Who Captures Whom? Trade Policy Lobbying in the European Union

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Introduction

Trade policy is a classic field for the study of private influence on policy-making. Firms and industries can gain clear advantages by protecting their markets from foreign competition or by gaining access to other countries. A large portion of the literature on international political economy therefore explains policy choices with reference to the demands of constituent interests (see Frieden and Martin 2002). For anybody interested in business lobbying, trade policy would seem to be the most appropriate place to start.

And yet, comparing trade policy lobbying in the U.S. and the EU leaves many observers surprised. Aggressive business lobbying on trade issues is much less common in Brussels than it is in Washington, D.C. (e.g. Coen 1999; cf. Woll 2006). Shaffer (2003: 6) underlines that U.S. firms and trade associations are very proactive in business–government relations on trade policy. This "bottom-up" approach contrasts with the "top down" EU approach where public authority, in particular the European Commission, plays the predominant entrepreneurial role.

> While the U.S. Trade Representative responded to onslaughts of private sector lobbying reinforced by congressional phone calls and committee grillings, the Commission had to contact firms to contact it (Shaffer 2003: 70).

Indeed, the European Commission has made a concerted effort to integrate firms and other private actors into the trade policy-making process in order to gain bargaining leverage not simply vis-à-vis third countries, but also over its own member states (Van den Hoven 2002; Elsig 2007). By helping to elaborate policy solutions,

interest group participation increases the legitimacy of the Commission on external trade issues.

This reverse lobbying is not without consequences. While firms do increasingly seize the opportunities available to them at the supranational level, EU trade policy lobbying is marked by a particular logic. Firms face a trade-off between pressing for immediate advantages and responding to the interests of the European Commission, which promises them access to the policy-making process (Broscheid and Coen 2003). Since the Commission is not immediately accountable to constituency interests, it can select interest groups and firms that it prefers to work with and ignore others (Grande 1996). In selecting private partners, the Commission follows two objectives. First, it requires technical expertise to develop its policy proposals (Bouwen 2002). Second, and on trade issues in particular, it is interested in finding pan-European solutions to prevent disputes between the member states that would risk stalling trade negotiations (Shaffer 2003: 78-79). When protectionist measures depend on national boundaries, industry privileges are likely to conflict with the Commission's goals. Firms therefore have to decide between lobbying for their immediate advantage at the risk of being ignored, and framing their demands in terms of a pan-European interest even if they are not certain of obtaining an advantage.

This logic creates two distinct channels for trade policy lobbying in the EU. A firm or industry interested in classic protectionism is most successful when it uses a national lobbying strategy directed at the member states and ultimately the Council of Ministers. Supranational lobbying, in turn, requires framing demands to include a pan-European dimensions. Lobbyists thus have to find ways of proposing pan-European protectionism, most commonly in the form of pan-European trade

regulation (Young 2004). Alternatively, they can lobby for trade liberalization in order to establish or maintain contacts with the European Commission and then hope to integrate more precise demands in the details of trade regulation or the implementation of agreements.

By studying the Europeanization of trade policy and the instruments firms employ to affect EU trade policy, a first part of this paper underlines the complexity individual firms have to manage in order to influence the Community stance on international trade negotiations. As an illustration of the EU trade policy lobbying logic, a second part then turns to concrete policy examples and compares the protectionist lobbying on agriculture and textiles and clothing with the lobbying on service trade liberalization in financial services and telecommunications. The conclusion discusses the extent to which the findings on business lobbying have implications for other actors seeking to affect trade policy, most notably NGOs or public interest groups.

1. Trade policy lobbying in the multi-level system

Trade policy is one of the most integrated policy areas in the EU, and yet the struggle over the competence distribution between the supranational institutions and the member states is crucial for understanding lobbying in this domain. Before turning to the key instruments for corporate lobbying on EU trade, it is therefore necessary to understand the Europeanization of trade policy and the history of competence delegation from the member states to the EU Institutions.

1.1. The integration of trade policy-making

The common commercial policy is as old as the European Economic Community itself. With the Treaty of Rome in 1957, member states agreed that a customs union requires a common external tariff, common trade agreements with third countries and uniform application across member states (Elsig 2002; Meunier 2005). They granted the European institutions the right to speak on their behalf on these issues in external trade negotiations.[1] Initially, this authority applied to tariff rates, anti-dumping and subsidies, which were indeed the main stakes in early multilateral trade negotiations under the General Agreement on Tariffs and Trade (GATT). During the Tokyo Round of GATT (1973-9) and especially during the Uruguay Round (1986-94), non-tariff barriers to trade started to gain importance, including health, environmental and social aspects of trade policy, and the domestic regulatory issues applying to the trade in services. European trade authority did not apply to many of these issues, which pushed the Community to redefine trade competences and the degree of delegation from the member states to the EU. In particular, it stirred up a debate over which issues should fall under "exclusive" or "mixed" competence (Meunier and Nicolaïdis 1999; Meunier 2000a).

Mixed competence means that trade authority is delegated on an *ad hoc* basis to the Community. The setting of objectives and the ratification of the negotiation results are subject to a unanimous vote by the Council, whereas both require only a

[1] Articles 131-135 (ex 110-116) of the Treaty on European Union. Article 300 (ex 228) provides the supranational institutions with powers to conclude trade agreements with third countries.

qualified majority under exclusive competence. Over time, many areas of mixed competence have been dealt with pragmatically at first, by letting the Commission negotiate without fully resolving the competence dispute. For the results to be adopted, however, the legal competence question has become pressing. When the European Court of Justice decided effectively against an automatic expansion of trade competences in 1994, the Commission and the member states first agreed on a code of conduct and later adopted a special competence transfer procedure in 1996 (Elsig 2002: 90-101; Meunier 2000b: 338-40). It was not until 2003 that the Treaty of Nice finally amended Article 133 and provided for the exclusive competence over services and intellectual property rights, with the exception of cultural and audio-visual services. The struggle underlines how heavily disputed the transfer of authority is. Delegation is a delicate matter, even in this highly integrated policy domain, and control mechanisms employed by member states are tight (De Bièvre and Dür 2005).

