

Negotiating the Bra War

Analysing the interplay between the domestic, supranational
and international level in the European Union

Abstract

Emanating from Putnam's two-level game theory of international negotiations, the thesis analyse the interplay between the domestic, the supranational and the international level in the European Union, when negotiating the Bra War with China. The thesis expands Putnam's theory into a three-level game theory in order to better understand the complexity of the European Union.

The work concludes five main findings about how the Unions position during the Bra War should be understood and how the different levels in the negotiations have affected the outcome of the negotiations. First, the costs of a no-agreement will affect the likelihood of an agreement to be concluded. Second, the power relations, both between the levels and within the levels, in the European Union affect the outcome of the negotiations. Third, facing a heterogeneous constituency at the domestic level will not necessarily reduce the possibility of an agreement at the international level, the conclusion to be drawn from the Bra War negotiations points at the contrary. Fourth, the three-level structure of the European Union gives the interest groups more ways to exert influence. Fifth, the study shows that domestic and supranational politics cannot be studied independently from international politics.

Key words: the Bra War, China, EU, Negotiations, Three-Level Game Theory

List of Abbreviations

ATC – Agreement on Textiles and Clothing
CCP – Common Commercial Policy
DG – Directorate General
EC – European Community
EP – European Parliament
EU – European Union
EURATEX – The European Apparel and Textile Organisation
GAC – General Affairs Council
GATT – General Agreement on Tariffs and Trade
MFA – Multifibre Agreement
MFN – Most Favoured Nation
NGO – Non-Governmental Organizations
QMV – Qualified Majority Voting
T/C – Textile and Clothing
TEU – Treaty on European Union
ToN – Treaty of Nice
TSSC – Textiles Specific Safeguard Clause
WTO – World Trade Organization

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1 Introduction

1.1 Preamble

In international negotiations the relationship between the international and the domestic level is somehow entangled, many political scientist studying international negotiations has described this phenomenon (see also: Meunier 2005, Patterson 1997, Putnam 1988). Adding the supranational dimension, the picture becomes even more complex. The thesis is asking the question how these three levels are interacting with each other in international negotiations.

This study sets out to explain the relationship between the three levels of the European Union (EU) in international negotiations, in doing so the thesis emanates from the so-called Bra War that occurred between the EU and China in 2005. Choosing the Bra War as case of study has several reasons. First, negotiations concerning quotas on textile and clothing (T/C) are interesting because the European Community has an exclusive competence, which means that the Member States are bound to implement the quotas negotiated by the Union. Second, negotiations on trade between the EU and China are negotiations between giants: the Union is to day the worlds largest market, and China is one of the most rapid growing markets in the world. Third, the EU is divided in how to react to the Chinese renaissance. On the one hand the Union wants to get access to cheap T/C from China, on the other hand there are powerful interests within the Union that want to protect the domestic producers from competition. This division helps us understand the Unions strengths and weaknesses when faced wit a heterogeneous constituency.

In order to capture the interaction between the different layers the thesis expand Putnam's two-level game theory into a three-level game theory, this helps us understand the logic of the EU in international trade negotiations.

1.2 Question at Issue

The question at issue is to analyse and explain how the three levels, mentioned above, influenced and affected the EU policymaking when negotiated the Bra War. The focus is therefore on the intra-EU negotiation that consists of different interests, raging from private interests, over the domestic interests to the European interest. Using the two-level game theory as a starting point is crucial, because it makes the interaction between the different levels visible. However, the two-level game theory lacks the possibility to explain a more complex system like the EU.

The thesis therefore expands the two-level game theory into a three-level game theory. The questions the thesis sets out to answer are:

- How can the EU's negotiation position in the Bra War be explained from a three-level game perspective?
- How can the interplay between domestic, supranational and international, when negotiating the Bra War be understood?
- How can the outcome of the Bra War be understood, has the Union been able to use its full capacity when negotiating with China, or was there constraints that was hindering the EU to use its full potential?

2 Methodology

2.1 Research Design

The thesis is a case study, which tries to test and develop Putnam's two-level game theory. The development of the two-level game theory is however not the work of the author. The improvement of the theory draws upon other scholars that have developed Putnam's famous theory from 1988. Therefore the study is mainly testing theories. This contradicts the notion that theory-developing studies mainly collect a lot of material from a few cases, and that theory-testing studies collect little material from many cases (Esaiasson 2005:124).

However, in being a theory testing case study, the thesis also contributes to the debate about the nature of the European Union, a question that has long divided the academic world. Alberta Sbragia distinctly defines the differences between the two most extreme theories. The intergovernmentalists focus on the Member States and the intergovernmental bargaining between them, but they neither describes nor do they explain the international context in which this bargaining takes place. In their focus on the supranational institutions, the neofactionalists explain the context in which the bargaining takes place, the theory however lack the possibility to explain the intergovernmental negotiations within the Union in a sufficient way (in Patterson 1997:140). Attempts have been made to combine these two views, they emphasis both domestic, translated through the Council Of Ministers, and supranational politics. However, even these attempts fall short when neglecting the international level and its impact upon EU policymaking. Using the three-level game theory the international context is also taken into account, the thesis will therefore hopefully contribute to some new insights about how the EU can be understood when participating in international negotiations (Patterson 1997:140).

2.1.1 The Negotiation Framework

When studying international negotiations it is of great importance, the thesis argues, to divide the negotiations into different sections. Even if these different sections are intertwined, dividing them brings analytical stringency to the thesis. The thesis first divides the negotiation setting into four different parts, the board, the players, the stakes and the moves. Second, these elements of the negotiations help explain the outcomes of the negotiation process.

“The board” is the most basic setting in international negotiations and can in turn be divided into two different perspectives. First, the macro perspective of the

board explains the international system in which the international negotiation is taking place. In the macro perspective the power relations between the different actors are important. Second, the micro perspective is concerned with the number of parties and questions that are part of the negotiation (Starkey 2005:31).

“The players” asks the question: who is participating in the negotiation? Is this a negotiation that is taking place on a low or high level? Even if there has been an increase in NGO actors in international negotiations the most common actor is still the nation state. Professional diplomats do much of the work on behalf of the nation state or groups of nation states, and the political leaders often only have a symbolic role to play in the negotiations (Starkey 2005:62).

