of manoeuvre is limited by institutional limits. In this case, the EU is a hard adversary, as it is able to form a cohesive and solid single voice which is more difficult to alter, based on the fact that the EU is able

[39] Meunier, 2005, 58-59.

to "tie its hands" thanks to the influence of protectionist member States. Due to the lack of flexibility and autonomy of the Commission, the opponent perceives that the principal keeps a tight rein on the agents. Here, the other party may accept limited concessions, and the outcome is not far from the position that the EU defended through its single voice. It is clear that this scenario benefits member States that want to keep the status quo, and not DG Trade or states who have liberal interests.[40] However, in a conservative scenario, the veto power becomes an advantage for the European Commission's negotiators.

On the contrary, if the Council votes by qualified majority, it will be impossible to use veto power:

> "Qualified majority increases the likelihood that an agreement will be reached, since there is no uncertainty that the final deal will be approved by the Council. The challenging opponent benefits from being faced with a Community governed by majority rule in this case. It can expect greater gains than it would have obtained, with the same distribution of European preferences, under unanimity. In that sense, qualified majority does not enhance the EU external bargaining power as much as unanimity does."[41]

As Meunier explains, in a conservative scenario, the opponent benefits from this voting rule, and it can obtain more gains. The agreement is more likely to be reached, but with less advantage for the EU (given that it aims at maintaining the status quo) compared to unanimity. Therefore, if the EU wants to preserve the status quo, the creation of a single voice that increases bargaining leverage is reached better through unanimity and with more control on the negotiators by the Council. Moreover, if the Council delegates the Commission with a flexible mandate, the negotiators will have more room of manoeuvre. In a conservative scenario, this could be detrimental for the objective of the EU (i.e. to maintain the status quo), as the negotiators cannot use the strategy of "tied hands" and they can be forced to make more concessions. Thus, in a conservative case, limited room of manoeuvre is more appropriate to stay as close as possible to the status quo.

[40] Meunier, 2005, p. 63-65.
[41] Meunier, 2005, p. 65-66.

Reformist Scenario

The second scenario represents the EU when it has reformist tendencies, and the other party is closer to the status quo. Here, the EU's aim is to shape the external environment and influence international structures.[42] The voting rules that have to apply internally will lead to different outcomes throughout the negotiations. With unanimity, it is less probable that the Council will hold a reformist position. In fact, if there are member States with protectionist interests on a given matter (as it normally happens), that State has the possibility to use veto power on the reformist proposal. This will make the position of the Union closer to the opponent's one, as the veto keeps the EU from being able to propose changes at the international level. Here, unanimity voting in the Council is an advantage for the opponent. Therefore, in a reformist scenario (when the EU does not want to maintain the status quo, but to seek changes at the international level), speaking with a single voice formed based on the influence of protectionist member States (as they are able to veto a reformist proposal) is generally not effective. However, when the Council has to vote by unanimity only on some issues – for example when the mandate includes some issues that require QMV and some that need unanimity voting – the Commission can use strategies to have the mandate approved without protectionist member States vetoing issues that are against their interest and that require unanimity. One strategy in issue-linkage: the Commission includes in a single negotiating package every issue. In such way, countries that would veto an issue because they have protectionist interests are offset with other issues that they are more interested in negotiating.[43] In this way, the Commission could be able to bypass the problem of unanimity voting in reformist scenarios and still be able to form a strong single voice.

With QMV, it is easier for the European Union to challenge the opponent, as no veto player can hinder negotiations from seeking reform. Hence, the single voice that is formed at the EU level will probably be bereft of the influence of protectionist member States, who cannot use their veto. Moreover, as the aim is to seek reform (and not to hamper change), it is more probable that the Council is willing to give more room of manoeuvre

[42] Strömvik & Elgström, 2005, p. 122.
[43] Ahnlid, 2005, p. 136.

to the Commission's negotiators in order to find an agreement. Here, the negotiators can act promptly in order to conclude negotiations.[44]

Thus, the role of the single voice in international trade negotiations depends also on the nature of the negotiations. If the EU's aim is to preserve the status quo (conservative scenario), unanimity and stricter delegation of competences are generally better in order to form a strong single voice. In this way, the negotiators can use the strategy of "tied hands" because of the tight rein kept by the most protectionist member States, which could veto a proposal if not aligned with their interests. Whereas, when the EU seeks a change in the international arena (reformist scenario), qualified majority (or mixed voting rules and issue-linkage) and a more flexible delegation of competence are better. The reason for that are: (i) with qualified majority, who has protectionist interests cannot veto an innovative or reformist proposal, (ii) a flexible mandate allows the negotiators to make more concessions in order to reach an agreement.

2.3. External Variables

The group of external variables encompasses all of the factors that are not directly linked to the structure and the institutional rules of the European Union. These variables depend on the context of the negotiation and on the relation between the EU and the other negotiating party, and they contribute to the role of the single voice from an external point of view. It is true that the single voice is formed inside the EU through the institutional variables described above, but it would not be possible that the external setting did not affect its role at all. These variables demonstrate that a strong single voice formed thanks to a favourable combination of the institutional variables could not be effective if the external context is not favourable. The external variables are: (i) the power of the negotiating parties, (ii) the type of negotiation and the negotiating strategies, and (iii) outside options.

[44] Meunier, 2005, p. 66-69.

2.3.1. Variable 4: Relative Power of the negotiating parties

The relative power of the negotiating parties is related to the distinction between symmetric and asymmetric negotiating opponents. Therefore, it is based on the question: who is the adversary of the EU, and how powerful is it? For example, the United States are a symmetric player, as most developed countries are, whereas third world countries tend to be asymmetric ones.

Usually, the more powerful a country, the more favourable outcomes it will be able to obtain in international negotiations. In practice, power can be of different types and it can affect in different ways negotiations, as a result it does not always translate into bargaining leverage.

The discourse about power encompasses security matters and economic matters. In the former case, experts state that the higher the military strength of a country, the less likely it will have to face problems of weakness at the international level. If this is the case, it is more probable that countries that depend on their military power will be obliged to make more concessions in negotiations. Security power allows a country to make threats and to offer side-payments. Whereas, economic power is related to the market of the country and to the size of its economy. The larger one's market, the better their chance to make credible threats.[45] Thus, this factor can be an effective means to influence negotiations. Moreover, it places other parties in the position of *demandeurs*.[46] In the case of the European Union, it is important to remember that it is a customs union, therefore its size is very large, and this can be an advantage in the global arena, as no other market is as big as its. The establishment of the Single European Market in 1993 granted the EU with more leverage, which was used to shape the international trade regime in that decade. After the Uruguay Round, the European Union sought to push for a new multilateral trade round in order to make progress in some areas. However, the EU eventually failed in shaping the new trade agenda because of the opposition or indifference of other states (both leading states, as the US, and developing countries). This fact demonstrates that the EU cannot always utilize its economic power as an advantage, as sometimes it is not sufficient. However, according to many scholars, theories that explain the power of a

[45] Dür, A. and Zimmermann, H.,2007, p. 771-774; Drahos, 2003.
[46] Meunier, 2005, p. 42.

country as fundamental for its bargaining leverage do not take into account existing cases in which it happened that the weaker party ended up gaining more than its stronger opponent. This follows Thomas Schelling's theory, which claims that the weaker player might be able to obtain greater results if it demonstrates that it is constrained by its conditions and it cannot budge.[47] When we take into consideration international multilateral negotiations, weaker parties may demonstrate a high bargaining leverage also by forming coalitions (based for example on sectors of interests, or geographical origin). However, studies have demonstrated that against trade giants as the EU or the US, coalitions prove to be more useful when formally established, rather than when provisionally and informally formed.[48]

In negotiations in which EU's bargaining power is higher in comparison to the other player's, it is more likely that it will manage to obtain greater gains, as the EU has the means to make significant concessions, e.g. economic assistance, if the other country complies with certain conditions (respect of democracy, human rights, etc.).[49] Therefore, the EU can obtain concessions as it exploits power asymmetry, e.g. ability to offer or withdraw access to the single market.[50] As noted before, however, sometimes the weakness of a country's position can be used as an advantage in a negotiation. Consequently, it usually depends on the situation whether asymmetry becomes useful or not.

However, even though it is key to briefly describe scenarios of power asymmetry, this dissertation deals with two case studies in which the power of the negotiating parties is symmetrical. The first with the United States, the second with a multiplicity of actors in a multilateral negotiation under WTO rules (Doha Round). In the latter case, the EU negotiates with equally powerful countries, as the US, and with groups and coalitions formed by developing countries in order to have more bargaining leverage at the WTO level. In such cases, the chance that the EU is able to use its power as bargaining leverage diminishes.[51]

[47] Schelling, 1960.
[48] Drahos, 2003, p. 83-85.
[49] Da Conceição-Heldt E. & Meunier, 2014, p. 973.
[50] Woolcock, 2012, p. 66.
[51] Da Conceição-Heldt E. & Meunier, 2014, p. 974.

2.3.2. Variable 5: Type of Negotiation and Bargaining Strategies

The bargaining leverage of the EU can depend also on the type of negotiation (bilateral or multilateral) and the bargaining strategies used by the EU and its negotiating partners (distributive or integrative). This variable has to be read in strict correlation with variable 4 (the power of negotiating parties) and variable 6 (outside options).

In bilateral negotiations "the EU is more likely to use distributive bargaining strategies by refusing to make concessions, bluffing and threatening to walk out, especially when negotiating with weaker bargaining parties".[52] Indeed, when there is power asymmetry, the EU tends to use distributive bargaining strategies. The reason is that the EU usually has more power *vis-à-vis* its opponent, this results in a higher chance of threats to walk out or fewer concessions.[53] However, there is a general tendency of the EU to use distributive tactics in bilateral settings, also with symmetrical powers.

In multilateral negotiations, the economic power of the EU is usually not sufficient in order to have bargaining leverage (as there are other parties that can have equal power to the EU). Therefore, "in multilateral negotiating settings, we expect the EU to adopt integrative or value-creating strategies by making concessions and seeking alternative solutions and linkages to reach an agreement".[54] However, in multilateral trade negotiations this is not always the reason why the EU uses integrative bargaining, as the existence of outside options can affect the bargaining strategy of the negotiating parties, as the following paragraph will demonstrate.

2.3.3. Variable 6: Outside Options

Outside options refer to the best alternatives to a negotiated agreement (BATNA). BATNA defines the point at which the negotiator prefers to end the negotiations because their outcomes would be worse than its alternative.[55] Generally, if actors have a BATNA, they have more bargaining power because, as they already have a possible alternative,

[52] Da Conceição-Heldt E. & Meunier, 2014, 972.
[53] Da Conceição-Heldt E. & Meunier, 2014, 972-973; Woolcock, 2012, p. 67-68.
[54] Da Conceição-Heldt E. & Meunier, 2014, 973; Woolcock, 2012, p. 68; Da Conceição-Heldt E., 2014, p. 983.
[55] Da Conceição-Heldt E., 2014, p. 984.

they make fewer concessions and they can credibly threaten to walk out. Consequently, when a country has a BATNA, it tends to use distributive strategies, whereas, when it does not have it, its tactics will be integrative – therefore prioritizing value-creation over maximizing its own gains.[56]

This theory applies also to the European Union in multilateral negotiations. So, also in this case, the general assumption is that multilateral negotiations are carried out through integrative-style strategies because the EU cannot use its power as a bargaining chip. However, in the case in which the EU has a good BATNA, it is more likely that it will use distributive tactics, as the possible alternative constitutes bargaining leverage.[57]

A negotiating party can also have a WATNA – worst alternative to a negotiated agreement (the worst-case scenario if the agreement is not reached; it is to the opposite pole of the BATNA). If a party has a WATNA, and the negotiation reaches a stalemate, it will be more difficult for the negotiators to find a solution. However, if integrative bargaining is used by all parties, the probability of deadlock in a negotiation decreases, as parties try to maximise gains for each one of them.[58] Whereas, when the negotiating parties use opposing bargaining strategies, finding a compromise is more complicated.

According to Meunier, however, if a country engages in a negotiation because it seeks a change in the external environment, it is because the envisioned outcome of the negotiation it has embarked in is better and preferred to their potential BATNA. Therefore, even though the alternative exists, the negotiators will still try to conclude the agreement, as the outside option is rarely of equal value. Furthermore, outside options usually complement, and not substitute, a desired agreement.[59]

[56] Odell, 2009, p. 277.
[57] Da Conceição-Heldt E., 2014, p. 984.
[58] Da Conceição-Heldt E., 2014, p. 984-985.
[59] Meunier, 2005, p. 168-169.

Variable 1: Voting Rules

- Qualified Majority
- Unanimity

Variable 2: Delegation Rules

- Flexibility
- Autonomy
- Authority

Variable 3: Nature of the negotiation

- Conservative Scenario
- Reformist Scenario

Variable 4: Relative Power of the Negotiating Parties

- Power Symmetry
- Power Asymmetry

Variable 5: Type of Negotiation and Negotiating Strategy

- Type: Bilateral or Multilateral Negotiation
- Strategy: Distributive or Integrative

Variable 6: Outside Options

- BATNA
- WATNA

Figure 4 Institutional (1-3) and External (4-6) Variables

This chapter laid out the variables that will be used in the next two chapters. It linked institutional and external variables in order to create a complete analytical framework that can be used to analyse the internal formation of the single voice and the external factors that can potentially affect its effectiveness. Contrary to what EU policymakers try to display, speaking with a single voice in international trade negotiations does not automatically translate into a bargaining chip for the EU. Instead, the leverage of the Union depends on how the single voice is created through the combination of the institutional variables and the external variables, which are unrelated to the structure and the rules of the EU, but which can affect the external effectiveness of the single voice.

Chapter 3: The EC-US Agricultural Negotiations in the Uruguay Round

The Uruguay Round, started in 1986 in Punta del Este and finished in 1994 in Marrakesh, is the 8th and round of the GATT negotiations. The general objectives of the General Agreement on Tariffs and Trade was to create a framework for international trade by promoting free trade and eliminating tariffs and quotas. The GATT became the basis of international trade thanks to the post-war Anglo-American initiative to create three international institutions: The International Monetary Fund (IMF), the International Bank for Reconstruction and Development (IBRD – World Bank), and the International Trade Organization (ITO). This last body never came into being, as the United States never ratified the charter (Havana Charter, 1948) that laid down its basis. However, the enabling treaty of the ITO became the general framework under which international trade was regulated (the GATT system).[1]

Ever since the first round, the contracting parties focused on trade liberalization as the main priority. However, there were still sectors unregulated under the GATT framework, e.g. textiles and agriculture. Agriculture was a subject on which States were hardly ever able to make major progressions. The reason is that it was one of the most important subjects for many countries, who granted subsidies to domestic production to their farmers, which also caused market-distortion.[2] As a consequence, agriculture has always been a sensitive matter, especially because it affected the diversified interests of a great number of domestic groups in many countries. Ever since the 1980s, some countries (e.g. Canada, Australia, New Zealand, and the United States) started to push for a new GATT round in order to tackle the agricultural issues, such as the market-distorting mechanism caused by the high volume of subsidies granted to farmers.

In the analysis that follows, the only focus is on the agricultural negotiations between the US and the EC, which are relevant for the focal point of this dissertation, i.e. assessing the role of the single voice in international trade negotiations and understating if the

[1] Greenaway, 1994, p. 9.
[2] Ingersent, Rayner, Hine, 1994, p. 1.

strong single voice formed at the EU level led to an effective outcome for the EU. The focus is exclusively on the EC-US bilateral negotiations because the case provides two different instances of the EC forming the single voice through different combinations of institutional rules in a conservative scenario: (i) the combination of unanimity voting in the Council and a strict mandate proves to increase the bargaining leverage of the EU; (ii) the combination of QMV voting and a flexible mandate proves to diminish it.

The aim of the analysis is to assess the role of the single voice in order to investigate the general assumption made by EU policymakers that speaking with one voice leads the EU to increased effectiveness[3] in international trade negotiations. The analysis will prove that, in international trade negotiations, speaking with a single voice is effective depending on how the institutional variables combine, and provided that the external context (measured through the external variables) does not affect negatively the negotiations for the EC.

The single voice can be identified as a necessary condition for the EU, as its structure – composed of a plurality of States – requires a certain degree of unity so that other parties do not try to exploit its internal division. However, speaking with a single voice is not a sufficient condition for external effectiveness of the EU, due to the existence of an external context (captured by external variables) that has an influence on the effectiveness of the single voice.

The structure of the chapter is as follows: firstly, an initial analysis of the negotiating positions and the in-country situations of the negotiating parties will be carried out (with a focus on the EC and the US). Then, I will describe the evolution of the negotiations and the main steps. Lastly, the chapter will focus on the assessment of the role of the single voice during these negotiations through the use of all the variables presented in chapter 2.

[3] Effectiveness: the EU displaying high bargaining leverage and obtaining a favourable outcome given its initial interests.

3.1. The negotiating parties

The negotiating parties of the Uruguay Round were 123. However, the most influential parties with regards to agricultural negotiations, as already mentioned, were the United States and the European Community, whose positions often collided, preventing the final agreement to be reached on time. The divided positions of the US and the EC were each backed by other parties. For example, Japan tended to back the EC, due to its similar positions on agriculture. Whereas, the Cairns Group[4] sided with the United States. The objectives and the positions of the parties of the agricultural negotiations, however, were very diversified, and an assessment of the main points is fundamental.

