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Ha Hai Hoang and Daniela Sicurelli, *The EU's preferential trade agreements with Singapore and Vietnam. Market vs. normative imperatives*

Abstract

By negotiating Free Trade Agreements the EU aspires both to increase the competitiveness of its industry and contribute to sustainable development in the partner country. It pursues a flexible approach to norm promotion which aims at supporting developing countries in their attempt to adjust to international standards. Ideational and institutionalist scholars interpreted this approach as a manifestation of its normative power. We show that in the negotiations with Singapore and Vietnam the positions of the EU were not consistent with its declared goals, since they put stronger pressures upon Vietnam to adjust to regulatory standards. We explain this lack of consistency as the result of different patterns of interest group mobilization in the two negotiations. Those patterns, in turn, depend upon the bargaining power the EU has with single trade partners, competition between the EU and third countries, especially the US, and the structure of the economy of the trade partners.

Keywords: Normative Power Europe, EU trade policy, FTA, Singapore, Vietnam

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Introduction

According to the official rhetoric of the European institutions, the comprehensive trade agreements that the EU has been negotiating in the last decade as a response to the failure of multilateral trade talks in the Doha Round pursue both commercial and normative goals. Besides tariff barriers, in fact, they also cover non-tariff barriers and regulatory issues concerning environmental and social matters. As the European Commission Communication on “Trade, Growth and Development” (2012) specifies, by negotiating trade deals the EU aims at increasing the competitiveness of its industry and, at the same time, contributing to sustainable development and human rights in the partner country. In order to tackle the development needs of its trade partners, the EU pursues a flexible approach to the promotion of liberalization commitments and of tariff and non-tariff barriers, the aim being to support developing countries in their attempt to adjust to international standards. That is, the EU provides them with wider transition periods, soft enforcement procedures concerning regulatory standards mainly based on dialogue and consultations, and development aid in terms of capacity building.

The literature on the EU’s trade policy has interpreted this approach as a manifestation of its distinctive identity as a normative power (Meunier & Nicolaidis, 2006; Manners, 2009; Khorana & Garcia, 2013; Hirsch, forthcoming). According to ideational and institutionalist studies, the origin of those normative ambitions driving European trade policy lies in its specific multi-level institutionalist context and the core values and principles constituting its founding treaties.

In this article, we subject these claims to empirical scrutiny by comparing the positions taken by the EU in the negotiations for free trade agreements with Singapore and Vietnam, respectively concluded in 2013 and 2015. So far, these are the only trade agreements concluded by the EU with ASEAN countries, and they have set a precedent for further trade deals. Given the different levels of development of the two countries, respectively classified as high-income and low/middle-income countries, these agreements represent a test for the normative goals of the EU. Our analysis shows that the EU appears inconsistent in the implementation of the principle of “differentiation” in the two agreements. Even though it provided more favourable conditions to Vietnam than to Singapore in terms of market access, it also applied relatively stronger pressures on Vietnam than Singapore to adjust to regulatory standards, if the respective levels of development of the two countries are taken into account.

We argue that the ideational and institutionalist explanations of EU normative trade policy fail to account for the lack of consistency in the way that the EU uses hard and soft instruments for norm promotion. We build upon domestic politics studies that analyse the positions of the EU in the single trade negotiations as the outcome of interest group mobilization. In this regard, the dynamics affecting EU trade policy do not appear to be as exceptional as the ideational and institutionalist literature suggests. Case studies on the trade negotiations with Vietnam (Sicurelli 2015b) and Singapore (Mckenzie and Meissner 2017) have registered a tension between values and interests in the negotiating positions of the EU. According to these studies, specific patterns of interest group mobilization in the EU have marginalized the issue of human rights in the trade negotiations. They show that the institutional structure of the EU and the salience of the issues under negotiation have constrained the efforts of human rights promoters to shape the positions of the EU. Our analysis integrate those findings. The comparative approach allows us to test coherence of European trade policy with the Commission's differentiation strategy and identify variations in domestic politics dynamics according to the negotiating partners. We show that variations in the societal pressures mobilized by negotiations with different trade partners account for contradictions in the way the EU tackles commercial and development implications of trade agreements. Differences in the bargaining power of the EU with single trade partners, competition between the EU and third countries (especially the US), and the structure of the economy of the trade partners, in turn, affected mobilization patterns of European interests groups and NGOs.

We have adopted a mainly qualitative methodology for our analysis, with the support of trade statistics. Position papers and press releases of European pressure groups concerning the two negotiations provide evidence of societal mobilization, while documents of European institutions are analysed to test the impact of those pressures. Statistics concerning the balance of trade between the EU and the two ASEAN countries support our claims about the bargaining power of the EU in the negotiations with Singapore and Vietnam. The respective positions of Singapore and Vietnam in the global supply chains, in turn, synthesize differences in the their economic structure that are relevant for the interests of European industry and NGOs. Finally, analysis of the text of the Trans Pacific Partnership (TPP) allows us to test the impact of an external constrain to the negotiating position of the EU. Interestingly, negotiations between the US and Vietnam in the context of the TPP were also concluded in 2015. Since the US is one of the major

competitors of the EU as a trade partner of ASEAN member states, European industry associations were compelled to promote comparable levels of liberalization of Vietnam's economy than those required by the US. The high regulatory standards included in the TPP also reduced the policy options available to Vietnam negotiators. Semi-structured interviews to stakeholders in Brussels and Hanoi integrate the above mentioned evidence.

