

**European University Institute (EUI)**  
**Department of Social and Political Science**



**Carrots or Sticks?**  
**EU and US Reactions to Human Rights Violations (1989-2000)**

By

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## Acknowledgements

There was always a certain thrill about that road.

On clear days I would speed down and take the curves singing, looking everywhere but at the road in front of me. Anyone heading in my direction would have to make themselves heard. Such are the rules of the hillside.

There was a certain feeling of guilt that went with it. It was hard to fully relax and enjoy without being aware of what was still ahead. Not just in the days after it became illegal not to wear a helmet. But especially in the days that I did not pay my own health insurance. The day before my parents arrived, I bought myself a bright red helmet. And hit it on the pavement a couple of times to make sure it looked used.

There was terror too. Especially at night. The bright and starry nights would bring some relief but no protection against sudden dangers around the corner. The steep curves. Good food and wine should not fully distract your brain, but that is not an easy dictum to follow in Italy, or after a Bar Fiasco party. One night I suddenly found myself face to face with a pair of brown eyes, and threatened by a deep, low growl. Don't ask me why game theory would pop into my mind in that moment when I needed it least, but I won the chicken game from the wild boar. Scared by the growl of my vespa, it fled into the bushes and gave me the right of way.

There was never relief from visitors, despite the distance and the steep climb in the heat to my house. They knew where to find me, especially when I had deadlines to meet. Or in times of desperation and solitude. No matter how often I changed address or phone number. No matter how far away I was from the final draft. My grandmother ensured that I would not forget my roots: personally, or via Il Postino, she sent me Dutch newspaper clippings on human rights and development that she had written or commented on.

There were moments that I took the road hesitantly. Not just because my Vespa was counting its years, but because I was. The weight of my laptop on my shoulders, my helmet now the only insurance for the knowledge inside, the only wall against the world outside that kept knocking. The space slowly diminishing. Still, thanks to generous scholarships I managed to combine wedding invitations and visits to newborns and old friends with conferences in my field.

There were days, weeks and months that I loved the trip. Every aspect of it. That I could not imagine myself ever finding again such quality of life, such beauty, such wonderful people, such freedom, intellectual stimulus or fun any where else. Yet I knew I had and would. The night I said goodbye after hours of dancing and celebration for having handed in my draft and starting a new job, I remembered painfully yet happily similar moments of departure at other moments in my life.

The list of professors, family, friends, and colleagues who inspired and supported me throughout the years is long. My gratitude is enormous. I would like, first of all, to thank my supervisor Thomas Risse for his invaluable support and input over the years. I am also especially grateful to my committee members Richard Breen, Lisa Martin and Bertjan Verbeek for their careful reading and suggestions. Philippe Schmitter, Andrew Moravscik, Audie Klotz and Kimberly Elliott provided valuable comments on earlier drafts of the thesis. I

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Some nights in the computer room of the university I kept going by trying to imagine the feeling of writing the preface to my thesis. What words I would find to thank all of you. Now that I indeed stand at the end of this trip I am startled to find you still with me. But beware, the thrill to unknown roads and destinations like this one has remained, thanks to all your carrots and sticks.

Hadewych Hazelzet

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## Abstract

To what extent, in both words and deed, do human rights matter in the foreign policies of Western liberal states? This dissertation compares E.U. and U.S. reactions to human rights violations from 1989 to 2000. Through quantitative and qualitative techniques, I created an entirely new data set on positive and negative measures in reaction to human rights violations. I focused on three broad factors that determine state behaviour: interests, norms and institutions.

The dissertation shows that countries with severe human rights violations and/or dictatorships are likely to be subjected to sanctions, irrespective of their strategic or economic importance to the West. A considerable number of states are never sanctioned for violating human rights, but these countries tend to be liberal democracies, allies and at peace.

I found that the differences between the E.U. and the U.S. are negligible with respect to the use of punitive measures, but striking when it comes to the use of positive measures. The E.U. uses a combination of “carrots” and “sticks”, while “engagement” essentially means free trade and little else for the U.S.

I argue that the institutional set up of the E.U. and the U.S. political systems can largely account for the differences in their reactions, while their common adherence to liberal norms can account for the similarities. Historically and institutionally speaking, it is easier for the E.U. to decide on positive measures than on negative measures. The institutional set up of U.S. sanctions policy, in contrast, favors the use of sticks, given the role of Congress in the decision-making and the small constituencies which favor positive measures.

The findings, which largely undermine Realism and support Liberalism and Constructivism, challenge the conventional wisdom in the field, both among scholars and in the wider policy world according to which Western states pursue rather inconsistent human rights policies.

## **Disclaimer**

This thesis is written on a strictly personal basis.

The views and findings are the writer's own and do not represent any institutional affiliation.

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**On file with author and European University Institute,  
available upon request:**

- 1- Data on E.U. and U.S. Sanctions 1989-2000 (Excel, SPSS, Stata files)
- 2- Case Book plus coding of E.U. Sanctions 1989-2000 (pages 1-65)
- 3- Case Book plus coding of U.S. Sanctions 1989-2000 (pages 1-55)
- 4- List and Transcripts of Interviews and Conferences 1998-2000 (106 total).



## Chapter 1. Comparing E.U. & U.S. Sanctions: an Introduction

### 1.1 The Puzzle: Carrots or Sticks?

As we enter the third millennium, major violations of human rights remain a recurrent phenomenon, despite the condemnation of such atrocities by Liberal states. With relatively few foreign policy tools beyond foreign economic instruments, the threat to impose punitive economic measures now is increasingly used as an instrument to enforce broader foreign policy goals. Promoting respect for human rights figures prominently among these goals. Literature on sanctions reveals, however, that sanctions are not very effective tools of foreign policy. On the contrary, sanctions often increase hardship for the population while providing opportunities for the leaders to strengthen their political and economic control. Why, then, are sanctions still imposed?

These continued violations occur at a time when Western Liberal states are emphasizing the respect for human rights in their foreign policies. Both the U.S. and the E.U. have, by now, comparable legal provisions in place, yet, their reactions to human rights violations have not been the same across targets and over time. Their diverse approaches to sanctions and the extra-territorial impact of the instrument has caused major tensions in transatlantic relations and provided dictators with opportunities to play the E.U. and the U.S. off of each other.

Though human rights abuses are often condemned, retaliatory measures are only sometimes put into action. The E.U. gradually introduced a human rights clause in the nineties in order to facilitate prompt responses to serious violations of human rights. The European Parliament was proud to announce that “[i]n pursuing this policy we must be aware that the European Union has now evolved the most highly developed form of human rights policy in third country agreements that exists, to be compared only with developments which have taken place in the U.S. since the adoption of the Foreign Assistance Act in 1966.”<sup>1</sup> Nonetheless wary, the European Parliament added: “it is however important that ..[it is] applied with equal

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<sup>1</sup> EP Working Document, 11 October 1995, p. 4-5.



rigor to each of the E.U.'s partner countries'. A decade after the first attempts to link human rights performance to trade, the clauses have not always been used as grounds for suspending or otherwise not granting trade preferences. At first sight, the cases in which sanctions were imposed do not seem to be examples of application with 'equal rigor' against 'partners'.

The European Parliament (EP), which is extremely active in defending human rights and has the right to assent to external agreements has repeatedly asked the Commission which, if any, are the determining criteria for the imposition of sanctions. For the same purpose it has also requested annual country reports. Without focusing on any one country, the Council introduced an annual human rights report in 1999.<sup>2</sup> According to a European Commission official there are no criteria or guidelines for whether and when to resort to positive or negative measures beyond 'a wet finger in the air'.<sup>3</sup> Another official declared that there are no criteria because the Commission does not think that would be useful, since every case depends on the country and the situation.<sup>4</sup>

For the U.S., the situation is somewhat different. Because U.S. Presidents had often turned a blind eye to human rights violations in the 1970s, Congress started to legislate automatically triggered sanctions in reaction to certain violations. Voices to revise these bills have gained in importance over the last few years.

Are there are hidden criteria in place? Is the policy consistent or arbitrary? It is easy to see that not all human rights violating regimes are punished by negative measures, nor are all countries that respect them rewarded by positive measures. When does it pay to respect human rights and when does it hurt to violate them?

In order to answer these questions, I have divided my analysis into two main parts: a qualitative analysis of the impact of institutions in E.U. and U.S. decision-making on sanctions and a quantitative analysis of the determinants of sanctions.

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<sup>2</sup> <http://www.consilium.eu.int/pesc/default.asp?lang=en>

<sup>3</sup> Interview records 68 and 69, 17 December 1998.

<sup>4</sup> No official track record exists of countries upon whom sanctions have been imposed in the past, although several informal lists do exist and officials working at other services look forward to such a list as a source for drawing up some consistent guidelines for suspension of aid, trade and financial relations. Interview record nr. 68, 17/12/98, record 69, 17/12/98. Also at

The qualitative analysis explores the difference between the E.U. and the U.S. in their employment of carrots, sticks or mixed strategies. Domestic institutions matter in this respect: the Legislature has more power vis-à-vis the Executive in the U.S. than in the E.U., which bears on decisions concerning both positive and negative measures. Also, the political systems grant different levels of access to special interest groups, which tend to be better organized in the U.S. Up to now, the U.S. Congress has tended to institutionalize harsher sticks and to use military rather than economic inducements. In contrast, it is easier for the E.U. to agree on carrots than on sticks. Still, the E.U. desire to become an international actor of importance and a change in its decision-making procedures has led to a more frequent use of negative measures.

The quantitative analysis of reactions to human rights violations across targets from 1989-2000 indicates that human rights norms do figure prominently in external economic relations of both the E.U. and the U.S. Contrary to findings from qualitative studies covering earlier decades, as well as to the conventional wisdom among scholars and policymakers, I found that security and economic importance do not shield human rights violators from being subject to sanctions in the nineties. For both of these governments, responses to human rights violations are now more than just rhetoric.

## 1.2 Research Question and Design

The underlying question of this dissertation is the following: under which conditions do Western liberal democracies put their human rights ideals into practice in their foreign policies? I try to get at this question by examining how the E.U. and the U.S. use economic measures as a tool to punish or discourage human rights violations.

The imposition of sanctions shows resolve and commitment to human rights, especially as the sanctions, whether positive or negative, can be costly to the

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a national level, there do not seem to circulate such criteria in order to prepare the national position of a member state. Interview record nr. 70, 18/12/98.

sender country.<sup>5</sup> As a policy measure, sanctions provide an option between the extremes of doing nothing and conducting a military intervention. I select the E.U. and the U.S. since both are world powers that have the resources to use sanctions as a bargaining tool, and because both are very outspoken about their commitment to universal human rights.<sup>6</sup>

The central empirical questions of this dissertation are: under which conditions do the E.U. and the U.S. impose sanctions in reaction to human rights violations, and what explains: (1) the general variation in types of measures across targets and over time and (2) the particular variation in types of responses between the U.S. and the E.U. over time and across targets?

I define sanctions as the use of political and economic measures for foreign policy reasons. More specifically, sanctions constitute an act by a nation-state or coalition of nation-states, called the *sender*, to induce political change in another nation-state, called the *target*, either by disrupting political and/or economic exchange, or by offering incentives or mixed strategies.<sup>7</sup> In my opinion economic statecraft thus has two components: positive measures ('carrots') and negative measures ('sticks'). I designed two scales to measure possible types of reactions, which range from 'no reaction' to either total closure of all relations (the "sticks scale")<sup>8</sup> or to 'full co-operation' (the "carrots scale"). Using mixed strategies, or both carrots and sticks, to persuade the target to change is sometimes called "engagement".<sup>9</sup> In the general literature, the conceptual and empirical analysis of

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<sup>5</sup> Positive measures can be costly because they involve financial transfers of development or military assistance, or diplomatic efforts. Negative measures can be costly directly and indirectly because they involve the disruption of economic, diplomatic and/or military relations.

<sup>6</sup> The E.U. currently does not have many other foreign policy instruments besides sanctions, but the commitments set at the Helsinki European Council in December 1999 envision a comprehensive range of instruments for the near future, with a combination of military and civilian capabilities added to its already existent diplomacy, and extensive program of development assistance and humanitarian aid. Javier Solana, Hendrik Brugmans memorial lecture on 'E.U. foreign policy', Bruges Town Hall, Wednesday 25 April 2000.

<sup>7</sup> This definition partly follows Drezner (1999: 2). To understand E.U. sanctions it is essential to take conditional economic agreements into consideration which grant conditional financial benefits by contract. I thus include cases in which positive measures were used to induce the target to acquiesce a political demand. I only consider the actually imposed sanctions, not the threats to impose them, and also include political sanctions such as visa bans or the disruption of diplomatic, athletic or cultural relations. Sanctions imposed to protect domestic industries or as a tactic in trade negotiations are excluded from my definition, since they have no direct political importance to international relations, nor aim for fundamental political change in the target regime. See also Ellings (1985: 5, 7-8).

<sup>8</sup> I speak of 'harsh sanctions' when all relations are closed (hence, when the imposed measure has the highest value on the 'sticks' scale).

<sup>9</sup> Haass and O'Sullivan (2000: 2) write that "the distinguishing feature of engagement strategies is their reliance on the extension or provision of incentives to shape the behavior of countries with which .. [a state] has important disagreements". The Center for Strategic and International Studies (1999: 20) also includes non-governmental, and private interactions in its definition and underlines that the goal is to formulate 'mutual interests'. I limit my definition to governmental actions, and include financial assistance.

negative measures is more advanced than that of positive measures, which is also true in this thesis. Yet, a systematic attempt is made to improve our understanding of the use of carrots and mixed strategies. I define positive measures as conditional economic assistance to induce change.

This research centers on the years after the end of the Cold War, 1989 to 2000. Statistical research on sanctions has not covered this period yet, while case study research has mainly explored only a few extreme cases. In 1989, the fall of the Berlin Wall, marked a watershed year for international relations. The end of Communism enabled the West to focus their foreign policies on issues that were not directly related to security, such as respect for human rights. The Security Council of the United Nations (U.N.), no longer paralyzed by the East-West divide, imposed a record number of sanctions in the nineties. The Chinese massacre on Tiananmen Square in June of that same year has often been singled out as a test case for the price Western liberal powers are willing to pay for their human rights rhetoric. Although not formally tested here, the nineties do form a measuring stick for change and continuity in international relations compared to the period before 1989 and the prominence of human rights norms therein, both in theory and practice.

In this dissertation I use qualitative and quantitative methods to test hypotheses derived from four major debates in international relations (IR). I seek to assess which hypothesis explains the greatest number of sanctions, and to identify the conditions under which the hypotheses are likely to apply across targets. Current theories in International Relations suggest three groups of variables relevant to explaining EU and US reactions to human rights violations, namely interests, norms and institutions. Neorealism suggests explanations rooted in the role of security and economic interests. Neoliberal Institutionalism and Liberalism point to the impact of international and domestic institutions respectively. Liberalism and Constructivism suggest inquiry into the impact of liberal norms. These three approaches will each be tested later in the analysis. The main finding of this dissertation is that the human rights norms trump both security and economic interests.

Statistical analysis of all sanctions imposed in the last decade shows surprisingly little difference between E.U. and U.S. negative measures, but large differences in positive measures. I argue that the differential access to decision-making with a weak Parliament and divided executive in the E.U. and a strong Congress and strong executive in the U.S., accounts for the variation in approach of these sender states, despite their similar rhetoric. The Commission has more power in the domain of positive than negative measures, though it has gained in influence with the successive Treaties. The potential for strong E.U. reactions to human rights violations has increased with the Commission's right of initiative and a change from unanimity to qualified majority voting in the Council for some types of measures. The European Parliament can be decisive only in very limited cases. In the U.S., Congress has an important say in both positive and negative measures while the President has a right to veto legislation or to issue executive orders to impose sanctions. In the late nineties, the Republican-led Congress began to consider changes in sanctions legislation, which would decrease flexibility and initiative for the Executive vis-à-vis Congress.<sup>10</sup> The different nature of the political system makes quick responses and credible threats far more difficult for the E.U. than for the U.S.

An important change in the transnational discourse on sanctions helps to explain the variation in types of measures over time. Obviously, the expected efficacy of a policy tool should be an important determinant of its imposition. However, the question of which strategy -carrots or sticks- best contributes to the promotion and protection of human rights became disputed on both sides of the Atlantic. First of all, the negative effects of sanctions gained more attention. For example, the humanitarian effects of the sanctions against Iraq created doubts about whether sanctions were the 'peaceful, silent remedy' which Wilson had envisioned at the beginning of this century. Koffi Annan, Secretary General of the U.N., called sanctions "too often a blunt instrument that may impose hardships on a civilian population that are disproportionate to likely political gains".<sup>11</sup> One author even spoke of sanctions as a 'genocidal tool' (Simons 1996, 1998). At the same time, the principle that respect for human rights is not just essential to liberal

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<sup>10</sup> For more on policy making in divided governments, see Martin (2000).

democracies but universal and that violations can not go unanswered, seemed to have become undisputed in the Western world. This left both human rights advocates and business groups at loose ends. Politicians and business(wo)men alike felt the pressure of their constituents to pay more than lip service to human rights. Human rights advocates were resolved to act, yet reluctant to accept the side effects of the measures proposed. Business groups, in a similar vein, were reluctant to accept the consequences of their engagement rhetoric and commit to substantial and independently monitored codes of conduct. However, while the business community's interests were served by the argument that increased rather than reduced commerce improved respect for human rights, human rights advocates saw themselves deprived of an important means to pressure authoritarian regimes. At the same time, they recognized that these same tools violated the social and economic rights of an already vulnerable population.

Two concepts seem to have resolved these diverging concerns and interests. First the concept of *constructive engagement*, or critical dialogue, which sought to combine elements of negative pressure with stimuli for positive change. Secondly, the debate on sanctions, and subsequently the policy itself, altered its focus from indiscriminate to targeted sanctions, retrospectively called 'blunt' and 'smart' sanctions. In little more than a decade we saw the support for a total embargo against Iraq erode and be replaced by pressure to spare the population while still attacking the regime – especially in its capacity to develop weapons of mass destruction.<sup>12</sup> Research on sanctions imposed in the nineties thus needs to take both positive and negative measures into account in order to capture the change in thinking on how best to induce change in illiberal polities.

Data and background information were collected through consultation of previously gathered data, an extensive literature review, and numerous interviews with officials and experts both in the E.U. and the U.S. An entirely new data base

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<sup>11</sup> Report to the Security Council, 16 April 1998.

<sup>12</sup> Iraq has been allowed increasing oil sales under the 'oil for food' program. Its oil revenue has surged to 18 billion U.S. \$ in 2000 from 4 billion U.S. \$ in 1997. Late May 2001, the U.N. Security Council voted against a major overhaul of the system towards 'smarter sanctions' in return for increased control of military and dual use material in the absence of consensus on the list of goods and exemptions (International Herald Tribune, 4 July 2001; NRC Handelsblad 22 May 2001). The 'energy for democracy' initiative for the Federal Republic of Yugoslavia was another attempt in this direction: it delivered oil only to cities which were controlled by the opposition in the winter of 1999. Council Regulation (E.C.) No 2111/1999 of 4 October

was thus constructed, and the explanatory variables derived from the theories were measured in as transparent and straightforward a way as possible. Analysis was conducted using the statistical packages STATA and SPSS. The benefit of employing quantitative techniques in research on sanctions comes from the capacity to assess the importance of one explanation while simultaneously controlling for other factors. This is an important advantage compared to qualitative comparative case study research .

### 1.3 So What?

Why would one look at trade to investigate responses to human rights violations and the role of norms in foreign policy? There are several inter-linked reasons. For a long time, economic measures seemed to be relatively harmless responses to human rights violations, especially when compared to military intervention. The humanitarian consequences, however, were poorly understood and even neglected, despite the huge literature on the economic effects of sanctions.<sup>13</sup> Now that the harsh implications for the populations of target states have finally received more attention, and that most of the literature has concluded that sanctions are generally not very effective, the reasons why and when sanctions are nevertheless imposed are important to understand. A systematic and empirical study of whether and why certain types of sanctions have been imposed across targets and over time, may help to sharpen the strategies of NGOs and businesses alike.

Many human rights advocates have the idea that, in this time of globalization and increased interdependency, trade measures are an important tool for enforcing better human rights policies.<sup>14</sup> NGOs, such as Amnesty International, that serve to expose human rights abuses instead of pressure for specific policy responses, do tend to build up a feeling that 'something should be done', which until recently often implied negative measures.<sup>15</sup> Other NGOs, such as Human Rights Watch,

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1999 prohibiting the sale and supply of petroleum and certain petroleum products to certain parts of the Federal Republic of Yugoslavia (FRY) and repealing Regulation (E.C.) No 900/1999, *Official Journal L 258*, 05/10/1999 p. 0012 – 0018.

<sup>13</sup> For accounts on the effects of sanctions on the population of the target state, see Gibbons (1998), Normand (1998), Hazelzet (1996, 1998, 1999b), The Christian Century (1998), Gordon (1999a, 1999b, 1999c), Winkler (1999), Lopez (1997, 1998, 1999a, 1999b). For an overview of international law and standards that sanctions regimes arguably should adhere to, see <http://www.globalpolicy.org/security/sanction/lawstds.htm>, retrieved 30/5/00.

<sup>14</sup> See for instance Keck and Sikkink (1998: 23, 201).

<sup>15</sup> Tomashevski (2000:122) attributes the raise in sanctions to the activities of human rights NGOs.

have explicit stances on sanctions but judge them on a case by case basis.<sup>16</sup> We also see an increasing number of NGOs exerting pressure on governments and Multinational Enterprises to impose sanctions and withdraw their investments from countries that violate human rights, or to introduce ethical codes for products that induce conflicts, such as diamonds and small arms. While withdrawal encourages investors to distance themselves from human rights violators, not much is known about its human rights effects. In fact, NGOs don't seem to be clear on what they are getting themselves into, and they have subsequently changed their strategies over the past decade. There is variation in the type and scope of the sanctions lobbied for, varying from total boycott to limited measures targeted at the elite - rather than the mass population- of the violating regime.

Businesses are also ambivalent about how to address human rights violations. On the one hand, they complain that the U.S. is 'shooting itself in the foot' with its allegedly unparalleled amount of sanctions, and argue that more liberalization in trade leads to more political liberalization. On the other hand they want to ensure their customers that their operations are 'ethically sound'.

Governments of potential target states also argue fiercely against any link between trade and human rights. This resistance contributed greatly to the failure of the WTO Ministerial Conference in Seattle in December 1999. With the next WTO round coming up in Doha, Qatar, Western governments are keen on giving the right signals to their counterparts in developing countries and shy away more and more from any 'sanctions' language.

Willingness to endure economic sacrifice shows a country's commitment to human rights ideals. The higher the cost the sender country is willing to pay, the more credible its policy stance towards the target and its allies. Trade measures are indeed increasingly used in the nineties to enforce broader foreign policy goals.<sup>17</sup> Some argue that it is tempting for policy makers to turn to trade relations as a

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<sup>16</sup> See the testimony for Congress, 8 September 1998, by Kenneth Roth, executive director of Human Rights Watch. <http://www.hrw.org/hrw/press98/sept/sanct909.htm>

<sup>17</sup> As far as multilateral sanctions are concerned, in the first four decades of the U.N., multilateral sanctions were imposed by the U.N. only twice, against Southern Rhodesia in 1966 and against South Africa in 1977 (Lopez, 1995: 5, van Bergeijk 1995a). In the nineties the U.N. has imposed sanctions against many countries (see table in Chapter 2). Donnely (1991: 36),



political weapon because it would be a relatively *cheap* instrument, with the costs transferred to domestic business and the population in the target country.<sup>18</sup> Though trade cuts mean a loss of new markets, declining aid spending means more money in the coffers of the sender state. However, arguments on the costs of sanctions are in flux. In the U.S. the discussion is more focussed on the economic costs of sanctions to domestic industries, a debate that ironically started during a period of sustained economic growth.<sup>19</sup> On the other hand, sanctions have been imposed against relatively important trading partners, which suggests the existence of other reasons underlying sanctions. *Aid* made conditional upon the respect for human rights has been widely studied in opposition to conditional *trade*.<sup>20</sup>

Why is it important to study the conditions under which different reactions to human rights violations are pursued? There are several reasons. The policy of 'isolating' a country versus developing a 'constructive dialogue' -as the E.U. prefers to call it- not only points towards a different kind of relationship between the countries involved, but also leads to different results.<sup>21</sup> Isolation easily leads to a 'rally-around-the-flag' effect which supports rather than weakens the dictator, though if the stick and the carrot are big enough, there may be some *ad hoc* human rights improvements like the release of prisoners. It is not well known whether continued relations lead to improvements with respect to human rights, although some scholars are starting to provide evidence favoring 'honey' to 'vinegar'.<sup>22</sup> Of course, the business community is keen to point out that continued

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Hassner (1991: 57). See also Advies Commissie Mensenrechten, on 'Human Rights and International Economic Relations' (1991).

<sup>18</sup> Pomfret (1986: 104)

<sup>19</sup> Whereas Martin found that 'the vast majority of sanctions are costless or nearly so' (1992: 60), there is an increasing literature on the hidden costs of sanctions to the sanctioning state in terms of foregone jobs and export earnings. See for instance [www.usaengage.org](http://www.usaengage.org) (a webpage organized by a coalition of businesses against sanctions), Helms (1999), Elliott (1998), O'Quinn (1997). Drezner's analysis (1999) confirms that sanctions are not necessarily costly to senders. The Committee on Ways and Means of the U.S. House of Representatives commissioned a study by the International Trade Commission on the costs of sanctions for U.S. industries, who found that mainly agriculture, and energy sector felt hurt, but that due to the fact that many sanctions are imposed against relatively small market states, the overall costs are minor (1998: 3-2 – 3-4).

<sup>20</sup> On aid, see for instance: Tomasevski (1989, 2000); Moore and Robinson (1994), Poe (1990), McCormick (1988), Cingranelli and Pasquarello (1985), Palda (1993), Hofrenning (1990), Schoultz (1981), Hoffmeister (1998). On trade, see the legal analyses of Brandtner and Rosas (1998), Riedel (2000). The collection of articles in Meijer (1998) are exceptional in their interdisciplinary approach to human rights and trade. See also Haass and O'Sullivan (2000).

<sup>21</sup> On the effects and dilemmas of linkage, see case study on Chile, Ethiopia, Kampuchea, Sri Lanka and Haiti in Tomasevski (1989: 69-78). Tomasevski (1989: 79) is steady in her conclusion that 'the impact of reducing or cutting off aid seems to have negative rather than positive implications on human rights in the countries concerned. This confirms that people are being punished for the sins of their rulers'.

<sup>22</sup> Haass and O'Sullivan, 2000

free trade leads to more freedom.<sup>23</sup> The U.N. also pleads for continuing relations in response to human rights violations and promotes the positive over the punitive approach.<sup>24</sup>

Apart from their effects, however, the two kinds of responses have rather opposite moral connotations. Cutting off contacts implies a strong moral condemnation of 'the sins of rulers' as well as a commitment to act, though the action could lead to suffering of the most vulnerable sections of the population in the target country. Maintaining relations, despite the trade partner's human rights violations, implies ignorance at best, and complacency at worst.<sup>25</sup> The moral argument is heavily downplayed, if not outrightly ignored in many recent publications produced by U.S. think-tanks.<sup>26</sup>

The dilemma posed to the international community as to whether and how to react to human rights violations with sanctions has received less attention than the question of whether sanctions are successful once they are imposed.<sup>27</sup> Why are sanctions considered in the first place, if, from an economic or power politics perspective, they are rarely proven effective? Moreover, why such concern when human rights are traditionally regarded either as a domestic affair, or, at most, as a soft issue in foreign affairs? The 'effects' and 'effectiveness' of sanctions are usually measured by the extent of positive change in the behavior of the target

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<sup>23</sup>Some preliminary statistical analysis found indeed that there is an association between foreign economic penetration (measured as FDI and portfolio investment) and government respect for two types of human rights, physical integrity rights and political rights and civil liberties (Richards, Gelleny and Sacko, 2001). Case selection and measurements deserve further scrutiny however. For business arguments, see for instance Bory (1995) in *Business Week*; Canes (1997) on impact of oil sanctions on behalf of the American Petroleum Institute; Fites (1997) for the Center for the Study of American Business. For further studies by the Cato Institute, The Heritage Foundation, the European-American Business Council, the Emergency Committee for American Trade, The Center for Strategic and International Studies, The Brookings Institution, the American Association for World Health, the Energy Intelligence Group, see <http://usaengage.org/resources/studiespapers.html#Studies!>

<sup>24</sup>Tomasevski (1989: 65)

<sup>25</sup>See Hoffmann (1991, 1996, 1997), Fislser Damrosch (1994), Gibbons (1999), Clawson (1993), Zohar (1993), Normand (1999), and Hazelzet (1999) on the (un)ethical aspects of sanctions. There are some studies on whether these policy intentions linking human rights to aid and/or trade are actually pursued. The policy is best documented for the U.S., with the conclusions that it has been applied arbitrarily: Schoultz (1981), Cingranelli and Pasquarello (1985), Palda (1993), Hofrenning (1990), Poe (1990).

<sup>26</sup>See for instance Preeg (1999): 'feeling good or doing good with sanctions'. Many of these studies support the arguments of USA\*Engage, some of them were in fact commissioned by it. Interview record 71, 2 November 1999. See footnote above.

<sup>27</sup>Exceptions are the recent publications of Cortright and Lopez (2000), Baldwin (2000), Drezner (1999). Earlier works by Blessing (1981) and Ellings (1985) also sought to explain sanctions initiation. Ellings main focus is on the impact of changes in the structure of international states with the declining hegemony of the U.S. His statistics are not very clear. Martin (1992) researches the conditions under which states cooperate to impose sanctions and what the role of the Legislature is in increasing credibility (2000). Indirectly, she thus deals with the question of when sanctions are imposed at all. She uses data on the successfulness of sanctions since she reckons that the expected success of the measure is an important element for states when they decide on the imposition of sanctions. Klotz (1996) researches the imposition and success of sanctions against the Apartheid regime in South Africa. The generalizability of the lessons from this one particular case in this particular moment in time to other cases remains, however, to be seen.

regime. But why are certain human rights violating regimes sanctioned more harshly than others, which may not experience any sanctions at all? Ironically, sanctions are mostly imposed on countries where the least results are expected, i.e. dictatorial states (van Bergeijk, 1999; Crumm, 1995) or adversaries (Drezner 1999).

Even less is known about when and how states choose between carrots or sticks<sup>28</sup> and not acting at all. Sanctions are probably not imposed against those countries possessing characteristics usually associated with a high likelihood of success in the first place. But it is very unlikely that sanctions are randomly imposed. The few studies that have looked at the causes of sanctions imposition do not consider cases where no sanctions were imposed. Despite the fact that including the non-cases poses methodological challenges, leaving them out leads to a selection bias that prevents us from understanding the variation in the types of measures imposed (from doing nothing to harsh punishment or lucrative incentives to induce change). Previous qualitative studies on sanctions have drawn distorted conclusions on the basis of an analysis of a few rather extreme cases. This thesis seeks to address these omissions through the analysis of a large data set and by inclusion of instances of human rights violations to which the E.U. and the U.S. did not react at all. Given the large variation of cases on economic and strategic dimensions, it is extremely difficult –if not impossible- to make an unbiased case selection for qualitative research. Indeed, it is virtually impossible to hold one variable, say economic interests, constant while controlling for other possible explanations in any qualitative research design. Can we compare cases like China, Nigeria, Iraq and Russia with cases like Niger, Haiti, Cote d'Ivoire and Fiji? The qualitative studies on sanctions all too often focus on the extreme cases that draw a lot of public and political attention. Again, this may bias the generalizations about the targets and origins of sanctions. There are numerous cases involving smaller countries or less-publicized violations in which more subtle measures were imposed. Mainstream International Relations (i.e. Realism) has always claimed the primacy of power politics over norms. If countries are not targeted precisely

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<sup>28</sup> Again, Drezner (1999) is a notable exception. See also van Bergeijk (1994).

because they are obeying human rights norms already, the conventional Realist wisdom becomes meaningless.

#### 1.4A Positive versus a Negative Approach

Why compare *E.U.* and *U.S.* responses to trade measures in reaction to human rights violations rather than other (collections of) states? Apart from the fact that they are both liberal democracies, these two economic actors make up the lion's share of world trade and, hence, have the leverage to link trade to other foreign policy goals, such as human rights. An additional reason to focus on the *E.U.* is that most studies have predominantly focused on American foreign economic policies, leaving European policies a relatively unexplored area.<sup>29</sup> This is unfortunate, especially since there seems to be a lot of misunderstanding about *E.U.* sanctions, that has led to accusations of the *E.U.* being 'soft' on human rights.<sup>30</sup> Indeed, the extra-territorial measures of the *U.S.* were partly inspired by forcing other regimes to follow the *U.S.* line of isolation.<sup>31</sup> This attitude has of course sparked enormous criticism and countervailing measures.

Finally, the literature has concentrated mostly on *U.S.* and *U.N.* sanctions, leaving the *E.U.* approach to sanctions an unexplored territory. Again, this had led to a serious sample bias in sanctions research. The whole definition of sanctions, that often excludes the discontinuation of development aid, does not fit *E.U.* policy well and needs revision. Finally, Europe's approach to conditional trade deserves investigation on its own terms. A focus on Europe may teach us something about interstate co-operation on a highly sensitive issue since conditional foreign economic policy lays at the cross-roads of clashing concerns. One would not expect linkage of a core policy area of the *E.U.*, namely commercial policy, to a

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<sup>29</sup> Virtually all studies on sanctions mean *U.S.* when they say 'sender'. Even the qualitative studies that do not directly use the HSE data, focus on *U.S.* sanctions such as the Cuba embargo, or the *U.S.* withdrawal of MFN to China. Two recent edited volumes by Richard Haass (1999, 2000), contain mainly one case study on *E.U.* policy, namely its policy of 'constructive engagement' to Iran. The reasons of a prevalent focus on the *U.S.* are practical as well as theoretical: the field of international political economy is further developed in the *U.S.* and the *U.S.* has historically been more active in using trade sanctions for foreign policy reasons. The Common Foreign and Security Policy of the *E.U.*, in contrast, is very young. For *U.S.* foreign economic policy, see for instance Lake and Mastundano 1988. On foreign economic policies of various small European countries (thus not the *E.U.*) see Katzenstein (1985).

<sup>30</sup> Conference record 84, 4/1/99: "Economic problems *E.U.* drive their mercantilist foreign policy. It is driven mostly by profits." Conference record 82, 4/11/99: "E.U. business deals are sweetheart deals with the repressive regime. *E.U.* diplomats don't do much about human rights."

soft issue like human rights. Trade measures as a means to enforce broader foreign policy goals raises major policy debates within the U.S., the E.U., and among E.U. Member States and involve a broad range of actors.<sup>32</sup>

In what ways are E.U. and U.S. reactions to human rights violations similar or different? Are the E.U. and the U.S. actually similar enough to compare? I argue in Chapter three that E.U. and U.S. decisions on the imposition of sanctions in reaction to human rights violations are comparable, despite some obvious differences. Sanctions can be a power struggle between the Executive and the Legislature on both sides of the Atlantic because they partly belong in the domain of external economic policies and partly to foreign and security policy. Whereas the U.S. Congress has more influence in foreign affairs than the European Parliament, both powers grant most power to the Executive (the Council in the E.U., the President in the U.S.). Even though the E.U. has a short history of sanctions, procedures and policies concerning external economic relations and human rights have been in place since 1987. Individual American states arguably have had more leeway to impose sub-federal sanctions in the last decade than have the Member States of the E.U. Therefore, for the period under consideration here, E.U. sanctions are comparable to U.S. sanctions.

