

The normative dimension of the EU's trade policy

High expectations, questionable outcomes?

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Introduction

On 14 October 2016 the Walloon Parliament in Belgium rejected the CETA trade deal.¹ This deal would finalize years of negotiations between the European Union (EU) and Canada to come to a Free Trade Agreement (FTA). The Walloon Parliament had concerns that this deal would give multinationals vast power to sue governments for policies that would protect the public interest or that would impose certain norms on companies for various issues through regulations. Eventually, the Walloon Parliament voted in favor on 28 October after some concessions were made. That did not lead to CETA being fully ratified by all parties at this time. As of May 2020, the government of the Netherlands is still in the process of ratifying the deal and has hit major opposition in the Senate. Arguments voiced in 2016 are still very much alive. Some senators have concerns regarding low product standards, whilst others point to the lack of ambition regarding climate change. Senators who are in favor argue that CETA is an opportunity to solidify the EU's role in the world.² The manner in which this debate unfolded in the Senate is exemplary for the somewhat divided stance towards trade policy and the desire for it to be more than just a tool to facilitate the EU's economic interests.

In 2006, the European Commission (Commission) developed the *Global Europe* strategy which shifted the aim of the EU's trade policy from the multilateral system towards a more bilateral approach with the so-called new generation FTAs. Furthermore, the strategy shifted the underlying incentives for trade from solely economic interests towards an approach that embraced more normative goals, for example standards for environmental and labor market issues.³ The Commission reaffirmed this approach in the 2015 *Trade for All*⁴ document in which it argued trade is a mechanism to 'promote high standards'⁵. This was again underlined in the 2016 *Global Strategy*.⁶ The policy documents show that there is a defined need for a trade policy that balances economic incentives and values driven interests in the world. The problem, however, is the dilemma of what is more important when trying to reach a politically acceptable equilibrium of norms and economic incentives within FTAs. Within the literature, the debate

¹ Politico, 'Walloon Parliament rejects CETA deal' <<https://www.politico.eu/article/walloon-parliament-rejects-ceta-deal/>>, retrieved 15-05-2020.

² NRC, 'Corona zet discussie over CETA verder op scherp' <<https://www.nrc.nl/nieuws/2020/05/12/corona-zet-discussie-over-ceta-verder-op-scherp-a3999484>>, retrieved 15-05-2020.

³ European Commission (2006), *Global Europe: Competing in the World*.

⁴ COM(2015) 497 final.

⁵ Ibid., pp. 14.

⁶ European Commission (2016), *Shared Vision, Common Action: A Stronger Europe*, pp. 17.

regarding the nature of the EU's trade policy contemplates this dilemma and seeks to clarify how Trade and Sustainable Development (TSD) chapters function within trade policy.

The dilemma is what has been described within the literature as the norms versus interests debate. Within this debate, the concepts of Normative Power Europe (NPE)⁷ and Market Power Europe (MPE)⁸ play a central role in defining the identity of the EU's power. Whilst NPE argues that the EU's identity is grounded in normative cores which can be externalized, MPE stresses that the EU's actorness derives from its internal market structure and thus can be perceived as the externalization of market norms. Both concepts have been incorporated within studies into the role of norms and economic incentives within the EU's foreign policy. A large share of these studies agrees that within trade policy, norms are subordinate to economic incentives.⁹ The push for a more normative agenda, however, is gaining traction within the EU and has led to more attention from various actors for normative arguments. In recent years, the mobilization of actors and institutional changes in the process have given more weight to the normative argument. This thesis is thus researching how a more recent agreement has been influenced by this process.

This thesis will contribute to the debate by analyzing the EU-Vietnam trade and investment agreement and it will answer the research question *To what extent does the EU-Vietnam trade and investment agreement reflect the heightened emphasis on norms in EU trade agreements?* This specific Free Trade Agreement (FTA) has not been studied extensively within the literature, it has recently been given the European Parliament's consent (February 2020) and is touted by the Commission as the most ambitious of its kind¹⁰. Furthermore, Vietnam is considered a developing country and it could be assumed that the economic leverage of the EU might bring success in externalizing normative values. For example, the EP had serious

⁷ Manners, I. (2002) 'Normative Power Europe: A Contradiction in Terms?' in: *Journal of Common Market Studies* 40(2), pp. 235-258.

⁸ Damro, C. (2012) 'Market Power Europe' in: *Journal of Common Market Studies* 19(5), pp. 682-699.

⁹ Hoang, H.H. and Sicurelli, D. (2017) 'The EU's preferential trade agreements with Singapore and Vietnam: Market vs. normative imperatives' in: *Contemporary Politics* 23(4), pp. 369-387.

Lightfoot, S., & Burchell, J. (2005) "The European Union and the World Summit on Sustainable Development: Normative Power Europe in Action?" in: *Journal of Common Market Studies* 43(1), pp. 75-95.

Martin-Mazé, M. (2015) 'Unpacking Interests in Normative Power Europe' in: *Journal of Common Market Studies* 53(6), pp. 1285-1300.

Orbie, J. and Khorana, S. (2015) 'Normative versus market power Europe? The EU-India trade agreement' in: *Asia Europe Journal* 13(3), pp. 253-264.

Orbie, J. 'Promoting labour standards through trade: Normative power or regulatory State Europe?' In G. W. Richard (Ed.), *Normative power Europe: empirical and theoretical perspective* (Basingstoke 2011), pp. 160-183.

Sicurelli, D. (2015) "The EU as a promoter of human rights in Bilateral trade agreements: The case of the negotiations with Vietnam" in: *Journal of Contemporary European Research* 11(2), pp. 230-245.

¹⁰ European Commission, 'Guide to the EU-Vietnam Trade and Investment Agreement (2019)', <https://trade.ec.europa.eu/doclib/docs/2016/june/tradoc_154622.pdf>, retrieved 11-06-2020.

concerns regarding human rights (HR) during the negotiation process, which eventually resulted in a Vietnamese roadmap for HR.¹¹ The combination of factors makes the Vietnam case one in which the EU's ability to externalize norms can be expected to be relatively successful. It can thus lead to a clearer depiction of the ability of the EU to effectively and willingly externalize its normative agenda through an FTA. It furthermore can demonstrate how the role of other actors and the interinstitutional balance through which normative issues are addressed affect the eventual FTA.

Multiple studies covering similar cases¹² have been utilizing a case study research design aimed at tracing how interests influence the economic incentives within the EU's negotiation process within its trade policy. This thesis will adapt a similar method used for analyzing empirical evidence by engaging with process tracing in order to demonstrate how normative values affect economic interests within the process of the EU concluding an FTA with third countries. To answer the research question, empirical evidence from EP reports and debates, Commission documents and statements, civil society groups, Non-Governmental Organizations (NGOs) and trade interest groups will be analyzed. With this analysis, a broader conclusion can be drawn regarding how FTAs are normatively influenced within the context of the negotiation process of the EU-Vietnam FTA and to what extent these values have influenced the outcome of the negotiation.

In this case study, it will become evident that the extent to which norms are being incorporated in FTAs and the degree of effectiveness of their enforcement is rather absent. The EP and NGOs voiced concerns regarding HR and labor rights at various stages during the process. This led to the Commission developing alternate initiatives to address HR issues within

¹¹ European Parliament Research Service, 2018/0356(NLE).

¹² Bossuyt, F. (2009) 'The Social Dimension of the New Generation of EU FTAs with Asia and Latin America: Ambitious Continuation for the Sake of Policy Coherence' in: *European Foreign Affairs Review* 14(5), pp. 703–722.

Harisson, J., Barbu, M., Campling, L., Richardson, B. & Smith, A. (2019) 'Governing Labour Standards through Free Trade Agreements: Limits of the European Union's Trade and Sustainable Development Chapters' in: *Journal of Common Market Studies* 57(2), pp. 260–277.

Hoang, H.H. and Sicurelli, D. (2017) 'The EU's preferential trade agreements with Singapore and Vietnam: Market vs. normative imperatives' in: *Contemporary Politics* 23(4), pp. 369–387.

Lechner, L. (2016) 'The Domestic Battle Over the Design of Non-Trade Issues in Preferential Trade Agreements' in: *Review of International Political Economy* 23(5), pp. 840–871.

McKenzie, L. and Meissner, K.L. (2017) 'Human Rights Conditionality in European Union Trade Negotiations: the Case of the EU–Singapore FTA' in: *Journal of Common Market Studies* 55(4), pp. 832–849.

Orbie, J. and Kerremans, B. (2009) 'The Social Dimension of European Union Trade Policies' in: *European Foreign Affairs Review* 14, pp. 629–641.

Orbie, J. and Khorana, S. (2015) 'Normative versus market power Europe? The EU-India trade agreement' in: *Asia Europe Journal* 13(3), pp. 253–264.

Sicurelli, D. (2015) 'The EU as a promoter of human rights in Bilateral trade agreements: The case of the negotiations with Vietnam' in: *Journal of Contemporary European Research* 11(2), pp. 230–245.

Vietnam, such as a roadmap within which the Vietnamese committed to ratify conventions of the International Labour Organisation (ILO). However, the roadmap is not enforceable through the FTA and other enforcement tools remain relatively weak within the eventual agreement. The conclusion can be drawn that there have been attempts to influence the Commission's normative agenda through various institutional channels. These attempts at influencing the process might have set a precedent for future FTAs that might become more effective compared to this case.

Chapter One – Literature review

The debate concerning TSD chapters in FTAs which the EU negotiates with other actors is, relatively, new within the literature. This can be expected, however, considering that the EU first shifted towards its bilateral approach to trade in 2006 and TSD chapters began being incorporated in FTAs. This new approach led to more research being done that focused on the normative dimension of a policy tool that at its core might be perceived as being highly driven by externalization of economic power. To understand how trade policy is analyzed within the literature and what has been done within this field, it is important to first dive into the mechanisms behind the EU's externalization of preferences. Within this context two concepts have been at the forefront of debates regarding the development of analytical frameworks for the purpose of researching trade policy: Normative Power Europe (NPE) and Market Power Europe (MPE).