“The stakes” refer to the issue that the negotiation sets out to resolve. Traditionally, in negotiation theory, there has been a division between high and low stake issues. A high stake issue refers to negotiations concerning security; whereas a low stake issue refers to economical negotiations, for example trade negotiations. This division has long been criticized, and many scholars today argue that the division of high and low politics is antiquated (Starkey 2005:86ff). Today’s international environment is instead characterized by complex interdependence, in which the security sphere is intertwined with the economical, environmental, cultural, demographic and social sphere (Hopmann 1996:3). This is in line with the EU perspective, clearly stated in the *European Security Strategy* (European Council 2003). As a consequence of this the Bra War negotiations should be given high attention by political leaders and top civil servants.

“The moves” are dependent on the negotiation setting, that is, the negotiators ability to move is in part determined by the board, the players and the stakes. However, given the negotiation setting the negotiator has different choices to do, he has to prepare a plan, choose a tactic and implement it (Starkey 2005:109).

Traditionally different types of game theories that predict human behaviour have explained the moves of the negotiators. There is however a growing knowledge that the reality is more complex and that there is several other factors that must be taken into account when predicting the negotiators action. However, this knowledge consist a dilemma, the more variables one is adding to the negotiation theory the more complex the theory will be and the more difficult it will be to use the theory in a more generally manner. Therefore classical game theory can give us insights in the underlying principles of international negotiations (Hopmann 1996:38). As a consequence of this, the thesis at hand will not ad additional variables to the theory if they not create an insight that crucial for understanding the logic of the EU in international trade negotiations.

2.2 Definitions

In order to make the central concepts of the thesis operationally useful, one of the terms have to be defined. This conception is highly controversial and would demand an essay for it self to bring order into. As a consequence of lack of space the thesis will not take part in this debate, instead it will choose definitions that suits the purpose of the study and that are easy to conceptualize.

When analysing the outcome of the negotiations the thesis differs between three definitions of the concept, defined by P. Terrence Hopmann in his book *The Negotiation Process and the Resolution of International Conflicts*. First, the easiest way to define outcomes is to look at the mere fact that an agreement has been made. This definition does not take into account the actual benefits from an agreement, states may “seek agreements not because they produce immediate, concrete benefits, but because they will improve the political relationship with other countries.” (Hopmann 1996:28). Second, the stability of the outcomes refers to an agreement that does not give the negotiating parties incentives to undermine the agreement. Third, the efficiency of the outcome is the best agreement two parties can achieve jointly under the circumstances (Hopmann 1996:29). In other words, their optimal point at respectively party’s win-set.

2.3 Limitations

When studying the Bra War negotiations between the EU and China a few limitations have been made. First and foremost it is important to point out that this is mainly a study of the negotiations from a European perspective, and therefore the focus of the thesis will be on the intra-EU negotiations. As a consequence of this China will be treated as “black box”, which means that the Chinese stands in the negotiations will be taken for granted and something the Union has to relate to. This does not imply that there was not a similar process within China as the one that was within the EU. The assumption however is vital from an analytical perspective, it makes it easier to analyze and explain how the Union has created a stand in the negotiations and how this process can be understood.

Second, even if the thesis adopts a European perspective on the Bra War negotiations there will be some limitations also at the European level. When the Member States construct their position on the issue at hand, there are similar processes as the ones within in the Union. However, the thesis assumes “that the primary political instrument by which individuals and groups in civil society seek to influence international negotiations is the nation-state, which acts externally as a unitary and rational actor on behalf of its constituents.” (Moravcsik 1998:22).

Third, the EU consisted of twenty-five states during the Bra War. Every Member State has, for different reasons, their own stand on the issues. The thesis

will however not explain every stand in the EU; it will instead focus on the main actors of the conflict and how they try to push for their views within the Union.

3 Theory

The theory chapter of this thesis expands the logic of the two-level game into the logic of the three-level game. In doing so, the thesis emanates from Putnam's famous essay *Diplomacy and domestic politics: the logic of two-level games*.

The two-level game theory has the advantage of opening up the Unions "black-box" and focus on the interaction between different levels and actors in the negotiations. Using the two-level game theory when analyzing negotiations also helps explain the outcomes as a consequence of the negotiation process, therefore Putnam's theory is used as a starting point. However, when Putnam wrote about the two-level game theory he did not have the EU in mind. His case study was of the Bonn summit conference of 1978, a conference where traditional nation states were the main actors. The two-level game theory therefore lacks the possibility to explain negotiations involving complex actor structures. When analyzing the EU's actions in international negotiations it is therefore crucial to develop the two-level game to better fit the prerequisites of the Union.

3.1 The Theoretical Framework

The basic assumption of the two-level game is that central executives have an essential role in international negotiations, this derives from the fact that they are placed in the middle, between the international and the domestic sphere and they are therefore bound to take both these two spheres into consideration. Using Putnam's metaphor; international negotiations can be seen as a negotiation between two tables, the first table, the level 1 table, is the table where the central executives who negotiate sit. The second table, the level 2 table, is the domestic table; every deal that is negotiated at the international table needs to be ratified at the domestic table. This creates a complex negotiating situation, because a deal that is rational at the international table does not have to be rational at the domestic table (Putnam 1988:434).

The politics of many international negotiations can usefully be conceived as a two-level game. At the national level, domestic groups pursue their interests by pressuring the government to adopt favorable policies, and politicians seek power by constructing coalitions among those groups. At the international level, national governments seek to maximize their own ability to satisfy domestic pressures, while minimizing the adverse consequences of foreign developments. (Putnam 1988:434).

Expanding Putnam's two-level game by adding another dimension helps us explain a complex bargaining body such as the EU. Instead of two levels we are now left with three: first, the international level, second, the supranational level, and third, the domestic level.

This two-level (now a three level) game metaphor that Putnam has outlined, provides us only with the basic assumptions on how to understand international negotiations. It is therefore necessary to further develop these assumptions into a theory of how actors participating in international negotiations will behave, in order to satisfy the domestic pressure and minimize the unfavourable consequences of international development.