Though both the U.S. and the E.U. now have comparable legal provisions in place, we can immediately delineate the different approaches the two powers take to economic sanctions. In the past, the U.S. has not only been more active, but also more extreme in its reactions to human rights violations: they either took no action at all or cut off all relations. Some simply state that U.S. foreign policy is first and foremost about threats, while the European foreign policy agenda is much broader.<sup>33</sup> Tomasevski speaks of the 'punitive' versus the 'promotional' approach

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<sup>31</sup> See Falke (2000) on E.U.-U.S. conflicts over sanctions. Also Daalder (2001). Extra-territorial measures to force other countries to comply with U.S. legislation are in fact nothing new. Reagan initially imposed them to make Europe join the pipeline sanctions, but without success. See Ellings (1985:99) for more examples.

<sup>32</sup> More time and resources would have permitted me to add Japanese trade measures in reaction to human rights violations to the comparison. Japan, until recently, did not publicly react to human rights violations in general, as far as I know. For example, we see Japan eagerly capturing the Burmese market at a time that both the U.S. and the E.U. withdraw trade preferences, co-operation and firms from this military ruled country. See for instance (O'Quinn 1997: 9). Ellings also notes that Japan is "notably absent" among rank of sanctioning countries (1985: 125). Adding Japanese trade reactions would have increased the variation on the dependent variable and would have made for an interesting comparison between the active stance of the U.S. on the one hand, the 'mixed' stance of the E.U. in the middle and the passive stance of Japan on the other hand.

<sup>33</sup> See Daalder (2001: 559). He does not go into explanations of why this may be so.

(1989: 50).<sup>34</sup> Indeed, the E.U. openly and increasingly favors positive approaches to negative approaches in its reactions to human rights violations.<sup>35</sup> According to Lopez (1995: 5), between 1945 and 1990, the U.S. imposed three times more sanctions than all other economic actors combined and acted unilaterally in three-quarters of the cases involved. Some –especially those driving sanctions reform in the U.S.- argue that the same is true for the nineties.<sup>36</sup> One leading sanctions expert, Elliott, however refutes the evidence for such claims.<sup>37</sup> Doxey (2001:209) states that “enthusiasm for sanctions.. is greater in the United States than elsewhere... but European governments have never been keen sanctioners”. Much, of course, depends on how one measures sanctions.<sup>38</sup> If one counts the average strength of sanctions instead of their absolute number, and if one focuses on the nineties only, a different picture emerges.

Considering Figure 1-1 below, it appears that while the average level of U.S. and E.U. negative measures in reaction to human rights violations differed little over the past decade.<sup>39</sup> The real difference is in their use of carrots. True, while in the seventies and eighties the U.S. imposed an increasing amount of sanctions, the E.U. was neither interested nor legally capable of using this instrument. When the Cold War was at its height, the E.U. did not follow the U.S.’s example of using trade as a foreign policy instrument against Poland (1981), Iran and the USSR

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<sup>34</sup>With punitive is meant that the U.S. makes ‘no mention of the promotion of human rights through aid. The sole method of applying human rights considerations that is envisaged is the punishment of governments whose human rights record has been negatively assessed, and that by the U.S. herself.’ For the ‘promotional’ approach, a policy is meant which ‘aims to create conditions for the realization of human rights. An explicit objective is to reach the poor and powerless, and to assist them to assert and exercise their rights. .. also .. a reduction or discontinuation of development aid on human rights grounds .. to ensure that aid does not contribute directly to the perpetuation of repression’ (Tomasevski, 1989: 52-53).

<sup>35</sup> Whereas the resolution on human rights, democracy and development adopted by the Council and the Member States on 28 November 1991 still sets out the guidelines, procedures and practical measures, this type of language that favors a positive over a sanctions approach can be found in most recent Community legislation: “Community action to promote human rights and democratic principles is the product of a positive and constructive approach in which human rights and democratic principles are seen as a matter of common interest for the Community and its partners, and as a subject for dialogue that can produce measures to promote respect for these rights and principles. Council Regulation (E.C.) No 975/1999 of 29 April 1999, OJ L120, 08/05/1999, p. 1-7. Whereas 10 and 11. Communication from the Commission on promoting core labor standards and improving social governance in the context of globalization, adopted on 18 July 2001 by the Commission speaks out against “sanctions based trade policy”.

<sup>36</sup> National Association of Manufacturers, 1997. <http://www.UsaEngage.org>

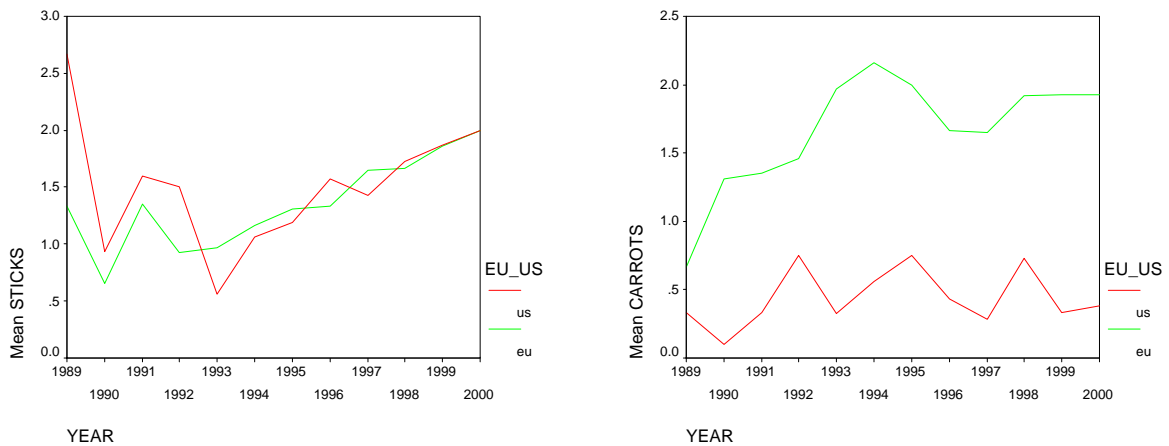
<sup>37</sup> Elliott (1998) speaking during a hearing testimony on May 14, 1998, before the Committee on Ways and Means, transcript in: International Trade Commission (1998: 1-5).

<sup>38</sup> A considerable debate is going on, especially in the U.S., as how many sanctions the U.S. has actually imposed over the past decade, in large part sparked by the report of the National Association of Manufacturers (1998). See Helms (1998).

<sup>39</sup> On exact measurements see Chapter four. The sticks scale varies from 0-4, the carrots scale from 0-3. For data set see Annex to the dissertation. Bilateral measures of Member States are not included in this data set. Only sanctions in reaction to human rights violations are measured, including sanctions for reasons of terrorism or use of nuclear weapons since they form a threat to human kind.

(1979).<sup>40</sup> Nonetheless, the Member States did co-ordinate their sanctions against Pakistan (1979), Turkey (1981), Argentina (1982) and Israel (1982).<sup>41</sup>

Figure 1-1. E.U. and U.S. carrots and Sticks in the 1990s (mean).



Generalizations based upon E.U. and U.S. approaches towards human rights during the Cold War period may miss the mark today. Are reactions to human rights violations of these Western powers still that different, and if not, what accounts for the convergence of their use of carrots and sticks today? Whereas the breakdown of Communism clearly contributed to increased agreement on sanctions, the absence of a common threat also allowed more leeway for both powers to assert themselves. In this period, we witnessed an intensified wish within the E.U. to strengthen its foreign policy identity. Measured by the number of harsh sanctions imposed for human rights violations, the E.U. became ‘tougher’ and the U.S. ‘softer’.

I argue that this convergence was due to the transformations in the debate on the efficacy of sanctions, and changes in decision-making procedures. With policy orientations shifting from isolation towards constructive dialogue (look at North Korea, China, Iran and, recently, even Cuba), the Clinton Administration started to follow the admittedly not very well publicized E.U.’s approach of using carrots and mixed strategies. In 2001, influential voices within the Bush Administration

<sup>40</sup>Steenbergen, 1989; Martin, 1992; Ginsberg, 1989, Ellings 1985.

<sup>41</sup> Ellings (1985: 125).

proposed scaling down the use of unilateral sanctions even further.<sup>42</sup> I argue that the institutional set up of the EU and the US political systems can largely account the differences in their reactions, while their common adherence to liberal norms and the E.U.'s determination to be an international actor of importance can account for the similarities. Historically and institutionally speaking, it is easier for the EU to decide on positive measures than on negative measures. The institutional set up of US sanctions policy, on the contrary, favors the use of sticks, given the role of Congress in the decision-making. Positive measures have a much smaller constituency. For the record, the E.U. and the U.S. both exempt humanitarian and emergency aid from sanctions, though the U.S. only recently exempted food from embargoes after heavy agricultural lobbies.<sup>43</sup>

Finally, studying why the U.S. and the E.U. pursue different policies in reaction to human rights violations deserves closer investigation purely because, as is clear from previous research, multilaterally co-ordinated sanctions enjoy more efficacy and legitimacy. If economic sanctions remain a policy instrument for in the next millennium, understanding the forces that prohibit multilateral co-operation may clear the way to more effective and legitimate responses to human rights violations.

## 1.5 Roadmap

How best to explain foreign policy reactions to human rights violations across targets and between the E.U. and the U.S.? I proceed as follows. Chapter Two reviews insights from the literature on International Relations, International Political Economy and human rights in foreign policy to seek explanations for the importance or non-importance of human rights in the foreign policy of Western Liberal Democracies. Literature on economic sanctions is discussed under the headings of these various IR theories in order to formulate specific hypotheses (summarized in Table 2-2, page 59).

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<sup>42</sup> An energy task force headed by Vice President Cheney issued a draft report calling for a review of economic sanctions on Iran, Libya and Iraq to ease the tight global market for petroleum. Washington Post, 20 April 2001. Secretary of State Collin Power plead "for gosh sake.. make them [sanctions] go away by the end of the year" during his confirmation hearing in Congress. The Economist, 18 July 2001.



Chapter Three describes the decision-making processes on sanctions in the E.U. and the U.S., and argues that these particular institutional arrangements and their development over time have a specific impact on the decision-making outcomes. The types of sanctions that were imposed against countries from 1989 to 2000 by the E.U. and the U.S. are listed.

Chapter Four outlines the methodological design and data collection underlying the thesis (summarized in Table 4-10, page 155). The ‘carrots’ and ‘sticks’ models are developed to explain the imposition and degree of positive and negative measures in reaction to human rights violations across targets. The ways in which the independent variables (interests, norms and institutions) are measured are also discussed.

In the Fifth Chapter, I use quantitative techniques to explore hypotheses that explain variation in sanctions across targets for the period 1989 to 2000. Here the power of principles is supported: the likelihood of being targeted by sanctions increases with the gravity of the human rights violations and the degree of illiberalism of the regime. Neither strategic nor economic importance prevent tough measures in the nineties, a finding which challenges Neorealism.

Chapter Six explores the variation in the E.U. and U.S. approaches, and shows that despite some differences in focus, the real variation is not in their use of sticks but in their use of carrots and mixed strategies. Differences are best explained by the variety in institutional arrangements between the E.U. and the U.S. It is suggested that the similarities can be explained by the liberal identity and regime type of both powers. Also, the changed discourse on economic sanctions, which evolved over the past decade from favoring ‘blunt’ to ‘smart’ sanctions has had an impact (summary of statistical findings in Table 7-1 on page 242). Finally, Chapter Seven discusses and summarizes the results of the quantitative analysis in light of the theoretical hypotheses that were derived from the literature and suggests avenues for future policy and research.

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<sup>43</sup> See for instance Martin 2000: 121-122. Record 87, 4/11/99.

## Chapter 2. Human Rights in IR Theory: Interests, Institutions and Norms

To understand the role of human rights in the foreign policy of Western Liberal States in general, and more specifically, to explain the imposition of economic sanctions by the U.S. and the E.U. in reaction to norms violations, we need to look at various bodies of literature, most importantly studies on international relations and economic sanctions. Obvious links between these bodies of literature notwithstanding, the two are rarely discussed together.<sup>44</sup> The aim of this Chapter is to discuss current theoretical insights and to derive testable hypotheses from each theory.

The major theories of International Relations are Neorealism, Neoliberal Institutionalism, Domestic structures arguments or Liberalism and Constructivism. We can delineate mainly three determinants for reactions to human rights violations or motivations of state behavior from these theories: interests (regional, economic and security), institutions (domestic and international) and norms (respect for human rights and the rule of law).

In brief, Neorealism would assert that the incidence and level of sanctions would be inversely related to the economic and strategic importance of a potential target state. Also, adversaries are more likely to be punished and less likely to be rewarded than allies. Neoliberal Institutionalism hypothesizes that sanctions tend to be harsher if they are imposed by a multilateral organization (namely the U.N.), and softer if they are unilaterally imposed. Moreover, as the level of institutionalization of relationships with third countries intensifies, the likelihood to be punished decreases.

Domestic structure or Liberal arguments point to the importance of regime type to explain variation in sanctions across targets: liberal states are more likely to target illiberal states with negative measures, and like-minded states with positive incentives. The difference in domestic structure is hypothesized to explain the

difference between the E.U. and the U.S. by having a bearing on the final decision-making, mainly through the difference in impact it grants to societal actors and the Legislature.

Finally, Constructivism provides some of the underlying causal mechanisms that constitute the previous hypotheses. Rather than posing rival claims, it asserts on a meta-theoretical level how the adherence to certain norms constitutes the liberal identity of Western Liberal states in the post Cold War era. The social -and not just the material- structure influences states' perceptions of who they see as friends or foes, and what they perceive as a threat or as a security interest. Reactions to norms violations are thus expected to be harsh, regardless of material interests.

Since these bodies of theory are very broad, at times I provide more detail in order to arrive at testable hypotheses. These hypotheses will be used first to explain the variation in type and level of sanctions across target states. Once the appropriate explanatory variables are identified, I use them as control variables against the (non-quantifiable) argument that the variation across the E.U. and the U.S. approach can be mainly explained by their differences in institutional arrangements and by the relative power of interest groups to change the debate on the efficacy of sanctions.

One could say that, apart from these substantial differences, the current theories explaining International Relations differ mainly on four accounts: (1) what is the nature of the main *structure* in which International Relations are embedded; (2) who are the main *agents* in the international arena (unitary actor assumption or not); (3) what is the dominant *mode of interaction* between these agents<sup>45</sup>, and finally; (4) what are the *determinants of change* in state behavior? Table 2-1 provides a typology of these theories. The differences on these four accounts lead to various explanations for the role of human rights in international relations.

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<sup>44</sup> Martin (1992), Klotz (1996) and Drezner (1999) are exceptions. Many studies on sanctions lack any kind of theoretical framework and are very descriptive or prescriptive (Lopez and Cortright 1995, 2000; Doxey 1999a, 1999b; Haass 1998, 1999), or are mainly econometric studies not linked to any IR theory (Hufbauer et al 1985, van Bergeijk 1994, 1995, 1999).

<sup>45</sup> Dominant mode of interaction refers to whether actors are interacting on the basis of materially determined, fixed, interests (as Neorealism, Institutionalism assume), or if they are willing to persuade and be persuaded on the basis of arguments that incorporate non-material and normative or ideational elements (Klotz 1995; Finnemore 1995; Keck & Sikkink 1998, Wendt 1999, Risse 1996, 1999; Checkel 1999).

Table 2-1. Comparison of main bodies of theory in International Relations

Theory	(1) Underlying structures	(2) Main agents	(3) Mode of interaction	(4) Explanation for change in state behavior
<i>Neorealism</i>	economic and geopolitical position in anarchical (self-help) state system. Material ontology.	State as unitary actor.	Instrumental rationality, fixed interests (exogenous).	distribution of material capabilities.
<i>Neoliberal Institutionalism</i>	international institutions within anarchical state system. Material ontology.	State as unitary actor.	Instrumental rationality, fixed interests (exogenous).	distribution of information among states fostering incentives or disincentives to co-operate.
<i>Liberalism or domestic structure arguments</i>	Domestic institutions and preferences other states. Material ontology.	Foreign policy elite and bureaucracies, lobbies domestic groups.	Instrumental rationality, interests ("preferences") are endogenous.	representation domestic forces (material or ideational) as well as preferences other states.
<i>Social Constructivism</i>	Social and normative structures, identities. Social ontology.	Advocacy coalitions.	Communicative rationality: discourse and argumentation (endogenous).	distribution of ideas/norms within and between states and non-state actors

If we were to conceive of a multi-causal, synthesized explanation of international politics, we could say that –apart from their different ontology and sometimes epistemology- these various theories focus on different levels of analysis. Whereas Moravcsik (1997) speaks of a two-stage model of state behavior, we can now identify three stages, since the constitutive effects identified by Social Constructivism as developed by Wendt (1999) are prior to the causal mechanisms hypothesized by the other theories. As we will see in the discussion following below, and as is apparent from Table 2-1, these four approaches are in some respects rivals, and in others, complementary. Whereas Neorealism and (Neoliberal) Institutionalism depart from materialist and individualist assumptions about the behavior of states within the state system, Social Constructivism assumes an idealist and social basis for states' behavior, and adopts a holistic rather than an individualistic framework of analysis. Liberalism as developed by Moravcsik (1997) claims to be agnostic about the ontological basis of preferences, but a lot of Liberal research in fact adopts individual-materialist assumptions and works with rational choice models.<sup>46</sup> Wendt and others have often underlined that Constructivism is not a *theory* but an *ontology*, just like rational-choice is an ontology.<sup>47</sup> While the requirements to test and falsify Constructivist hypotheses should be the same as for any Social Scientific work, it is impossible to falsify an

<sup>46</sup> See for instance Milner 1997. Moravcsik 1997: 525 and footnote 37.

<sup>47</sup> Wendt 1999; Risse and Wiener 1999; Kratochwill 1989. Sikkink and Schmitz (forthcoming) speak of Ideational theories rather than of Constructivism. They do grant Ideationalism the status of a theory.

ontology.<sup>48</sup> As far as epistemology is concerned, and despite the fact that it is inherent to the field to study unobservables –be it ‘the state’ or ‘norms’- we still find positivists in all ‘camps’. Among Constructivists we may find more ‘post-positivists’, with an important reason being that some of its questions can simply be better answered through interpretivist methods.

Testing the explanatory power of these various ‘isms’ shows a mixed support for each of them. While we need these theories to bring focus to our research and build upon previous findings, using them may not be the most effective way to reveal the determinants of positive and negative measures in reaction to human rights violations.<sup>49</sup> Insisting on the ‘isms’ may also needlessly obscure or undermine any empirical contributions and practical lessons of the thesis. Moreover, these broad theories, or paradigms, do not easily lend themselves to the development of well-specified, testable hypotheses. Although the statistical analysis forces us to derive and test such specific hypotheses, they are often quite weakly linked to the underlying paradigm. One could even argue that some hypotheses could be easily connected to a number of theories, rather than providing a clean test of any one of them. These problems are compounded once we move to operationalizing the hypotheses since it may be difficult to find clean measures of many of the variables specified in the hypotheses. The chain leading from a paradigm to a statistical test is fairly long, and we do not want too many weak links in this chain.

Some theoretical work in international relations today is moving quite definitively away from the ‘ism’ approach. Each theory can be seen to represent a different category of motivations for state behavior: interests, institutions and norms. Interests might include economic, security, historical and regional motivations. Institutions can be specified at the international (U.N.) and domestic (U.S. or E.U.) levels.<sup>50</sup> Norms encompass liberal norms concerning respect for human rights; democratic principles; and the rule of law. While paying tribute to their theoretical

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<sup>48</sup> The current state of empirical Constructivist research shows this challenge. Finnemore (1995), Klotz (1995) and Risse (1999) have convincingly advanced this line of research in that respect. Still, Moravcsik (1999) has accused many constructivists of advancing non falsifiable hypotheses, and of not distinguishing itself from other ‘real’ theories in a way that is knowable. Constructivists, of course, counter his arguments by saying that the rational-choice ontology of most IR-research is never put to the test either, simply because they leave their assumptions outside their explanatory model (exogenous) which makes them not falsifiable either (see for instance Risse and Wiener 1999).

<sup>49</sup> I am grateful to Lisa Martin for pointing this out to me.

<sup>50</sup> Milner (1997) uses the interests-institutions-information trichotomy.

foundations, treating the determinants of positive and negative measures as motivations for state behavior follows ongoing and vibrant debates in International Relations. These theories and hypotheses will be discussed in more detail below. The hypotheses are summarized in table 2, at the end of this Chapter. Indicators for the hypotheses and their measurements will be discussed in Chapter 4.

## 2.1 Neorealism: Interests

Neorealism explains international relations by the politics of more powerful states over weaker states. It highlights the impact of the international anarchic structure on state behavior and assumes that states are unitary actors. To the question why sanctions are sometimes imposed, but more often not, the Neorealist answer seems straightforward: political rhetoric masks economic and/or geopolitical interests. Power politics -certainly not norms- are the driving force behind state behavior in an international anarchic system (Morgenthau 1973, Waltz 1997, Mearsheimer 1994/95). Traditionally brushed aside as belonging to the realm of 'low politics', human rights concerns will not prevail over 'high' security concerns, nor over economic interests. Neorealism would then explain different E.U. and U.S. reactions to human rights violations by pointing to their different power position and, therefore, different strategic and economic interests, in the international system of states.

There are two situations in which Neorealism envisions tougher reactions to human rights violations. First, an adversary violating human rights will be hit harder than an ally (Drezner 1999). Secondly, human rights will factor in international relations if a hegemon, or more powerful state, is willing to enforce the principles of a human rights regime (Krasner 1993). Power politics thus posit that if a state resorts to coercive means, it is motivated more by perceived threats than by a moral conviction to punish a regime for its domestic human rights violations.

### 2.1.1 Strategic Interests: Sticks against Foes, Carrots for Friends

Neorealism is mainly concerned with one type of interest: national security. Security interests can be determined by perceived threats (which are variable) or simply by sheer size and geography (which are constant). Obviously, large

countries are more quickly perceived as threatening if they engage in hostile behavior than small countries. Nevertheless, very small countries can still be counted as threats because of terrorist activity or nuclear weapons capability. Hence, apart from size, the intentions and capabilities of a country matter when being identified as friend or foe. Whereas Waltz (1979) predicted that states would balance against *power* in terms of military and economic might, Walt (1987) convincingly showed instead that states balance against *threats*. He discerned different elements that constitute threats, including aggregate power, geographic proximity, offensive power and aggressive intentions (Walt 1987: 21-28). A state can be more powerful than another state, but benign intentions remove it as a threat (Drezner 1999: 34). Yet, how do states know whether the intentions of other states are sincerely benign?

The inherent anarchical structure of the international system of states and the lack of information about each other's intentions drive states to balance against or – more rarely- bandwagon together with other threatening countries. By so doing, countries within an alliance are free from fear of the others, even though one member may be much larger in military and economic size than other members. This balancing act may explain why sanctions were barely imposed before the fall of Communism, and skyrocketed after 1989. The target could simply (re)align with the superpower that was not imposing sanctions, and thus easily escape the negative impact of sanctions. Alternatively, a superpower target, could easily find defectors in the other camp to meet its needs.<sup>51</sup> The end of the Cold War initially seemed to have brought an end to the need for balancing and bandwagoning and enabled the Security Council of the U.N. to be more proactive and pass many sanctions, with China often abstaining.<sup>52</sup>

Drezner makes the status of 'friend' or 'foe' central in his explanation of sanctions.<sup>53</sup> States' expectations of future conflict and their 'opportunity costs of deadlock' are his primary explanation of sanctions initiation and success. He

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<sup>51</sup> Argentina quickly increased its grain sales to the Soviet Union for a lucrative price, after the U.S. grain embargo. (Martin 1992, Chapter 6, Drezner 1999: 78). The members of the European Communities did not go along with the U.S. sanctions against Poland (Mastanduno 1992, Martin 1992, Drezner 1999:74-80). Martin (1992) incorporated variables on balancing/bandwagoning with the target in her statistical analysis. She found that such behavior tended to have a negative impact on success.

<sup>52</sup> By the turn of the century, though, Iraq sought to try and play out various members of the Security Council against each other in order to alter the sanctions regime against it, and successfully so according to some.

speaks of the 'sanctions paradox' in which '*ceteris paribus*, senders will be eager to coerce adversaries and reluctant to coerce allies' (1999: 4). Yet, paradoxically, sanctions are bound to be more successful against allies than against adversaries, since allies are much more willing to concede than adversaries given their lesser concern about relative gains.<sup>54</sup> An adversary, on the other hand, fears that giving in will not only damage its negotiating reputation, but will also directly increase the relative gains to the sender state, which enhances its leverage in future conflict.<sup>55</sup> Therefore, foes will not easily give in to sanction demands. Using various methods to test the empirical evidence, Drezner finds substantial support for his claims.<sup>56</sup>

Since the U.S. is a military power, it has more power to react strongly without fear of retaliation. As such, Neorealism could explain the variation in response between the E.U. and the U.S.. Similarities in their reaction may be explained by the fact that military strength, especially the possession of nuclear bombs, presumably forms the same threat to both powers. Similarly, since both belong to the same strategic alliances, their allies will be the same, although some may be more important to the U.S. than to the E.U.

What does Neorealism have to say about the imposition of carrots? Drezner, being one of the few scholars to recognize that "economic statecraft includes the use of inducements as well as sanctions" (1999: 3)<sup>57</sup>, applies the same logic to explain when states will offer incentives rather than impose negative measures: "carrots will be used more frequently between allies than adversaries" (1999: 52).<sup>58</sup> Drezner expects carrots to be offered to adversaries only under a narrow set of conditions. Here, the demand would be non-negotiable and the carrot would be very lucrative for the target, while virtually costless for the sender (1999: 52). Respect for human rights is such a non-negotiable demand and public critique in this respect is often received as a direct affront by the accused regime, who often

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<sup>53</sup> He defines states as allies "if they share a history of co-operation and mutual trust on security and other issues that is not disrupted by shifts in the international distribution of power". Adversaries "have a history of discord and conflict on security and other issues that is not disrupted by shifts in the international distribution of power" (1999: 33-34).

<sup>54</sup> Van Bergeijk (1999) explains successful sanctions by the regime type: democracies are more willing to concede than autocracies. This may be a latent variable behind the allies-adversaries dichotomy.

<sup>55</sup> The relative gains concern is in fact a debate within the Neorealist camp, but associated with Neoliberal Institutionalism, which was started by Grieco 1990. See Baldwin (1993 for the debate).

<sup>56</sup> As I will explain later, the way in which Drezner measures the alternative hypotheses is not very convincing however. As will appear from my statistical analysis, the 'allies/adversaries' variable in fact reveals a spurious relationship and is correlated with regime type and trade importance. Moreover, not many sanctions are imposed against allies, or democracies, in the first place. This makes his argument hard to test against alternative explanations.

<sup>57</sup> See also Cortright 1999, 1997; Hazelzet 1999; Haass and O'Sullivan 2000.



argue that giving in would destabilize the country. Walt investigates the hypothesis that the motivation to provide aid –an obvious carrot- is inspired by an attempt to generate alliances, seeing aid more as the *result* of or the *means* to alliances rather than their *cause* (Walt 1987: 44). In sum, Neorealism would predict that friends should receive more carrots than foes.

So far, we can delineate the following Neorealist hypotheses that seek to explain variation in reactions to human rights violations across targets:

1. The more important a human rights violating state is in strategic terms, the less likely it will be hit by sanctions, or the lighter the measures will be.
2. The more a human rights violating state poses a threat to the E.U. or the U.S., the more likely it will be hit by sanctions if it violates human rights.
3. Adversaries are likely to be sanctioned harsher than allies. Allies are likely to be rewarded more than adversaries.

### 2.1.2 Regional Interests: Human Rights matter if the Hegemon cares

Krasner (1993, 1999) argues that human rights will only prevail over ‘hard politics’ if they are backed up by a hegemon, such as was the case with the British insistence to abolish slave trade. Rather than being principally committed to human rights and minority rights, it would thus be in the hegemon’s interest to require neighbors to respect these rights. Hegemons or relatively powerful states thus force targets to accept conditions that are less favorable than the status quo. The closer that hegemon is in geographical terms, the less bargaining power the target may have or the more willing it may be to associate itself with its large stable neighbor. Since the E.U. is a hegemon in the area, the surrounding countries, keen for their own piece of the pie, do not have much choice but to bow to E.U. stipulations. Walt (1987: 24) explains their behavior in terms of seeking alliances. An important factor that determines the position of a state in the international system and its choice of allies, is its geographical location. Walt (1987: 23) writes that ‘because the ability to project power declines with distance, states that are nearby pose a greater threat than those that are far away. Other things being equal, therefore, states are more likely to make their alliance choices in response to nearby powers than in response to those that are distant.’ If a

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<sup>58</sup> The underlying argument is that if states expect future conflict they will be reluctant to offer carrots to an opponent and so strengthening its power base while reducing their own.

nearby state is, however, behaving in a threatening way, and if it is relatively weak, it might be subject to a higher level of sticks than more distant states would be. Realism would predict that the E.U. and the U.S. would have similar sets of responses to target countries located within comparable distances. This explains why some countries, due to geographic proximity, form more of a threat to the E.U. than to the U.S. We can delineate the following hypotheses on the variation in reactions across the E.U. and the U.S.:

4. The closer a potential target is in terms of geographic proximity, the tougher the reaction will be. Since the E.U. and the U.S. are located differently, they will thus react to different countries (mainly countries in their 'back yard').

### 2.1.2 Economic interests: Human Rights are only supported if it is cheap

Another possible explanation of the variation in serious reactions to human rights violations are the financial or economic price tags attached to a sanction. The lower the expected (immediate or future) price, the likelier it is that a sanction will be considered a viable option. The higher the cost, the more unlikely it is that sanctions will be imposed. Previous studies find that economic costs have not deterred the U.S. from sanctioning when its interests are threatened (Ellings 1985, Blessing 1981). Rather than refuting Neorealism, Drezner concludes that sanctions are thus not merely "symbolic actions used when the sender has little interest or ability to affect the outcome" (1999: 65). He specifies the costs argument theoretically: it is not economic costs as such, but the *opportunity costs* for a sender in a deadlock situation that lead it to impose sanctions or not.<sup>59</sup> In what he calls the 'statecraft game', he outlines the various options and preferred outcomes for both senders and targets. Assuming that states act as rational unitary actors, they are "concerned about whether their present actions will materially or reputationally affect their bargaining position in future interactions." Whether or not his conflict expectations model has the same explanatory value for the post-Cold War era remains to be seen, especially since the most important variable for conflict expectations used by Drezner is 'alignment' and 'realignment'. Moreover, the data bases so far have not covered the post-Cold War period.

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<sup>59</sup> Yet in the statistical analysis, he measures opportunity costs still as purely economic costs. Using the HSE data Drezner takes their cost measurement to represent opportunity costs: 'Rather than using gross trade figures, they estimate the price elasticities of demand and supply of the disrupted trade in order to determine the true economic cost' (1999: 108). To calculate the 'opportunity' costs of the target he recodes the HSE data to exclude third country assistance. Whereas he defined opportunity costs to mean a combination of financial and reputational costs, this is thus not what is measured in the data.

Because this analysis seeks to explain E.U. behavior in the nineties, it seems that testing the economic costs arguments once more, while controlling for allies and foes, would be an appropriate exercise. Neorealism would hypothesize that both powers will be held off by economic importance, due to the economic costs of their reaction.

We can delineate a final Neorealist hypothesis on the variation across targets:

5. Sanctions are less likely and less harsh the more costly they are to the sender.

#### 2.1.4 Review

The main Neorealist argument derived from the literature is that human rights will only prevail in foreign economic relations if geopolitical and/or economic concerns are negligible. How can we operationalize these arguments? The more important a country is in terms of trade, its market, the possession of oil or nuclear power, or geographical proximity, the less likely it is that negative measures will be imposed, regardless of whether or not it violates human rights. If realism is correct, all these variables should show a strong significant relationship and a negative sign in a model predicting the probability for (stronger) sanctions to occur. Variables indicating degree of human rights violations should show a weak, insignificant relationship. Over the period 1989-2000 we should see no change since interests depend on the static position of the state in the international system of states, which has been stable during the period under investigation. Realism would predict that countries that are allies and strategically or economically more important would receive more foreign assistance. Gross National Product per capita (GNPpc), as an indicator for need, could serve as an alternative, or null-hypothesis, indicating that the provision of carrots or aid is unrelated to importance and simply based on poverty. After testing the explanatory power of these variables to explain variation in level and type of sanctions across targets, we can subsequently see whether the E.U. and the U.S. attach different importance to strategic or economic factors when reacting to human rights violations.

The most prominent critiques of Neorealism have posited that we need to open the 'black box' of the state to understand its foreign policy behavior. States are not unitary actors. Thus, its interests are not only not static, but subject to domestic

struggle. Second, one can argue that this mostly interest-based approach is challenged by the featuring of prominent international norms concerning human rights in international relations, which -at least sometimes- seems to go beyond idle chatter. The prominence of *Realpolitik* does not necessarily mean that states are egoistic, or that they will not act in the face of human rights violations, even if their own material interests warrant otherwise. If one rejects the material ontology of Realism, and instead adopts a social foundation of International Relations, foreign policy behavior becomes a choice -- not a necessity. Third, Neorealism is not helpful in delineating specific hypotheses without adding a lot of detail. Nor can the 'interest' argument explain the variation of sanctions imposed against 'non-important' countries. The change in the international system (the end of the Cold War) may not sufficiently account for the E.U. and U.S. policy reversals in their treatment of some human rights violating regimes. While these states were supported, or at least not collectively condemned in the seventies, they are now being punished by the E.U. and U.S. for similar atrocities, which, in the nineties are 'non-negotiable'. In the nineties democracies are perceived to be the stable partners, whereas in the 1970s and 1980s many autocracies were considered to be stable and reliable partners as long as they were anti-Communist. Interests can be defined in many broad ways, and because its definition seems to have varied over time, the theory does not always adequately capture variation in foreign policy responses. The same can be said for the perception of what constitutes a threat. Institutionalism, Liberalism and Constructivism may offer rival or complementary explanations.