Norms and interests

NPE as an analytical framework introduced a concept that focused on a values driven foreign policy identity that can be conceptually analyzed within literature. Manners' 2002 article provided the tools to develop an analytical framework that perceives the EU as an actor externalizing norms through its foreign policy.¹³ NPE as a concept argues that the fundamentals of the EU's power come from what it is compared to other actors on the world stage, a values driven construct that has a normative grounding within the Treaties, declarations and other legal documents. Manners highlights five core norms: peace, liberty, democracy, rule of law, and respect for human rights and fundamental freedoms, and four minor norms: social solidarity, anti-discrimination, sustainable development and good governance.¹⁴ The basis for these norms, however, is rather thin and lacks a sound justification from policy and practice of the EU. Within NPE, the assumption is that the EU's construct is founded on a normative basis which '*predisposes it to act in a normative way in world politics*'¹⁵. Manners thus implies that the EU will seek to externalize its normative agenda when engaging with other actors on the world stage. This can be achieved through what Manners highlights as the diffusion of norms or ideas in relation to third parties.

¹³ Manners, I. (2002) 'Normative Power Europe: A Contradiction in Terms?' in: *Journal of Common Market Studies* 40(2), pp. 235-258.

¹⁴ *Ibid.*, pp. 242.

¹⁵ *Ibid.*, pp. 252.

Within the context of this research, two aspects of diffusion are most interesting. The first is procedural diffusion, which implies that the EU can influence the norms of the third country via ‘*the institutionalization of a relationship between the EU and a third party*’¹⁶, for example an FTA. Second, transference diffusion implies that engaging in acts such as trade with third parties, ‘*may be the result of the exportation of community norms and standards.*’¹⁷ The underlying principle within the diffusion argument of NPE is that the EU promotes norms through leading by example. These concepts were further developed within the Europe as a power debate and found evidence of the EU being able to export certain normative aspects.¹⁸ The focus within this field that can be seen emerging from the literature was primarily on the role of the EU as norm-setter on the world stage, for example within the context of democracy and human rights¹⁹, sustainable development²⁰ and the abolition of the death penalty²¹. Most studies find evidence for the EU’s diffusion of norms within areas such as trade policy, diplomatic relations vis-à-vis third countries and its role on the world stage. However, the overall effectiveness of the diffusion and externalization is questionable. Most studies find that the EU lacks a certain amount of coherency regarding norms within the EU’s policies towards third countries. There are, naturally, also scholars from various backgrounds that critique NPE and its focus on norms. The reasoning behind the critique is, amongst others, difficulty of pointing out what constitutes as a norm within the theory²² or arguing that other interests dominate EU foreign policy over norms²³.

¹⁶ Ibid., pp. 244.

¹⁷ Ibid., pp. 245.

¹⁸ Diez, T. (2005) ‘Constructing the Self and Changing Others: Reconsidering “Normative Power Europe”’ in: *Millennium: Journal of International Studies* 33(3), pp. 615-636.

Manners, I. and Whitman, R. (2003) ‘The “Difference Engine”: Constructing and Representing the International Identity of the European Union’ in: *Journal of European Public Policy* 10(3), pp. 380-404.

Meunier, S. and Nicolaidis, K. (2006) ‘The European Union as a conflicted trade power’ in: *Journal of European Public Policy* 13(6), pp. 906-925.

Nicolaïdis, K. and Howse, R. (2002) ‘“This is my EUtopia . . .”: Narrative as Power’ in: *Journal of Common Market Studies* 40(4), pp. 767-792.

Scheipers, S. and Sicurelli, D. (2007) ‘Normative Power Europe: A Credible Utopia?’ in: *Journal of Common Market Studies* 45(2), pp. 435-457.

Youngs, R. (2004) ‘Normative Dynamics and Strategic Interests in the EU’s External Identity’ in: *Journal of Common Market Studies* 42(2), pp. 415-435.

¹⁹ Szymanski, M., and Smith, M. (2005) ‘Coherence and conditionality in European foreign policy: negotiating the EU–Mexico global agreement’ in: *Journal of Common Market Studies* 43(1), pp. 171- 192.

²⁰ Lightfoot, S., and Burchell, J. (2005) ‘The European Union and the World Summit on Sustainable Development: Normative Power Europe in Action?’ in: *Journal of Common Market Studies* 43(1), pp. 75-95.

²¹ Manners, I. (2002) ‘Normative Power Europe: A Contradiction in Terms?’ in: *Journal of Common Market Studies* 40(2), pp. 235-258.

²² De Zutter, E. (2010) ‘Normative Power Spotting: An Ontological and Methodological Appraisal’ in: *Journal of European Public Policy* 17(8), pp. 1106-1127.

²³ Hyde-Price, A. (2006) ‘Normative Power Europe: a Realist Critique’ in: *Journal of European Public Policy* 13(2), pp. 217-234.

NPE as a framework lacked an economic dimension. This absence led to the emergence of a framework based on economic incentives by Damro. He developed MPE and argued that the EU's power and identity can be perceived vastly different than normative.²⁴ The theory highlights mechanisms through which economic preferences are externalized, which is done by structuring market access conditions within trade policy. This can be seen as a process of externalization that is not forcefully incorporated within EU policy, but merely flows from the EU's standards, or market preferences. The framework thus focusses on classifying the EU as being capable of externalizing its market norms derived from the internal market structure.²⁵ Within the concept, the EU is able to exploit its market size as leverage within the externalization of its regulatory standards and market-based policy objectives through trade policy.²⁶ Furthermore, the externalization that occurs can be intensified by what is known as the EU's regulatory regime, which might have an influence on the internal market and have a regulatory spillover effect on third countries.²⁷ This point is highly interesting considering that it implies that the EU can be successful in externalizing its common set of economic rules and norms through FTAs. As Drezner states, having a considerable market size affects whether third countries are willing to cooperate on policy fields with that market because the considerable market size can impose economic benefits for the third country.²⁸

The MPE framework is a tool to analyze the externalization of market norms, but it does not engage with the normative dimension of the EU's policy. Furthermore, the concept itself is rarely used as a separate tool for analysis and is often used in combination with a normative research design. Though scholars as Dahl Kelstrup argue that '*MPE gains little from associating itself with NPE*'²⁹, the concept has been incorporated in some research designs that focus on the normative dimension of trade policy. There have been attempts to analyze the externalization of certain aspects of trade policy, such as HR and labor rights³⁰. But in general, economic incentives have been rather absent from the more normative research agenda. Though trade might be perceived at first glance as being dominated by economic incentives, the dimension of externalization of normative values through trade policy is highly important

²⁴ Damro, C. (2012) 'Market Power Europe' in: *Journal of Common Market Studies* 19(5), pp. 682-699.

²⁵ Ibid., pp. 686-689.

²⁶ Ibid., pp. 686.

²⁷ Ibid., pp. 687-689.

²⁸ Drezner, D.W., *All Politics Is Global: Explaining International Regulatory Regimes* (Princeton 2007), 32-33.

²⁹ Kelstrup, J.D. (2015) "Market Power Europe – A Constructive Critique" in: *International Journal of Public Administration* 38(12), pp. 895-901.

³⁰ Orbie, J. and Khorana, S. (2015) 'Normative versus market power Europe? The EU-India trade agreement' in: *Asia Europe Journal* 13(3), pp. 253-264.

Sicurelli, D. (2015) "The EU as a promoter of human rights in Bilateral trade agreements: The case of the negotiations with Vietnam" in: *Journal of Contemporary European Research* 11(2), pp. 230-245.

within this field as well. The divergence within the literature between the normative argument and economic interests has recently been criticized. Orbie and Khorana³¹ and Martin-Mazé³², for example, stress the overdevelopment of the norms versus interests debate. This projection of the debate can lead to the development of a false dichotomy between what is perceived as a norm and an economic interest and how they interact. Both concepts could coexist within the EU's FTA negotiations with third countries. Studies have in fact been conducted into the relation between trade policy, sustainable development³³ and labor rights³⁴, which implies the presence of a normative dimension in the EU's trade policy and an externalization of both normative values and economic interests within this policy.

To understand how scholars analyze these concepts, the relation between norm and economic interest must be clarified. Various scholars have argued that norms that are externalized within the context of trade are not limited to being purely normative cores as defined by Manners, and that they can occur as being economic incentives that can be perceived as being more neoliberal normative in nature.³⁵ Within this context, Rosamund argued that perceiving liberal norms (NPE) and economic liberal ideals (MPE) as separate entities can be problematic. Market norms can be perceived as having a dual rationale, which implies that it can be grounded within both an economic argument, as well as a normative argument. This phenomenon can be seen emerging within the EU's trade policy research. Within this specific research agenda, the assumption that is made implies that the EU can effectively use its actorness to push for the externalization of its own regulatory scheme.³⁶ However, there is also a presence of a more normative form of liberalism within this context which can be perceived as the externalization of liberal norms within the market context.³⁷ In the context of normative

³¹ Orbie, J. and Khorana, S. (2015) 'Normative versus market power Europe? The EU-India trade agreement' in: *Asia Europe Journal* 13(3), pp. 253-264.

³² Martin-Mazé, M. (2015) 'Unpacking Interests in Normative Power Europe' in: *Journal of Common Market Studies* 53(6) pp. 1285-1300.

³³ Lightfoot, S., & Burchell, J. (2005) "The European Union and the World Summit on Sustainable Development: Normative Power Europe in Action?" in: *Journal of Common Market Studies* 43(1), pp. 75-95.

³⁴ Riddelvold, M. (2010) "A matter of principle?" EU foreign policy in the international labour organization" in: *Journal of European Public Policy* 17(4), pp. 581-598.

³⁵ Bailey, D. and Bossuyt, F. (2013) 'The European Union as a conveniently-conflicted counter-hegemon through trade' in: *Journal of Contemporary European Research* 9(4), pp. 560-577.

Orbie, J. and Khorana, S. (2015) 'Normative versus market power Europe? The EU-India trade agreement' in: *Asia Europe Journal* 13(3), pp. 256.

