

NAMA Negotiations, WTO Regime and Emerging

Countries Institutional Preferences.

The Dialogical Preference Hypothesis

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ABSTRACT

The article deals with the NAMA-11's strategy within the WTO multilateral negotiations on the liberalization of non-agricultural goods (NAMA negotiation). As the rise of new trade powers is the main change in the global economic landscape, the article aims to explain the emerging States' institutional offers and their effects on the WTO multilateral trade regime. Do the emerging economies either endorse or contest the WTO regime? The analysis shows that the emerging countries' negotiating strategy leads to a *change within* the regime and not a *change of* the regime. The article puts forward the idea of a dialogical institutional offer. The emergence of non-hegemonic powers gives rise to a contradictory process of endorsement of the principles and rules of WTO regime and a contestation of the modalities and mechanisms of WTO governance. Three elements support this argument: suscription to WTO ruling doctrine and institutional procedures; pro-active participation to NAMA negotiation and institutional offers centred on the technical parameters of NAMA negotiation. The article puts forward that these endorsement-contestation institutional offers are the result of the relative gain issue that characterizes the multilateral trade compromises as the multilateral trading system become less asymmetric.

Keywords: emerging economies, trade liberalization, multilateralism, relative gains, WTO regime.

JEL Classification: F13, F53, F55, F63

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Introduction

This working paper deals with institutional change. It will argue that change in the balance of power due to the rise of new trading powers does not lead to a fundamental discontinuity in the WTO regime. This last one might evolve but it has more staying power than generally thought.

The launch of the Doha Development Agenda (DDA) and China joining the WTO at the 3rd ministerial conference (9th-13th November 2001) were major events for the multilateral trade system on two levels. Firstly, they put development at the centre of negotiations and secondly set off a contradictory rebalancing process regarding power relations within the WTO. One of the manifestations of this rebalancing process is the place China has occupied since 2006 in WTO's Trade Policy Review Mechanism in replacement of Canada¹. Thus, the WTO, *World Trade Report 2013* rightly points out that "*especially China, but also India and Brazil have transformed the balance of power in the multilateral trading system*".

At the time of its creation (1995), the WTO was shaped by an international political economy structured by and around historical capitalisms. Power configuration was clear: the Quadilateral (Quad) – US, UE, Japan and Canada – formed the "decision-making powerhouse" (Baracuhy, 2015) of the multilateral trading system (MTS). Four decades of globalization, i.e, changes in the distribution of production, income and wealth, reshaped the international political economy and trade was and it is still one of the main forces contributing to shifts in the distribution of economic and political power among nations. We posit that the emergence of developing countries as significant players in the world trade system and the heterogeneity of preferences and interests among them is the main structural and institutional change in the MTS.

Indeed, the emergence of a certain number of developing countries as major powers in international economic relations has been the subject of much debate. One of this is related to the effects of this emergence on international institutions of global governance (Alexandroff and Cooper, 2010; Roberts, 2010). What are the consequences of the socialization of emerging powers on international cooperation and the *design* of global governance institutions? Do the new emerging powers (South Africa, Brazil, China, India, Russia) subscribe to the liberal order² constructed by historical capitalisms or are they seeking a new balance in game rules and decision-making mechanisms which will eventually bring about an in-depth overhaul of international institutions?

Whether literature on the subject looks at the question from a standpoint of liberal institutionalism or structural realism, it tends to concur that the strategic behaviour of new powers taken individually or collectively (G-33, G-90, G-20, etc.) is a product of the "*new geography of power*" (Drache, Froess, 2006; 2008) and the causal variable which has brought about the dead end in which the WTO's multilateral

¹ This substitution stems from the Trade Policy Review Mechanism (TPRM) which stipulates that "*the impact of individual Members on the functioning of the multilateral trading system, defined in terms of their share of world trade in a recent representative period, will be the determining factor in deciding on the frequency of reviews.*" (GATT, 1994). As China has become the 2nd trade power, the country will be reviewed every two years like the European Union, the United States and Japan.

² The expression "international liberal order" refers to the Bretton Woods system and the set of international institutions put in place by the United States to promote the liberal vision of peace through interdependence. Since 1975, the US used their economic leadership to structure a rules-based liberal trading regime based on an orderly, reciprocal and non-discriminating reductions in tariffs and non-tariffs barriers to trade.

trade negotiations find themselves³. However our subject of study does not cover the strategic behaviour of the players involved and the consequences of this on the dynamics of negotiations. It is more to do with the emerging powers' institutional framework and the way in which this supports, contradicts or renews the multilateral trade regime's constitutive institutional set-up. It is applied to Non-Agricultural Market Access (NAMA) negotiations, one of the three main issues of multilateral liberalization as set out in the DDA⁴.

Like negotiations on agricultural products or services, one characteristic of NAMA is the formation of several coalitions, one of which is NAMA-11⁵. The analysis of concrete modes for the integration of the major Southern countries into multilateral trading regime is made through this coalition's institutional offers. We also take into consideration China's institutional offer, as the world's first exporter of industrial products. The aim is to find out whether the emerging States are behaving like "*status quo seekers*" (Lawrence, 2006; Ikenberry, 2001 and 2008; Kent, 2007; Johnston, 2008), powers supporting liberal institutionalism (Glosny, 2010) or ascending "*revisionist*" powers (Kennedy, 1987; Barma *et al.*, 2009; Jacques, 2009) within the WTO? Could their institutional offers lead to a transformation of the WTO regime?

The analysis borrows certain ideas from the theory of international regimes which distinguishes between the *principles* and *norms* which make up the regime's permanent elements and finality and the *rules* and *decision-making procedures* which refer back to the instruments of the regime and may vary according to the area and problem the regime is dealing with (Krasner, 1983; Hasenclever *et al.*, 1997; Footer, 2006). This distinction enables us to formulate the hypothesis that between the two main schools of thought about the institutional framework offered by ascending powers, it seems possible to consider a change *within* the regime rather than a change *of* regime (Abbas, 2015). The WTO regime as a complexe but flexible institutional framework facilitates compromises which consolidate the regime's fundamental goals and constitutive obligations but also contests regulatory instruments and measures. I show that the institutional offer of emerging economies use this WTO regime's property. This leads to a dialogical⁶ institutional offer: a contestation of the operational mechanisms and instruments and adherence to the norms and principles. The emerging economies' institutional offer is dialogical in the sens that it is characterized by both competition-cooperation between preferences and interests related to the complexity of the WTO's liberalization-regulation agenda. The emerging state actors' dialogical institutional offer in an institutionalized framework is related to the process of institutional adaptation to the distributional conflicts which in turn is related to multilateral trade compromise and to the state of international political economy contradictions.