## 2.2 Neoliberal Institutionalism: International Institutions

'Neoliberal Institutionalism', also simply referred to as Institutionalism or 'Modified Structural Realism', makes the same assumptions as Neorealism about instrumental rationality in state behavior and the materialist structure underlying state relations.<sup>60</sup> In its simplest form, Neoliberal Institutionalism stresses the role of

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<sup>60</sup> Institutionalism is also referred to as *Neoliberal Institutionalism*. Moravcsik speaks only of Institutionalism (1997: 536-37) to prevent confusion with the Liberal variant. Moravcsik argues that "like realism, institutionalism takes state preferences as fixed or exogenous, seeks to explain state policy as a function of variation in the geopolitical environment –albeit for institutionalists information and institutions and for realists material capabilities- and focuses on the ways in which anarchy leads to suboptimal outcomes. Liberalism, by contrast, shares none of these assumptions. It permits state preferences to vary while holding power and information constant, explains policy as a function of the societal context, and focuses on how domestic conflict, not international anarchy, imposes suboptimal outcomes. Therefore, contemporary regime theory ought more properly to be termed "modified structural realism" (as it was initially) or "Institutionalism" (as some now prefer), rather than "Neoliberal Institutionalism."

institutions<sup>61</sup> at an international level, and adheres to the unitary actor assumption. The main disagreements between Neorealism and Neoliberal Institutionalism center around two questions. First, whether international institutions can help states overcome their security dilemma and foster co-operation, and second, whether states are mainly concerned with relative gains or absolute gains, and what this might mean for arriving at cooperative agreements (Grieco 1990; Keohane 1986; Baldwin 1993). Without questioning the underlying assumptions of Neorealism, Neoliberal Institutionalism arrives at more positive prospects for co-operation: co-operation can sometimes be in the self interest of states. Moreover, institutional structures, providing forums and mechanisms for regular encounters ('the shadow of the future'), should provide states with the information and trust needed to overcome the security dilemma (Axelrod 1984). I will discuss two possible Neoliberal-Institutionalist hypotheses concerning the likely imposition and severity of sanctions in reaction to human rights violations. One centers on the role of the U.N., and the other on the level of institutionalization of external relationships with third countries. Both hypotheses help explain variation across targets rather than across the E.U. and the U.S.

### 2.2.1 *International Institutions foster Co-operation on Human Rights*

International institutions and international law are seen to modify the cost-benefit analysis of actors and policy outcomes. The fact that many of the harshest sanctions in the 1990s were raised multilaterally, not bilaterally, is purely instrumental according to this account: co-operation decreases costs and spreads risks. As the dominant sender is willing to pay a higher price to impose sanctions, its credibility increases, which encourages other states to follow suit (Martin 1992). Why would a sender state try to get other states on board? As long as one state will sacrifice participation in the international liberal trade regime in the name of international human rights, other states can seize the opportunity to play the free booter (instead of the free rider) by going along with the rhetoric about human rights while simultaneously trying to improve its own market position. This serves to undermine the others' hegemonic position in the international liberal trade regime.<sup>62</sup> The state that continues economic interaction freely thus has an

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<sup>61</sup> Institutions are a set of generally accepted and operative norms, rules and procedures. See Krasner 1983.

<sup>62</sup>The notion of *free booter* was pointed out to me by Philippe Schmitter and stems from the literature on cartels. Cartels are, as Martin (1992) outlines, however not discriminatory as economic sanctions are.

advantage over the state that has imposed sanctions and curtails its own imports or exports with the target country.<sup>63</sup> International institutions may help to resolve this problem. By coordinating sanctions at an international level, states may diminish the free riding of other states. States are especially likely to seek multilateral co-ordination, when the target is economically powerful. An alternative explanation is that multilateral agreement is easier to obtain when the human rights violations of the potential target are more severe. We can detract the following hypotheses:

1. Liberal democracies will sanction the relatively more important trading partners similarly harsh since they will seek U.N. rather than bilateral sanctions;
2. Liberal democracies will more easily reach international agreement on the imposition of (U.N.) sanctions against the worst human rights violators. U.N. sanctions will tend to be harsher against these target states.

It follows that Neoliberal Institutionalism would expect the E.U. and the U.S. to seek multilateral sanctions whenever possible, and not go far beyond U.N. sanctions except when such measures would be really costless to them. Multilateralism is an important issue in the field of sanctions since it is said to enhance their effectiveness. The credibility of the threat to the target country and the effectiveness of sanctions increase as the number of trading partners imposing trade sanctions increases (Martin 1992), although some claim unilateral sanctions also to be effective (Kampfer and Lowenberg 1999).

What is the role of international institutions in furthering respect for human rights? Obviously, the U.N. and many other international organizations have a tremendous role in providing technical and financial assistance in the fight against poverty and in fostering prosperity, peace and stability. The Bretton Woods Institutions have in the late nineties introduced certain non-political conditions to their assistance, mainly aimed at combating corruption. The U.N. Security Council does not vote on the imposition of any 'carrots' other than peace keeping operations. Loans via the World Bank and IMF are voted for by the member countries but no member has a veto right. The study of positive measures directed at fostering respect for human rights by international organizations is a study in

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<sup>63</sup> The free booter argument points towards the possible interdependence of states in their decision to impose sanctions, and hence towards a game theoretical explanation of the imposition of sanctions. See Martin (1992) on the application of game theory to explain multilateral co-operation in imposing economic sanctions in two-actor games, with and without a dominant actor.

itself and will not be taken up by this thesis. I will however investigate the impact of conditionality on third states in their particular agreements with the E.U. or the U.S.

### 2.2.2 Institutionalization of External Relations: Regionally Regulated Reactions

Relationships with third countries can be institutionalized to a greater or lesser extent. Apart from certain areas being regulated by international institutions, such as the U.N. or the WTO, bilateral agreements can be made to regulate exchange between two or more states. Such arrangements can either prohibit or encourage the use of economic measures in reaction to the occurrence of specified events, or in reaction to a breach of the agreement. With the development of the WTO and other regional trading agreements, states need to justify why they breach certain treaty obligations. If they informally do so, they are penalised. Brandtner and Rosas (1998: 23) assert that with regard to the E.U. “trade benefits are more likely to be suspended by the Community (the ‘stick’) if they have been granted unilaterally, if they are based on unilateral rather than bilateral instruments and if they go beyond obligations stemming from the WTO” This suggests that the more International Relations are institutionalized by formal agreements, the less likely it is that sanctions will be imposed, since this would constitute a breach of the agreement.<sup>64</sup> Indeed, Brandtner and Rosas (1998: 6) as well as Kuijper (1993: 393-4) assert that “the fact that the act to be suspended is a Treaty involving mutual rights and obligations between two subjects of international law may set a serious legal and political threshold against taking such measures.” Nevertheless, they remain hopeful in their conclusions (1998: 24), stating their ‘impression that the substantive and procedural limitations inherent in its ‘sticks’ will not prevent the Community from using trade *sanctions* for *human rights* goals. The ‘stick’ will certainly not be in daily use, however’. The legal basis for imposing sanctions in E.U. agreements with third countries has changed over time. Rather than stressing interest-based arguments, legal scholars (and E.C. officials) thus stress juridical impediments to impose sanctions. Indeed, this juridical argument was uttered by the Commission to impede Community sanctions against Uganda in the ‘70s, Suriname in the ‘80s, and initially Haiti in the beginning of the ‘90s (Kamminga 1989: 28-29). Member States of the E.U., however, emphasize that the decision

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<sup>64</sup> Interview record nr. 68, 17/12/98.

to invoke what has become known as “consultations under article 96” of the Cotonou Agreement<sup>65</sup> requires political rather than juridical assessment.

The U.S. has also institutionalized certain aspects of its relations with third countries. Nevertheless, as we will see in the next Chapter, in contrast to the E.U. the U.S. has not engaged in such elaborate agreements, other than NAFTA. Instead, it merely enacted legislation of a more general nature which specifies which events can trigger U.S. unilateral sanctions, although it also has some country specific legislation in place.<sup>66</sup> Either way, the target can anticipate the consequences of its actions.

We can delineate the following Neoliberal-Institutionalist hypothesis:

3. The more foreign economic relations become institutionalized by formal agreements, the less likely it is that sanctions will be imposed, since the target is granted a certain degree of legal certainty.
4. Since the E.U. has institutionalized its relations with African, Caribbean and Pacific states to a further extent than the U.S. has, the E.U. is likely to impose a lower level of sanctions towards these countries than the ‘unbounded’ U.S..

What is the effect of institutionalized relations with third countries in terms of providing positive measures to foster respect for human rights violations? Similar to the legal argument made for negative measures we can argue that as foreign assistance becomes increasingly institutionalized, changing their contents and direction (be it in a positive or negative manner) may become increasingly difficult.

### 2.2.3 Review

If the Neoliberal Institutionalism hypotheses are correct, what should we find? As relations with third countries have been increasingly institutionalized over the years, it has become legally more difficult to impose negative or positive measures, or to alter their content or direction. Therefore, if Neoliberal Institutionalism is correct, time should matter and show a significant and negative relationship. We should see less negative sanctions and less positive incentives in the late nineties compared to the early nineties. Furthermore, we should see that

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<sup>65</sup> See Chapter three, par. 3.2.3.2 for an explanation of the Cotonou Agreement.

<sup>66</sup> Domestic differences between the E.U. and the U.S. will be extensively discussed under the section on Liberalism, and in Chapter 3.



multilateralism matters. Multilateralism will be mostly sought towards the human rights violators with relatively more important markets. Also, it will be easier to agree on multilateral sanctions, the more egregious the violations are. If the U.N. instigates sanctions they are consequently likely to be tougher than unilateral sanctions imposed by the E.U. or the U.S..

Like Neorealism, Neoliberal Institutionalism treats states as unitary actors and explains outcomes by pointing towards a cost-benefit analysis driven by material interests. The legal provisions regulating relations between countries would be purely instrumental. The coming into being of one institutional arrangement leads to other arrangements to regulate the exceptions. What seems to be missing is a theory of agency. What is it that turns 'interests' into policy outcomes (Wendt 1992, 1999, Checkel 1998)? How do institutional arrangements come into being, and do they favor some agents, or interests, over others? We need an approach that allows us to develop more specific hypotheses about the role of agents and domestic structures in shaping interest perceptions and decision-making outcomes in international politics. Liberalism and Constructivism may provide further insights.

### 2.3 Liberalism: Domestic Institutions

Whereas Neoliberal-Institutionalist and Neorealist approaches treat states as unitary actors, Liberalism, or arguments stressing the importance of domestic structure, seek to explain policy outcomes by unraveling the impact of various societal actors within the state. Liberalism asserts that regime type and domestic institutions and actors matter in the formation of foreign (economic) policy (Milner 1997, Kahler 1995, Moravcsik 1997, Katzenstein 1985).<sup>67</sup> Liberalism provides explanations for the variation in level of sanctions between targets, as well as for the variation in measures between the E.U. and the U.S.

In the following I will delineate one hypothesis that can explain why harsher sanctions are imposed towards some countries than others. More specifically, Liberalism would suggest that liberal regimes are more likely to target illiberal

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<sup>67</sup> Liberalism as an IR theory should not be confused with Liberalism as an ideology (Moravcsik 1997: 514). Some authors, such as Putnam's *Double Edged Diplomacy* (1993) and Moravcsik's *Liberal Intergovernmentalism* (1993) combine both levels. I refer to Liberalism as a body of theory stressing the importance of domestic structure to explain and understand international relations and foreign policy. Some identify Liberalism not with interest groups only but with a preoccupation with public opinion in a broader sense.

regimes with sanctions than like-minded regimes. The first hypothesis thus focuses on the regime type of the target country. To explain different measures across the sender states, namely the E.U. and the U.S., it points to the differences in their domestic structure and decision-making arrangements. This poses a challenge to the 'unit-homogeneity' requirement: can we actually compare the E.U. and the U.S. if their decision-making systems are so different? We will extensively deal with this issue in the next Chapter.

A final set of Liberal hypotheses goes still one level deeper, and focuses on the impact of domestic pressure groups on final decision-making. Their impact is partly related to the access granted to them by the political system. Botcheva and Martin (2001: 12) hypothesize that –what they call- “aspirational” institutions, such as those promoting human rights or development aid, are classically weak, since they set goals “but with little prospect for enforcing penalties for failure to comply with these goals”, in other words “externalities associated with failure to coordinate aid policies are not high”. However, in countries where domestic actors push for these aspirations are well-organized and have access to decision-making, compliance with the goals can still be reasonably high. Such level of organization and access may differ in the E.U. and the U.S.. Since the impact of these groups is extremely hard to measure, the quantitative analysis conducted here will focus only groups likely to have a particular bearing on reactions to human rights violations, namely those with links to potential targets (former colonies in the E.U., ethnic-American groups in the U.S.).

### 2.3.1 Regime Type: Liberal versus Illiberal Targets

The Democratic Peace literature may be helpful in explaining variation in the level of measures imposed across target states. It points to the fact that democracies do not fight each other (Russett 1993; Doyle 1986, 1998). If we see sanctioning as a form of fighting, we can delineate that democracies may be more inclined to sanction autocracies than democracies, and to reward democracies rather than dictatorships.

Since the E.U. and the U.S. are both liberal democracies, we would thus expect similar rather than different reactions to human rights violations.<sup>68</sup> The following hypotheses would follow:

1. Liberal regimes are more likely to sanction illiberal regimes than 'like minded' regimes.
2. Liberal regimes are more likely to grant positive measures to 'like minded' regimes than to illiberal regimes.
3. Since the E.U. and the U.S. are both liberal regimes, they are equally likely to sanction illiberal states and reward liberal states.

It follows that Liberalism would also expect states to form alliances on the basis of 'like-mindedness', rather than on the basis of material capabilities or geographic location. This could support Drezner's explanation of why sanctions are imposed more towards adversaries than allies, yet for different reasons.<sup>69</sup> Liberalism might her provide one of the underlying mechanisms to Neorealism.<sup>70</sup>

What about countries in transition? Moravcsik (2000) in somewhat similar fashion to Krasner (1999) and Walt (1987) argues that those countries are likely to buy into the conditions demanded from them by the sender because the leaders of democracies in transition typically seek to embed and ensure the persistence of

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<sup>68</sup> For a critique on Liberal Theory and the assumption that "Liberal States behave better", see Alvarez (2001). His argument is mainly of a legal nature, rather than performing empirical testing of the Liberal hypotheses.

<sup>69</sup> Walt, writing during the Cold War, suspected that alliances based on what he called "ideology" reflect "an aspiration that is readily ignored when necessity arises" (Walt 1987: 40). During the nineties, 'necessity' may not arise in similar fashion as before 1989 and liberalism and the rule of law will not be called an 'ideology'.

<sup>70</sup> Drezner seeks to test what he calls the 'domestic politics argument' and claims not to find any support for it (1999: 118-120, 128). This is, however, mainly due to the way in which he measures it. He translates the logic that domestic public opinion leads the sender country to impose sanctions into a test whether democracies are more likely to sanction than autocracies. As far as I know, not only are there very few autocracies that have sanctioned beyond U.N. sanctions, which makes the sample biased, but his measurement also assumes a homogeneous public opinion. His alternative test, analyzing whether democratic senders are willing to incur higher costs than autocracies is not convincing either for similar reasons. Finally, this measure does not explain variation across democracies in the use of the sanctions instrument. Moreover, the logic that autocracies would be less willing to incur costs is not convincing, since they are not bound by any

their 'democraticness' by allying themselves with more established democracies.<sup>71</sup> Indeed, the first human rights clause established by the E.U. was demanded by Argentina, rather than the other way around.<sup>72</sup> This suggests that carrots or sticks may also be imposed upon request: if the potential target is a country in transition, it is more likely that a combination of carrots and sticks is used to induce or sustain political change.

In this case, the reaction of the sender state may thus be more part of a bargaining game, than the imposition of a unilateral measure. We could formulate the following hypothesis:

4. If the potential target is a country in transition, it is more likely that a combination of carrots and sticks would be used to induce or sustain political change.

### 2.3.2 Domestic Structure: the Decision-Making Process in the Sender State

Domestic institutional mechanisms may at least partly account for differences in foreign policy stances. Institutional design and access granted to societal groups may be influential. To start with the institutions, a Constitution (or constituting Treaty) grants certain powers to the legislature and the executive in well defined areas, which will be further specified by legislation. These provisions may give the executive more or less leeway, or the legislature more or less power to influence foreign (economic) policy. Depending on the influence of the legislature, as well as the number of informal channels, the access of various societal groups may differ, and consequently their influence on decision-making. In practice, systems with fewer veto players grant the executive more power (Tsebelis 1995a, 1995b). I will first discuss the potential impact of the extent to which the executive or the legislature can formally dominate foreign economic policy initiatives. Secondly, I will discuss the potential impact of societal groups on decision-making as dependent on the access granted to them through the political system.

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popular accountability and can thus do what they want with the public money if they feel passionate or self-righteous about an issue.

<sup>71</sup> Walt states that "states lacking domestic legitimacy will be more likely to seek ideological alliances to increase internal and external support" (Walt 1987: 40). Krasner 1999. See also par. 2.1.1.

<sup>72</sup> Interview Record 68, 17/12/98.

### 2.3.2.1 Executive versus Legislature

Could we expect different reactions to human rights violations depending on whether the legislature or the executive has the competence to decide on whether or not measures will be imposed? The power of the European legislature and the executive body is of quite a different nature and scope compared to that of the U.S. Congress and President. This may come into play in decision-making about both carrots and sticks. The speed and content of agreements on sanctions are likely to be quite different depending on whether they come from 15 Member States, or from a single executive. The realm of foreign policy is usually left in the hands of the executives more than legislatures. Development co-operation, on the other hand, and the granting of positive measures to encourage respect for human rights, will tend to lay more in the hands of the legislature. Some legislatures may be more in favor of such measures than others. So, while we can expect that institutional arrangements and formal decision-making power matters, the preferences of the actors in power matter too.

Milner (1997) argues that the distribution of legislative powers is important for understanding international co-operation. The ability to control the agenda, to initiate legislation, make amendments, ratify or veto proposals or deploy side payments gives actors influence over decision-making outcomes: "When control over these powers is concentrated in the executive, the executive's preferences prevail. When control is dispersed to the legislative, its preferences will come to the fore" (Millner 1997: 127). Her observations help clarify why and how institutions matter in explaining policy outcomes. In the field of sanctions, we see different institutional arrangements in the E.U. and the U.S. for deciding on positive and negative measures. Milner also finds that issue areas are of great importance: "Control over legislative powers often varies significantly by issue and if actors have preferences over issues, they should also have preferences over the institutions they desire for considering each issue" (Millner 1997: 128). These findings provide insights on the particular and on-going struggle over competences between the various European Institutions. Since economic sanctions are policy instruments that touch upon a broad range of relations with third countries (foreign, economic, financial and military), the struggle to control these instruments seems particularly fierce, not only in the E.U. but also in the U.S..

Martin (2000) investigates what impact legislatures have in presidential versus parliamentary systems on foreign policy.<sup>73</sup> She finds that apart from domestic structure and institutions, the political signature of the government vis-a-vis the legislature matters, especially in presidential systems. In the U.S., for instance, the activism of Congress depends on whether or not the president is from the same party as the majority of the House. A divided government in the U.S. causes the legislature to take on a more active role, also in the field of sanctions. In parliamentary systems, the ruling government has to have the majority of seats in the legislature (the lower chamber), even if narrowly, which enhances the leeway of the government. Whether Congress supports stronger or weaker reactions to human rights violations obviously depends on the political preferences of the majority. Similarly, if the executive can dominate decision-making on sanctions, his or her political preference will be important. If political decision-making is dispersed over several actors instead of a single executive, such as is the case for parliamentary or intergovernmental systems, decision-making is likely to be less consistent and slow. Again, one could look at the political majority among such actors. If political signature matters, we could speculate on different reactions to human rights if a majority of Social Democratic or Christian Democratic parties is in power, than if a majority has Conservative parties leading their government. The political preferences of the majority of whichever institution it is that has most to say on the imposition of carrots or sticks will, however, be rather hard to insulate from other contextual variables.

### 2.3.2.2 *The Impact of Interest Groups*

A corollary to the institutional design of a political system is the potential impact such systems grants to societal actors. Liberalism finds domestic politics a potentially important determinant of foreign economic politics. If the legislature is relatively powerful, usually the access granted to societal actors is larger, and with it, their potential impact on decision-making. On the other hand, if the executive has more power, especially in a parliamentary system, special interest groups may try to direct political pressure to modify the preferences of the relevant Minister or Secretary. Alternatively, interests of certain groups may factor into decision-

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<sup>73</sup> More specifically, Martin (2000) argues that a political system that is not that unitary in its foreign policy outlook, can still make credible threats to third countries. Her finding contradicts for instance Walt who argues that a state whose domestic political process is easily hamstrung by conflicting interest groups may find it difficult to make credible threats to reduce support in order to control the behavior of even heavily dependent client states" (Walt 1987: 44).

making automatically. The whole process of political lobbying is more transparent in certain systems than in others. Moreover, society may be better organized in some sectors or political systems than in others. In a multi-layered system, societal interests may be more dispersed and, hence, less well organized. Therefore, with potential societal impact already limited by sparse direct access, it will be further diminished by their weak articulation. In such cases, the administration (both politicians and bureaucrats) may have relatively great freedom to maneuver in the decision-making process.<sup>74</sup>

In an intergovernmental system, the impact of pressure groups quickly becomes difficult to disentangle due to many layers in the decision-making process. Influence is difficult to measure in general, and it goes beyond the scope of this thesis to trace the exact impact of such groups on final decision-making.<sup>75</sup> While economic interests or respect for human rights can be measured, the degree to which pressure groups influence their priority is left at best to well-informed speculation. There is, however, one type of interest group likely to have an important impact on decision-making on sanctions. These are groups that promote the interests of countries, or their (former) nationals, that have special historic links to the sender country. These ethnic lobbies may directly or indirectly try and influence the foreign reactions to human rights violations in their country. This is quite a specific interest, very much connected to the target, that may actually be measurable. Some national or ethnic groups are better organized and represented than others, and can claim advocacy among political exiles and/or the government of the potential target country itself. Whether their impact will toughen sanctions, or weaken them may differ from country to country and should be a question for empirical research. I would speculate that while political exiles would pressure sender countries to impose tougher sanctions for human rights violations, target governments would lobby for a gentler reaction from the sending country.

Thus far, we can delineate several Liberal hypotheses concerning variation in E.U. and U.S. foreign policy responses, all indicating the importance of domestic structure and domestic politics. How they matter, i.e. whether they will reinforce or

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<sup>74</sup> Majone 1998.

<sup>75</sup> Kaempfer and Lowenberg (1988, 1999) analyze the struggle among interests groups to influence policy decisions by posing a public choice explanation. They claim that the political struggle among interest groups (expressed in their utility

soften the measures, whether positive or negative, will arguably depend on the political preferences of the dominant actor(s).

The hypotheses -which are not easily measurable in a quantitative research design- are the following:

5. Domestic structure matters when liberal democracies react to human rights violations. The level of leeway granted to the executive vis-a-vis the legislature will have an impact on the level and type of stick or carrot imposed. The direction of this impact depends on the political preferences of the dominant actor. Dominant conservatives may favor softer measures than dominant liberals or social democrats.
6. In political systems where interest groups have relatively easy access, interest groups will have more of an impact on reactions to human rights violations. Dominant business groups may favor softer measures than dominant societal groups.

As far as the impact of pressure groups is concerned we should find that for ethnic or national groups:

7. The presence or absence of historical or cultural ties between the potential target and the sender should have an impact on the types of measures imposed in reaction to human rights violations.

The impact of other pressure groups is harder to disentangle, and will be left to future qualitative research.

### 2.2.3 Review

Liberalism hypothesizes that regime type may underlie the Neorealist notion of friends versus foes. If Liberalism is correct, we should find that the more illiberal regimes tend to be more adversarial, and the more liberal regimes more friendly. In terms of sanctions, we would thus expect that more illiberal regimes would be subject to harsher sanctions, and freer societies to softer sanctions. Since the U.S. and the E.U. are both liberal democracies, we would expect *similar* sanction levels by both. However, if Liberalism is correct in its assertion that differences in domestic structure, especially the level of power of the Executive over the Legislature, have an impact on the level of sanctions, we should find that the U.S.

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functions) in the sanctioning country explain whether and what kind of sanctions will be imposed upon targets. They do not provide empirical support for their claim.



imposes *different* levels of sanctions than the E.U. The content of domestic legislation may matter too. This hypothesis will be discussed in the next qualitative Chapter, together with the particular methodological dilemma that stems from it.

Why would liberal states engage other liberals and distance themselves from illiberal states? Can such behavior, if true, be explained by reference to a rational-actor approach and material ontology only? Constructivism, departing from ideational or social ontology, seeks to posit a complementary explanation by pointing to the constitutive elements of both Liberal and Neorealist concepts.

## 2.4 Constructivism: Norms

Constructivism is a meta-theory and not a substantive theory on the role of norms in international relations. In brief, it argues that norms and ideas have a constitutive effect on interest perceptions of actors in international relations. Since I am interested in explaining foreign policy reactions to violations of one particular norm, namely respect for human rights, I focus on and derive my hypotheses from what I call Norms Constructivism. Two elements are central to Constructivist theories: structure and agency.

### 2.4.1 Principles: the Constitutive Effect of Norms

Constructivism conceptualizes the *structure* beneath the international system of states as being social rather than material. This structure in part determines the self-conception or identity of states and, hence, what states perceive to be in their interests. An important aspect of this social structure is norms. For the purpose of this thesis, I am interested in the norms that constitute a liberal identity of states. The protection of human rights is a central norm in modern democratic states. The constitutive effects of human rights norms explain how Liberalism can distinguish between liberal and illiberal states: “human rights performance is one crucial signal to others to identify a member of the community of liberal states”.<sup>76</sup> This may be the mechanism needed to understand *why* Liberal states do not tend to fight each other, and *why* some states are adversaries and others allies.

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<sup>76</sup> Sikkink and Schmitz, forthcoming.

Common adherence to these norms is likely seen as being the interests of each member of the international community of liberal states. Not respecting these norms can be perceived as a threat to stability of the structure, and thus a threat to overall security.

We can thus delineate the Constructivist hypotheses:

1. If a state's identity and sense of security are central to its survival, and human rights norms are central to this identity and sense of security, the need to uphold human rights norms will trump other interests, such as material interests.
2. If the E.U. and the U.S. adhere to the same human rights norms, they are likely to punish the same human rights violators or reward the same human rights defenders.

#### 2.4.2 Agents: Advocacy Coalitions

Constructivist theory is not deterministic and recognizes that agents may be instrumental in communicating the importance of norms and fostering 'norms socialization' among states. Advocacy coalitions, which conduct fact-finding and monitoring activities, can use their information to dramatize the practice of human rights violating states and shame them in front of the international community. These coalitions may be national or transnational and composed of state and non-state actors.<sup>77</sup> Klotz (1995), for instance, identifies both state and non-state actors in bringing about normative change. She identifies international norms as the impetus for both the imposition of sanctions as well as the compliance of targets, who seek to salvage their reputations. The absence or presence of such advocacy coalitions, and, if they are present, the absence or presence of persuasive communication, may change the interest perception and, therefore, the behavior of states. The eagerness to belong to the 'liberal club' is a powerful weapon in the hands of such liberal advocacy coalitions. Since the fall of Communism, it has been easier for these actors to coalesce, and to persuade states to fulfill the conditions to 'join the club'. We could thus expect (but will not test) that the E.U. and the U.S. will react similarly to human rights violations unless the persuasive power of (trans/national) advocacy coalitions is different.

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<sup>77</sup> Sikkink and Keck (1998), Finnemore (1995), Klotz (1995), Risse et al (1999).

One way by which Constructivists show the importance of ontology for explanations of international relations is by distinguishing various modes of interaction. Whereas rational-choice ontologies depart from a 'logic of consequentialism' (i.e. actors will only comply if it is deemed in their interest), constructivism posits a 'logic of appropriateness' behind a state's decision to comply with human rights regimes.<sup>78</sup> Rather than arguing that countries in transition may be more willing to accept conditions, as Liberalism did, Constructivism would try to explain the success of 'carrots' versus 'sticks' policies by looking at the communicative interaction between sender and target.

Indeed, some form of dialogue is crucial to any combined strategy of carrots and sticks. Sikkink and Schmitz (forthcoming) suggest, following Poe (1997), that "because of the effects of this strategic interaction, it is possible that policies effective in one case, for example, an aid cut-off, would not be effective in other cases. Particularly important is the communication processes involved in cut-offs". Why and how communication plays into targets' decisions to accept or reject conditions is best explored with qualitative research.

#### 2.4.2 Review

If we compare the Constructivist contribution to the other possible explanations for variation in E.U. and U.S. reactions to human rights violations across targets, we see that its explanations go one level deeper. Constructivism clarifies the principles that constitute the other hypotheses and introduces the power of norms in the interactions between states. Constructivism complements, instead of rivals the other previously discussed International Relations theories. The second Norms Constructivist hypothesis, even with empirical support, could not be seen as a unique explanation because it mirrors the Liberal hypothesis. The first hypothesis, however, can be tested against the Neorealist theory that argues that material interest will trump human rights in decisions about sanctions.

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<sup>78</sup> Rather than juxtaposing the logic of consequentialism with the logic of appropriateness, we could also think of them on a continuum. Risse (2000) has proposed a third mode of interaction: the 'logic of arguing' in which actors engage in communicative interaction and, depending on the strengths of the arguments put forward by the participants to the debate or negotiation, change their perceptions. If this communicative interaction takes place between actors of sharply diverging powers and capabilities, however, it becomes difficult to claim that actors changed their preferences due to convincing arguments, unless it is the more powerful actor that changes its position. Tieleman (forthcoming) provides a test-case of the power of communication with her analysis of the OECD negotiations on the Multilateral Agreement on Investments.

If Constructivism correctly theorizes that norms constitute the identity of Liberal democracies, we should see, just like with the Liberal hypothesis, a strong, positive, and significant relationship between the degree of respect for human rights and regime type. This is so obvious and enshrined in the Constitutions of liberal states that it does not really need any empirical confirmation. In fact, as we will see in Chapter four, the two elements can be measured independently only with great difficulty. If respect for human rights trumps material interests, as suggested in hypothesis 1, we should observe that sanctions will be imposed despite the economic importance of the target state.

Finally, in hypothesis 3, we predict that:

3. the more human rights are violated, the stronger their perpetrators will be punished.

We should not find significant differences in European and American reactions to human rights violations: negative measures to offenders, positive rewards to defenders. If we do see differences, we can speculate that they may be caused by the presence or absence of persuasive advocacy coalitions, but that assertion would be very difficult to verify empirically. Finally, although we will not formally test it, we can expect human rights to play a more important role in the foreign relations of Liberal Democracies in the nineties than it did during the Cold War period. Indeed, human rights norms probably play an even more important role in the late nineties than they did in the years immediately after the fall of the Berlin wall.

Table 2-2 below enumerates the hypotheses generated by the theories. The next Chapter provides a qualitative assessment of the impact of domestic institutions on reactions to human rights violations in the E.U. and the U.S.

Theory	Motivations state behavior	Causal claims explaining variation across targets	Causal claims explaining variation across U.S. and E.U.
Neorealism	Interests	<ol style="list-style-type: none"> <li>1. The more important a human rights violating state is in strategic terms, the less likely it will be hit by sanctions, or the lighter the measures will be.</li> <li>2. The more a human rights violating state poses a threat to the E.U. or the U.S., the more likely it will be hit by sanctions if it violates human rights.</li> <li>3. Adversaries are likely to be sanctioned harsher than allies. Allies are likely to be rewarded more than adversaries.</li> <li>4. Sanctions are less likely and less harsh the more costly they are to the sender.</li> </ol>	<p>5. The closer a potential target is in terms of geographic proximity, the tougher the reaction will be. Since the E.U. and the U.S. are located differently, they will thus react to different countries (mainly countries in their 'back yard').</p>
Neoliberal-Institutionalism	International institutions	<ol style="list-style-type: none"> <li>1. Liberal democracies will sanction the relatively more important trading partners similarly harsh since they will seek U.N. rather than bilateral sanctions;</li> <li>2. Liberal democracies will more easily reach international agreement on the imposition of (U.N.) sanctions against the worst human rights violators. U.N. sanctions will tend to be harsher against these target states.</li> <li>3. The more foreign economic relations become institutionalized by formal agreements, the less likely it is that sanctions will be imposed, since the target is granted a certain degree of legal certainty.</li> </ol>	<p>4. Since the E.U. has institutionalized its relations with African, Caribbean and Pacific states to a further extent than the U.S. has, the E.U. is likely to impose a lower level of sanctions towards these countries than the 'unbounded' U.S..</p>
Liberalism or domestic structure arguments	Domestic Institutions, Liberal norms to respect democratic principles and the rule of law	<ol style="list-style-type: none"> <li>1. Liberal regimes are more likely to sanction illiberal regimes than 'like minded' regimes.</li> <li>2. Liberal regimes are more likely to grant positive measures to 'like minded' regimes, than to illiberal regimes.</li> <li>3. If the potential target is a country in transition, it is more likely that a combination of carrots and sticks is used to induce or sustain political change.</li> </ol>	<ol style="list-style-type: none"> <li>4. Since the E.U. and the U.S. are both liberal regimes, they are equally likely to sanction illiberal states and reward liberal states.</li> <li>5. Domestic structure matters when liberal democracies react to human rights violations. The level of leeway granted to the executive vis-a-vis the legislature will have an impact on the level and type of stick or carrot imposed. The direction of this impact depends on the political preferences of the dominant actor. Dominant conservatives may favor softer measures than dominant liberals or social democrats.</li> <li>6. In political systems where interest groups have relatively easy access, interest groups will have more of an impact on reactions to human rights violations. Dominant business groups may favor softer measures than dominant societal groups.</li> <li>7. The presence or absence of historical or cultural ties between the potential target and the sender should have an impact on the types of measures imposed in reaction to human rights violations.</li> </ol>
Constructivism	Norms to respect human rights	<ol style="list-style-type: none"> <li>1. If a state's identity and sense of security are central to its survival, and human rights norms are central to this identity and sense of security, the need to uphold human rights norms will trump other interests, such as material interests.</li> <li>2. the more human rights are violated, the stronger their perpetrators will be punished.</li> </ol>	<p>3. If the E.U. and the U.S. adhere to the same human rights norms, they are likely to punish the same human rights violators or reward the same human rights defenders.</p>

Table 2-2. Overview of hypotheses generated by IR theories.

## Chapter 3. The impact of institutions on E.U. and U.S. Sanctions

What is the impact of institutions on the type and level of sanctions imposed by the E.U. and the U.S.?<sup>79</sup> This Chapter describes and discusses the international and domestic institutions that govern the way in which the E.U. and the U.S. react to human rights violations. My main argument is that the institutional set up and governing procedures influence the outcome of decision-making on sanctions in both the E.U. and the U.S. These institutions determine which actors have access to the decision-making and which actors can dominate the decision-making.<sup>80</sup>

Historically and institutionally speaking, it is easier for the EU to decide on positive measures than on negative measures. Since sanctions are economic instruments that are imposed for foreign policy reasons, the decision-making is rather complex within the EU: the Member States have tended to cling to their foreign policy power while the Commission rules over external economic relations and the internal Common Market. The decision-making power of Member States vis-à-vis the Commission varies by type of sanction (political, development aid, trade, finance, military). There are several developments that have had an impact on the type and level of measures imposed by the EU in reaction to human rights violations in the nineties: the shift from unanimous towards majority voting for some types of measures; the Commission's right of initiative and the development of legal instruments such as the partnership agreements with third countries; and last but not least, the European desire to come to a Common Foreign and Security Policy, through which the EU would act as international player of importance alongside the US.