Storey, A. (2006) 'Normative power Europe? Economic partnership agreements and Africa' in: *Journal of Contemporary Africa Studies* 24(3), pp. 331-346.

³⁶ Lamy, P. (2002) 'Stepping stones or stumbling blocks? The EU's approach towards the problem of multilateralism vs regionalism in trade policy' in: *The World Economy* 25(10), pp. 1399-1414.

Young, A.R. and Peterson, J. (2006) 'The EU and the new trade politics' in: *Journal of European Public Policy* 13(6), pp. 795-814.

³⁷ Rosamond, B., (2013) 'Three Ways of Speaking Europe to the World: Markets, Peace, Cosmopolitan Duty and the EU's Normative Power' in: *British Journal of Politics and International Relations* 16(1), pp. 141-142.

liberalism, one can see the EU exercising its power within the market liberal field of trade in order to promote normative cores, such as labor rights.³⁸ It can thus be hypothesized, based on the literature, that within the case researched in this thesis both the economic incentives, as well as normative values can coexist within one mechanism for externalization. But as will become apparent in the analysis, this is not accurate and a separation between economic incentives and normative cores can be seen, with economic incentives being the main motive behind concluding FTAs. The question that remains, however, is how the EU can externalize the normative dimension within an FTA.

The externalization of norms

One method that aims at explaining how the EU can externalize its norms is what Manners defined as the projection mechanism. The assumption is that with this mechanism, the EU can influence the normative basis of a third country by shifting their perception of what a norm is towards a more common (EU) norm through the international context of institutions³⁹, such as the International Labour Organisation (ILO). This concept builds on the aforementioned diffusion of norms that Manners pioneered in his 2002 article. The projection mechanism method has been incorporated within the literature. For example, Orbie and Kerremans analyzed the concept of NPE in combination with the EU's trade power in the social dimension.⁴⁰ With their research, the authors could conclude that there is a social dimension in the EU's trade policy, especially in the field of labor standards in relation to sustainable development. The authors argue that the EU tried to actively pursue social policies via the multilateral trade system of the World Trade Organisation (WTO), but that this approach failed. Instead, the EU turned to bilateral agreements to pursue its normative, social agenda.⁴¹ This is reflected in the shift within the EU's policy documents concerning FTAs. By working through international organizations, such as the WTO and ILO, the EU is attempting to externalize its

³⁸ Manners, I. (2009) 'The Social Dimension of EU Trade Policies: Reflections from a Normative Power Perspective' in: *European Foreign Affairs Review* 14, pp. 785-803.

Meunier, S. and Nicolaïdis, K. (2006) "The European Union as a conflicted trade power" in: *Journal of European Public Policy* 13(6), pp. 906-925.

Orbie, J. 'Promoting labour standards through trade: Normative power or regulatory State Europe?' In G. W. Richard (Ed.), *Normative power Europe: empirical and theoretical perspective* (Basingstoke 2011), 160-183.

³⁹ Manners, I. (2006) 'Normative power Europe reconsidered: beyond the crossroads' in: *Journal of European Public Policy* 13(2), pp. 182-199.

Manners, I. (2006) 'The European Union as a normative power: a response to Thomas Diez' in: *Millennium – Journal for International Studies* 35(1), pp. 167-180.

Manners, I. (2008) 'The normative ethics of the European Union' in: *International Affairs* 84(1), pp. 45-60.

⁴⁰ Orbie, J. and Kerremans, B. (2009) 'The Social Dimension of European Union Trade Policies' in: *European Foreign Affairs Review* 14, pp. 629-641.

⁴¹ *Ibid.*, pp. 632.

norms to other countries via bilateral trade agreements.⁴² The aforementioned article by Orbie and Khorana aimed at executing a similar approach to test NPE within the context of the EU's trade policy. What they found is what can be perceived as the EU pursuing to externalize its norms within the market liberal context, as described above.⁴³ This implies that there is a basis for the argument Rosamund made regarding market liberal norms and normative liberalism as being coexisting within the EU's trade policy.

Within the literature, the analysis of the normative dimension of trade policy and the potential discrepancy between the norm giver, the EU, and the norm taker, the third country is important to understand. The discrepancy implies a possible friction might develop between the norms the EU tries to externalize and the norms of the country it is negotiating an FTA with. The framework that derives from the literature in essence differentiates between adoption of, adaption to, resistance to or rejection of EU norms.⁴⁴ Furthermore, other variables such as willingness of the people in power and the normative identity of the receiving party influences the EU's ability of norm externalization as well.⁴⁵ Orbie argued that the externalization of norms is effective and can be effective on the long term as long as there is a method to enforce the externalization.⁴⁶ But as has been researched by other scholars, the externalization of norms is rather weakened because there are no clear sanctions or enforcement mechanisms linked to a violation of provisions within TSD chapters. This is mainly due to the shortcomings of the governance structure applied to both parties within TSD chapters.⁴⁷ The governance focusses heavily on the soft law approach of dialogue and dispute settlement instead of sanctions, such as suspension of clauses, which undermines the effectiveness of externalizing EU norms through FTAs. The *modus operandi* of the EU's enforcement can thus be seen as a method of cooperation and dialogue with the third party which might influence their norms, however

⁴² Manners, I. (2009) 'The Social Dimension of EU Trade Policies: Reflections from a Normative Power Perspective' in: *European Foreign Affairs Review* 14, pp. 785-803.

⁴³ Orbie, J. and Khorana, S. (2015) 'Normative versus market power Europe? The EU-India trade agreement' in: *Asia Europe Journal* 13(3), pp. 253-264.

⁴⁴ Björkdahl, A., Chaban, N., Leslie, J. and Masselot, A. (2015) 'Importing EU norms: Conceptual framework and empirical findings' in: *United Nations University series on regionalism* 8.

⁴⁵ Börzel, T.A. and Risse, T. (2012) 'From Europeanisation to Diffusion: Introduction' in: *West European Politics* 35(1), pp. 1-19.

⁴⁶ Orbie, J. 'Promoting labour standards through trade: Normative power or regulatory State Europe?' In G. W. Richard (Ed.), *Normative power Europe: empirical and theoretical perspective* (Basingstoke 2011) 160-183.

⁴⁷ Adriaensen, J. and González-Garibay, M. (2013) 'The Illusion of Choice: The European Union and the Trade-Labor Linkage' in: *Journal of Contemporary European Research* 9(4), pp. 542-559.

Bartels, L. (2015) 'The EU's Approach to Social Standards and the TTIP' In: Khorana, S. (ed.) 'The Transatlantic Trade and Investment Partnership (TTIP) Negotiations Between the EU and the USA' in: *Barcelona Centre for International Affairs*, pp. 83-92.

Vogt, J. (2015) 'The Evolution of Labor Rights and Trade' in: *Journal of International Economic Law* 18(4), pp. 827-860.

slowly, on the long-term.⁴⁸ While there is some precedence to this argument, the TSD chapters are not made properly enforceable which leads to other actors pushing for better enforceability.

Despite concerns regarding enforcement, the EU can be perceived as playing an active role in norm-setting through TSD chapters within FTAs. The reasoning behind the EU incorporating norms within FTAs can be traced back to the EP and NGOs pressuring the Commission to increase the incorporation of TSD chapters and the enforceability mechanisms. During Commission negotiations with the third country, however, the enforceability of the chapters can be seen as either massively reduced, or almost non-existent, in order to adhere to demands from the negotiation partner. Thus, the lack of enforceability of TSD chapters leads to a scope and aim that does not improve issues such as labor standards or HR in the third country. The prevalence of economic interests during negotiations are a reasonable factor in this regard and can lead to the Commission pushing more for the economic interests, and other factors such as regional cooperation, rather than a normative agenda. The EP, however, has become more active over time in adhering the Commission to higher standards, or to more positive outcomes in the field of enforcement of TSD chapters.⁴⁹

Though the EU is neglecting enforceability of TSD chapters, there are actors active in influencing the position of the Commission towards a firmer approach towards TSD in general. An explanation for this emerging pattern of internal interest groups (marginally) influencing the EU's position lies in the partnerships that emerged between NGOs and the business community which contributed to trade policy becoming more normative.⁵⁰ Moreover, since the

⁴⁸ Oehri, M. (2015) 'Comparing US and EU Labour Governance 'Near and Far'' in: *Journal of European Public Policy*, Vol 22(5), pp. 731–749.

Postnikov, E. and Bastiaens, I. (2014) 'Does Dialogue Work? The Effectiveness of Labor Standards in EU Preferential Trade Agreements' in: *Journal of European Public Policy* 21(6), pp. 923–940.

Van den Putte, L. and Orbie, J. (2015) 'EU Bilateral Trade Agreements and the Surprising Rise of Labour Provisions' in: *International Journal of Comparative Labour Law and Industrial Relations* 31(3), pp. 263–283.

⁴⁹ Bossuyt, F. (2009) 'The Social Dimension of the New Generation' of EU FTAs with Asia and Latin America: Ambitious Continuation for the Sake of Policy Coherence' in: *European Foreign Affairs Review* 14(5), pp. 703–722.

Harisson, J., Barbu, M., Campling, L., Richardson, B. & Smith, A. (2019) 'Governing Labour Standards through Free Trade Agreements: Limits of the European Union's Trade and Sustainable Development Chapters' in: *Journal of Common Market Studies* 57(2), pp. 260–277.

Hoang, H.H. and Sicurelli, D. (2017) 'The EU's preferential trade agreements with Singapore and Vietnam: Market vs. normative imperatives' in: *Contemporary Politics* 23(4), pp. 369–387.

Lechner, L. (2016) 'The Domestic Battle Over the Design of Non-Trade Issues in Preferential Trade Agreements' in: *Review of International Political Economy* 23(5), pp. 840–871.

McKenzie, L. and Meissner, K.L. (2017) 'Human Rights Conditionality in European Union Trade Negotiations: the Case of the EU–Singapore FTA' in: *Journal of Common Market Studies* 55(4), pp. 832–849.