The paper is structured as follows. The first part discusses the ideational, institutionalist and domestic politics literature on "normative power Europe" in the field of trade policy. It focuses on the motivations behind the EU's normative trade policy and the instruments of power used by the EU to promote norms in its external trade relations. The second part compares the contents of the trade agreements concluded by the EU with Vietnam and Singapore, highlighting their differences and similarities, with the focus on flexibility clauses and normative issues. This section shows that a limitation on the EU's ability to perform the role of a normative power consists primarily in its preference for relatively harder instruments of norm promotion in the trade negotiations with Vietnam compared with Singapore. The final part discusses the domestic politics reasons for the lack of consistency between the normative goals declared by the EU and the content of the two trade agreements.

Normative Power Europe through trade

Normative ambitions in the EU trade policy

Manners (2002) defines the EU as a normative power, i.e. an actor that possesses [...] "the ability to define what passes for 'normal' in world politics". By spreading universal norms the EU is able to impose a (moral) constraint on other actors to follow the same norms (Manners, 2002).

Trade policy is one of the main areas in which the normative power of the EU can be assessed. Trade diplomacy has been modified during recent decades, with its focus shifted from issues of classic trade liberalization (e.g. import tariffs and quotas) to the so-called "deep integration" issues. The constitutive principles that characterize the EU as a normative power have been increasingly incorporated into its trade policy since 1995. In the Communication of the Commission on "Trade and Development" (European Commission, 2002) the Commission states that the EU should provide developing countries with greater access to the EU market and support the

integration process of those countries in the global economy through aid-for-trade assistance. Within the framework of the 2006 Global Europe Strategy, DG Trade has recently indicated that the prospective FTAs should embrace “a step change” in how the EU integrates the International Labour Organization (ILO)’s decent work standards and its broader agenda of sustainable development into bilateral trade agreements (Mandelson, 2006). In doing so, the EU for the first time integrates more explicit language on social issues into the new generation FTAs that are currently being negotiated with Latin American and Asian countries (Bossuyt, 2009; Correa, 2013). So far, the EU has concluded several FTAs covering the sustainability issue, including EU-South Africa FTA 2000, EU-Chile FTA 2003, EU-CARIFORUM FTA 2008, EU-Korea FTA 2009, EU-Peru 2010 (in effect since 2013), and EU-Columbia FTA in 2012, and EU-Singapore FTA in 2013. The EU-South Korea FTA is the first trade agreement representing the new generation of EU trade agreement.

The Lisbon Treaty (2009) further promoted policy coherence in the external actions of the EU. By establishing the High Representative of the Union for Foreign Affairs and Security Policy, the Treaty aimed at coordinating EU external policies, including trade and development. Finally, the European Commission Communication on “Trade, Growth and Development” (2012) specified that through bilateral trade negotiations the EU promotes differentiated levels and schedules of liberalization and adjustment to EU-sponsored regulatory standards according to the level of development of the trade partners. Both Communications also claim that through its trade relations the EU aims at promoting regional integration as an instrument of development cooperation. According to the 2012 Communication, “South-South integration can enhance efficiency, increase competition between peers in development, enable economies of scale, increase attractiveness to Foreign Direct Investment (FDI) and secure greater bargaining power” (European Commission, 2012).

The motivations behind the EU’s normative trade policy

Students of Normative Power Europe describe the EU as a qualitatively different actor, and explain its trade policy as the result of its multi-level institutional structure and of its constitutive values and principles. From an institutionalist perspective, Meunier and Nicolaïdis (2006) argue that inter-institutional conflict within the EU strongly affects its positions in the trade negotiations and has

an impact on the EU's influence on its trade partners. They claim that, paradoxically, this internal conflict does not weaken the EU, but instead strengthens its role as a "power through trade". The search for consensus within the EU leads to negotiating positions that accommodate different preferences of the member states and European institutions, including those of free trade proponents, protectionists, and proponents of a principle-based trade policy. In order to gain access to the attractive European market, therefore, the EU's trade partners are compelled to endorse the proposals of the EU integrating liberalization commitments with regulatory barriers, including social and environmental clauses. From this perspective, the internal conflict within the EU becomes a bargaining chip for proponents of a vision of European trade policy as an instrument for norm promotion. Other studies, instead, argue that inter-institutional relations ultimately harm coherence between EU trade policy and the constitutive principles of the Union. Da Conceição-Heldt (2011) claims that heterogeneous preferences of the European institutions end up by empowering the Commission in the shaping of a European position in the trade negotiations. Due to the liberal orientation of DG Trade, the EU ultimately prioritizes pressures for liberalization rather than regulatory measures that impose barriers to free trade. According to Young and Peterson (2014), the multiple veto players involved in the EU trade policy-making, and the conflict between the preferences of the Commission and those of protectionist member states tend to water down development and human rights provisions in the trade agreements concluded by the EU. Sicurelli (2015b) further demonstrates that compartmentalization of the EU policy process represents a formidable obstacle to policy coordination, while McKenzie and Meissner (2017) claim that organizationally defined preferences of European institutions, coupled with low salience of the issue of human rights, have led to the prioritization of commercial concerns in the negotiation of the EUSFTA.