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<sup>79</sup> I am especially grateful to Anthonius de Vries for his invaluable role during my stage at the European Commission and afterwards in helping me understand the practice and legal bases of EU decision-making on sanctions.

<sup>80</sup> Helen Milner discusses various definitions of institutions (1997: 18). Douglass North defines institutions as "the rules of the game in a society or, more formally, the humanly devised constraints that shape human interaction" (1990: 3). March and Olson (1989: 18) claim that "political institutions define the framework within which politics takes place". Milner summarizes the view of "institutions as socially accepted constraints or rules that shape human interactions.. distinguish[ed] ... from organizations, which are agents rather than structures" (1997: 18).

The institutional set up of U.S. sanctions policy, in contrast, favors the use of sticks, given the role of Congress in the decision-making. This makes for tougher sanctions, especially under a divided government. Positive measures have traditionally known a small constituency in the US, and they are imposed on a far more ad hoc basis and tend to be military in nature –an instrument not yet at the disposal of the EU. The recent U.S. shift away from unilateral sanctions towards ‘engagement’ seems partly due to the successful pressure of business groups, who are better organized and have easier access to decision-making in the U.S. than in the EU. The rising awareness of the humanitarian counter effects of sanctions as a result of the embargoes against Iraq and Haiti complements commercial concerns and the discourse in favor of “engagement”. Human rights organizations are now successfully pushing for “smart sanctions” as a middle way between “business as usual” and a total embargo. The policy debate, influenced by these two factors, has contributed to an American-European convergence in the use of both carrots and sticks.

Since decisions on sanctions touch upon both foreign and economic policy, the number of state and non-state actors who have a stake in the outcome is large. Competences in each of these fields typically differ, which makes for a continuous battle of primacy over the issue between the Legislature and the Administration at the governmental level, and between business and human rights advocates at the non-governmental level, in both the E.U. and the U.S. This battle can be explained by the simple notion that who cares for an issue cares how it is decided upon.<sup>81</sup>

I will first discuss the impact of international institutions, mainly the U.N. and the WTO on the possibility to impose sanctions. Then I will describe EU and US decision-making procedures on positive and negative measures and provide the lists with the types of measures they imposed against countries between 1989 and 2001. I will conclude with a comparison of the impact of institutions on EU and US positive and negative measures.

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<sup>81</sup> Milner (1997: 127) concludes therefore that “institutions matter but that preferences are primordial since they circumscribe the degree to which institutions can produce variance in the outcomes”. Since my thesis does not analyze the way in which the Treaties and various agreements were negotiated, I will only look at the potential impact of institutions on decision-making once they are in place.

### 3.1 International Institutions

The scope of autonomous measures on political grounds is limited for both powers by a number of bilateral and multilateral agreements. There are various international institutional arrangements governing trade and human rights to which both the E.U. and the U.S. are signatories. The most important are the U.N. and the GATT/WTO.

As signatories to the GATT-Agreements the E.C. and the U.S. commit themselves to the principles of non-discrimination and to grant Most Favored Nation status (MFN) to other members of the GATT. MFN can be extended to non-members of the WTO on a bilateral basis, to which bilateral conditions may be attached. The WTO allows for sanctions in the general exceptions in Article XXI which states that obligations under the U.N. Charter to maintain international peace and security have precedence over GATT rules.<sup>82</sup> Furthermore, there are exceptions for favorable trade conditions between members of custom unions or free trade areas (Article XXIV(5) GATT). In view of the development objective of the Lomé Convention, the contracting parties of the GATT waived certain provisions to permit the European Community to provide preferential treatment for products originating in African Caribbean and Pacific States.<sup>83</sup> Another autonomous trade regime in which the U.S. and the E.U. go beyond the trade preferences granted by the GATT for development reasons is their General System of Trade Preferences (GSP). Both regimes will be discussed in more detail below. Whereas the imposition of trade restrictions on human rights grounds is highly contested, the GATT makes at least one explicit reference to human rights in its provision regarding prison labor in article XX.<sup>84</sup>

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<sup>82</sup>The relevant provision under Art. XXI 'Security Exceptions' reads: 'nothing in this Agreement shall be construed .. (c) to prevent any contracting party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security' (GATT secretariat, 1994: 519-520).

<sup>83</sup> See Martenczuk (2000: 475). The waiver concerns Article I(1) of GATT, following a decision of 9 December 1994. The banana conflict has however raised doubts "as to the possibility of maintaining indefinitely the preferential trade regime for ACP products". That is one of the reasons that the new Cotonou Agreement foresees "in the negotiation of more balanced trade agreements with individual ACP countries or groups of ACP countries that should qualify as free trade arrangements within the meaning of Article XXIV(5) of GATT and therefore render trade relations with ACP countries WTO-compatible without the need for a waiver" (Martenczuk 2000: 476).

<sup>84</sup>The relevant provisions under Art. XX 'General Exceptions' reads that: 'nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures: (a) necessary to protect public morals; (b) necessary to protect human, animal or plant life or health; .. (e) relating to the products of prison labor' (GATT secretariat, 1994: 519-520).



The E.U. and U.S. are also members of the U.N. Charter.<sup>85</sup> The Security Council is empowered by Article 39 of the U.N. Charter to take action to deal with 'threat to the peace' as well as 'breaches of the peace' and 'acts of aggression', while article 2(7) provides that such enforcement action overrides domestic jurisdiction. With nine affirmative votes and no veto by a permanent member, the Security Council is allowed to order non-military and military measures, in reaction to situations within, as well as between, member states. The non military measures include a whole range of commercial and financial measures classified as 'economic sanctions'.<sup>86</sup>

Even though there is not much variation to explain between the E.U. and the U.S. as far as U.N. sanctions are concerned, these are important cases for analyzing the variation in sanctions across targets. Indeed, the U.N. Security Council may or may not react similarly to human rights violations across the globe. The U.S. and the two European members of the Security Council, France and the UK, have a veto right. The Security Council has broad powers under article 41 of the U.N. Charter to call for a "complete or partial interruption of economic relations and .. communication". To call for sanctions under article 41, it first needs to determine the existence of a threat to or a breach of the peace, or an act of aggression (art. 39). An acute problem is posed by situations where sanctions could be an effective tool, but the U.N. Security Council is unable to act. This may be caused by a lack of consensus among its permanent members or by the fact that the behavior of the target is not considered a threat to or a breach of the peace (such as the Kosovo crisis). Many conflicts are of an internal rather than an international nature. Certain members of the U.N. Security Council will not be willing to interfere in what they consider to be internal affairs.

Table 3-1 below shows all U.N. Security Council Resolutions (SCR) imposing sanctions between 1989 and 2001.<sup>87</sup> Only two sanctions were imposed before 1990: one against Rhodesia in 1966 (SCR 232) and one against South Africa in 1977 (SCR 418).

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<sup>85</sup> There is an extensive literature on U.N. sanctions that will not be repeated here (see Chapter two of this thesis for references).

<sup>86</sup> Doxey, 2001: 209.

<sup>87</sup> The data base covers sanctions from 1989-2000 only.

Table 3-1. U.N. Sanctions 1989-2001.

Target Country	UNSC Res.	Date	Type of sanction
Afghanistan	1267	15.10.1999	Financial sanctions, flight ban
Angola/UNITA	864	15.09.1993	Arms and oil embargo. Enhanced with travel sanctions in 1997 (SC Res. 1127)
Armenia	853	29.07.1993	Voluntary arms embargo, par. 10.
Burundi	1072	30.08.1996	Embargo on arms (par. 11).
Cambodia	792	30.11.1992	Oil embargo on PDK-controlled areas, moratorium on log exports, threat of asset freeze.
Ethiopia/Eritrea	1298	17.05.2000	Arms embargo
Haiti	841	16.06.1993	Arms and fuel embargo, freeze of foreign assets, in 1994 enhance with total embargo except for food and medical supplies (SCR 917).
Iraq	661	06.08.1990	Comprehensive sanctions. Various amendments over the years.
Liberia	788	19 .11.1992	Arms embargo. A Security Council Committee on the arms embargo was only established in 1995 (SC Res. 985)
Liberia	1343	07.03.2001	Visa and travel restrictions. Applicable as of 7 May 2001.
Libya	748	31.03.1992	Arms and air embargo and reduction of Libyan diplomatic personnel serving abroad. In 1993 tightened with freezing of Libyan funds and financial resources abroad, ban of oil refining equipment (SCR 883).
Rwanda	918	17.05.1994	Arms embargo (on 9 June 1995 changed to Hutu rebel groups in other countries operating against Rwanda).
Sierra Leone	1132	08 .10.1997	Arms, oil and travel related sanctions.
Somalia	733	23 .01.1992	Arms embargo
Sudan	1054	26.04.1996	Restricted travel of Sudanese Government officials, reduction of Sudanese diplomatic personnel. In 1996 flight ban added (SCR 1070).
Yugoslavia (incl. Croatia and Bosnia)	713	25 .09.1991	Arms embargo, in 1992 enhanced with full trade embargo, flight ban, cultural and sports boycott (SCR 757).
Fed. Rep. Yugoslavia	1160	31 .03.1998	Arms embargo.

### 3.2 E.U. Decision-making on Sanctions

Officially, since November 1995, but having already been outlined in a land-mark resolution in 1991, the Union's external relations with third states are guided by the principles of human rights and democracy.<sup>88</sup> The legal basis and prominence of human rights in European relations with third countries has subsequently evolved in the nineties.

An important part of the founding principles of the E.C. are "the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law" (Article 6 (1), ex Article F). Respect for these principles is required from current members and future applicants, and is also increasingly codified in various human rights clauses in trade and co-operation agreements with third states. The European Parliament has successfully pleaded to require the abolition of the death penalty as a formal condition to Membership, which is already the case for the current members. Violations of workers' rights can lead to the imposition of certain measures, too. The economic and financial leverage of the E.U. on a target country can be substantial, given that the E.U. is the largest trading power as well as the largest donor of humanitarian and development assistance in the world. Thus, especially together with the aid provided by the Member States at a bilateral level, the official development of E.U. aid is substantial compared to other international actors. Moreover, historical links increase its political leverage.

The E.U. has various instruments at its disposal to react to violations of international law and human rights. These instruments vary from verbal declarations or *demarches* to actual aid or trade measures. I will discuss the decision-making procedures and explain the formal and informal role of the most important actors involved: the Council of Ministers, the Commission and the European Parliament. We can discern three key levels of decision-making

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<sup>88</sup> Council Resolution of 28 November 1991 on Human Rights, Democracy and Development. Communication from the European Commission on the inclusion of respect for democratic principles and human rights in agreements between the Community and third countries COM (95) 216 fin., annex 2. Proposal for a Council Regulation (E.C.) on the development and consolidation of democracy and the rule of law and respect for human rights and fundamental freedoms /\* COM/97/0357 final - SYN 97/0191 \*/ Official Journal C 282 , 18/09/1997 p. 0014.

authority in E.C. sanctions<sup>89</sup>: the international or U.N. level, the European level and the national level. The E.U. is often treated as a unitary actor in debates on sanctions, but in fact, its sanctions are multilateral –or rather ‘Eurolateral’- by nature. A sometimes complex domestic and intergovernmental decision-making process takes place before the E.U. can impose any type of sanction. Understanding E.U. decision-making procedures on positive and negative measures is key to understanding the types and level of measures it imposes on human rights violators.

### 3.2.1 U.N. Sanctions

As a matter of Community law, the E.C. is responsible for the implementation of U.N. sanctions. Article 307 (ex Article 234) of the E.C. Treaty explicitly states that the E.C. Treaty does not affect the obligations of Member States that result from agreements concluded before the forming of the E.C. or of their accession thereto. Legally speaking, Member States can therefore claim that obligations resulting from the U.N. Charter, such as U.N. Security Council decisions on sanctions, can be implemented by the Member States themselves. However, the praxis since the beginning of the early nineties, reinforced by the Maastricht Treaty and by several judgements by the European Court, is that, where E.C. competencies are involved, the implementation of U.N. Sanctions will be done through appropriate E.C. legislation. Such legislation takes the form of Regulations by the Council and the Commission. They are directly applicable within the E.C. as a whole. Nevertheless, the Member States play still an important role in the enforcement of the E.C. legislation. They also keep regular contacts with U.N. Security Council sanctions committees, although Article 302 of the E.C. Treaty confers this task in principle to the European Commission.

The imposition of E.U. sanctions outside the U.N. framework is much more complicated. What room to maneuver does the E.C. have outside the U.N.?

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<sup>89</sup> I speak of E.C. since, legally, it is the European Community that has the competence to enact European Regulations with regard to sanctions, even if it can not do so without a mandate by the Council (E.U.). In sections where this legal particularity is of no direct importance, I will usually speak of the E.U. only, for reasons of style and communality. For articles on the legal implementation of U.N. sanctions by the E.C. see Sebastian Bohr (1993: 268), Brandl (2000).

### 3.2.2 E.C. Sanctions: Positive and Negative Measures

E.C. sanctions have a young history; the Member States have only co-ordinated the imposition of economic sanctions since the adoption of the Single European Act in 1987, within the framework of the European Political Co-operation.<sup>90</sup> It was not until the ratification of the Maastricht Treaty in 1994 that Community Regulations of sanctions became standard. This has had very important implications for the type and level of E.U. sanctions. Before 1994, sanctions were based on the 'common commercial policy' of the Community.<sup>91</sup> Before Maastricht, strictly speaking no decision by the EPC was needed to base sanctions upon Article 113 (now 133) with Qualified Majority Voting. After Maastricht, a Common Position of Joint Action needed to be adopted by unanimity before sanctions could be imposed based upon Articles 60 and 301. The Maastricht Treaty did clarify that the movement of capital and capital goods are Community competence (hence qualified majority voting), and thus also the restrictions to movement of capital (hence financial sanctions). Financial sanctions that were imposed before the Maastricht Treaty (Haiti, Iraq, Federal Republic of Yugoslavia and Libya) were thus imposed by Member States and not by the Community.

From the Maastricht Treaty onwards, the E.U. decision-making structure has been governed by three 'pillars': (1<sup>st</sup>) the Common Market, (2<sup>nd</sup>) Common Foreign and Security Policy (CFSP) and (3<sup>rd</sup>) Justice and Home Affairs (JAI). Since sanctions are typically financial and economic instruments imposed for foreign policy reasons, commercial relations and foreign policy issues are governed by two different 'pillars'. This means that the ultimate decision-making power varies, depending on the subject matter. Commercial relations practically belong to the domain of the Commission, whereas in the field of foreign policy, it is the Member States that govern.<sup>92</sup>

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<sup>90</sup> Formalized in art. 30. of the Single European Act and gradually transformed into the Common Foreign and Security Policy (CFSP) in 1993.

<sup>91</sup> Before the Maastricht Treaty, the legal basis for the imposition of sanctions was Art. 113 (renumbered art. 133 in the Treaty of Amsterdam), yet this article did not cover all areas relevant to sanctions. Therefore, in the Treaty of the European Union (TEU), adopted in Maastricht in 1992, a new article was inserted: Art. 228a (renumbered 301 in the Amsterdam Treaty).

<sup>92</sup> Article 47 (ex Article M) states explicitly that no provisions of the Treaty of the European Union (TEU) can impede the competences granted to the European Community. Article 1 (ex Article A) states that the E.U. is founded on the E.C. "supplemented by the policies and forms of co-operation established by the [E.U.] Treaty".

The three diverse pillars mean that the *policy reasons* for action fall outside Community competence and are, therefore, a matter of the CFSP. Hence, for the imposition of sanctions prior consensus of the Council (unanimity) is required under the 2<sup>nd</sup> or CFSP pillar.<sup>93</sup> However, the *means of achieving that policy*, including an interruption or reduction of economic relations, fall within Community competence and thus 1<sup>st</sup> pillar, therefore requiring qualified majority vote by the Council.<sup>94</sup> Thus, sanction regulations (hence strictly speaking E.C. sanctions) can only be adopted after the adoption of a Council (E.U.) Common Position. 15 Member States thus have to agree unanimously to impose a sanctions but the level and type of sanctions can be determined with a qualified majority. No consent of the Parliament is required for the imposition of economic or financial sanctions and it plays thus no formal role of importance. This gray area, in which there is overlap between foreign policy and action in commercial relations, makes the imposition of sanctions particularly complicated.

Article 3 (ex C) obliges that there is consistency in the policy of the Union in the fields of foreign affairs, security, economy and development. The Council and the Commission are both responsible to maintain such consistency. Article 3 does, however, not indicate which policy field has priority in case of inconsistencies. Economic and financial sanctions are the only area in which a certain hierarchy was agreed upon. Articles 60 and 301 state that the Community needs to act in accordance with CFSP decisions in the field of sanctions. That means that the objectives of the Community such as free movement of goods, capital and services as well as development, are subordinated to the goals of the CFSP, such as security, protection of human rights and others.

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<sup>93</sup> The Council of the European Union, generally represented by the foreign ministers of the Member States will either adopt a Common Position on the basis of Articles J.2 and J.5 of the Treaty of Amsterdam (renumbered Articles 12 and 15) or a Joint Action, regulated by Article J.2 of the Treaty of the European Union.

<sup>94</sup> Art. 301 (ex 228a) reads: 'Where it is provided, in a common position or in a joint action adopted according to the provisions of the Treaty on European Union relating to common Foreign and security policy, for an action by the Community to interrupt or reduce, in part or completely, economic relations with one or more third countries, the Council shall take the necessary urgent measures. The Council shall act by a qualified majority on a proposal from the Commission'. With regard to trade agreements with third countries: '[t]he Communities have exclusive competence to enter into association agreements in the sense that only a Community may associate a third State with that Community... The procedure for conclusion is set out in article 228. As with all agreements the Commission conducts the negotiations in accordance with a mandate from the Council. The Council acts by unanimity after the assent of the Parliament has been obtained' (Macleod, Hendry, Hyett, 1996: 371). Some of the sanction measures in force at present were adopted under the old procedure (based on art. 113). The suspension of international agreements is governed by the Vienna Convention. It is debated who has the competence to suspend trade preferences, arguably the actor that has the competence to enact them (Brandtner and Rosas, 1999).

In theory, it would be possible that the Community imposes restrictive measures for foreign policy objectives based upon Article 133 or others, for instance if one Member State is inhibiting the adoption of a Common Position of Joint Action. It is, however, questionable whether this will ever occur in practice. Alternatively, the Treaty enables the adoption of a Common Strategy (Article 13, ex J.3) by the Council. Implementing measures could then be adopted by qualified majority voting by the Council. Again, in theory, the Council could adopt such a Common Strategy on sanctions, thereby making the unanimity requirement no longer necessary. It is important for the E.U. to develop its own sanctions policy, especially for cases in which the U.N. Security Council is not able to act. Again, this option seems unlikely for the nearby future. Experiences with recent U.N. sanctions regimes and the opposition of developing states to linking of labor standards and trade in the post-Seattle and pre-Doha era have made a number of Member States increasingly reluctant to use the label "sanctions". Still, given that the E.U. does not have many other foreign policy instruments but economic ones, sanctions are an extremely interesting and important field for evaluating the E.U. as an international actor.<sup>95</sup> The E.U. is keen on strengthening its role at the international scene, which has led to a strengthening of its sanctions policy. It is important to note that E.C. sanctions often include more than only the Member States of the E.U. The applicant member states and Switzerland typically declare their alignment and implement the same sanctions legislation.

Decision-making on positive measures is somewhat less complicated. We will see that the European Parliament (EP) and the Commission have a much bigger role here. The power of the EP is derived from the obligation of the Council to ask its assent before concluding an agreement with a third state as well as its power over certain parts of the budget. There are various budget lines for development and humanitarian aid for specific parts of the world, such as the Phare and Tacis programs. These programs are based on Art. 308 (ex. 235) of the E.C. Treaty, meaning that unanimity is required in the Council and that the European Parliament must be consulted.<sup>96</sup> Whereas the funds are thus created by unanimity,

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<sup>95</sup> Article 2, fourth indent, implies that Community Competences, especially the institutional ones, must be fully retained and will possibly be valid for the policy areas governed by the 2<sup>nd</sup> and 3<sup>rd</sup> pillar in the future.

<sup>96</sup> See Rosas and Brandtner (1999), footnote 68 and 7 for the exact references and a short analysis of the procedures.

decisions about these funds are made by management committees chaired by the Commission with qualified majority voting for the Member States.<sup>97</sup> These Committees establish their own rules of procedure.

The financing for development co-operation with African, Caribbean and Pacific states is paid out of the so called European Development Fund (EDF). This fund is regulated through a budget that is not part of the official E.C. budget but rather a joint obligation of the Community and its Member States. The EDF is established by separate internal agreements of the Member States.<sup>98</sup> The decision-making under the EDF is the primary responsibility of the Commission and it may decide to hear non-governmental experts.<sup>99</sup> An opinion of the EDF-Committee is needed only for projects above 8 million Euros. Member States are free to extend their development activities beyond the Community. The Treaty of Maastricht provides that Community and Member States development policy is complementary (Article 177(1)).

#### *Council and Commission: Quibbling over Competences*

The most important actor to decide on *whether* sanctions are imposed is, thus, the Council of Ministers which decides by unanimity on the imposition of sanctions. The Commission has nevertheless a hugely important role since it prepares and initiates the regulations and thus proposes *how* and *which* sanctions are imposed, in which case qualified majority voting is the requirement. The Commission is not likely to propose any regulation of which it does not think it can get the support of a majority in the Council. Its proposal for a Council Decision on the imposition of negative measures, and its draft regulations form the basis for negotiations. A Member State, or the Presidency can also ask the Commission to present a proposal. The formulation of the exact items to be sanctioned, the exceptions, and whether the Commission or the Member States have the authority to decide on the exceptions tend to be subject to negotiation.

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<sup>97</sup> Council Regulation (E.C.) No 975/1999 of 29 April 1999 laying down the requirements for the implementation of development co-operation operations which contribute to the general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms. OJ L120, 08/05/1999, p. 1-7.

<sup>98</sup> For the Internal Agreement of the 8th EDF, see O.J. L156, 29 May 1998, p. 108. Separate internal agreements were signed on the implementation of ACP-E.C. co-operation. See Martenczuk for legal background and references (2000: 484-485).



The decision-making is often hampered by the fact that Member States hesitate to decide 'if' sanctions should be imposed, before they know 'which' sanctions will be proposed by the Commission. Each Member State seeks to influence the proposal and to know or even negotiate its content before any Common Position is taken on their imposition. These attempts are caused by the fact that Member States differ in their opinions on the use and desirability of sanctions, but also because the costs of sanctions tend to be unevenly distributed among the Member States.<sup>100</sup> In effect, this means that unanimity voting becomes the practice for matters that should be governed by qualified majority voting. Institutionally speaking, unanimity would only be required to *change* a proposal by the Commission, not to adopt it.<sup>101</sup> The fight how to decide on sanctions between the Council and the Commission accounts for much of the time taken in such meetings. Discussions on substance or improving effectiveness therefore do not always get the attention they deserve.<sup>102</sup> Member States (as well as the Commission) are afraid to set precedents for giving way to what they consider to be part of their own foreign policy competences.

### *The European Parliament: Begging to Participate*

We have seen that the European Parliament does not have a formal say, other than providing its opinion. Does that mean it can be overlooked as an important player in the type, timing and targeting of E.U. sanctions? Not exactly. Although the European Parliament (EP) does not have much formal power in the field of economic and financial sanctions, this does not mean that its opinion is not taken into consideration by policy makers. Uncertainty surrounding the voting behavior of the EP, gives it a certain negotiating power when its assent to treaties is required. On the basis of Article 133 of the Treaty, it can ask the Council to be consulted on proposals from the Commission for Community Regulations in the area of trade.

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<sup>99</sup> See Council Decision 98/430/E.C. of adopting the Rules of Procedure of the European Development Fund Committee. L191 16/6/98 p. 60. Also doc. 12493/96, 17 December 1996. Article 11(1) of the Internal Agreement, OJ L317, 15 December 2000, p. 375. Martenczuk 2000: 486.

<sup>100</sup> For instance, the costs of the sanctions against the Federal Republic of Yugoslavia were higher for Germany, Italy, Austria and Greece than for other –more distant- Member States. It was thus key to get these Member States on board when deciding on the imposition of sanctions. They may not all have realized the consequences of the financial sanctions that were subsequently proposed by the Commission. Discussions on the sanctions against the Federal Republic of Yugoslavia and on changing the sanctions against Iraq showed the importance of efforts to increase burden sharing, for instance by compensating countries or companies which are particularly hard-hit, in order to increase support for those sanctions and diminish the risk of circumvention or non-application.

<sup>101</sup> The Commission is obviously not happy with this development, and finds it at odds with Articles 1, 2, and 47 (the right of initiative of the Commission).

However, although the Council and the Commission are aware of the need to maintain good relations with the EP, it has argued in the past that facultative consultation with the EP takes too much time and sets a precedent.<sup>103</sup>

An important power of the EP is that it controls certain parts of the budget. The E.U. is the largest donor in the world and its funds are mainly operated by grassroots organizations. Given the fact that the main chunk of development finance (the EDF) is not part of the E.C. budget however, its influence is limited. The EP has however created special budget lines for human rights and democracy.

Through its specialized (sub)committees, the EP draws up an annual report on human rights inside and outside the E.U. Its reports called for the introduction of the human rights clauses in external agreements, the creation of a legal base for E.U. human rights actions, and for making human rights and democracy an integral part of E.U. policy, before the Commission and the Council were ready to do so.<sup>104</sup> Indeed, membership to the E.U. or association through a co-operation agreement is the biggest carrot the E.U. has to offer, and the EP has the most power over it as its assent must be obtained by the Council.<sup>105</sup> This requirement has enabled the EP to pressure the authorities of third countries to respect human rights and democratic principles.

The EP has supported and called for sanctions against countries accused of persistent and grave human rights abuses through numerous resolutions and questions posed to the Commission and the Council during public hearings. Through frequent contact with NGOs, the EP helps to keep the Commission and the Council alert and sensitive to human rights issues. For example, the EP exerted pressure on Turkey to liberalize the penal code and release political prisoners before signing the E.U. Customs Union in 1995. EP assent to the Customs Union with Turkey as only possible after intensive lobbying and external

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<sup>102</sup> Interview record nrs. 102, 8/12/99; 64, Oct/Nov 99; 97, 9/11/99; 100, 25/11/99.

<sup>103</sup> For instance in the case of the "Everything but Arms" initiative that was adopted by the Council in February 2001 and has as its aim to fully liberalize E.U. trade relations with the Least Developed Countries in all products but arms (and with a certain transition period for sugar, rice and bananas).

<sup>104</sup> See: The European Parliament and the Defense of Human Rights. Folder prepared for the elections of the EP, 1999. Interview record 107, December 1998.

pressure, during which the EP managed to create a relatively homogeneous stance pro-human rights and contra the Customs Union. Krauss (2000) argues that lobbying by the Member States probably took a more important role than Turkish endeavours to pressure the EP. He illustrates that Council and the Commission used parliamentary obstinacy on human rights issues as a reference in their negotiations with Turkey (Krauss 2000: 237). Similarly, the EP delayed the signing of a co-operation agreement with Russia during its first war against Chechnya. In response to the 1999 Chechnya war, the signature of a TACIS and research program were temporarily suspended. The approval of agreements with Belarus (1996), Croatia (1991, 1995) and Morocco (1996) were heavily debated while public hearings lead to the suspension of negotiations for the renewal of an E.C. Agreement with Romania and a 'breakthrough' political dialogue at parliamentary level with Algeria 1998 (see Table 3-3).

Through the ACP-EC Joint Parliamentary Assembly meetings with the African, Caribbean and Pacific (ACP) countries, EP members vigorously and directly debate these issues with representatives of these countries. Resolutions have been tabled at plenary sessions to condemn human rights violations in particular countries. The Council and the Commission take note of these resolutions. The Joint Assembly set up a special Committee which is to study the humanitarian impact of sanctions. It is to report its findings in November 2001.

### 3.2.3 Targeted Sanctions

After having described the general decision-making procedures, I will now discuss the procedures for deciding on three specific sanctions: symbolic sanctions, financial sanctions and trade restrictions on specified goods and services.

#### 3.2.3.1 Symbolic Sanctions

Symbolic sanctions take various forms. Diplomatic sanctions go further than verbal *demarches*, and might include the deferment of high-level meetings, the recalling

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<sup>105</sup> These agreements are negotiated by the Commission on a mandate from the Council.

of ambassadors, the withholding of travel visas to members of the government, or the prohibition of sports and/or cultural exchanges.

### *Diplomatic Sanctions*

Officially, visa bans are the domain of the Member States, but the Commission can also apply diplomatic sanctions, as it did for instance against Nigeria. Ambassadors can be withdrawn on a bilateral basis by the Member States, even though in practice, they try to co-ordinate such withdrawal. Sports are very much regulated by the sports associations, and fall to a large extent outside the authority not just of the E.U., but even of the member states. They have been imposed nonetheless by the E.U. in the past, for which 2<sup>nd</sup> pillar procedures were followed. To prolong these sanctions unanimity is required.

Table 3-2. E.U. Diplomatic Sanctions 1985-2000

Target	Date	Reference
Angola	Aug. 1997	U.N. Resolution 1127 of 28 August 1997, under paragraph 4, imposed additional measures against UNITA such as restrictions on the travel of senior officials of UNITA and adult members of their immediate families, the closure of all UNITA offices. Common Position 97/759/CFSP (OJ L 309 of 12. 11. 1997). Common Position 98/425/CFSP (OJ L 190 of 4. 7. 1998): reduction of economic relations targeting UNITA, in accordance with U.N. Security Council Res. 1173(1998); prohibition of official contacts with the leaders of UNITA;
Austria	Feb. 2000	'Sources say.. No.2890, Feb. 2,2000- Sources say.. No. 2899, Feb.8, 2000'. Various newspapers.
Belarus	July 2000	Common Position 98/448/CFSP (OJ L 195 of 11. 7. 1998): prohibition to grant visas to several categories of representatives. Repealed by Council Decision 99/156/CFSP, OJ L 52 of 27. 2. 1999.
Bosnia	1997	Common Position 97/625/CFSP (OJ L 259 of 22. 9. 1997): prohibition to grant visas to certain persons, Common Position 97/193/CFSP (OJ L 81 of 21. 3. 1997): prohibition to grant visas to those who committed certain acts of violence at Mostar
Burma	Nov. 1996	Common Position 96/635/CFSP (OJ L 287 of 8. 11. 1996): confirmation of expulsion and withdrawal of all military staff attached to representations; prohibition to grant visas to leading members of the regime, to authorities in charge of tourism sector and high-ranking members of the armed forces; suspension of official bilateral visits
Burma	April 2000	Council Common Position of 26 April 2000, extending and amending CP 96/635/CFSP on Burma/Myanmar (2000/346/CFSP). Visa ban is extended for senior members of SPDC, Burmese authorities in the tourism sector, senior members of the military, government or security forces who formulate implement, or benefit from policies that impeded Burma/Myanmar's transition to democracy. High-level bilateral government visits will be suspended;
China	June 1989	EFP Bulletin, Doc. 89/180 Statement Concerning China: 'the European Council thinks it necessary to adopt the following measures: - [among other measures] - suspension of bilateral ministerial and high-level contacts.
Fed. Rep. Yugoslavia	1992	Resolution 757 of 30 May 1992 imposed economic and other sanctions on the Federal Republic of Yugoslavia (Serbia and Montenegro), including a full trade embargo, a flight ban, and the prevention of the participation of the FRY in sporting and cultural events.

Fed. Rep. Yugoslavia	1994	Resolution 942 of 23 September 1994 imposed sanctions against the Bosnian Serbs. Among other actions, the resolution prohibited States from admitting in their territories Bosnian Serb officials and military officers
Fed. Rep. Yugoslavia	March 1998, May 1999	Common Position 98/240/CFSP (OJ L 95 of 27. 3. 1998): prohibition to grant visas to high-ranking representatives, Common Position 99/318/CFSP (OJ L 123, 13. 5. 1999, p. 1) additional restrictive measures against the FR Yugoslavia: visa ban, Council Decision 99/319/CFSP (OJ L 123, 13. 5. 1999, p. 3) Implementation of visa ban (list of persons concerned)
Iraq	1990	Security Council Res. 660, 661, 666, 670(1990), Council Declaration 56/90: interruption of diplomatic relations..
Libya	1992	Resolution 748 of 31 March 1992 imposed an arms and air embargo and a reduction of Libyan diplomatic personnel serving abroad, suspended further to Res. 1192(1998) as of 5 April 1999.
Libya	1986	Council Declarations of 14 et 21. 4. 1986: reduction of diplomatic staff; restrictions concerning visas
Nigeria	1999	Common Position 95/544/CFSP (OJ L 309 of 21. 12. 1995): expulsion of military personnel, restrictions concerning visas, end of validity: 1. 11. 1998 (Council Decision 97/821, OJ L 338 of 9. 12. 1997). Reuter E.C. Rep. Nov 13, 1995. 'Commission spokesman said.. it.. would recall its head of delegation
South-Africa	1985	28/29 June 1991 remaining sanctions further relaxed like lifting ban investments and sports contacts at case-by-case base (EPC bul, doc. 91/233). The E.C. lifts its ban on oil sales to South Africa, and votes to encourage resumption of more sports, cultural and scientific links. The only remaining E.C. sanctions on South Africa now are the U.N. Security Council ban on the sale of arms and the exchange of military attaches. (Financial Times, 7 April 1992, 4)
Sudan	1994	By Resolution 1054 of 26 April 1996, the Security Council decided that, unless the Sudan complied with its demand to extradite the three suspects wanted in connection with the 26 June 1995 attempted assassination of President Hosni Mubarak of Egypt and to stop supporting terrorist activities, limited diplomatic sanctions would be placed on Sudan. As of 10 May 1996 sanctions were imposed against the Sudan and Member States were required to reduce the number of Sudanese diplomatic personnel and restrict the entry/transit of Sudanese Government officials in their respective countries.
Sierra Leone	1997	Resolution 1132 of 8 October 1997 imposed an oil and arms embargo, as well as restrictions on the travel of members of the military junta of Sierra Leone. Common Position 97/826/CFSP (OJ L 344 of 15. 12. 1997): prohibition to grant leading members of the military junta.
Zaire	1993	Declaration of 7. 4. 1993: embargo on arms, restrictions concerning visas.