Before analysing the two negotiating parties individually, it is useful to look at the larger framework: the context in which the round started. The round took place in a period in which new trade-related issues were starting to arise. In fact, there was a growing necessity to regulate the new areas of services, intellectual properties and trading measures. The United States were among those countries that pressured the GATT members to start another round, and tried to find support among other countries in order to do so.[5] The insistence of the U.S. for a new round stemmed from the necessity to regulate agriculture and new trade issues, but also from the need to find a way to face the increasing debt that was putting pressure on its economy: the second oil crisis (1979-1980) caused problems to many countries (among whom the US), which found themselves in a condition of slow growth and rising unemployment.[6]

Moreover, the economies of least developed countries (LDCs) were beginning to thrive. This constituted a threat for industrialized western countries, which, in response,

[4] The Cairns Group was a coalition of 19 exporting countries who had interests in liberalizing global trade in the framework of the GATT negotiations. The members of the group collaborated in order to have a stronger voice at the negotiating table with other more influential negotiating parties. The members were: Argentina, Australia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Pakistan, Paraguay, Peru, the Philippines, South Africa, Thailand, Uruguay, and Vietnam (source https://cairnsgroup.org).

[5] Meunier, 2005, p. 103.

[6] Josling Tangermann and Wiley, 1996, p.134.

started to impose a set of protectionist trade-related measures. A common measure was to enforce non-tariff measures (NTMs), as the Multi Fibre Agreement, or VERs, i.e. voluntary export restrictions (a State puts a voluntary limit on its number of exports in order to protect its domestic economy). The attractiveness of measures as VERs, which are more detrimental than tariff measures, stemmed from the fact that they are less transparent than other measures. Still, they are in explicit contrast to the GATT principles of transparency and non-discrimination policy.[7] Another challenge to the GATT system and to its function in international trade was the growing use of countervailing duties and antidumping duties, which contributed to price-distorting mechanisms. The countries that made use of such practices were mainly the EC and the US, where it often resulted in price-fixing agreements (in the EC) and in an excessive use of VERs (US).[8] Another problem, as mentioned before, was the necessity to regulate new sectors. Indeed, what some States were seeking was: better market access for services and investments and regulating intellectual property with an effort to protect creators' rights, issues that were not under GATT's control yet.[9]

If there were countries that claimed the necessity of a new round, there were others that were not so adamant to negotiate some matters. A GATT round comprises many issues, and it is consequently organized based on a number of negotiation groups. It is clear that not every negotiating party has the same interests. For example, developing countries as Brazil or India were loath to accept to negotiate an issue as intellectual property, as they benefitted from the absence of regulation in that domain. Instead, they were much more interested in agricultural negotiations or on regulating non-tariff barriers (NTBs), which tended to be more problematic to them.

The European Community was much more interested in negotiating the newly-born issues as IP rights and trade in services rather than agriculture. In fact, agriculture was the sector for which the EC was more reluctant, due to its great sensitivity and its importance for its member States.[10] The EC member States had, in fact, very different positions on the agricultural sectors, for which it was already difficult to manage the matter at the EC level. Moreover, the EC measures in agriculture contributed to the trade-distorting effects

[7] Greenaway, 1994, p. 13-14.
[8] Greenaway, 1994, p. 14.
[99] Woolcock, 2005, p. 378-379.
[10] Greenaway, 1994, p. 18-21.

of that period, due to the substantial number of subsidies that it granted to European farmers in the framework of the Common Agricultural Policy (CAP), which is the EC's most important common policy since 1962.[11]

In the end, the Uruguay Round started with 123 contracting parties and 15 working groups. Each group focused on a specific topic concerning with: trade barriers, sectors of interest, the GATT system, and the three new issues that had to be dealt with. Below, a table outlining the 15 negotiating groups.

Trade barriers

- Tariffs
- Non-tariff Measures (NTM)

Sectors

- Natural Resources Based Products
- Tropical Products
- Textiles and Clothing
- Agriculture

GATT System

- Safeguards
- Subsidies and Countervailing Measures
- GATT articles
- Multilateral Trade Negotiations Agreements
- Functioning of the GATT System
- Dispute Settlement

New Issues

- Services
- Trade-related Intellectual Property Rights
- Trade-related Investment Measures

Figure 4 Negotiating Groups of the Uruguay Round

3.1.1. The United States

Ever since the end of the First World War, the United States assumed a protectionist position with regards to trade. In the 1930s, two documents that protected trade and agriculture were signed: in 1933, the Agricultural Adjustment Act (AAA), and in 1934, the Reciprocal Trade Agreement (RTA). The AAA's section 22 gave power to the

[11] European Commission, s.d.

President of the U.S. to restrict importation of commodities if it was deemed necessary to protect the agricultural sector of the country. Whereas, the RTA involved all areas of trade, but it basically amplified the effects of the Agricultural Adjustment Act by making every other agreement (also international agreements) prohibited if inconsistent with Section 22. Moreover, when negotiating the GATT, the United States managed to gain a waiver on the restriction of non-tariff barriers to trade in agriculture.[12] Therefore, until the start of the Uruguay Round, the United States' preferences tended to be inward-looking, with special attention to the protection of agriculture, also due to the pressing farm interests that came from farmers and farmers' associations. The willingness of the U.S. to negotiate trade liberalization in agriculture was a major turnaround. In order to understand such change of direction, it is important to assess the underlying causes.

After a period of prosperity under protectionist rules, in the 1970s, the United States had to face a situation of high market competition, lower farm prices and rural depression. If we look at the agricultural exports of the U.S. in the first half of the 1980s, in the period in which it was starting to push towards another GATT Round, it is clear how the country started to suffer from a decreased number of exports. According to the data collected by the United States' Department of Agriculture, the country's exports reached a peak in 1980 and 1981, but started to decrease significantly from 1982 to 1986, and started to

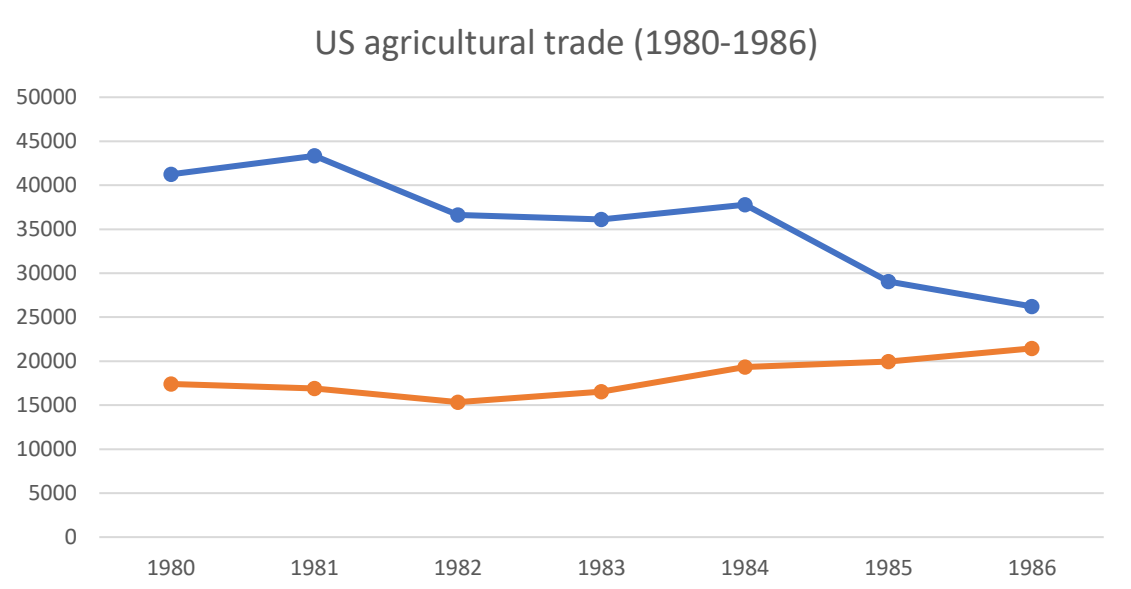

Figure 5 USDA Economic Research Service

[12] Hillman, 1994, p. 26-31.

recover only in 1987. With regards to the imports, they started to increase in a gradual fashion since 1984.

Due to this variation in the trend of agricultural trade, the U.S. started to change its mind on the necessity to regulate agriculture in the GATT framework, and started to push towards the start of a new round. Another reason for the U.S.' drive towards change was its competition with the EC, which was starting to surpass the U.S. as the main agricultural exporter. Indeed, the EC's exports were going well mainly thanks to the CAP. In those years, both countries gradually increased their support to agricultural exporters, reaching unpreceded levels.[13]

It is within this context of competition that the U.S. arrived at the negotiating table in Punta del Este (1986). The idea with regards to agriculture was to put domestic interests first and trying to obtain a reform at the international level that could favour the U.S.[14] The main aim of the negotiators was to liberalize trade in agriculture, and the main opponent to this objective was the EC, whose interests were explicitly protectionist. In its 1987 proposal, the U.S. asked for a complete elimination of all trade-distorting policies over a period of ten years, and an overall reduction of support and protection to the agricultural sector.[15] The US negotiator at the beginning of the round was Clayton Yeutter, US Trade Representative between 1985 to 1989. Thanks to his guidance, the US was able to frame and to conduct the proposal, which demonstrated a will to forego the protectionist tendencies of the country of the last decades and to let agriculture be governed under the discipline of the GATT.[16] More precisely, the proposals of the US were:

- To regulate the use of export subsidies, phasing them out completely over a specific period;
- To reduce trade barriers and, consequently, improve market access, by the elimination of non-tariff barriers;
- Improving compliance with the GATT system;

[13] Meunier, 2005, 102-103.
[14] Hillman, 1994, p. 32-33.
[15] Josling, Tangermann, Wiley, 1996, p. 141.
[16] Hillman, 1994, p. 34-35.

- To eliminate all trade-distorting domestic subsidies over 10 years. The idea was to "decouple" income payments to farmers from production. Therefore, to give direct payments to farmers, but not on the basis of the amount of goods they produce anymore.[17]

During the run up to the ministerial meeting scheduled in 1988 in Montreal, the US submitted also a framework proposal in order to make the point of the agenda for the next years. One of the main points was what was called "tarrification", i.e. converting NTBs into tariff-barriers. However, even though the Cairns Group supported US' initiatives, the other parties, especially the EC, were loath to negotiate on such foundations. In fact, due to incompatibilities with regards to positions on agriculture, the Mid-term ministerial meeting in Montreal failed, leading to a deadlock until April 1989, when the mid-term progress was finally accepted in Geneva.[18] In the same year, the US negotiators also changed: Yeutter went from being Trade Representative to Agriculture Secretary whereas Carla Hills became Trade Representative. Yeutter's change in position determined a harder stance on the part of the US. In fact, even though in the mid-term review the country's position changed a bit, it is possible to say that his abilities allowed the US to remain on the track towards agricultural liberalization notwithstanding the pressure from the other parties.[19]

With regards to the mid-term review of April 1989 (Geneva), the US finally made a concession, going from its position to completely eliminate support and protection to substantially reduce them. This variation in position allowed the negotiations to be resumed. The negotiating parties then had until the end of the year to present a proposal on how to achieve their long-term objectives. From the US Comprehensive Proposal, the radically different position of the country compared to the previous paper it presented is clear. However, there was still no ground for compromise with the EC.

In its Comprehensive Proposal, the US basically called for change in all areas of interest: import access, export subsidies and domestic support to farmers. The main points of the document were the following:

[17] GATT. 1987a.

[18] Hillman, 1994, p. 37-39; Josling, Tangermann, Wiley, 1996, p. 147-150.
[19] Hillman, 1994, p. 39.

- Converting NTBs into tariff-barriers based on the import levels of a country or on specific negotiations. The tariff barriers then had to be reduced over a period of 10 years;
- Phasing out export subsidies over a period of 5 years, excluding only the area of food aid;
- Categorizing domestic support into three levels. In the red box, all those domestic subsidies that were too trade-distorting; in the yellow box, the ones that could be disciplined; and in the green one those that were non-trade-distorting.[20]

One year later, in December 1990, the US submitted its final proposal, that laid on the ground of its Comprehensive Proposal. The final proposal was much less aggressive than the previous ones, however, it did not go far from them in terms of wanting to liberalize trade in agriculture, which was clearly still at the basis of the US' objectives.[21]

To summarize the proposal of the US, the main points were:

- NTBs converted into tariff-barriers, which, consequently had to be reduced by at least 75 per cent over 10 years;
- To reduce export subsidies by 90 per cent over 10 years for primary agricultural products and over 6 years for processed products. With regards to the quantities, the US proposed to decide on the basis of further negotiations;
- To keep the categorization of domestic support and to discipline them based on the logic of red, yellow and green boxes.[22]

Clearly, the position of the US softened, going from wanting to completely phase out export subsidies and tariff-barriers to calling for a gradual reduction or elimination. Still, the EC did not agree with the proposal of the US. In fact, even what was doomed to be the last ministerial meeting (Brussels, December 1990) collapsed. What was called the Hellström Proposal, an informal draft that had the aim to bring together the negotiating

[20] GATT, 1989b.

[21] Hillma, 1994, p. 42-43.

[22] GATT (1990), A Proposal for the Agricultural Negotiations Submitted by the United States.

parties, was accepted by the US, even though it was not that close to their proposal, but rejected by the most conservative member states of the EC. In this context, the US claimed that negotiations could go ahead only in the case in which the EC decided to budge.[23] In the years to come, the EC reformed the CAP, which allowed the negotiations to go on. However, as it will be explained in depth in the next paragraph, the most protectionist member States continued to oppose advancements that conceded "too much" to the US. When the Secretary-General of the GATT proposed a new draft (the Dunkel Draft), the EC still made opposition, whereas the US accepted it. In addition, a trade-war was about to burst with regards to oil-seed – a long-lasting EC-US dispute with regards to the level of subsidies granted to oil-seed producers. Finally, a bilateral agreement was reached in late 1992, and renegotiated in December 1993, which allowed the Uruguay Round negotiations to conclude. In fact, what is known as the 'Blair House Accord' included arrangements with regards to the agricultural negotiations in the framework of the Uruguay Round. In this agreement, the US accepted terms of conditions that were less favourable to them compared to the previous drafts that had been proposed during the ministerial meetings.[24] It can be stated that the final Uruguay Round package was a softer version of the initial idea of agricultural liberalization proposed by the United States. The country, indeed, had to face the extremely hard stance of the EC and of its most protectionist member States.

3.1.2. The European Community

During international negotiations, the position of the European Community with regards to agriculture had always verged on protectionism. Over the years, during all of the GATT rounds, the other negotiating parties tried to push the EC to liberalize trade in agriculture and to gain access to the EC market, with the latter continuing to defend their interests using the CAP, also protecting its farmers from the pressure of competition coming from the outside.[25] However, the premises of the Uruguay Round were different. Even though the tendencies of some member States' were protectionist, there was also a common belief inside the Commission that there was the need to reform the Common

[23] Josling, Tangermann, Wiley, 1996, p. 154-156.
[24] Hillman, 1994, p. 46-53; Josling, Tangermann, Wirley, 1996, p. 155-162.
[25] Ingersent, K.A., Rayner, A.J., Hine, R.C, 1994, p. 55-57.

Agricultural Policy, at least from the point of view of adapting it to the functioning of the markets. Indeed, the Commission's interest was to adapt agriculture to international trade, but States as France, Belgium, Italy, Ireland and Germany wanted to maintain a high level of agricultural protection in Europe, constraining the EC with a strict mandate during negotiations.[26] According to the Commission, it was not possible to continue to remain isolated from the external competition in trade, therefore a more market-oriented approach to prices was deemed fundamental. Clearly, this reflected the willingness of the European Commission to broaden its views on agricultural liberalization, and during the negotiations it resulted in multiple attempts to move towards the other negotiating parties' requests, with a consequential backlash and opposition coming from the most protectionist member States.[27]

However, claiming that the Commission tried to move towards the other parties does not mean that it was ready to yield to every request. In fact, it is key to remember that the Uruguay Round was an initiative originating from the United States, and the agenda reflected mainly US' priorities. This is why the EC, before the start of the round, tried to limit the scope of the negotiations on agricultural issues, avoiding radical reform and preferring a modification of the already-existing policies. Therefore, the EC was aware of the necessity of a CAP reform, but it was not willing to give up on many points. The negotiating parties were indeed clearly divided on the extent to which it was necessary to reduce domestic support to the agricultural sector, even though all of them were aware that a reduction was necessary.[28]

With these premises, it is evident that the EC started the negotiations with a reactive stance to the pressure of the US. Hence, rather than making new proposals, the Community responded to the reforms proposed by others, in an effort to protect the CAP and to mitigate the internal pressures coming from the member States.[29]

The initial EC proposal (1987) was staged in two types of priorities, in its their turn containing different proposals[30]:

- Short-term priorities:

[26] Meunier, 2005, p. 104.
[27] Ingersent, K.A., Rayner, A.J., Hine, R.C, 1994, p. 55-57.

[28] Ingersent, K.A., Rayner, A.J., Hine, R.C, 1994, p. 59-60.
[29] Meunier, 2005, p. 102; Ingersent, K.A., Rayner, A.J., Hine, R.C, 1994, p. 61.
[30] GATT, 1987b.

    - Reducing instability in commodity markets through emergency actions in the markets for sugar, cereals and dairy products.
    - Reducing excess supplies on international markets by negotiating the level of support related to the most problematic commodities, i.e. rice, beef, oilseed.
- Long-term priorities:
    - Reduction of domestic support over a range of commodities with a reduction of external protection. The position paper referred to give producers decoupled payments (financial support that is not linked to the level of production).
    - It was acceptable to reduce the level of protection only if binding it with the possibility to increase the protection of some individual commodities ('re-balancing provision').

As already explained in the section dedicated to the US, the mid-term review meeting in Montreal resulted in a deadlock, In the Geneva negotiations that came in April 1989, the idea became to reduce trade-distorting practices and not to eliminate them, as the US initially claimed. The Comprehensive proposal of the EC, which had to be handed in in the latter half of 1989, reflected the willingness of the Community to accomplish a gradual reduction of agricultural support levels over a period of five years. Still, the EC failed at providing the other parties with quantitative data on the amount that it was willing to reduce. Thus, the proposals were as follows[31]:

- Internal support could be reduced gradually, but it had to be measured from 1986, and it still had to be paired with higher protection of other commodities ('re-balancing').
- Import access: the EC agreed on a partial "tarrification"[32].
- On export subsidies, the EC did not make any commitment to reduce or phase them out because they would be indirectly reduced as a consequence of the other measures.