When theorizing his framework Putnam makes a distinction between two different bargaining processes that occur in international negotiations. First, the international bargaining that leads to a tentative agreement. Second, the domestic bargaining procedure that consists of domestic constituents how makes a decision about whether to ratify the agreement or not (Putnam 1988:436). In the three-level game the supranational level must be added to the analysis. This analytical division between the international and domestic bargaining process is in reality more complex, the need for ratification at the domestic arena will affect the negotiations at the international level. There is also likely to be consultations between the different levels throughout the negotiations process. This fact of interaction between the levels is called reverberation, which imply that what's happening at one level reverberates at the others. (Patterson 1997:142).

Even though Putnam takes this linkage between the different levels into account, he does not foresee the three-tier reverberation that can occur within the three-level game. The EU can be reverberated both of the international context on the Commission and of the international context on the Member States. In cases when the Member States are obliged to implement the international agreement, as is the case of the Bra War, it is important for the Commission to reverberate the Member States (Marangoni 2008:32).

However, dividing the negotiations into three stages help us unveil the logic of the three-level game, it also helps us understand and define what Putnam names win-sets. A win-set is all possible agreements on the international level that will be ratified at the domestic arena (Putnam 1988:437). In other words, all possible alternatives that the actors in a two-level game prefers to a no agreement. Therefore an agreement is only possible when the win-sets of the two negotiating parties overlap with each other. (Putnam 1988:438). When expanding a two-level game into three-level game we can modify Putnam's definition slightly by adding that a win-set at the domestic level is the set of all agreements at the supranational level that will be ratified among the domestic constituency (Patterson 1997:143).

The other factor for why win-sets are important is because the size of the win-set helps determine the negotiation ability for the international negotiator. The larger the win-set is, the more room to negotiate for the negotiator. On the other hand, a large win-set open up for the possibility for the other party in the negotiation process to push the negotiator around (Putnam 1988:440). In other words, the larger the win-set the greater the risk to accept a deal that is not favourable for the negotiator. Conversely, a smaller win-set can be used to

maximize the bargain advantage. “I’d like to accept your proposal, but I could never get it accepted at home.” (Putnam 1988:440). The domestic constraints on international negotiations can therefore provide leverage to the international negotiators.

3.1.1 Determinants of the Win-Set

The size of the win-set helps us understand the outcome of international negotiations, it is therefore important to understand what determines the size of the win set. Putnam point to three different determinants: domestic preferences and coalitions, domestic institutions and international negotiators strategies.

Preferences and coalitions among domestic actors are crucial to determine the size of the win-set. The thesis assumes that the domestic actor will act in accordance with their political economical interests. The preferences and coalitions among domestic actors will therefore be a result of political economical interests. The lower the cost of a no-agreement is, the smaller the win-set will be. If the stakes to not agree to the issue negotiated is low there will be less incitement for the domestic sphere to close an agreement (Putnam 1988:442). However, the domestic sphere is often no unity. There can be big differences between domestic groups, but even in homogenous societies there is not always a consensus for how hard to push for an agreement, even though the different groups push for the same agreement. In other words, the groups differ to the extent they are willing to risk a no-agreement (Putnam 1988:443f).

The negotiator is facing a different task when dealing with a heterogeneous constituency, here he can not using the tactic the more the better. This instead opens up for a greater possibility of international cooperation (Putnam 1988:444).

For example, consider two different distributions of constituents’ preferences as between three alternatives: A, B, and no-agreement. If 45 percent of the constituents rank these $A > \text{no-agreement} > B$, 45 percent rank them $B > \text{no-agreement} > A$, and 10 percent rank them $B > A > \text{no-agreement}$, then both A and B are in the win-set, even though B would win in a simple Level-II-only game. On the other hand, if 90 percent rank the alternatives $A > \text{no-agreement} > B$, while 10 percent still rank them $B > A > \text{no-agreement}$, then only A is in the win-set. In this sense, a government that is internally divided is more likely to be able to strike a deal than one that is firmly committed to a single policy.(Putnam 1988:444f).

In the Bra War the Council of the European Union ratified the agreement between the chief-negotiator of the Commission and the Chinese chief-negotiator. As will be seen further down, the European chief-negotiator faced a heterogeneous constituency. In the case of a heterogeneous constituency the distribution of power between the supranational and the domestic levels helps the union improve its win-set in international negotiations (Bonvicini 2008:7).

The other important factor that affects the win-set is the construction of the ratification procedure at the domestic level (Putnam 1988:448). However, when

expanded to a three-level game it is important to take into account the institutions at both the domestic and supranational level.

The most obvious example of how the political institutions affect the size of the win-set is the ratification procedure in the United States, which is constructed from the principle of power sharing. In the American Senate one third of the senators can block any agreement at the international level. This gives the American negotiators an advantage in international negotiations, they can always refer back to the domestic level when facing a draft they don't like. At the same time this is limiting the possibility for international cooperation. Conversely, the greater autonomy a state's central decision maker has, the bigger the win-set is and the greater the possibilities for international cooperation.

The two-level game theory predicts, and so does the three-level game theory, that autonomous negotiators at the international level will result in a weaker relative bargaining power (Putnam 1988:449). This assumption poses a dilemma for the negotiator at the international arena. The dilemma rests on the assumption that the negotiator wants to strike a deal at the international level, which is easier with larger win-sets. At the same time the negotiator wants to have good bargaining position vis-à-vis his counterpart, as a consequence of his will to please the domestic level (Putnam 1988:450). Here the EU proves a great deal of flexibility, the Council gives the Commission a mandate to negotiate, and this mandate is different depending on the question at issue. In questions that are important for the Member States the Commission is given a mandate with little room for own initiatives and vice-versa. This fact gives the Union the possibility to alter their win-sets depending on the situation.

3.1.2 Relaxing the Assumptions

The most usual foundation when studying international negotiations is the game theoretical approach. This foundation can give us a lot of insights in the negotiation process, even though the game theoretical framework is over-simplistic. When using the three-level game there are several assumptions that most game theories make that has consequences for the negotiating process. This chapter relaxes some of the assumptions in order to better understand the EU's negotiation process.

One major assumption in game theory is the assumption of perfect information. If this assumption is relaxed it will have implications on the negotiations, most notably on the win-sets. If there is no such thing as perfect information, which there is not, we can assume that the negotiators are more knowledgeable of their own win-sets than their opponents. This uncertainty puts the negotiator in the position of the possibility to "manipulate" his own win-set. In other words, a successful negotiator is one that can convince the negotiator on the opposite side that the agreement at hand will be ratified by the domestic sphere, but that an agreement that is just a little more favourable for the opponent will not (Putnam 1988:453).