The starting point of this hypothesis lies in the three main tenets of the multilateral trade regime's "*generative grammar*" (Ruggie, 1982), namely non-discrimination, reciprocity and leadership. Non-discrimination is the main fundamental principle, reciprocity is the operating mode and leadership or the balance of power simultaneously provides the driving force and condition for cooperative solutions. Any change in the international *balance of power* is more or less immediately transmitted to a bargain- and member-driven organization like the WTO. This is why the emerging economies alter the leadership issue within the multilateral trading system, but is that enough for us to conclude that there is a change of the regime? This would only be possible if the non-discrimination principles were called into question and if that questioning were also voluntarily or contingently accompanied by questioning the reciprocity principle (Finlayson, Zacher, 1981). The analysis will therefore attempt to show how the emerging countries' proposals may or may not lead to the principles of multilateral trade being called into question. It will also aim to provide tangible content for the hypothesis of change *within* the regime by focusing on

³ The argument that the DDA deadlocks is related to the structural changes in the global balance of power is put forward, amongst others, by two former leaders of multilateral international institutions: G. de Jonckhères (2011) and P. Lamy (2011)

⁴ Article 2 of the WTO agriculture agreement lists the products concerned in Annex 1. Any products not included in this annex are covered by Non-Agricultural Market Access negotiations. It therefore covers 90% of world trade in goods. In this article the term "industrial products" is used to refer to all products which are the subject of NAMA negotiations. See <http://www.wto.org/french/tratop f/markacc f/nama negotiations f.htm>

⁵ The following States are the members of NAMA-11: Argentina, Brazil, Egypt, India, Indonesia, Namibia, Philippines, Tunisia, Venezuela and South Africa, which is the coalition's coordinator.

⁶ The term dialogical is borrowed from Edgar Morin (1977; 1995). The notion allows us to explain a complexe relation, at once complementary, antagonistic and uncertain of two logics. It does not aim, contrarily to dialectics, neither to unity nor to the resolution of contradictions. It rather aims at integrating in the same system, competition-cooperation between ideas, interests and, of course, state multilateral institutional preferences, so as to illustrate the complexity of phenomena and interdependencies within the new global political economy.

the technical parameters of negotiation. Indeed, one of the main arguments in favour of change *within* the regime lies in the concentration of NAMA-11's strategy on these parameters rather than on the regime's substantive principles and norms.

This article is structured as follows. The section 2 analyzes NAMA negotiations and the successive ways in which these have evolved from the start of the cycle right up to the 2010 meetings - the last significant events in terms of negotiation content. The third section focuses on NAMA-11's approach and proposals. It develops the hypothesis of a change in the regime and not a change of the regime. The fourth section puts forward the relative gains' issue (distributional conflicts) to explain the dialogical institutional offers that underpin NAMA-11 institutional preferences. I will then conclude with the analysis' main results.

Emerging Countries, NAMA Negotiations and The Stalemate of the Doha Development Agenda

2.1 An Ambitious Negotiation to improve Market Access

There have been two phases in NAMA negotiations. The former ran from the December 2001 Doha conference, which defined the negotiation mandate, to the Hong Kong conference in December 2005. The latter saw the creation of NAMA-11 whose negotiation strategy inaugurated the ongoing second phase.

The mandate for negotiations on industrial products is set out in paragraph 16 of the Doha declaration which stipulates that:

We agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. Product coverage shall be comprehensive and without a priori exclusions. The negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments (...). To this end, the modalities to be agreed will include appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations⁷.

By launching negotiations which aimed "to reduce or eliminate tariff peaks, high tariffs and tariff escalation", the Doha mandate showed a high level of ambition, particularly as it was regulated by article XXVIII bis of the GATT from 1994 whose objective was "the substantial reduction of the general level of tariffs". Paragraph 16 contains no specific restrictions on the scope and range of its application to developing countries (DCs) and less-developed countries (LDCs) apart from the provision that "the negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including less than full reciprocity in reduction commitments." The NAMA debate focused on whether to introduce the tariff cut according to the initial level of tariff barriers prevalent in a member or on the ability of a particular member to undertake that reform.

The negotiations on non-agricultural products were launched in January 2002 by creating a negotiating group on market access (NGMA) and the members were expected to agree on modalities. The interpretation of paragraph 16 was problematic from the start because the industrialized countries' level of consolidated rights (3.6%) meant that they saw it as a mandate for the ambitious liberalization of the developing countries. The latter, however, insist on less than full reciprocity (LTFR)⁸, that their development requirements be taken into account and on the renewal of special and differential treatment (S&D). Indeed, the consensual version of the "Girard Text" (in reference to the ambassador and president of the negotiation group) was only accepted in August 2003 without all members' agreement on the negotiation modalities and scope. The five key negotiation axes in the "Girard Text" were:

- i) The Swiss formula for tariff reduction, namely $t_1 = \frac{a \times t_0}{a + t_0}$ with t_0 as the initial tariff rate, t_1 the

resulting lower tariff rate to be consolidated and a a coefficient with a unique value which shall be determined by the participants. 125 Members were involved in the negotiations and 93 were to apply the formula including 20 developing countries. The principle is as follows: the higher the coefficient is, the lower the reductions are. This meant that negotiations mainly focused on fixing coefficients to be applied by the countries involved.

⁷ See http://www.wto.org/french/thewto_f/minist_f/min01_f/mindecl_f.htm consulted on November 25th 2013. Paragraph 31 on the liberalization of environmental goods should be added to paragraph 16 and these two paragraphs together the NAMA negotiation mandate.

⁸ It means that developing countries should be allowed to choose and undertake the scope of tariff binding and rates of tariff reduction appropriate to their development needs and industrial strategies.

- ii) The formula includes certain flexible arrangements for the developing countries who could in some cases either exclude certain products from any tariff reductions or adjust certain reductions.
- iii) A non-binding sectoral approach including the harmonization of zero-for-zero tariffs whereby all participants agree to consolidate tariffs on the products consider to the level of the franchise.
- iv) Provisions concerning special and differential treatment and the specific situation of recently admitted members (RAMs).
- v) Provisions on non-tariff obstacles relative to articles VIII and X from the 1994 GATT, the SPS and TBT agreements and linked to promoting exchanges.

The high level of ambition in this agreement is also present in the combination of two methodologies for tariff reductions used simultaneously: the Swiss harmonization formula and the sectoral harmonization approach which is a variant in the supply and demand methodology for trade concessions⁹.