The various control mechanisms become evident when one considers the different stages in the trade policy-making cycle. Woolcock (2000) distinguishes between (1) the setting of objectives, (2) the conduct of negotiations and (3) the adoption of results. The negotiation objectives are decided by the General Affairs Council of foreign ministers on the basis of a Commission proposal. Long before the formal adoption of a mandate, the Commission submits the proposal to the member states or, more precisely, to the national trade officials representing their governments on the Article 133 Committee (see Johnson 1998). Discussions during this phase are crucial, since the Commission can use the Article 133 Committee "as a sounding board to ensure that it is on the right track" (Shaffer 2003: 79). Trying to achieve a consensus on the mandate, the Article 133 Committee examines and amends the

proposal before handing it to the Committee of Permanent Representatives (COREPER) and eventually the Council. Neither the European Parliament nor the general public participate formally in these early negotiations, which take place behind closed doors in order to shield the negotiation objectives from the trading partners. Woolcock (2000: 380) underlines how sharply the role of the European Parliament contrasts with the role of the U.S. Congress. Indeed, constituents lobbying their representatives have more direct control over the negotiating mandate in the U.S., where Congress can grant or withhold negotiation authority.

The conduct of negotiations is the responsibility of the Commission, but even in areas of exclusive competence, consultation with the member states is crucial. The Article 133 Committee closely follows negotiations and the EU negotiation team meets daily with member state representatives. On sensitive issues such as service trade liberalization, trading partners have jokingly remarked that the Commission negotiates more with the member states than with the rest of the world (Woll 2004: 227). The Commission, furthermore, tries to keep the External Economic Relations Committee of the European Parliament informed, even though the Parliament has no speaking rights during negotiations. Results are adopted by the General Affairs Council either by qualified majority voting under exclusive competence or by unanimous decision under mixed competence. In practice, however, consensus decisions are the norm (Woolcock 2000: 384).

The importance of consensus between the member states applies equally to dispute settlement procedures. The most common way to bring a dispute to the WTO is for the Commission to initiate a case after consultation with the Article 133 Committee. Formal procedure requires conflictual issues to be transferred to

COREPER and subsequently to the Council, should all other instances fail to resolve the dispute. In all the time the WTO has employed the dispute settlement procedure, this has only happened once.[2] According to Shaffer (2003: 80) "neither committee members nor the Commission wish to transfer decision-making authority on trade matters from themselves, who are trade experts, to the Council, which consists of foreign affairs ministers."

To summarize, all stages of trade policy-making are characterized by an explicit desire to achieve and maintain consensus between the member states. The Commission cannot negotiate effectively if the EU member states are not behind the Community objectives. The interlocking of member state control and Commission authority are thus the two important dimensions of trade policy-making that interest groups and firms need to take into account if they wish to lobby effectively.

1.2. Instruments and venues for corporate lobbying

Consultation with private actors happens at various stages of EU trade policy-making. Business interests, furthermore, affect the use of instruments of commercial defence, with which the Community tries to ensure equal competition for European and foreign firms. During trade negotiations and with respect to instruments of commercial defence, the solicitation by the Commission plays a key role in shaping the access of private actors to the policy-making process.

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[2] The EU complaint concerned the Helms-Burton Act, a US law sanctioning European foreign investors in Cuba.

1.2.1. Trade policy consultation with private actors

Even though discussions between the Commission and the Article 133 Committee on negotiation objectives are not public, the Commission consults extensively with firms, interest groups and NGOs in order to define specific stakes in its proposal. The EU consultation procedure is less formal than the system of Trade Advisory Committees in the U.S., but the Commission DG Trade and DG Industry maintain stable relations with groups such as the Union of Industries of the European Community (UNICE) or sectoral business associations. In 1998, the Commission tried to formalize its consultation and include a broader range of interest groups by instituting a Civil Society Dialogue on the upcoming round of negotiations (Van den Hoven 2002; De Bièvre and Dür 2007). Both business interests and public interest groups now participate in the Civil Society Dialogue. However, unlike the U.S. advisory system, the Commission is under no legal obligation to consult with the Civil Society Dialogue or to take its reports into consideration.

Yet input from interest groups is valuable to the European Commission because it can help strengthen its negotiation stances vis-à-vis the member states and its trading partners. During the Uruguay Round, American negotiators cooperated closely with U.S. industry representatives. By contrast, the European business community was largely absent from the negotiations, despite the importance of multilateral trading stakes. Only UNICE declared in favour of the Commission position, and Jacques Delors complained openly about the lack of business support (Grant 1994: 83-5; Van den Hoven 2002: 10).

Integrating business interests into the formulation of trade objectives therefore became an important goal for the European Commission in the 1990s. One of the

most noted initiatives was the Transatlantic Business Dialogue (TABD), founded by the U.S. Secretary of Commerce Ron Brown and European Trade Commissioner Sir Leon Brittan in 1995. The aim of the TABD was to bring together CEOs of American and European companies so that they could "pre-negotiate" issues relevant to transatlantic trade (Coen and Grant 2000; Cowles 2001). Similarly, the Commission encouraged the creation of other consultative associations, such as the European Service Forum, launched in January 1999. Initiatives such as the Civil Society Dialogue, the TABD or the European Service Forum illustrate the extent to which the Commission solicits participation from private actors and is willing to listen to their suggestions.

However, individual groups have few means of putting direct pressure on the Commission to ensure that their demands will be taken into account. Within each member state, they can try to lobby their governments to affect the consensus between member states and the Commission during all phases of the policy cycle. They can also contact the European Parliament, which holds hearings and produces reports on trade issues, but this will do little more than shape the atmosphere in which EU objectives are determined and monitored (Woolcock 2000: 380). During the adoption phase, national parliaments and the European Parliament may play a greater role in the future, especially now that co-decision has been extended by the Treaty of Amsterdam, but lobbying on trade policy still concentrates on the interchange between the Commission and member governments.

1.2.2. Instruments of commercial defence

In addition to ongoing trade negotiations, business lobbying can also target separate administrative procedures to ensure protection against 'unfair' foreign

competition. These instruments of commercial defence include anti-dumping and countervailing duties and the Trade Barriers Regulation of 1994. All of these administrative instruments require the identification of unfair competition practices, for which firms often have better information than governments. Over time, the EU has therefore tried to facilitate business input, so as to identify the greatest possible number of trade barriers or obstacles to competition.