In turn, Van den Hoven (2006), Riddelvold (2010), and Khorana and Garcia (2013) and Hirsch (forthcoming) propose an ideational interpretation of EU trade policy and consider it to be the outcome of the principles constitutive of the Union's founding treaties. Manners (2002) identifies nine norms of the EU: peace, liberty, democracy, rule of law, human rights, social solidarity, anti-discrimination, sustainable development, and good governance. By promoting these principles, the EU builds its identity as a normative power through trade in contrast to other more conventional actors mainly driven by commercial interests. From a more critical perspective, Parker and Rosamond (2013), Rosamond (2014) also incorporates economic liberalism into this repertoire

of constitutive principles. The policy prescriptions deriving from this principle potentially clash with the other above mentioned constitutive principles of the EU.

Other scholars identify standard political economy explanations for EU trade policy and challenge the representation of the EU as a unique actor in international trade. According to Falkner (2007), protectionist interests in the agricultural sector have motivated the EU's aspiration to normative leadership in the Doha Round (Falkner 2007). De Bièvre and Eckardt (2011) also stress the ability of protectionist interests, especially represented by import-competing groups, to mobilize and shape European anti-dumping policy. By contrast, on the basis of a case study on the EU-Korea PTA, Elsig and Dupont (2012) suggest that the wide discretion held by the Commission as a negotiator affects interest group politics in the EU, since it strengthens the positions of exporter interest groups. Interest in increasing market access in middle-income developing countries seem to be relevant for European exporters especially when the EU competes with other actors negotiating trade agreements with those countries (Woolcock 2014). Finally, Eckhardt and Poletti's (2015) analysis of trade negotiations between the EU, South Korea, India and Vietnam stresses the influence of import-dependent groups on the European trade strategy towards Asia. Students of the EU's domestic politics have also investigated the impact of civil society pressures on trade policy-making.

Sell and Prakash (2004) argue that the institutional environment of the EU provides labour NGOs with fewer channels of formal access than environmental groups to affect the policy process. Dür & De Bièvre (2007) claim that NGOs do not have the resources to influence European trade policy-making, since they cannot threaten or enhance the chances of policy-makers to be re-elected. Hannah (2011) also stresses the lack of resources of development NGOs aiming to influence European policy of intellectual property right, which appears dominated by the liberal norms of the international trade regime. Langan (2014)'s study of the trade negotiations with ACP states confirms that the EU has strategically tied the discourse on decent work and aid for trade with free market policies in order to present its negotiating positions as being morally legitimate and ultimately adopted a co-optative stance on NGOs. In contrast, Kelemen and Vogel (2010) and Sicurelli (2015b) show that partnerships between NGOs and industry have largely contributed to shaping the normative trade policy of the EU. Trommer (2014)'s study of the influence of West African activists also claims that development NGOs

have succeeded in transforming the spaces of legal uncertainty in WTO law into a legal opportunity to shape the EU policy process.

As these findings show, different configurations of domestic interests emerge in the EU according to the negotiating table. There is a lack of systematic research explaining those variations. Furthermore, as the review article by Poletti and De Bièvre (2014) comments, literature on EU trade policy still leaves an open question concerning the extent to which the influence of diffuse interests can account for EU policy-makers' stances.

The instruments of norm promotion

While the definition of normative power suggests that soft instruments are the most appropriate in order to succeed in the attempt to promote norms internationally, hard instruments are not *per se* incompatible with this type of power. However, the EU's decision to use those instruments in order to promote norms in the context of trade negotiations with developing countries may challenge its image as a coherent norm promoter.

According to Orbie (2011), trade arrangements produce actions that are likely to be more normatively sustainable if they involve a deliberative approach (dialogue, persuasion), and provide positive conditionality or substantial incentives in order to trigger normative change. Those instruments include non-binding provisions (soft laws), information exchange, reducing tariffs (e.g., trade preference) or providing technical incentives for capacity building (e.g., Aid for Trade). Manners suggests that privileging such a non-coercive approach to norm diffusion in the field of trade "illustrates the lengths at which the EU goes to avoid claims of protectionism" (Manners, 2009b, 797).

Nevertheless, the EU has also coercive (economic) instruments at its disposal to promote norms through trade negotiations. These instruments comprise threats or use of sanctions, embargos, increasing tariffs and quotas, and the inclusion of legally enforceable obligations in trade agreements. These legally binding commitments constrain trade partners' ability to modulate national political and economic policies because violations would result in the suspension of preferential trade and other trade sanctions. Suspension clauses in the case of violation of international human rights principles, for instance, represent an example of the hard law approach

(Abbott & Snidal, 2000; Hafner-Burton, 2005). Also, the inclusion of clear indications of future relations between the trade partners after violation of those principles can be considered a manifestation of such a hard approach. Evidence of legal enforceability can be indicated by clear legal language of obligations (i.e. “shall”, “agree”, “undertake”) (McCaffrey 2006, 81 cited in Horn *et.al.* 2010) and strong commitments to ratification. To control for the risks of opportunism, also third-party monitoring and enforcement mechanisms, such as a dispute settlement mechanism (DSM), trade policy review bodies and the system of committees, are created (Shaffer & Pollack 2010) to deal with the interpretation, application, elaboration and enforcement of the trade agreement. In the framework of EU FTAs, these mechanisms include government consultations, a panel of experts or a DSM (Van Den Putte *et al.*, 2013).