[31] GATT, 1989c.

[32] Term used to express the idea of transforming all non-tariff measures into tariff measures (with a view to abolish also tariff measure in the future).

From this proposal, it is evident that the European Community was less ready to make significant changes to its agricultural policy compared to what the US proposed in its Comprehensive Proposal. Still, they demonstrated a minimum common ground, especially on tarrification, even though what was proposed by the EC was just a partial tarrification.

Before summer 1990, the negotiating parties decided that, as of October of the same year, they had to hand in the papers where they claimed the amount of support reduction they were willing to accept. The final position of the EC was similar to its past Comprehensive proposal, even though it was more specific. Its offers were: 30 percent of internal support reduction over a period of 10 years and calculated form 1986; partial tarrification subjected to the rebalancing clause; no specific reduction over export competition, as it was claimed to happen as a result of the other two measures. Therefore, the only difference between these proposals and the EC Comprehensive Proposal was that now it offered a specific internal support reduction of 30 percent. Still, the Community did not propose any quantitative indicators for the other two points. This refusal to offer further indications on the EC side was not acceptable for the US, and what should have been the last meeting ended in another stalemate when the parties met in Brussels in December 1990.[33]

From this point on, the US claimed that the only way negotiations could proceed was that the EC started to make some more specific proposals with regards to quantities. The occasion for the EC to negotiate with more flexibility came from an internal necessity to reform the Common Agricultural Policy, which allowed the Commission to make some more concessions. A change in internal rules would make GATT negotiations on agricultural issues less of a threat compared to before. However, when the GATT Secretary-general proposed a draft (the Dunkel Draft – December 1991), the US and the Cairns Group accepted it, but the EC was loath to approve it. The reason for that is that the timetables and the quantities of reduction proposed were too disadvantageous for the member States. Moreover, the demand for rebalancing had not been considered by the draft.[34] The negotiations stalled once again. It finally took one more year for the EC and the US to reach an agreement on the agricultural level. In November 1992, a bilateral

[33] Ingersent, K.A., Rayner, A.J., Hine, R.C, 1994, p. 71-73.
[34] Josling, Tangermann, Wirley, 1996, p. 156-158.

negotiation took place in Chicago between the two parties in order to find a solution to their disputes. Thanks to the increased autonomy and flexibility sought by the EC negotiators, McSharry and Andriessen, the two parties managed to find an agreement, which determined a reduction of 21 percent in the volume of subsidized exports (instead of the 24 percent of the Dunkel Draft), a 36 percent reduction on budget over 6 years, and a 20 percent reduction in internal price support over six years.[35] It was also agreed that both of the countries' direct payments for cereals would be classified in a "blue" box. Lastly, the agreement included a 'peace clause' that would exempt the policies that were consistent with the aim of the accord from regulation under the GATT.[36] Furthermore, the negotiators found a compromise also on another external dispute (the oilseed dispute, which will be analysed in the following paragraph).

The negotiations of what was called as 'Blair House Agreement' were considered a success by the Commission. Despite this, the most protectionist member States (with regards to agriculture) opposed the agreement, claiming that the negotiators exceeded their mandate. The most vocal State was France, which had always been conservative with regards to agriculture, with the support of Belgium, Italy, Ireland, Spain and Portugal. The country threatened to invoke the Luxemburg Compromise, therefore vetoing the agreement with the claim that it undermined important national interests.[37] France accepted the agreement on the oilseed dispute but did not approve of the idea of reducing the volume of agricultural exports. During a Council meeting that took place in September 1993, the member States discussed the mandate of the Commission in depth, with France claiming that the negotiators should have less room of manoeuvre. The Council decided to monitor more the negotiations, and consequently to limit the autonomy of the Commission.[38]

In December 1993, the EC and the US renegotiated the agreement. The main modification was related to the base years taken in consideration for cutting export subsidies: from the period 1986-1988 stated in the beginning to 1991-1992. This allowed the EC to export an additional amount of cereals.[39] Moreover, the 'peace clause' was

[35] Meunier, 2005, p. 112.
[36] Josling, Tangermann, Wirley, 1996, p. 161.
[37] Meunier, 2005, p. 113-116.
[38] Josling, Tangermann, Wirley, 1996, p. 162.
[39] Webber, 1998, p. 589.

extended from 6 to 9 years.[40] In exchange for accepting the accord, France also demanded a tougher control of unfair trading procedures in the EC and a change in the voting system with regards to antidumping rules (simple instead of qualified majority).[41]

The Blair House Accord served as a basis for the negotiation of the final agreement of the Uruguay Round, which concluded in Marrakesh in April 1994. Clearly, the result was much less liberalization compared to what the US and other parties aimed for in the beginning.[42] The position of the EC had always been closer to the status quo. The negotiations lasted four years more than expected because the parties did not manage to find a compromise. The US, in more than one occasion, yielded, whereas the EC, constrained by its strict mandate, did not make many relevant concessions for the negotiations to be resumed. Only when the Commission tried to seek more flexibility and made concessions did the negotiations go ahead. Still, France managed to oppose to the agreement and limited the mandate of the negotiators. After an analysis of the agreements reached in the different steps of the negotiating process, it is clear that the Blair House Accord benefitted the EC more than the previous agreements would have. However, if we compare the renegotiated Blair House agreement after France's opposition, it is evident that it was more advantageous than its first version. Thus, France's hard stance proved beneficial for the EC, making its single voice more cohesive and allowing it to move the least possible from the status quo.

3.1.3. The Other Parties of the Uruguay Round

The European Community and the United States are the two most relevant actors considering the aim of this dissertation. Nonetheless, it is worth mentioning also the other negotiating parties, which, for agricultural negotiations, sided with the EC or with the US, depending on their national interests.

One negotiating party that asked for a higher degree of agricultural trade liberalization was the Cairns Group, which supported the US' demands. The Cairns Group was created at the GATT level with the aim of creating a common front at the international level, being able to face powerful players as the EC and the US. The group

[40] Meunier, 2005 p. 121-122.
[41] Meunier, 2005, p. 122; Webber, 1998, p. 589.
[42] Josling, Tangermann, Wirley, 1996, p. 162.

included large developing countries, as Brazil and Indonesia, large developed countries as Australia and Canada, and other developing counties. The sum of their agricultural exports is a quarter of the global exports in agriculture. The primary aim of the Cairns Group during the Uruguay Round was to keep agricultural issues inside the agenda and to seek liberalization.[43] Th position of its members was similar to the US', but they did not approve of the initial US proposal of complete elimination of distortionary policies over a short period of time, preferring a long-term approach. Their aim was to remove trade-distorting practices, but without harming smaller farmers in poorer countries. Further proposals stood for tarrification to a maximus and *ad valorem* level and an elimination of non-tariff barriers over time, and gradual elimination of export subsidies and domestic support.[44]

Another important negotiating party was Japan, who, in contrast, had opposing views to the US and the Cairns Group's. Indeed, Japan was closer to the EC's positions. The country was reluctant to accept further access to their domestic market, as they claimed that their massive agricultural imports were the result of unnecessary exports of manufactured goods. Liberalizing their market even more was deemed risky for their domestic farmers, as the country was already the biggest agricultural importer.[45] With regards to the Nordic countries (Finland, Iceland, Norway and Sweden), even though they were characterized by a high level of protection, in their proposals they claimed they were willing to consider reduction in support.[46]

Even though the negotiating parties were multiple, the most influential in the negotiations were the EC and the US, who clearly had many interests at stake. To investigate on the focal point of this thesis only positions that are necessary are the EC's and the US' ones. Hence, this is why, in the following sections, only these two actors will be taken into consideration.

[43] Tyler, 1996, p. 88-101.
[44] Josling, Tangermann, Wirley, 1996, p. 152; Tyler, p.99-101.
[45] Hemmi, p. 140-142.
[46] Josling, Tangermann, Wirley, 1996, p. 146.

3.2. The Steps of the Agricultural Negotiations

In this section, the main steps of the agricultural negotiations of the Uruguay Round are described, in an effort to highlight the most important events and critical issues that characterized the round.

Overall, the talks on agriculture proved to be very challenging. The completion of the Uruguay Round was scheduled for December 1990, but the end was delayed for approximately 4 years, due to the deadlocks on some major disagreements related to the agricultural sector between the EC and the US.[47] From the beginning, there had been conflicts with regards to agriculture, the contracting parties had different ideas on the best way to face the topic, with the EC and Japan closer to protectionist positions and the US and the Cairns Group that preferred the utter elimination of trade barriers in agriculture. These divisions led to different deadlocks in the course of the negotiations, until the signing of the Final Act in April 1994 in Marrakesh. It can be stated that the conclusion of the Uruguay Round, two years after the scheduled date, was favoured by the bilateral EC-US negotiations on agriculture, which proved to be necessary in order to find a compromise between the two parties. As they were the countries with the most diverging interests and the most power in the negotiating round, they came to a point in which a solution had to be found bilaterally. What follows, is a step by step analyses of the agricultural negotiations.

[47] Ingersent, Rayner, Hine, 1994, p. 3-4.

September 1986	Launch of the Uruguay Round in Punta del Este
December 1988	Mid-term Review in Montreal
April 1989	Geneva Meeting – resumption of negotiations
December 1990	Meeting in Brussels – deadlock
1991	Start of the CAP reform
December 1991	Presentation of the Dunkel Draft
May 1992	Adoption of CAP reform
November 1992	Blair House Accord between EC-US – first version
December 1993	Last negotiation of the Blair House Accord
April 1994	Final Agreement of the Uruguay Round

Figure 6 Timeline of agricultural negotiations during the Uruguay Round

3.2.1. The Punta del Este Declaration and the first proposals

As mentioned above, the initial impetus for the new GATT round came from the United States. The Punta del Este Declaration (1986) established the objectives and the structure of the negotiations. As for agriculture, it was included in the goods and trade part, but negotiations were conducted separately, in an agricultural committee. In the meeting of January 1997, the parties were called upon to present proposals on how to structure negotiations.[48] As described in detail in the previous sections, the US' aim was to liberalize agricultural trade by completely eliminating trade-distorting practices. Whereas, even if the EC committed to the declaration, its initial position was not one of openness towards international trade in agriculture, especially due to the protectionist interests of its most agriculturally conservative members. Thus, the EC proposal focused of reducing support, without providing the other parties with specific or quantitative indicators. Still, the part of the Punta del Este Declaration that established the objectives of the round recited that the aim was to "bring about further liberalization and expansion of world trade to the benefit of all countries […], including the improvement of access to

[48] Josling, Tangermann, Wirley, 1996, p. 140.

markets by the reduction and elimination of tariffs, quantitative restrictions and other non-tariff measures and obstacles", and to "halt and reverse protectionism and to remove distortions to trade".[49]

3.2.2. The Montreal Meeting and the Mid-Term Review

During the meeting held in December 1988 in Montreal, issues as goods and services were starting to be tackled. However, with regards to agricultural negotiations it seemed that a common solution was impossible to be found due to the opposing view of the US, who did not budge from the idea of eliminating the trade-distorting policies, and the EC, who was not willing to concede on such a drastic solution. The stalemate of agriculture hindered also the other parts of the negotiations. Informal discussions went ahead in order to find a way to resume negotiations.[50] However, the mid-term review that had to mark the midpoint of the round ended up in a fiasco.

3.2.3. The Geneva Meeting

In April 1989, the deadlock seemed to be over thanks also to the change in the negotiators: Clayton Yeutter became US' Secretary of Agriculture and in the EC, Frans Andriessen became External Affairs Commissioner (from being Agriculture Commissioner) and Willy De Clercq was appointed chief trade negotiator. Thanks to Yeutter's initiative and to some more degree of flexibility displayed by the negotiators, some common ground was found.[51] A meeting was held in Geneva in the beginning of April. Here, the words used to formulate the proposal became less drastic. If, before, an "elimination" of trade-distorting practices was called for; in Geneva, parties called for a "substantial progressive reductions in agricultural support and protection sustained over an agreed period of time, resulting in correcting and preventing restrictions and distortions in world agricultural markets."[52] The agreement reached in Geneva allowed

[49] GATT, Punta del Este Declaration, 1986.
[50] Josling, Tangermann, Wirley, 1996, p. 147-148.
[51] Meunier, 2005, p. 106-107; [51] Josling, Tangermann, Wirley, 1996, p. 148.
[52] GATT, May 1989a, p. 4.

negotiations to be resumed. Countries were asked to present detailed proposals for the achievement of long-term objectives.

3.2.4. The Comprehensive Proposals and the De Zeeuw Draft

As explained in detail in the previous sections dedicated to the single negotiating parties, the comprehensive proposals had to provide the other parties with the long-term objectives of one country. The US called for "tarrification", the phase out of export subsidies over 5 years, and the categorization of trade-distorting practices into three "boxes".[53] The EC, instead, claimed it was willing to accept partial tarrification, reduction of domestic support with a re-balancing clause, and did not make any concession of export subsidies.[54]

The Chairman of the Agricultural Negotiating Group, Aart de Zeeuw, tried to unify the multiple proposals in a single draft, in order to address the negotiations towards a conclusion. De Zeeuw proposed the following measures: "tarrification" of NTBs and a progressive reduction of existing tariff barriers (quantities left unspecified); export subsidies had to be progressively reduced faster than import barriers or domestic subsidies (no timetable or rate of reduction specified); internal support had to decrease too. The draft basically took the structure of the US proposal and left unspecified the details related to reduction.[55] The aim of the draft was to prepare a basis for the last meeting of December 1990 in Brussels. The final US paper of October 1990 was based on De Zeeuw's draft, but it extended it with quantitative information (75 per cent domestic cuts and in tariffs, and 90 per cent of export subsidies cut). The EC, conversely, decided to stick to its previous position, it only added a 30 per cent overall support reduction over 5 years.[56] Evidently, the draft did not serve its purpose of creating a basis for the final meeting.

3.2.5. The Brussels Meeting and the Hellström Proposal

[53] GATT, 1989b.
[54]GATT, 1989c.
[55] Josling, Tangermann, Wirley, 1996, p. 152-153.
[56] Josling, Tangermann, Wirley, 1996, p. 153-155.

During the final meeting in Brussels, the Swedish Minister of Agriculture, Mats Hellström, proposed a 30 percent reduction in support in all of the three areas with different base periods than what the EC proposed. This initiative came in an official document that was well-received by the US and the Cairns Group. Including the EC Commission somehow responded positively. Notwithstanding, France and Ireland claimed that the Commission, accepting the Hellström proposal, exceeded its negotiating mandate, and Commissioner MacSherry had to withdraw from the proposal.[57] Here, the Commission did not manage to speak with a single voice, as France and Ireland continued to oppose the actions of the Commission negotiators. This led to another impasse, with the round being suspended and the other negotiating parties stating that if the EC did not move from its hard stance, then negotiations would not go ahead.[58]

3.2.6. The 1992 CAP Reform

The chance for the negotiations to be resumed came from a (partially) external factor to the Uruguay Round. In fact, the EC decided to reform its Common Agricultural Policy. The impetus for this reform came mainly because of internal reasons, as overproduction and budgetary costs.[59] Still, even if the European Commission claimed otherwise, the decision to reform the CAP was clearly linked to the pressure of the other Uruguay Round parties. Indeed, the internal reform allowed negotiations to be resumed with the EC having more flexibility in international negotiations, as the internal cut in support to cereal, oil-seed and protein crops producers allowed the Commission to make a few more concessions on domestic support reductions. [60]

The input for the CAP reform came from Agricultural Commissioner Ray MacSherry in December 1990. In the Commission it was drafter an unofficial paper that included the premises for a CAP reform. The MacSherry proposal included a 35 per cent reduction in intervention price for cereals, protein crops and oilseeds. Farmers, depending on their farm's size, had to set aside part of their land, in order to tackle overproduction. Only those who had smaller properties were exempted. However, farmers were to be

[57] Coleman and Tangermann, 1999, p. 391-392.
[58] Josling, Tangermann, Wirley, 1996, p. 155-156; Meunier, 2005, p. 107.
[59] Coleman and Tangermann, 1999, p. 386.
[60] Josling, Tangermann, Wirley, 1996, p. 156.

compensated with "modulated" direct payments linked to hectares. This first position was not approved by the member States. Therefore, MacSharry made another proposal that involved less modulation of direct payments. The problem with this idea was that the EC then had to pay more in compensation than before. Despite this, the proposal had the potential to be approved. The most liberal states (i.e. United Kingdom, Denmark, The Netherlands) welcomed the proposal. Due to the exemption of small farmers to set-asides and compensatory payments, also Italy, Ireland, Portugal, Greece and Spain accepted the proposal. However, France and Germany were more problematic. Especially in France, the workers' federation pushed French farmers to start protesting. In the end, both of the countries, even though they had very small win-sets, accepted the terms of the reform. France's acceptance of the reform stemmed from a mixture of budget constraint, strict agenda-setting and outside pressure.[61] A final compromise was found at a 29 per cent reduction in support to protein crops, cereals and oilseeds, and a 15 per cent set-aside rate. A few side-payments had to be granted to Germany and Italy in order to have the deal accepted.[62] Finally, the new reform was adopted in June 1992, after one year and a half from the initial MacSherry proposal.