Anti-dumping measures, by far the most commonly used instrument of commercial defence, seek to punish exporters who sell their goods in the EU below the cost of their domestic production. The procedure begins with a complaint filed by industry representatives, which the Commission then decides to pursue or not. In the event of an investigation, the Commission studies in consultation with the national authorities whether there is evidence of dumping or injury to a European industry and seeks proof that the imposition of duties would be in the 'Community interest'. Hearings are held to define the Community interest and to make it difficult for narrow protectionist interests to pursue anti-dumping actions (Woolcock 2000: 389-90). In fact, petitioners need to represent 50% of the injured industry, which makes it hard for individual firms to file a complaint (De Bièvre 2002: 86). After the imposition of a provisional duty by the Commission, the Council can decide by simple majority to reject the duty or to impose definite action.

Until the beginning of the World Trade Organization (WTO), which replaced GATT in 1995, the commercial policy of the EU was relatively defensive. European trade officials had simultaneously to respond to demands for protection through anti-dumping measures and to face the U.S., which actively sought to dismantle European trade barriers. Faced with "aggressive unilateralism" from the U.S. (Bhagwati and

Patrick 1991), the EU had sought to create a New Commercial Policy Instrument in 1984, which tried to emulate U.S. business–government cooperation in identifying trade barriers. Unlike the U.S. model, the European procedure was marred with difficulties. In its ten year history, European firms filed only seven petitions (Shaffer 2003: 84-94). In December 1994, the instrument was replaced by the Trade Barriers Regulation, which supporters were hoping would have more teeth. Innovations included the right of individual firms to petition the Commission directly, as may member governments. Furthermore, the petitioner no longer needs to provide proof of injury in order to file the complaint. The Trade Barrier Regulation requires the EU to exhaust all available multilateral dispute settlement procedures before resorting to unilateral action, which means that the procedure serves mostly as a means of identifying potential WTO dispute settlement cases.

Indeed, soliciting industry help in identifying such cases was one of the main motivations behind the Trade Barrier Regulation. Traditional international trade disputes were initiated by the Commission in consultation with the Article 133 Committee. Lacking close cooperation with business interests and trade associations, the EU was much less able to exploit the WTO Dispute Settlement Body when it was first established in 1995. The U.S., by contrast, brought several high-profile cases against the EU, and filed 8 of the first 15 complaints resulting in panels.[3] Commission

[3] The EU, in turn, brought only two, both jointly with the US, against third countries Gregory C. Shaffer (2003), *Defending Interests: Public-Private Partnerships in WTO Litigation*. Washington, D.C.: Brookings Institution Press..

officials felt that they needed to show more initiative and started to work actively to gain industry support and industry's technical expertise on existing trade barriers.

In February 1996, the Commission launched a new Market Access Strategy, tactically announced by Sir Leon Brittan as "D-Day for European Trade Policy" to an audience of major exporting companies (Shaffer 2003: 68). Within DG Trade, a Market Access Unit was established, the primary role of which was to interact with business actors to gather information on existing trade barriers. A central pillar of the work was the maintenance of a Market Access Database (see De Bièvre 2002: 96-100).[4] By centralizing information on trade barriers and involving firms in the collection of information, the EU was hoping to be able to counter the aggressive private–public partnerships of U.S. trade policy. As the administration of instruments of commercial defence shows, the Commission explicitly urged business participation in instruments of commercial defence in order to gain leverage over its trading partners.

1.3. Trade-offs in multi-level trade lobbying

The study of trade negotiations and of the administration of instruments of commercial defence illustrates how important business participation is for the internal and external negotiations of the European Commission. The solicitation is based on the Commission's hopes of increasing its technical expertise, its legitimacy, its ability to maintain consensus among the member states and its leverage in trade negotiations. However, since Commission officials do not depend on re-election by constituency

[4] Available from within the EU at http://mkaccdb.eu.int.

interests, firms cannot exert direct pressure on European officials to reinforce their demands. Therefore, business access is not automatic; it depends on the degree to which private actors can offer the elements the Commission is interested in. Business lobbying on trade is thus marked by a particular exchange logic, where firms provide expertise and support in order to gain access to the policy process (Bouwen 2002; Mahoney 2004).

The selective access at the European level creates a two-channel logic for business lobbyists, which specifies different routes according to the content that firms seek to defend. Classical protectionism is easier to achieve in interaction with national governments, while cooperation on the elaboration of pan-European solutions promises an excellent working relationship with the European Commission. Pan-European trade policy lobbying can be in support of liberalization, but it can also consist of regulatory protectionism that does not discriminate on the grounds of nationality but appeals instead to a greater Community interest.

In fact, the tendency of the EU to defend a rather liberal external trade policy is relatively recent. Hanson (1998) argues that member states maintained national levels of protection in sensitive sectors throughout the 1970s and 1980s, despite the fact that a common commercial policy was enshrined in the Treaty of Rome. However, through the completion of the internal market, member states lost their ability to use national policy tools, in particular due to the legislative instruments available to the Commission in enforcing market integration (Schmidt 2000). Moreover, EU voting rules make it difficult to replace national policies with protectionism at the EU level (Hanson 1998: 56). Consensual decision-making on

trade policy means that measures favouring the sensitive industries in only a few countries will be vetoed by other countries.

Yet, even if the Commission is more liberal than many of the member states, supranational trade policy initiatives are not always aimed at reducing trade barriers. In fact, the Commission does not have an *a priori* tendency to liberalize; it merely seeks to develop pan-European policy solutions that do not create cleavages between member states in order to avoid deadlock. Liberalization happens to be a pan-European solution, but pan-European regulation is also possible. Many have noted that the liberalization objectives of the EU often appear like an exercise in international regulation rather than the complete abandonment of all trade barriers (Winters 2001; Cremona 2001). Alasdair Young (2002) argues that EU external policy is most accurately described as an attempt to extend European cooperation to third countries. Moreover, regulatory harmonization within the single market infrequently creates "regulatory peaks", as many of the prominent trade disputes between the EU and third countries illustrate (Young 2004). In other words, even though we should expect protectionist lobbying to employ national routes and businesses supporting liberalization to develop partnerships with the European Commission, we might also find lobbyists defending new kinds of regulatory protectionism that applies equally across member states.[5]

[5] Regulatory protectionism can be especially successful if elaborated in cooperation with directorate-generals specialized in a particular sector of economic activity. While DG Trade might push for trade liberalization, DG Agriculture, DG Industry, DG Transport and Energy or DG Information Society will be more likely to elaborate sector specific regulatory arrangements that enshrine advantages for European industries in world markets. I thank Manfred Elsig for raising this point.