⁵⁰ Kelemen, D., and Vogel, D. (2010) 'Trading places: The role of the United States and the European Union in international environmental politics' in: *Comparative Political Studies* 43(4), pp. 427–456.

Sicurelli, D. (2015) 'The EU as a promoter of human rights in Bilateral trade agreements: The case of the negotiations with Vietnam' in: *Journal of Contemporary European Research* 11(2), pp. 230–245.

Lisbon Treaty entered into force the EP became more active in using its position within the institutional balance of power for the benefit of normative arguments. It has been more vocal in its criticism of the Commission's approach towards trade policy by actively engaging in criticism on the Commission's work on certain FTAs, for example the EU-Singapore and the EU-Vietnam FTA before 2017.⁵¹ More research has to be conducted in order to see how this field has evolving in more recent years. There is a wide variety of actors becoming more active in either directly or indirectly influencing trade policy. Especially the question of enforcement of the TSD chapters and the role of the normative arguments have to be researched in order to understand how trade policy is developing and evolving as a tool of externalization and enforcement, and what role norms have in this regard.

⁵¹ Harisson, J., Barbu, M., Campling, L., Richardson, B. & Smith, A. (2019) 'Governing Labour Standards through Free Trade Agreements: Limits of the European Union's Trade and Sustainable Development Chapters' in: *Journal of Common Market Studies* 57(2), pp. 260–277.
Hoang, H.H. and Sicurelli, D. (2017) 'The EU's preferential trade agreements with Singapore and Vietnam: Market vs. normative imperatives' in: *Contemporary Politics* 23(4), pp. 369-387.
McKenzie, L. and Meissner, K.L. (2017) 'Human Rights Conditionality in European Union Trade Negotiations: the Case of the EU–Singapore FTA' in: *Journal of Common Market Studies* 55(4), pp. 832–849.
Poletti, A., & De Bièvre, D. (2014) 'The political science of European trade policy: A literature review with a research outlook' in: *Comparative European Politics* 12(1), pp. 101–119.

Chapter Two – Methodology

This chapter will outline the methodology used to research to what extent the EU-Vietnam FTA reflects the heightened emphasis on norms in the EU's FTAs. As became evident from the literature, multiple studies covering FTAs have found that the normative basis can be influenced by various actors other than the Commission, such as the EP and NGOs. This study will aim at complementing this research agenda by utilizing a research design aimed at tracing how these actors have tried to influence the FTA and what implications this had for the eventual outcome. In order to come to a conclusion within this design, this thesis will adapt a method used for analyzing empirical evidence by engaging with process tracing.

Within the literature it becomes apparent that the incorporation of TSD chapters, and a more normative agenda in general, within trade policy is becoming more prominent and has been developing over time within more recent negotiations that the Commission conducts with third countries. It can be identified that there is a growing drive from within the EU for it to be more active within the field of norm-setting within FTAs. This evolution within the field of trade policy can be traced back to a phenomenon that developed over time. The role of the EP through the International Trade (INTA) committee and plenary has grown into what now can be identified as not only an institution that has to give its consent for a new FTA to be concluded, but one that is vocal about their opposition to certain aspects of an FTA. The changing role of the EP will be further detailed in the next chapter, the background section of this thesis. At the same time, this development has empowered NGOs and interest groups to take a more activist role with which they aim to influence the eventual outcome of negotiations. Within this context, both internal and external pressure from a wide range of actors can push the Commission to be more active in justifying their actions within this regard. However, the Commission is perceived as being relatively absent when it comes to pushing for better TSD chapters due to either the prevalence of economic interests, or the fact that the third party negotiated a softer approach towards TSD chapters because of other interests. The degree of success of externalizing these norms, however, depends on the effectiveness of the level of enforcement of the FTA. Most TSD chapters in FTAs are ineffective because of a lack of hard power governance that can discipline a party that is ineffective in upholding the agreement. Instead, the EU focusses on a soft power approach that aims at cooperation and dialogue to influence the norms in the long-term. This approach can lead to a watered down TSD chapter,

a weakened enforcement mechanism and vague promises from the third party on improving their track record within the TSD chapter.

The recently evolving process of interest groups affecting the mechanism of EU trade negotiations and the more active role of the EP is prone for further research. Most studies within the literature are conducted during a negotiation process to show the dynamics during negotiations and the obstacles that arise at various moments before finalizing a deal. This study, however, will research the FTA before and during the consent procedure by the EP. The reasoning behind researching an FTA that is in its consent procedure comes from the process that occurs once the FTA is referred to the EP for the procedure in committee and plenary. The dynamics of this process are highly interesting in light of the EP's growing activist role, especially in light of the background of this case and the role the TSD chapter had in discussions within the EP, as well as with NGOs.

The Vietnam case is interesting to study for a number of reasons. First, its finalization process has not been studied yet in the literature which means it can give new insights into the EU's most recently concluded FTA. Second, there are case studies that focus on solely the Vietnam case before 2017, on Vietnam in comparison with other cases such as Singapore, or a completely different case study such as India, Canada or the U.S. However, these studies are highly focused on the mechanics during the negotiations and how the interaction between the Commission and the third country is shaped within this process. Studies into the outcome of a negotiation remain undervalued and somewhat absent from the literature. That is why studying a case that has recently been concluded can have added value within the literature in order to see how the consent procedure might have additional impact, or at least additional powers for some actors within the process. Furthermore, the EU-Vietnam FTA is touted by the Commission as the most ambitious of its kind and is less known amongst the general public than FTAs such as CETA.⁵² Lastly, Vietnam is considered a developing country and it could be assumed from the outset that the economic leverage of the EU could give its normative agenda more weight during and after negotiations have been finalized in successfully externalizing normative values, either through the TSD chapter or additional instruments. The combination of these three factors results in a case study that not only has wider applicability within trade policy literature, but also provides insight into the various conditions that become apparent during a consent procedure. The study will thus aim at providing insights into the process of influencing an FTA by actors within the EU in regard to the EU-Vietnam FTA in

⁵² European Commission, '*Guide to the EU-Vietnam Trade and Investment Agreement (2019)*', <https://trade.ec.europa.eu/doclib/docs/2016/june/tradoc_154622.pdf>, retrieved 11-06-2020.

the final stages of its conclusion, the years 2015-2020. The reasoning behind starting in 2015 lies in the fact that the consent procedure is the moment where the EP can issue its formal powers vis-à-vis the Commission. Though the final draft of the FTA is concluded, the EP can demand more efforts from the Commission in certain areas, such as HR and labor standards, through additional instruments. Ultimately, the EP could vote against consent which in theory gives them power.

To test and analyze how the mechanisms within the literature can be seen present within the EU-Vietnam FTA, this study will engage with a qualitative methodology of process tracing in a single case study. By engaging with the EP, NGOs and various interest group documents and analyzing what these actors stated during the process, one can see how and with which specific arguments actors tried to influence the perception of TSD in the EU-Vietnam FTA during the consent procedure. To see how these arguments are unfolded, this research will focus on analyzing a variety of documents. First, in the analytical chapter of this thesis, the external pressure on the Commission will be analyzed. This will include Commission reports and statements, as well as various reports produced by civil society groups, NGOs and trade interest groups active during the process. After this background has been established, the consent procedure in the EP will be analyzed. This will include debates within the EP's INTA committee, reports produced by the rapporteur of the INTA Committee, the final plenary debate with the Commissioner for trade and various papers and briefings produced by the EP Research Service (EPRS). By engaging with the entirety of TSD aspects at the final stages of finalizing this specific FTA, a more general conclusion on the role of the normative dimension of the FTA can be drawn.

Chapter three – The background of the Vietnam case

This chapter will dive into three components that are crucial for understanding what the EU constitutes as a norm, how FTAs are negotiated and under what conditions the EU-Vietnam FTA was negotiated. First, the role of norms within the EU's policy and what can be perceived as being a norm will be clarified. Second, the institutional, as well as the legal background of the negotiation process will be explained. By understanding the negotiation process the role norms have in this regard can be better understood. Finally, the background of the EU-Vietnam FTA will be presented. In this section, the economic situation in Vietnam will be described, as well as the reasoning behind the EU engaging in negotiations with the country.

Within the literature, there is no consensus of what constitutes as a norm in regard to trade policy. Manners' highlight of five core norms (peace, liberty, democracy, rule of law, and respect for human rights and fundamental freedoms), and four minor norms (social solidarity, anti-discrimination, sustainable development and good governance)⁵³ give some direction, but no clarity or guidance towards a consensus. As the literature review outlined there have been studies into certain aspects of what Manners sees as cores, such as HR and sustainable development.⁵⁴ However, in regard to TSD chapters a universal framework is absent. The documents produced by the Commission can give some clarification on what is being perceived as a norm within Directorate-General (DG) Trade. Within their *2016-2020 Strategy*, norms can be perceived as '*Expanding measures to support sustainable development, fair and ethical trade and human rights*'⁵⁵, which includes some norms that scholars have researched in earlier studies. Within the context of '*Specific objective 4: A sustainable approach to trade*'⁵⁶, DG Trade highlights that sustainable development, HR and good governance can be externalized through its trade policy and characterizes it as '*a vehicle for promoting European and universal principles and values*'⁵⁷. This implies that the Commission sees the aforementioned norms as being the internal, as well as universal norms within TSD chapters. It could thus be argued that HR and sustainable development are considered norms within the TSD framework of the Commission. Fair and ethical trade is a rather vague and diffuse concept to be applied to the same classification as the previous norms. It can, however, be interpreted as policy that strives

⁵³ Manners, I. (2002) 'Normative Power Europe: A Contradiction in Terms?' in: *Journal of Common Market Studies* 40(2), pp. 242.

⁵⁴ For the full section on this specific topic: chapter one page 8 through 15.

⁵⁵ European Commission, DG Trade, *Strategic Plan 2016-2020*, pp. 7.

⁵⁶ *Ibid.*, pp. 9.

⁵⁷ *Ibid.*, pp. 14-15.

for universal application of a fair and level playing field within all policies, for example labor rights and the ILO conventions.