The CAP reform did not prove to be beneficial with regards the aim to reduce EC budgetary pressure – one of the claimed objectives; however, it drastically changed the game in the GATT round. In fact, the lower intervention prices resulted in a reduction of export subsidies, which were sought in the Uruguay Round framework. Moreover, the EC finally had the possibility to halt its demand for re-balancing, as their cereals became more competitive, due to their lower prices. The modulated direct payments allowed the discussions between the EC and the US about domestic support to be resumed, as the new payments decided in the CAP reform were decoupled, not linked to production anymore.[63] These factors tacitly allowed the Commission to be more flexible in the Uruguay Round agricultural negotiations, as the internal rules of the Community began to share a minimum common ground with the proposals in the framework of the GATT negotiations. However, if the agricultural agreement was to be concluded as of its final version, it would still be more beneficial for the US. Indeed, the CAP reform included

[61] Meunier, 2005, p. 108.
[62] Coleman and Tangermann, 1999, p. 396-398.
[63] Coleman and Tangermann, 1999, p. 398-399.

some degree of support reduction, but not at the same level as the US proposal did.[64] The EC policymakers claimed that the maximum number of changes they could make had already been achieved in the CAP reform, with the US arguing that, instead, the CAP should only be an internal matter. However, the changes brought about by the CAP reform allowed the negotiation to be resumed because it forced the EC member States to define a common position that served as the foundations of the negotiating voice of the Commission.

3.2.7. The Dunkel Draft

The Dunkel Draft, proposed by GATT Secretary-General Arthur Dunkel, had the same purpose as the De Zeeuw Draft. Additionally, it included a timetable and quantitative targets: 36 per cent tariff reduction over 6 years (based on 1986-1988 period), decrease of 36 per cent in expenditure and 24 per cent in volume of export subsidies (1986-1990 base period), 20 per cent reduction in trade-distorting practices ("amber" box of the categorization for internal support) over 6 years (1986-1988 levels). The final deadline for acceptance of the Dunkel draft was 20 January 1992. The US (and the Cairns Group) supported the final act. However, the EC did not approve of the depth of the cuts and the timetables. Reduction was accepted, but not to such extent.[65] In the same period, the EC started to receive complaints from the US due to the subsidies it granted to oil processors, so that they were able to use expensive domestic oil-seeds instead of the imported ones, which also came from the US. As a result, in 1991, the conflicts between the two countries did not limit only to agriculture, but also extended to a dispute on oil-seeds that threatened to burst into a trade war if it would not be solved.[66]

3.2.8. The Blair House Agreement

It took the US and the EC almost one additional year to arrive to a conclusion of their bilateral negotiations. A critical moment in the process happened in November 1992,

[64] Coleman and Tangermann, 1999, p. 399.
[65] Josling, Tangermann, Wirley, 1996, p. 157-158.
[66] Josling, Tangermann, Wirley, 1996, p. 158.

when the negotiators (MacSherry as the EC Commissioner for Agriculture and the Secretary of Agriculture Edward Madigan for the US) met in Chicago to try to conclude the round. In that instance, Madigan, on behalf of the US, threatened to impose sanctions on EU agricultural exports within the month if the EU did not abide by a GATT judgement against its oilseeds policy.[67] However, the talks failed. According to the Commission, because the US made demands that the EC could not accept.[68] An agreement was finally reached later, when MacSherry and the External Trade Commissioner, Andriessen, returned to Washington to conclude a deal. However, the two did not discuss their negotiating strategy with the Council for "fear it would be rejected".[69] The Commission attempted to take the lead, concluding the agreement in this way in order to put pressure on France, the most protectionist member State, convinced that it would finally accept the deal. Instead, France claimed that the concessions were too extreme, and, for that, the Commission had exceeded its mandate. The agreement contained a memorandum on the oil-seed dispute and a compromise on agricultural issues. Indeed, the accord included[70]:

- Export subsidy reduction established at 21 per cent (compared to the 24 per cent of the Dunkel Draft);
- 36 per cent budget reduction over 6 years (1986-1990 base period);
- 20 per cent reduction in internal price support over 5 years;
- Direct payments fell in the "blue box" category, as they were not totally decoupled but, at least, they were associated with set-aside provisions.
- A "peace clause" so that certain support measures and export subsidies that do not violate the terms of the accord were not subjected to trade actions. The peace clause lasted 6 years.

The accord was clearly less drastic compared to the previous drafts or proposals. The agreement was perceived as a success thanks to the autonomy displayed by the Commission and its ability to make concessions when needed. However, signing this

[67] The EC was found guilty of having introduced oil-seed production subsidies in the CAP a few years after having granted oilseed duty-free status in the Dillon Round.
[68] Webber, 1998, p. 580-581; Vahl, 1997, p. 194.
[69] Webber, 1998, p. 581.
[70] Meunier, 2005, p. 112; Josling, Tangermann, Wirley, 1996, p. 161,

accord would have meant deepening the reductions that had been agreed in the CAP reform, and that the most protectionist member States difficultly accepted in that instance. If such member States would have been able to better control the Commission's negotiators, they would not have allowed them to conclude the agreement on such terms. However, the Commissioners used more flexibility to negotiate, and they made concessions that could benefit the other more liberal member States, not being constrained by the tight rein that a country like France would have kept on them. In this instance, the EC was not able to speak with a single voice. Indeed, the Council was extremely divided on the issue, and the Commission exploited this flexibility by using more autonomy in the negotiations with the US, claiming also that the previous mandate of 1990 was not operative anymore. There was not a common position defended by the Commission, it only acted by itself. In fact, as soon as the agreement was signed, France strongly opposed it.[71] In the meantime, the EC negotiators changed: Andriessen was replaced by Sir Leon Brittan, and MacSherry by René Steichen.[72]

The provision on export subsidy cuts was too problematic for France, who argued that the negotiating mandate had been exceeded and that the agreement had to be renegotiated. In the country, violent domestic protests started to strike, moreover, in March 1993, the Socialist government was replaced by a centre-right government that was blatantly more loyal to farmers.[73] This last factor proved to be detrimental for the EC acceptance of the final Blair House Act. In fact, the new Gaullist party at the government invoked the Luxemburg Compromise, trying to reinstate the veto right and threatening to provoke an institutional crisis.[74] The room for manoeuvre that could be accepted by the French Prime Minister, Edouard Balladur, was very narrow. He eventually accepted only half of the accord, that is the Memorandum on oil-seed, and not the other part of the package. In the meantime, a Jumbo Council was planned for the 20th September 1993. In the run up to that meeting, France strategy became to try to find support for its demand to renegotiate the Blair House, and the target of the French Prime Minister was Germany. However, after an initial support, the German Chancellor asked France to moderate its demands, so that it would be less difficult to find an agreement with the US. The only

[71] Webber, 1998, p. 581-582; Meunier, 2005, p. 113-114.
[72] Meunier, 2005, p. 114.
[73] Webber, 1998, p. 581.
[74] Meunier 205, p. 114-115.

state that was fully supporting France was Ireland. Whereas other countries, i.e. Belgium, Luxemburg and Italy, were not excluding a possible revision of the accord.[75] Spain and Greece sent a memorandum to the Council complaining about several provisions of the accord. Additionally, France also tried to bypass the EC to seek direct negotiations with the US, which was not interested in concluding an agreement with France alone.[76]

3.2.9. The Jumbo Council and the renegotiation of the Blair House Accord

During the Jumbo Council[77], the ministers agreed to the renegotiation of the Blair House Agreement. One contentious issue was the negotiating mandate of the Commission, which was considered too extensive, especially by France. Eventually, the mandate was not renegotiated, but it was agreed to monitor constantly the negotiations on the basis of the Commission's reports, a move that still limited the room of manoeuvre of the Commission, as it was supervised more constantly in order to see whether it exceeded the mandate again. Furthermore, the Belgian presidency of the Council and the Commission agreed to vote on the GATT treaty, including the Blair House Accord, by consensus. This gave France the veto right that it had threatened before.[78] During the Jumbo Council, the flexibility and the autonomy of the Commission was severely constrained. France also asked the Council to have a guarantee that, if the treaty required reduction of EC agricultural production, there would be no compulsory increase in the amount of set-aside land.[79]

Eventually, the final Blair House Agreement was concluded on 6th of December in Geneva. As a result of this last negotiations, the EC obtained:

- An extended "peace clause", from 6 to 9 years;
- An extended base year for reduction in export subsidies (1991-1992 instead of 1986-1988). This extension allowed the EC to increase the volume of subsidized agricultural exports compared to the previous accord.

[75] Webber, 1998, p. 581-585.
[76] Meunier, 2005, p. 119.
[77] The "Jumbo Council" takes place when the various groups of the Council meet at the same time in order to deal with questions concerning multiple areas of activity.
[78] Meunier, 2005, p. 120-121; Webber, 1998, p. 586.
[79] Webber, 1998, p. 589.

Taking into account the final outcome and the previous agreement, France proved to be extremely skilful and its intervention proved to be beneficial for the EC, which had to concede much less thanks to France's hard stance.[80]

3.2.10. The Marrakesh Agreement

The Blair House Accord served as the basis for the final Uruguay Round negotiations. The final act was signed in April 1994 in Marrakesh. The main points established are:

- Non-tariff measures are replaced by tariff measures. Tariff measures had to be reduced by 36 per cent over 6 years by developed countries and 24 per cent over 10 years by developing countries. LDCs did not have to reduce tariffs.
- The division into "boxes" for domestic support measures. Decoupled payments (with also structural assistance and direct payments under environments products) were in the green box.
- The value of export subsidies had to decrease to a level of 36 per cent over 6 years under the base period of 1986-1990. The volume of subsidised exports had to decrease by 21 per cent (for developed countries). When subsidised exports have increased since the 1986-1990 base period, 1991-1992 may be used.
- Peace clause: if certain measures maintain conformity with the commitments, trade actions will not be applied to such measures. The peace clause lasted 9 years.
- The Agreement set up a committee that would monitor the implementation of the provisions.[81]

Eventually the provisions of the Blair House Agreement were included in the Final Act of the Uruguay Round. The final results account for much less liberalization compared to what was intended in the beginning. The restricted liberalization stems from the narrow room of manoeuvre of the European Community, which was very limited by

[80] Webber, 1998, p. 589-590; Meunier, 2005, p. 123-124.
[81] GATT, Uruguay Round Final Act, 1994.

it most protectionist member State, who, especially in the final steps of the negotiation, kept a tight rein on the Commission.

3.3. The Analysis of the Negotiation

In this paragraph, the main outcomes and steps of the agricultural negotiations will be analysed. On the same wavelength of Meunier's studies, we will argue that: (1) the CAP reform allowed the EC to communicate with a single voice as it allowed the States to form an internal common position, thus allowing the negotiations to finally restart, and (2) France's hard stance, despite creating a very small win-set, was extremely beneficial for the EC, which eventually reached a better agreement compared to the previous drafts.

These two points will be examined to support the thesis that the single voice of the EU in trade negotiations can be effective, but its degree of effectiveness depends on the interaction of the institutional variables and the external variables. This point has been concluded by retrieving arguments from Meunier's studies and from studies of the second wave of scholars. Indeed, while Meunier exclusively used the institutional variables in order to analyse the single voice, I argue that this analysis necessitates both the institutional and the external variables, as the former are not sufficient by themselves in order to carry out a thorough examination of the single voice and its effectiveness in international trade negotiations.

With regards to the institutional variables, i.e. the voting system, the delegation rules and the nature of the negotiations, the way in which they combine determine the strength of the single voice created at the EC level. The external variables, which refer to the setting of the negotiation (external to the EC institutional setting), affect the effectiveness of the single voice from the outside. Meaning that the single voice can be formed so that it is displayed cohesively at the international level, but its relation to effectiveness will also depend on external circumstances, i.e. external variables (power of the negotiating parties, type of the negotiation and bargaining strategies, outside options).

3.3.1. Institutional Variables

The institutional variables are related to the internal functioning of the European Community. Already analysed in chapter two, they are fundamental in the creation of the single voice. More precisely, the variables are: the voting system, the delegation rules, and the nature of the negotiation.

Variable 1: The Voting System

The European Council can vote under qualified majority rules or under unanimity rules. Studies have demonstrated that, when the voting rule that applies is unanimity, the influence of the most protectionist member states is more powerful, as a single vote is enough to veto an initiative. Therefore, if the negotiating mandate has to be decided and unanimity applies, it is more probable that a protectionist state will affect the nature of the mandate and that the want of that state will be predominant in the negotiating process.

In the agricultural negotiations in the Uruguay Round, this claim has been proved in three instances: the initial position of the EC in Punta del Este, the Blair House Agreement, and France opposing the Blair House Agreement.

With regards to the initial position of the EC, the negotiating mandate was decided under unanimity, indeed the mandate of the Commission was tight, aimed at limiting agricultural liberalization and US' interests. However, when the CAP reform was concluded the Commission took more autonomous initiative. In fact, thanks to the cuts in the support of some products under the new CAP, the Commission was able to make concessions with regards to domestic support reductions.[82] The result of the concessions made by the negotiators was the opposition by France, which claimed it was ready to reinstate the Luxemburg Compromise (and to use its veto power) if it was needed to oppose the Blair House Accord. Here, it is key to remember that, at the beginning of the Uruguay Round negotiations, member States conferred *de facto* competence to the Commission in order to negotiate as if everything fell under its competence. However, *de jure*¸ some issues did not fall under exclusive competence under article 113 of the Treaty of Rome. Therefore, as the final agreement would include issues that exceeded the terms

[82] Meunier, 2005, p. 109.

of the Rome Treaty, such as IPR and services, it was uncertain whether an EU decision by a qualified majority vote would be found to be legal if challenged at the ECJ.[83] For this reason, the Commission confirmed that France could use its veto power under the unanimity voting rules. This led to a tighter control over the Commission, as France wanted. This was possible because under unanimity the discording vote of one single country is sufficient to veto an initiative. France, being the most protectionist member State with regards to agriculture, opposed to the Blair House Agreement and managed to force the Commission to renegotiate the agreement based on its want. Therefore, France's influence became more preponderant.[84] However, this also translated into a more cohesive single voice at the negotiating table with the US, as unanimity voting forced the member States to follow France's protectionist position, which had to be reflected by the actions of the Commission at the negotiating table.[85]

Variable 2: The Negotiating Mandate

The delegation of the negotiating mandate is a fairly difficult point in the European Community, as the interests of the member States can be quite different, and the definition of the mandate of the Commission cannot take into consideration the interests of all the states. In the agricultural negotiations, states as France, Ireland, Italy, Spain and Portugal are very protectionist, especially because of the pressure of interest groups in their territory – see how French farmers' strikes play a fundamental role in the latter part of the negotiations, when France decides to oppose to the Blair House Agreement.[86] However, there are also other states that have more liberal preferences, as the Netherlands. Therefore, it is clear that meeting the interests of all the countries is not possible, and the stance of the Commission depend on how the agreement on the mandate is reached. Three elements that the mandate defines and that influence the room of manoeuvre of the Commission's negotiators are: flexibility, autonomy and authority. The more flexible, autonomous and authoritative the Commission is, the more likely an agreement is reached, as the negotiators are able to make more concessions when it is necessary. On

[83] Webber, 1998, p. 586.
[84] Webber, 1998, p 585-587.
[85] Coleman, Tangermann, 1999, p. 401; Meunier, 2005, p. 122.
[86] Webber, 1998, 9. 581.

the contrary, the less flexible, autonomous and authoritative the Commission is, the more likely that an agreement will be more difficult to be reached, as the negotiators have to follow strict rules.

The toughness of a mandate depends also on how the member States have to vote: in fact, when the mandate is voted under unanimity rules, the opposing vote of a protectionist member State is sufficient to limit its scope, with the mandate resulting being stricter and the negotiators having less flexibility and autonomy. In the beginning of the Uruguay Round, the mandate of the negotiators was very strict. With the CAP reform, the Commission gained more flexibility and autonomy, as the mandate became looser, thanks to the reduction in support to protein crops, cereals and oilseeds approved by the reform. In this instance, the Commission was able to make more concessions and, as a consequence, to reach the Blair House Agreement.[87] This is a case, as described in chapter 2, of agency losses: when the agent (the Commission) finds a way to exploit its position and acts more autonomously, with the Principal (the Council) losing control on the agent.[88] A situation of agency loss can lead to an agreement, however, as it happened in the agricultural negotiations, the principal may not agree with the agreement reached, leading to a rejection. In the case of the Blair House Accord, what happened was that France opposed the agreement claiming that the Commission exceeded its mandate. Only with a renegotiation of the mandate, which became very strict once again, was the single voice effective and a definite final agreement reached.

This variable has to be read in strict relation to variable one: unanimity rule led to the adoption of a tougher mandate. With regards to the formation of an external single voice, the CAP reform was extremely helpful because it laid the foundation for an internal common position among the member States by cutting domestic support in cereals, protein crops and oilseeds and allowing for more room of manoeuvre during the negotiations, which allowed parties to move forward. However, it was when France opposed the Blair House Accord and imposed a toughening of the mandate that speaking with a single voice became effective, because, as a result of France's hard stance, the position of the EC appeared extremely cohesive at the negotiating table, leading to an agreement that was more beneficial for the EC compared to the ones previously reached

[87] Conceição-Heldt, 2011, p. 414.
[88] Elsig, 2007, p. 15.

during the agricultural negotiations. This follows the reasoning of Schelling's theory, according to which the negotiator gains more credibility when it demonstrates to its opponent that it has tied hands.[89] France limited the flexibility, autonomy and authority of the Commission, 'tying its hands' by toughening the mandate and forcing it to speak with a single voice that reflected its (protectionist) interests, and thus leading to the most favourable outcome for the EC.

Variable 3: The Nature of the Negotiation

In chapter 2, the nature of the negotiation has been defined based on two possible scenarios: a conservative scenario – when the EU (in the Uruguay Round case, still the EC) aims at maintaining the status quo and acts passively – and a reformist scenario – when the EU's interest is to change the status quo and acts in a more active way. The agricultural negotiation is clearly a conservative case. It is easily understandable by examining the objectives and the actions of the negotiators. The impetus for starting negotiations arrived from the United States, whereas, from the outset, the EC had always tried to contain the drive for change of the US, opposing to its drastic proposals to the extent that a few deadlocks occurred.