2. Lobbying for protectionism or liberalization

What does this mean for industry lobbyists and why is it relevant to distinguish between classic protectionism and pan-European regulatory protectionism? With few exceptions, European trade policy applies to all industries alike, so we should expect producers and firms to move their lobbying efforts to the supranational level. Surprisingly, this is not the case. By comparing lobbying in agriculture and textiles and clothing, we can see that protectionist lobbying is only successful when it is supported within the member states, which is why lobbyists eventually have to concentrate their efforts on the domestic route. Tellingly, lobbyists targeting the Commission to maintain import restrictions on textiles and clothing were ignored in the absence of member state pressure. By contrast, a study of the service trade shows how business lobbyists have been able to influence the European Commission's objective once they embraced liberalization as a policy objective. This was easy for the exporting companies in financial services, but required an important redefinition of policy demands in telecommunication services, where firms were not naturally inclined to support liberalization. Distinguishing between the types of demands can thus help to explain the success or failure of trade policy lobbying in the EU.

2.1. Resistance to foreign competition: agriculture and textiles

2.1.1. Agriculture

The agricultural market, one of the most integrated markets in the European Union, is characterized by a highly centralized structure of interest representation at

the supranational level: the *Comité des organizations professionnelles agricoles* (COPA), founded in 1958. Despite the close, traditionally quasi-corporatist relations between COPA and the EU Institution on the Common Agricultural Policy (CAP), lobbying on multilateral trade issues has, most importantly, passed through national channels. Starting in the 1980s, the crisis of CAP dissolved the consensus between national agricultural organizations and left space for a more pluralist organization of agricultural interest groups. Several unified demonstration in Brussels notwithstanding, the diversification of interest representation implies that interest representation on external trade is mediated by the member states (Delorme 2002).

Indeed, during the first years of the Uruguay Round, national farmer organizations, most notably in France and Germany, lobbied heavily to ensure that their governments did not cede ground on agricultural liberalization. In December 1990, strong internal divisions between the EU member states led to a rejection of the settlement on agriculture that was supposed to conclude the Uruguay Round. The Commission hoped to strike a compromise by tying the multilateral negotiations to a reform of CAP. At the beginning of the CAP reform process, the Commission had tried to consult with national farmers' unions, but eventually abandoned its contacts when it realized that farmers were not willing to move away from the status quo (Vahl 1997: 149). As a consequence, the Commission negotiated directly with the member states and isolated itself from the critical farmers' union. In reaction, "farmers' unions simply intensified their lobbying activities at the member state level" to block CAP reform and concession in the GATT negotiations (Van den Hoven 2002: 11). Once the Commission succeeded in negotiating a compromise with the U.S. at Blair House in Washington, D.C. in 1992, it was again the French government which threatened to

veto the agreement. Since Germany had shifted its position to support the Blair House Accord, France ended up in an isolated position and did not carry through its threat (Balaam 1999: 60).

During the new round of trade talks, opposition to liberalization was also channelled through national routes. France and Ireland publicly criticized the Commission's negotiating position during the Doha ministerial meeting, arguing that the defence of CAP ought to be the EU's priority for negotiations (Van den Hoven 2002: 19-20). Until the time of writing, member state disagreement has severely constrained the Commission's room for manoeuvre in the current negotiations. It is thus member state opposition, not agricultural lobbying, that explains development in agricultural trade negotiations. For the Commission, successful negotiations require neutralizing member state opposition, not resisting protectionist lobbyists at the supranational level.

2.1.2. Textiles and clothing

As in agriculture, protectionism in textiles and clothing was achieved through national strategies. Inversely, when interest groups had to start interacting with the European Commission, lobbying for protectionism became increasingly difficult. Protectionism in textiles and clothing dates was enshrined in four successive Multifibre Arrangements (MFA) from 1974 to 1994 and ended with a Uruguay Round Agreement on Textiles and Clothing, which stipulated that the MFA will be phased out over a ten-year period.[6]

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[6] For an historical overview, see Aggarwal Vinod K. Aggarwal (1985), *Liberal Protectionism: The International Politics of Organized Textile Trade*. Berkeley:

Throughout the MFA period, the orientation of the respective arrangements resulted from intense intergovernmental bargaining. The relatively moderate EC policy on MFA I (1974-6) was influenced by the liberal German and Dutch approach, which resisted U.S. calls for strict protectionism. Since the European industry had not yet lost its comparative advantage, the Commission did not want to intervene. Once the textiles and clothing trade balance deteriorated, the Committee for the Textile Industries in the European Community (COMITEXTIL) lobbied heavily in Brussels to draw attention to the dramatic fall in employment in the sector. Unimpressed and doubting the reliability of the figures, the Commission maintained that it would be wrong to give in to these protectionist demands. But things were different in the Council. Member states felt concerned about the health of their textiles and clothing industries and announced that the Community policy should be centred on voluntary export restraints (Ugur 1998: 660). In the difficult economic times of the late 1970s, the UK had joined France and Ireland's strict protectionist demands, supported also in Italy. Moderate countries seeking a simple renewal of the MFA were eventually outnumbered (Aggarwal 1985: 146). Faced with insistent member states determined to protect what they considered to be their national interests, the Commission had to switch to a protectionist trade policy during MFA II and MFA III (1977-85).

The shift toward gradual liberalization under MFA IV (1986-1994) was tied to the desire of developed countries to open up trade in services and other new issues

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University of California Press. and Hoekman and Kostecki Bernard M. Hoekman and Michel M. Kostecki (2001), *The Political Economy of the World Trading System*. Oxford: Oxford University Press..