The ability to use “hard” power, or to threaten to do so, should not be regarded as contrary to the conduct of a civilizing or normative power (Sjursen, 2006). Deliberative instruments alone may be insufficient in many cases to persuade other states to change their practices that violate international law. Bearing this in mind, normative foreign policy means should be defined “as instruments (regardless of their nature) that are deployed within the confines of law” (Tocci, 2008). When using positive and negative conditionality, it seems necessary to involve third country governments in the decision-making process and to take the international organizations’ follow-up procedures on the aforementioned norms into account (Orbie, 2011). This approach aims to follow the ethics of “being reasonable” and “doing least harm” (Manners, 2008) of the EU’s actions. In other words, even if coercive actions are used, a normative actor should display an openness to take third parties’ particularities into consideration. These behaviours would partly prevent anxieties about potential Eurocentric/imperialistic ways practised under the veil of normative action. Bilateral trade negotiations formally provide the setting for such a deliberative approach. Yet the appropriateness of hard instruments for norm promotion in bilateral negotiations based on asymmetrical power relations remains a contested issue because it raises doubts about the patronizing undertones of the European positions.

The argument

On the basis of a comparison between the trade negotiations with Singapore and Vietnam, we argue that the ideational approaches representing EU trade policy as a manifestation of its normative power fail to explain the inconsistencies in the way that the EU uses its “power through trade” in

order to promote norms. Founding principles of the EU have an influence on European positions that varies according to the venue and the partners of negotiations. More specifically, in contrast with the development oriented approach to trade inspiring the European Commission's Communication on "Trade, Growth and Development" (2012), the EU appears more willing to use hard policy measures for the promotion of those principles in the trade negotiations with Vietnam than it is with Singapore.

In order to explain this lack of consistency, we build upon domestic politics studies that challenge the representation of EU trade policy as being driven by its unique constitutive principles and argue that variable pressures of economic interests and NGOs mobilized in different negotiation tables largely influence the EU's decision to use either soft or hard power instruments of norm promotion. We contribute to this stream of study by arguing that factors which account for different mobilization patterns emerging in the context of single bilateral negotiations include the structure of the economy of the trade partners, the relative bargaining power of the EU *vis-à-vis* its negotiating partners, and the competitive pressures exerted by other trade powers in the region.

EU FTAs with Singapore and Vietnam

All the new generation FTAs negotiated by the EU are "deep and comprehensive deals" and include WTO-plus commitments. Given the differentiated level of development of ASEAN members, therefore, in order to contribute to regional integration in South East Asia the EU should provide developing members with the conditions to harmonize their trade policy and regulatory standards with richer members. A comparison between the EUSFTA and the EUVFTA, however, shows that the EU has only marginally succeeded in achieving this goal (Table 1).

While international organizations such as the World Bank and the International Monetary Fund classify Vietnam as a low/middle-income country, Singapore is a high-income country. More precisely, it is the third richest country in terms of per capita GDP. Moreover, while Singapore has been a member of the WTO since its origins in 1995, and a member of GATT since 1973, Vietnam, on the contrary, is one of the most recent members of the organization, since its candidature was accepted in 2007. Thus, adjusting to liberalization commitments and WTO

regulatory standards promoted by the richest members of the international organization appears especially challenging for Vietnam. Nevertheless, the differentiation between the liberalization requirements and regulatory standards included in the two FTAs does not match the different levels of development of the two countries. The EU did not provide Vietnam with enough flexibility in adjusting to liberalization and non-trade barriers compared to Singapore, so that Vietnam has comparatively greater adjustment costs than those imposed on Singapore by the EUSFTA.

Consistently with the differentiation approach adopted by the EU, Vietnam has obtained greater concessions than Singapore in the field of market access. Under the EUSFTA, Singapore fully binds the zero tariffs that it already applied to EU imports. Moreover, the deal eliminates the remaining tariffs that the country had imposed on alcoholic beverages. In its turn, the EU has accepted to eliminate tariffs on three quarters of imports from Singapore when the agreement comes into force, and on all other goods over three to five years. The agreement allows the EU to exempt from liberalization fishery and agricultural products, which have hardly any impact upon trade with Singapore. As far as market access is concerned, Vietnam has received better treatment than Singapore, since it is required to liberalize 65% of import duties on EU exports to Vietnam at entry into force of the agreement, and gradually eliminate the remaining duties over a 10-year period. Vietnam has also agreed to remove almost all of its export duties in its trade relations with the EU and not to increase those that will exceptionally remain in force (in the sectors of pharmaceuticals and motor-vehicles). Under the EUVFTA, the EU has committed to eliminating its export duties over 7 years. The EU exceptionally protects a few sensitive agricultural products from full liberalization, while offering access to Vietnamese export in those sectors via tariff rate quotas.

Despite these differences in the timing of the liberalization required of the two South East Asian countries, the EU has promoted equivalent regulatory standards in the two deals, without providing Vietnam with sufficient flexibility clauses to help the country adjust to those standards. Both agreements, for instance, impose strict rules of origin, but the implications of these rules are especially evident in the case of Vietnam, which is mainly a “transformer country” (Interview, Brussels, 2015) and especially with respect to a sensitive sector like textiles. To benefit from the preferential access, the rules of origin for garments impose the use of fabrics produced in Vietnam, with the sole exception of fabrics produced in South Korea, which is

another FTA partner of the EU. Regional cumulation of rules of origin with the other ASEAN members is applied under certain conditions and with respect to certain materials (listed in Annex II) that do not include textiles.

Both the EUSFTA and EUVFTA include commitments to harmonizing technical and sanitary-phytosanitary standards using international standards on as wide a basis possible. Standards proposed by the EU for the trade agreement with Vietnam concerning rules of origin, technical and sanitary regulations have raised concerns among Vietnamese stakeholders, which claim that Vietnam lacks the conditions to adjust to EU-sponsored norms (Sicurelli, 2015a and 2015b).