According to bargaining theory, the outcome of a negotiation in which the EC has protectionist interests will be closer to the EC position if some premises are met. The premises in question are the two other institutional variables analysed above. Indeed, when the EC wants to maintain the status quo, unanimity voting and a tough mandate are ideal to obtain an outcome that does not go far from the EC preferences. The rationale is behind this assumption is that if unanimity is the voting rule that applies, the preferences of the most protectionist member States will constrain the room of manoeuvre of the negotiators, who will have less flexibility and autonomy, but will have 'tied hands' at the negotiating table and will force the other negotiators to make concessions.

Whereas, if the unanimity rule is not used, and the negotiating mandate is vague, it is true that the negotiators will have more room of manoeuvre, but in a conservative case – where the aim is to obtain an outcome that is as close as possible to the status quo – it would not be as beneficial. In fact, in this case, the negotiator would be able to make more

[89] Schelling, 1960.

concessions as it would not be constrained by strict rules, however this would be counterproductive considering the fact that the final aim is to obtain an agreement as close as possible to the status quo.

This reasoning applies perfectly to the agricultural negotiations between the EC and the US. In the period in which the EC had a tough mandate (from Punta del Este to the CAP reform), the major concessions were made by the US, the EC made some steps forward, but it was nothing too extreme. The CAP reform allowed the negotiators to exploit the new flexibility that stemmed from the new internal reform, being able to reach an agreement. Indeed, the cuts in internal support of cereals, protein crops and oilseed production allowed the Commission to make more concession with regards to domestic support at the WTO level. Then, after France's opposition, the mandate became strict again, forcing the Commission to renegotiate the Blair House Agreement. If we compare the outcome of the renegotiated Blair House Agreement to the outcome of the 'first version' negotiated autonomously by the Commission's negotiators, we deduce that the renegotiated agreement is much less detrimental for the EC, considering that its aim was to contain concessions. Indeed, the 'peace clause' was extended from 6 to 9 years, and the base period for export subsidies reduction became 1991-1992 (instead of 1986-1990). This last concession allowed the EC to significantly increase the volume of subsidized agricultural exports.

This reasoning is not to claim that the CAP reform was not beneficial for reaching a final agreement. As a matter of fact, it was a fundamental step that allowed negotiations to move forward. However, if we compare the previous agreements and the last Blair House Accord, the most favourable outcome was obtained when France obliged a divided EC to accept its interests and to negotiate based on them. Thus, strengthening the voice of the Commission at the negotiating table with the US. Indeed, in a conservative scenario, such as these agricultural negotiations, a tough mandate and unanimity voting prove to be more effective for the creation of a solid external single voice of the Commission compared to when there is a vague mandate and unanimity voting does not apply. In fact, in this latter case (conservative scenario combined with weakened unanimity rules and a vague mandate), the single voice of the Commission is less credible and effective if the aim is to obtain the best outcome possible given the protectionist position of the EC.

3.3.2. External Variables

In the agricultural negotiations, how the single voice was created internally to the EC (how the variables combined) proved to be fundamental in order to obtain a strong single voice that could allow the EC to obtain the best outcome possible. As mentioned before, the external context also plays a role in determining the external effectiveness of the single voice. It is actually impossible that something created at the institutional level and that has to interact with the external setting is not affected by it (be it positively or negatively). Here, the external variables are used in order to understand how the external setting affected the single voice: if it enhanced its potential effectiveness, or if it had a negative influence.

Variable 4: Power of the negotiating parties

In this case, the EC was negotiating with the US. The two parties can be defined as equally powerful. Therefore, during the negotiation, the EC could not exploit a potential weak position of the other party. Thus, this variable is not determinant in the assessment of the effectiveness of the single voice of the EC. This variable can be useful to assess the single voice especially in cases in which the EC negotiates with weaker States.

Variable 5: Type of Negotiation and Bargaining Strategies

This is a case of bilateral negotiation. As explained in chapter 2, the EC tends to use a distributive bargaining strategy during a bilateral negotiation, making few concessions and trying to obtain the best outcome possible also to the detriment of the other negotiator. This applies to the agricultural negotiation, as the EC's first interest was to obtain an outcome as close as possible to the status quo. According to Da Conceição-Heldt, in a bilateral setting, when the position of the EC is displayed with a strong single voice, the other negotiator will likely believe that what the EC proposes is really its best option,

especially if the position was reach with difficulty also internally[90], as in the case of the agricultural negotiations. Therefore, using a distributive bargaining strategy proves beneficial for the EC if the single voice is strong, contributing to its effectiveness.

Variable 6: Outside Options

With outside options we refer to BATNAs and WATNAs, that is best alternative to the negotiated agreement and worst alternative to the negotiated agreement. In this case, the EC was not the proponent of the negotiation, and its aim was to maintain the status quo, especially due to the influence of the most protectionist member States. Hence, the BATNA of the EC was to maintain the same situation as before. Being the outside option of the EC the same as its objective during the agricultural negotiations, put the EC in a favourable position, as no agreement was still a good option considering its position. In case of a deadlocked situation, the EC had a good BATNA and was less interested in an agreement than the US.

Consequently, the EC used a distributive bargaining strategy and had a BATNA that almost equalled its negotiating position. As demonstrated, these external factors had a positive influence of the common position defended by the Commission speaking with a single voice, as it contributed to make the EC more credible at the negotiating table.

3.4. Conclusions

The analysis of the agricultural negotiations between the EC and the US served the purpose of assessing the effectiveness of the single voice of the Commission in the agricultural negotiations of the Uruguay Round. With effectiveness meaning that the EC is able to obtain the best outcome possible considering its interests. In order to understand the analysis, it is also key to remember that "single voice" does not mean that the position of member States match and that they all agree on the external position of the EC. Instead, it means that "the member states neither undermine nor overrule the collective position

[90] Da Conceição-Heldt & Meunier, 2014, p. 972-973.

to be defended with a single voice, even if they disagree with it."[91] Therefore, in order to form a strong single voice that can be effective, the member States do not have to share the external position of the EC, it is sufficient that the external position is displayed cohesively. The degree of cohesiveness (and thus, of effectiveness) of the single voice depends, as demonstrated by this analysis, on a case-by-case scenario. Indeed, in a conservative scenario (as the EC-US agricultural negotiations), the single voice of the EC will be effective if: (i) at the institutional level, unanimity voting applies and a tough mandate is imposed to the Commission[92], (ii) the external setting affects the EC in a positive way. in this case, a distributive bargaining strategy and having a BATNA that almost equalled its negotiating position proved to be beneficial. Instead, when unanimity is not used, and the mandate is vague (CAP reform), the single voice is less effective in order to obtain the best outcome possible, even though the chance of obtaining an agreement is higher given the more room of manoeuvre of the negotiators.

It is deducible that, when the aim of the EC is to maintain the status quo, the influence of the most protectionist member States plays a fundamental role in the final outcome of the negotiations. In this case, the influence of France was beneficial as it "tied the hands" of the EC negotiators and forced the US to budge in order to conclude the negotiations.

With regards to external variables, distributive negotiating strategies and having a good BATNA allowed the EC to appear credible and cohesive at the international level, contributing to the strengthening of the single voice.

In conclusion, this analysis demonstrates that the common assumption that speaking with a single voice at the international level leads to external effectiveness is only partially true. Indeed, this case shows that the single voice can prove effective for the EC in international trade negotiations, but it also demonstrates that its effectiveness depends on internal and external factors, i.e. the institutional variables (the nature of the negotiation, the voting rules and the negotiating mandate) and the external variables (Power of the negotiating parties, type of negotiation and bargaining strategies and outside options). In a conservative negotiation, as demonstrated, a vague mandate and weakened unanimity rules do not lead to the creation of a solid and cohesive single voice, thus making it ineffective. Instead, stricter rules and the influence of protectionist member States helped

[91] Da Conceição-Heldt & Meunier, 2014, p. 966.
[92] Strömvik & Elgström, 2005, p. 118-120.

the EC to obtain its preferred outcome. [93] Moreover, the influence of the external context does also play a role. Thus, in international trade negotiations, the single voice of the EC is more or less effective depending on how it is formed at the EC level, and on other external factors that can vary on a case-by-case basis.

[93] Meunier, 2005, p. 122-124.

Chapter 4: The Doha Round

The Doha Round was launched in Doha, Qatar, after the fourth ministerial conference held between 9-13 November 2001. With the decision to start a new comprehensive round, WTO member States committed to a new objective: distributing the benefits of trade in a more equal manner. Thus, making development a priority for the future negotiations. Quoting the Doha Ministerial Declaration: "We recognize the particular vulnerability of the least-developed countries and the special structural difficulties they face in the global economy. We are committed to addressing the marginalization of least-developed countries in international trade and to improving their effective participation in the multilateral trading system."[1] Therefore, during this round, trade liberalization should be pursued with an eye to the necessities of developing countries, which are the majority in the WTO system.[2] This decision to make development the focus of the negotiations also came from the fact that the developing countries made it as a condition to start a new round.[3] The negotiations during the Doha Round were organized in different negotiating groups under the Trade Negotiations Committee. The trade-related topics that had to be discussed were 20. Moreover, it was decided that every item that had to be negotiated were part of a single and indivisible package, the "Single Undertaking".[4] The 20 subjects of the negotiations were: agriculture (and cotton), services, implementation-related issues, non-agricultural market access (NAMA), trade-related intellectual property rights (TRIPS), trade and competition policies, trade and investment, trade facilitation, government procurement, WTO rules (anti-dumping, subsidies, regional agreements), dispute-settlement understanding (DSU), environment, electronic commerce, small economies, trade debt and finance, transfer of technology, technical cooperation, least-developed countries, special and differential treatment, origination of work programme.

[1] World Trade Organization, 2001b.
[2] World Trade Organization, 2001b.
[3] Gallagher, 2007, p. 62.
[4] World Trade Organization website.

During the Hong Kong ministerial conference of 2006, other subjects were added to the list: coherence, aid for trade, recently-added members and accession.

The set deadline for the end of the negotiations was January 2005, however, the talks were prolonged further, to the extent that the Doha Round has not been concluded yet. The subjects of the negotiation that contributed to creating a deadlock were mainly agriculture, for which WTO States (and single EU member States) have very different interests, and the so-called 'Singapore Issues' (i.e. government procurement, trade facilitation, trade and investment, and trade and competition), which were points for which mainly the EU was a strong advocate.[5] Generally, the opposing interests of developed countries and developing countries often resulted in deadlocks, with developing countries rejecting proposals stating that their benefits would be smaller than the actual costs of implementing the decisions of the round.[6]

For the objective of this thesis, which is assessing whether the single voice is an effective[7] tool in international trade negotiations, the Doha Round negotiations are important in order to demonstrate that, even though the single voice can be successful, sometimes it is not enough to lead to an effective outcome. The reason for that is in the external variables, which can influence the effectiveness of the single voice in a positive way (strengthening it) or in a negative fashion (making it uninfluential). As it will be demonstrated through the upcoming analysis, the EU managed to have a strong and cohesive single voice when negotiating at the international level.[8] Still, the negotiations reached deadlocks many times and, eventually, the negotiating parties did not manage to bring the Doha Round to an end. Here, the EU did not manage to get what it wanted. In this scenario, the common assumption that the European Union must negotiate with a single voice in order to be effective[9] at the international level proves to be untrue. Indeed, even though the EU arrived at the negotiating table with a common position and the European Commission spoke with a single voice, the negotiations failed, and the EU did not get the changes that it wanted in global trade. In this context, it is fundamental to

[5] Young, 2007, p. 15.

[6] Gallagher, 2008, p. 63.

[7] With "effective" meaning that it leads to a favourable outcome given the EU interests and with "single voice" meaning that member states do not reject or oppose the collective position of the EU, and not that they necessarily agree with it.

[8] Ahnlid, 2005, 137-139.

[9] Meaning reaching successful outcomes.

understand why the existence of a single voice is not linked to a successful conclusion and whether other factors influenced the negotiations. In an effort to do so, the analysis develops as follows: a framework of the negotiating parties, their interests and their positions during the different phases of the round; the steps of the negotiations and the main results; and an analysis of the negotiations through the institutional and external variables in order to understand why the single voice, even though strong, did not work for the aim of the EU.

4.1. The negotiating parties

The negotiating parties during the Doha Round were more than in the previous Uruguay Round. Since its creation in 1995, many new countries had started to join the WTO, especially those developing countries that felt the necessity to ask for accession as a result of the increased trade with other countries. An example is China in 2001, which became one of the major importers and exporters globally.[10]

Therefore, the WTO started to comprise a wide range of developing countries and least-developed countries (LDCs). In order to put together their interests and be stronger at the international level, such countries decided to form coalitions. Often, membership to these coalitions overlapped. In this regard, we can distinguish between several types of groups of countries that defended their key interests during the Doha Round:

- the G20, a coalition formed in 2003 with the aim of defending the interests of developing countries against the ones of developed countries. The G20 included some African countries, Central and Latin American countries as Brazil, Chile, Argentina, Mexico and others and Asian countries as India and China;

[10] Das, 2005, p. 35.

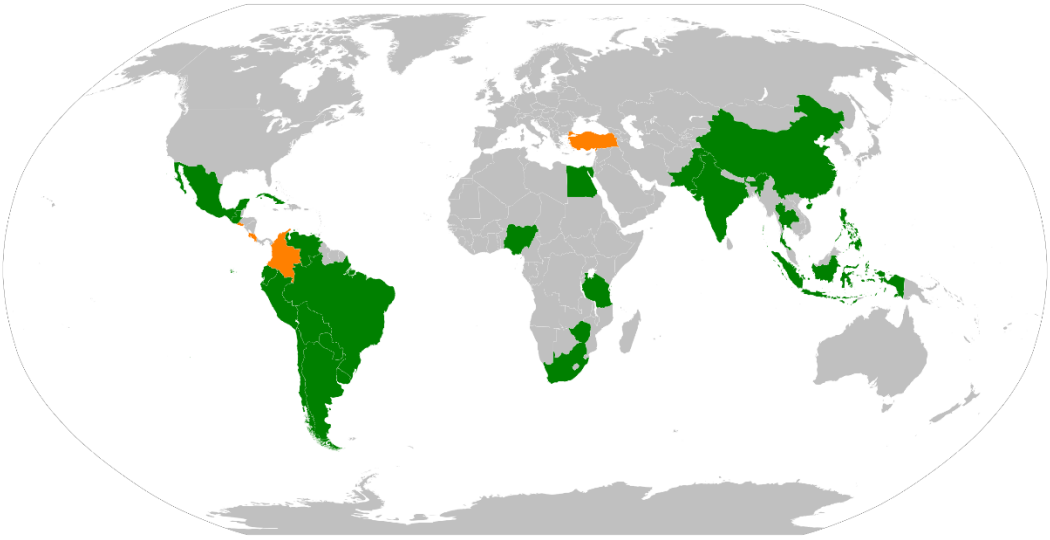

Figure 7 The G20 Countries

- the "Group of Ninety" (G90), formed during the Cancún meeting of 2003 (an alliance between the poorest countries). The G90 encompasses LDCs, the African Group and ACP countries. The interests of the group and of the sub-groups that form them are different. Being a coalition of the poorest countries, the focus is on all the issues that can be problematic to their contexts, such as health issues and access to medicine, agricultural protection, market access and preferential treatment by developed countries. Below, the maps of LDCs and ACP countries. With regards to the African group, it comprises every African country except for the ones that were not part of the WTO, thus excluding Algeria, Libya, Sudan, South Sudan, Ethiopia, Somalia.[11]

[11] WTO, Groups in the negotiations, retrieved from https://www.wto.org/index.htm

Figure 8 ACP countries

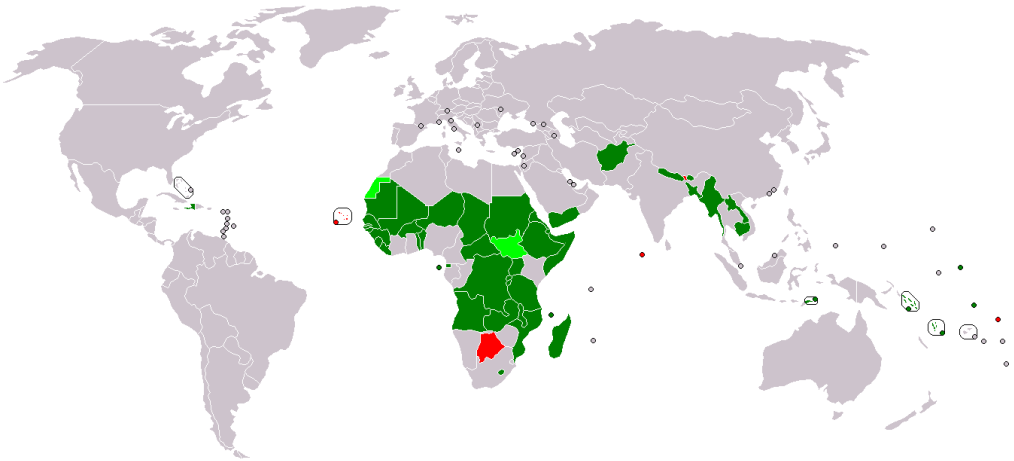

Figure 9 LDCs. In red, former LDCs that in 2003 were still member of the bloc.

- the G33, also formed in Cancún, which included the food-importing states that aimed at protecting agriculture.