(Woolcock 2000: 378). Yet protectionist lobbying at the European level had not ceased in 1985. COMITEXTIL worked hard to draw attention to the difficult situation in the sector. In spite of this tactic's previous success, the industry's difficulties were seized on by opponents of textile protection to show that earlier measures had not left the industry better off. As European countries turned away from Keynesian demand management, member state support faded. Despite intense lobbying from COMITEXTIL, trade unions and other textile associations, national representatives on the Article 133 Committee and COREPER were able to work out a compromise in favour of gradual liberalization. In 1989, moreover, the Commission accepted the midterm review of the Uruguay Round, against the insistence of the textile industry association (Ugur 1998: 663). The Commission later issued a communication stressing that restructuring was appropriate for the industry and Sir Leon Brittan announced to a shocked industry audience that "the textile industry is a normal industry," (cited in Scheffer 2003). Without the backing of the member states, protectionist lobbying in textiles and clothing at the EU level was a failure.

In a last attempt to secure special treatment in EU trade policy, industry representatives formed a new coalition in the early 1990s, the European Textile and Clothing Coalition, to avert the dangers of the new policy orientation. Simultaneously, the European Trade Union Committee for Textiles began to organize meetings and demonstrations. All of these efforts were largely ignored by the Commission, which insisted that the industry's problems had to be resolved by securing market openings in third countries (Ugur 1998: 664-5). At the conclusion of the Uruguay Round, the EU had endorsed the WTO's Agreement on Textiles and Clothing, which was to phase out all protection by January 2005.

Faced with this new reality, the textile industry had to reorganize. COMITEXTIL, while other textile associations founded a new European association in 1995: the European Apparel and Textile Organization (EURATEX). Needing to work with the Commission in order to influence or delay the integration of sensitive categories into the WTO agreement, EURATEX launched a review of its strategy (Scheffer 2003). In contrast to the unsuccessful pressure lobbying that had characterized earlier protectionist demands, European industry representatives decided to engage in a more cooperative manner with the European Institutions.

As Jacomet (2000: 307) underlines, the new "interactive lobbying" during the WTO negotiations in the early 1990s had differed sharply from previous activities because lobbyists had to accept a "trade-off" in the policy demands they could voice: they exchanged the elimination of the MFA for market access in third countries. Only by embracing a policy stance centred on market access did textile lobbyists maintain their contacts with the European Institutions. Indeed, the selection logic of the EU Institutions forcing European industry representatives to reframe their demands helps to explain why the EU textile industry became supportive of foreign market access while its American counterpart continued to press for strict protection. The need to supply a specific kind of lobbying at the supranational level also becomes clear in the reorganization of EURATEX. As a result of its internal review, EURATEX decided to develop a more comprehensive policy "in order to be seen as relevant partners for policy-makers," (Scheffer 2003: 108). Faced with very heterogeneous demands from its national associations, EURATEX now aims not to counteract national lobbying, but to promote synergies between domestic and European efforts. After the lobbying

failures of the past, EURATEX's approach today is to focus on pan-European stances to maintain its leadership role at the EU level.

At the end of the Agreement on Textiles and Clothing's transition period in 2005, European companies complained vigorously about Chinese competition. Still, they acknowledged that the abandonment of the quota system was beyond their control. Whether they liked it or not, "the affected companies had to accept the new logic in order to be able to influence the calendar, the modalities of the new measures or the transition aid," (Jacomet 2004: 5). In the absence of member state pressure for protection, successful business–government relations at the supranational level required going along with the liberalization objective of the European Commission.

2.2. Developing pan-European policy solutions: trade in services

The multilateral General Agreement on Trade in Services (GATS) that entered into force with the founding of the WTO in 1995 is often cited as a prime example of business influence over trade policy. According to many observers, the American financial service companies and its Coalition for Service Industries played a key role in bringing the issue onto the international negotiating table (Drake and Nicolaïdis 1992; Sell 2000; Woll 2004). On the European side, firms were much less in evidence during the service negotiations in the Uruguay Round and the sectoral negotiations that followed GATS. However, the European Commission did consult extensively with industry representatives in two sectors: financial services and telecommunication services (Van den Hoven 2002: 10).

2.2.1. Financial services

At the conclusion of the Uruguay Round, countries agreed to continue sectoral negotiations on financial services to obtain more detailed liberalization commitments. By the initial deadline in 1995, the U.S. declared itself unsatisfied with the existing offers and walked out of the negotiations. Behind the position of the U.S. government was the frustration of the U.S. private sector, which had helped to put services on the WTO agenda and now felt that it was not achieving sufficient market access in foreign countries (Woolcock 1998).

Faced with the U.S. refusal, the EU assumed the leadership in the financial service talks and encouraged WTO members to negotiate an interim agreement without the U.S. in 1995 and to extend the talks until December 1997. Over the next two years, the European Commission went out of its way to gain the support of European financial service firms so it could counter the influence of the U.S. private sector. Indeed, representatives of "Citicorp, Goldman Sachs, Merrill Lynch and the insurance companies – particularly the American Insurance Group and Aetna – established command posts" near the WTO headquarters and conferred with American negotiators throughout the financial service talks (Andrews 1997).

Business lobbying comparable to the activities of the U.S. Coalition of Service Industries was only common in the United Kingdom, where financial service firms had founded British Invisibles in 1986, an association to promote the interests of its members, which later turned into International Financial Services London. Part of British Invisibles was the working committee LOTIS (the acronym for Liberalisation Of Trade In Services), which dates back to the early 1980s (see Wesselius 2001). For the European Commission, working with these private sector associations was crucial,

because they felt that European firms could best engage the U.S. private sector in a continued dialogue. Transnational business negotiations began at the World Economic Forum in Davos, Switzerland in 1996. U.S., UK and European financial service representatives met in the office of British Invisibles and eventually formed the Financial Leaders Group to promote the interests of the affected firms on both sides of the Atlantic (Sell 2000: 178).