The other assumption that is made in game theoretical approaches is that the structure of the issue or issues to be negotiated is known in advance, the same goes for the payoffs of the agreements. This however is a simplification of reality; in real bargaining situations the negotiators of one side tries to reverberate their opponents that the costs of a no-agreement and the benefits of the agreement at hand are much higher (Putnam 1988:454).

4 The Negotiation Setting

When analyzing the Bra War negotiations it is important to first bring order into the negotiation setting. In order to do so, the thesis will use the four-step model described above. The different sections should not be viewed as isolated islands; they interact with each other in a highly complex manner. This way of dividing the negotiations is for analytical purpose since it brings analytical stringency to the thesis. The analysis of the negotiations through the glasses of the three-level game theory will be done throughout these four phases. However, in order to bring order to the negotiation setting it is necessary to start with a short background to the conflict.

4.1 Background

The textile and clothing sector has traditionally been one of the least liberalised and most highly protected industries in the international economy. Treated as a special case, this sector was exempt from most trans-industry regulations developed under the auspices of the GATT/WTO. (European Commission 2004:259).

In 1972 the negotiations of a Multifibre Agreement (MFA) started, an agreement that went into force in the beginning of 1974. The MFA was renegotiated several times; the last agreement was the MFA IV, which expired in 1994. The MFA was a so-called umbrella agreement, which gave the governments the possibility to negotiate bilateral agreement on quotas, this opened up for the possibility to discriminate between different trading partners, something that is not possible in the GATT where the Most Favoured Nation (MFN) principle is applied.¹

The MFA agreements was a way for countries with domestic textile and clothing industry to restrain those countries that had a comparative advantage in the T/C industry, most notably China and India, from their domestic markets. On top of the discrimination that the MFA implied, India and China was subject to additional discrimination through the bilateral agreements that were signed with them. For example, the first agreement between the European Community (EC)

¹ The Most Favoured Nation principle refers to the first article of the GATT, which stipulates that countries cannot discriminate between trading partners. Grant a trading partner a favour (for example lower tariffs), and that will have to apply for all WTO members.

and China gave the EC the right to suspend all imports from China in a certain product if the price of that product fell below a certain level (Strange 1998:68).

However, when the MFA IV expired it was replaced with the Agreement on Textiles and Clothing (ATC). The purpose was to organise T/C under a normal WTO regime after a transition period, which ended last of December 2004 (Landau 2004:76).

The ATC was concluded at the Uruguay Round in 1994, but even if the purpose was to phase-out quantitative restrictions by the end of 2004, the reality were another. Little was done to phase-out the quotas, and therefore, in the beginning of 2005, the result was just the kind of “big-bang” effect that ATC had tried to avoid. In the phase-out period the countries were allowed to chose which quotas they wanted to remove and when, the agreement only stipulated that the quotas should disappear before 2005. The EU chose to adopt a protectionist approach and kept 167 out of 218 quotas until the end of 2004, among those the most sensitive quotas, such as t-shirts, jeans and underwear (Comino 2007:823). This was a way for the Union to postpone the liberalisation of the T/C sector, in other words to postpone the conflict with the T/C industry.

4.1.1 The Chinese Accession to the WTO

The next big event leading up to the Bra War in 2005 was the Chinese accession to the WTO, which occurred in December 2001. The negotiations of the Chinese accession to the WTO were long and complex, especially the reluctance from the WTO members to grant China the status of development country delayed the accession process. The EU, together with the United States, was concerned about the growing trade deficit vis-à-vis China,² a concern that resulted in the EU insisting on safeguard measures against China, so called WTO plus restrictions (Comino 2007:823). These safeguards measures, that the EU and the U.S. insisted on, is important for understanding the Bra War, its therefore important to examine the Chinese Accession Protocol closer.

Paragraph 242 in the Chinese Accession Protocol and the Report of the Working Party provides for special safeguards measures in T/C against China. Paragraph 242 is vague in its conditions for implementing the safeguards and therefore leaves much room for interpretation.

In the event that a WTO Member believed that imports of Chinese origin of textiles and apparel products covered by the ATC as of the date the WTO Agreement entered into force, were, due to market disruption, threatening to impede the orderly development of trade in these products, such Member could request consultations with China with a view to easing or avoiding such market disruption. (World Trade Organization 2001:242(a)).

² The EU’s trade deficit towards China has grown from close to zero in the early 1980s to 106 billion euro in 2005, and the deficit is steadily increasing.

Paragraph 242 was “incorporated into EC law by Council Regulation (EC) No 138/2003, in the form of a new Article 10a inserted in Council Regulation (EEC) No 3030/93” (European Commission 2005a). The new Article 10a was almost transcribed word by word from paragraph 242 in Chinas Accession Protocol. However, the Chinese Accession Protocol does not define what is meant with the threat “to impede the orderly development of trade”, as a main indicator for this development the Commission therefore decided to take into account “the existence of a *rapid rise or surge in imports*, in absolute or relative terms.” (European Commission 2005a). Its interesting to notice that this definition of phrase in the Chinese Accession Protocol is dated to April 27th 2005, this was the time when the quotas towards China had been dropped and the EU felt an increase in imports from China and the pressure from some Member States and the T/C industry rose.

The Commission also states that it is not only the effect on the EU industry that can give rise to safeguard measures. Another relevant factor is the effect on traditional suppliers of textile to the EU that “...are part of the natural zone of competitiveness of the EU textile and clothing industry...” (European Commission 2005a). As Anna Comino correctly has pointed out, this was a way for the Commission to make safeguard measures more justifiable, now the Unions own industry did not need to be affected, which was also the case. In 2005 the absolute volumes of import to EU did hardly change, what had changed though was a dramatic shift in markets share in Chinese favour (Comino 2007:825).

4.2 The Board

On December 31 2004 the import quotas against China expired, this led to new import patterns for the EU. The heavily increased imports of T/C from China to the EU resulted in complains from the European T/C industry and some of the Member States that had a large T/C sector.