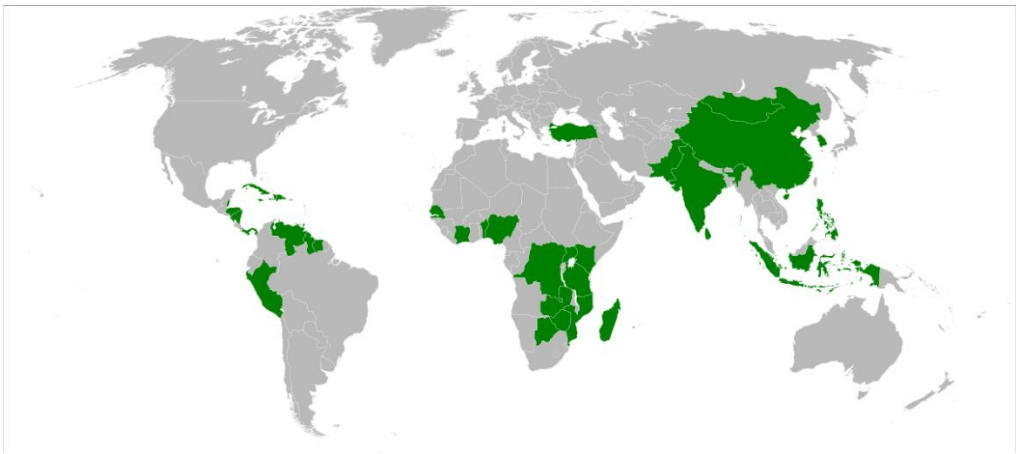

Figure 10 G33 countries

- The Cotton-4: West African coalition seeking cuts in cotton subsidies and tariffs. Formed by: Benin, Burkina Faso, Chad, Mali.

As mentioned before, and as it is clear observing the maps, membership to these blocs overlap. However, during the negotiation, the main opposition stood between industrialized countries and developing countries/LDCs as a whole. The former seeking to liberalize trade and to expand market access in other countries. Instead, the latter perceived as much more important the development side of the round. Indeed, improvements in that area would have been beneficial for their economies.[12] In order to understand the different positions and interests of the negotiating parties, this subchapter is divided in such sections: the European Union (as it is the main focus of this thesis it should have a dedicated section, separated from other industrialized countries), and a section on other negotiating parties, which include a description of the main interests of the different coalitions.

4.1.1. The European Union

Since the mid-1990s, EU member States started to become more oriented towards trade liberalization. This came as a result of the increased gain of global share from EU firms in international markets.[13] Thus, firms, interest groups and policy-makers supported the European Commission's drive towards trade liberalization, which contributed to make the EU as an active *demandeur* from the outset of the Doha Round. Another element that contributed to the active position of the EU was the fact that the European Commission understood that, in further WTO rounds, its member States would not be willing to accept unilateral and costly concessions of agriculture. Therefore, it was clear that, in order to obtain gains that could offset potential concessions in agriculture, the Commission had to propose a comprehensive agenda that included multiple sectors of interest to EU member States. The division between protectionist and liberal member States dictated the differences between their interests. Northern countries, as Germany, the UK, the

[12] Cho, 2010, p. 574-575.
[13] Young, 2007, p. 798.

Netherlands, Sweden and Denmark pursued a free-trade approach that was fairly consistent with the trade liberalization objective of the European Commission. Whereas countries as Spain, Portugal, Italy, France and Greece, even though they started to have more interests in the free-trade approach, had a strong interest in agricultural protection, which they were not willing to give up easily for further liberalization.[14] Some other subjects on which southern States were interested were a set of new issues: investments and competition policies, environment and core labour standards. Germany, Sweden and Denmark were also keen to include such issues in the agenda of the Doha Round. Whereas, countries as the Netherlands and the UK believed that, if included in the negotiating package, these issues would hamper progress in trade liberalization.[15] Moreover, there were incredibly sensitive areas in the EU on which no one was willing to make concessions: audio-visual services, education and the health sector.[16] Clearly, the interests of member States were on different levels. The task of the Commission was to find a way to make member States accept a negotiating package that included all of the subjects, so that losses on one side could be compensated by gains on another side. An example of this was the necessity to include environment, investment and competition in order to compensate for concessions in agriculture and ensure final political support.[17] When the Commission formally proposed the start of a new WTO round in 1999, it did so based on the idea of a "single undertaking", therefore including all the issues in a package to be negotiated as a single unit. This strategy was fundamental in order to avoid opposition from protectionist member States. In this way, the Commission was able to exploit the legal framework of the EU with regards to trade negotiations. In fact, when negotiating on trade matters with third parties, the European Commission has exclusive competence, thus it can negotiate on behalf of member States. However, the Commission still has to get its mandate and the final agreement approved by the Council of Ministers. In areas of traditional trade issues, the Council voted under qualified majority. Whereas for more sensitive areas, unanimity is required. The negotiating agenda proposed by the Commission included areas for which both qualified majority and unanimity prevailed – non-traditional aspects of trade as environment, investment, and competition required

[14] Ahnlid, 2005, p. 132-135.
[15] Ahnlid, 2005, p. 136
[16] Young, 2007, p. 806.
[17] Ahnlid, 2005, p. 137.

unanimity. In order to obtain political support at the Council level, the Commission managed to link issues with the "Single Undertaking", so that every country had in the package one of its major interests that could offset potential losses in another area.[18] The Commission was extremely able to forge a strong single voice even before the outset of the negotiations, thanks to increased leadership by proposing the round and to issue linkage.

In this case, the EU is considered the *demandeur*, seeking change at the international level. The negotiating mandate of the Commission was fairly flexible, as, during the rounds, the Commission was able to exploit flexibility in order to move the EU position closer to the other parties. However, the mandate on agriculture was always constrained by the interests of protectionist countries. More than once the EU was not perceived as credible due to its limits in making concessions on agricultural issues. During the Seattle meeting of 1999 that ended into failure, the Commission had not been able to guarantee a complete and gradual phase out of export subsidies in agriculture because Ireland and France could not accept it.[19] Moreover, during the whore round after its launch in 2001, the position of the EU on agriculture was not going beyond what had been negotiated internally under the framework of the CAP. In 2001, the CAP had also been reformed to further replace price support with direct payments to farmers. In this context, the Council, in agreement with the Commission, stated what follows: "The Council recalled as regards the negotiations in agriculture that the CAP reform is Europe's important contribution to the DDA and constitutes the limits for the Commission's negotiating brief in the WTO Round."[20] During the Doha Meeting, the EU managed to formulate the mandate for agriculture in such way that the parties committed to phase out export subsidies, however without prejudging the final outcome. Using that type of wording was key to success of that round, as it was acceptable for all.[21] In Cancún, instead, the EU was not easily ready to accept the drafts that had been laid out, as they proposed different rules to what they were willing to agree. As it will be outlined in the next paragraphs, the disagreement among parties on agriculture played a great role in the impasse in Cancún.[22]

[18] Ahnlid, 2005, p. 134-136.
[19] Ahnlid, 2005, p. 141.
[20] Council of the European Union, 2005, p. 6.
[21] Ahnlid, 2005, p. 144.
[22] Matthews, 2008, p. 329-336.

With regards to other issues, the EU demonstrated to be far more accommodating with developing countries. Since the launch of the Doha Round, the EU granted[23]:

- duty-free and quota-free access for export originating in the LDCs, except arms (Everything but Arms Initiative);
- a multilateral initiative to stop the use of anti-dumping instruments against LDCs;
- fast-track accession to the WTO for LDCs;
- Trade related technical assistance and capacity building to help LDCs meet standards in export markets;
- efforts to help LDCs to face HIV/AIDS, malaria and tuberculosis;
- a commitment to continued support for regional integration processes of LDCs;
- International support for more effective investment promotion in LDCs.

Furthermore, the EU managed also to find acceptance for a WTO waiver for ACP countries to maintain the preferential treatment status in the EU market.[24]

The EU demonstrated its willingness to make concessions also during the Doha Round with the Singapore Issues (competition, investments, government procurement, trade facilitation), which were an important point in the agenda of the EU. The Commission accepted that they would be discussed after Cancún, provided that a decision on modalities would have been found by explicit consensus. However, during Cancún the EU abandoned its demands for negotiations on two of these issues (competition and investment) in order to keep the rest of the negotiation going ahead, even though it was too late, and the round collapsed.[25]

During the Doha Round, the EU had different objectives for different issues. In agriculture, the room of manoeuvre of the EU negotiators is always quite limited, because of the domestic interests of member States. As a consequence, the negotiating strategy tends to be distributive, meaning that the EU will seek to maximise its gains without conceding much. Whereas, for the other issues, the EU demonstrated increasing will to

[23] European Commission, 2001, Press Release.
[24] Ahnlid, p. 143.
[25] Young, 2007, p. 804.

make concessions to other member states. An example of that is the fact the EU yielded on the Singapore issues, in order to keep the negotiations alive. Thus, for non-agricultural issues, the EU used a gradual integrative bargaining strategy: they tried to find a compromise and to make concessions in order to benefit the other parties. Indeed, at the beginning the Commission stated its position, but as negotiations went on, it decided to yield on many aspects.[26] Therefore, the European Union used a mix of distributive and integrative bargaining strategies. The problem with using integrative tactics is that, if the EU is a *demandeur* and it wanted to obtain a favourable outcome in its sectors of interest (as Singapore issues or trade-liberalization in services), making concessions forced them to give up on some of its interests in order to satisfy other parties.[27] It may prevent negotiations from failing, but an eventual final deal would not make the EU better off. Often, the parties of a negotiation that use integrative bargaining strategies do so because they perceive there is no alternative to the agreement, therefore they are more prone to budge in order to keep the negotiations go ahead. In the case of the EU and the Doha Round, it is important to remember two things: (1) the EU was the party that mostly advocated for the round and for trade-liberalization, thus placing itself in a position of *demandeur*, which meant that the other parties knew that it could be willing to yield to get negotiations going, (2) the Doha Round came after the Seattle ministerial conference of 1999, which was a failure because of internal WTO disagreement and also because of the unwillingness of the EU to move towards the other WTO members on agricultural issues. The credibility of both the WTO system and of the EU was undermined by the failed Seattle meeting.[28] In such a context, the stakes of the new round were high, and the EU perceived that its alternative to the Doha Round agreement had worsened.[29] Hence, the decision to use integrative bargaining strategies stemmed from the EU's desire for a wider free-trade approach and from the perceived absence of a BATNA (best alternative to a negotiated agreement).

[26] Odell, 2009, p. 283.
[27] Ahnlid, 2005, p. 144.
[28] Das, 2005, p. 4-5.
[29] Odell, 2009, p. 287.

4.1.2. Other negotiating parties

As mentioned earlier, the participants to the WTO Doha Round were many and with many different interests. This fact is valid both for industrialized countries and developing ones/LDCs. Developing and least-developed countries' interests often coincided, therefore, during the Cancún meeting, they gathered in different groups in order to form strong coalitions. However, even since the Doha ministerial meeting in 2001, when the priorities of the round were being defined, the main contrasts between developed and developing countries came to the surface. The negotiating subjects of the Doha Round were many. However, the most controversial ones in all rounds were: agriculture, non-agricultural market access (NAMA) and the Singapore Issues. There topics were the ones for which WTO states found the most problematic to find either an agreement or modalities to implement the agreement.[30]

Parties as the EU and the United States were more interested in accessing foreign markets but at the same time protecting their sectors. In the agricultural sector, the United States, indeed, aimed at maintaining its subsidies to farmers and cotton growers.[31] On the Singapore Issues, the US position was one of uncertainty, even though it was interested in negotiations of investments and trade facilitation.[32] The US did not act as a *demandeur* in this round, but it only opposed developing country requests or made small concessions. This passive position also stems from its other activities outside the WTO round. Indeed, in those years, the US were committed to concluding bilateral trade agreements with other countries. At that time, US negotiations for other agreements were carried on with Asian countries (South Korea, Vietnam, Malaysia and Thailand) and with all the countries in the Americas. Their outside option was good enough to give it the chance to avoid making too many concessions at the Doha Round level and to use mainly distributive bargaining strategies.[33]

Even though the claimed focus of the Doha Round was to help and support developing countries, what it seemed from the negotiations was that the most industrialized parties, i.e. EU and US, were shifting the focus of the negotiations. The

[30] Das, 2005, p. 56-57.
[31] Da Conceição-Heldt, 2014, p. 988; Das, 2005, p. 64.
[32] Das, 2005, p. 74.
[33] Da Conceição-Heldt, 2014, p. 990.

former by making demands on issues that were central to their interests (Singapore Issues and agricultural liberalization resistance), the latter by resisting from making concessions on issues that were central to the wellbeing of developing and least-developed countries. Indeed, the main concerns of developing countries and LDCs were: agriculture, the Singapore issues, non-agricultural market access, and, of interest to a smaller part of them, TRIPs and public health and cotton subsidies.

Starting from agriculture, the main problem laid in the fact that it is a key sector in the economies of all poor countries, but due to the high export and domestic subsidies of industrialized countries, they have difficulties in competing with them or in accessing to markets of rich countries.[34] The same is valid for the manufactured goods, even though in that area, developed countries tend to be more accommodating (remember the "Everything but Arms" Initiative carried on by the EU to facilitate exports from poor countries). However, industrialized countries are more protectionist with regards to agriculture, and tend to make less concessions. During the Cancún meeting, the G20 handed its framework proposal with regards to agriculture:

- on domestic support, developing countries asked for reduction of subsidies and of green boxed direct payments form developed countries.
- Concerning market access, they requested an effective and measurable blended formula in order to assure improved market access, "duty-free access to all tropical products and others", and some degree of special and differential treatment.
- With regards to export subsidies, they asked developed countries to eliminate export subsidies for the products of particular interest to developing countries and also to the remaining products. Moreover, they asked particular consideration to the problems of LDCs.[35]

The problem during the Cancún meeting was that it ended into failure due to divergence on agriculture, besides Singapore issues or NAMA. However, even before the Hong Kong meeting of 2006, the G20 did not change position on agriculture. According

[34] Das, 2005, p. 59-64.
[35] World Trade Organization (2003b), WT/MIN(03)/W/6.

to Brazil's WTO ambassador, Clodoaldo Hugueney, they "haven't seen movement in agriculture, so it is not justified for the G20 to move".[36]

In the consolidated position of the G90 group during the Cancún meeting, the countries called for:

- improved market access for their agricultural products in developed countries' markets;
- support from developed countries to enhance supply capacity and market access opportunities;
- tariff reductions and addressing the issue of non-tariff barriers;
- a more transparent tariff quota regime, duty free and quota free access by developed countries for products from LDCs;
- self-selection of special products and preferential trade agreements for the G90 countries.
- On domestic support, they called for substantial reduction of trade-distorting domestic support by developed countries, phasing out of amber and blue box measures, and exemption of LDCs from commitments in the agricultural sectors.
- Concerning export subsidies, they called for reduction with a view to phasing them out.

They also welcomed the EU's proposal to eliminate subsidies on products of interest to African countries, but "these countries should be provided the leeway for self-selection of products to benefit from this proposal".[37] As developing countries, G90 countries considered fundamental the agricultural sector and they were not ready to give up on concessions in agriculture.

With regards to the Singapore Issues, both G20 and G90 countries were opposed to their inclusion into the negotiating agenda, as they were perceived as a gain only for industrialised countries and an infringement in their domestic affairs. Except for trade facilitation, the other issues were seen as incongruous in a development round.[38] In its position of the Singapore Issues, the G90 countries stated that, since after the Doha ministerial conference of 2001 "there are divergent views on the New Issues", and that

[36] Third World Network, 2005.
[37] World Trade Organization (2003d), WT/MIN(03)/W/17.
[38] Das, 2005, p. 57-58.

"negotiations on the modalities should not start until there is 'explicit consensus'."[39] However, such consensus was very difficult to find, to the extent that the EU had to give up on the Singapore Issues due to the impossibility to find consensus on their inclusion in the agenda by poor countries, which felt that they were not among their priorities, also considering the nature of the round.[40]

With regards to non-agricultural market access, both developing and least-developed countries reiterated the importance to conclude agreements according to their development needs, and that liberalization of markets should mainly come from developed countries. Indeed, the countries that suffered the most from high tariffs and tariff escalation were the poorer ones, which could not access developed countries' markets.[41] However, negotiating parties could not agree on modalities on market access, neither during the Cancún ministerial nor during the Hong Kong meeting.[42]

With regards to public health and TRIPS, the issue concerned developing countries as India, Brazil and the ones in the African Union, who in 2001 asked for the exclusion of medicines from the TRIPs agreement. The rationale behind this request laid in the high cost of medicines and health problems as AIDS/HIV, malaria and other epidemics in poor countries. The Doha Declaration included and recognised the issue and gave mandate to the TRIPS council to find a solution to the problem as of the end of 2002.[43] The TRIPS Council considered a draft decision in December 2002, which allowed countries that could make medicines to export them under compulsory licence to countries that could not manufacture them. This waiver should continue until the TRIPS Agreement was amended. However, the US, having major interest in the pharmaceutical industry, opposed to this draft decision, which was not approved until the Cancún meeting. The waiver became permanent in 2005, making it easier for poorer countries to obtain cheaper generic versions of patented medicines.[44] However, poor countries had to face the opposition of industrialized countries (mainly, the US, but also Switzerland) for an issue

[39] World Trade Organization, 2003c, WT/MIN(03)/W/19.
[40] Das, 2005, p. 57-58.
[41] Das, 2005, 64-65.
[42] Cho, 2010, p. 579.
[43] World Trade Organization 2001a, WT/MIN(01)/DEC/2.
[44] World Trade Organization, 2005, WT/L/641.

that was central to their development, which is somehow controversial in a round whose main focus should be development.[45]

With regards to cotton subsidies, four African countries (Benin, Burkina Faso, Chad, Mali) asked for the elimination of subsidies directed to cotton growers in the US, China and the EU. However, the complaints of the cotton-growing economies of West Africa were ignored in Cancún, and they were only briefly mentioned in a draft document that had emerged halfway through the Cancún conference. Instead, African countries were advised to diversify their exports.[46] Moreover, the US refused to lower its cotton subsidies.[47]

It is clear that the reason behind the difficulty in finding an agreement were the opposing interests of the negotiating parties. Developing countries and LDCs were mostly interested in the development side of the agenda, having the Doha Round a focus on development. Whereas, industrialized countries, as the EU and the US had other interests. Poorer countries used distributive bargaining strategies, refusing to negotiate in case the other players did not budge. However, even if a party made a concession and used integrative bargaining, as the EU often did, developing and least-developed countries did not move from their initial positions. This often led to deadlocks.