The European Trade Commissioner, Sir Leon Brittan, welcomed the creation of this group and worked closely with its European chair, Andrew Buxton of Barclays Bank (Wesselius 2002: 7). For the EU negotiators, the Financial Leaders Group was an important channel through which they hoped to moderate U.S. expectations, in particular by addressing the concerns of the U.S. private sectors, which had previously brought the talks to a standstill (Woolcock 1998: 33). Sir Leon Brittan had long been frustrated with the lack of support among European companies and tried to encourage them to mobilize around the issue of international trade liberalization. A representative of the European service sector remembers: "At one occasion, he finally invited a series of CEOs for dinner and said something to the effect of 'either you will get organized, or I will take the decisions single-handedly'."[7]

In contrast to the aggressive lobbying of U.S. financial service firms, European firms entered negotiations not so much on their own initiative but, most importantly, in response to the active encouragement of the European Commission, which was looking for business support for the difficult financial service talks in the 1990s. The close business–government relationship that developed in the EU after 1996 was

[7] Interview with the author in Brussels, November 13, 2002.

based on the shared aim of liberalizing the sector. After an unexpected change in the position of the Asian countries during the currency crisis in 1997, negotiators finally reached an agreement on December 12, 1997. Yet the cooperation between financial service firm leaders and the European Commission went even further than the Financial Service Agreement. In 1998, Sir Leon Brittan asked Andrew Buxton once again to create a select group of, this time, purely European business leaders. The European Service Forum, launched on January 26, 1999, today ensures the Commission's continued support for the liberalization of service industries and consequentially benefits from privileged access to trade policy-making at the supranational level. Had European firms not supported liberalization, it is highly unlikely that they would have been able to work so closely with EU policy-makers.

2.2.2. Telecommunications

In telecommunications, the position of firms was more difficult. European network operators had long benefited from privileged positions as monopoly providers in their home countries. The WTO's sectoral negotiations on basic telecommunications liberalization from 1994-1997 coincided with the liberalization of the internal EU market. While firms wanted to benefit from foreign market access once telecommunication markets were liberalized, they were also concerned about protecting their home market positions. Solicited by the European Commission, European operators therefore adopted a pro-liberalization stance in the mid-1990s, which allowed them to follow and influence the content of the multilateral negotiation in the WTO while still maintaining close ties to their home governments in order to defend national interests on specific issues.

In fact, the project of European telecommunications liberalization had met with very different echoes in European member states. The United Kingdom and the Nordic countries had introduced competition in their home markets and pushed actively for Europe-wide liberalization. Germany, France and the Benelux countries had initiated more moderate reforms, but had their reservations about complete liberalization. However, the Southern countries – Italy, Greece, Spain and Portugal – were not interested in changing their telecommunication systems (see Noam 1992). The struggle between the European Commission and the member states over internal telecommunications liberalization began in 1987 and is recounted elsewhere in great detail (e.g. Sandholtz 1998; Thatcher 1999b; Eliassen and Sjøvaag 1999; Holmes and Young 2002). After some judicial wrangling over EU competences, the Commission was able to propose the liberalization of telephone services in 1993 and infrastructures in 1994. In 1996, member states reached agreement on implementing liberalization by January 1, 1998. What is important for an understanding of the WTO involvement of European network operators is the consultation efforts made by the European Commission during the internal liberalization project.

Trying to gain support in the face of member state resistance, Martin Bangemann, European Commissioner for Industry, Information Technology and Telecommunications, called together a group of "wise men", leaders from the telecom industry and user companies, in order to prepare a communication on the international competitiveness of European telecommunications. The consultation procedure is noteworthy, because the Commission dealt with the senior officials of the national operators directly and encouraged them to evaluate their position in the internationalizing market. Under pressure from user companies and competition from

liberalized countries attracting telecommunications-based firms, operators in France and Germany began to concentrate on reform and internationalization, and therefore supported the EU liberalization (Thatcher 1999a). With the backing of the leading European telecommunications providers, the report issued by the senior official group, the so-called Bangemann report, was important for encouraging member states onto the route of liberalization (High-Level Group on the Information Society 1994).

Lobbying on multilateral liberalization was closely connected to internal liberalization. Before 1996, European network operators were not involved in the sectoral negotiations that had begun in 1994 (Woll 2004). With the announcement of the 1998 deadline, the European Telecommunication Network Operators association (ETNO), founded in 1992, was able to gather support for multilateral liberalization as well. A member of the WTO working group recalls: "We had good relations with the European Commission. There was no opposition: the Commission works for Europe and we work for Europe as well."[8] ETNO fully supported the multilateral negotiations and helped the Commission negotiate the Basic Telecom Agreement in 1997.

Indeed, most operators affirm having been in support of the 1997 agreement and having engaged actively through their European association throughout the talks. Despite these declarations, many operators had concerns about losing their national privileges and so used their national ties to maintain a degree of control over access to their home markets. Telefónica, the Spanish operator, for example, insisted on restricting non-EC investment to the Spanish market, despite the fact that it had become an important overseas investor in Latin America. When the U.S. criticized the

[8] Interview with the author in Brussels, September 3, 2003.

Spanish position, negotiations over the case turned into bilateral talks between the Commission and the Spanish government, which had taken up the highly politicized issue (Niemann 2004: 399). Similarly, network operators in other countries tried to guarantee national privileges through the implementation of the EC regulatory framework. Member states and their regulatory agencies enjoyed immense freedom to determine interconnection terms and tariffs between networks or to impose universal service conditions. In contrast to British Telecom, which received no extra funding for universal service, France Télécom had the right to obtain compensation (Thatcher 1999a). At the same time that ETNO was lobbying for reciprocal liberalization of basic telecommunication services through the WTO, national operators were seeking to maintain regulatory advantages, i.e. restrictions to foreign market access, through their national governments.

3. Conclusion

The comparison between agriculture, textiles and clothing, financial services and telecommunication services shows that trade policy lobbying in the EU is marked by a two-channel logic. Protectionism (agriculture) is best defended through the national route, while lobbying in support of liberalization (financial services) happens at the supranational level, in particular through contacts with the European Commission. Companies that seek both foreign market access and restrictions to competition in their home markets therefore tend to adopt an ambiguous position: they choose to support liberalization "in general" in order to stay in contact with the European Commission, but also work through their member states to maintain national restrictions (telecommunications). Without the backing of their home

governments, protectionist lobbying that impedes European market integration is unsuccessful at the supranational level (textiles and clothing). In trade policy, firms thus face a trade-off. If they want to maintain good relations with the European Commission, they have to frame their demands in terms of pan-European solutions, which often means moving away from their immediate interest.