Vietnam and Singapore have received identical treatment with respect to anti-dumping commitments. In contrast to the free trade agreements concluded by the EU with African, Caribbean and Pacific countries, both the EUSFTA and EUVFTA do not contain any clause to protect investments by infant industries, and they require “standard reciprocal bilateral safeguard measures to protect domestic producers”. This issue is especially important for Vietnam, which has been involved in a controversy with the EU on this matter under the WTO dispute settlement mechanism that led to anti-dumping measures in the leather shoes sector in 2006.

Commitments assumed in the EUSFTA in regard to services were meant to become “a new benchmark in services negotiations” (European Commission, 2013). Through the agreement Singapore has accepted broad commitments of services liberalization in an unusually large number of sectors, including telecommunications, financial, computer, transport, environmental and certain business services. In turn, the EU has provided Singapore with the highest level of access to the EU’s services market ever provided to Asian countries. In contrast to the EU-Korea FTA, for instance, through the EUSFTA the EU has accepted commitments in a larger number of services, including postal services. The trade deal with Vietnam also includes ambitious commitments concerning services liberalization for both contracting parties. Vietnam has committed to improving access by EU companies in a broad range of services sectors, such as business, environmental, postal and courier, banking, insurance and maritime transport services. Vietnam has also accepted WTO-plus commitments on services regulations that discipline key services sectors such as financial services, telecommunications, maritime transport and postal services.

Both Singapore and Vietnam have committed to opening up to EU investments in multiple key sectors. Above all, in contrast to all the trade agreements concluded by the EU with developing countries, the investment chapters of both agreements include an investor-state dispute settlement (ISDS) mechanism. The aim of the mechanism is to protect foreign investors from unfair treatment by the hosting government. Critics of this type of mechanism argue that it grants corporations the right to sue a foreign government, thereby undermining the sovereignty of the state. For this reason, in the EUVFTA the EU has accepted to emphasize the state's right to regulate and introduce a legal mechanism to ensure that the government can appeal the Court's decision. The EU considers the ISDS mechanism introduced in the FTA with Vietnam to be a model for future trade agreements, including the Transatlantic Trade and Investment Partnership (TTIP).

The two agreements also push for broad liberalization of government procurement. Both the EU and Singapore are members of the WTO voluntary multilateral agreement concerning government procurement (Government Procurement Agreement, GPA). Members of the GPA pledge to promote transparency, non-discrimination, open, competitive, impartial public bidding, and to undertake domestic reforms fighting corruption practices in this sector. After long and tense negotiations, both the EU and Vietnam agreed to further expand their commitments to government procurement liberalization. The EU accepted to increase the number of entities and utilities sectors subject to government procurement liberalization (for instance the railway procurement market), while Singapore agreed to increase the number of procuring entities subject to liberalization, including the Public Utility Board, the National Environment Agency and the Energy Market Authority. Even though Vietnam is not a member of the GPA, it accepted stringent disciplines of the government procurement sector fully in line with the GPA. On the basis of this agreement, EU investors will be able to bid for public contracts with Vietnamese ministers for large investment projects in strategic sectors such as infrastructure, power distribution and nationwide railway. In a sector highly sensitive for national sovereignty like health, for instance, Vietnam agreed upon liberalizing bids concerning 34 public hospitals and to liberalize public procurement concerning State Owned Enterprises (SOEs) and the two biggest Vietnamese cities, Hanoi and Ho Chi Minh City.

The disciplines agreed on State Owned Enterprises (SOEs) and subsidies also show that the EU did not give Singapore and Vietnam differentiated treatment. The EUSFTA acknowledges the

right of the two parties to establish public undertakings and monopolies but stipulates that these must engage in competitive practices. The EU and Singapore commit to removing subsidies for ailing or insolvent undertakings that disrupt trade between the parties. Limited exceptions are accepted in those sectors considered important for achieving an objective of public interest (Annex 12-A). In turn, the EUVFTA binds Vietnam to the most ambitious disciplines concerning the state-owned sector ever agreed in preferential trade agreements. The agreement sets the conditions to increase the competitiveness of SOEs and private enterprises engaged in commercial activities. The agreement also includes rules on transparency and consultations on domestic subsidies. The far-reaching commitments reached by the EU and Vietnam on government procurement and SOEs sectors are especially remarkable given the Vietnamese government's perception of high "sovereignty costs" associated with limiting the state's regulatory autonomy in those sectors (Hoang, 2016).

As far as sustainable development is concerned, both deals include commitments to implementing the ILO Conventions and multilateral environmental agreements that the parties have ratified, and to ratify the remaining conventions and treaties on these issues. Both agreements, however, use a conditional language stating that the parties will consider ratification of ILO conventions taking into account [their] "domestic circumstances". Moreover, both agreements include soft enforcement measures concerning the sustainable development chapter, which is not subject to the dispute settlement mechanism adopted for the remaining chapters. Instead, they establish mechanisms for trade unions and industry associations in the implementation of the chapter and consultation procedures between the parties to the agreement. Those mechanisms are expressed with more flexible language in the case of the EUSFTA, while the trade agreement with Vietnam includes more detailed procedures and stricter conditions, and schedules concerning the procedure for consultation of civil society. Article 14 of the chapter on Trade and Sustainable Development in the agreement with Vietnam, for instance, lists a number of specific areas in the sectors of labour rights and environmental protection for cooperation between the contracting parties. The institutional set-up and overseeing mechanisms of the trade agreement between the EU and Vietnam requires that a specialised committee on trade and sustainable development shall meet within the first year after the agreement enters into force, and thereafter as necessary, to review the implementation of the chapter on sustainable development, including the cooperation activities listed in article 14. This list is absent in the EUSFTA.