The two actors in the Bra War dispute are both important actors concerning trade in T/C. Chinas export of T/C has grown rapidly; in 1994 the country was the world’s largest exporter of clothing and the second largest exporter of textiles. Already in 2002 when China started to benefit from the WTO accession, the Chinese export in T/C increased heavily, by 46% in value and by 192% in volume (Comino 2007:827). China has two main competitive advantages in the T/C sector. First, the labour costs situation in China is low compared to the rest of the world. Even though China cannot compete with other Asian countries in low wages, their quality/price ratio is much lower when “productivity, reliability and indirect costs are brought into the picture.” (Institut Français de la mode 2004:177). Second, the Chines T/C industry is, compared to many other countries T/C industry, fully integrated. This means that the supply chain is not dependent on third country (Institut Français de la mode 2004:177).

The importance of the T/C industry for the Chinese economy also makes the sector a top priority for the government. The T/C sector represented 10% of the

Chinese economy, and the growth rate in Chinese T/C industry has grown steadily since 1995 with an average rate of 8% per year. The 2005 quota removal was therefore a question of high interest for the Chinese government (Institut Français de la mode 2004:172).

If China can be characterised as the rising star in the T/C industry, the situation is the opposite for the countries in the EU.

The current situation of EU T/C industry is characterised by an ongoing deterioration of competitiveness vis-à-vis increasing extra-EU imports of finished and semi-finished products, accompanied by a deterioration of production volumes and employment.(Institut Français de la mode 2004:8).

The T/C industry in the EU is affected negatively by the increased competition from third country, especially China. There are three main reasons for this threat against the European T/C industry. First there is a growing concentration on branding within the EU, this conduct the whole production chain to look for new strategies to increase gross margins. The strategy often adopted is an outsourcing to cheaper countries. Second, the third country competitors is getting better, they improve their level of service and quality. Third, the T/C industry within the EU has failed to build a competitive advantage vis-à-vis third country. The products produced in the EU are not differentiated enough from the products produced in third country, therefore there is no incentive for the retail industry to buy products from the European market(Institut Français de la mode 2004:8).

However, even if the EU is feeling the increasing competitiveness in the T/C sector the Union is still the second largest exporter in textiles and the worlds largest exporter of cloths today, it also constitute the single largest market for T/C today(EURATEX 2009).

Another important consideration to take into account is the EU's large trade deficit in T/C towards China. In 2002 the trade deficit in T/C was 30 billion Euros, which is almost a double of the trade deficit in 1995, and accounts for 41% of the total trade deficit(Institut Français de la mode 2004:13). The removal of the quotas would of course increase the trade deficit towards China, which in turn creates an even bigger dependence on China, something that worried the Union.

4.3 The Players

In order to understand the players of the negotiation it is important to have knowledge about the Unions Common Commercial Policy (CCP). The CCP is often seen as a stronghold for the European Community. But even though the Commission has the right to negotiate and conclude agreements on behalf of the Community (Europe 2009), the Member States has preserved the possibility to lobby national interests (Elsig 2002:25). The Treaty on EU (TEU) concludes that the Commission shall make recommendations to the Council concerning future negotiations. The Council should thereafter authorise the Commission to open the negotiations. However, the Council shall conduct the negotiation in consultation

with a special committee, called the 133 committee, appointed by the Council (ToN Article 133:3). Below, the thesis will examine the decision-making process in the CCP, thereafter it will further investigate the different players in the Union that acted during the Bra war negotiations.

4.3.1 The Decision-Making Process During the Bra War

When the EU negotiated the Bra War, the Commission had exclusive competence. This means that the Commission is the sole negotiator on behalf of the Community, and that the Member States are obliged to follow the decision taken at the Community level (Marangoni 2008:30).

The Commission initiates proposals to the General Affairs Council (GAC), the GAC then gives the Commission a mandate to negotiate on behalf of the Community. During the whole negotiating process the Commission is obliged to consult the 133 committee, which in turn provide the Commission assistance during the negotiation process. The GAC can also give the Commission new directives during the entire negotiations process. After the negotiations the GAC adopt the agreement, which the Commission later sign. After signing the agreement the Commission asks the GAC to ratify the agreement through qualified majority voting (QMV). During this process the European Parliament (EP) has little to say and are only consulted by the Commission (Elsig 2002:32). Due to the EP's limited role during the Bra War negotiations it will be left out from the analysis.

As understood above the decision to ratify a CCP agreement or not is decided within the Community, formally the domestic constituency has nothing to say concerning CCP matters. However, the importance of the domestic level cannot be overemphasized, as will be shown further down the Bra War affected many people within Europe, and sooner or later the governments will face an election within their country. Therefore the Member States can be seen as the extension of the domestic constituency (Patterson 1997:147).

Even though the voting is done by QMV, the norm of consensus in the Union is very strong. Despite this, the use of QMV in trade issues has "biased trade policy outcomes against protectionism by reducing the ability of individual Member States – and the business interests that lobby them – to hold the process hostage to specific protectionist demands." (Aggarwal 2004:29). Some argue that the European bargaining machinery puts the EU in a bad bargaining position vis-à-vis its counterpart. The Commission has to balance between the opinions of different Member States to avoid a protectionist backlash. This gives the counterpart the possibility to play actors within the Union of against each other (Marangoni 2008:32). However, as Aggarwal points out the institutional construction of the Union together with the use of QMV can also give the Commission a stronger bargaining position vis-à-vis its counterpart. Using Putnam's terminology, the ratification process gives the Union a win-set that can approve their bargaining position.

4.3.2 The European Commission

At the supranational level the European Commission and its Directorate General for trade (DG trade) are the main actors. The trade Commissioner Peter Mandelson was the person responsible for negotiating the Bra War. The European Community's exclusive competence in trade issues gives the Commission in general, and Mandelson in specific a crucial role in the negotiations. The DG for trade was clear that the removal of quotas would increase productivity in the T/C sector and decrease the prices for the consumers. Peter Mandelson also said he is an advocator for a more liberalized market in T/C and that he wanted the MFA to end so that China can benefit from its WTO membership (Mandelson 2005).

However, the main objective in 2005 for the trade Commissioner and the DG for trade was to allow for a smooth transition to quota free environment in T/C, "as well as reacting in a proportionate and WTO compatible manner in case of serious market disruption." (European Commission 2006:13). This shows that even if the Commissioner together with his Directorate General was strong advocators for a liberalization of the T/C-sector, they had to take other factors into consideration, such as European competitiveness, industrial policy and regional policy, Mandelson himself express this clearly in his speech in Beijing 2005.