Between the Girard proposals and the Cancun ministerial conference (December 2003), discussion mostly focused on Special and Differential Treatment (S&DT) provisions which had not been clearly formulated in the Doha mandate. The developing countries wanted the actual nature and content of less than full reciprocity (LTFR) for tariff reduction to be made clear. This meant that the level and scope of tariff reductions to which the formula would be applied became central to negotiations. The Cancun conference produced the "Derbez Text" which renewed the mandate of paragraph 16 of the Doha declaration while adding the need to progress on defining the content of S&DT, the erosion of preferences and LTFR. The developing countries considered the "Derbez Text" to be another version of the US-EU draft and stressed on taking the G-20 draft as the basis of negotiation. Several developing countries argued that the "Derbez Text" had not been accepted in Cancun and they criticized the process by which the text had been placed unchanged in the July 2004 package. Indeed, the "Derbez Text" was the basis for the July 2004 agreement in which two conflicting approaches - market access vs. development - affected the direction of negotiations aimed at defining NAMA's liberalization modalities.

The developed countries insisted on an ambitious formula stressing the need for negotiations to produce veritable new trade flows in return for their agricultural liberalization. So, they interpreted the mandate's aim to be to achieve tariff harmonization among all the WTO Members. This means that historical capitalisms are much more concerned about access to emerging markets than they were in former rounds and when the goals for the development round were first set (Bhagwati, 2015). This preference led to the creation of the *Friends of Ambition*¹⁰. The position of the developing countries¹¹ focused on the link between their commitment to liberalization, the nature of their trade requirements and their levels of development. More specifically they considered that LTFR should be reflected in the formula by a higher coefficient than that of the developed countries. They felt that the "Derbez Text" did not fairly represent their interests on the following three key points: i) the erosion of preferences; ii) less than full reciprocity and iii) flexibility arrangements for trade defence.

2.2 The Creation of NAMA-11 and the Revision of the Proposed Text

The second phase began with the 2005 ministerial conference in Hong Kong which fixed the agenda around three questions:

- i) the opposition between the developed countries' wish to link coefficients to the flexibilities set out in paragraph 8 and the developing countries' insistence that paragraph 8 should be kept as an independent modality¹²;
- ii) the difference between coefficients for developed and developing countries;
- iii) non-binding participation in sectoral reductions.

⁹ The Swiss formula, favoured by several developed countries, was first discussed during the Tokyo round of the GATT (1973-1979). In the Uruguay Round, the participants negotiated cuts on a product-by-product basis. The DDA is a mix of the two former approaches.

¹⁰ The *Friends of Ambition* were the European Union, Australia, Canada, Japan, Norway, New Zealand, Switzerland and the United States.

¹¹ The G-90, set up at the Cancun conference and made up of the ACP, the African Union, and the group of Least Developed Countries (LDC), was in favour of this preference.

¹² "Paragraph 8 flexibilities" is an expression used by negotiators to refer to the longer implementation periods for liberalization commitments and the institutionalization of flexibilities offered to developing countries who applied the formula. See http://www.wto.org/french/tratop/f/dda/f/draft_text_gc_dg_31july04.f.htm

There is a clear conflict in interpretation between the mercantilist view based on market access and the pro-development standpoint which insists on less than full reciprocity and flexibilities. These conflicting interpretations led to the creation of NAMA-11 in reaction to the European proposal (October 2005) concerning the liberalization formula and its effects on the trade policies of the developing countries¹³. As NAMA-11 had not contributed to defining negotiation parameters, its creation could be analysed as a "cognitive and institutional adaptation" (Hurrell and Narlikar, 2006) to changes in the content of the negotiations, particularly insofar as the productive consequences of the Hong Kong compromise's technical parameters were concerned. The coalition members obtained two results.

Firstly, they successfully set the NAMA negotiations' level of ambition as high as that of those concerning agriculture by resisting the developed countries' attempt to force through an agreement on modalities before any significant agreement was reached on agriculture. This led to an addition to paragraph 24 of the Hong Kong Declaration¹⁴. The link between the both negotiations (agriculture and industries) is at the origin of the "parallel commitments" which led to the central substantive impasse in the Doha Round since 2008, regarding the appropriate balance between agriculture and industrial goods. Secondly, they forced everyone to respect the principle of LTFR for tariff reduction commitments. However, discussions over trade-offs and the overall level of ambition of the negotiations have produced modest progress since 2008.

The presence of South Africa, Brazil and India is a reaction to the Friends of Ambition's positions indicating that real and effective market access would be evaluated on the basis of the rates applied by the emerging countries - Brazil, India and China (Ismael, 2011). The non-participation of the latter, the world's first industrial products exporter, can be explained by the fact that between 2001 and 2006 it had been busy implementing commitments related to WTO's accession protocols. China tries to use its status as a recently admitted member (RAM) to obtain a coefficient 1.5 times higher than the developing countries' coefficient (Gao, 2012). It failed in doing so as it was one of the four RAMs whose tariffs had to be applied according to the formula.

Two main dates were important during this second phase. The first came with the December 2008 text: the 2008 revised draft modalities (Rev. 3)¹⁵, which stipulates:

- i) Concerning the formula; four coefficients were to be applied - one for the developed countries (8) and three for the developing country members (20, 22 and 25) to which flexibilities would be added (*Cf.* table 1). This was to cover all products with no *a priori* exceptions.
- ii) Concerning sectoral initiatives¹⁶, the text tried to reconcile two positions - firstly participating in sectoral actions remained non-compulsory and secondly there was to be an annex listing those members who agreed to negotiate the conditions for the operational implementation of sectoral tariff initiatives.

¹³ NAMA-11 represented in 2005, 4.95% of total world merchandise exports and NAMA-11+China, 12.2%. In 2014, NAMA-11 represented 5.67%, and NAMA-11+China, 17.9%. Author's own calculation from: <http://unctadstat.unctad.org/wds/TableViewer/tableView.aspx?ReportId=101>

¹⁴ The Doha Ministerial Conference declaration stated in paragraph 24 that "We recognize that it is important to advance the development objectives of this Round through enhanced market access for developing countries in both Agriculture and NAMA. To that end, we instruct our negotiators to ensure that there is a comparably high level of ambition in market access for Agriculture and NAMA. This ambition is to be achieved in a balanced and proportionate manner consistent with the principle of special and differential treatment".