To understand how these norms are incorporated into FTAs it is important to understand how FTAs are being negotiated. The Common Commercial Policy, the policy that deals with trade and one of the oldest policies of the EU, is an exclusive competence which means that the Commission has the sole competence to negotiate FTAs. However, the Commission must request authorization from the Council of the EU (Council) to start negotiations, formally called a negotiating mandate in which the Council can stipulate certain desired achievements. The Commission then negotiates a deal over a period of time. During this period it works closely with the Council and informs the EP about the progress. Furthermore, the Commission holds meetings with various actors, such as business and civil society groups whilst publishing documents on the progress of the negotiation and meetings with various actors. Once completed, the Commission refers the deal to the Council and EP for formal approval.⁵⁸ This specific period in time is where the EP has the most power. As has been stated it must be kept informed on the progress, but formally it cannot give impetus during negotiations. The EP can give their opinion on certain aspects of the deal through debates or resolutions, but this is not a formal power. The consent procedure is thus the most interesting part of their role in the process. After the Lisbon Treaty entered into force, the role of the EP has changed into a more equal role to the Council, mainly because it has to formally give consent in the ordinary legislative procedure. It thus has a more active role and more power with which it can ultimately influence the process as a more or less “voter of last resort” with its own agenda through the INTA Committee and plenary. One example is the SWIFT agreement with the U.S., which the EP voted down for concerns of, amongst other reasons, privacy.⁵⁹ The EP also became more active during the negotiations with the U.S. on TTIP and has taken a more activist role when dealing with trade policy, mainly due to MEPs and interest groups being able to voice their concerns through the EP channels such as debates and resolutions.⁶⁰ Concerning the EU-Vietnam FTA,

⁵⁸ Treaty on the Functioning of the European Union, PART FIVE: EXTERNAL ACTION BY THE UNION - TITLE II: COMMON COMMERCIAL POLICY, Article 207.

Treaty on the Functioning of the European Union - PART FIVE: EXTERNAL ACTION BY THE UNION - TITLE IV: RESTRICTIVE MEASURES, Article 218.

⁵⁹ European Parliament, ‘*Press release: SWIFT: European Parliament votes down agreement with the US*’ <<https://www.europarl.europa.eu/sides/getDoc.do?type=IM-PRESS&reference=20100209IPR68674&language=GA>>, retrieved 11-06-2020.

⁶⁰ Pasquariello Mariano, K.L. and Theodoro Luciano, B. (2019) ‘The parliamentarization of EU trade policy: unveiling the European Parliament’s involvement in EU-MERCOSUR trade negotiations’ in: *European Politics and Society* 20(5), pp. 591-608.

the EP had serious concerns regarding HR during the negotiation process and issued various resolutions at certain points in the process.⁶¹ Eventually, this influenced the outcome, however marginally, and resulted in Vietnam developing a roadmap for HR in order to address certain labor rights issues.⁶² The EP thus has gained some power during the process and has developed itself from a marginal player tasked with debating on what other actors did into a role that stresses things such as privacy or norms through their own channels.

The reasoning behind starting the process for an FTA with Vietnam can firstly be seen within the economic arguments. EU-Vietnam economic relations are relatively new and officially date back to 1990 when first diplomatic relations were established with a permanent mission to the country. A Framework Cooperation Agreement followed in 1995, allowing the EU and Vietnam to strengthen ties.⁶³ In the years that followed, closer cooperation led to the start of negotiations of a FTA between the EU and Vietnam because the economic outlook of the country improved relatively quick. Vietnam's economy is growing substantially with a GDP growth rate of 6.8% in 2017, and not falling below 5.2% growth since 1999.⁶⁴ The Central Intelligence Agency (CIA) world factbook typifies Vietnam as a country with '*a young population, stable political system, commitment to sustainable growth, relatively low inflation, stable currency, strong FDI inflows, and strong manufacturing sector.*'⁶⁵ The EU is one of the leading investors with a total of 8.3 billion euro invested in 2016⁶⁶ on a total net inflow of 12.6 billion euro⁶⁷. Besides being an investor in Vietnam, the EU also imports a significant number of goods from Vietnam, worth around 37 billion euro in 2017.⁶⁸ The EU has a direct interest in

Rosén, G. (2017) 'The impact of norms on political decision-making: how to account for the European Parliament's empowerment in EU external trade policy' in: *Journal of European Public Policy* 24(10), pp. 1450-1470.

⁶¹ European Parliament, A7-0312/2010.

European Parliament, B7-0367/2014.

European Parliament, A8-0342/2015.

European Parliament, RC-B8-0754/2016.

European Parliament, RC-B8-0685/2017.

⁶² European Parliament Research Service, 2018/0356(NLE).

⁶³ European External Action Service, *Vietnam and the EU: Economic and political ties* <https://eeas.europa.eu/delegations/vietnam/1897/vietnam-and-eu_en>, retrieved 12-06-2020.

⁶⁴ The World Bank, *GDP growth (annual%) for Vietnam*

<<https://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?locations=VN>>, retrieved 12-06-2020.

⁶⁵ CIA, *The World Factbook: Vietnam* <<https://www.cia.gov/library/publications/the-world-factbook/geos/vm.html>>, retrieved 12-06-2020.

⁶⁶ European Commission, *Vietnam* <<http://ec.europa.eu/trade/policy/countries-and-regions/countries/vietnam/>>, retrieved 12-06-2020.

⁶⁷ The World Bank, *Foreign Direct Investment, Net Inflows*

<<https://data.worldbank.org/indicator/BX.KLT.DINV.CD.WD?end=2017&locations=VN&start=2015&view=chart>>, retrieved 18-01-2019.

⁶⁸ European Commission, *Vietnam* <<http://ec.europa.eu/trade/policy/countries-and-regions/countries/vietnam/>>, retrieved 18-01-2019.

negotiating a trade deal with Vietnam from an economic standpoint, considering that such a deal would eliminate or substantially lower tariffs in most sectors, such as electronic products and clothing from Vietnam and opportunities for EU products to be sold on the Vietnamese market.⁶⁹ But based on World Bank data from their May 2020 report on the FTA implementation on Vietnam and considering the massive trade surplus Vietnam has vis-à-vis the EU, it is mostly the Vietnamese economy that profits from the FTA.⁷⁰ As some scholars have pointed out, the EU has a direct interest to engage in negotiations with Vietnam because it has an interest to ultimately conclude an FTA with the ASEAN region in order to expand EU economic influence in the region. These specific negotiations were abandoned in 2009, after which bilateral negotiations with individual countries started.⁷¹ The Commission ultimately aims at concluding an FTA with the ASEAN countries as a whole and concluding individual FTAs can contribute to this goal.

The Commission has, as of October 2018, concluded an FTA with Vietnam.⁷² During the signing ceremony, then Commission President Juncker affirmed that the FTA has advantages for both economies. Furthermore, Commissioner Malmström in the same document addresses the possibility for EU companies in Vietnam as well as stressing that the FTA can ‘*help spread European high standards*’⁷³. In the guide to the FTA produced by the EU delegation in Vietnam it is mentioned that, in order to stay committed to TSD, certain labor standards have to be met by Vietnam. This in turn will, in their view, ultimately lead to more sustainable growth and development.⁷⁴ This assessment of the situation in Vietnam, however, is not entirely accurate and neglects important normative issues that remain somewhat undervalued.

Because the EU-Vietnam FTA is part of the new generation trade agreements, a TSD chapter was included in the final document. Though the FTA is touted by the Commission as

⁶⁹ European Commission, *Guide to the EU-Vietnam Free Trade Agreement*

<http://trade.ec.europa.eu/doclib/docs/2016/june/tradoc_154622.pdf>, retrieved 12-06-2020.

⁷⁰ The World Bank, *VIETNAM: DEEPENING INTERNATIONAL INTEGRATION AND IMPLEMENTING THE EVFTA* (Washington 2020).

⁷¹ Hoang, H.H. and Sicurelli, D. (2017) ‘The EU’s preferential trade agreements with Singapore and Vietnam: Market vs. normative imperatives’ in: *Contemporary Politics* 23(4), pp. 369-387.

McKenzie, L. and Meissner, K.L. (2017) ‘Human Rights Conditionality in European Union Trade Negotiations: the Case of the EU–Singapore FTA’ in: *Journal of Common Market Studies* 55(4), pp. 832–849.

Sicurelli, D. (2015) “The EU as a promoter of human rights in Bilateral trade agreements: The case of the negotiations with Vietnam” in: *Journal of Contemporary European Research* 11(2), pp. 230–245.

⁷² European Commission, *Commission presents EU-Vietnam trade and investment agreements for signature and conclusion* <<http://trade.ec.europa.eu/doclib/press/index.cfm?id=1921>>, retrieved 12-06-2020.

⁷³ *Ibid.*, retrieved 12-06-2020.

⁷⁴ European Commission, *Guide to the EU-Vietnam Free Trade Agreement*

<http://trade.ec.europa.eu/doclib/docs/2016/june/tradoc_154622.pdf>, retrieved 12-06-2020.

the most ambitious of its kind⁷⁵, numerous red flags concerning HR and labor rights arose during the process of negotiating the FTA. In the past, Vietnam has had a mixed record regarding labor standards. For example, in 2014 the ILO reported that 9.6% of children between the ages of 5 and 17, accounting to 1.75 million persons, are participating on the labor market in Vietnam.⁷⁶ Child labor is a practice the EU, naturally, does not condone under the EU Charter of Fundamental Rights⁷⁷. Furthermore, NGOs have repeatedly stressed and keep underlining the dire situation of HR and labor rights to the Commission on numerous occasions and in reports up to 2020.⁷⁸ There are thus concerns regarding the situation in Vietnam in regard to the scope of the TSD chapter. There are, however, positive signals regarding Vietnam's commitment to labor standards and basic rights. The country, just recently, ratified ILO Convention 88⁷⁹ which promotes the effective use of the labor force in a country, bringing together employees and employers.⁸⁰ This can be seen as a first step towards a more inclusive and progressive labor market and the benchmark set out in the TSD chapter of the FTA. In Article 13.4.2, the parties agree to commit themselves to certain principles concerning the rights of workers, such as the '*the effective abolition of child labour*'⁸¹. Moreover, the FTA sets out to oblige the parties to take efforts towards ratifying fundamental conventions of the ILO, which in light of the chapter implies actions from the Vietnamese side.⁸² This approach of building Vietnam's ratification process through the FTA, which can be interpreted as the soft law approach found in the literature, might indicate that in light of the FTA, progress is being made towards EU norms. But as NGOs are still voicing opposition to the situation on the ground in

⁷⁵ European Commission, '*Guide to the EU-Vietnam Trade and Investment Agreement (2019)*', <https://trade.ec.europa.eu/doclib/docs/2016/june/tradoc_154622.pdf>, retrieved 11-06-2020.