The entrepreneurial role of the European Commission in creating public–private contacts on trade policy has several implications. First of all, not just businesses but also other interest groups, such as environmental or social NGOs, can be solicited for input into the European trade policy process. As current consultation demonstrates, the Commission has indeed made an effort to include an ever broader range of actors in order to increase its legitimacy and work towards a policy consensus (Woolcock 2000). The increasing importance of NGO consultation on trade issues means that firms are now obliged to work on their public image. One business representative of a petroleum company even estimated that 80% of his public affairs responsibilities concern contacts with NGOs, not governments.[9] However, firms remain the principal source of expertise on trade barriers and will therefore come into their own whenever the EU seeks to increase its leverage vis-à-vis trading partners such as the U.S.. While NGOs may affect the atmosphere of trade negotiations, it is important not to overestimate the direct influence of public interest groups, even though the Commission tries to take their opinion into account through the Civil Society Dialogue (De Bièvre and Dür 2007).

[9] Cited by Dominique Jacoment, board member of EURATEX, at a book conference on "Interest groups and the State in France," CEVIPOF – Sciences Po, Paris, on January 11, 2007.

Second, the complexity of the strategic interactions in European trade policy caution against superficial analyses of trade policy demands in the EU. Because of the two-channel logic, we should expect to find many firms declaring themselves in favour of trade liberalization, simply because this ensures them greater access to the EU trade negotiators. A study of trade preferences thus needs to distinguish between the strategic positions of firms and their underlying preferences, which might be much more ambiguous than the official declarations would lead us to believe.

Finally, the comparison between the various business–government relations shows that European trade policy lobbying is complex. To assume that trade policy simply reflects producer demands, as many have suggested in the case of the U.S., would be to miss important aspects of public–private relations in the EU. While firms might capture their government's positions or even the supranational agenda in certain cases, the Commission also instrumentalizes European firms and even affects the content of their lobbying demands. This runs counter to the common assumption that industry demands and governments simply execute trade policy. Such a demand-side conception of policy-making runs through classic trade theory, international political economy and the economic analysis of business-government interactions. This article has tried to demonstrate that it is inappropriate for an understanding of European trade policy. The EU's common commercial policy results as much from producer demands as it does from the complex decision-making procedures, the institutional self-interest of public actors and the power struggles created by their interaction. Considering the EU institutions as the passive supplier of trade regulation obscures some of the most crucial mechanisms of this policy process.

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References

Aggarwal, V. K. (1985) *Liberal Protectionism: The International Politics of Organized Textile Trade*. Berkeley: University of California Press.

Andrews, E. L. (1997) 'Agreement to Open up World Financial Markets is Reached', *New York Times*, December 13.

Balaam, D. N. (1999) 'Agricultural Trade Policy', in B. Hocking and S. McGuire (eds.), *Trade Politics: International, Domestic and Regional Perspectives*, London: Routledge, 52-66.

Bhagwati, J. and Patrick, H. T. (eds.) (1991) *Aggressive Unilateralism: America's 301 Trade Policy and the World Trading System*, New York: Harvester Wheatsheaf.

Bouwen, P. (2002) 'Corporate Lobbying in the European Union: The Logic of Access', *Journal of European Public Policy* 9(3): 365-390.

Broscheid, A. and Coen, D. (2003) 'Insider and Outsider Lobbying in the European Commission', *European Union Politics* 4(2): 165-189.

Coen, D. (1999) 'The impact of U.S. lobbying practice on the European business-government relationships', *California Management Review* 41(4): 27-44.

Coen, D. and Grant, W. (2000) 'Corporate Political Strategy and Global Policy: A Case Study of the Transaltantic Business Dialogue', *Regulation Initiative Working Paper*(42).

Cowles, M. G. (2001) 'The Transatlantic Business Dialogue and Domestic Business-Government Relations', in J. Caporaso, M. G. Cowles and T. Risse (eds.), *Transforming Europe : Europeanization and Domestic Change*, Ithaca, N.Y.: Cornell University Press, 159-179.

Cremona, M. (2001) 'Neutrality or Discrimination? The WTO, the EU and External Trade', in G. De Búrca and J. Scott (eds.), *The EU and the WTO: Legal and Constitutional Issues*, Oxford: Hart Publishing, 151-184.

De Bièvre, D. (2002) 'The WTO and Domestic Coalitions: The Effects of Negotiations and Enforcement in the European Union', Ph.D. Disseration, Department of Political and Social Sciences, San Domenico di Fiesole: European University Institute.

De Bièvre, D. and Dür, A. (2005) 'Constituency Interests and Delegation in European and American Trade Policy', *Comparative Political Studies* 38(10): 1271-1296.

De Bièvre, D. and Dür, A. (2007) 'Inclusion without Influence? Civil Society Involvement in European Trade Policy', *Journal of Public Policy* 27(1): 79-101

Delorme, H. (2002) 'Les agriculteurs et les institutions communautaires: du corporatisme agricole au lobbyisme agro-alimentaire', in R. Balme, D. Chabanet and V. Wright (eds.), *L'action collective en Europe*, Paris: Presses de Sciences Po, 313-346.

Drake, W. J. and Nicolaïdis, K. (1992) 'Ideas, Interests, and Institutionalization: Trade in Services and the Uruguay Round', *International Organization* 46(1): 37-100.

Eliassen, K. A. and Sjøvaag, M. (eds.) (1999) *European Telecommunication Liberalisation*, London: Routledge.

Elsig, M. (2002) *The EU's Common Commercial Policy: Institutions, Interests and Ideas*. Aldershot: Ashgate.

Elsig, M. (2007) 'Delegation and Agency in EU Trade Policy Making: Bringing Brussels Back In', Paper presented at the EUSA Conference, Montreal, 17-18 May.

Frieden, J. and Martin, L. L. (2002) 'International Political Economy: Global and Domestic Interactions', in I. Katznelson and H. Milner (eds.), *Political Science: The State of the Discipline*, New York: W.W. Norton & Company, 118-146.

Grande, E. (1996) 'The State and Interest Groups in a Framework of Multi-Level Decision-Making: The Case of the European Union', *Journal of European Public Policy* 3(3): 318-338.

Grant, C. (1994) *Delors: Inside the House that Jacques Built*. London: Nicholas Brealey Publishing.