Finally, both the EUFTA and the EUSFTA include human rights clauses. Nevertheless, consistently with the preferences of the negotiators of the two ASEAN member states, only soft enforcement measures are attached to them (Sicurelli, 2015b; McKenzie & Meissner, 2017). Both FTAs establish a legally binding link with the Partnership and Cooperation Agreements (PCAs) respectively concluded by the two South East Asian countries with the EU in 2012 and 2013. In contrast to agreements reached by the EU with Georgia, Moldova and CARIFORUM, however, the PCAs with Vietnam and Singapore do not make explicit reference to the possibility of suspending mutual trade commitments in the case of human rights violations. Moreover, in contrast to the Cotonou agreement, the two PCAs do not specify that mandatory political dialogue should precede the consultation procedure in non-urgent cases.

Explaining the limits of the EU's normative power through trade

Negotiations between the EU and Singapore mainly mobilized exporter and investor industries, which contributed to the ambitious liberalization commitments included in the final deal. In the negotiations with Vietnam, instead, European negotiators had to address contrasting pressures from a coalition of import-dependent and exporter groups, on the one hand, and an ad hoc alliance between import-competing groups and NGOs, on the other hand. Preferences of those domestic actors, in their turn, have been influenced by the greater bargaining power enjoyed by the EU in the trade relations with Vietnam as opposed to Singapore, the different structure of the economies of the two Asian countries, and the parallel negotiations of Vietnam with the US in the context of the TPP.

Trade and investment relations between the EU and Singapore are based on a high degree of reciprocity, given that Singapore is both a major destination of European investments and a large investor in Europe (the second largest Asian investor after Japan). The country is also the EU's largest commercial partner in the ASEAN and ranks 17th in the general EU trade worldwide. In particular, since 2006, the EU has continuously enjoyed a positive balance of trade in goods and in services with Singapore. For trade in goods, the surplus for the EU increased significantly from 292 mil Euro in 2006 to 11,5 mil Euro in 2013. Thus, pressures for deep liberalization commitments have dominated debate within the EU for a FTA with the city-state. In 2010 the European Commission published a call for stakeholders' comments on a future free trade deal

with Singapore. Industries interested in the growing ASEAN market as an export destination mainly responded to the call. As representatives of the automotive industry commented in their response to the Commission's consultation on a trade agreement with Singapore, the EUSFTA would serve as a "precedent" for future FTAs with ASEAN members (European Commission, 2010). Export industries in the automotive and energy (feedstocks for fuel production) sectors pushed for a free trade agreement based on the highest possible degree of reciprocal liberalization of trade flows (*ibidem*).

Negotiations with Singapore also attracted European investors, especially in the services sector, who demanded liberalization commitments in the investment sector (European Commission 2010). As a matter of fact, Singapore had the most liberal regime in the region as regards FDI in services even before the negotiations (Van Der Geest, 2004; Robles, 2012), which made it especially attractive for European investors. European stakeholders in this sector also expressed their demands directly to the government of Singapore. The presence of more than 9,000 EU-owned companies in the Asian city-state strengthened those demands and contributed to Singapore's commitment to increasing the liberalization of investments. In the chemicals sector, for instance, Singapore's exports are dominated by EU-owned firms. More broadly, the growing attractiveness of the ASEAN region for European investors (Eurostat, 2015) accounts for the ambitious liberalization schedules included in the FTA and the decision to include an ISDS in the agreement. Moreover, the European Commission considered Singapore as an ideal partner for setting a new model of ISDS, since it had negotiated ISDS clauses in other agreements (Mckenzie & Meissner, 2017).

European investors were especially vocal against the distortion effects that government-linked corporations (GLCs) exert on foreign investors in Singapore and the state's powerful role in developing infrastructures and strategies in order to create an export-oriented service economy. The Commission's document synthesizing the results of the industry consultation reports that those groups complained that "GLC protect the market through informal trade barriers (...) GLC are draining the talent pool and constitute unfair competition to private industry" (European Commission 2010). Those industries called for those barriers to be eliminated and promoted transparent rules allowing European companies to compete with GLCs (*Ibidem*). In 2004 Singapore had already reformed the role of GLCs in the economy through adoption of the Competition Act, which was substantially inspired by EU competition law. Singapore is also

member of the GPA. These conditions facilitated the inclusion in the EU-SFTA of liberalization commitments promoted by European investors in the sectors of SOEs and government procurement.

Trade negotiations with Singapore did not mobilize specific protectionist interests, as the results of the Commission's consultation show (European Commission, 2010). The import-competing groups that participated in the Commission's call for stakeholders' positions were those interested in the broader ASEAN market. Producers in the leather sector were vocal in promoting regulatory barriers such as harmonization of technical standards and social and/or environmental requirements for leather products (*ibidem*). Those pressures, however, were not backed by substantial mobilization of environmental and labour rights NGOs. In the context of the trade talks with Singapore the European Commission only organized consultations with the industry and did not receive pressures for consulting civil society organization (interview, Brussels 2015), which *de facto* marginalized pressures for binding commitments concerning sustainable development in the negotiations.