⁷⁶ ILO Country Office for Vietnam (2014) '*Newsletter Issue 7*'.

⁷⁷ EU Charter of Fundamental Rights, TITLE IV: SOLIDARITY, Article 32.

⁷⁸ Amnesty International, *Prisoners of Conscience in Vietnam 2019*.

Front Line Defenders, *FRONT LINE DEFENDERS GLOBAL ANALYSIS 2019*.

European Commission, DG Trade, *CIVIL SOCIETY DIALOGUE MEETING ON EU-VIETNAM FTA 02-10-2015*.

European Commission, DG Trade, *Summary Paper: Sustainable Development and Human Rights in EU-Vietnam Relations Roundtable with EU stakeholders 15-05-2015*.

International Federation for Human Rights, *VIETNAM: ASSAULT ON CIVIL SOCIETY CONTINUES UNABATED Briefing paper for the 9th EU-Vietnam human rights dialogue (Hanoi, 19 February 2020)*.

International Federation for Human Rights, *EU-Vietnam human rights dialogue March 2019*.

Human Rights Watch, *Annual report 2015 through 2019 – Vietnam*.

⁷⁹ ILO, *Viet Nam ratifies ILO Employment Service Convention, ready to make labour market effective* <https://www.ilo.org/hanoi/Informationresources/Publicinformation/Pressreleases/WCMS_666136/lang-en/index.htm>, retrieved 12-06-2020.

⁸⁰ ILO, Co88 – Employment Service Convention 1948 (No.88), *Convention concerning the Organisation of the Employment Service*.

⁸¹ European Commission, EU-Vietnam Trade and Investment Agreement, Chapter 13 '*Trade and Sustainable Development*', Art. 13.4.2(c).

⁸² *Ibid.*, 13.4.3.

Vietnam, there are indications that major controversies concerning the HR and labor rights situation are not resolved either through or despite the FTA. This opposition manifested itself during the consent procedure in the EP.

Officially, the negotiations between Vietnam and the EU ended on 2 December 2015 with the issue of a declaration signed by Commissioner for Trade Malmström and the Minister for Industry and Trade of Vietnam, Vu Hoy Hoang.⁸³ The EU-Vietnam FTA was delayed for a number of years due to a pending opinion case at the European Court of Justice (ECJ), requested by the Commission in 2015 in light of the EU-Singapore FTA. The Commission requested this opinion because it had reservations about its competence in the investment chapters within FTAs. With the final opinion published in 2017 and the ECJ ruling that investment is a shared competence⁸⁴, the Commission decided to split the two deals that were already finalized at the time of the ruling of the ECJ (Singapore and Vietnam) and that had provisions on investment. After four years of deadlock, the EP had the opportunity to voice its concerns over HR violations and labor market issues within debates in committee and plenary during the consent procedure. The Commission referred the newly split documents, in which the FTA itself was eradicated of the investment clauses, to the EP and Council of the EU for approval at 17 October 2018.⁸⁵

⁸³ European Commission, *Declaration by the Commissioner for Trade of the European Commission and the Minister for Industry and Trade of the Socialist Republic of Viet Nam on the conclusion of the negotiations of a European Union-Viet Nam Free Trade Agreement*

<https://trade.ec.europa.eu/doclib/docs/2015/december/tradoc_154012.pdf>, retrieved 21-06-2020.

⁸⁴ European Court of Justice, Opinion 2/15.

European Commission, *The Opinion of the European Court of Justice on the EU-Singapore Trade Agreement and the Division of Competences in Trade Policy – Factsheet*.

⁸⁵ COM(2018) 691 final.

Chapter four – Analysis

As the background chapter explained, the process for consent in the EP was postponed due to a Commission request for an opinion from the ECJ of the EU on the newly signed FTA with Singapore. This chapter will analyze the process for consent for the EU-Vietnam FTA after the opinion was published and the Singapore and Vietnam FTAs were split into two separate entities, one dealing with the FTA and one with investment protection. This chapter will research the Commissions approach towards the TSD chapter from 2015 onwards, the position various NGOs and civil society groups took during this period and the eventual consent procedure in the EP. By engaging with both Commission, NGO and civil society, as well as the EP, aspects of the debate during the process of consent after 2015 can be seen emerging. It will provide insights into how the Commission adapted to criticism from various actors, how NGOs and civil society tried to influence the consent procedure and how the EP dealt with this criticism, as well as its own reservations regarding the ambition within the TSD chapter of the FTA.

External pressure on the Commission

This section will specify how various societal actors who are concerned with the substance of the TSD chapter actively tried to influence the outcome of this chapter, though these organizations officially have no influence over the negotiations. The organizations that were active in their demands that the observance of norms should be tied to the FTA will be explored, as well as the mechanisms the societal actors tried to leverage during this process.

In the years leading up to the referral, the Commission undertook attempts to investigate what a broader group of civil society members' stance on trade, sustainable development and HR issues in relation to the FTA with Vietnam were. Before the conclusion of the FTA in December 2015, the Commission organized a round table in May and a civil society dialogue in October on Trade, HR, labor standards and sustainable development. During the round table, the Commission was asked a question by the NGO Vietnam Committee on Human Rights regarding a recommendation by the European Ombudsman from the same year to perform a HR impact assessment (IA) before concluding the negotiations.⁸⁶ The Committee, together with the International Federation for Human Rights, voiced a complaint at the Ombudsman in 2013 regarding the Commission failing to perform a HR IA for this specific FTA. The Ombudsman

⁸⁶ European Ombudsman, 1409/2014/MHZ.

recommended the Commission to carry out such an assessment, mainly because the EP already asked for a form of an IA from the Commission in various resolutions, which will be further detailed in the next section of this chapter. The Commission declared that it had not done this IA because it was not the Commission's practice to perform such assessment for FTAs negotiated before 2011. Furthermore, it had no intention to perform this IA considering the negotiations were almost finalized. In a reaction to the Ombudsman, the Commission also argued that the clauses in the TSD chapter were sufficient for the purpose that was asked for within the recommendation of the Ombudsman.⁸⁷ The Commission furthermore stressed its work already done in the field of HR through the dialogues held between the European External Action Service (EEAS) and Vietnam on this issue within the context of the EU-Vietnam Partnership and Cooperation Agreement (PCA) signed in 2012.⁸⁸ A similar contradictory approach can be seen during the Commission's civil society dialogue, during which NGOs pushed for more efforts of integrating ILO conventions into the FTA and having Vietnamese civil society actively involved in the process.⁸⁹ As can be expected, the Commission had no intention of performing an IA or changing its stance in regard to the TSD chapters of the FTA, including on this matter.

The Commission's reluctance towards performing an IA is somewhat understandable considering the Commission already performed a sustainable IA during the ASEAN FTA negotiations, though this assessment is not equal to the IA the NGOs were aiming for.⁹⁰ The Ombudsman referred to the deferral of performing an IA as '*maladministration*'⁹¹ in 2015. There is, however, a clear tactic and mechanism visible behind the Commission's reluctance and the NGOs push for an IA. The mechanism that becomes apparent in this process is interesting from two angles. First, the civil society actively incorporates a strategy to influence policy through two channels, the Commission itself and other institutions within the EU, such as the Ombudsman. It could even be hypothesized here that the organizations actively lobbied the EP considering it adopted resolutions on the matter. Second, the Commission attempts to eliminate the call for more action from the organizations by stressing it is sufficiently taking

⁸⁷ Ibid.

⁸⁸ European Commission, DG Trade, *Summary Paper: Sustainable Development and Human Rights in EU-Vietnam Relations Roundtable with EU stakeholders 15-05-2015*.

⁸⁹ European Commission, DG Trade, *CIVIL SOCIETY DIALOGUE MEETING ON EU-VIETNAM FTA 02-10-2015*.

⁹⁰ European Commission, *DG Trade: Sustainable Impact Assessment* <<https://ec.europa.eu/trade/policy/policy-making/analysis/policy-evaluation/sustainability-impact-assessments/>>, retrieved 21-06-2020.

⁹¹ European Ombudsman, 1409/2014/MHZ.

action on HR in its policies that are already in place. This can be interpreted as a tactic to circumvent certain non-binding requirements asked for through various channels.

The Commission did, however, commit to publishing a working paper on TSD-related issues during the round table to ‘*enhance transparency vis-à-vis stakeholders and foster public dialogue on essential values like human rights and sustainable development*’⁹². Again, this can be interpreted as a tactic to dismiss claims by NGOs that there is no transparency from the Commission on these matters. The working paper aimed at elaborating on certain issues that were raised by civil society groups during the round table, and can be identified as a policy document that is written to prevent doubt within civil society on the Commission’s efforts and intentions within the context of the TSD chapter. The issues that were being raised during both the round table and dialogue were, amongst others, the capacity of the methods to enforce the TSD chapter. In the paper, the PCA and its effectiveness in relation to HR through dialogues is once more stressed by the Commission. Furthermore, the TSD chapter is being hailed as a reciprocal instrument to adhere both parties to the same norms. It especially highlights the dedication to the core labor standards set out by committing to adhere to the ratification of four ILO conventions by Vietnam.⁹³ On the enforceability of the TSD chapter, the Commission argues that the structures that are being established will create the ability to bring forward any issues regarding the application of the FTA.⁹⁴ This is a clear attempt to circumvent critique on both the scope and enforceability of the chapters. The Commission once more stresses the efforts made in the field of cooperation in its global 2019 report on HR, in which various countries the EU has relations with are analyzed. In this report, it underlined the efforts made within the field of labor rights with Vietnam through ratification of ILO convention 98 (collective bargaining), but stressed the importance that Vietnam needs to establish a ratification process for convention 87 (freedom of association) and 105 (forced labor).⁹⁵ The overall tendency within the report is that by engaging with Vietnam and its civil society, the overall position of workers, journalists and other persons who might not be protected under current Vietnamese laws improves. The Commission thus goes out of its way to underline its efforts in light of the critique it received from various actors.