### *Deferment of Co-operation*

An important diplomatic sanction (with huge financial implications) is formed by the delay or refusal to sign a co-operation or association agreement with the E.U., or to deny membership or voting rights. The so-called Copenhagen criteria for accession to the E.U., require respect for minority rights, human rights and democratic principles. Since the adoption of the Amsterdam Treaty, even current Member States can see their voting rights suspended (Article 7 (2)) if they do not respect the principles in Article 6 (ex Article F) of the Treaty. This Article stipulates that "the Union respects fundamental rights, as guaranteed by the European

convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States as general principles of law.” Suspending the voting rights of a Member State, however, requires unanimity. Article 309 (2) (ex Article 236), introduced by the Treaty of Amsterdam, reads that “where the existence of a serious and persistent breach by a Member State of principles mentioned in Article 6(1) of the Treaty on European Union has been determined in accordance with Article 7(1) of that Treaty, the Council, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of this Treaty to the Member State in question.” The same procedures required to conclude an agreement, apply to decisions to suspend applications of an agreement. The table below shows the cases in which co-operation was deferred (1989-2000).

Table 3-3. E.U. Deference of Co-operation Agreements 1989-2000.

Country	Date	Reference
Algeria	1998	<a href="http://europa.eu.int/comm/external_relations/afghanistan/intro/index.htm">http://europa.eu.int/comm/external_relations/afghanistan/intro/index.htm</a> : The political and security situation in particular has delayed the implementation of financial co-operation between the E.U. and Algeria considerably. Delays were exacerbated between July 1994 and November 1998 by the technical closure of the Delegation and the withdrawal of expatriate consultants for their own safety.
Croatia	1995	Official Journal No C311 p. 40, 1995-11-22, Subject: Impending law on religion in Croatia. Answer: ‘When fighting broke out again in Croatia, the European Union decided, on 4 August, to suspend with immediate effect the talks under way on the conclusion of the agreement and the implementation of the Phare programme in that country.’ Official Journal No C340 p. 39, 1995-12-18, Subject: Human rights.
Morocco	1996	The Reuter European Community Report, June 7, 1996. ‘the Parliament has given its approval of the association agreement signed in November between the E.U. and Morocco, but has warned the Commission to ensure that human rights are respected in that country (Le Figaro p46, El Pais p2]. Official Journal No C181 p. 15, 1996/06/24, ‘The EP.. 1. Gives its assent to the conclusion of the agreement;’ Official Journal No C181 p. 15, 1996/06/24, .. 4. Calls on the Commission to monitor constantly respect for human rights and moves towards democracy in Morocco and asks it to submit a report to the European Parliament on the human rights situation and the implementation of the Euro-Mediterranean Agreement at least once a year;’
Pakistan	1999	The European Union’s relations with Pakistan are currently going through a period of uncertainty; the signature of a new Co-operation Agreement Between the European Community and the Islamic Republic of Pakistan (which would have replaced the 1986 Co-operation agreement) was cancelled, after the government of Prime Minister Nawaz Sharif was overthrown by the military on 12.10.99.

Russia	1995	The European Commission has already frozen the signing of a trade agreement with Russia which was negotiated only last month (The Guardian p11). The Reuter E.C. Rep. Jan 8, 1995. Denmark suspends defense co-operation with Russia. The partnership and Co-operation Agreement with Russia was only submitted for approval in plenary by the European Parliament after the Russian authorities had lifted their threat to ban certain political parties from taking part in the Russian elections of Autumn 1995 (de Vries 1998: 11-12).
Syria	1992 - 1993	Crawford 1998: 170: "EP blocked a new 5-year package during 1992 and 1993, refusing to give its assent on a number of occasions on human rights grounds."
Turkey	1995	Official Journal No C056 p. 99, 1995/03/06 Resolution on the draft agreement on the conclusion of a customs union between the E.U. and Turkey: 'The EP .. 1. Believes that the human rights situation in Turkey is too serious to allow the formation of the proposed customs union at present;'

### 3.2.3.2 Financial Sanctions

Financial and economic sanctions are covered Articles 60 and Article 301 (ex Article 228a) of the Treaty on the European Union (TEU). Article 301 reads that "where it is provided, in a common position or in a joint action adopted according to the provisions of the Treaty on European Union relating to the common foreign and security policy, for an action by the community to interrupt or to reduce, in part or completely, economic relations with one or more third countries, the council shall take the necessary urgent measures. The Council shall act by a qualified majority on a proposal from the Commission."

Financial sanctions include freezing of funds held abroad by the target governments (and other entities or individuals acting on their behalf); prohibitions on financial transactions, including financial support, insurance or guarantees for new export credits by public authorities; and prohibitions on financing privatization or –more seldomly- a ban on investment. Whereas in the past financial sanctions were used as a last resort, they now sometimes precede the usual trade bans.<sup>106</sup> Financial sanctions are imposed according to the procedures used in setting symbolic sanctions, but with some unique provisions. For instance, under Article 60 (ex Art. 73g) Member States are given the capacity to act quicker than the E.U. in order to safeguard national assets for "serious political reasons and on grounds

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<sup>106</sup> Lennan (1999: 169).

of urgency".<sup>107</sup> This exception can be justified by the risk of capital flight by the targeted parties. The Council may, acting by a qualified majority on a proposal from the Commission, decide that the Member State concerned shall amend or abolish such measures. The EP would then be informed by the President of the Council. The E.U. has imposed financial sanctions –mainly the freeze of assets– mostly after U.N. Security Council Resolutions (Table 3-4).

E.U. financial sanctions towards the Federal Republic of Yugoslavia (1998-2000) went considerably further than the U.N. sanctions. These sanctions strengthened the co-ordinating and monitoring role of the Commission, despite fierce resistance from some Member States.<sup>108</sup> This experience did not set a precedent, however. When the U.N. imposed financial sanctions against the Taliban, the Member States did not allow the Commission to go any further than what was provided in the U.N. SCR<sup>109</sup>, although the resolution explicitly stated that the Commission would be the direct contact for the U.N. sanctions Committee. Moreover, all licenses would apply in all Member States that are territory of the E.U.<sup>110</sup> The most recent case in which financial sanctions were considered was against the rebels taking part in the conflict in Macedonia.

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<sup>107</sup> This exception was used only once, and arguably not justifiably so. When the U.N. Security Council had decided on a freeze of assets of the Taliban, it had not indicated which persons or enterprises were concerned. The EU Council then decided to wait with the adoption of a Regulation until the names were known. One Member State did not wait and adopted legislation prior to the EC Regulation, but without mentioning names in it, which rendered it non applicable.

<sup>108</sup> Art. 8 (2), E.C. Council Regulation no. 1294/1999 of 15 June 1999. Interview record 28, 21 January 2000; interview record 24, 18 January 2000; record 65, November 1999. When the first wave of financial sanctions (imposed in May 1998) did not prove as effective as was hoped for, they were further sharpened in June 1998 by a prohibition on new investments and in June 1999 by the freezing of funds and a total investments ban. After tough negotiations, it was agreed that a special Management Committee, chaired by the Commission, would see to it that, no exceptions would be authorized, unless 'serious damage' either to the firm or to the interest of the Community could be demonstrated. Only the Commission could decide on these exceptions.

<sup>109</sup> Council and Commission differed of opinion on whether or not the Commission could go ahead and make the names of the persons and enterprises whose assets should be frozen explicit in the Regulation, even though these names were not yet announced by the U.N.. The two Member States with seats in the U.N. Security Council convinced the others that it was up to the Security Council Committee to adopt the list of names, and that there was thus no room for autonomous EC measures.

<sup>110</sup> U.N. Security Council Resolution 1267 (1999) of 15 October 1999. Interview record 24, 18 January 2000. Interview record 33, 28 January 2000. A diplomat from one of the permanent members of the Security Council stated that: "If there are U.N. SC sanctions, we approach them differently under our national legislation. Our U.N. act enables us to respond quickly and implement the measures quickly. We stick very closely to the U.N. SC resolution. It is an imperative then, to ensure that the E.U. applies the same, not stricter, sanctions. We cannot go beyond U.N. sanctions, since that would be a violation of international law. There is a hierarchy: U.N. law goes before E.U. law." [This statement is not correct: Any Member State can go further than U.N. sanctions, but can not adopt less restrictive measures. The EU can thus go beyond U.N. sanctions]. Other countries were reluctant too. One diplomat asserted that "There are problems with the implementation of the sanctions. This is why the Commission tried to include this art. 12 in the Afghanistan regulation. It has no resources to monitor the implementation of the measures, or to drag a Member State before the Court. Therefore it tries to raise these matters in the regulation, which really upset the Member States." Interview record 100, 25 November 1999.



Table 3-4. E.U. Financial Sanctions 1989-2000.

Target	Date	Reference
Afghanistan	1999	Resolution 1267 (1999) of 15 October 1999 demanded that the Taliban turn over Usama bin Laden without further delay to appropriate authorities. Since this demand of the Security Council was not met, the prohibitions contained in paragraph 4 of the resolution, i.e. a flight ban on any aircraft owned, leased or operated by or on behalf of the Taliban, as well as a freeze on funds directly or indirectly owned or controlled by the Taliban entered into effect on 14 November 1999. <a href="http://www.un.org/Docs/scres/1999/99sc1267.htm">http://www.un.org/Docs/scres/1999/99sc1267.htm</a> Common Position 1999/727CFSP (OJ L294 of 16.11.1999); Council Regulation (E.C.) No 337/2000 of 14 February 2000 concerning a flight ban and a freeze of funds and other financial resources in respect of the Taliban of Afghanistan. OJ L43/1, 16.2.2000.
Angola	1998	By resolution 1173 of 12 June 1998 the Council decided that all States, except Angola, in which there are funds and financial resources, including any funds derived or generated from property of UNITA as an organization or of senior officials of UNITA or adult members of their immediate families designated pursuant to paragraph 11 of resolution 1127 (1997), shall require all persons and entities within their own territories holding such funds and financial resources to freeze them and ensure that they are not made available directly or indirectly to or for the benefit of UNITA as an organization or of senior officials of UNITA or adult members of their immediate families designated pursuant to paragraph 11 of resolution 1127 (1997). <a href="http://www.un.org/Docs/scres/1998/sres1173.htm">http://www.un.org/Docs/scres/1998/sres1173.htm</a>
Burma	2000	Council Common Position of 26 April 2000, extending and amending CP 96/635/CFSP on Burma/Myanmar (2000/346/CFSP). .. funds held abroad by persons referred to visa ban list will be frozen.
Fed. Rep. Yugoslavia	1994	<a href="http://www.un.org/News/ossg/sanction.htm">http://www.un.org/News/ossg/sanction.htm</a> Resolution 942 of 23 September 1994 imposed sanctions against the Bosnian Serbs. Among other actions... froze Bosnian Serb financial assets held abroad.
Fed. Rep. Yugoslavia	1998 , 1999	COM/98/0347 final */ Proposal for a Council Regulation (E.C.) concerning the reduction of certain economic and financial relations with the Federal Republic of Yugoslavia and the Republic of Serbia. Official Journal No L209 p. 16, 1998-07-25 Council Regulation (E.C.) No 1607/98 of 24 July 1998 concerning the prohibition of new investment in the Republic of Serbia. Official Journal No L178 p. 33, 1998-06-23, Council Regulation (E.C.) No 1295/98 of 22 June 1998 concerning the freezing of funds held abroad by the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia. Common Position 99/318/CFSP (OJ L 123, 13. 5. 1999, p. 1) additional restrictive measures against the FR Yugoslavia. Reg. 1294/1999, OJ L 153 of 19. 6. 1999. freeze of funds belonging to Yugoslav and Serbian governments and companies they own or control, ban on investment in Serbia and in companies owned or control by the Yugoslav and Serbian governments, prohibition on export credit granted by private sector to the government and companies it owns or controls, list of competent authorities repeal of Council Regulations (E.C.) Nos. 1295/98 and 1607/98 freezing of funds
Haiti	1993	<a href="http://www.un.org/News/ossg/sanction.htm">http://www.un.org/News/ossg/sanction.htm</a> Resolution 841 of 16 June 1993 imposed an arms and oil embargo, froze foreign assets, and set up a Security Council sanctions committee. Imposed by the Member States, not the Community, since before the Maastricht Treaty.
Iraq	1990	<a href="http://www.un.org/Docs/scres/1990/661e.pdf">http://www.un.org/Docs/scres/1990/661e.pdf</a> U.N. Security Council Resolution 661, art. 4. Declaration 56/90. Imposed by the Member States, not the Community, since before the Maastricht Treaty.
Libya	1993	Resolution 883 of 11 November 1993 tightened sanctions on Libya. In this resolution, the Security Council, among other items, approved the freezing of Libyan funds and financial resources in other countries and banned the provision to Libya of equipment for oil refining and transportation. <a href="http://www.un.org/Docs/scres/1993/883e.pdf">http://www.un.org/Docs/scres/1993/883e.pdf</a> . Common Position 93/614/CFSP (OJ L 295 of 30. 11. 1993): reduction of economic relations. suspended further to Res. 1192(1998) as of 5 April 1999. Imposed by the Member States, not the Community, since before the Maastricht Treaty.

### *Freezing Assets*

To freeze assets of certain designated individuals, the procedure described above applies, with an Annex of names (and preferably dates of birth) added to the regulation in question. Individual Member States may decide to act quicker if serious political reasons and grounds of urgency prompt them to do so. Since they need to inform the Council and other Member States, it is unlikely that they will impose such measures unilaterally.<sup>111</sup> Member States, or individuals residing in the European Union, may –through their national authorities—ask the Commission to add a name to the Annex, if they have good evidence that the person in question is acting on behalf of or to the benefit of the target regime.<sup>112</sup>

### *Suspension of Development Aid*

Another important financial sanction concerns the suspension of development aid. The extension or withdrawal of development assistance is subject to the voting requirements that govern the technical assistance regulations. Most development assistance is provided under special co-operation agreements, which by now automatically include a human rights clause that encompasses the core labor standards set out in the eight core ILO Conventions (see annex I for a list of co-operation agreements with the various types of human rights clauses).<sup>113</sup> Upon signing such agreements, substantial sums of financial assistance are granted beyond trade benefits to help to better fulfill these criteria.

One of the most important instruments of development assistance is the Lomé Convention, which was followed by the ACP-E.C. Partnership Agreement, signed in Cotonou (Benin) on 23 June 2000 –after lengthy negotiations and significant

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<sup>111</sup> Financial sanctions are regulated by art. 73g (renumbered article 60) and reads: '1. If, in the cases envisioned in Art. 228a, action by the Community is deemed necessary, the Council may, in accordance with the procedure provided for in Art. 228a, take the necessary urgent measures on the movement of capital and on payments as regards the third countries concerned. 2. ... as long as the Council has not taken measures.. Member States may, for serious political reasons and on grounds of urgency, take unilateral measures against a third country with regard to capital movements and payments'. In this case, Member States should inform the Commission and the other Member States where after the Council may, acting by a qualified majority, decide that the Member State concerned should amend or abolish the measures it has taken (Macleod, Hendry and Hyett, 1996: 355). A member state may decide to act quicker to prevent the removal of financial assets from its jurisdiction.

<sup>112</sup> Art. 8 (2), E.C. Council Regulation no. 1294/1999 of 15 June 1999, concerning financial sanctions against the Federal Republic of Yugoslavia.

<sup>113</sup> Communication from the European Commission on the inclusion of respect for democratic principles and human rights in agreements between the Community and third countries. COM (95) 216 fin., annex 2. See for procedures Council Regulation (E.C.) No. 976/1999 of 29 April 1999.

alterations of the originally proposed text.<sup>114</sup> Since the Mid-Term Review of Lomé IV in 1995<sup>115</sup>, appropriate measures can be taken if principles of human rights and democracy are violated (Articles 5 and 366a). It also includes a specific provision on trade and labor standards (Title II, Chapter 5, Article 50). Before this time human rights were only mentioned in the preamble.<sup>116</sup> For the first time, respect for human rights, democratic principles and the rule of law became essential elements of the Convention. This means that ACP countries that do not fulfill these criteria risk the suspension of allocated funds. Assistance is typically granted over 5 year periods and suspensions are serious blows to most target countries because short term assistance is difficult to install. Humanitarian aid, which is paid from a different budget, typically continues in such cases.<sup>117</sup> Since the Mid-term review of Lomé IV (1995), the E.U. can open consultation procedures, calling for a transition period (article 96 under the Cotonou Agreement, ex Article 366), during which the country in question must present a program demonstrating a commitment to the conditions (general principles) agreed upon in Article 9 of the Agreement (ex. Article 5 Lomé IV).

The separate Internal Agreement on the implementation of Cotonou contains the procedures applicable for suspending co-operation under Articles 96 and 97 of the Partnership Agreement. These provisions are largely identical to Lomé IV, including the provision that the Council shall act by qualified majority when deciding on partial suspension or appropriate measures, but by unanimity for full suspension.<sup>118</sup> The consultation procedure could however only be effectively evoked after March 1999 when the Council agreed upon the implementation measures of article 366a.<sup>119</sup> The result was a rapid increase in the number of countries invited for such consultations from March 1999 onwards.

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<sup>114</sup> The text of the agreement was published in O.J. L317, 15.13.2000, p. 1. For an overview of the history and legal provisions of the Lomé Convention, see Hoffmeister (1998), Arts (1997), Kamminga (1989). For a comparison of the Cotonou Agreement with the Lomé Conventions, see Elgström (2000), Martenczuk (2000: 461-487).

<sup>115</sup> Lomé IV was signed in Mauritius on 4 November 1995 (O.J. L 156, 29.5.1998, p.1).

<sup>116</sup> Arts (1997), Kamminga (1989).

<sup>117</sup> The Council resolution of 28 November 1991 on human rights, democracy and development which, "while confirming that in all cases humanitarian and emergency aid would continue to be made available", stated that in response to violations of human rights, "the Community and the Member States may adjust co-operation activities with a view to ensuring that development aid benefits more directly the poorest sections of the population in the country." Official Journal No C242 p. 19, 1992/09/21, Subject: Aid to Sudan. Commission answer to the question.

<sup>118</sup> Article 3 of the Internal Agreement in conjunction with the Annex to the Agreement. Council Decision 00/771/E.C., OJ L317, 15/12/00, p. 375-381. See Martenczuk 2000: 486.

<sup>119</sup> Interview record 10, 14 January 2000. Council decision 1999/214/E.C. of 11 March 1999, O.J. L 75, 20 March 1999, p. 32.

After lengthy negotiations and resistance from ACP states against the introduction of a 'nebulous' concept, the partners to the Cotonou Convention agreed upon an additional criterion for co-operation, namely "transparent and accountable governance" (art. 9).<sup>120</sup> Good governance is a 'fundamental', not an 'essential' element for the co-operation. This article is now being evoked for the first time against Liberia.<sup>121</sup> Liberia is also the first case in which the Council considered that alleged involvement in human rights violations in a neighboring country justified taking "appropriate measures", although not all Member States wished to spell this out explicitly.<sup>122</sup> The Council's action, in accordance with the findings of the U.N. Panel of Experts pursuant to SC Resolution 1306 (2000), was based on information about Liberian rebel forces' alleged human rights violations in Sierra Leone.

Though the agreement is essentially an intergovernmental agreement, Cotonou grants NGOs and other non-state actors a relatively important role in development co-operation (Articles 4 through 7). Their role concerns 'information and consultation' on development strategies. These non-state actors are now working with the E.U. and ACP countries to define their 'involvement' in the implementation of the Cotonou Agreement.<sup>123</sup> This is still a sensitive area for some ACP governments.

An alternative, softer, approach is possible through Article 8, that introduces 'political dialogue'. Originally, ACP countries feared that future discussions would focus on their shortcomings and that Article 8 would be an additional conditionality but with a nicer label.<sup>124</sup> Still, some confusion and disagreement exists as to how this article is to be implemented. Whereas some Member States see it as a precursor to Article 96 Consultations, the prevailing view is that it should be an ongoing political dialogue *in situ* involving both state and non-state actors, on all

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<sup>120</sup> See Elgström on an analysis of why ACP states accepted the compromise in the end (2000:191).

<sup>121</sup> Council Decision on opening consultations with Liberia under Articles 96 and 97 under the Cotonou Agreement, 23 July 2001.

<sup>122</sup> U.N. document S/2000/1195.

<sup>123</sup> On July 6 and 7, 2001, the Belgian Presidency organized a conference in Brussels on the participation of non-state actors in the implementation of the Cotonou Agreement. Representatives of the ACP civil society adopted a plan of action and a declaration seeking to define their role.

<sup>124</sup> Elgström, 2000: 191.

matters of mutual concern. In Spring 2001 dialogue under Article 8 was held with Kenya, Zimbabwe and Mozambique. The more frequent employment of Article 8 has led ACP countries to request a debate on its interpretation. They feel that the call for consultations or dialogue has not always occurred in the spirit of 'partnership' underlined in the Agreement.

The Commission makes a distinction between 'countries in conflict' and countries under Article 96 consultations.<sup>125</sup> Article 11(4) of the Cotonou Agreement states that particular attention shall be paid to "preventing a diversion of funds for belligerent purposes". Such countries can thus only get part of the amount reserved for them (it is disputed how large this part should be). The list of countries in conflict may be adapted according to the evolution of conflicts or peace efforts, reflected in positions adopted by the E.U.

Although it is a partnership agreement, and the financial and trade benefits for the ACP side are obvious, one wonders what made them agree on the political conditionality. The negotiations were obviously asymmetric with the E.U. holding the dominant positions and the purse. Nevertheless, Elgström (2001) states that an analysis solely based on material power resources could not explain the outcome, and that we need to look at the impact of norms and identities instead. E.U. enlargement has diminished the number of former colonial powers in the E.U. and has subsequently brought a shift in regional interest. Compared to the earlier agreements we also saw an increase of ideological concerns about human rights, democracy and good governance and a necessity to comply with WTO standards.<sup>126</sup>

According to many E.U. officials, the evolution and enhanced availability of legal instruments to impose sanctions or start consultations within the Lomé and Cotonou framework, has led to a more proactive and transparent policy of the

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<sup>125</sup> Communication on Co-operation with ACP Countries in Armed Conflicts of 28 May 1999 in which the Commission informed Member States of measures which it had taken to enhance the control of Community funds and outlined policy options as a framework for further discussion on E.U. policies towards ACP countries involved in armed conflict. See also Commission Communication on Conflict Prevention, Management and Resolution in Africa of 14 May 2001.

<sup>126</sup> See also Dickson (2000).

E.U..<sup>127</sup> Since the adoption of the implementing measures and the signing of the Cotonou Agreement, we have indeed witnessed an increased use of Article 96 procedures. Between 1989 and 2001 the E.U. has suspended development co-operation to the countries listed below.<sup>128</sup> It is important to note that cases in which development aid was suspended before 1996 were often done in informal ways, for instance by a letter from the Commissioner and without formal approval by the Council (Equatorial Guinea 1992). Such instances were thus not published in the official Journal and only retraceable through interviews and review of secondary literature.

Table 3-5. E.U. Suspension of Development Aid, 1989-2001.

Target	Year	Legal reference
Burma	1991	EPC bul. doc. 93/168: 'Community and its MS have taken a number of measures which include the suspension of all non-humanitarian aid programs, cutting of defense links and a total ban on arms sales'.
Burundi	1993	Crawford 1998: 160. No official legal reference found.
Burundi	1997	Interview E.U. country desk officer.
Centr. Afr. Republic	1991	E.U.-ACP Co-operation in 1998, DG Development, Brussels. 1991-1997.
Comoros	2000	Proposal for a Council Decision concluding consultations with the Comoros under article 366a of the Lomé Convention and taking appropriate measures. /*COM/99/0695 final*/. Consultations were opened by Council Decision of 12/7/1999 and closed by a Council Decision of 14/02/2000.
Congo	1997	Humanitarian assistance resumed on a conditional basis through NGOs, aid remains suspended, 15/9/97, European report nr. 2251, September 17, 1997.
Cote d'Ivoire	2000	Communication from the Commission to the Council on the opening of consultations with Cote d'Ivoire pursuant to article 366a of the Lomé Convention, 13 January 2000. Consultations were opened by Council Decision of 14/01/2000 and closed by a Council Decision of 16/06/2000.
Cote d'Ivoire	2001	Opening of Consultations with Cote d'Ivoire under Article 96 of the Cotonou Agreement. Consultations took place on 21 February 2001 and were closed in June 2001.
Djibouti	1991	Rural development program had to be stopped due to armed conflict in 1991 (E.U.-ACP Co-operation 1998, p. 54).
Equatorial Guinea	1992	Marin, the E.C. commissioner responsible for development aid, refused to continue development aid to Equatorial Guinea in 1992 (this decision was never formally adopted by the Council) which led to a de facto suspension. This was only redressed in 1997, after the president of Equatorial Guinea asked the Commission to open consultation procedures. This was decided during a Council meeting, but no official decision was published. Interview with official, 10 December 1999.
Fiji	2000	Consultations opened on 19 October in accordance with the procedure laid down in Article 96 of the Cotonou Agreement and closed in June 2001. Press Release: Brussels (26-10-00), Press 399, Nr. 12476-00.

<sup>127</sup> Interview record 1, 17 January 2000; record 35, 17 February 2000, record 10, 14 January 2000; record 21, 6 December 1999; record 8, 14 January 2000.

<sup>128</sup> Only cases between 1989 and 2000 but not the cases of 2001 were included in the data base that was used for the statistical analysis.

Gambia	1994	Declaration 3 of 12 October 1994 by the Council (suspension of military co-operation and balance of payment aid). Resumed in 1997. Gijs de Vries (Dutch MEP) writes in a speech held in 1998 that E.U. aid was suspended towards Gambia. EFP Bulletin Doc. 94/228, Memorandum to the Plenary Session of the 49th U.N. General Assembly (on behalf of the European Union and Austria), 27 Sep 1994, New York, Presidency: Germany, states in par.13.13: 'The European Union stresses the need for a rapid return of constitutional democracy to the Gambia and the urgency of setting up a timetable for this objective, as outlined in the démarche delivered to the Gambian Government on 12 August 1994.'
Guinea-Buissau	1998	Following the military overthrow of 1998 which led to a period of civil war, traditional development actions were stopped and directed towards humanitarian operations (E.U.-ACP Co-operation 1998, p. 73).
Guinea-Buissau	1999	Communication de la Commission au Conseil, concernant l'ouverture de consultations avec la Guinee-Bissau au titre de l'article 366 bis de la Convention de Lomé. Bruxelles, 09-07-1999. Com (1999) 361 final., COM(1999)491 final. Consultations were opened by a Council Decision of 19/07/1999 and closed by Council Decision of 6/12/1999.
Guinea-Equatorial	1994	The Commission proposed to suspend aid in the Council of 22 December 1992. Aid was frozen between 1991 and 1995, and resumed in July 1997. Crawford 1998: 160, speaks of suspension development aid. E.U.-ACP Co-operation in 1998: no money received under 8 <sup>th</sup> EDF program (tables p. 193). Dialogue resumed in 1996 with human rights and democracy as essential elements.
Haiti	1991	Inter Press Service, Feb 13, 1992. De Vries 1998:7.
Haiti	2000	Consultations opened on 26 September 2000 in accordance with the procedure laid down in Article 96 of the Cotonou Agreement and closed by a Council Decision of 29/01/2000. Press Release: Brussels (28-09-00), Press 342, Nr. 11706-00. Declaration by the Presidency on 12 July: "The E.U... could be compelled to reconsider its policy in Haiti, in particular in the field of co-operation and development, should the democratic process be called into question. Under the Lomé Convention, this would imply application of the provisions of Article 366a, including partial or full suspension of aid".
Kenya	1991	Official Journal No C066 p. 69, 1996-03-04, "The Commission, together with all other major donors, has suspended all balance of payments support to Kenya since 1991 due to lack of progress in the political and economic fields." Discussions on resumption were held by the Council in May and June 1997.
Liberia	1990	Interview E.C. official: Closing of diplomatic mission in 1990. Until 1994, only humanitarian aid provided, but no European Development Funds. No formal decision to suspend aid.
Liberia	2001	Opening of Consultations under Articles 96 and 97 of the Cotonou Agreement, Council Decision 23 July 2001.
Niger	1996	Aid was suspended for a period of 6 months by Council Declaration of 29/1/1996. De Vries 1998: 7. suspension E.U. aid under Lomé IV. Vries, Gijs de (1998), based upon written question nr. E-1735/96. Interview E.C. Official: notification of suspension of development co-operation by the President of the Council of General Affairs, 8 September 1996, for 6 months, with the exception of humanitarian aid.
Niger	1999	Communication from the Commission to the Council on conclusion of consultations with Niger pursuant to Article 366a of the Lomé Convention and taking of appropriate steps. /*COM/COM/0350 final*.
Nigeria	1995	Common Position Council 4 December 1995. Prolonged until June 1999. Reuter E.C. Report. November 13, 1995. Africa Review World of Information, Feb 1997.
Romania	1989	XXIIIrd Report on the Activities of the European Communities, 1990:400. Economic relations were broken off with Romania after human rights violations by Ceausescu in 1989, while aid was increased after his fall.
Rwanda	1994	Official Journal No L283 p. 1, 1994/10/29 COUNCIL DECISION of 24 October 1994 concerning the common position adopted by the Council on the basis of Article J.2 of the Treaty on European Union on the objectives and priorities of the European Union vis-à-vis Rwanda.
Sudan	1990	Official Journal No C183 p. 12, 1992/07/20. Decision of the Commission in March 1990 not to continue aid under Lomé IV, humanitarian aid continued.

Tajikistan	1997	European Commission, The Tacis Programme 1998 Annual Report. Brussels 23.07.99 COM(99)380, p.31
Togo	1992	Official Journal No C371 p. 209, 1997/12/08 Resolution on the situation in Togo: '1. Notes that co-operation between the European Union and Togo, which was suspended in 1992, has been gradually and progressively resuming since 1995, and considers that a complete resumption of co-operation is dependent on the organization in Togo of genuinely transparent and fair elections in 1998;' Aid was not resumed in 1992. Interview with official, 6 December 1999. Consultations were opened by a Council Decision of 13/7/98 and closed on 15/12/1998.

### 3.2.3.3 Trade Sanctions

The procedures for reducing or completely interrupting economic relations are the same as those for imposing financial sanctions. They are based on Article 301 (ex Article 228a), meaning that the Council shall act by qualified majority on a proposal from the Commission. There have been very few total trade embargoes and they have always been U.N.-led (see Table 3-1). Here I will discuss in detail the procedures surrounding the withdrawal of trade preferences; restrictions on the export or import of strategic goods; and restrictions on transport.

#### *Withdrawal of Trade Preferences*

One way to target economic measures is to withdraw special trade benefits to all or some product categories. The E.C. grants benefits under the autonomous General System of Trade Preferences (GSP).<sup>129</sup> Benefits granted under this Regulation may be withdrawn temporarily, in whole or in part, if a country is found to use any form of forced labor as defined by the Geneva Conventions and the ILO Conventions, Articles 29 and 105. Before withdrawing any part of the GSP, a detailed procedure must be followed. Such procedures, which consist of investigations and hearings of the parties involved, can be started at the request of the Commission, a Member State, and even individuals or organisations.<sup>130</sup>

The current GSP Regulation expires on 31 December 2001. The Commission launched its proposal for a new GSP Regulation in June 2001. In a deviation from the usual sequence, it was presented in the EP before being sent to the Council because it had been adopted by the Commission on the day the EP convened in

<sup>129</sup> Council Regulation (E.C.) No 1256/96 of June 1996 and Council Regulation (E.C.) No 3281/94 of 19 December 1994.



Strasbourg.<sup>131</sup> Since the legal basis for the GSP is Article 133 of the Treaty, consultation with the EP is facultative.

The proposal for a new GSP Regulation goes beyond the current Regulation in a number of important ways, and should be seen as part of the Commission's broader effort to promote core labor standards while trying to implement 'confidence building measures' towards developing countries – both with a view to the upcoming WTO Round.<sup>132</sup> We see a trend towards greater consideration of positive incentives, coupled with 'a rejection of sanctions-based approaches in trade policy'.<sup>133</sup> This proposal also incorporates the "Everything but Arms" proposal that was adopted in February 2001 by the Council and grants duty free access to all products but arms to LDCs. It also would require adherence to a number of core labor standards from all beneficiaries of the GSP, and additional (namely double) benefits, upon request, to countries that effectively apply all 8 provisions relating to core labor standards laid down in ILO Conventions (Article 14). The 'special incentives arrangements' were launched in 1994 with the objective of offering additional advantages, though the implementing arrangements were not formally established until January 1998. Here, social and environmental progress are considered 'components' of sustainable development, instead of 'conditions'. In the current regulation, sustainable development is promoted by promising additional preferences to countries that respect ILO standards concerning only to workers' and trade union rights and the minimum age for admission to employment.<sup>134</sup> So far, the special incentives program has only had a few applicants: Russia, Moldova, Georgia and Ukraine.<sup>135</sup> Again, NGOs and other non-state actors can propose the arrangement to be implemented upon a specific proposal.<sup>136</sup>

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<sup>130</sup> See Brandtner and Rosas (1999: 715) for a more detailed description of the procedures.

<sup>131</sup> COM(2001) 293 final, adopted by the Commission on 12 June 2001.

<sup>132</sup> See Communication from the Commission to the Council, the EP and the Economic and Social Committee, "Promoting Core Labour Standards and Improving Social Governance in the Context of Globalisation", draft adopted on 18 July 2001. This Communication gives a good historical overview of Community legislation and actions in this field.

<sup>133</sup> See footnote 137, page 11.

<sup>134</sup> These are Conventions 87, 98 and 138. The proposal for a new GSP would require effective application of Conventions 29, 87, 98, 100, 105, 111, 138 and 182 (Article 19). An E.U. official noted that "since most countries in the world have formally signed the ILO agreements, we put a premium on behavior that they have already committed themselves to, yet in practice are far from that." Interview record 23, 17 December 1999.

<sup>135</sup> Interview record 9, 13 January 2000. There is some concern as to which countries may be eligible for the new requirements of the proposal GSP Regulation.

<sup>136</sup> Labor Unions have been active in preparing applications. In an attempt to influence the decision-making, EuroCommerce, the representation of retail, wholesale and international trade to the E.U., immediately circulated its reaction

In the past, extension of GSP has been made conditional on ‘credible commitment to democratic reforms’ and ‘compliance with generally recognised standards of human and minority rights’.<sup>137</sup> Apart from Burma, the E.U. has suspended GSP preferences only to the FRY<sup>138</sup>, and has granted GSP to the former republics of Yugoslavia at important moments to encourage and reward these countries in their struggle for peace: Bosnia-Herzegovina, Slovenia, Macedonia and –eventually– Croatia.<sup>139</sup>

### *Raw materials*

The procedures to impose restrictions on raw materials follow the procedures set out above, since Article 301 (ex Article 228) includes products falling under the Treaty governing the European Coal and Steel Community. Normally, strictly monitored exceptions are made for oil deliveries on humanitarian grounds. Again, E.U. sanctions on raw materials have been mainly U.N.-led. With raw materials we usually refer to oil and oil products.