“... I operate in the sphere of practical politics not pure economic theory. I have to recognise and manage public pressures, and try to reconcile them when they clash.”
(Mandelson 2005).

This statement of trade Commissioner Mandelson shows the interplay between international, supranational and domestic. The Commission tries to pursue both the Community interest as well as the domestic, at the same time as they try to “minimize the adverse consequences of foreign development.” (Putnam 1988:434). The Community interest in the Bra War is correlating with the Chinese interest, i.e. to remove the quotas. However, the Commission understood that they had to satisfy the domestic pressure within the Union and therefore initiated consultation with Beijing.

4.3.3 The Member States

The Member States has the possibility to impose influence on the negotiation process through the GAC, they are also special in the sense that their role within the Union is divided. First, the Member States tries to pursue their domestic interests within the Union. Second, and simultaneously they try to work towards cooperative integration (Patterson 1997:141). Because of this the Member States stance in the Bra War is important to examine.

The differences between the Member States T/C industry helps explain much of the difficulties in finding a common stance vis-à-vis China during the Bra War. There was a clear division between the northern and the southern countries during the Bra War. The southern countries, notably Italy, France and Spain all have big

T/C industries that have felt the increasing competition from China. The quota removal in the beginning of 2005 further increased the competition from China.

The Spanish spinning industry was most affected by the quota removal and there was little possibility for upgrading the industry since the market in high end products was dominated by Italy (Comino 2007:829). The Italian T/C industry risked a lot from the Chinese competition; in 2006 Italy had almost 600,000 jobs in the T/C sector, which is about one quarter of the EU-25 total number of employers in the T/C industry. However, the trend was clear, competition from China and other low cost countries added to the sharp decline in both employment and financial contribution to the Italian economy (The Economist 2006).

The northern countries, notably Germany, Netherlands and the Scandinavian countries, had the opposite view on the quota removal. They all had strong retail industries, which benefits from cheap Chinese imports (Comino 2007:829). The statement of the Danish prime minister after the negotiations illustrates the northern countries view on the issue. "I believe the agreement to limit Chinese exports to the EU does not take into account the realities of modern international commerce." (quoted in: Financial Times 2005a).

The statistics concerning the T/C industry further strengthen the picture. The T/C sector represented 6 percent of the Italian GDP and 10.6 percent of its export in 2000 and 2001. In Spain and France the figures are lower, but compared to their Nordic counterparts the T/C sector accounts for a much higher part of the domestic GDP. For example in the Netherlands the T/C sector accounted for only 1 percent of the GDP and 2.5 percent of the export those years. Looking at the employment statistics we see the same pattern, in France, Italy and Spain the employment, as a percent of the total manufacturing employment, constituted 5.3, 12.8 and 9.4 percent respectively in 2001, compared to Germany, the Netherlands and Sweden where the employment ratio was only 2.6, 2.9 and 1.7 respectively (Institut Français de la mode 2004:25).

The constituency that faced the European Commission was not homogenous but heterogeneous. In their attempt to influence the negotiating process the southern countries were much more successful. Why this is true is only possible to speculate in. One likely explanation though, is that the costs of the negotiations were concentrated to the southern countries, it is therefore reasonable to think that they will gain most of the influence over the ratification process (Putnam 1988:445).

However, using Putnam's theory of the heterogeneous constituency, this imply that an agreement is much more likely to be achieved (Putnam 1988:444). The fact that some countries in the EU opposed initiations of new quotas, and that the Commissioner Mandelson was explicitly in favour of liberalized T/C trade, resulted in a situation where the Commissions negotiator found allies at the Chinese side. This may have helped moderate the size of the new quotas that were imposed.

4.3.4 The Interest Groups

Especially one interest group was engaged in the work to influence the Bra War negotiations: the European Apparel and Textile Organisation (EURATEX). EURATEX consists of different domestic T/C associations from the Member States, and its “main objective is to promote the interests of its members while taking into account the European Union's institutional framework and its international obligations.” (EURATEX 2009).

The EURATEX was critical of the quota removal in 2005 because of the threat it imposed on its members. From the perspective of the T/C industry there was reasons to be worried, the European market felt a sharp increase in imports from China, which threatened the European T/C industry. During the first 8 months of 2005 the Chinese exports to the EU rose with 40% (Financial Times 2005b).

There are possibilities for the interest groups to work toward their interests both at the domestic and the European level. At the European level they use general EU objectives in their rhetoric, such as job creation and growth, to legitimize their demands. At the domestic level they talk about the consequences of liberalisation of the market, such as unemployment and socio-economical difficulties. At the Community level, the civil servants are keen to listen to the sector interests, because they know that they affect the domestic level, which later is important for ratifying the agreement reached at the international level (Marangoni 2008:31). The possibility for interest groups to affect the negotiations from two directions makes the sector interests more important in the EU than elsewhere.

4.4 The Stakes

The importance of the quota removal for the EU and China is not easy to determine. However there are some indicators that can help us to better understand the stakes for the involved parts in the negotiation. These indicators can be divided into two spheres, the domestic and the supranational, of course these two spheres interact with each other, the division is mainly for analytical purpose.

4.4.1 The Domestic Level

As shown above the Member States were divided about whether to remove the quotas or not. The question was important because it threatened the T/C industry within Europe. The countries that had a large T/C sector where many were employed and that constituted a large part of the countries GDP, felt of course more threatened than the others. This does not mean that the countries within the Union that lacked a large T/C industry did not care about the question at issue. As

described above, the northern countries had a large retail industry, which benefitted from a quota removal.

Even though the importance of the T/C industry during a long time has declined the EU was still the second largest exporter in the world in 2005, the fact that Europe has a long tradition in T/C production also makes the sector associated with economic and social interests (Marangoni 2008:31). It should however be noted that the EU was not the big loser of the quota removal, even if the Chinese imports to the Union rose by 40% in the first eight months, the overall import of T/C to EU rose by only 2.1% (Comino 2007:828). The countries that lost were small developing countries like Nepal, Bangladesh, Cambodia, Mauritius and some North African countries and Turkey, all with no possibility to compete with China and India in a liberalized trade atmosphere. During the MFA the developing countries had preferential agreements with the EU, agreements that had enabled them to compete with China and India (Comino 2007:822).