¹⁵ See http://www.wto.org/french/tratop_f/markacc_f/markacc_chair_texts07_f.htm consulted on February 18th 2014

¹⁶ Fourteen sectors were suggested: automotives and related parts, bicycle and related parts, chemicals, electronics/electrical products, fish and fish products, forest products, gems and jewellery, hand tools, enhanced healthcare, industrial machinery, raw materials, sports equipment, textiles, clothing and footwear, toys.

Table 1. Coefficients and flexibilities in NAMA negotiation

Coefficient	Flexibilities
20	Reductions less than 50% lower than reductions made according to the formula to a maximum of 14% of tariff lines as long as the lines are not greater than 16% of imports or; Reductions based on the formula will not be applied to a maximum of 6.5% as long as these are not greater by 7.5% than the value of imports
22	Reductions less than 50% lower than reductions made according to the formula to a maximum of 10% of tariff lines as long as the lines are not greater than 10% of the total value of imports or; Reductions based on the formula will not be applied to a maximum of 5% of lines as long as these are not greater by 5% than the total value of imports
25	No flexibilities

Source: http://www.wto.org/french/tratop_f/markacc_f/markacc_chair_texts07_f.htm consulted on February 18th 2014

The second key date was spring 2011. The United States and the European Union were unhappy with what they saw as the unbalanced nature of concessions made to developing countries including the main emerging countries so they included "sectoral initiatives" in the negotiation agenda. In response to this a series of meetings were held in the framework of the Ambassadors' Meetings Group (GRA) from which the G-11 emerged¹⁷. The aim of these meetings was to set up areas of compromise without discussions appearing to be negotiations. However this process turned out to be unproductive which led Pascal Lamy, then Director-general of the WTO, to note that *"I believe we are confronted with a clear political gap which, as things stand, under the NAMA framework currently on the table (...) is not bridgeable today"*¹⁸. So he decided to suspend negotiations.

Between 2011 and 2015, negotiations were blocked. Following the Bali 9th ministerial conference (3-6 December 2013), state members reaffirmed their *"strong resolve to complete the DDA"* and the NAMA negotiation was relaunched within the Post-Bali work program. The lack of agreement on modalities leads to the introduction of "five potential approaches" of trade reduction commitments. These "five potential approaches" mentioned by the chair of Negotiations¹⁹ are:

- i) increasing the coefficients of Rev. 3 for developing and developed Members;
- ii) taking the average of line by line reductions according to Rev. 3, using the coefficients 8 for developed and 25 for developing Members (without flexibilities), as starting point for applying a cut of the overall tariff average;
- iii) same as under (b), but starting from a reduced reference level (e. g. average of cuts multiplied by a number smaller than 1);
- iv) taking the average of line by line reductions according to Rev. 3, using the coefficients 8 for developed and 25 for developing Members (without flexibilities), as starting point for applying an average cut of tariff lines;
- v) following an approach for the so-called formula applying Members similar to what Rev. 3 envisaged for other Members, such as SVEs (i. e. grouping Members according to levels of their existing bound tariff averages)²⁰.

¹⁷ The members of the G-11 are: South Africa, Argentina, Australia, Brazil, the United States, Canada, China, India, Japan, Mauritius and the EU.

¹⁸ See the director-general's report on consultations on NAMA's sectoral negotiations of the 11st April 2011. Consulted on February 11st 2016 at www.wto.org/french/tratop_f/dda_f/chair...f/dg_sectorals_f.doc

¹⁹ India stressed on the fact that the ownership of the five proposals made by the chair is obscure and any new proposals should come from members themselves.

²⁰ The negotiation remains sharply polarized over the "five approaches" put forward by the chair of negotiating group. Several developed and some developing countries (the EU, Japan, Australia, Switzerland, Norway, Singapore, Mexico, Hong Kong - China and Korea) support the five approaches. NAMA-11, Bolivia, Cuba, Ecuador, Barbados, Uganda asked : i) why the proponents are not coming up front to defend their five approaches and; ii) what would happen to less than full reciprocity and special and differential treatment because of these approaches? China said that it remains committed to the 2008 revised draft on modalities along with S&DT flexibilities and less than full reciprocity. For details see http://www.twm.my/nama_negotiations.htm

NAMA-11 countries (South Africa, India, Argentina, Egypt, Venezuela) refused to consider these approaches as a basis for the negotiations pointing out to a “lack of transparency” due to unidentified proponents. So, NAMA-11 asks the proponents to come up with new proposals in writing. The issue of strict parallelism is still problematic. Ecuador, on behalf of ALBA (Bolivia, Cuba, Ecuador, Nicaragua and Venezuela) and NAMA-11’s Brazil, South Africa, India and Argentina are reluctant to engage in industrial liberalization in the absence of clarity in the level of ambition in agriculture as market access is only one of the three pillars in the negotiations in agriculture (the other two being domestic support and export competition).

After over a decade of negotiations, two conflicting approaches to the liberalization of exchanges of industrial products were both supported by a different group of countries. Firstly there was the Friends of Ambition who considered that liberalization needed truly open up substantial markets providing new trade flows with only LDCs and small, vulnerable economies (SVEs) exonerated from committing. Secondly, the NAMA-11 members consider that the different texts – including the July 2008 compromise – were lacking in development content. However they had no intention of endangering their economic catching up process by committing to institutional restrictions and called for S&DT by insisting on their status as developing countries (Vickers, 2009).

NAMA-11'S PREFERENCES: THE DIALOGICAL OF ENDORSING PRINCIPLES AND CONTESTING MODALITIES

Our hypothesis – the dialogical preference of endorsing regime’s principles and contesting regime’s rules – requires an analysis of the emerging countries’ behaviour which goes further than their coalition’s creation. This is why we shall qualitatively evaluate their institutional offers and analyze the results obtained on the key negotiation variables: the mandate and the modalities.

3.1 NAMA-11: A Coalition supporting WTO Doctrine

It is possible to argue that the emerging countries in NAMA-11 want a change of the multilateral trading regime if, and only if, their proposals promoted a trade and development sub-regime which differed from the model provided by the WTO Agreements. The way in which the negotiations took place, as presented in the previous section, allows to a dual level of analysis. NAMA-11’s institutional preference complied with GATT-WTO’s mercantilist doctrine while in the meantime criticizing the governance of the negotiation process: texts which were biased against developing countries, overly prescriptive texts, lack of transparency, the Director-general’s selective approach, pressure to take part in bilateral negotiations with the United States. Contrarily to the Uruguay round negotiations, the DDA does not lead to blocking coalitions, but to a dialogical preference.