Diamonds have recently become one of the strategic goods subject to sanctions. The U.N. imposed embargoes on diamonds coming from Angola, Sierra Leone and Liberia because the profits derived from diamonds sales fuel conflicts in Africa. The Security Council committee report on Angola has been especially influential, providing detailed accounts of the circumvention of sanctions on arms and military equipment, and the role of the diamond trade in fuelling the conflict.<sup>140</sup> The so-called Kimberly process is seeking to establish guidelines and certificates without taking the origin of these “conflict diamonds” as the criterion.<sup>141</sup>

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to all Member States. EuroCommerce Position Paper on the Proposal for a Council Decision on GSP. Brussels, 6th July 2001.

<sup>137</sup> Brandtner and Rosas (1999: 713). Not granting MFN status to China has never been considered by the E.U.. China is the biggest consumer of the GSP with 30% relating to its products. Record 23, 7 December 1999.

<sup>138</sup> 91/589/ECSC: Decision of the Representatives of the Governments of the Member States, meeting within the Council of 11 November 1991 withdrawing Yugoslavia from the list of beneficiaries of the Community generalized tariff preferences scheme for 1991. Official Journal L 315 , 15/11/1991 p. 0050. Council Regulation (EEC) No 3302/91 of 11 November 1991 withdrawing Yugoslavia from the lists of beneficiaries of the Community generalized tariff preferences scheme for 1991. Official Journal L 315 , 15/11/1991 p. 0046 - 0046

<sup>139</sup> Council Regulation (EEC) No 548/92 of 3 February 1992 complementing Regulation (EEC) No 3587/91 extending into 1992 the application of Regulation (EEC) No 3833/90 applying generalized tariff preferences for 1991 in respect of certain agricultural products originating in developing countries with the view of re-establishing the benefit of these preferences in respect of the Republics of Croatia and Slovenia and the Yugoslavia Republics of Bosnia-Herzegovina, Macedonia and Montenegro Official Journal L 063 , 07/03/1992 p. 0049.

<sup>140</sup> Final report of the Monitoring Mechanism on Angola Sanctions. U.N. document S/2000/1125.

<sup>141</sup> Framework document in preparation of Conference Kimberly Process in London (11-13 September). U.N. Resolution General Assembly 55/56. Document A/56/186 (conclusions conference Moscow, 17 July 2001).

Representatives from the main diamond importing and exporting companies are involved in the Kimberly process.

Table 3-6. E.U. Sanctions on Raw Materials 1989-2001.

Target Country	Date	Reference
Angola	1993, 1998	Resolution 864 of 15 September 1993 imposed an oil and arms embargo on the National Union for the Total Independence of Angola (UNITA). Council Regulation (EEC) no. 2967/93 of 25 October 1993 prohibiting the supply of certain [petroleum and petroleum products] goods to Unita. Official Journal No L268, p.1. 1993/10/29. Regulation (E.C.) No 1705/98, OJ L 215 of 1. 8. 1998: prohibition of sales of vehicles, equipment used in the mining industry, petrol and petroleum products; prohibition of imports of diamonds not accompanied by a certificate of origin delivered by the Government;
Fed. Rep. Yugoslavia	1992	Resolution 787 of 16 November 1992 stated that the transshipment through the FRY of petroleum, coal, steel and other products, unless authorized on a case-by-case basis by the sanctions committee, would be prohibited. Resolution 820 of 17 April 1993 further strengthened the sanctions against the FRY.
Fed. Rep. Yugoslavia	1999	Reg. (E.C.) No 2111/1999, OJ L 258 of 5. 10. 1999. prohibition of sale and supply of petroleum and petroleum products to Republic of Serbia licensing requirement for sale and supply of these products to Republic of Montenegro and Province of Kosovo repeal of Regulation (E.C.) No 900/1999
Haiti	1993	Resolution 841 of 16 June 1993 imposed an arms and oil embargo, froze foreign assets, and set up a Security Council sanctions committee. The embargo was suspended on 27 August 1993 by Resolution 861 and then re-imposed on 18 October 1993 by Resolution 873 of 13 October.
Iraq	1990	Regulation (E.C.) No 2465/96, OJ L 337 of 27. 12. 1996: prohibition of exports and imports; specific exceptions: "oil for food". Security Council Res. 660, 661, 666, 670(1990), 687(1995)
Cambodia	1992	U.N. SC Resolution 792, 30 November 1992: Imposed an oil embargo on PDK-controlled areas of Cambodia, supported moratorium on log exports, previously adopted by Cambodia's Supreme National Council (SNC) to go into effect 1 January 1993. Urged the SNC to embargo the export of minerals and gems.
Libya	1993	Resolution 883 of 11 November 1993 tightened sanctions on Libya. In this resolution, the Security Council, among other items, approved the freezing of Libyan funds and financial resources in other countries and banned the provision to Libya of equipment for oil refining and transportation. Reg. (E.C.) No 3274/93, OJ L 295 of 30. 11. 1993: prohibition of certain trade transactions in the aviation and petroleum sectors.
Liberia	2001	U.N. SC Resolution 1343, 7 March 2001. Council Regulation (E.C.) 1146/2001 of 11 June 2001. OJ L156/01, 13/6/01, p. 1
South-Africa	1977-1992	The E.C. lifts its ban on oil sales to South Africa, and votes to encourage resumption of more sports, cultural and scientific links. (Financial Times, 7 April 1992, 4). Sanctions on imports of certain iron and steel products and of Krugerrands lifted 15 April 1991 but without consulting opinion EP! Positive measures stepped up EPC bul, doc. 91/101, doc. 91/145).
Sierra Leone	1997	Resolution 1132 of 8 October 1997 imposed an oil and arms embargo. Common Position 98/409/CFSP (OJ L 187 of 1. 7. 1998): prohibition of sales and supplies of arms and related material; repeal of Common Position 97/826/CFSP. [Ref. Security Council Res. 1171(1998)]. Common Position 98/300/CFSP (OJ L 136 of 8. 5. 1998): repeal of the prohibition to sell or supply petrol or petroleum products [Ref. Security Council Res. 1156(1998)].

### Transport

Transport sanctions follow the standard procedures. The main kinds of transport sanctions are flight bans. Before the Maastricht Treaty, the E.C. has used Article 113 (now 133) to impose sanctions on transport, for instance in the case of the U.N. sanctions against Libya.<sup>142</sup> The reasons were that this Article did not require consultation of the European Parliament, whereas the specific provisions concerning air transport do require its consultation. This would have led to delay in the decision-making. The E.U., largely following the U.N., imposed transport sanctions in the cases elaborated in Table 3-7.

Table 3-7. E.U. Transport Sanctions 1989-2000.

Target	Date	Reference
Afghanistan	1999	Common Position 1999/727/CFSP (OJ L294 of 16.11.1999); Council Regulation (E.C.) No 337/2000 of 14 February 2000 concerning a flight ban and a freeze of funds and other financial resources in respect of the Taliban of Afghanistan. OJ L43/1, 16.2.2000. Ref: U.N. Security Council Resolution 1267 (1999).
Angola	1997, 1998	Resolution 1127 of 28 August 1997, under paragraph 4, imposed additional measures against UNITA such as .. the prohibition of flights of aircraft by or for UNITA, the supply of any aircraft or aircraft components to UNITA and the insurance, engineering and servicing of UNITA aircraft. Regulation (E.C.) No 1705/98, OJ L 215 of 1. 8. 1998: .. prohibition of flights; prohibition of transport services; prohibition of technical and maintenance services as regards certain aircraft.
Fed. Rep. Yugoslavia	1992	Resolution 757 of 30 May 1992 imposed economic and other sanctions on the Federal Republic of Yugoslavia (Serbia and Montenegro), .. a flight ban.. The Regulation concerned prohibitions of traffic in air, by road, rail and shipment on the Donau and the Adriatic sea.
Fed. Rep. Yugoslavia	1998, 1999	Common Position 98/426/CFSP (OJ L190 of 4. 7. 1998): prohibition of flights by Yugoslav carriers between the Federal Republic of Yugoslavia and the European Community. Reg. 2151/1999, OJ L 264 of 12. 10. 1999. ban on flights to territories in FR Yugoslavia other than Republic of Montenegro and Province of Kosovo - licensing requirement for flights to Republic of Montenegro and Province of Kosovo. Reg. 1064/1999, OJ L 129 of 22. 5. 1999. comprehensive ban on flights.
Iraq	1990	Security Council Res. 660, 661, 666, 670(1990), 687(1995). Regulation (E.C.) No 2465/96, OJ L 337 of 27. 12. 1996: prohibition of flights;
Libya	1993	Reg. (E.C.) No 3274/93, OJ L 295 of 30. 11. 1993: Resolution 883 of 11 November 1993 tightened sanctions on Libya. prohibition of flights; prohibition of certain trade transactions in the aviation and petroleum sectors
Sudan	1996	By Resolution 1070, adopted on 16 August 1996, the Security Council decided that all States should deny aircraft permission to take off from, land in, or overfly their territories if the aircraft was registered in the Sudan, or owned, leased or operated or substantially owned or controlled by the Government or public authorities of the Sudan. However, the adopted sanctions measures, which were to enter into force pending a decision by the Council within 90 days after the date of the adoption of resolution 1070, were not imposed.

<sup>142</sup> Ex Article 113 had led to problems for the Member States with regard to trade in services since they were of the opinion that they had maintained more competences in this respect than the Commission's interpretation of the Article. The European Court of Justice largely agreed with the Member States in its opinion 1/94. It concluded that with regard to trade in services both the Community and the Member States were competent, and that there was thus "mixed competence" rather than exclusive Community competence.

## Arms

Items identified in an annex to Article 223 of the Treaty of Rome were explicitly excluded from the trade competence of the E.U.: all other manufactured goods are subject to community law. This includes civilian goods which have potential military applications.<sup>143</sup> Article 301 of the TEU refers only to 'economic relations', and can therefore, also serve as the legal basis for an arms embargo. Indeed, the European Court of Justice ruled that arms are goods in the meaning of Article 133. In the interpretation of the Court, the export of weapons thus falls under the first (Community) pillar, not under the second (CFSP). In theory, arms embargoes could be based on Article 133, but the new Article 301 makes this unlikely. Member States are reluctant to apply the interpretation of the Court in practice since they argue that Article 296 (ex Article 223) allows Member States to take measures with regard to the import and export of weapons.<sup>144</sup> Member States have in practice rejected unanimously all proposals from the Commission to decide on an arms embargo through a Regulation. In the past, the competence to restrict arms exports either remained with the Member States, or was co-ordinated through a Joint Action under ex Art. J.2. Also, Member States can agree under the second pillar on what competences actually fall under this pillar, as long as the institutional regulations are honored. The result is a very hybrid situation with regard to the trade in arms. This situation could change once one Member State is willing to block the unanimity agreement that blocks EC Regulations on arms embargoes.

The latest E.C. Regulations against the Taliban and Liberia included a prohibition to provide services and technology for military training and dual-use goods, despite the fact that the Court had ruled that there is mixed-competency with regard to services. Officially, a Joint Action would be required to prohibit dual-use goods. However, Member States proved not to have the necessary national legislation to prohibit the export of such services or to require lengthy

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<sup>143</sup> For a review of the European Union Dual-Use Export Control System and the legal texts, see: [http://www.sipri.se/projects/excon/eudu/eu\\_dualuse.html](http://www.sipri.se/projects/excon/eudu/eu_dualuse.html). Council Regulation E.C. No. 3381/94 of 19 December 1994 setting up a Community regime for the control of exports of dual-use goods. Amended in subsequent years.

<sup>144</sup> Interpretation of Article 296 is contested. Some legal experts consider that Article 296 is not a matter of mixed competences (where the Commission has powers, yet the Member States also keep certain powers), but a case of a derogation of powers from the Community to the Member States of a competence that was exclusively granted to Community, as confirmed by the Court of Justice.

parliamentary procedures to do so. Therefore, the provision to prohibit services for armed or military activities was included in the Regulation.<sup>145</sup>

It should be noted that U.N. arms embargoes have been interpreted in varying ways. The fact that they are not uniformly drafted does not help to foster consistent application.

Apart from arms embargoes, there are certain restrictions governing the arms trade. The various export control systems could be seen as a form of sanctions. By 1991, the Member States had already agreed on a list of common criteria to be applied to arms exports. These criteria were politically binding, but their implementation was not as co-ordinated as originally foreseen, even after they were further sharpened one year later.<sup>146</sup> One reason for the uneven implementation was that the criteria were not exclusive: member states could still take national considerations into account at their own discretion. In 1997, more than 600 NGOs lobbied Parliamentarians in every Member State to unite behind the demand for a clearer code.<sup>147</sup> In May 1998, under the chairmanship of the UK (but having been mostly prepared by the preceding Dutch chairmanship), the E.U. governments agreed to a code of conduct on 'arms exports aimed at curbing the supply of lethal equipment to authoritarian regimes that are likely to use them for internal repression or external aggression'. Under the code, E.U. governments gave a political, but not legally binding, commitment "to refrain from issuing export licenses for arms if there is a "clear risk" they will be used in human rights abuses."<sup>148</sup> They agreed to inform each other about their intended authorizations.

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<sup>145</sup> This underlines the problem of implementation of Joint Actions and Common Positions: who controls whether or not they are implemented?

<sup>146</sup> Conclusions of the Presidency of the European Council in Luxembourg, 28 and 29 June 1991. See: Europe, No. 5524, (special edition), 30 June 1991. Further specified in the conclusions of the Presidency of the European Council in Lisbon, 26 and 27 June 1992. See: Conclusions of the Presidency of the European Council, EPC Press Release 27 June 1992.

<sup>147</sup> Rory Watson, 'Governments urged to unite on criteria for export of armaments', in: European Voice 9-15 January 1997.

<sup>148</sup> Quoted from the International Herald Tribune, May 26, 1998: 7. For the text on which political agreement was reached, see 'code of conduct on arms export', 25.V.1998; 8687/98 (Presse 162-G). The code also creates a mechanism for E.C./E.U. governments to consult and inform each other about such decisions in order to ensure that an ethical stance adopted by one state is not undercut by others. The same issue of the International Herald Tribune mentions, ironically enough, a technology trade fair in China, crowded with British, French, Italian and American firms that sell technology that can be easily applied to enhance military equipment. For a short historical account of the Communities attempts to co-ordinate the sale of arms by European firms, see Kuyper, 1989: 398-405.

The obvious human rights link to the curtailing of arms exports leads one to wonder why the E.U. did not adopt a stricter code earlier. Obviously, arms are still seen as a very important element of the sovereignty of the member states. Also, national arms industries within Europe are often fierce competitors with huge economic stakes. In fact, continued rationalisation of the European weapons industry and increased cross-border joint ventures and mergers between E.U. manufacturers are seen as a further threat to the uniform implementation of the criteria.<sup>149</sup> Many of the applicant Member States to the E.U. have signed the Wassenaar Agreement and have also committed themselves to abide to the voluntary arms exports code.<sup>150</sup> In the Fall of 1999, some Member States even proposed to extend the list of arms to police and torture instruments. This would mean that the control over arms exports would gradually be better co-ordinated with the Commission holding more power. Unlike the other products mentioned in the annex of the code of conduct, police and torture instruments fall under the common commercial policy (pillar I) whereas arms still fall under the CFSP (pillar II).<sup>151</sup>

Despite these rather discouraging procedures that formally grant member states considerable discretion in the implementation and decision-making, the E.U. has imposed restrictions on arms exports towards a number of countries. Some of these were responses to U.N. Security Council Resolutions and they are described in Table 3-8.

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<sup>149</sup> Rory Watson, 'Governments urged to unite on criteria for export of armaments', in: *European Voice* 9-15 January 1997.

<sup>150</sup> Nevertheless, countries that do not belong to the first applicants, but are eager to apply have been caught in selling arms to countries under E.U. or U.N. arms embargo. The Ukraine, Romania and Bulgaria, for instance, are among the main arms suppliers to Ethiopia and Eritrea. Also, European countries involved in peacekeeping operations in Somalia, Rwanda and Bosnia found themselves facing the very weapons originally sold by their own countries.

<sup>151</sup> Interview record 127, November 2000. Decision 94/942/CFSP. OJ L 367, 31. 12. 1994. Amended numerous times to add or delete items from the list.

Table 3-8. E.U. Arms Embargoes 1989-2000.

Target	Legal reference	Date	Type of sanction
Afghanistan	Common Position 96/746/CFSP. SC Res. 1076/1996	31.12.1996	Embargo on arms and military equipment
Angola	Common Position 97/759/CFSP (OJ L 309). SC Res. 1127 and 1130 (1997)	12.11.1997	Embargo on arms and petrol, as regards UNITA, visa ban
Bosnia-Herzegovina	Common Position 96/184/CFSP (OJ L 58). SC Res. 1021(1995)	07. 03.1996	Embargo on arms and military equipment (amended by Decision 1999/184/CFSP: exemptions of deliveries to police forces of equipment for demining activities and small arms)
Burma	Council Declaration 1991, Common Position 96/635/CFSP (OJ L 287).	29.07.1991 08.11.1996	EPC bul. doc. 93/168: suspension of all non-humanitarian aid programs, cutting of defense links and a total ban on arms sales'. Council Decision 99/670/CFSP, OJ L 267 of 15. 10. 1999. extension of Common Position 96/635/CFSP until 29 April 2000
China	Declaration of European Council, Madrid	27.06.1989	Embargo on arms, cancellation ministerial meetings. Official Journal No C272 p. 10, 1990/10/29.
Croatia	Common Position 96/184/CFSP (OJ L 58). SC Res. 1021(1995).	07.03.1996	Embargo on arms and military equipment, again confirmed by the Council in 1998 (CP 98/20/CFSP, 19.03.1998).
Eritrea	Common Position 99/206/CFSP. SC Res. 1227(1999).	March 1999	Embargo on arms and transfer of military technology, valid until 30 September 1999, extended by Common Position 99/650/CFSP until 31 March 2000
Ethiopia	Common Position 99/206/CFSP. SC Res. 1227(1999).	March 1999	Embargo on arms and transfer of military technology, valid until 30 September 1999, extended by Common Position 99/650/CFSP until 31 March 2000
Federal Republic of Yugoslavia	CP 96/184/CFSP (OJ L58). SC Resolution 1021 (1995).	07.03.1996	Embargo on arms and military equipment. Regulation (E.C.) No 926/98, OJ L 130 of 1. 5. 1998: prohibition of exports of equipment which might be used for internal repression or terrorism. Even though the Security Council agreed to terminate the remaining provisions of Resolution 1021 concerning the arms embargo on 18 June 1996, the E.U. remained the arms embargo even after the fall of the Milosevic' regime in October 2000.
Haiti	Council Regulation (EEC) No 1608/93. OJ No. L155, 26/06/93.	24.06.1993	Introducing an embargo concerning certain trade between the EEC and Haiti
Indonesia	Common Position 99/61/CFSP. OJ L265, 13/10/1999.	16.09.1999	Arms embargo, and as of 11 October 1999 a ban on the supply of equipment which might be used for internal repression or terrorism, suspension of bilateral military co-operation. E.C. Regulation 2158/1999 expired on 17/1/00.



Iraq	Declaration 56/90: Security Council Res. 660, 661, 666, 670(1990), 687(1995).	1990	Interruption of diplomatic relations, embargo on arms, suspension of military co-operation. Regulation (E.C.) No 2465/96, OJ L 337 of 27. 12. 1996: prohibition of exports and imports; prohibition of flights; prohibition to provide non-financial services which would benefit the economy of Iraq; specific exceptions: "oil for food".
Liberia	SC Resolution 788.	19 .11. 1992	arms embargo
Libya	Council Declaration	27.01.1986	Embargo on arms. Additional sanctions imposed after 1993, such as an air embargo, the suspension of arms supplies as well as the curtailing of diplomatic relationships, measures which have been subsequently extended also to the funds and the financial resources to which the Libyan government could have access abroad. Suspended in 1999.
Macedonia	Common Position 96/184/CFSP (OJ L 58). SC Res. 1021(1995)	07.03.1996	Embargo on arms and military equipment. (as far as Macedonia is concerned requests must be examined on a case-by-case basis).
Nigeria	Common Position 95/515/CFSP (OJ L 298 of 11. 12. 1995)	11.12.1995	The Reuter E.C. Report. Nov 21, 1995. E.U. sets arms embargo, aid freeze on Nigeria. .. sanctions .. include tighter restrictions on visas for Nigeria's military leaders and their families. Ended in November 1998.
Rwanda	SC Resolution 918 (1994)*	1994	Arms embargo
South Africa	SC Resolution 418 of 4 November 1977*	1997-1992	The E.C. lifted ban on oil sales and voted to encourage resumption of more sports, cultural and scientific links, but U.N. Security Council ban on the sale of arms and the exchange of military attaches stays in place (Financial Times, 7 April 1992, 4)
Sudan	Common Position 94/165/CFSP (OJ L 75).	17.03.1994	Embargo on arms and military equipment.
Sierra Leone	Common Position 97/826/CFSP (OJ L 344). SC Resolution 1132(1997).	15.12.1997	Prohibition to grant leading members of the military junta, embargo on arms and all related material, interruption of economic relations and contacts.
Somalia	SC Resolution 733*	23.01.1992	Arms embargo
Slovenia	Common Position 96/184/CFSP (OJ L 58). Res. 1021(1995). Council Decision 98/498/CFSP (OJ L 225 of 12. 8. 1998).	07.03.1996	Repeal of the embargo on arms in as far as Slovenia is concerned. embargo on arms destined for former Yugoslavia (as far as Slovenia is concerned requests must be examined on a case-by-case basis).
Syria	Council Decision. OJ No. C280, 25/09/1996, p. 0058.	10.11.1986	Ban on new arms sales. Lifted by the General Affairs Council on 22 November 1994.
Yugoslavia	Declaration Council of Ministers. SC Res. 713 of 25 Sep. 1991.	05.07.1991	E.C. decided upon an embargo on armaments and military equipment applicable to the whole of Yugoslavia. (EPC bul. doc. 92/117).
Zaire	Declaration Council of Ministers.	07.04.1993	Embargo on arms, restrictions concerning visas.

\*Note: It is only since the Treaty of Amsterdam that U.N. Embargoes are followed by a Common Position and E.C. Regulation.

### 3.2.4 Unilateral Sanctions: Not Done?

One cannot understand why the E.U. imposed certain types of sanctions and not others over time and across targets without understanding some of the complicated decision-making procedures governing them. Its institutional set up has a definite impact on what the E.U. can and cannot do in this sensitive area that lays at the crossroads of foreign, economic, security and development affairs. The very extent to which the various E.U. institutions jockey for the right to decide the type, timing, and degree of reactions to human rights violations underlines the importance of institutions in the explaining decision-making outcomes.

Since 1987, the Member States of the E.U. have substantially increased and improved their co-operation on reactions to human rights violations in general and on the imposition of sanctions in particular, though at times only with reluctance. The E.U. sanctions regime towards the Federal Republic of Yugoslavia in 1998 was unprecedented. But is there still scope for unilateral action by the Member States? The short answer is that unilateral sanctions can only be imposed in cases of bilateral aid restrictions, or in instances where a Member State feels it should act quicker than the other Members (usually in order to safeguard its foreign assets in the target country). If the Council fails to reach consensus, no measures will be taken. In this case the Member States are not allowed to impose bilateral sanctions.

Since the Treaty of Amsterdam came into effect in May 1999, Member States can declare that they do not wish to be bound by a particular measure (so-called 'constructive abstention'). Yet, Member States have at the same time committed themselves to the general condition that they should not impede, or otherwise undermine the common foreign and security policy of the Union and to support it "actively and unreservedly in a spirit of loyalty and mutual solidarity."<sup>152</sup> Since sanctions regulations are binding in their entirety and applicable in the Member States' legal system, they cannot enact conflicting sanctions regulations at home, except in the above-mentioned cases, which have occurred.<sup>153</sup> Moreover, Member

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<sup>152</sup> Unpublished paper by Stefan Amarashinha (1999), on file with author. Also, see TOA Art. J.1 (2), and the general loyalty obligation in Art. 5 of the Treaty of Rome.

<sup>153</sup> For instance, the Netherlands withdrew aid from Indonesia after the Dili massacre in East Timor in 1991. The UK has in several instances been faster than the other Member States in imposing sanctions. Also, it initially imposed stronger financial sanctions against the Former Republic of Yugoslavia, and imposed an arms embargo against Nigeria (Reuter E.C.

States still preserve a certain degree of autonomy in the implementation of sanctions: the penalties imposed for a breach of sanctions are decided by each state. This has obvious consequences for the degree of uniformity in the implementation and enforcement of sanctions across Member States.

These formal divisions of competences do not prevent member states from trying to preserve as much autonomy in foreign affairs as possible. Discussions in the CFSP Council meetings often focus on interpretations of the Treaties or draft regulations, and are to a certain extent characterised by a reluctance of member states to grant more authority to the Commission than is strictly required. This is so even if co-ordination by the Commission would allow for more efficient monitoring, or would serve as an important signal of unity against a target country. In fact, the unanimity requirement means that the final outcome can easily become a trade-off between the interests and ideas of the various Member States.<sup>154</sup>

Member States are still unwilling to grant too much leeway to the Commission regarding economic sanctions, and there is variation in how they implement UN sanctions. For example, the decision-making on the implementation of the U.N. sanctions against the Taliban, illustrated that some Member States were more active than others in implementing their domestic legislation before the E.U. does. It became apparent that, despite several judgements of the Court, it is still not always clear to the Member States themselves that most types of economic sanctions now belong to Community competence.<sup>155</sup> The UK is the only state with a special sanctions unit, most other Member States have their expertise on the matter scattered over their ministries of Economics, Finance and Foreign Affairs. The Netherlands also had been active in attempting to impose bilateral sanctions. This has changed following experiences with sanctions on India and Pakistan in reaction to their nuclear tests, and its unilateral continuation of sports sanctions

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Report Nov. 12, 1995) and towards Eritrea and Ethiopia in response to U.N. resolution 17 (1999) of 10 February 1999, before the rest of the community followed on March 15, 1999 (Amarasinha 1999). Through the Commonwealth, the UK can suspend a country's membership, as it did with Nigeria (Reuter E.C. Report Nov. 12, 1995). During the sanctions towards South Africa, the UK was earlier in suspending the [voluntary] ban on investments in 1990 which was strongly criticized by the other Member States (European Foreign Policy Bulletin, 4/4/90, Doc. Nr. 90/151).

<sup>154</sup> Numerous such examples were provided during the interviews. Some Member States dominate the negotiations more than others. The next chapters will explore whether their activism varies according to certain characteristics of the potential targets, such as important trade or cultural links.

<sup>155</sup> One diplomat asserted that: "We must not do everything through the E.U., but we should use all channels available: U.N., Common Wealth etc. In the case of Iraq we work closely with the U.S." Interview record 33, 28 January 2000. Kuyper 1998. Court case C-124/95.

towards the Federal Republic of Serbia. The Netherlands now publicly prefers European over national sanctions for reasons of effectiveness, more efficient implementation, and credibility. This holds even for measures still belonging to the national domain.<sup>156</sup>

The unanimity requirement makes it hard for sanctions to be imposed, but, by the same procedure, also hard to lift them. For instance, due to the veto of just the UK and the Netherlands, the oil embargo and flight ban to the FRY were maintained despite pressure to lift them in January 2000.<sup>157</sup> When the embargo on torture and torture equipment was imposed on Indonesia in reaction to the violence in Timor, France worked especially hard to insert a clause in the regulation which stipulated that the sanctions would automatically expire, unless a new (unanimous) Council decision would decide to extend them. Unanimity was not reached at the date of expiration (19 January 2000), despite the efforts of the Portuguese Presidency. The arms embargo was thus lifted despite continuing ethnic and religious strife.<sup>158</sup> Other Member States also encourage sun-set clauses in future regulations, if only to prevent situations where the sanctions are continuously extended without a real exit-strategy, such as in Burma.<sup>159</sup> A better alternative is to stipulate clear conditions that need to be fulfilled before sanctions are lifted. This would be superior to a calendar-based deadline that a target country could sit out, knowing that a unanimous vote for extension would be unlikely. A general debate on the use and implementation of E.U. economic and financial sanctions was recently started among the Member States.

Despite the obstacles inherent in the CFSP of the E.U., we see that even in cases where unanimity is no longer needed to proceed with a Commission proposal, voting is rare in practice. Because the outcomes are based on majority votes, Member States with divergent opinions will be reluctant to be seen as the “spoiler”

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<sup>156</sup> Tweede Kamer der Staten-Generaal, Vergaderjaar 1998-1999, 26 085, nr. 4. Kernproeven India en Pakistan. Also, interview with officials of the Dutch Ministry of Foreign Affairs on sport sanctions. Interview record nr. 66, 23/12/99. Tweede Kamer der Staten-Generaal, “Sancties in internationaal verband”, Brief van de Minister van Buitenlandse Zaken (nr. 1) and Verslag van een algemeen overleg (nr. 2). Vergaderjaar 2000-2001, 27 477, nr. 1 and nr. 2.

<sup>157</sup> Sources say... no. 2878. 25/1/2000, morning edition. Brussels, Belgium. The flight ban was eventually temporarily suspended in February 2000. The oil embargo and financial sanctions lasted till the fall of the Milosevic regime in September 2000 while the visa ban remained in force.

<sup>158</sup> During the sanctions regime against Nigeria (installed in 1995), France threatened to veto the prolongation of sport sanctions if Nigeria would not be allowed to play in the World Cup, organized by France in 1998. At the time, unanimity was still required. Interview record 70, 18 December 1998.

<sup>159</sup> Interview record 7, 20/3/00; record 24, 18/1/00.

and will side with the rest unless the topic is of extraordinary importance to it. This is especially true in the field of suspension of development aid. When deciding on financial or economic sanctions, we see that Member States try to decide unanimously even where qualified majority voting is provided. Pressure from the other Member States, as well as the need from colleagues in other fields also helps to foster agreement. We can thus still conclude that if we compare the amount and types of sanctions agreed upon in the nineties with those of earlier years, sanctions have quickly and increasingly become European rather than bilateral. Effective co-ordination, monitoring and implementation are, nonetheless, still in their infancy. The increasing availability of legal instruments to either suspend economic and financial relations on human rights grounds, or install incentives, can be expected to show its impact on E.U. activity. The very distinct roles of the Council, the Commission and the European Parliament combined with the very limited role of non-state actors in the decision-making process, brings us to believe that institutions definitely matter in determining the type and level of sanctions imposed by the E.U. in the last decade of the millennium. The role of the Commission, which is to a large extent shaped by one expert, as well as the E.U. desire to play an international actor of importance, should not be overlooked. The various types of E.U. sanctions that were imposed from 1989 to 2000 will be analyzed statistically in the next two chapters.

### 3.3 U.S. Decision-making on Sanctions

The U.S. has a long history of imposing sanctions for human rights reasons.<sup>160</sup> The legal grounds for imposing such measures for human rights related reasons are numerous and have been expanding over time: the violation of human rights and workers rights, coups d'état, the support for terrorism, development of nuclear or biological weapons threatening the national security of the U.S. in some way and, more recently, tolerance of female genital mutilation, coercive family planning programs, trade in human beings, prohibitions on religious freedom and the harboring of war criminals (see legal references in Annex II to this Chapter, for complete U.S. case book see Annex to the thesis).

In general, the President has broad discretion, especially with regard to bilateral government programs, the regulation of exports, and emergency measures. Congress has sought to limit Executive powers at various points in time, and the result is a plethora of Acts setting out specific conditions for certain types of sanctions. At present, at least 142 sanctions-related provisions under 42 statutes authorize the U.S. to restrict trade, finance or foreign assistance.<sup>161</sup>

As far as positive measures -in the sense of foreign assistance- are concerned, they are mainly governed by the Foreign Assistance Act of 1961 though much country and regionally specific legislation is in place as well.<sup>162</sup> The principle organization responsible for the co-ordination of U.S. aid activities is USAID, which falls under the Secretary of State.<sup>163</sup> The agency unifies U.S. aid efforts of the International Co-operation Agency, the loan activities of the Development Loan Fund, the local currency functions of the Export-Import Bank, and the agricultural surplus distribution activities of the Food for Peace program of the Department of Agriculture. The promotion of the rule of law, elections, civil society and

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<sup>160</sup> For history of U.S. sanctions, see Carter 1988, Maloy 1990, Lowenfield 1983, Ellings 1985, Hufbauer Schott and Elliott 1985, 1990.

<sup>161</sup> International Trade Commission, 1998: iii. For an overview, see table ES-1, p. xi-xiv.

<sup>162</sup> See for instance the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 CIS-NO: 92-S383-1 SOURCE: Committee on Foreign Relations. Senate DOC-NO: S. Rpt. 102-292 DATE: June 2, 1992 CONG-SESS: 102-2 ITEM-NO: 1008-C; 1008-D. f. Extend Support for East European Democracy Act of 1989 programs to all East European countries, including Estonia, Latvia, Lithuania, and the states that were a part of Yugoslavia.

<sup>163</sup> <http://www.usaid.gov/>

governance are among its main aims.<sup>164</sup> It works closely with NGOs and private organizations. Moreover, the U.S. State Department has a special office for the promotion of human rights and democracy.<sup>165</sup> Other types of positive measures, such as offering carrots during negotiations, are often left to the initiative of the Secretary of State. Congress was less willing to grant foreign aid under the Second Clinton Administration. Jeffrey Sachs, leading development economist and professor at Harvard University, states that “even when the United States reaped a peace dividend of more than 2% of GDP in reduced defence spending after 1990, it cut, rather than increased, foreign-assistance spending as a share of national income”.<sup>166</sup> Its foreign aid is 0.1% of GDP, according to Sachs “a derisory shadow of what it used to be, and roughly one-third of the European level”.<sup>167</sup> Analysts have attributed the limited U.S. foreign assistance to “the absence of a tradition of redistributive spending, the dominance of laissez-faire ideology, and the lack of strong organized support for overseas assistance”.<sup>168</sup>

I will briefly discuss some of the main characteristics of American decision-making on human rights-related sanctions, and examine how they compare to the E.U.

### 3.3.1 Executive versus Legislature

In the U.S., to an even larger degree than in the E.U., we see that the decision-making process concerning external relations in general, and economic sanctions in particular, is characterized by a continuous battle between the Legislature and the Executive. As in the E.U., part of this battle originates in the ambiguous nature of the policy instrument: economic sanctions are at the cross roads of foreign policy and external trade policy, areas that ascribe different competences to the Legislature and the Executive.<sup>169</sup> Court cases on this subject have not resulted in any definitive delineation of powers. Traditionally, these provisions have given

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<sup>164</sup> For an account of U.S. attempts to promote democracy abroad, see Carothers 1999. Rose (2001) wrote a review on democracy promotion and U.S. foreign policy. For an overview of the history of U.S. development aid, see for instance Schoultz (1981) and Sikkink (1992) on Latin-America.

<sup>165</sup> [http://www.state.gov/www/global/human\\_rights/](http://www.state.gov/www/global/human_rights/)

<sup>166</sup> The Economist, July 14th 2001, “What’s good for the poor is good for America”, by invitation, Jeffrey Sachs.

<sup>167</sup> The Economist, July 14th 2001, “What’s good for the poor is good for America”, by invitation, Jeffrey Sachs. Note that Sacks is comparing the U.S. to the average aid levels of Member States, and not the Community.