As described above the T/C industry is a key sector for Chinese economy; the importance of the question at issue was therefore high. At the other hand the Chinese government were well aware that the Chinese Accession Protocol to the WTO allowed the EU to undertake safeguard measures. They therefore understood that the best they could do was to engage in talks with the Union and that way affect the size of the safeguard measures.

4.4.2 The Supranational Level

At the supranational sphere, besides the domestic concerns, the issue brought up other concerns. The quota removal in January 2005 implied the start of a balancing act, especially for trade Commissioner Peter Mandelson. On one hand the Commission was keen to reduce the concerns within the Union over the rising Chinese imports. On the other hand, Mandelson did not want the Unions relation with China to deteriorate. Conversely to the United States, who had imposed new quotas upon China without consultations, he understood the importance to keep good relation with Beijing. The Commission, through Mandelson, therefore tried to engage in talks with Beijing concerning safeguard measures (Comino 2007:831).

4.5 The Moves

When analyzing the moves of the negotiations it is important to keep in mind that the Bra War negotiations was divided into two parts: the first part ranging from January 1 2005 to June 10th 2005, and the second part ranging from June 11th 2005 to September 5th 2005. These two phases of the negotiation was different in many respects, it is therefore important to analyze them separately.

4.5.1 The First Phase

Even though the EU had known since 1995 that the quotas would end in 2005, the Union was ill prepared for the new reality, and a state of chock was to be felt throughout the Union, when the quotas disappeared. Conversely, China was well prepared for the quota removal and saw a chance to fully exploit their full potential (Comino 2007:830).

The EU had however one trump card; according to the Chinese Accession Protocol to the WTO, described in detail above, the Union had the right to impose new quotas if there was a risk of market disruption and the orderly development of trade was impeded (World Trade Organization 2001:242(a)). At the same time the EU did not want to disturb the relations with the Chinese government and therefore felt forced to engage in talks with China. The T/C industry, represented through EURATEX, was also very active in putting pressure on the Commission. On March 9th the EURATEX filed a request on safeguards concerning twelve categories of products in order to limit the danger that the Chinese producers imposed on producers of the “Pan Euro Mediterranean area” (EURATEX 2005a). They were also engaged in several talks with trade Commissioner Mandelson and other persons within the Commission (EURATEX 2005b, 2005c).

At April 6th the Commission created guidelines that established alert zones in all categories of Chinese T/C imports. If these alert zones was exceeded the Commission or the Member States could take initiative to undertake investigations, which in turn would lead to informal consultations with the Chinese government to solve the problem. However, if China does not solve the problem, “formal WTO consultations with the Chinese authorities would require them to act to limit textiles exports in the affected categories.” (European Commission 2005b).

The Commission sought to soothe Member States and the T/C industry, and at the same time avoid upsetting Beijing, at this point the Commission did not bow to the pressure from the T/C industry that wanted more drastic action. Despite this act of balance, the alert zone measures made the Chinese government react negatively. A Chinese Commerce Ministry spokesman said that “This departs from the spirit of free trade proposed by Europe and seriously violates the basic principles of the World Trade Organization.” (quoted in Deutsche Welle 2005).

At April 24th the alert zones in some product categories were exceeded, this led to trade Commissioner Mandelsons request to authorise him to investigate if safeguard measures should be imposed upon these categories (European Commission 2005c). The request for authorisation by Mr Mandelson was a consequence of increased pressure from the Italian, Spanish and France governments. When the investigation was over the Commission requested formal consultations with the Chinese government concerning two product categories (Comino 2007:831). The EU’s request for formal consultations to resolve the dispute, resulted in a Memorandum of Understanding at June 10th 2005, also referred to as the Shanghai agreement. The agreement concluded that the rates of imports would be adjusted upwards in 2006 and 2007 in order to provide for a smooth transition to a full liberalisation in 2008 (European Commission 2005d).

The speech by trade Commissioner Mandelsons shows the attempt balance between the Member States on the one side and China on the other side.

The explosion in imports of Chinese textiles and clothing has created alarm in many European Member States, and the issue has threatened to mushroom into a major trade dispute between Europe and China. ...I had to propose action to manage what was becoming a combustible situation in a number of our Member States. I am a believer in free trade. But I am equally sensitive to the need to be able to adjust and find transitional arrangements in the event of sudden developments and unexpected shocks. ... Today's agreement is a significant demonstration that China is entering the global economy as a responsible and valued partner. (Mandelson 2005b).

The Chinese Commerce Minister also thanked the EU for "the EU's sincerity in solving trade disputes with China through dialogue and consultation, instead of taking unilateral action". (quoted in *The Economist* 2005). This was a clear swipe to the United States that had taken unilateral action.

The Shanghai agreement covers ten out of 35 categories, it is only possible to speculate in what influence the EURATEX had on the EU standpoint, but it is worth noting that the Memorandum of Understanding states that the agreement includes "most of the categories identified by the European Textile Association Euratex." (European Commission 2005e). The EURATEX was very active and critical during the Bra War, which further strengthens the picture that the EURATEX was an important actor. Some will argue that the acting of EURATEX weakens the Unions image both internally because the Union is "surrendering EU companies and jobs without a fight." (EURATEX 2005d) and externally, because its promotion of free trade can be questioned (Marangoni 2008:32).

The first agreement in the Bra War was facilitated by reverberation among the different levels. A window of opportunity for the Commission facilitated the Memorandum of Understanding that was signed June 10th 2005. The specific safeguard clause in the Chinese Accession Protocol to the WTO (the international level) together with the alert zones issued by the Commission (the Community level) created this window of opportunity. This three-tier reverberation affected the Unions possibility to act, which in turn led to an agreement with China. (Marangoni 2008:31f.). In other words, the Chinese Accession Protocol reverberated the Commission to the extent that the Commission felt forced to initiate the alert levels, which in turn affected the Member States as a result of the their obligation to monitor the alert zones.

However, even if both the Chinese and the European authorities were happy about the agreement concluded in June, it created a split between the Member States. The French foreign minister welcomed the Shanghai agreement (*The Economist* 2005). On the other side the Danish Prime Minister said, "in the end, [the agreement] will not save one job for European industry" (quoted in Comino 2007:830).