Compared to the negotiations with Singapore, the EU enjoyed greater bargaining power in the negotiations with Vietnam. The EU is the largest export market for Vietnamese products and Vietnam's second largest two-way trade partner after China. The surplus in trade in goods with the EU grew from 3,7 mil Euro in 2005 to 21,5 mil Euro in 2015. The positive trade balance that Vietnam enjoys in its bilateral commercial links with the EU significantly helped to balance Vietnam's huge trade deficits with China and South Korea. Moreover, Vietnam's distinct position in the global value chains affected societal mobilization in the EU. In contrast to Singapore, Vietnam's downstream ranking in the high tech manufacturing and cheap labour have attracted import-dependent groups in the EU and, to a lesser extent, the defensive positions of import-competing interests in the EU. European import-dependent interest groups – that is, associations of retailers and firms that rely on imports for their production processes– and exporters mainly represented by Eurocommerce lobbied very actively during the agenda-setting stage of the EU-Vietnam FTA (Eckhardt & Poletti, 2015). These groups proved highly influential in the shaping of a European negotiating position, while the preferences of import-competing groups, which advocated defensive positions in the negotiations, were partially accommodated in the final document (Sicurelli, 2015b). An example of a compromise between import-competing and import-dependent interests is provided by the positions adopted by the EU

with respect to rules of origin. The EU proposal to cumulate rules of origin with Korea represents a success for import-dependent and exporter companies (Eurocommerce, 2007) with an interest in simple and harmonized rules. In their turn, import-competing groups producing textiles, represented by EURATEX (2010), have obtained strict rules of origin in this sector which represent powerful non-trade barriers for Vietnam exports. The rigid rules of origin included in the TPP further strengthened the positions of European import-competing groups in the EU-Vietnam negotiations. The TPP, as a matter of fact, imposed the yarn forward rule in the textile sector, which requires textile producers to use yarn produced in TPP countries in order to receive duty-free access. Those norms created a precedent for the negotiation of the EUVFTA. In order to defend its competitiveness in the region vis a vis the US, the EU promoted comparably rigid rules of origin than those included in the TPP in the negotiations with Vietnam (interview, Hanoi 2015).

Defensive interests were also able to promote high anti-dumping standards in the trade agreement (interview, Brussels 2014). Moreover, on 28 July 2015 a letter by COPA-COGECA directed to the Agriculture Commissioner aimed at promoting the interests of European farmers in the negotiations against South East Asian cheaper products that directly compete with European ones, especially rice (Risoitaliano 2015). As a result, European farmers obtained the definition of some agricultural products as sensitive including rice and sugar, among the others, both in EUVFTA. DG agriculture had to accept concessions to Vietnamese exports in those sectors, though, offering exports via tariff rate quotas (Euractiv 2015).

European industries interested in exporting to and investing in ASEAN pushed for ambitious chapters concerning liberalization of investment, SOEs and government procurement in the EUVFTA (Sicurelli, 2015a). Despite their initial resistance (*ibidem*), Vietnamese negotiators had to accept those rules in the last stage of the negotiations. In this respect, the parallel negotiations taking place between Vietnam and TTP members had a twofold impact on the EU-Vietnam deal. Firstly, while negotiating with Vietnam the EU tried not to provide that country with more favourable conditions than the US in order to preserve its relative commercial power in the region (interview 2015, Hanoi). The strong liberalization commitments promoted by the EU in the investment sector acted as a benchmark for the EUVFTA (EU, 2014). Secondly, the timing of the negotiations affected Vietnam's negotiating positions. The government was interested in concluding trade negotiations with the EU by the end of 2015 – that is, to say contextually with

the end of the TPP negotiations – in order to ease implementation of the two agreements (interview, Hanoi 2015). The government of Vietnam had also an interest in finalizing FTA negotiations with the EU before the 12th National Congress of the Communist Party of Vietnam organized in April 2016 because not remarkable achievements of integration into international trade had been made after joining WTO in 2007. Vietnam is at the threshold of market-oriented economic reforms, the country expects that joining EU FTA will be the next step in its international economic integration after joining WTO in 2007, pushing Vietnam's economy higher in the global supply chain. Also, the government of Vietnam considered concluding an agreement with the EU a priority and as a step necessary to increase the national economy's autonomy from China. In 2015, Vietnam ranked first among the ASEAN countries in terms of trade deficit with China (Trading Economics 2017). This deficit has made Vietnamese economy dependent on China which is Vietnam's biggest import market. The government of Vietnam has argued that signing free trade agreements with other partners is needed in order to narrow the deficit (Vietnam News 2015). These pressures compelled Vietnam to accept the conditions imposed by the EU on regulatory matters, including the ambitious norms promoted by the EU regulating state-economy relations (interview, Hanoi 2015).