<sup>168</sup> Botcheva and Martin (2001: 18) quote Lumsdaine, 1993.

<sup>169</sup> The Constitution (Art. 1, section 8, clause 3) expressly gives Congress the power “[t]o regulate Commerce with foreign Nations.. to declare War.. [and] [t]o make all Laws which shall be necessary and proper for carrying into Execution the

Congress the dominant role in international economic affairs, though it has delegated much of its authority to the President through various laws. Congress has historically been very much on the foreground of American foreign policy. Presidents, in turn, have also tried to take the initiative in foreign policy matters, which, occasionally, have been important in presidential campaigns.

U.N. sanctions are implemented through the United Nations Participation Act (UNDPA) of 1945.<sup>170</sup> While the U.N. Security Council mandates the imposition of sanctions, the UNDPA authorizes the President to impose them.

For unilateral sanctions, other legislation applies. Various Acts set out the conditions a country must meet to receive assistance, or the circumstances under which it would be denied any form of assistance or the right to trade in certain products. Some legislation is country specific, others have a general application. The President, then, must certify whether a country fulfills the general conditions or not (Carter 1988: 41). Both the President and Congress can initiate country-specific legislation, and either grant or block assistance or trade to specific countries. Important general legislation is constituted by the Export Administration Act of 1969, which in 1994 lapsed into the International Emergency Economic Powers Act of 1977 (IEEPA -- the former Trading with the Enemy Act of 1917). If the President considers a state or entity to be a threat to the U.S., he can declare a national emergency, under which the IEEPA grants him broad peacetime powers to control trade and financial transactions with that state or entity.

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foregoing Powers, and all other Powers vested by this Constitution in the Government of the U.S., or in any Department or Officer thereof." (Moyer 1983: 6).

<sup>170</sup> UNDPA, 22 U.S.C. par. 287c, 247c.



When imposing foreign policy controls, the President is required to consider a number of conditions, which include:

- (1) the probability that such controls will achieve the intended foreign policy purpose and that they can be effectively enforced;
- (2) the compatibility of the controls with general and country-specific U.S. foreign policy objectives;
- (3) the reaction of other countries, especially allies, to the imposition of such controls;
- (4) the likely effects on the export performance and competitive position of the U.S. in the world economy, as well as its reputation as a supplier of goods and technology;
- (5) the foreign policy consequences of not imposing controls (Moyer 1983: 92).

Congress and the public, however, complain that the President acts without properly informing them. In addition, many argue that the increased use of sanctions in the nineties urges clarity regarding the decision-making process on the imposition, continuation and lifting of sanctions.<sup>171</sup> Indeed, both Houses are currently considering a new Act that would provide a general framework for the plethora of sanction acts.<sup>172</sup> Executive activity on sanctions in the current administration include a proposed revision of sanctions policy towards Iran and Libya, and a proposal ease the economic embargo against Iraq while tightening restrictions on imports and oil revenue.<sup>173</sup> The U.N. Security Council has however not yet endorsed that plan.

### 3.3.2 Targeted Sanctions

Below, I explain the general legislation behind each type of sanction. I will briefly discuss symbolic sanctions, financial sanctions and restrictions on trade in certain goods and services.

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<sup>171</sup> President's Export Council 1997, Collins (Center of Strategic and International Studies) 1999.

<sup>172</sup> H.R. 2708, Enhancement of Trade, Security, and Human Rights through Sanctions Reform Act (Introduced in the House). In the Senate: S 757, Sanctions Policy Reform Act.

<sup>173</sup> Washington Post, April 18, 2001. "Cheney Panel Seeks Review of Sanctions".

### 3.3.2.1 Symbolic Sanctions

The President had broad discretion to impose restrictions on diplomatic, cultural or sports relations, including the withdrawal of visas.

### 3.3.2.2 Financial Sanctions

Financial sanctions include freezing assets, imposing investment bans, suspending economic development aid, and suspending loans.

#### *Freezing Assets*

The President can block property and prohibit financial transactions by Executive Order, if the conditions of one of the applicable Acts are fulfilled. The Office of Foreign Assets Control (OFAC), within the Secretary of the Treasury, is responsible for the promulgation, development and administration of financial sanctions.<sup>174</sup> It maintains long lists of designated individuals, states, and non-state entities that are the targets of sanctions. These lists are communicated to financial institutions who can immediately freeze assets or block the financial transactions involving these targets.

#### *Suspension of Economic Assistance*

The U.S. provides two kinds of foreign assistance: military and economic. Military assistance will be discussed in the following section. The Act concerning foreign economic assistance is the Foreign Assistance Act of 1961. In amended section 116, similar to section 502B that deals with the military assistance, assistance to any country that engages in a consistent pattern of gross violations of internationally recognized human rights” is prohibited. Economic assistance is continued if it “directly benefit[s] the needy people in such country” (Carter, 1988: 48). Congress enacted the human rights provision in 1973, and later further tightened the law –and reduced the President’s discretion—because of the Nixon and Ford Administrations disregard for the provision (Carter, 1988: 47). Since Congress allocates spending, it can refuse to authorize funds sought by the President. It has played an active role in reducing development aid to specific target countries, even if at times it has proved difficult to override a determined

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<sup>174</sup> <http://www.treas.gov/ofac>. Record 77, 3 November 1999.

President (Carter, 1988: 33). Section 502b allows for exceptions to continue assistance if “extraordinary circumstances” warrant it, or “if it is necessary to protect our national interest” (Harkin, 1979: 25). This escape clause has been used on various occasions, some complaining without clear reasons.<sup>175</sup>

Recently, more flexibility was introduced in U.S. sanctions legislation. The Freedom from Religious Persecution Act of 1998 (PL 105-292) engages governments who have been identified by the U.S. as violating religious freedom. The President is instructed in such cases to undertake negotiations with that government, though having wide discretion in deciding the exact response. The law may be waived if it seems counter-productive or threatens national interests (Collins 1999: 44). Finally, the Horn of Africa Recovery and Food Security Act prohibits any assistance to governments that violate human rights or are counter to democracy.

The U.S.’s recent threat to withhold a 1.28 billion dollar aid package to the Federal Republic of Yugoslavia is probably the most spectacular effort to make foreign assistance contingent on respect for human rights. In this case, the American government insisted that the aid would not arrive without the extradition of former ruler and convicted war criminal Slobodan Milosevic to the International Criminal Tribunal in The Hague.<sup>176</sup>

### *Loans*

The U.S. has legislation in place to prevent credit guarantees from the Overseas Private Investment Corporation (OPIC) to domestic companies investing in countries where human rights are violated. Since the language is “hortatory rather than mandatory”, the OPIC and the U.S. President are “left with maximum discretion” (Carter 1988: 53).<sup>177</sup> The International Financial Institutions Act of 1977 (section 701 and 703) allows U.S. directors of the International Financial Institutions to vote against specific loans to countries that support terrorism, violate

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<sup>175</sup> For quantitative analysis of the question as to whether the U.S. applied the human rights clauses consistently or not, see Cingranelli and Pasquarello (1985), McCormick (1988), Poe (1990), Hofrenning (1990), Meernik (1998). For a critique on the U.S. linkage policy, see Wipfler (1979). See Schneider 1979 for its use up to the seventies.

<sup>176</sup> International Herald Tribune, 30 June/1 July 2001.

<sup>177</sup> See also the Commodity Credit Corporation Act and Public Law 480. The President can cut off a country from CCC credit guarantees for agricultural export programs (Carter 1999: 52).

human rights, or detonate a nuclear device. Similar but weaker human rights amendments have been attached to bills appropriating U.S. funds for the IMF and for the Export-Import Bank where American delegates are instructed to vote against loans to notorious human rights violators. These funds are multilateral, and since the U.S. has only one voice among all donors, its vote may not lead to the actual suspension of the loan. These U.S. attempts to stop loans are therefore not counted in the data base as sanctions.

### 3.3.2.3 Trade Sanctions

The President has broad powers to control exports, but a very limited capacity to restrict imports.<sup>178</sup> The Export Administration Act (EEA 1969, amended in 1979, PL 96-72) allows the President to require licenses, for exports of products such as sensitive goods and technology.<sup>179</sup> The law allows exceptions to be made for humanitarian aid and agricultural products. In the early seventies, most export controls were directed at communist countries. By the late seventies, these controls were extended to human rights violating regimes, first by Congress and then by the Carter Administration. Although frustration with the excessive use of the national security exception led Congress to sharpen the criteria in 1979, the effects of the grain embargo of 1980-1981 on U.S. farmers led to further protection of domestic industries. A revision of the law in 1985 allowed for contract sanctity provisions and compensation for farmers (Carter 1988:69-75). The President then onwards, was also required to better inform Congress of prospective restrictions. Both the EAA and the IEEPA allow the President considerable discretion to assert extensive jurisdiction in imposing export controls on companies and goods outside the U.S. territory<sup>19</sup>. U.S. goods and technology, or even components of U.S. origin, may not be re-exported, without U.S. approval. Both U.S. firms and their subsidiaries are subject to these laws (since 1977), and often find themselves operating in conflicting jurisdictions between the country in which they were located and their country of origin.

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<sup>178</sup> See Lowenfield 1983, par. 1.2.3 on import controls. Carter 1988, Chapter 5.

<sup>179</sup> Its authority expired in 1994, but its provisions were continued under the IEEPA. Collins 1999:43.

### *Trade Preferences*

The Tariff Act of 1930 already contained a section on forced labor (section 307).<sup>180</sup> The Jackson-Vanik Act of 1974 linked human rights to trade preferences, particularly the granting of the Most Favored Nation status under the GATT provisions. This act was originally intended to punish non-market economies (the U.S.S.R.) for their ‘emigration policies’ discriminating against Jewish immigrants, but was later used as a basis to withdraw trade preferences on human rights grounds in general.

Congress amended the General System of Preferences program in 1984 to attach new qualifying conditions for developing countries seeking trade advantages (GSP Renewal Act). The conditions concerned mainly the respect for workers’ rights, such as “freedom of association, the right to organize and bargain collectively, freedom from forced labor, a minimum age of work for children, and acceptable conditions at work relating to hours, wages, and health and safety” (Meyer 1998: 18).

The side agreement to NAFTA contains similar provisions on the protection of labor: a labor grievance system for consistent patterns of failure to enforce labor standards, and national committees to investigate abuses of labor rights. However, it contains “enforcement procedures that are almost nonexistent” (Meyer 1998: 18). Similar provisions on respect for labor rights can be found in the Caribbean Basin Economic Recovery Act and the Andean Trade Preferences Act. These Acts prohibit the extension of benefits under their respective tariff programs to countries that are not making progress towards internationally recognized worker rights.

### *Raw Materials and Transport*

The President has broad powers to prevent airlines from landing or boats from docking in the U.S.. Raw materials such as oil are covered by the International Emergency and Economic Powers Act and the Export Administration Act.

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<sup>180</sup> Law no. 71-361. See International Trade Commission 1998: xv.

### *Arms*

The President has essentially unfettered power to stop all arms exports. Congress has very limited say, though it has imposed some limits on his authority to allow arms exports (Carter 1988: 16). There are numerous Acts that govern trade in arms and military assistance. The Arms Export Control Act (1968) denies U.S. military assistance and sales, or other aid, to states that support terrorism, use development funds for their militaries, or develop weapons of mass destruction. The Glenn Amendment stipulates that, with the exception of medical supplies and agricultural products, financial and military assistance and arms will be denied to countries developing weapons of mass destruction. For military assistance and arms sales, the key provision is amended section 502B of the Foreign Assistance Act. It provides that “no security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights.” An exception is permitted if the President certifies in writing to Congress that “extraordinary circumstances exist warranting provision of such assistance” (Carter 1988: 16). Exports of nuclear materials, equipment, and technology are subject to an extensive sanctions regime (Atomic Energy Act 1954, amended by Nuclear Non-Proliferation Act –NNPA-1978). Again, the powers of the President are substantial here, although Congress has forced the President to impose licensing criteria in certain situations. Restrictions on arms exports are also imposed towards countries that are designated as supporting terrorism (Export Administration Act 1979 as amended in 1985), and states developing chemical and biological weapons (Chemical and Biological Weapons Control and Warfare Elimination Act 1991).<sup>181</sup> For a listing of U.S. restrictions in trade in arms from 1989 to 2000, see Annex II to this Chapter.

#### *3.3.2.4 Country Specific Legislation*

There are two important Acts that are directly directed to specific countries. The Cuba Democracy Act of 1992 and the Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996 (better known as the Helms-Burton Act), codifies the 1963 sanctions that prohibited trade, economic and military assistance, and as financial

transactions with Cuba.<sup>182</sup> It provides that the sanctions can only be lifted if Castro stops running the government, but also provides positive elements of ‘engagement’ with the Cuban people. One section of the law, that was again suspended on 16 July 2001, has extra-territorial reach. It namely allows American citizens to sue entities that are profiting –directly or indirectly- from property expropriated by the Cuban government. The representatives of these firms are also prohibited from entering the U.S. Restrictions on travel to Cuba were recently lifted by the House of Representatives, a step that sponsors of the bill said would be the first move toward ending Cuba’s economic isolation.<sup>183</sup> The E.U. keeps reminding the U.S. of the so-called ‘18 May Understanding’ which entailed a suspension of the extra territorial reach of the sanctions.

The Iran-Libya Sanctions Act (ILSA, or the d’Amato Act) of 1996 contains similar – also suspended- extra territorial provisions. In this case, economic and financial sanctions will be imposed against persons or companies making new investments in the oil resources of Iran or Libya. Sanctions were also extended to those helping Libya to acquire weapons of mass destruction, assisting with the upgrade of its aviation capabilities, or violating the U.N. trade and travel sanctions against Libya. The U.N. sanctions were suspended –not lifted- by the Security Council as of March 1999, but the U.S. maintained them after that date. ILSA was to expire in July 2001 but was renewed by the House for another 5 years. President Bush had called in vein for a two-year renewal to allow for an overall review of sanctions policy and to ease trans-Atlantic tensions, while foreign ministers of all E.U. Member States had publicly objected to the extension of ILSA.<sup>184</sup>

Finally, the House of Representatives voted in June 2001 to ban oil companies that operate in Sudan from selling shares or bonds in the U.S., and from listing their securities on U.S. markets. The Senate slightly modified the bill in its vote in

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<sup>181</sup> Pub. L. 102-182, Title III, 105 Stat. 1245 (December 4, 1991), 22 U.S.C.A. §§5601- 5606 and 2798 (West 1990 & Supp. 1996), 50 U.S.C.A. App. §2410c (West Supp. 1996).

<sup>182</sup> Respectively Public Law 102-484 and Public Law 104-114. The sanctions against Cuba, as well as North Korea, were originally imposed under the Trading with the Enemy Act (1917).

<sup>183</sup> International Herald Tribune 27 July 2001.

<sup>184</sup> The Economist, 18 July 2001, “Unsanctioned”. See Falke (2000) on E.U. reactions to U.S. sanctions in general, and the Helms-Burton and ILSA Acts in particular. He argues that the threat of these U.S. measures reinforced the unity among Member States in their formulation of E.U. foreign policy. See also Daalder (2000) on E.U. and U.S. foreign policy divergence.

July 2001, dropping the proposed ban. A merged text will be presented to the U.S. President for signing later in the year.<sup>185</sup>

### 3.3.3 Sub-Federal Sanctions: Not done?

Numerous states, counties and municipalities have imposed legislation aiming at curtailing economic links with countries that violate human rights. The U.S. International Trade Commission identified 27 state, country and city laws in effect in 1999 (19 of which were directed at Myanmar), 14 pending laws and 14 failed or ineffective laws.<sup>186</sup> A precedent for such action was set during the apartheid era in South Africa. The Massachusetts Burma law became a test case for the legality of such measures. Eizenstat, U.S. Under-secretary of Economics, Agriculture and Business in the second Clinton Administration, argued in 1998 that such measures were “illegal now, or should be so” (1998: 3). The National Free Trade Council challenged the law arguing that it was in violation of the U.S. Constitution, rather than with U.S. international commitments. Its principle arguments were that foreign policy is the exclusive domain of the federal government; the Foreign Commerce Clause of the Constitution precludes state restrictions on international commerce; and federal policy toward Myanmar preempts the Massachusetts legislation. The law was ruled unconstitutional on November 4, 1998. The argumentation was that the U.S. has only one external economic policy, at the federal level, and that state sanctions are pre-empted by federal sanctions. The U.S. Court of Appeals for First Circuit upheld this decision in June 1999. Again challenged by the state of Massachusetts, it was upheld in a unanimous decision by the U.S. Supreme Court in June 2000. “The Court ruled that the law impermissibly intruded on the federal government's authority and was preempted by federal law regarding Burma”.<sup>187</sup> This ruling will set the precedent against future sub-federal sanction attempts.

We can conclude that the states of the U.S. have had considerable autonomy to impose sub-federal sanctions up to November 1998.

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<sup>185</sup> Financial Times, July 25, 2001. “Greenspan voices strong opposition to Sudan bill: Boost for Talisman, Statute could be ‘downright harmful’ to U.S., senators told”.

<sup>186</sup> For the full list see U.S. International Trade Commission, tables 2-3 and 2-4, pp 2-20, 2-21. For examples see also O’Quinn (1997: 2, 6, 11).

<sup>187</sup> For background articles on the case, see <http://www.usaengage.org/background/lawsuit/nftcindex.html>; Record 57, 24 March 2000.



### 3.4 E.U. and U.S. Sanction Proceedings Compared

Institutions seem to have an important impact on the type of reaction to human rights violations in both the E.U. and the U.S.. I argued that historically and institutionally speaking, it is easier for the EU to decide on positive measures than on negative measures. The institutional set up of US sanctions policy, in contrast, favors the use of sticks, given the role of Congress in the decision-making, while positive measures have a much smaller constituency.

The fact that we see a continuous battle between the various legislative actors on both sides of the Atlantic over sanctions –not just on content but very much on procedure- shows us that institutions matter. A more definite judgement on the impact of institutions depends on the outcome of the statistical analysis of all positive and negative measures imposed over the past decade. This analysis should show how different or similar E.U. and U.S. reactions to human rights violations have been in practice, and how well these differences or similarities are explained by the alternative hypotheses. The question remains *how* institutions matter and under what conditions. Below, I will summarize the main differences between E.U. and U.S. institutions that govern the use of positive and negative measures, which concern the power and access of various actors, the reach of the legislation, and the historical experience with the instruments.

Before discussing these various differences, I need to show why the E.U. and the U.S. are actually comparable, given their different domestic structure.<sup>188</sup> I do so using methodological and substantial arguments. Methodologically, the E.U. constitutes a difficult object of study given the requirement in conventional comparative methods for ‘unit homogeneity’. In fact, a constant effect assumption is sufficient for statistical research. For qualitative research, the development of these methods seems to have lagged behind the developments in the international state system. Fortunately, even the influential methodological handbook by King, Keohane and Verba allows that “the comparative approach -in which we combine

evidence from many observations even if some of them are not very close analogies to the present situation- is always at least as good and usually better than the analogy".<sup>189</sup> The E.U. is not a unit that is analogous to any state or arrangement between states. Nevertheless, it is acting as an economic and political power at the world stage, and in many policy areas it no longer makes sense to take the member states as the units of analysis. Therefore, the requirement of unit homogeneity is actually an unwarranted impediment to comparative research between the E.U. and other powers. Furthermore, the E.U. can no longer be treated simply as an international organisation because there is no organisation in which states cooperate to an even remotely comparable degree.<sup>190</sup> It is, thus, legitimate to relax this particular methodological requirement since not doing so would exclude any comparative research with the E.U. as part of the comparison. In fact the E.U. and the U.S. are often compared nonetheless, whereby the E.U. is treated as some form of Federation.<sup>191</sup> One should nevertheless stay cautious about the policy field under consideration and the extent to which the member states have 'pooled' or even given up their sovereignty to E.U. institutions. In the case of sanctions, the similarities are numerous enough to also allow for comparison on substantive grounds.

The most important similarity between E.U. and U.S. decision-making on sanctions is that for both powers, sanctions create a struggle of competences between the Administration and the Legislature. Notwithstanding the attempts of the Legislatures (the U.S. Congress and the European Parliament) to take the initiative in reactions to human rights violations, the Administration has broader discretion in both the E.U. (Council) and the U.S. (President). In the E.U., we see an additional struggle for competences between the Council (the Member States) and the Commission. The sanctions legislation of the E.U. and the U.S. are also comparable in terms of content. Both have numerous provisions on human rights

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<sup>188</sup> To compare the E.U. and the U.S. on the variable 'sanctions imposed', they need to be similar enough to be compared. We cannot first argue they are comparable and then conclude that the types of sanctions they impose are different because after all the E.U. and the U.S. are different. If so, we need to make explicit in what, precisely, it is that they are different.

<sup>189</sup> King, Keohane and Verba (KKV) 1994: 212. Mak (forthcoming) quotes Hix (1998:43-44, 45). Hix follows KKV in arguing that hypotheses can be falsified only through comparison of several cases: "Therefore he argues that even the strangest cases can and should be compared, and pleads for an approach that combines the case study method with the comparative method."

<sup>190</sup> Martin 1992 and Klotz 1995 both dealt with the E.U. as an international organization in their study of sanctions.

<sup>191</sup> See for instance Jacquemin (1996), Featherstone and Ginsberg (1996) and Guay (1999). Risse and Boerzel (2000) state that the E.U. is a federation.

in place that can trigger the imposition of negative measures, and both have the possibility to grant positive measures to third countries.<sup>192</sup> I therefore argue that even though a constant effect assumption is sufficient to compare the E.U. and the U.S. for statistical analysis, they are also comparable units for a qualitative analysis of sanctions in reaction to human rights violations.

Obviously, there are important differences between the E.U. and the U.S. that may have an impact on the outcomes of their decision-making. These differences in domestic structure may cause important differences in their reactions to human rights violations, as the Liberal or domestic structure hypothesis suggested. First and foremost, the U.S. is a federal state, while the E.U. is primarily an intergovernmental union of states. The federal nature of the U.S. allows for simpler and quicker legal and political decision-making, there. Instead of having to deal with 15 Ministers for Foreign Affairs, Development Affairs, Economics and Finance, the U.S. seats only one Secretary of State, one Secretary of Commerce and one Secretary of the Treasury. The fact that the E.U. has a co-ordinator for its foreign policy (so called "Mr. CFSP") since the Treaty of Amsterdam and a Commissioner of External Relations has not fully altered this fact.

The U.S. is also a military power, while the E.U. is more a civilian or trading power. The Member States have only recently agreed to employ a rapid reaction force, the specifics of which are still being negotiated. We saw, for instance, that Member States still consider arms embargoes as an inter-governmental rather than a Community matter.

Comparing E.U. sanctions policy to the U.S.'s is not to dismiss divergent interests among the E.U. Member States. The outcome of decision-making on sanctions reflects the compromises among the Member States. The extent to which the largest states or particularly interested states, the Commission, and the European Parliament seek to dominate sanctions policies to target countries will be among the potential variables in the explanation of E.U. foreign economic policy. One should also note that the U.S. is not always such a unitary state in turns of

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<sup>192</sup> Although both powers are liberal democracies, they have not signed the same human rights treaties, and there may be differences in types of human rights triggering sanctions, such as capital punishment for the E.U., or support for terrorism for the U.S.. Also, the U.S. labels military assistance as 'foreign assistance', whereas the E.U. only speaks of economic assistance if it speaks of development aid.

sanctions, either. In fact, we saw that during the last decades, U.S. states have had even more capacity to impose unilateral sanctions than have the E.U. Member States. An examination of the sub-state players can be conducted after the general comparisons between the E.U. and the U.S.

The different political natures of the E.U. and U.S. makes for a much more powerful Legislature in the U.S. Not only do Congress and the U.S. Senate have more possibilities to draw up sanctions legislation, but they also actively involve the public, their constituencies, and experts through public hearings to a much greater degree than does the EP. In fact, many U.S. statutes require public hearings. The E.U. and the EP have only recently begun to allow the participation of non-state actors, as noted in the discussion on the GSP Regulation and the Cotonou Agreement.

We found that issues lobbied for by domestic groupings seems very different in the E.U. and in the U.S. Botcheva and Martin (2001) seem correct in their hypothesis that in the absence of domestic support for norms and principles, an 'aspirational' institution that promotes human rights or development assistance will not be able to enforce its goals. Lobbies against instruments to promote such aspirations are fierce in the U.S., yet favorable in the E.U.. The lack of access of such domestic pressures in the E.U. is mitigated through the aspirations and strong implementing mechanisms of the European institutions themselves.

Table 3-9 summarizes the differences in Legislative competences for the different types of sanction instruments in the E.U. and the U.S.

Table 3-9. E.U. and U.S. Legislative Competences compared for different types of sanctions.

Sanctions	E.U.			U.S.	
	Commission	Council	EP	President	Congress
Diplomatic	Initiative	unanimity	-	+	-
Financial	Initiative (art. 60, 301, 47)	Unanimity on 'if' QMV on 'what'	-	+	-
Development co-operation	Management + initiative	QMV on suspension aid, unanimity on suspension Agreement	Assent Co-operation Agreements + special budgets (excl. European Development Fund)	+	+
Military	Initiative (art. 133, 47)	Unanimity/QMV (art. 296)	-	+	-/+
Trade	Initiative (art. 133, 60, 301, 47)	For sanctions: unanimity on 'if' QMV on 'what', for trade preferences: QMV	facultative	+	+

+ = importance say, - = lesser or no role of importance

The reach of sanctions legislation is also quite different in the E.U. and the U.S. U.S. law has frequently incorporated an element of extra-territoriality. The E.U. and others have vigorously opposed the extra-territorial extensions of U.S. export controls, starting with the pipeline sanctions in 1982. They argued that these U.S. regulations had no jurisdictional basis under international law. The Europeans enacted blocking statutes expressly prohibiting their nationals from complying with certain foreign legal requirements. They also filed a complaint at the WTO against the more recent Helms-Burton Act and appealed in the U.S. District court of Massachusetts against the Massachusetts Burma law and sent an 'amicus curiae' letter supporting the NFTC in the appeal against the state of Massachusetts. The E.U. and Japan argued that the law violates the 1994 Procurement Agreement negotiated with the WTO, which prohibits consideration of political grounds when awarding public contracts. The extra-territorial reach of U.S. legislation seems to have rallied much more business lobbies against the unilateral use of sanctions in the E.U. than E.U. sanctions themselves have ever done.<sup>193</sup>

<sup>193</sup> See for instance position paper by UNICEE, the European Organization for Employers Organizations. Other than the sanctions regime against the Federal Republic of Yugoslavia, very few officials interviewed said they were regularly or successfully approached by special interest groups lobbying in favor or against sanctions, other than governments of potential target countries. Among others: Interview record 33, 28 January 2000. Interview record 20, 7 February 2000.

Historically, the E.U. has had much less time to develop sanctions legislation and improve the co-ordination of its policy than the U.S. has had. Both powers did develop unique relations with third states over the course of history, which, for the current E.U. Member States, has to a large extent been coloured by its colonial past. E.U. sanctions policy has developed quickly over the past decade, and has evolved towards more co-operation among its Member States. In contrast, it did develop a substantial and wide-reaching development policy fairly early in its history. Co-operation is most extensively developed with former colonies of Member States, although the ACP-E.C. Partnership Agreement (Cotonou) has now been extended to other states as well. The fact that the European Development Fund is kept outside the main E.C. budget is significant, even if it is administered by the Commission in practice.

Similarly, we also see a movement towards centralisation in U.S. sanctions policy. Foreign assistance programs were, however, cut by Congress under the Clinton Administration, and Congress seems increasingly reluctant to use sanctions as a foreign policy tool unless they are multilateral. More recently, both powers have moved towards the development of 'smart' or 'targeted' sanctions, which are meant to directly touch the regime, or people associated with the regime, whose actions they repudiated. The new catch word seems to be 'engagement' --a combination of carrots and sticks-- to induce dictators to change course and encourage countries in transition to stay on track. The reasons for these changes in policy over time will be analysed in the following chapters.

The investigation of the impact of institutions on reactions to human rights violations, has led to a two-fold conclusion. On the one hand, I argue on both methodological and substantial grounds that the E.U. and the U.S. are comparable entities for the analysis.

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Interview record 36, 17 February 2000. Whitehead (1996: 268). Interview record 8, 14 January 2000. Interview record 74, 10 December 1999. Interview record 33, 28 January 2000. Interview record 26, 21 March 2000.

On the other hand, I delineated several areas in which they differ, namely:

1. The divided Executive in the E.U. (Commission and Council) is still weak on introducing tougher measures compared to the power of the U.S. Executive, yet stronger with regard to positive measures.
2. The power of the Legislature vis-à-vis the Executive is more extensive in the U.S. than in the E.U., for both positive and negative measures.
3. The access of special interest groups is larger in the U.S. than in the E.U.
4. The reach, content and history of a sanctions policy is lengthier in the U.S. than in the E.U., but more developed in the E.U. with regard to positive measures.

The extent to which these differences in domestic structure can explain differences in types of sanctions imposed by the E.U. and the U.S. will not be directly tested but will be further discussed in Chapter Six. Neorealism, Neoliberal Institutionalism, Liberalism and Constructivism provide alternative hypotheses to explain the variation across targets and across E.U. and U.S. positive and negative reactions to human rights violations. If the E.U. and the U.S. are similar enough to compare, yet different in respect of their institutional set up, any differences found in their sanctions policies can *ceteris paribus* arguably be attributed to this factor, unless the other hypotheses prove to have more explanatory leverage over the data.

These other hypotheses will now be investigated. Thereto, the next Chapter will define and measure 'carrots' and 'sticks', as well as the explanatory variables.

## Annex I. Human Rights Clauses in E.U. Agreements.

Agreement with E.U.	Year	Procedure	Human Rights Clause <sup>194</sup>	Countries subject
Europe Agreements (2 <sup>nd</sup> round), Partnership and Co-operation Agreements	1991-	Association Council at ministerial level with decision-making power for cases provided in agreement. Can also make recommendations. Assisted by Association Committee of senior civil servants. Association Parliamentary Committee.	respect for human rights including rights minorities in preamble, respect for democratic principles and human rights established by Helsinki Final Act and Charter of Paris constitute essential elements of the association. Political dialogue provisions included in agreement. Aid provided.	Hungary, Poland, Czechoslovakia (1991), Yugoslavia (1991) Czech and Slovak Republic (1993), Romania (1993), Bulgaria (1993). Estonia, Latvia, Lithuania, Albania, Slovenia (1992). Armenia (1999) Azerbaijan (1999), Kazakhstan (1999), Kyrgyz Republic (1995) Albania (1992), Belarus (1995). Ukraine, Russia (1994), Uzbekistan (1996), Turkmenistan (1998)
Lomé Convention, Cotonou Convention (2000)	1975 (I) 1979 (II), 1984 (III), IV (1989), Midterm review (1995),	Under the Convention the Community is responsible for preparing and adopting financing decisions on projects and programs, contracts remain national and bilateral with ACP States. Since Cotonou role NGOs and other partners.	Since Lomé IV: human rights clause is strengthened and includes provisions for enhanced political dialogue at regional level. Aid provided. Further strengthened in 1995 and 2000.	ACP states (Africa, Caribbean, Pacific)
Trade and Co-operation Agreements	1992-		human rights mentioned as essential component	Brazil (1992); Central American countries-San Jose (1993); Andean Pact Countries - Cartagena (1993); India (1993); all CSCE countries, Laos (1997); Mongolia (1992), Vietnam (1995), Mexico (1997)
	1990-		explicit reference to human rights	Argentina (1990); Uruguay (1992); Chile (1990, 1996); Paraguay (1992); Uruguay (1992); Macao (1992). Mexico (1995). Sri Lanka, South Africa (1994)
Overseas Countries & Territories (OCT)		Part IV Treaty, ex Article 136 E.C. + Council unanimity	Respect for human rights and rule of law enshrined in Council Decision	listed in Annex IV of E.C.-treaty
Euro-Mediterranean Agreements (MEDA)	(1978) post 1996	bilateral Co-operation Commission: E.C. Council + Commission + governments Mahgreb countries	political dialogue. no human rights clause until Meda Agreements 1996 that incorporate political dialogue + human rights.	Mahgreb countries: Morocco (1995), Tunisia (1995) (Algeria only 1978 agreement). Mashreq: Egypt, Jordan, Syria, Lebanon. Other: Israel (1995), Egypt (1999), Yemen (1997)
Ankara Agreement, Customs Union	1963, 1995	same as for Europe Agreements	-	Turkey
Australia	1997	preamble	Human rights mentioned in pre-amble	Australia

Sources: Eurolex/Celex. Interviews. Macleod, Hendry, Hyett, 1996: 373-385. Kuyper, 1993: 387-423. Hofmeister 1998. [For all countries listed above: MFN plus preferential treatment].

<sup>194</sup> For an explanation of the different kinds of human rights clauses ('essential element', 'inspired by Helsinki Final Act and Charter of Paris' and 'suspension clause') see Kuyper, 1993: 411-413. Also: Duparc 1993, Napoli 1995, Hofmeister 1998, Fierro (forthcoming).