Though the claims made by the Commission might indicate that it is listening to concerns from various actors and deals with these concerns in a proper manner, the NGOs and

⁹² SWD(2016) 21 final, pp. 2.

⁹³ Ibid., pp. 8.

⁹⁴ Ibid., pp. 10.

⁹⁵ European Commission, *Annual report on Human Rights and Democracy in the World 2019*, pp. 141-142.

civil society groups actively tried to influence the perception of the TSD chapter as well. To accentuate their position, NGOs published various reports on issues related to their causes, such as Vietnam in relation to labor standards and HR. In various reports by a range of NGOs dealing with HR and labor rights in Vietnam, they accentuate the poor track record of Vietnam in this regard in order to influence the debate. The accusations range from political prisoners to repression of free speech, and from crackdown on dissidents to labor rights violations.⁹⁶ To underline their efforts and to influence the debate in the EP, the organizations sent a letter to the EP prior to the plenary voting procedure on the consent. In this letter, twenty-eight NGOs urged the EP to postpone its vote until there is significant progress made within Vietnam on labor and HR issues.⁹⁷ The European Trade Union Confederation (ETUC) issued a statement similar to the NGOs and called for the EP to oppose the FTA until Vietnam has ratified the aforementioned ILO conventions or adhered to a binding roadmap for ratification.⁹⁸ This process can be interpreted as an attempt of last resort to actively influence the EP into not complying with the Commission and giving its consent. During this final stage, the business community, united in a coalition of BusinessEurope, EuroChambers, European Services Forum and SMEunited, also actively tried to influence the process by issuing a joint statement prior to the vote giving their support for the FTA. In their statement, arguments are in line with the Commission argument that this is foremost an economic opportunity and a tool to externalize EU values and norms in the region.⁹⁹

What can be seen throughout this section of the analysis is attempts to influence the process through various means and at various places. A wide range of actors can be seen attempting to influence the Commission into changing their position on the TSD chapter of the FTA, whilst pressuring the Commission to do so by lobbying organizations such as the Ombudsman. What is interesting in the process of influencing the Commission through a third party is that the Ombudsman agreed with the position of the NGOs, which is a new precedent

⁹⁶ Amnesty International, *Prisoners of Conscience in Vietnam 2019*.

Front Line Defenders, *FRONT LINE DEFENDERS GLOBAL ANALYSIS 2019*.

International Federation for Human Rights, *VIETNAM: ASSAULT ON CIVIL SOCIETY CONTINUES UNABATED Briefing paper for the 9th EU-Vietnam human rights dialogue (Hanoi, 19 February 2020)*.

International Federation for Human Rights, *EU-Vietnam human rights dialogue March 2019*.

Human Rights Watch, *Annual report 2015 through 2019 – Vietnam*.

⁹⁷ Human Rights Watch, *NGOs Urge European Parliament to Postpone Consent to EU-Vietnam Trade Deals* <https://www.hrw.org/news/2020/02/04/ngos-urge-european-parliament-postpone-consent-eu-vietnam-trade-deals#_ftn1>, retrieved 21-06-2020.

⁹⁸ European Trade Union Confederation, *ETUC position on the EU-Vietnam Free Trade and Investment Protection Agreements* <<https://www.etuc.org/en/document/etuc-position-eu-vietnam-free-trade-and-investment-protection-agreements>>, retrieved 21-06-2020.

⁹⁹ BusinessEurope, EuroChambers, European Services Forum and SMEunited, *Joint Statement on the EU-Vietnam Agreements, January 2020*.

for the organization to become more activist in this regard. And finally, as the next section will demonstrate, the NGOs have other institutions that might be more sympathetic to their efforts.

The European Parliament Consent procedure

The EP voiced its concerns regarding HR and labor rights on multiple occasions during the process by adopting various resolutions. The EP adopted a resolution in 2014 on the Vietnam FTA, in which it urged the Commission to carry out a HR IA for the Vietnam FTA as soon as possible.¹⁰⁰ This was a direct continuation of their resolution stemming from 2010 in which the EP asked for impact studies to be carried out before, during and after negotiations.¹⁰¹ As Commission documents show, this has not been done. The EP voiced their concerns for the lack of the IA and the Commission's approach to this issue through additional resolutions in 2015¹⁰², 2016¹⁰³ and 2017¹⁰⁴. What can be seen from this effort is that the EP is using its position within the institutional balance to actively stress their stance regarding the TSD chapter. As stated in the background section it does not hold formal power during the negotiation, but it did become more of an activist throughout the years by exercising its power to informally request the Commission to take measures the EP deems relevant through resolutions.

The EP managed to have some of their demands from the resolutions included within the eventual FTA, but as the EPRS briefing published in 2018 states: *'It remains to be seen whether such concerns will significantly affect the Parliament's willingness to consent to the conclusion of the agreement.'*¹⁰⁵ The process for consent started with the referral of the FTA to the INTA committee of the EP in plenary at 15 July 2019. The reason that the referral was relatively late is that any legislation that does not reach plenary before elections is carried over to the next EP, which happened due to the European elections that took place in May 2019.¹⁰⁶ At the time of referral, 1st Vice-Chair of the INTA committee Jan Zahradil (ECR) was rapporteur for this procedure. He was appointed on 19 November 2018, two days after the Commission sent its preparatory document on the EU-Vietnam FTA to the Council of the EU and EP, in line with ordinary procedure of appointing rapporteurs within the EP's

¹⁰⁰ European Parliament, B7-0367/2014.

¹⁰¹ European Parliament, A7-0312/2010.

¹⁰² European Parliament, A8-0342/2015.

¹⁰³ European Parliament, RC-B8-0754/2016.

¹⁰⁴ European Parliament, RC-B8-0685/2017.

¹⁰⁵ European Parliament Research Service (2018)628.248.

¹⁰⁶ European Parliament, *Rules of procedure of the European Parliament TITLE XIV: MISCELLANEOUS PROVISIONS, Article 240.*

committees.¹⁰⁷ As rapporteur, Zahradil was tasked with drafting the report that would eventually be presented to plenary before the final vote. He eventually would not present the rapport to plenary due to questions regarding a conflict of interest in December 2019 and his subsequent resignation after concerns were raised by other MEPs, mostly from the Greens, on his role as rapporteur.¹⁰⁸ His successor was Geert Bourgeois (ECR), who eventually presented the rapport to plenary on 11 February 2020. The shadow rapporteurs active for various groups were Winkler (EPP), Lange (S&D), Karlsbro (Renew Europe), Lancini (ID), Bricmont (GREENS/EFA) and Maurel (GUE/NGL).

In the INTA committee, the process towards a final report started with a first debate at 2 October 2019. During the debate, MEPs from various groups across the political spectrum raised concerns considering the HR and labor rights violations in Vietnam and the effectiveness of the TSD chapter of the FTA. The MEPs from the Greens/EFA and GUE/NGL were amongst the most vocal regarding this specific issue. Apart from this issue, the call for more concrete mechanisms to adhere Vietnam to certain standards was once again made, not only by INTA members. An MEP from the Committee on Fisheries (PECH), who was there on behalf of his committee to give an opinion, underlined that if Vietnam would not adhere to the provisions in the FTA, a red card procedure must be a possibility for the Commission in order to force Vietnam to adhere to the provisions. The Commission assured during the debate that the FTA is balanced and that it can in fact deliver the high level of commitments made in the TSD chapters though the mechanisms in place. Furthermore, the Commission pointed out that Vietnam is drafting an action plan considering reforming its labor market.¹⁰⁹

When listening to the concerns that are being raised during the debate, the impression arises that the EP might not give consent to the FTA. The MEPs are relatively strict in the phrasing of their concerns and voice opinions that are present in the various NGO reports on the situation in Vietnam. This implies that the MEPs used some of the material that was provided to them through these reports during the debate. The disappointment about certain aspects of the TSD chapters, for example the lack of proper and enforceable disciplinary mechanisms, cannot be ignored according to most MEPs. What is most interesting is that these

¹⁰⁷ European Parliament, *Rules of procedure of the European Parliament Title VIII: Committees and Delegations*.

¹⁰⁸ EU Observer, *Zahradil 'conflict of interest' over EU-Vietnam trade deal* <<https://euobserver.com/institutional/146829>>, retrieved 21-06-2020.

EU Observer, *Zahradil resigns as rapporteur on EU-Vietnam trade deal* <<https://euobserver.com/tickers/146877>>, retrieved 21-06-2020.

¹⁰⁹ European Parliament, *Committee on International Trade Ordinary meeting 2 October 2019* <https://multimedia.europarl.europa.eu/en/committee-on-international-trade-ordinary-meeting_20191002-0900-COMMITTEE-INTA_vd>, retrieved 21-06-2020.

concerns are not taken away by the Commission's answers during the debate and the subsequent visit of a delegation of the INTA committee to Vietnam. During the visit, the delegation once more stressed their concerns as voiced through resolutions and during debates to all relevant actors they encountered in Vietnam. The Vietnamese authorities in return underlined their commitment to most of the fields that the MEPs voiced their concerns about.¹¹⁰ The seriousness of the concerns voiced in the INTA committee might indicate that the final report on the FTA will stress the need for more effort within the context of the TSD chapter, especially on various fields of labor and HR and with establishing an enforcement mechanism. Furthermore, a draft opinion in writing by the Foreign Affairs committee (AFET) underlined the need for more structural change in Vietnam and urged that consent should only be given if Vietnam improves its track record on HR issues.¹¹¹ The final text also included opinions from the PECH and Development (DEVE) committees. The PECH committee did not engage with the political aspect of the debate and voiced concerns in the field of sustainable development. The DEVE committee, however, did have concerns in the field of labor and HR in Vietnam.