In contrast to negotiations with Singapore, European development NGOs and trade unions were more vocal in promoting a binding chapter concerning sustainable development in the agreement with Vietnam throughout the negotiations (International federation for Human Rights, FIDH, 2013a, b; European Trade Union Confederation, ETUC, 2010; ETUC, 2012). Since one of the distinctive features of Vietnam's export industry is cheap labour, NGOs committed to the promotion of labour rights actively mobilized to promote binding norms concerning sustainable development (Interview, Brussels 2015). As a reaction to these pressures, the European Commission organized a round table on Sustainable Development and Human Rights in the EU-Vietnam relations in May 2015, calling for participation of all the European and Vietnamese stakeholders, including both industry associations and NGOs. A number of NGOs participated in the roundtable, such as Action Aid, FIDH, Vietnam Committee on Human Rights and ETUC. NGOs were able to push for the inclusion of more detailed mechanisms aimed at involving civil society in the bilateral dialogue on sustainable development. They were especially supported by the European Parliament, which issued two resolutions promoting binding sustainability standards in the agreement (European Parliament 2009, 2014). The detailed provisions

concerning civil society in the agreement are especially significant given the lack of recognition in Vietnam of independent organizations representing societal interests. While the Trade Union Law (1994) allows the enterprise trade union to represent workers' rights independently, in practice trade unions can only be established legally under the umbrella of the Vietnam General Confederation of Labour. The latter, in its turn, is under the control of the Communist Party (Torm, 2014).

Finally, even though NGOs were very active in promoting suspension clauses in the case of human rights violations in the EUVFTA and had urged the European Commission to carry out a human right impact assessment of the FTA before the conclusion of the negotiations, the EU adopted a soft position on human rights and refrained from carrying out such an impact assessment. In contrast to the issue of labour rights, in fact, talks on human rights clauses did not mobilize industry groups in support of the NGO demands. Furthermore, the absence of human rights clauses in the TPP had weakened the most ambitious positions in terms of human rights promotions within the EU, since it supported the argument of the government of Vietnam against the need to tackle human rights in the context of trade negotiations.

Conclusion

This article has attempted to contribute to the lively discussion on the international role and identity of the EU by considering implementation of the principle of "differentiation" as the important test of its normative power. In light of the analytical framework outlined in the first part, comparison between the EU-Singapore and EU-Vietnam FTAs challenges the institutional and ideational interpretations of EU trade policy that represent the EU as a normative power, since it shows that the EU failed to provide the two South East Asian countries with flexibility clauses proportional to their levels of development.

Even though the two agreements confirm the EU's commitment to exporting its constitutive norms concerning free trade, sustainable development, human rights and regional integration, they show a lack of consistency in the way the EU acts as a norm promoter. The growing interests of European exporters, import-dependent groups and investors in the South East Asian region account for the subordination of development goals to commercial objectives. Pressures

from import-competing groups, especially in the textile sector, have resulted in high regulatory barriers against the two ASEAN countries. Alliances between NGOs and those groups mobilized by Vietnam's cheap labour export industry have been able to promote procedures for the implementation of the sustainable development chapter in the EUVFTA which are more rigid than those in the trade deal with Singapore. At the same time, however, the lack of mobilization of industry organizations in support of human rights NGOs led to a soft approach to the human rights implications of both trade agreements. The greater bargaining power of the EU in the negotiations with Vietnam and the EU's competition with the US in the region have further empowered pressure groups interested in the promotion of mutual liberalization commitments in the trade deal with Vietnam.

Thus, comparison between the role of stakeholders in the two trade agreements shows that the EU is not the exceptional trade actor suggested by part of the institutionalist and constructivist literature. On the contrary, the mobilization patterns of NGOs and economic interest groups largely affect the EU's positions in the international trade negotiations and account for the shortcomings in its role as a norm promoter. Those patterns, in turn, are influenced by specific features of the bilateral relations between the EU and its trade partners, including reciprocal bargaining power, competition with external players and the structure of the economy of the single negotiating partners.

The EUSFTA and the EUVFTA represent precedents for future bilateral deals with ASEAN members and, in the longer run, building blocks for a future inter-regional agreement with ASEAN. The lack of consistency between the rhetoric and the negotiating positions actually taken by the European Commission challenges its potential as a promoter of development and regional integration through trade in South East Asia. Building on the analysis of determinants of EU trade positions in the two agreements considered, one may expect that a similar degree of unbalance between interest-based and normative imperatives will shape the positions of the EU concerning the negotiations of a future inter-regional agreement.

Table 1) Major issues in the EUSFTA and EUVFTA

	EUSFTA	EUVFTA
Market access to the EU	Transition period of 5 years.	Transition period of 7 years.
Trade in service	Liberalization of key telecommunications, financial, computer, transport, environmental sectors	Liberalization of key telecommunications, financial, computer, transport, environmental sectors
Investment	- ISDS, with no emphasis on state right to regulate. - No appeal mechanism	- ISDS, with emphasis on state right to regulate. - Appeal mechanism.
Government procurement	Confirming Singapore's commitment to the GPA.	Asking Vietnam to comply with GPA compatible standards.
SOEs	- Detailed conditions to increase the competitiveness of SOEs and private enterprises - Rules on transparency and consultations on domestic subsidies	- Detailed conditions to increase the competitiveness of SOEs and private enterprises - Rules on transparency and consultations on domestic subsidies
Sustainable development	-Calling for ratification and enforcement of all the core UN environmental and labour Conventions compatibly with "domestic circumstances". - Consultation of civil society.	- Calling for ratification and enforcement of all the core UN environmental and labour Conventions compatibly with "domestic circumstances". - Consultation of civil society, with detailed procedures and conditions.
Human rights	- Institutional linkage with the PCA - Dialogue as an enforcement mechanism.	- Institutional linkage with the PCA - Dialogue as an enforcement mechanism.

List of interviews:

1 Interview to European Commission (Brussels 2015);

1 Interview to ETUC (Brussels 2015);

2 Interviews to experts of think tank and government (Hanoi 2015).

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