NAMA-11 firstly supported a pro-development interpretation of the Doha declaration as opposed to the mercantilist reading thereof. It claimed to have formed to “*promote the Doha programme’s development dimension*” and restated the need to “*allow developing countries room for manoeuvre to promote their own industrial development*”. To this should be added the position of principle by which “*in a Development Round, where the objective is ‘enhanced market access for developing countries’, developed countries have to lead the way by offering to undertake substantial reductions on their tariff peaks and high tariffs which they continue to maintain on products of interest to developing countries. In a Development Round there can be no expectation that developing countries should be making greater cuts than developed countries.*”²¹

NAMA-11 also applied proactive offers which fully complied with WTO doctrine and the ensuing Doha mandate. Indeed economic development is always envisaged as being driven by strategies for the “*expansion of developing countries exports*”, “*further liberalization*” and “*deeper integration*”. But during preparations for the Hong Kong conference, the tariff reduction formula proposed by Argentina, Brazil and India (ABI initiative)²² was categorically refused by the developed countries. The same happened with the NAMA-11 texts submitted to the WTO General Council in March 2006 and June 2007 and presented as an alternative to the president’s “*unbalanced text*”²³. The United States declared that this “*could mean the*

²¹ See “NAMA-11 declaration to the Market Access Negotiation Group, July 17th 2007”, JOB(07)/132 dated July 31st 2007.

²² See <http://www.twinside.org.sg/title2/twinfo209.htm> consulted on October 20th 2014.

²³ *Striving To Achieve Fair, Balanced And Development Friendly Modalities In NAMA*, TN/MA/W/68, March 30th 2006 ; Communication from the NAMA-11 Group of Developing Countries, TN/MA/W/87, 19th June 2007.

end of the Doha Round" while the EU noted that *"alternative texts to the president's Draft Text were not necessary"*²⁴.

The conclusion is obvious: emerging economies carry on a renewed discourse with the use of expressions such as *less than full reciprocity* or *political development space* and a denouncement of the *"unbalanced"* and *"disproportionate"* result of offers for the developing countries. But they are not able to advance their preferences. Add to this, that former expressions derived from the non-reciprocity principle contained in Part IV "trade and development" of the GATT and the "flexibilities" are recognized legal tool provided for by the WTO Agreements. The proposals regarding S&DT are envisaged in terms of more favourable thresholds and implementation deadlines in compliance with the approach of the WTO regime (Srinivasa, 1998; Panagariya, 2003). So, NAMA-11 institutional offer does not drive institutional innovation.

The dialogical institutional offer regarding the WTO regime is confirmed by the declarations of the IBSA Dialogue Forum, which brought together three of the main protagonists of NAMA-11, and the BRICS summit. The 5th IBSA summit²⁵ denounced the *"unfair nature of multilateral trade rules"* related to the fact that *"demand in the current negotiations (...) reflect an imbalance in the sense that there is too much accommodation of sensitivities of developed countries in agriculture, alongside unjust demands on developing countries to open their markets in the services and industrial sectors"*, insisted on *"the importance of the development objectives at the Doha Round"* and making sure that *"the rules maintain a political space for development."* The declaration from the April 2011 BRICS summit of trade ministers (Sanya, China) quotes the WTO Agreement word for word. The ministers *"stress the importance of the multilateral trading system, embodied in the World Trade Organization, for providing an open, stable, equitable and non discriminatory environment for international trade"* and *"commit to preserving and strengthening the multilateral trade system"*. The same could be said of the declaration from the 6th summit (Fortaleza, Brazil, July 2014) where the Heads of State reaffirmed their *"support for an open, inclusive, non-discriminatory, transparent and rule-based multilateral trading system"*. This position was simultaneously accompanied by a call for S&DT regarding openness because *"bad conditions for market access for these products [agricultural and industrial, MA] have seriously negative effects on the developing countries and increasing market penetration of imports brings about painful structural changes for the economies of many developing countries"*. Here again, we see the dialogical nature of the emerging countries' institutional offers which combine endorsement of the regime's finalities with criticism of the iniquity of the rules; and constestation of regime *modus operandi* while making sure to remain within the WTO's approach regarding equity.

3.2 The Political Economy of Technical Parameters

NAMA-11's main success lies in having imposed two revisions to the "Girard Text" which all rendered flexibilities more favourable to themselves. The flexibilities originally made up the dimension of S&DT in negotiation while the coefficients of the swiss formula tended towards less than full reciprocity. NAMA-11 obtained agreement that the flexibilities and coefficients should be set according to the agricultural negotiations' level of ambition. In return, NAMA-11 had to accept Mexico, Norway and Chile's proposal of a sliding scale for coefficients and flexibilities (table 2).

²⁴ See "Twenty Months of the NAMA 11", August 2007, South Africa's Mission to the United Nations and the WTO in Geneva and WTO "NAMA-11 declaration to the Market Access Negotiation Group, July 17th 2007", JOB(07)/132 July 2007

²⁵ For details of the declarations see <http://www.ibsa-trilateral.org/about-ibsa/ibsa-summits>

Table 2. The question of less than full reciprocity (% of reductions on consolidated lines)

	Brazil	India	EU	United States
Developed countries' proposal				
Swiss formula Coefficient 10 and 15	66%	73%	33%	35%
NAMA-11 proposal				
Swiss formula, coefficient 10 and 35	45%	54%	33%	35%
Swiss formula, coefficient 5 and 30	49%	57%	49%	51%
President's proposal				
Swiss formula, coefficient 8 and 20	59%	68%	38%	40%
Swiss formula, coefficient 8 and 22	57%	66%	38%	40%

Source: author's personal analysis.

There was also a half-success concerning specific flexibilities *per* country. Certain members of the coalition (South Africa, Argentina, Venezuela and Brazil) considered that their specific circumstances meant additional flexibilities were required. Only South Africa obtained full satisfaction on this point by arguing that the application of modalities would have a disproportionate effect on its import regime while being unable to benefit from similar advantages in agriculture and services. Also, when South Africa joined the WTO in 1995 it applied industrial liberalization commitments intended for the developed countries. However as South Africa was a member of a customs union (the SACU), the LDCs (Lesotho) and SVEs (Botswana, Namibia and Swaziland) who also belonged would be subjected to the effects of the modalities which was contrary to the DDA mandate regarding LDCs' and SVEs'. As a Mercosur member, Brazil asked for a larger range of sensitive products to be excluded from the formula. A compromise was found which enabled Mercosur members – but not Brazil – to apply the value of the limitation of exchanges set out in paragraph 7 calculated according to the total value of Brazilian imports of non-agricultural products.