The preconditions for the EP to give its consent to the FTA were thus not the most positive, especially considering that the EP adopted various resolutions stressing the same issues and 32 MEPs from groups throughout the EP's hemicycle sent a letter prior to the European elections¹¹² to the High Representative and the Commissioner for Trade stating they would not give consent if these issues were not addressed. This effort, however, can mainly be seen as an attempt to try to influence the Commission and to promote their intentions prior to the European elections, considering 21 did not return to the EP. Despite the initial reservations by various MEPs for voting in favor of giving consent, the INTA committee voted on 21 January 2020 and adopted the recommendation on giving consent for the FTA with Vietnam.¹¹³ The reasoning behind voting in favor is generally justified by claims that are partially also made in the final recommendation such as the economic possibilities of the FTA, chances to engage with Vietnam in TSD related matters and the possibility it poses for an agreement with the ASEAN region. During the vote, the parties who voiced the most concern over HR violations,

¹¹⁰ European Parliament Committee on International Trade, *MISSION REPORT following the INTA mission to Hanoi, Vietnam, 29 – 31 October 2019*.

¹¹¹ European Parliament, AD\1194359EN.

¹¹² Website of former MEP Ramon Tremosa, *32 MEPs send a joint letter to Mrs Mogherini and Commissioner Malmström to ask for more Human Rights progress in Vietnam* <<http://tremosa.cat/noticies/32-meps-send-joint-letter-mrs-mogherini-and-commissioner-malmstrom-ask-more-human-rights-progress-vietnam>>, retrieved 30-06-2020.

¹¹³ European Parliament, *Committee on International Trade Meeting on 21 January 2020* <https://multimedia.europarl.europa.eu/en/inta-committee-meeting_20200121-0900-COMMITTEE-INTA_vd>, retrieved 21-06-2020.

Greens/EFA and GUE/NGL, voted against the adoption itself. The vote against the recommendation by the two more leftist parties can be seen in line with their previous concerns regarding the problems outlined in the previous paragraph. Other parties are aligning to the previously stated reasoning behind voting in favor. On the normative side of the argument, it can be seen that the majority of the EP in its recommendation sees potential for the TSD chapter to bring positive change to Vietnam in the field of HR and labor rights. Especially the mechanism for dispute resolution is highlighted as potentially positive for the advancement of the TSD chapter in Vietnam through civil society groups.¹¹⁴ As has become apparent from the literature, these types of mechanisms have yet to be used.

The plenary debate developed as could be expected considering the (political groups') positions the INTA committee took in its recommendation. Rapporteur Bourgeois stressed the importance of the agreement for the EU as a global actor, for the opportunity for businesses in the EU and Vietnam and for the possibility of future relations with the ASEAN region. He also underlines the opportunity for externalization of the EU's standards and values through the FTA.¹¹⁵ The EP gave its consent to the agreement with 401 votes in favor, 192 against and 40 abstentions, and in general voted amongst similar political group lines as in the INTA committee. In the explanations of vote given by MEPs who voted in favor, the positive effect the FTA could have on Vietnamese civil society, HR and labor rights is once again stressed. Furthermore, the argument for the externalization of EU values and the willingness of the Vietnamese government in changing its policies can be seen presented by MEPs.¹¹⁶ In the accompanying resolution, the EP underlines the points debated on during the process in the INTA committee. It stresses the possibilities this FTA brings within the ASEAN region, the economic potential of Vietnam and the opportunity for European businesses to invest in the country. However, not everything is regarded positive in the resolution. Most importantly, it calls on the previous resolutions on Vietnam adopted by the EP in which calls for the establishment of proper enforceability of the TSD chapters within the FTA through various methods was outlined. Furthermore, the Commission was asked to perform a HR IA, which it did not undertake.¹¹⁷ There is thus a significant contrast visible between what the EP requests in non-binding instruments vis-à-vis how it votes in official legislative procedures.

¹¹⁴ European Parliament, A9-0003/2020.

¹¹⁵ European Parliament, CRE 11/02/2020 – 4.

¹¹⁶ European Parliament, *Plenary Vote 12.1. Conclusion of the EU-Viet Nam Free Trade Agreement (A9-0003/2020 - Geert Bourgeois)* <https://www.europarl.europa.eu/doceo/document/CRE-9-2020-02-12-ITM-012-01_EN.html>, retrieved 21-06-2020.

¹¹⁷ European Parliament, P9_TA(2020)0027.

Conclusion

This thesis was constructed on the assumption that within the EU's trade policy, the normative motives voiced by a wide range of actors has been developing over time into a more prominent role within the TSD chapters, as well as within the discussions on what the focus of these chapters within FTAs should be. The more active discussion on norms within trade policy has led to more attention for the matter from various actors who seek to influence the normative basis and the enforceability of TSD chapters within FTAs. In recent years, the mobilization of actors and institutional actorness and criticism during the process of the Vietnam case have led to the development of the normative argument, pushing the Commission to do more in this field. An analysis was conducted of the EU-Vietnam trade and investment agreement that answered the research question *To what extent does the EU-Vietnam trade and investment agreement reflect the heightened emphasis on norms in EU trade agreements?*

The literature that engages with trade policy research and normative arguments has found evidence that the EU is externalizing its norms through FTAs, however marginally as compared to economic incentives. Furthermore, the normative argument is relatively intertwined with these incentives within FTAs. As has become apparent from the literature, the argument is made that the extent to which norms are actually being incorporated in trade policy and the degree of effectiveness of their enforcement was rather absent from FTAs in general. According to some scholars, however, the practice of incorporation TSD chapters has developed the normative argument in recent years. But, this practice is yet to culminate in effective and enforceable mechanisms that can give norms more weight vis-à-vis economic incentives.

The EU in general, and the Commission more specifically, has actively undertaken efforts to engage with the process of incorporating norms in a TSD chapter. It has produced policy papers in which it underlines its commitment to the normative agenda. Furthermore, it has incorporated various TSD chapters within the FTAs it concluded with third countries. But as has become apparent, these initiatives did not lead to norms being fully incorporated into trade policy. Even though the EU insists on norms being part of FTAs, it does not incorporate them in an effective manner. It did lead to a situation in which some innovations took place, such as a roadmap in the EU-Vietnam case, which in turn resulted in a debate on the role of norms in general and the instruments for enforcement.

As can be seen emerging in this thesis, the role of the EP is becoming more active in the process of negotiating FTAs, especially through the process of consent. This development might expand the negotiation process into a more inclusive approach from the Commission's side in which it not only informs the EP about the progress, but also incorporates the EP's resolutions and desires in the eventual outcome. The EP actively tried to influence the Commission's efforts on HR and labor standards throughout the negotiation process and consent procedure through issuing various resolutions. With these resolutions, the EP tried to push the Commission to do more in this field. The degree of reluctance and concern regarding the TSD chapter expressed by the EP can also be seen during committee debates. The EP is thus using various channels through which its concerns can be voiced to the Commission. Though the EP did give its consent to the FTA, their actions give the impressions that the institution is taking its role within the process more seriously and is attempting to expand the length and reach of their powers. This development is rather fascinating for future FTAs. Although the instruments for enforcement were not deemed acceptable by the EP in earlier attempts to divert the position of the Commission, it did vote in favor on the basis that the conditions will improve through the soft law approach, for example through the roadmap. The assumption of the soft law approach on TSD issues, and the lack of a mechanism of enforcement, can be seen as somewhat premature on the expected outcome of soft law instruments. It is furthermore grounded in a hope that it can be used effectively, of which the literature is skeptical. In light of the resolutions the EP itself issued on HR and the IA, this can be perceived as being somewhat of a hypocrisy from the EP's part. But in general, the EP is actively attempting to exploit its influence, which can be interpreted as the development of a process to further embed its influence in the interinstitutional balance vis-à-vis the Commission.

The Commission's side of the argument was actively confronted with the EP and NGOs voicing concerns regarding HR and labor standards at various stages during the process. NGOs and other interest groups were vocal in their opposition of the FTA that was negotiated and pressured the Commission to perform IA on HR issues, amongst other matters. This led to the Commission more proactively developing alternate initiatives to appear to address HR issues within Vietnam and take away concerns, such as a roadmap within which the Vietnamese committed to ratify certain conventions of the ILO. However, the roadmap is rather weak and enforceability within the FTA remains relatively weak within the eventual agreement. This can be interpreted as both an achievement by the Commission, as well as the EP. The Commission managed to divert criticism, whilst the EP was able to push its boundaries within its influence on trade policy.

These attempts at influencing the process might have set a precedent for the negotiating mandates of future FTAs, the Commission's approach to TSD in FTAs and the level of influence other actors might be able to have on this process. As this thesis has shown, norms are incorporated into FTAs because both the Commission and EP have an interest for this practice, though in practice this might be grounded in various origins. In turn, the involvement of non-institutional actors have influenced the process which resulted in the development of more tools, such as the roadmap in this case. The enforcement, however, is still an unresolved issue which makes the incorporations of norms a mirage to show the EU cares about them, but that it does not care enough to actively step up its efforts within FTAs. The impression that arises from the analysis is that there is potential for an institutional clash on this issue. This might be resolved prematurely by the Council giving the Commission a clearer structured mandate that includes more efforts on the enforcement of TSD chapters, but this is highly speculative considering that the future of trade policy is unclear. Furthermore, the literature has mostly focused on the Commission, third countries or the internal pressure. More research has to be done on the Council's perspective to understand what their role in this developing interinstitutional balance is, and can be. The instrument of the roadmap that was developed gives the EP the chance to see how the process is starting to emerge and how the institutional approach to trade in respect to other actors is developing. This is also a possibility for further research.

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