4.5.2 The Second Phase

The Shanghai agreement was of limited use due to the Commissions inability to adopt the agreement on time. It took until July 8th before the Commission adopted Regulation 1084/2005 into Regulation No. 3030/93. The retail industry saw this loophole and placed huge orders of T/C from China. The Regulation No.1084/2005 clearly stipulates that the quantities ordered between June 11th 2005 and July 12th 2005 should not be restricted on the grounds that there are no quantities available within the 2005 limits, all products shipped after the June 11th 2005 will however be counted against the quantitative limits of 2005 (European Commission 2005f). This contradictory statement together with the huge orders placed by the retail industry explains why 75 million Chinese garments were blocked in European harbours; the import licenses had within a few weeks been exceeded (Comino 2007:832f).

The Commissions inability to adopt the Memorandum of Understanding resulted in an unstable agreement. This gave some of the parties incentive to undermine the agreement. (Hopmann 1996:29), the northern countries defended the retail industries right to place huge orders for T/C (Comino 2007:832).

The blocked garment in European ports lead to a widening of the split between the Member States, the southern countries argued that the quotas from the Shanghai agreement should not be enlarged. Conversely, the northern countries argued that the blocked garment should quickly be released. The UK Chancellor of the Exchequer, Mr Gordon Brown, was most explicit in his critic of the southern countries:

The new protectionism we are seeing, however well intentioned, is a wake-up call because it is the last stand from those who believe we can stop the clock, postpone or prevent inevitable change. It is easy - as has happened in the last few weeks over Chinese imports - to complain about Asia's role in the world economy as a race to the bottom. Chinese wages are just 5 per cent of those in Europe. But my visits to Asia, especially to China, have convinced me that Asia is in no doubt that it is in a race to the top... (Brown 2005).

The European level was now facing criticism from two directions: first, their interventions against the Chinese T/C export had been to slow, and thereby the European T/C industry had already been injured. Second, the interventions that was made by the Commission was to harsh, thus harming other sectors of the industry (Mandelson 2005).

In the end of July the Commission observed the problem and made proposals to the Member States and engaged in talks with the Chinese authorities, there was however impossible to come to an agreement between the Member States and the Chinese government. The trade Commissioner Mandelson tried to solve the situation through a balancing act, he proposed that the goods that were blocked in the ports should be unblocked. At the same time he stated that the Commissions primary interest was to "preserve the original overall agreement." (European Commission 2005g). In other words, that the imports that had been done should be counted upon the 2005 quantities. This statement from the trade Commissioner

was supported by the T/C industry, even though they were sceptical to the agreement made in June 2005 (EURATEX 2005e, 2005f).

The balancing act was not successful, even if an agreement was signed after a few days of negotiations, it stated that both the EU and China will take charge of the goods that were blocked in the European harbours up to September 5th (European Commission 2005h). The Industry immediately voiced concerns and said that the proposal would handicap the European producers. They were of the opinion that the fundamentals of the situation had not changed since the June 10th and therefore there was no reason to change the content of the Memorandum of Understanding (EURATEX 2005g).

The GAC represents the link between the supranational and domestic level, because they represents the interests of the Member States at the Community level. The situation that had occurred as a consequence of the late adoption of the Shanghai agreement led to a collective pressure from the Member States, through the GAC, on the Commission to solve the embarrassing situation. The fact that the Union had put it self in this embarrassing position helps explain why the southern countries, that strongly advocated the safeguard measures from June 10th, accepted the new deal (Comino 2007:833f). There is however a paradox that the Commission in the end asked the Chinese government to soften the safeguards that was imposed on the Chinese T/C sector a few months earlier (Marangoni 2008:33).

The second phase of the Bra War dispute shows the problem for the EU to coordinate the different interests within the Union. However, the EU's multitude of interests is nothing specific for the Union, conflicting interests certainly exists within any nation-state. Some argue that the EU's different levels will obstruct the possibilities for the Union to deal with a country like China, where a "decisive, coherent and convincing response" is required (Comino 2007:834). Conversely, the three-level game theory propose another interpretation of the dispute, the more heterogeneous the constituency is the greater the possibility for substantive reform that is beneficial for all parts. The outcome of the Bra War negotiations was optimal in the sense that it secured some of the interests of the European T/C industry, and at the same time the good relationship with China was maintained.

5 Conclusions

In analyzing the Bra War through the glasses of the three-level game theory the thesis has shown how the international, supranational and domestic level is interacting with each other. There is however a few more specific points that can be made from the analysis.

First, the higher the cost of a no-agreement the more likely it is that an agreement will pass. Considered that a no-agreement in the case of the Bra War was a situation where the EU had imposed quotas upon China without consultations. This would have damaged the Unions relations with Beijing; therefore the stakes were high for the EU, and an agreement that both sides could be satisfied with were necessary. The conclusion of the two agreements was made easier by the fact that the Union was facing a heterogeneous constituency.

Second, the outcome of the negotiations is affected by the power of the different interests represented within the negotiations. Between the first and the second phase the power relations had shifted. The Commissions inability to adopt the Shanghai agreement was embarrassing for the Union, and therefore it was more important for the southern countries to save the Unions credibility than sticking to the first agreement.

Third, the fact that the chief negotiator of the Commission was faced with a heterogeneous constituency made it easier to agree upon a substantive reform. Taking into account that the European interest was threefold; first, southern Member States wanted to protect its T/C industry, second, the northern Member States wanted to benefit from the quota removal, third, the Union did not want to ruin its relation with Beijing. The diversity within the Union forced consultation between the Member States to solve the problem, this led to a compromise that took both the northern and the southern countries demands into considerations, and at the same time satisfied the Community interest to maintain the good relations with Beijing. The Unions win-set thereby overlapped the Chinese win-set to greater extent, that would have been the case if the chief negotiator of the Commission had faced a protectionist constituency.

Fourth, adding an extra level to the analysis makes the interplay between the levels more complex. Interests organisations within the European Union have several ways to influence the decision-making process. First, they affect the process through consultation with the domestic constituency. Second, they can insert influence on the supranational level. As shown above, these types of influence often differentiate from each other. The interest groups have learned which buttons to press and when.

Fifth, the study of the Bra War shows that international politics reverberate both the supranational and the domestic level. This leads us to the conclusion that

domestic and supranational politics cannot be studied independently from international politics.

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