The coalition's ability to impose flexibilities and a broader scale of coefficients needs to be tempered in the light of three factors. The first is that the December 2008 compromise does not correspond to NAMA-11's offer as formulated in June 2006 by which a minimum difference of 25 points between the developing countries' coefficients and those of developed countries was the guarantee that the principle of less than full reciprocity was respected²⁶. The second is NAMA-11's inability to stop sectoral initiatives being linked up to the liberalization formula and flexibilities, the effect of which was to raise the level of ambition for liberalization. This inability became a blocking factor because it led to negotiations breaking down in 2008 and 2011. The third factor is that the coalition was unable to stop the introduction of the anti-concentration clause which limited the range of flexibilities and which the United States called the *black box*²⁷. NAMA-11 reacted by considering this limit contrary to the Doha mandate which only contained one limit: that flexibilities should not be used to exclude full chapters of the harmonized system (HS). The coalition proposed that the limit should be kept at 10% of tariff lines while the developed countries wanted the figure to be 40%. The December 2008 compromise led to a minimum of 20% of tariff lines being subjected to reductions according to the formula for over 9% of the value of exchanges in a chapter of the harmonized system.

²⁶ NAMA-11 Ministers' communiqué, TN/MA/W/79, July 6th 2006.

²⁷ "In WTO speak (...) we have the Amber Box and we have the Blue Box and we have the Green Box. It turns out in market access all we have is the Black Box. That is a Black Box with loopholes. Unless and until we are able to pin those down and figure out what is behind the curtain, we don't know what is there, we can't evaluate what's on the table. (...) And all the WTO members need to stretch and all need to focus on eliminating the Black Box so we can get on with the rest of the negotiations". Transcription of Ambassador Susan C. Schwab's Remarks on the Doha Development Agenda (July 7, 2006):

http://www.ustr.gov/WTO/WTO_Transcripts/Section_Index.html consulted on 15 March 2014.

What can be concluded about NAMA-11's institutional offers?

Firstly, the emerging countries who are NAMA-11 members act as *non-hegemonic powers* insofar as they do not work with an alternative rationality or different final objectives to those of the multilateral trade regime and to the international insertion strategies which underpin the WTO's principles and norms. The multilateral trade system finds itself in a configuration where, using J. Grieco's words (1996), countries do not "*passively adhere*" to the compromises set up by the hegemonic powers (Girard and Derbez Texts, the *Friends of Ambition* proposals) without actually adopting a position of pure "*counter-hegemonic resistance*". The emerging countries have acquired negotiation capacities through both their own trading capacities (exports and domestic market size) and through the WTO's institutional feature (consensus principle, "one State, one vote", the single undertaking). Conversely, they do not possess the capacity for normative production as they are unable to obtain the adhesion of other developing countries or LDCs to their preferences and cannot afford the multilateral trade system's running costs which would equate to reaching a state of systemic responsibility.

This is why, using Finyalson and Zacher (1981) criteria, we see that the emerging countries acts through the "*procedural*" norms not the "*substantive*" ones. More notable regarding institutional change, Ruggie (1982) made a crucial distinction between two forms of regime change. One is at the level of rules and decision-making procedures, leaving the normative framework of existing regime intact. Ruggie called it "*norm-governed change*". The second is at the level of the normative framework itself which is truly transformative. Ruggie called it "*norm-transforming change*". The emerging countries institutional offers are still largely within the normative framework of the existing WTO regime, i.e. they are "*norm-governed*" rather than "*norm-transforming change*".

For this reason, South Africa, Brazil and India's institutional offers make them *soft revisionists* or "*soft reformists*" (Brütsch, Papa, 2012)²⁸. Their acquired mastery of "*insider activism*" (Soares de Lima, Hisrt, 2006; Kahler, 2013)²⁹ enables them to propose an institutional set-up centred on technical parameters. As such they no longer use a defection approach (combining cooperation/non-cooperation) and now participate fully in negotiations by instrumentalizing the WTO's *soft* rather than *hard law* (Drezner, 2007; Shaffer and Pollack, 2010). The *hard law* is based on legal treaties and obligations contained in trade agreements whereas the *soft law* is more centred on non-restrictive provisions and decision-making procedures (Footer, 2010). This typology complies with our reading of international regimes insofar as the *hard law* refers back to the multilateral trade regime's principles and norms while the *soft law* concerns the regime's rules and operating modes. NAMA's actions regarding the WTO's *soft law* shows that the emerging countries make up for their inabilities to impose their preferences in primary negotiations – defining the regime's principles and norms – by their activism in secondary negotiations – defining governance rules and modes – according to Gamble's typology (2010).

Secondly, the supportive behaviour of the emerging countries is related to the use of the WTO's dispute settlement procedure. In the period running from 1995-2016, NAMA-11 was at the origin of 21% of requests for a dispute to be settled while the G3 made 13% of such requests³⁰ (table 3). Brazil, India and China act as "*system supports*" (Vickers, 2012), particularly as the final declaration of the 6th BRICS summit insisted that "*we strongly support the WTO dispute settlement system as a cornerstone of the security and predictability of the multilateral trading system*".

²⁸ The authors' analysis covers the BRICS strategy at the IMF and in the framework of UNFCCC climate negotiations. Our analysis complies with these conclusions.

²⁹ Hurrell and Narlikar (2006) consider controlling internal activism as one of the four new developments in the Doha Round along with the formation of coalitions, negotiation strategy and cooperation with NGOs.

³⁰ Brazil is the 4th claimant followed by India (6th), Argentina (7th) and China (8th).

Table 3. Dispute settlement procedure applications

	As complainant	As respondent
Argentina	21	22
Brazil	28	16
Egypt	0	4
India	22	23
Indonesia	10	13
Namibia	0	0
Philippines	5	6
South Africa	0	5
Tunisia	0	0
Venezuela	1	2
China	15	34
Total in relation to all disputes	102/502	125/502

Source: WTO http://www.wto.org/french/tratop_f/dispu_f/ consulted on February 25th 2016.

Lastly, regarding the negotiation's management and consensus building, it is the established powers that took the initiative regarding both institutional matters and co-opting emerging countries regarding systems and provisions for governance. The Quad's replacement by the FIP or G-6³¹, the transformation of the latter in G-7 by China's inclusion in July 2008 and India, Brazil and China being co-opted into "green room"-type meetings are all changes which go along with the consolidation of WTO governance rather than in any way changing the nature of the regime. It is clear that the major emerging countries are satisfied with the strategy of inclusion in WTO institutional framework without questioning the rule of consensus which in itself constitutes a new argument in favour of the regime endorsement. By going along with this strategy, the emerging countries suggest that the "principal supplier principle" and the "critical mass" could be used to reach trade compromises. But, the Doha Round was supposed to provide an alternative to this approach rejected by all the DCs-LDCs at the Singapore ministerial conference (1996). We see here how the "secondary powers" (Grieco, 1996) negotiate compromises with the dominant powers in exchange of "institutional characteristics".