Hanson, B. (1998) 'What Happened to Fortress Europe? External Trade Policy Liberalization in the European Union', *International Organization* 52(1): 55-86.

High-Level Group on the Information Society (1994) *Recommendations to the European Council: Europe and the Global Information Society*. May 26. Brussels: European Commission. <http://europa.eu.int/ISPO/infosoc/backg/bangeman.html>

Hoekman, B. M. and Kostecki, M. M. (2001) *The Political Economy of the World Trading System*. Oxford: Oxford University Press.

Holmes, P. and Young, A. (2002) 'Liberalizing and Reregulating Telecommunications in Europe: A Common Framework and Persistent Differences', in P. Guerrieri and H.-E. Scharrer (eds.), *Trade, Investment and Competition Policies in the Global Economy: The Case of the International Telecommunications Regime*, Baden-Baden: Nomos, 119-158.

Jacomet, D. (2000) 'Les stratégies d'entreprises face aux politiques publiques: le lobbying des producteurs occidentaux et la politique commerciale internationale dans le textile-habillement', Ph.D. Thesis, Gestion, Paris: Université Paris IX - Dauphine.

Jacomet, D. (2004) 'Les changements induits par l'intégration européenne et la mondialisation sur la stratégie d'influence des entreprises: le cas de l'Union des Industries Textiles (UIT)', Paper presented at the conference "Interest groups in the 21st century in France and Europe," Sciences Po Paris, 24-25 September.

Johnson, M. (1998) *European Community Trade Policy and the Article 113 Committee*. London: Royal Institute of International Affairs.

Mahoney, C. (2004) 'The Power of Institutions: State and Interest Group Activity in the European Union', *European Union Politics* 5(4): 441-466.

Meunier, S. (2000a) 'EU Trade Policy: The ‚Exclusive' versus Shared Competence Debate', in M. G. Cowles and M. Smith (eds.), *The State of the European Union: Risks, Reform, Resistance, and Revival*, Oxford: Oxford University Press, 325-346.

Meunier, S. (2000b) 'What Single Voice? European Institutions and EU-U.S. Trade Negotiations', *International Organizations* 54(1): 103-136.

Meunier, S. (2005) *Trading Voices: The European Union in International Commercial Negotiations*. Princeton, N.J.: Princeton University Press.

Meunier, S. and Nicolaïdis, K. (1999) 'Who Speaks for Europe? The Delegation of Trade Authority in the European Union', *Journal of Common Market Studies* 37(3): 477-501.

Niemann, A. (2004) 'Between Communicative Action and Strategic Action: the Article 113 Committee and the Negotiations on the WTO Basic Telecommunications Agreement', *Journal of European Public Policy* 11(3): 379-407.

Noam, E. (1992) *Telecommunications in Europe*. New York: Oxford University Press.

Sandholtz, W. (1998) 'The Emergence of a Supranational Telecommunications Regime', in W. Sandholtz and A. Stone Sweet (eds.), *European Integration and Supranational Governance*, Oxford: Oxford University Press.

Scheffer, M. (2003) 'Textiles', in J. Greenwood (ed.), *The Challenge of Change in EU Business Associations*, New York: Palgrave, 103-114.

Schmidt, S. K. (2000) 'Only an Agenda Setter? The European Commission's Power over the Council of Ministers', *European Union Politics* 1(1): 37-61.

Sell, S. K. (2000) 'Big Business and the New Trade Agreements: The Future of the WTO', in R. Stubbs and G. R. D. Underhill (eds.), *Political Economy and the Changing Global Order*, Oxford: Oxford University Press.

Shaffer, G. C. (2003) *Defending Interests: Public-Private Partnerships in WTO Litigation*. Washington, D.C.: Brookings Institution Press.

Thatcher, M. (1999a) 'The Europeanisation of Regulation: The Case of Telecommunication', *EUI Working Papers* 99(22).

Thatcher, M. (1999b) *The Politics of Telecommunications: National Institutions, Convergence, and Change in Britain and France*. Oxford: Oxford University Press.

Ugur, M. (1998) 'Explaining Protectionism and Liberalization in European Union Trade Policy: The Case of Textiles and Clothing', *Journal of European Public Policy* 5(4): 652-70.

Vahl, R. (1997) *Leadership in Disguise: The Role of the European Commission in EC Decision-Making on Agriculture in the Uruguay Round*. Hants, UK: Ashgate.

Van den Hoven, A. (2002) 'Interest Group Influence on Trade Policy in a Multilevel Polity: Analysing the EU Position at the Doha WTO Ministerial Conference', *EUI Working Papers* 2002(67).

Wesselius, E. (2001) *Liberalisation of Trade in Services: Corporate Power at Work*, GATSwatch Background Paper. <www.gatswatch.org/LOTIS/LOTIS.html>

Wesselius, E. (2002) 'Behind GATS 2000: Corporate Power at Work', *Transnational Institute Briefing Series* 2002(6). <www.tni.org/reports/wto/wto4.pdf>

Winters, L. A. (2001) 'European Union Trade Policy: Actually or Just Nominally Liberal?' in H. Wallace (ed.), *Interlocking Dimensions of European Integration*, New York: Palgrave, 25-44.

Woll, C. (2004) 'The Politics of Trade Preferences: Business Lobbying on Service Trade in the United States and the European Union', Ph.D. Dissertation,

Political Science, Paris / Cologne: Institut d'Etudes Politiques de Paris / Universität zu Köln.

Woll, C. (2006) 'Lobbying in the European Union: From Sui Generis to a Comparative Perspective', *Journal of European Public Policy* 13(3): 456-469.

Woolcock, S. (1998) *Liberalisation of Financial Services*. Unpublished manuscript available at <www.lse.ac.uk/collections/internationalTradePolicyUnit/pdf/liberalisationOfFinancialServices.pdf>.

Woolcock, S. (2000) 'European Trade Policy: Global Pressures and Domestic Constraints', in H. Wallace and W. Wallace (eds.), *Policy-making in the European Union*, Oxford: Oxford University Press, 373-399.

Young, A. (2002) *Extending European Cooperation: The European Union and the "New" International Trade Agenda*. Manchester: Manchester University Press.

Young, A. (2004) 'The Incidental Fortress: The Single European Market and World Trade', *Journal of Common Market Studies* 42(2): 393-414.