The Doha Round negotiations comprised more than 20 issues. However, the ones of major interests to the negotiating parties were the ones described in the previous sections. In the following section, the main steps and moments of the negotiating will be outlined.

4.2. The Main Steps of the Negotiations

The Doha Round was officially launched in November 2001 in Doha, Qatar, where the Doha Ministerial declaration provided the aim and the mandate of the negotiations. However, the talks to launch a new round started even before. Indeed, in 1999, a third ministerial conference was held in Seattle, but it ended up in failure due to various issues. In this section, besides the steps after the launch of the Doha Round in 2001, the Seattle

[45] Odell, 2009, p. 290-291.
[46] Das, 2005, p. 64 and 75.
[47] Cho, 2010, p. 578.

conference will be briefly described, as it is an important step in order to understand the dynamics of the Doha negotiations. From the analysis of that conference, the diversity of views among negotiating parties, and especially between developed and developing countries, becomes clear. The failure of the meeting is a result of this diversity, which had to be taken into consideration during the next ministerial conferences during the Doha Round. In order to set a timeline for the Doha Round, the timetable that follows lists the main phases of the negotiation.

1999	Seattle Conference
November 2001	Launch of the Doha Round
June 2003	Cancún Ministerial Meeting (mid-term review): no agreement
August 2004	Framework agreement (July Package)
December 2005	Hong Kong Conference: agreement and further deadlock
July 2008	July 2008 Package and revised draft modalities
2013	Bali Package
2015	Nairobi Package

Figure 11 Doha Round: timeline

4.2.1. The Third Ministerial Conference in Seattle

The one in Seattle was the first conference after the creation of the WTO, and thus after the inclusion of many other States to the WTO system. In 1999, the WTO members were 135. The high number of newly added members was a challenge for the negotiating method that was used ever since the GATT, when the most influential member States (the so-called Quad: the US, the EU, Japan and Canada), gathered in informal meetings on specific issues in order to take important decisions. This process was known as the Green Room consultations, from the colour of the room where the meetings took place in the Centre William Reppard in Geneva. In the years, the Green Room meetings became a common method. The problem with this process was the fact that the decisions taken

during these meetings were presented at the official negotiating table almost as a *fait accompli*, and many negotiating parties were not included in the process. With the creation the WTO and the presence of more member States, the latter claimed they were not invited to participate to the informal meetings, consequently being excluded from the matters that were fundamental to their economic growth. However, the inclusion of more members to this process caused a substantial slow-down in the decision-making process, and still, it had to exclude too many member States, which made reaching a consensus impossible during the formal meetings.[48] The failure of the Seattle meeting was a result of various problems: one was this new procedural limitation, and the other was the disagreement between members on fundamental issues, such as agriculture, for with the EU had a hard stance, whereas developing countries asked for subsidies' reduction or elimination.[49] In general, developing countries stressed the importance of considering the issues that affected them the most, such as market access to industrial economies' markets, and special and differential treatment in the trading system. Whereas, industrialised countries focused on issues that were interesting to them: the EU on the Singapore Issues, the US initially focused on labour rights and environmental issues (to which developing countries strongly opposed). The agenda of the Seattle conference was not agreed upon at all, and the negotiations eventually broke down after three days.[50]

The failure of the third ministerial conference made clear to the negotiating parties that a more balanced negotiating process was required due to the high number of WTO members, and that developing countries had to be included in the process. Indeed, the Doha Ministerial Declaration demonstrated an increase attempt to pay attention to the needs of such countries.[51]

4.2.2. The Fourth Ministerial Conference in Doha

When the Doha Round was launched in November 2001, the members of the WTO committed to focus on the necessities of developing countries. Quoting paragraph 2 of the Doha Ministerial Declaration:

[48] Kas, 2005, p. 18-22;
[49] Ahnlid, 2005, p. 141.
[50] Kas, 2005, p. 22-25.
[51] World Trade Organization, 2001b.

"International trade can play a major role in the promotion of economic development and the alleviation of poverty. We recognize the need for all our peoples to benefit from the increased opportunities and welfare gains that the multilateral trading system generates. The majority of WTO members are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration."[52]

The declaration provided the mandate of the future negotiations and defines the work programme. The attention paid to the developing countries is visible through the focus on "implementation": developing countries' problems in implementing the WTO agreements. In this regard, it was decided that the issues for which there was an agreed negotiating mandate in the declaration would be dealt with under the terms of that mandate. Those implementation issues where there was no mandate to negotiate, would be the treated as a priority by the relevant WTO councils and committees.[53] As mentioned previously, the Doha Round negotiations included many negotiating issues. However, in this section the focus is on the subjects that caused more controversy and disagreement between the negotiating parties, and which contributed the most to the failure of the following ministerial meetings. Thus, the issues that will be covered here are only a partial part of the work programme of the Doha Round, but they are the ones that are key in order to understand the main problems of the negotiations and the bargaining strategies of the parties.

With regards to agriculture, the declaration established that members had to commit to substantially reduce domestic subsidies, export subsidies and market access, with special and differential treatment for developing countries so that they can meet their needs.

Concerning NAMA, the objective stated in the text was: "to reduce, or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries".[54] The aim was also to pay particular attention to the needs to LDCs and developing countries, and to agree on modalities by May 2003.

[52] World Trade Organization, 2001b, p. 1.
[53] World Trade Organization, 2001b, p. 2-3.
[54] World Trade Organization, 2001b, p. 3-4.

With regards to the Singapore issues (trade facilitation, government procurement, trade and investment and trade and competition), the declaration established that the working groups assigned to these subjects had to study them in order to clarify their core principles and to keep into account development needs. Thus, Singapore issues were included in the declaration but with the commitment to defining them in a better way.[55]

With this work programme as the basis, the negotiations started and were set for completion in January 2005. However, early on in the negotiations it was clear that it would have been difficult to conclude them as early as 2005.[56]

4.2.3. The Fifth Ministerial Conference in Cancún

The meeting in Cancún took place between 10-13 September 2003. In the previous months, two mini-ministerial conferences were held (Tokyo in February and Montreal in July). In both occasions, new proposals on agriculture were made without success: in Tokyo the first Harbinson draft text on modalities (from Stuart Harbinson, Chairman of the Special Session on Agriculture) did not obtain much consent, and in Montreal the EU showed some signs of increased flexibility, which was still insufficient for developing countries and LDC (the EU increased its offer to cut trade-distorting support in agriculture from 55% to 60%, while expressing its willingness to eliminate export subsidies and expand tariff rate quotas for an agreed list of products).[57]

After that meeting, the EU and the US were asked to propose a joint framework for negotiations. Indeed, in August 2003, the EU and the US issued a joint framework suggesting how progress could be made. The text proposed a blended formula for tariff reductions, a special safeguard for developing countries to protect sensitive products and improved duty-free access for developing country exports. Many of the proposals from this paper were included in Annex A of the Draft Ministerial Text prepared by the General Council chairperson, Carlos Pérez del Castillo, which was proposed as the basis for discussion in Cancún.[58]

[55] World Trade Organization, 2001b, 4-6.
[56] Kas, 2005, p. 54.
[57] Matthews, 2008, p. 316-317.
[58] Matthews, 2008, p. 317-318.

In areas as agriculture and NAMA, the draft reaffirmed the commitment set out in the Doha mandate and invited each working group to find an agreement on modalities. Concerning Singapore Issues, the draft recognised that there were not the conditions to start negotiations. Whereas, on TRIPs and health issues (which was an important matter for developing countries) it welcomed the progress made by the working groups.[59] However, developing countries and LDCs did not agree with the proposals made in the draft, which seemed to lean towards the interests of developed countries. Therefore, negotiating groups composed of developing and least-developed countries presented framework proposals of their own.[60] However, disagreement was too serious to find a compromise in Cancún. On agriculture and NAMA, the negotiating parties were not able to settle on modalities. Moreover, it seemed that unilateral actions of industrialised countries countered the objectives made in the WTO round, as no industrialised country seemed prone to make actual commitments to reduce internal support to farmers.[61] On the last day in Cancún, the Mexican foreign minister who chaired the conference, Louis Ernest Derbez, proposed a draft text in order to carry on negotiations. The text proposed tariff reduction to improve market access, it proposed a formula to address tariff peaks and a timeline for the elimination of export subsidies.[62] Still, the proposal was incompatible with the different positions of the negotiating parties. On the Singapore issues, developing and least-developed countries perceived them merely as interests of the industrialized economies. On the last day of negotiations, given the disagreement on the issues, the EU proposed to drop two of them (competition and investment). However, due to the diversity in positions, the negotiations of the Singapore Issues could not be launched.[63] As a result of disagreements on these main issues, negotiations on other issues stalled by default.

[59] World Trade Organization, 2003a, Draft Cancún Ministerial Text.
[60] Kas, 2005, p. 58-59.
[61] Kas, 2005, p. 76-77.
[62] Matthews, 2008, p. 318; Kas, 2005, p. 81.
[63] Kas, 2005, p. 74-75.

4.2.4. Framework Agreement: August 2004

31 July 2004 was the self-imposed deadline for agreeing on a negotiating framework. After the failure in Cancún and with the pressure created by this internal deadline, the negotiating parties revised their past positions in an effort to carry the negotiations on. The EU, for example, agreed on making significant concessions in agriculture provided that Australia, Canada and the US made equivalent commitments. The EU indeed proposed the elimination of export subsidies and recognised their detrimental effects on non-industrialized economies. Furthermore, the EU proposed the G90 economies to be exempted from the requirement to lower trade barriers. Lastly, it acknowledged that there was no consensus on the Singapore issues and stated that they should be included in the agenda only if such consensus was met.[64] Evidently, the EU started to use more integrative bargaining tactics in an effort to reach an agreement, starting to budge also on issues that were of utmost importance to it.

On the other hand, other parties started to demonstrate greater inflexibility even facing the increased flexibility of the EU. For example, West African countries (Benin, Burkina Faso, Chad and Mali) asked to negotiate separately cotton subsidies, and not in the agricultural negotiations.[65]

Within this context, in July 2004 the negotiating parties gathered in order to agree on a framework agreement, using the Derbez text as the basis for negotiations. The framework that was agreed upon became known as the July Package (or the Geneva Agreement), and it was a non-binding agreement with the aim of reviving the stalled negotiations. One of the major achievements was that it established the basis for the future negotiations on modalities for agriculture. It was decided that industrialized economies had to make bigger reductions in domestic production subsidies and to eliminate highly-distorting export subsidies, with special and differential treatment remaining an integral component on domestic support.[66] Trade-distorting practices were to be reduced by a tiered formula, according to which "Members having higher levels of trade-distorting domestic support will make greater overall reductions in order to achieve a harmonizing

[64] Kas, 2005, p. 79-80.
[65] Kas, 2005, p. 80.
[66] World Trade Organization. 2004, p. 3-6.

result".[67] The cotton issue was not dealt with at that time, but it should be faced in the future. About the Singapore issues, the first three (except for trade facilitation) were dropped, with the commitment to take them up again in the future.[68] The framework agreement served as the basis for the Sixth ministerial conferenced that had to be held in Hong Kong in December 2005.

4.2.5. The Sixth Ministerial Meeting in Hong Kong

The Ministerial Meeting that was held in Hong Kong was concluded with the Hong Kong Ministerial Declaration, which main accomplishment was the definition of the deadlines for the elimination of agricultural export subsidies (2013) and cotton export subsidies (2006).[69] Concerning modalities, it was only established that they had to be agreed upon by April 30, 2006.[70] Therefore, the Declaration only reaffirmed the previous commitments and set new deadlines. However, at the end of July, the WTO General Council suspended the negotiations due to impossibility in finding a compromise on the major issues, and a new stalemate started.[71]

4.2.6. The Seventh Ministerial Conference in Geneva

In February 2007, WTO director Pascal Lamy, resumed the negotiations. In order to create a basis for the future negotiations, Lamy consulted the trade ministers in Geneva and presented what was called the Lamy Draft, a package based on the previous draft modalities that had been issued in February, May and July by the chairpersons for agriculture, ambassador Crawford Falconer, and NAMA, ambassador Don Stephenson.[72] The Lamy draft imposed a cut in farm subsidies to the US (to 14 billion dollars) and to the EU (to 22 billion – approx. 80%). Regarding market access, the draft called for 70% reduction for the highest farm tariffs. As to special safeguard mechanisms, developing countries could use them only if imports surged by more than 40% in volume. During the

[67] World Trade Organization. 2004, p. -6.
[68] Kas, 2005, p. 82-84.
[69] World Trade Organization, 2005, p. 2-3.
[70] World Trade Organization, 2005, p. 3.
[71] Cho, 2010, p. 579-580.
[72] Cho, 2010, p. 580-581.

negotiations, the core negotiating groups were not able to find a compromise with regards special safeguard mechanisms, even though there was a consensus on the other points. The main problems were caused by the US, which refused to significantly reduce its trade-distorting farm subsidies and criticised developing countries for asking enhanced safeguard mechanisms.[73] Hence, as of 2008, the negotiations were still stalled.

4.2.7. The Bali and the Nairobi Package: 2013 and 2015

In 2013, the negotiations were a bit further thanks to agreements of issues of fundamental importance to the developing and least-developed countries, such as: duty-free and quota-free access to developed countries' markets, preferential rules of origin, and preferential access to richer countries' services market. Trade facilitation (one of the Singapore issues) was included in the package, with the aim to simplify customs procedures by reducing costs and improving their speed and efficiency. The package also included a political commitment to reduce export subsidies.[74]

In 2015, during the Tenth Conference in Nairobi, some major achievements were made in agriculture: it was agreed on the elimination of export subsidies. Developed members committed to remove export subsidies immediately, except for some agriculture products, and developing countries committed to the same removal from 2018. Developing countries kept some flexibility until 2023, and the poorest and food-importing countries were provided with more time to cut export subsidies.[75] Also with regards to cotton, some major achievements were reached, as the package included commitments related to duty-free and quota-free market access for LDCs to the markets of industrialised countries, and the prohibition of export subsidies.[76]

Therefore, during the last two conferences held at the WTO level, some achievements were made, especially in areas relevant to the developing countries. Even though, the major issues that created disagreement between the negotiating parties in the previous meetings were included in the last negotiating packages. The only issues that were faced were export subsidies in agriculture and, to some extent, trade facilitation and

[73] Cho, 2010, p. 581.
[74] World Trade Organization, 2013, p. 1-3.
[75] World Trade Organization, 2015a, p.2.
[76] World Trade Organization, 2015b, p. 2-4.

the cotton issue. Agreement on the other most sensitive issues (besides export subsidies) is yet to be reached.

4.3. The Analysis of the Negotiation

In this section, the variables outlines in chapter 2 (institutional variables and external variables) will be used in order to prove that: (1) the EU created a strong single voice in order to negotiate at the WTO level, but, in this case, (2) the single voice was not a sufficient condition for the EU to obtain an outcome relevant for its interests. Indeed, both institutional (internal) and external factors have a role in determining the effectiveness of the bargaining leverage of the EU. In the past it was assumed that the single voice is a necessary element for the EU to be effective at the negotiating table. However, if it is true that the single voice is created internally – therefore we use the institutional variables in order to analyse it – it is also true that in international negotiations, factors that are external to the internal rules of the EU (i.e. power of the negotiating parties, type of negotiation and bargaining strategies and outside options) can influence the process and the outcome of the negotiation. The influence of external variables can enhance the strength of the single voice (as during the EU-US agricultural negotiations in the Uruguay Round), with the EU benefitting from it. Conversely, it can happen that the external variables influence the negotiations in such a way that a strong single voice formed at the EU level is not sufficient in order to obtain a favourable outcome that is in line with EU interests. This latter case corresponds to the Doha Round.

4.3.1. Institutional Variables

As explained in previous parts of this work, the institutional variables are related to the internal functioning of the European Union. These variables are the voting system, the delegation rules, and the nature of the negotiation. They are fundamental in the creation of the single voice, as it depends on them and on how they interact with each other that the single voice that is formed can be stronger or weaker. The institutional

variables refer to the elements used by the first wave of scholars in order to analyse a negotiation. Institutional variables are fundamental in order to understand here how the single voice has been created by the member States and the Commission.

Variable 1: Voting Rules

Voting in the Council of Ministers (the institution that approves the mandate of the Commission) depends of the subject treated. In the 2000s (after the Treaty of Amsterdam of 1999), in areas of traditional trade issues (e.g. trade in goods and services), the Council voted under qualified majority. Whereas for more sensitive and non-traditional sectors as investments and competition, unanimity is required.

Basically, when qualified majority voting is required, the influence of protectionist States is less powerful, as the voting rules do not permit them to outvote States with more liberal interests. Whereas, when unanimity voting is used, it is clear that, as there is the requirement for all EU countries to cast the same vote, the influence of protectionist States on a given matter can hinder the adoption of the mandate.

The negotiating agenda proposed by the Commission included areas for which both qualified majority and unanimity prevailed – non-traditional aspects of trade as environment, investment, and competition required unanimity. Therefore, in order to obtain political support at the Council level, the Commission managed to link issues with the "Single Undertaking", a package including more subjects, so that in the package there were interests of every EU country that could offset potential losses in other areas.[77] In this case, the Commission managed to avoid the problem of States that could potentially outvote the mandate by creating the Single Undertaking. Countries that were protectionist in agriculture were more interested in investment and competition policies. Whereas, countries as the UK and the Netherlands were more interested in agriculture than new issues as investment and competition. Hence, by including more issues in a single negotiating package, the Commission managed to obtain political support by every country. Moreover, for those areas in which protectionist interests were still dominating, the language used to draft the conclusion of the proposal was such that it gave reassurance that no excessive reform would be sought. It was also promised that concessions by the

[77] Ahnlid, 2005, p. 134-136.