The emerging countries are able to accept the threat of free riding by LDCs' and non-emerging developing countries in exchange of closer economic integration with historical capitalisms. They adopted this strategy in reaction to the multiplication of regional commercial agreements initiated by the US and the EU. With these agreements, historical capitalist powers obtain a BATNA (Best Alternative To a Negotiated Agreement) not available to the Global South (Brazil, China, India)³². By doing so, historical capitalisms try to respond to the new new distribution of production, income and wealth and consequently the new balance of power) produced by the emerging countries production, trade and investment strategies – especially China's rise. It is a way to secure increased relative gains for the US and the EU in investing in concluding bilateral and regional trade agreements (Tellis, 2015). RTAs, such as the TTIP and the TPP³³,

³¹ The G-7 is made up of Australia, Brazil, China, the United States, India, Japan and the European Union. The FIP is made up of Australia, Brazil, India, the United States and the European Union. People often refer to a FIP+ which is made up of Argentina, Benin, Canada, China, South Korea, Indonesia, Japan, Malaysia, Switzerland as well as the five afore-mentioned FIP members.

³² Under the leadership of China's Chamber of Commerce and Industry chief, the BRICS are considering negotiating a free-trade agreement to "increase emerging states' power in the global economy". This remains, as of yet, more an intention than a real project.

³³ Transatlantic trade and Investment Partnership (TTIP) between the US and EU will be the largest bilateral free-trade agreement in history and the Trans-Pacific Partnership (TPP) which bring together the US, Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam is the second largest free-trade deal. These mega-regional trade agreements are much more than free-trade agreements. They regulate investment, a large range of public policies and beyond-the-border measures aiming at leveling the playing field for transnational corporations and their global value chains.

that incorporate WTO-plus and WTO-extra clauses³⁴ will change global trade regulation whether they break or not the deadlock in the WTO.

The WTO is as member-driven organization which means that dynamics of players' negotiation strategies as viewed through their institutional offer sheds light on the matter of regime's endorsement-constestation. Thus the emerging countries' dialogical institutional offer illustrates the dilemma they faced. Their status is the product of the international competitive dynamic's inherited from the Uruguay Round Agreements. Their ascendancy confirms the benefits they can obtain from globalization which leads to a preference for the *status quo*. This preference is reinforced by the absence of common positions or collective principles for action concerning institutional settings. However, this ascendancy also leads the "prime-mover" States or "go-it alone' power" (Gruber, 2000) to ask for a reinforcement of the regime's principles (reciprocity clause, mercantilist interpretation of the mandate), leading the emerging countries' to act on and by the parameters of the *soft law*. Thus, the WTO institutional framework systems and provisions are being adapted to the emerging countries procedural preferences without any of this leading to regime change. This explains why emerging countries, even with the negotiations' deadlock, do not opt for the *exit* option³⁵.

NAMA-11 DIALOGICAL INSTITUTIONAL OFFER AND THE RELATIVE GAINS ISSUE

While it is common to read the contrary, negotiation stalemates are above all due to "*transatlantic intransigence*" (Young, 2010) as the NAMA negotiations demonstrate that the emerging economies are now willing participants in the complex interdependence which characterizes the multilateral trade system. Therefore that it is in their interest to act as "*responsible stakeholders*" (Baracuh, 2012) in their dealings with historical capitalisms whichever group is concerned (G3, NAMA-11, G20). This characteristic of their rise is related to the combined and uneven development dynamics of trade, production and investment inter-state competition (Abbas, 2016). This can be explained by the joint effect of globalization and emergence which modifies cooperation issues by rising the relative gains dilemmas.

Relative gains affect international cooperation by changing states' incentives. The declining relative preponderance of historical capitalisms increases their concern for relative gains especially with rising challengers; the emerging countries. Such a power configuration alters the strategic structure of interstate competition and decrease the prospect for cooperation (Powell, 1993). The Doha round deals with issues that have distributional consequences. In such situation, the nature of institutional arrangements is better explained by the distribution of power capabilities than by efforts to solve problems of market failures or transaction costs (Krasner, 1993).

Three factors explain why emerging countries are bringing up the question of modalities – the specific gains' distribution from the cooperation – as a key parameter in NAMA negotiation. Firstly, the institutional heritage of the Uruguay Round has led emerging countries to interpret multilateral trade negotiations in terms of power, a notion which needs to be understood in relative terms. This leads to a state-centric interpretation of trade regulation where power issues are formulated in terms of sovereignty and a political space for development. Secondly, incertitude concerning long-term gains and the fact that these are shared out unequally according to the cooperative outcome selected (Rodrik, 2009; Gallagher, 2013). The WTO's institutional regulations do not provide compensation of relative losses so the balance between absolute gains linked to multilateral cooperation and relative gains linked to the cooperative outcome tends towards the latter. Thirdly, the emergence process leads to a less asymmetrical multilateral agreement. Yet, trade multilateralism was historically built on an an asymmetrical exchange of compromises, with the powerful state bearing the cost. By reducing the power asymmetry between the MTS's main actors, the new distribution of wealth makes very difficult such kind of compromise as historical capitalisms can no longer accept trade deals that could provide greater benefits to emerging capitalisms.

The question of relative gains needs to be looked at from a triple standpoint. The non-hegemonic powers contribute to the consolidation of the regime insofar as they consider themselves to be in a dynamic of

³⁴ WTO-plus regulations include disciplines on state-owned enterprises, intellectual property right, sanitary and phytosanitary measures and technical barriers to trade. WTO-extra regulations include competition policies, rules on investment, e-commerce, regulatory coherence, supply-chain competitiveness, labor and environmental rules.

³⁵ We use A. O. Hirschman (1970) conceptualization in economic institutions. The author identifies three ways available to the actors: exit, voice and loyalty. *Voice* refers to an active participation which aims to change the orientation and working methods of the organization. Relating to our issue, the emerging countries choose institutional offers that deepen trade interdependence, consolidate the WTO soft law and avoid any direct confrontation with historical capitalism preferences that could drive to a change in the multilateral trade regime.

neutral or descending relative gains. This means that the emerging countries, taken individually in the absence of a representative coalition, are not currently in a position to contest the proposals of the Friends of Ambition (nor will they be in the near future) because they lack the capacity to do so when faced with the leadership of established powers (Cohen *et al.*, 2010; Hart, Jones, 2010; Chakraborty, Sengupta, 2006).