EU had to be compensated by equivalent concessions by other States in the same or other areas of the agenda.[78]

Variable 2: The Negotiating Mandate

The negotiating mandate for the Doha Round was quite flexible, in the sense that the European Commission was able to make concessions, especially as negotiations went ahead and no compromise with developing countries was found. In order to gain additional room of manoeuvre, the Commission used the necessity to support developing countries to tell the Council that a new line had to be adopted. In fact, it was clear that the focus of WTO negotiations had to keep in mind also the interests of non-industrialised countries, and the negotiating stance of the EU had to adjust considering this fact. In such way, the Commission managed to obtain a flexible mandate and a less hard position by EU member States.[79]

However, an area that, especially at the outset, remained problematic was agriculture, for which many member States detained protectionist interests (France, Italy, Portugal, Ireland, Spain, Germany). Especially at the beginning of the Doha Round, the EU did not budge much with regards to agricultural liberalization. Even before the launch of the round, during the conference in Seattle (1999), the Commission was ready to accept significant reduction in export subsidies, but the opposition of France and Ireland impeded the Commission to make concessions, which contributed to the failure of the conference.[80] In the Doha declaration there was a clear sign of commitment in reducing supportive and trade-distorting measures, but in Cancún the proposals of the EU were still not sufficient for the other negotiating parties. It was only since Geneva in 2004 (and in Nairobi in 2015) that the EU showed some more willingness to make concessions in that area, touching the necessity to eliminate export subsidies for the first time.[81]

Except for agriculture, which has always been a sensitive issue, the Commission made many concessions during the Doha Round, from the "Everything But Arms" initiative in 2001 in favour of imports from LDCs, to the decision to eliminate the

[78] Ahnlid, 2005, p. 138.
[79] Ahnild 2005, p. 142.
[80] Kas, 2005, p. 22; Ahnlid, 2005, p. 141.
[81] Kas, 2005, p. 79-80.

Singapore issues from the agenda in Cancún – even though the decision was made too late to save the conference from failure.

The concessions made from the Commission were possible thanks to the flexibility of the mandate agreed upon before the launch of the round. The Commission proved to be able to obtain a looser mandate as it convinced the member States that a new line was needed and it proposed a Single Undertaking that permitted issue-linkage.

Variable 3: Nature of the Negotiation

In chapter 2, the nature of the negotiation has been defined based on two possible scenarios: a conservative scenario – when the EU aims at maintaining the status quo and reacts to other States' initiatives – and a reformist scenario – when the EU's interest is to change the status quo and acts in a more active way.[82] The Doha Round represents a reformist scenario, as the EU was the one who pursued the start of a new round. In chapter 2, it was claimed that in a reformist case, a combination of flexible mandate and qualified majority voting (or tactics as issue-linkage in order to obtain political support from EU member States) was the most ideal way to form a single voice that was strong enough to be credible at the international level and to obtain a favourable outcome given the reformist interest of the EU. On the contrary, what is not compatible with a reformist scenario is a tough mandate and unanimity voting, which could prevent the EU negotiators from using tactics that allow them to obtain the change they want at the international level.

Therefore, in order to create a single voice that could be strong in this case it was best: (i) a flexible negotiating mandate and (ii) qualified majority voting or the use of tactics as issue-linkage in order to obtain political support from EU member States. During the definition of the mandate for the Doha Round, this was exactly what the Commission did: it managed to obtain a fairly flexible mandate, considering the limitations of the EU (agriculture), and it obtained political support thanks to issue-linkage in the Single Undertaking, bypassing the problem of the mixed voting rules that applied to the different negotiating issues. Thanks to the ability of the Commission, the

[82] Strömvik & Elgström, 2005, p. 119.

EU went at the negotiating table with other WTO members with a strong single voice: a common position to which it could stick to without deviating from it.

4.3.2. External Variables

It is now clear that during the Doha Round the institutional variables combined in such way that a strong single voice was formed. However, as mentioned previously, there are also external variables that come into play in determining the bargaining leverage and the effectiveness of a party during an international negotiation. These variables have been introduced by the second wave of scholars in order to claim that the single voice cannot be analysed thoroughly through the use of the institutional variables only. Indeed, external variables are important in order to capture the context that is eternal to the European institutions' process.

Variable 4: Relative Power of the Negotiating Parties

During the Doha Round, the negotiating parties were many. At the launch of the round, in November 2001 in Doha, the number of WTO members was 143 (including China that was approved during the conference). The most powerful parties were the members of the so-called Quad (the EU, the US, Canada and Japan), which were the largest traders. Negotiating against those parties created for weaker States an imbalance in the negotiation. This is why, with their accession to the WTO, developing and least-developed countries started to create coalitions based on geographical origin or sectorial interests. Therefore, States that, by themselves, were not able to face negotiating giants as the EU, created groups in an effort to be more influential at the international level. This is why groups as the G90, G21, G33 and the Cotton-4 came into being.

The power of the negotiating parties during the Doha Round is fairly symmetrical. The reason for that are two: (1) developing countries and LDCs gathered in coalitions, which made them more powerful when confronting industrialized countries, and (2) the official objective of the Doha Round was to support and improve the conditions of the

poorer countries. Therefore, even being weaker compared to parties as the EU or the US, they still had a privileged position in the round, being development the main focus of the negotiations.

Variable 5: Type of Negotiation and Bargaining Strategies

The Doha Round is a case of multilateral negotiation. Normally, when negotiating multilaterally, the EU tends to use integrative bargaining strategies, privileging value-creation and making concessions.[83] The choice of the negotiating strategy is correlated to the interests of the party. In the specific case of the Doha Round, the EU was the *demandeur*, its objective was to start a new round and to put forward its interests. When a negotiating party asks to start a negotiation, there is the probability that, being the one that seeks change, it will be ready to make more concessions in order to make negotiations go ahead. Moreover, the decision to use distributive or integrative bargaining strategies can depended on the perceived alternative to the agreement: when a party perceives that it has a better alternative to the negotiated agreement (BATNA) it uses distributive bargaining strategies, Whereas, when it perceives its outside alternative has worsened it uses integrative bargaining strategies.[84]

In the case of the Doha Round, the EU used both distributive and integrative bargaining strategies. Distributive tactics were used especially for agricultural interests: in Cancún (but also in Seattle) the EU refused to make significant concession; whereas in other areas it tended to use integrative strategies[85] – e.g. yielding on the Singapore issues or proposing measures to guarantee preferential treatment and support for LDCs. However, after the failure of the Cancún Ministerial Conference, the Commission started to use integrative bargaining also in agricultural matters, proposing to reduce (with the final aim of eliminating) export subsidies. Thus, overall, the strategy of the EU was mixed, with a tendency to increase integrative strategies. The problem with this choice was that the EU had to yield on important issues in order to satisfy other parties.[86] Developing and least-developed countries tended to use distributive tactics, often

[83] Da Conceição-Heldt & Meunier, 2014, p. 973.
[84] Odell, 2009, p. 274.
[85] Odell, 2009, p. 288.
[86] Ahnlid, 2005, p. 144.

rejecting the concessions made by industrialized countries or claiming that their proposals were not relevant for them or against their interests – e.g. the insistence of the EU to include the Singapore issues in the agenda. Also, countries that were starting to conclude bilateral trade agreements tended to use distributive bargaining strategies, countries as the US, Brazil and India.[87]

Thus, the Union was negotiating as a *demandeur* with parties that were using distributive strategies. In an effort to conclude an agreement it used increasing integrative bargaining strategies; however, its concessions did not prevent the round from deadlocking.

Variable 6: Outside Options

The bargaining leverage of a party also depends on the outside options it has: an actor can have a BATNA (best alternative to a negotiated agreement) or a WATNA (worst alternative to a negotiated agreement). Having a good BATNA allows the party to make fewer concessions, as its outside option in a valuable alternative if the agreement fails. Therefore, its bargaining power is high. On the contrary, with a low BATNA or a WATNA, a party is in the position of being willing to make concessions, as an agreement would still be better to its outside option.[88]

Thus, variable 6 has to be read in close relation with the previous variable (bargaining strategy). In fact, having a good or bad outside option determines the bargaining strategy that a party may use. With a good BATNA, a party is more likely to use distributive bargaining tactics. Without it, it will probably use integrative strategies.[89]

During the Doha Round, countries that had good BATNA used distributive strategies. For instance, the US was negotiating bilateral agreements with Asian countries and other Latin American countries. Brazil and India were doing the same.

The EU, during the Doha Round, did not have a BATNA. In fact, it is important to remember that the EU was the party that pushed for a new round, as, in the 1990s, many EU countries were starting to be more oriented towards trade liberalization.[90] It is also

[87] Da Conceição-Heldt, 2014, p. 990.
[88] Da Conceição-Heldt, 2014, p. 984.
[89] Odell, 2009, p. 274.
[90] Young, 2007, p. 798.

key to note that the Doha Round came after the Seattle ministerial conference of 1999, which was perceived as a failure. The credibility of both the WTO system and of the EU was undermined by the failed Seattle meeting.[91] In such a context, the stakes of the new round were high, and the EU perceived that its alternative to the Doha Round agreement had worsened.[92] Hence, the decision to use integrative bargaining strategies stemmed from the EU's desire for a wider free-trade approach and from the perceived absence of a BATNA.

4.4. Conclusions

The aim of this analysis was to demonstrate that (1) the EU created a strong single voice in order to negotiate at the WTO level, but (2) the single voice was not a sufficient condition for the EU to obtain an outcome relevant for its interests.

Indeed, it is true that the EU managed to form a strong single voice given the reformist scenario. It has been shown that, when the Union aims at reforming the status quo, in order to create a solid single voice a flexible mandate and QMV, or the use of tactics by the Commission to gain political support, are necessary. In the case of the Doha Round, the EU managed to obtain both by: creating a Single Undertaking that allowed for issue-linkage, and by convincing the Council of the necessity to adopt a new line of negotiation. Hence, the EU went at the international bargaining table speaking with a cohesive and strong voice.

However, the single voice might be strong, and the EU might appear cohesive to the other parties, but there are other external variables that come into play. In this case, external variables influenced the negotiations in such a way that, even though the single voice was strong, it proved to be insufficient for the EU to be effective.[93] On the contrary, the round ended up many times in failure, to the extent that, to this day, the Doha Round is not still concluded. What played a role in determining the failure of the round are the opposing bargaining strategies used by the negotiating parties – which depended on their

[91] Das, 2005, p. 4-5.
[92] Odell, 2009, p. 287.
[93] With effective still meaning that it is able to obtain the best outcome given its interests.

opposing interests and, for the EU, which are also directly connected to the fact that it did not have a good outside option.

The interests of the negotiating parties were so distant that the round stalled three times (in Cancún 2003, in Hong Kong 2005, and in Geneva in 2008). When the negotiations were not at an impasse, the documents that were produced at the meetings did not include significant improvement. The different interests of the negotiating parties contributed to determine their negotiating strategies. The EU's main interest was an increased free-trade approach, especially in areas as investment and competition. Due to its position of *demandeur* in a multilateral setting, and due to the fact that it did not have a good BATNA, the EU tended to use mainly integrative bargaining tactics, making more and more concessions, but without any result. On the contrary, other parties tended to use distributive strategies. Countries as the US, Brazil or India because they had good outside options. Whereas, other developing countries and LDCs because they wanted (i) to stop unfair trade protection, (ii) to obtain a reduction or elimination of export and domestic subsidies by developed countries and (iii) to gain a fairer treatment in global trade matters. All aspects that, according to developing countries, failed to be met with the final outcome of the Uruguay Round in 1994.

In conclusion, the Doha Round is a case in which the EU formed a strong single voice. However, this single voice was not enough to be effective at the international level. In fact, the negotiations stalled many times, even though the single voice was there and was cohesive. Here, the assumption that speaking with a single voice makes the EU more effective (meaning obtaining a favourable outcome) proves to be wrong. The single voice was insufficient, as other external factors came into play during the negotiations. Hence, even though the single voice was present, the European Union could not be defined as effective during this round.

Conclusions

The objective of this work is to investigate the role of EU's single voice in international trade negotiations. The decision to pursue this aim stemmed from the frequent statements by EU policymakers claiming that in order to be effective (obtaining a favourable outcome given its interests) in trade matters at the international level, the EU must speak with a single voice. This assumption was also supported by the analytical work on the subject conducted by a first wave of scholars, who studied the correlation between the single voice and external effectiveness by analysing the institutional rules of the EU. A second wave of scholars eventually started to challenge this assumption, declaring that the single voice is not enough to be effective at the negotiating table. In this dissertation, the studies of both waves of scholars have been used in order to create a new and complete analytical framework that included the focus on institutional rules of the first wave of scholars, and the focus on the external context of the second wave.

Thus, the objective was to understand whether speaking with one voice really leads to increased EU bargaining leverage and effectiveness, as EU policymakers claim, or if the effectiveness of the single voice is actually not enough to be effective. In order to pursue this aim, two different negotiations have been analysed. The case-studies figured two different negotiating scenarios: (i) the EC-US agricultural negotiations in the Uruguay Round was a conservative scenario, meaning that the EC's aim was to maintain the status quo against the active proposals of the US, who wanted to further liberalization in agricultural trade; (ii) the Doha Round was a reformist scenario: the EU was the *demandeur* and actively sought to carry on its proposals on world trade matters.

In both cases, the EU eventually had a strong single voice. In the first case, it managed to form a strong single voice thanks to its institutional rules. Here, an analysis through the institutional variables proved that when the voting system used by the Council was qualified majority and the mandate of the Commission was vague, the single voice was weaker. The reason is that when the aim of the EC is to maintain the status quo, its credibility at the international level is higher if the influence of the most protectionist member States is present, as it "ties the hands" of the negotiators. Therefore, unanimity voting – which allows the protectionist member States to use its veto power – and a

stricter negotiating mandate – under which the Commission is more controlled – allow the EC to have more bargaining leverage *vis-à-vis* other parties. However, besides the institutional variables, also external factors (measured through the external variables) can affect in some way the effectiveness of the EU. The result can be positive – reinforcing the strength of the single voice – or negative – making it rather ineffective. In this case, the analysis through the external variables demonstrated that the external context positively influenced the EC's single voice. Here, the EC having a good outside option (giving that it wanted the status quo, no agreement was a good BATNA) and using distributive bargaining strategies proved to be beneficial. Therefore, during these negotiations, the EC eventually managed to form a cohesive voice that was supported also by external factors. However, the claim made by EU policymakers that bargaining leverage and effectiveness are linked to speaking with a single voice is only partially true. The reason is that, even though this case proves that the EC 's single voice was effective, it demonstrated that it depended on the variables. It becomes evident that speaking with one voice in international trade negotiations is not effective *per se.* Indeed, with qualified majority and a vague mandate, the single voice was not effective. It only became effective when unanimity voting was reinstated and with a stricter control by member States. Furthermore, its effectiveness can depend also on the external variables. In this case, its influence was positive. Therefore, a combination of specific institutional variables and favourable external variables contributed to make the single voice of the European Community effective, leading to a favourable outcome given EC's initial protectionist interests.

The Doha Round, on the contrary, is a reformist scenario. In cases in which the EU wants to push its objectives in order to reform global trade, it has been proven that the best way in order to form a strong single voice is through qualified majority (or the creation of political support through other strategies if unanimity is required) and with a looser negotiating mandate. Under these conditions, the Commission is able to make concessions. Moreover, member States with extreme positions do not have the chance to threat to use their veto power due to qualified majority voting or to strategies used by the Commission to bypass the problem of a required unanimity. In this case, the EU managed to form a strong single voice from the outset. In fact, the Commission proposed a single negotiating package in order to have it approved by the Council and to bypass the problem

of issues that had to be voted both by unanimity. Moreover, in more than one occasion, it was able to exploit the flexibility of its mandate in order to make concessions. Thus, the institutional variables combined in a positive fashion so that a strong single voice was formed. However, during the Doha Round, the external variables did not affect the negotiations as positively as in the first case-study. In fact, here the EU did not have a good outside option. This, and the fact that it was a multilateral setting, led the EU to negotiate using mixed-integrative bargaining strategies, against parties that mainly used distributive ones. Moreover, parties that are tendentially weak at the international level (developing countries and LDCs) had two advantages: (i) they managed to form coalitions in order to defend their interests collectively, (ii) the focus of the round was officially on development issues. This external setting did not provide the EU with an advantage, even though the single voice formed at the institutional level and displayed at the international level was strong. Thus, this is a case in which, even though the single voice was present and cohesive, the external context affected negatively its potential effectiveness. Negotiations often stalled and, nonetheless the integrative approach of the EU, parties could not manage to find a compromise on fundamental issues. In this case, the assumption that the single voice is linked to external effectiveness proves to be wrong, as the single voice was not a sufficient condition for the EU to be effective at the international level.

The analytical framework used demonstrated that speaking with one voice can be effective and can lead to an increase bargaining leverage, but this effectiveness depends on: how the single voice is formed at the institutional level, and how the external variables affect the negotiations. As mentioned previously, the institutional and the external variables can combine in different ways, making the single voice effective or reinforcing its strength (as in the EC-US agricultural negotiation in the Uruguay Round), or making it ineffective or weakening its strength (i.e. during the Doha Round).

In conclusion, the thesis supported by EU policymakers is only a partial truth. The effectiveness of speaking with one voice is not that straightforward. The single voice is not a sufficient element in order to guarantee effectiveness at the international level. In fact, it is linked to a set of variables that cannot be put aside when analysing international trade negotiations with a view to assess the role of the single voice in the final outcome. The institutional rules considered by the first wave of scholars were not sufficient either,

if used alone, in order to carry out a complete analysis of the role of the single voice. However, the second wave of scholars shifted the whole focus on the external context, taking the focus off the institutional rules. Instead, a combination of both factors (internal and external to the EU) proved to be fundamental in an effort to investigate the role of the single voice in international trade negotiations.

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