The second standpoint focuses on the relations between emerging countries in which Argentina, Brazil and India appear the main beneficiaries. However the asymmetric nature of relations is actually the most pronounced in terms of access to their own market. Clearly the willingness to boost their exports of manufactured goods is the major element of commonality among negotiating stances of the emerging countries. China is by far the largest and most competitive economy, and employment and growth depends critically on the opening up of developed country markets. Given initial protection levels, the formula should drive productive adjustments and differentiated distributive mechanisms (*Cf.* Table 4). China's more subdued position can be explained by the fact that its level of protection is much lower than that of Brazil and India because of concessions made during its WTO accession process. The weakness of its negotiation margins explains that it concentrates on the reform of the WTO's operational procedures (soft law) (Zhao, 2007; Ching, 2009), particularly those relative to S&DT, developing offers centred its own interests as its primary goal is to ensure increased market access for its keys export products (Draper, Razeen, 2006). Given its relative power, Gao (2012) concludes that China behaves like a "rule shaker" which is an intermediary role lying between the roles of "rule taker" and "rule maker"³⁶.

Table 4. Average tariff and lines covered by NAMA negotiations

		Number of tariff lines covered (%)	Average tariff on non-agricultural products		Coefficient	Final consolidated tariff
			Consolidated	Applied		
NAMA-11	Argentina	100	31.8	12.8	22	13.0
	Brazil	100	30.8	14.1	22	12.8
	Egypt	99.4	27.7	9.3	20	11.6
	India	73.8	34.5	10.4	22	13.4
	Indonesia	96.6	35.6	6.9	22	13.6
	Namibia	96.4	15.8	7.4	ND	ND
	Philippines	67	23.4	5.7	20	10.7
	South Africa	96.4	16.8	7.4	ND	ND
	Tunisia	58	40.8	12.6	20	13.4
	Venezuela	100	33.6	12.8	22	13.2
China		100	9.1	8.7	22	6.4

Source: WTO, <http://stat.wto.org/TariffProfil/>. The final consolidated tariff does not take account of flexibilities.

The last standpoint is related to flexibilities. They are a tool which can be used to manage gains' heterogeneity due to the considerable variation in the emerging countries' source of power and behaviour (Hopewell, 2015) which leads to a differentiated adjustment costs. In this sense, flexibilities serve to regulate any asymmetries within NAMA-11 particularly as those that caused the 2008 and 2010 stalemates in negotiations when Brazil favoured compromise while India was opposed. This happened again during negotiations for the Bali Package on trade facilitation in July 2014³⁷. This shows the extent of institutional contradictions inherent to the emergence process. From an operational (*soft law*) and non-

³⁶ This behaviour has also been noted by Zeng and Liang (2013) and also Pearson (2006). This dialogical institutional behaviour is related to the way China's integration into the multilateral trading order is taking place. On one hand, as a major manufacturing and export country, China is bound by "global codependency" (Mann, 2015) and needs international markets to be open. On the other hand, it uses its developing country WTO status to legitimate its statist policies and controversial trade policies which make it in contradiction with the multilateral trading regime.

³⁷ Following on from Grieco's work (1996), Gruber explains this type of situation by stressing the importance of domestic factors. Multilateral arrangements are likely to be contested if a change in the ruling coalition led to a new calculation of the interest of such an arrangement for social groups on which government is based. For an analysis of multilateral preferences in terms of alignment on domestic coalitions' interests, see Conceição-Heldt (2013).

legal standpoint, flexibilities do enable a differentiation to be made between the developing countries but they also mean S&DT can be called into question (Servansing, 2013) which is a disadvantage for the emerging countries. In the meanwhile, flexibilities have reduced the risk of defection within NAMA-11 which brought about a negotiated solution between NAMA-11 and the “*enacting coalition*” (Gruber, 2000), *i.e.* the Friends of ambition. This second movement consolidates the latter's position insofar as they can thus modify the cooperative *status quo* to their own advantage firstly by co-opting weaker States (free negotiations for LDCs, concessions towards the G-33, recognition of S&DT solely for LDCs and DCs), and secondly by opening up the regime's governance mechanisms to non-hegemonic power.

CONCLUSION

I used NAMA negotiations to analyse emerging economies' institutional preferences relative to the WTO regime, arguing that there exists a dialogical institutional preference of both acceptance and contestation of the regime. This in turn leads to three results.

The first concerns the WTO negotiations' *modus operandi*. The main adjustment driven by the emergence of non-hegemonic powers concerns member states' strategic interactions and behaviours. The established powers have had to learn to negotiate compromises with new comers who are fully committed to the negotiation process while mastering its main parameters. *Constructive ambiguity* which has characterized GATT's operability for nearly half a century now seems unsuitable when faced with the legal-technical abilities of emerging economies. This is far from a marginal change in a *member and bargain driven* organization.

The second result is that emergence is accompanied by a discursive shift which reveals the success in learning about negotiation systems and multilateral trade regulation. However this shift has not led to a change in the regime “*generative grammar*”. Currently the non-hegemonic powers subscribe to a movement of regime endorsement within the specific framework of the WTO – a movement which nonetheless also contests the technical parameters and negotiation modalities and thus leads to a reduction in the negotiations' level of ambition. However, this is countered by the institutional offer of the established powers who maintain the capacity to set the mandate, negotiation parameters and the overall trajectory. This why, we are facing a change within but not a change of the WTO multilateral trading regime.

The third result is that work by and on modalities is constitutive of the emerging countries' stato-centric vision of liberalization and trade regulation. They are aware of the opportunities the WTO regime offers them which means they benefit from an absolute gains in terms of cooperation. Alongside this, negotiations' productive and distributive effects impose an approach in terms of relative gains. What NAMA-11 can offer therefore exists in an institutional environment with mixed motives where currently questions of asymmetries in trade gains and unequal division of cooperation gains over-determine their behaviour, given the overall compromise inherent to the DDA.

Facing a new international political economy, the multilateral trade architecture seems flexible enough for an institutional and status reform not to be required. Is this sustainable? Unless there is a significant change in WTO governance, how long will the emerging countries avoid questioning the multilateral trade order's principles and norms? The time may have come for both historical and emerging capitalisms to consider new ways of managing multilateralism.

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