**Annex II. Legal References to U.S. sanctions for Human rights related reasons.**

Reason Sanctions Legislation	Year	Public Laws
Human Rights	1961-	Foreign Operations, Export Financing, and Related Programs Appropriations Act, fiscal year 1997. Law. 104-208/ Section 579. 110 Stat. 3009-170. Sept. 30, 1996. Human Rights. International Financial Institutions Act, as amended, Pub. L. 95-118, Title VII, 91 Stat. 1069 (October 3, 1977), as amended, 22 U.S.C.A. §§ 262 et seq. (West 1990 & Supp. 1996). Foreign Assistance Act of 1961 (PL 87-195). Law. Nr. 94-161. Section 116. 89 Stat. 860. Dec. 20, 1975. 22 USC 2151n. Added by PL 94-161, sec. 310. Also Law Nr. 93-559. Section 502B. 88 Stat. 1815. Dec. 30, 1974. 22 USC 2304. Added by PL 93-559. Export-Import Bank Act of 1945 (PL 79-173). Law nr. 93- 646. Section 2(b) (1)(B). 88 Stat. 2334. Jan. 4, 1974. 12 USC . 46.635(b)(1)(B) Added by PL 93-646, sec. 3. (human rights, terrorism, weapons proli-feration). 1. International Financial Institutions Act, as amended, Pub. L. 95-118, Title VII, 91 Stat. 1069 (October 3, 1977), as amended, 22 U.S.C.A. §§ 262 et seq. (West 1990 & Supp. 1996) Section 701.
Workers Rights/ forced labor	1930	Foreign Operations, Export Financing, and Related Programs Appropriations Act, fiscal year 1998. Law no. 105-118, section 538. 111 Statute 2417. Enacted Nov. 26, 1997. Workers rights. Trade Act of 1974. Law nr. 93-618. Section 504. 88 Stat. 2070. Jan. 3, 1975. 19 USC 2464. Amended by PL 104-188, sec. 1952(a). Tariff Act of 1930. Law nr. 71-361. Section 307. 46 tat. 689. June 17, 1930. 19 USC 1307. Andean Trade Preference Act, as amended, Pub.L. 102-182, Title II, §§ 202-203, 105 Stat. 1236 (December 4, 1991), 19 U.S.C.A. §§ 3201-3202 (West 1980 & Supp. 1996)
Coercive Family Planning	1998	Foreign Operations, Export Financing, and Related Programs Appropriations Act, fiscal year 1998. Law no. 105-118, section 518. 111 Statute 2411. Enacted Nov. 26, 1997. Coercive family planning. Foreign Assistance Act of 1961 (PL 87-195). Law nr. 93-189. Section 104 (f). 87 Stat. 715. Dec. 17, 1973. Added by PL 93-1989, sec. 2(3).
Female genital mutilation	1996	H. 1997 Omnibus Appropriations Act, Pub. L. 104-208, 110 Stat. 3009 (September 30, 1996) Section 579, Section 508.
War Crimes	1996	Foreign Operations, Export Financing, and Related Programs Appropriations Act, fiscal year 1997. Law. 104-208/ Section 568. 110 Stat. 3009-165. Sept. 30, 1996. War crimes. Also: Law no. 105-118, section 561, 111 stat. 2426. And section 573, 111 stat. 2430. Nov. 26, 1996. Foreign Operations, Export Financing, and Related Programs Appropriations Act, fiscal year 1996. Law no. 104-107. Section 528. 110 stat. 751. Feb. 12, 1996. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, Pub. L. 104-107, Title V, § 582, 110 Stat. 751 (February 12, 1996). 2. 1997 Omnibus Appropriations Act, Pub. L. 104-208, Title V, 110 Stat. 3009 (September 30, 1996) Section 568.
Communism		Atomic Energy Act, Law No. 83-703. Bretton Woods Agreements Act, Law No. 79-171. Reasons cited: communism. General applicability: financial sanctions. Numerous others before 1990s.
Religious Freedom	1998	Freedom of Religious Persecution Act of 1998. PL 105-292.
Military Coups	1996	Foreign Operations, Export Financing, and Related Programs Appropriations Act, fiscal year 1998. Law no. 105-118, section 508. 111 Statute 2407. Enacted Nov. 26, 1997. Reasons cited: military coups. J. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, Pub. L. 104-107, Title V, 110 Stat. 720 (February 12, 1996), note to 50 U.S.C.A. § 1701 (West 1996) Section 508.

National Security	1996	Arms Export Control Act, as amended (sec. 102)- the Glenn Amendment. Section 103-236. Reasons cited: national security; nuclear proliferation. General applicability; developing countries that divert economic aid to the military. 5. National Defense Authorization Act for 1996, Pub. L. 104-106, Div. A, Title XIII, §1341(a), 110 Stat. 485 (February 10, 1996), 10 U.S.C.A. § 2249a (West Supp. 1996) 7. Foreign Assistance Act Pub. L. 87-195, Pt. I, 75 Stat. 524 (September 4, 1961), as amended, 22 U.S.C.A. §§ 2151 et seq. (West 1990 & Supp. 1996), Section 620A.
Terrorism	1974	Table D-1. Foreign Operations, Export Financing, and Related Programs Appropriations Act, fiscal year 1998. Law no. 105-118, section 527. 111 Statute 2413. Enacted Nov. 26, 1997. Terrorism. Also: section 550, 111 stat 2421., 582, 111 stat. 2435. Law. 104-208/ Section 507. 110 Stat. 3009-141. Sept. 30, 1996. [DTCs]. Law. 104-208/ Section 527. 110 Stat. 3009-149. Sept. 30, 1996. Law. 104-208/ Section 551. 110 Stat. 3009-159. Sept. 30, 1996. Antiterrorism and Effective Death Penalty Act of 1996. Law no. 104-132. Section 301-303-321-330. 110 stat. 1214. April 24, 1996. Terrorism DTCs. Section 321, 110 stat. 1214. Section 323, 110 stat. 1255. U.S. code 18 USC 2339A. section 702(a), 110 stat. 1291, Apr. 24, 1996. 18 USC 2332b. Foreign Operations, Export Financing, and Related Programs Appropriations Act, fiscal year 1996. Law no. 104-107. Section 527a. 110 stat. 730. Feb. 12, 1996. Foreign Relations Authorization Act, fiscal year 1994. Law nr. 103-236. Section 551-556. 108 stat. 482. Apr. 30, 1994. 50 USC 2201-2204. Terrorism: DTCs. Included in the Spoils of War Act. Foreign Relations Authorization Act, fiscal year 1990-1991. Law nr. 101-246. Section 414. 104 Stat. 70. Feb. 16, 1990. 22 USC 287 <sup>e</sup> note. Department of Defense Appropriations Act of 1987. Law No. 99-500. Section 101c. 100 Stat. 1783. Oct. 1986. 10 USC 2327. Terrorism: DTCs. International Security and Development Co-operation Act of 1985. Law No. 99-83, Section 505. 99 Stat 221. Aug. 8, 1985. 22 USC 2349aa-9. DTCs. Export Administration Act of 1979. Law no. 96-72, Section 6(j). 93 Stat. 513, Sept. 29, 1979. 50 USC App. 2405. DTCs. Also known as the Fenwick Amendment. International Financial Institutions Act, as amended, Pub. L. 95-118, Title VII, 91 Stat. 1069 (October 3, 1977), as amended, 22 U.S.C.A. §§ 262 et seq. (West 1990 & Supp. 1996). Arms Export Control Act. 104-132. Section. 40A. 110 Stat. 1258. Apr. 24, 1996. 22 USC 2781. Added by PL 104-132, sec. 330. Export-Import Bank Act of 1945 (PL 79-173). Law nr. 93- 646. Section 2(b) (1)(B). 88 Stat. 2334. Jan. 4, 1974. 12 USC . 46.635(b)(1)(B) Added by PL 93-646, sec. 3. 2. Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. 104-132, 110 Stat. 1214 (April 24, 1996). Section 321. 4. International Monetary Fund Pub. L. 95-435, §6, 92 Stat. 1052 (October 10, 1978), 22 U.S.C.A. § 286e-11 (West 1990). 1. International Financial Institutions Act, as amended, Pub. L. 95-118, Title VII, 91 Stat. 1069 (October 3, 1977), as amended, 22 U.S.C.A. §§ 262 et seq. (West 1990 & Supp. 1996) Under Section 701. Executive Order 12947. Jan. 23, 1995.
Slave trade	2000	This bill that was adopted in Fall 2000 will get into effect in 2003. It offer opportunities to apply sanctions to countries that do not make sufficient efforts to fight the slave trade. In the yearly report of 2001, South-Africa, Israel, Greece and South-Korea were cited for making insufficient efforts to stop trafficking of slaves with in their borders. International Harold Tribune, 14-15 July 2001.

Arms	See par. 2.2.1 on provision on nuclear proliferation, chemical and biological weapons. <sup>221</sup> ). Arms Export Control Act, as amended (sec. 102)- the Glenn Amendment. Section 103-236. Reasons cited: national security; nuclear proliferation. General applicability; developing countries that divert economic aid to the military. 5. Nuclear Non-Proliferation Act of 1978, as amended, Pub. L. 95-242, Title III, § 307, 92 Stat. 138 (March 10, 1978), as amended, 42 U.S.C.A. § 2158 (West 1995). This Act adds Section 129 to the Atomic Energy Act (see II.B.4.). 2. Nuclear Proliferation Prevention Act of 1994, Pub. L. 103-236, Title VIII, 108 Stat. 525 (April 30, 1996), Sections 3, 40 and 101-102 of the AECA, 22 U.S.C.A. §§ 2799aa-2799aa-1, note to 2751, note to 3201, 2753, and 2429a-2 (West. 1990 & Supp. 1996). Sections 821 and 824. Foreign Relations Authorization Act, fiscal year 1994. Law nr. 103-236. Section 823(a). 108 stat. 512. Apr. 30, 1994. Nuclear proliferation. Included in the Nuclear Proliferation Prevention Act of 1994, which comprises a portion of this Act. Also Section 824 and 825. General applicability.
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Main source: International Trade Commission (Stamps), 1998, Table D-1.

### Annex III. U.S. Restrictions in Arms Trade 1989-2000

Target	Legislation	Date	Summary of sanctions
Afghanistan	Arms Export Control Act	1996	Denial of licenses
Angola	executive order 12865, SC Resolution 864. Arms Export Control Act	26.08. 1993	OFAC Regulations for the Financial Community. Department of the Treasury, August 19, 1999, page 13. Assets UNITA are blocked, import restrictions on diamonds exported from Angola, exporting goods to Angola (arms, petroleum, aircraft and related products, mining and aircraft services). On August 18, 1998, the President signed EO 13098 imposing additional sanctions in accordance with U.N. SCR 1173 and 1176. Assets UNITA are blocked, import restrictions on diamonds exported from Angola, exporting goods to Angola (arms, petroleum, aircraft and related products, mining and aircraft services).
Armenia	Arms Export Control Act.	1996	Denial of licenses
Azerbaijan	Arms Export Control Act.	1996	Denial of licenses
Belarus	Arms Export Control Act	1996	Denial of licenses
Bosnia-Herzegovina	SC Resolution 1021.	22.11.19 95	Resolution 1021 of 22 November 1995 set out the terms of termination of the arms embargo. In accordance with the resolution, 13 March 1996 was the date of termination of all provisions of the arms embargo, except those related to heavy weapons, mines, military aircraft and helicopters. The Security Council agreed to terminate the remaining provisions of Resolution 1021 concerning the arms embargo on 18 June 1996.
Burma	Arms Export Control Act.	23.09.88. August 1990.	HSE 1990 supplementary case studies. 610-618. 23 Sept. 1988. Washington suspends all foreign assistance except Humanitarian aid to Burma. Scheduled delivery to Burmese army of ammunition for U.S.-made carbines.. is stopped. Measures were subsequently strengthened over the years. Denial of arms export licenses since 1990. The New York Times August 5, 1991, Monday Section A; Page 12.

China	Arms Export Control Act. Export-Import Bank Act. Foreign Relations Authorization Act.	June 1989	President George Bush suspends all arms sales to, military contacts with China. Action reportedly affects \$600 million in government-to-government contracts, perhaps another \$100 million in commercial sales, including more than 300 items on munitions control list, three communications satellites, navigational equipment on Boeing 757-200 jets. In addition, Bush offers to extend visas of Chinese students in U.S., orders review of existing bilateral Arrangements. (Washington Post, 6 June 1989, A18; 2 July 1989, A1; Business Week, 19 June 1989, 29). The Foreign Relations Authorization Act prohibits with respect to China Overseas Private Investment Corporation financial support; U.S. Government assistance under the Foreign Assistance Act; the issuance of licenses for export of certain defense articles to certain end-users under the AECA (among others). In May 1994, President Clinton announced the renewal of China's MFN status and adds that future renewal decisions will be made independently of human rights issues. However, Clinton issues a ban on the import of Chinese-made weapons and ammunition, and reiterates his support for continuing sanctions imposed in the wake of the Tiananmen incident.
Croatia	SC Resolution 1021(1995). No U.S. reference found.	1995	Embargo on arms and military equipment
Cuba	Cuban Democracy Act. Export Administration Act.	1964, 1992	The sanctions to be applied under the Cuban Democracy Act include ineligibility for (i) assistance under the Foreign Assistance Act or the Arms Export Control Act; (ii) sales by the U.S. Government under the Arms Export Control Act etc. The designated 6(j) countries are Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria
Eritrea	SC Resolution 1298	17 May 2000	Arms embargo
Ethiopia	SC Resolution 1298	17 May 2000	Arms embargo
Federal Republic of Yugoslavia	Arms Export Control Act. SC Resolutions 713 (1991), 1160 (1998).	1991, 1998	Denial of licenses to Serbia & Montenegro. See 22 C.F.R. § 126.1 (1996). Resolution 1021 of 22 November 1995 set out the terms of termination of the arms embargo. In accordance with the resolution, 13 March 1996 was the date of termination of all provisions of the arms embargo, except those related to heavy weapons, mines, military aircraft and helicopters. The Security Council agreed to terminate the remaining provisions of Resolution 1021 concerning the arms embargo on 18 June 1996.
Guatemala	Pub. L. 104-107, Title V, 110 Stat. 720 (February 12, 1996), note to 50 U.S.C.A. § 1701 (West 1996).	1990, 1996	Section 578 restricts funding for military assistance to Guatemala unless the President certifies that the Guatemalan military is cooperating in the investigation and resolution of human rights abuses in which the military allegedly participated. Congress called for cut of military aid in 1990. H. Con. Res. 355; 101 H. Con. Res. 355
Haiti	SC Resolution 841 of 16 June 1993 imposed an arms and oil embargo, froze foreign assets. Arms Export Control Act.	1993, 1996	Denial of licenses. See 22 C.F.R. § 126.1 (1996).

Indonesia	see Case 91-4, Netherlands/U.S. v. Indonesia [1991- : Human Rights in East Timor, Political Repression] in Huffbauer/Scott/ Elliot, forthcoming.	1991, 1995, 1996, 1999	Suspension military relations. Federal News Service MARCH 16, 1995, Thursday "Clinton.. banned the sale of small arms and crowd control devices as part of our arms sales policy toward Indonesia." <a href="http://www.iie.com/FOCUS/SANCTION/pakist1.htm#chron">http://www.iie.com/FOCUS/SANCTION/pakist1.htm#chron</a> june-august 1996: The Clinton administration negotiates a deal to sell the embargoed F-16 combat jets to Indonesia and then transfer the fund to Pakistan. The sale, however, is postponed over human rights abuses and political repression in Indonesia (Agence France-Presse, 21 August 1996, 5 September 1996; International Herald Tribune, 23 August 1996,2). 1999: Arms embargo to pressure Indonesia to agree with referendum in East-Timor and in response to massacres on the island. Also threatened with financial sanctions through restrictions on IMF and WB loans.
India	Arms Export Act.	1998	20 October 1998 Congress passes omnibus spending legislation bill that contains a provision giving the president the right to waive sanctions against India and Pakistan for up to one year, except for the prohibition against arms sales. (USIS, 19 October 1998; Financial Times, 21 October 1998, 6) . Arms sales to both countries are still banned, as are exports of certain dual-use technologies to certain end-users. (Financial Times, 9 November 1998, 6; Washington Post, 7 November 1998, A14; Financial Express (India), 9 November 1998).
Iran	Iran-Iraq Arms Non-Proliferation Act. Boycott Activity Foreign Relations Authorization Act.	1992	Section 1603 of Iran-Iraq Arms Non-Proliferation Act applies the same export and licensing prohibitions to Iran as are applied against Iraq.. suspension of certain military transfers and sales. Boycott Activity Foreign Relations Authorization Act prohibits the sale of defense articles or services by the U.S. Government to any country or international organization that is "known to" have a policy or practice of requesting compliance with, or information in furtherance of, the Arab League secondary boycott of Israel .. This provision is currently being applied to Iran..
Iraq	International Emergency Economic Powers Act. Foreign Assistance Act. Boycott Activity Foreign Relations Authorization Act. Export Administration Act, as amended. SC Resolution 661 (1990).	1990	OFAC Regulations for the Financial Community. Department of the Treasury, August 19, 1999, page 9-11: since August 2, 1990 with certain exceptions, general prohibitions on buying and selling, traveling, off shore dealings, performance of contracts in support of industrial, commercial, public utility or governmental projects in Iraq and financial transfers and dealings.
Liberia	SC Resolution 788. Arms Export Control Act.	19 .11. 1992	arms embargo
Libya	SC Resolution 748. Boycott Activity Foreign Relations Authorization Act. International Security and Development Co-operation Act. Iran and Libya Sanctions Act .	31 .03. 1992	Resolution 748 imposed an arms and air embargo and a reduction of Libyan diplomatic personnel serving abroad. Boycott Activity Foreign Relations Authorization Act... currently applied to.. Libya..
Mongolia	Arms Export Control Act.	1996	Denial of licenses
Nigeria	Arms Export Control Act.	1995	The State Department is also denying licenses for export of defense items and services to Nigeria. 60 Fed. Reg. 66334 (12/21/95). [=arms embargo]. Lifted in 1999 after the death of General Abacha.

Pakistan	1985 Pressler amendment	1991, 1996, 1998	U.S. terminates economic and military assistance (including sales of military equipment) to Pakistan, after President Bush says that he cannot certify that Pakistan does not possess nuclear weapons. This action freezes ongoing military sales projects with Pakistan, including a 1989 deal for 28 F-16 fighters for which Pakistan has already paid. According to Congressional Research Service (CRS), the termination affects \$564 million in new aid for FY1991. (Washington Post, 1 December 1990, A12; Associated Press, 21 September 1995; CRS 1992, 195). The U.S. prohibits for two years exports of satellites and other advanced technology to China and Pakistan to protest the transfer of M-11 missiles to Pakistan. On 20 October 1998 Congress passes omnibus spending legislation bill that contains a provision giving the president the right to waive sanctions against India and Pakistan for up to one year, except for the prohibition against arms sales. (USIS, 19 October 1998; Financial Times, 21 October 1998, 6).
Panama	Huffbauer, Scott, Elliott 1990: 247-267.	1990	Reduction in U.S. economic, military aid; freezing of Panamanian government assets in U.S. banks; U.S. government withholding of payments owed by Panamanian government; U.S. corporations withholding of taxes, fees owed to Panamanian government; suspension of sugar quota; suspension of GSP and CBI trade benefits.
People's Republic of Korea	Trading With The Enemy Act, as amended ("TWEA"). International Security and Development Co-operation . Export Administration Act.		Trade restrictions invoked under the TWE Act are currently being applied as follows: 1.North Korea.. The State Department designated terrorist countries are currently: .. North Korea
Rwanda	Arms Export Control Act.	1995	Denial of licenses
South Africa	Resolution 418 of 4 November 1977 imposed an arms embargo.	1997-1993	23 November 1993 President Clinton signs into law a bill repealing all remaining federal anti-apartheid sanctions, except for the arms embargo and restrictions on transfers of nuclear technology. By Resolution 919 of 25 May 1994, the Security Council terminated the arms embargo and other restrictions imposed on South Africa.
Sudan	Executive Order 13067, Nov. 3, 1997.	1997	Imposes a trade embargo against Sudan and a total asset freeze against the Government of Sudan. Arms embargo included since all trade prohibited. OFAC Regulations for the Financial Community. Department of the Treasury, August 19, 1999, page 19.
Sierra Leone	Resolution 1132.	08 .10.1997	oil and arms embargo, as well as restrictions on the travel of members of the military junta of Sierra Leone.
Somalia	SC Resolution 733. Arms Export Control Act.	23.01.1992	Resolution 733 of 23 January 1992 imposed an arms embargo. Resolution 751 of 24 April 1992 set up a Security Council sanctions committee. It is currently the policy of the State Department to deny licenses with respect to the following countries: .. Somalia
Syria	Export Administration Act.	1996	Export of dual use goods prohibited.
Tajikistan	Arms Export Control Act.	1996	It is currently the policy of the State Department to deny licenses with respect to the following countries: .. Tajikistan
Vietnam	Arms Export Control Act	1996	It is currently the policy of the State Department to deny licenses with respect to the following countries.. Vietnam.
Zaire	Arms Export Control Act	1996	Denial of licenses

Explanation and juridical references of various Acts mentioned:

1. Arms Export Control Act, as amended ("AECA"), Pub. L. 90-629, c. 1, 82 Stat. 1321 (October 22, 1968), as amended, 22 U.S.C.A. § 2751 et seq. (West 1990 & Supp. 1996). . See 22 C.F.R. § 126.1 (1996).
2. Export-Import Bank Act of 1945 (PL 79-173). Law nr. 101-240. Section 11. 103 Stat. 2495. Dec. 19, 1989. 12 USC 635i-5. China. Added by PL 101-240, sec. 102.
3. Foreign Relations Authorization Act for 1990-91, as amended, Pub. L. 101-246, Title IX, §§ 901-902, 104 Stat. 83 (February 16, 1990), as amended, note to 22 U.S.C.A. § 2151 (West Supp. 1996).
4. Cuban Democracy Act of 1992 18, Pub. L. 102-484, Div. A, Title XVII, 106 Stat. 2575 (October 23, 1992), 22 U.S.C.A. §§ 6001-6010 (West Supp. 1996).
5. Iran-Iraq Arms Non-Proliferation Act of 1992, as amended 16, Pub. L. 102-484, Div. A., Title XVI, 106 Stat. 2571 (October 23, 1992), note to 50 U.S.C.A. §1701 (West Supp. 1996).
6. Boycott Activity Foreign Relations Authorization Act for 1994 and 1995, as amended, Pub. L. 103-236, Title V, §§ 564, 108 Stat. 483 (April 30, 1994), as amended 22 U.S.C.A. §§ 2751 note (Supp. 1996). This Act prohibits the sale of defense articles or services by the U.S. Government to any country or international organization that is "known to" have a policy or practice of requesting compliance with, or information in furtherance of, the Arab League secondary boycott of Israel.
7. International Emergency Economic Powers Act. Law nr. 95-223. 91 Stat. 1626. Oct. 28, 1977. 50 USC 1701-1706. Terrorism, narcotics, national security.
8. International Security and Development Co-operation Act of 1985, Pub. L. 99-83, Title V, §§504 and 505, 99 Stat. 221 (August 8, 1985), 22 U.S.C.A. §§2349aa-8 and 2349aa-9 (West 1990). Section 505 of the Terrorism Act authorizes the President to restrict or ban imports of goods and services from countries that have been determined by the United States to support terrorism or terrorist organizations or harbor terrorists or terrorist organizations.
9. Export Administration Act, as amended ("EAA")<sup>39</sup>, Pub. L. 96-72, 93 Stat. 513 (September 29, 1979), as amended, 50 U.S.C.A. App. §§ 2405 and 2410a (West 1991 & Supp. 1996). The Export Administration Act authorizes the President to control the export of "dual-use" (i.e., having civilian and potential military application) goods and technology, and certain services related to those items. Controlled items are regulated by the Department of Commerce through the Export Administration Regulations ("EAR"). Under Section 6(j), the Act requires a license for export to a country designated as supporting acts of terrorism of goods or technology that could make a significant contribution to its military or terrorist capabilities.
10. Iran and Libya Sanctions Act of 1996, Pub. L. 104-172, 110 Stat. 1541 (August 5, 1996). The Iran and Libya Sanctions Act: In order to deny Iran and Libya the ability to support acts of terrorism and to acquire weapons of mass destruction, the provisions of this A97.ct mandate the imposition of sanctions on U.S. and foreign persons that engage in certain transactions with Iran and Libya.
11. Trading With The Enemy Act, as amended ("TWEA"), Act of October 16, 1917, c. 106, 40 Stat. 415, as amended, 50 U.S.C.A. App. §§ 1-44 (West 1990 & Supp. 1996). Section 5 prohibits trade with "the enemy" during time of war.

## Chapter 4. Methodology and Measurement

Under what conditions can dictators get away with violating human rights? Alternatively, when does it pay to respect human rights? This Chapter sets out a strategy to measure and analyze the use of positive and negative measures in reaction to human rights violations.

Through interviews and a review of official documents, I constructed a database of human rights violations per country between 1989 and 2000. Separate data sets indicate E.U. and U.S. reactions to these violations, and will be analyzed to shed light on the variation across the E.U.'s and U.S.'s use of carrots and/or sticks. A combined database is used to analyze variation in sanctions across target countries by liberal democracies in general. A carrots and sticks model is constructed from the hypotheses developed in Chapter two.

In the first section, I discuss how the data were collected and how the cases were selected. Then, I outline how I measure the dependent variables. Third, I discuss which available indicators best approximate the potential determinants of sanctions (or independent variables) and how they can be measured. After a detailed discussion of all coding decisions, I conclude with a summary of the full models and with some methodological remarks. An overview of the indicators, measurements and descriptive statistics is provided in Tables 4-10/11 at the end of this Chapter. The numerical data bases and the code books for the cases can be obtained from the European University Institute or the author upon request.

### 4.1 The Data

Since no ready-made database is available for both E.U. and U.S. sanctions effected between 1989 and 2000, I needed to construct one myself.<sup>195</sup> I used two methods to collect data: first, interviews with officials and experts (see Table 4-1 below), and second, literature and document research. The interviews focused on the E.U., because E.U. sanction cases had not been documented yet and they



were not all imposed officially or in a transparent manner. These interviews were also used to explore various hypotheses. The transcripts of the interviews were indexed in a Procite file, and numbers with dates were attached to each record to safeguard the anonymity of the interviewed person (available on request).

Table 4-1. Number of Interviews by background.

Interviews conducted	1998-2000
E.C. officials	42
Member State officials and diplomats	19
Representatives NGOs	4
Representatives private sector	4
U.S. officials	6
Conference speakers or meetings:	
- Politicians (U.S., E.U., applicant states)	18
- Experts	13
<b>Total</b>	<b>106</b>

The literature and document research consisted of searching official publications of the E.U. and the U.S. on key words indicating human rights and economic sanctions for the years 1989-2000. For the E.U., I used the European Foreign Policy Bulletin online<sup>196</sup>, the Official Journal of the European Communities, Celex, Lexis Nexis Eurofiles (containing both official documents as well as newspapers like The Independent, the Guardian, Reuter) and internal documents of the European Commission. For the U.S. cases, I searched the official database of the U.S. Congress as well as newspapers, Lexis Nexis files, numerous web pages and governmental publications. I chose to concentrate on official documents, since they provide the most direct information to, and are the chief source of information for decision makers. I aimed to collect all E.U. and U.S. reactions to human rights violations for the period 1989-2000. Although I dare not claim that this data base is actually presenting the whole universe of cases, it is a close and representative sample of all E.U. and U.S. sanctions of the past decade.<sup>197</sup>

As my first research question concerns the conditions under which measures are imposed towards some human rights violating countries rather than others, I also

<sup>195</sup> See Crawford (1998) for a partial list of E.U. sanctions between 1990-1995. See Toby King (1999) for a description of human rights in E.U. foreign policy, with anecdotes about Rwanda, Cameroon, China. The Hufbauer et al volume has cases up to 1990, an updated version is forthcoming. Ellings (1995) provides data for 1945-1982 only.

<sup>196</sup> See <http://www.iue.it/EFPB/welcome.html>

<sup>197</sup> Statistical inference should account for the fact that not all occurrences of human rights violations may be in the data base, since it estimates the probability that a finding will occur in the total population of cases (in that case the coefficient is significant).

had to include 'zero' cases, in which no measures were imposed.<sup>198</sup> Therefore, I compared the countries which Freedom House rated as 'not free', with the countries referred to in the European or North American institutions, and added the case if it had not been raised in the EP or Congress. Two databases were thus constructed: one with E.U. and one with U.S. measures. Subsequently, I added cases to the data sets if the E.U. did impose some type of measure whereas the U.S. did not, or vice versa. The result is that both data sets contain the same cases, but with different sender specific coding. A third data set was then compiled with all data for the E.U. plus the U.S. In addition, if a country was consistently coded as 'not free' by Freedom House, and was not raised in the official institutions of either the E.U. or the U.S., I included the case for the year 1990 (one year later than the scope of my research).<sup>199</sup> If a sudden isolated instance of a human rights violation was observed, but the case went unnoticed, I included the year in which the violation occurred. Some 30 additional cases were thus added, some of which were oil exporting states like Saudi Arabia or Oman, others were tiny states like the Maldives or Djibouti. A case book and files with references for each country were constructed (see annexes to the thesis). The cases were then scored on the dependent variables first, for which explicit references to a course of action needed to be stated in the documents.

If over the course of time measures were changed towards a country, the case was again included in the data base. The unit of analysis is, after all, the occurrence of human rights violations, and not countries as such. Some countries thus appear more than once in the data base. Although this can cause a certain degree of auto-correlation among the variables, it did not occur often enough to

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<sup>198</sup> Drezner (1999: 114-115) admits that 'while HSE collected data on cases involving sanctions, there is no companion data set where the sender considered economic coercion but then rejected that choice'. He finds including the none-cases problematic because he thinks of 'random dyads' instead of carefully researched cases where no sanctions were imposed after consideration, and because he would then need a measure of expected costs for his research question. Drezner also seeks to show that bias in the HSE sample, and particular ways of coding, have made for overly pessimistic claims about the potential of sanctions to achieve concessions of the target. He criticizes the way in which success is coded, and suggests that also small concessions of the target state compared to the situation *ex ante* should be considered as partly successful.

<sup>199</sup> Problem with year is that 1990 will occur superficially relatively often compared to other countries. Since the year is also used as a proxy for institutional development, the results may be somewhat misleading. Since an early year was chosen, however, it merely means that if the variable year turns out to have a significant impact, it can be interpreted even somewhat stronger than reported. Since only 30 cases were added in this way, it is unlikely to distort the estimation of the model, which has in total almost 500 cases in the combined data set. An alternative way to code the cases is shown by Tomasevski (2000) who took the placing of a country on the agenda of the U.N. Human Rights Committee to determine to which human rights violations were or were not reacted by other states. I doubt whether this –much more time consuming method– would have resulted in additional cases.

distort the results.<sup>200</sup> I did not include all countries for each year the sanctions were imposed against them because my research question is about why certain types of sanctions are imposed, and not why they are maintained.<sup>201</sup>

Questions or resolutions raised in years following certain measures were not coded again unless the type of measure changed. If the questions concerned the status of individuals, they were not coded either. For instance, questions were raised about the fate of individuals in Egypt, Singapore and Bangladesh. If they, however, referred to prominent leaders personalising a struggle to respect human rights and democracy, such as Aung San Kyu of Burma, a trade union leader in Indonesia or Salman Rushdie from Iran, they were included in order to express the wider concern of the European Parliament. Terrorist acts are included as human rights violations since they are political acts that inflict harm and cause a threat to human safety. In fact, sanctions have been imposed against terrorist or rebel groups too, not just against states.

## 4.2 The Methods

The data will be analyzed using various kinds of statistical methods. I will first estimate the data using multivariate, linear regression analysis. Where I consider it useful, I will perform bivariate tests as well. The general form of the linear regression equation considers the relationship between a dependent variable and several explanatory variables. Ordinary Least Squares (OLS) is a standard technique for calculating the regression equation that minimizes the sum of the squares of the error terms; that is, the differences between the observed values for the dependent variable and the predicted values for the dependent variable. I used both STATA and SPSS to conduct the analysis, depending on the requirement of the tests I wanted to perform.

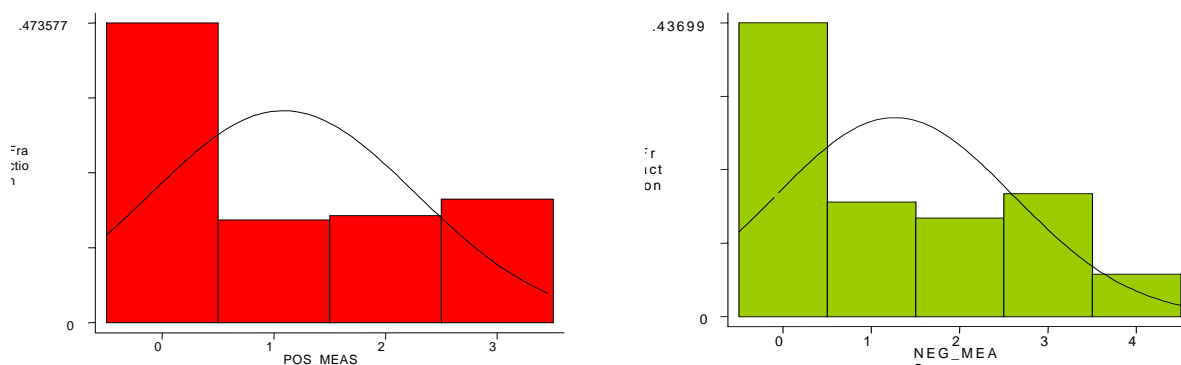
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<sup>200</sup> Each country occurs at least twice in the combined data, one time for the E.U. and one time for the U.S.. Many, such as Burma, China, Afghanistan, occur even more often than that.

<sup>201</sup> Also, such data analysis would require time series analysis and extensive data collection, which would have required too much time and extensive help from an econometrician. The fact that each case is included each time a new sanction is invoked means that I do not have a measure of the level of current sanctions at the time the new sanction is introduced. For one thing, if sanction X is already being applied to country A it is not then available as a response to further human rights violations. Thus one might reasonably argue that we should focus on the increment (or decrement) to sanctions as the dependent variable in the analysis. I did create such a variable but it did not provide us with more valuable information than the information obtained by the more specific level on the scale of sanctions currently used as the dependent variable.

In order to test a data set statistically, it has to fulfill various requirements. A normal distribution is one such methodological requirement. Ordinary Least Squares has no problem estimating the independent explanatory power of skewed independent variables, as long as the dependent variable shows a normal distribution.<sup>202</sup> The data base constructed here shows in absolute terms that in over 40% of cases of human rights violations, no reactions followed. Still, in many other instances some type of measure was imposed. The dependent variable is thus not normally distributed, as is shown in Figure 4-1 below (the positive and negative measures scales are explained in the next paragraph).

Figure 4-1. Histograms positive and negative measures.



We can account for the problem of censoring identified in Figure 4-1 by using the Tobit method (Breen 1997). This method deals with the problem of censored data that arises when a lot of observations have a value in the dependent variable clustered at some censoring point:  $y=0$  in this case.<sup>203</sup> The Tobit results provide both the probability of being punished or rewarded at all, and the intensity of the measures. It estimates, in a first round, the probability that a case which is in the sample will have a non-zero value on  $y$ , i.e. the probability that a country will be sanctioned. At a second stage, it estimates the strength and statistical significance of the explanatory coefficients, conditional on being sanctioned. In this second

<sup>202</sup> Aldrich and Nelson, 1984, p. 58-59. Ordinary Least Squares estimates of the parameters obtained from a subset of  $n_1$  observations will be biased as well as inconsistent. If we only consider the  $n_1$  observations and omit the others, there is no guarantee that  $E(u_i)$  will be necessarily zero. And without  $E(u_i)=0$  we cannot guarantee that the OLS estimators will be unbiased.

<sup>203</sup> Breen (1996: 2) explains that "a random variable,  $y$ , is said to be *truncated from below* (or *left truncated*) if, for some value,  $c$ , of  $y$ , we know, for all cases where  $y > c$ , the exact value taken by  $y$ , but for all other cases, we only know that  $y \leq c$ . .. Our sample is said to be *censored* if we have observed the values of the  $x$  variables for those cases where  $y > c$  (and  $y$  is therefore observed exactly), and where  $y$  is only known to be either equal to or less than  $c$ . The latter is the case for my data set.

step the model is estimated with the incorporation of the likelihood statistics  $\lambda$  retrieved in the first round.<sup>204</sup> An additional benefit of the Tobit method is that it allows us to interpret the estimators as if it were a probit estimation. This means that it estimates not only the probability that a country with a certain characteristic will be punished *harsher* but also whether it is likely to be sanctioned at all. Other scholars have also used this 2-step method on conceptual grounds (Cingranelli and Pasquarello, 1985; Blanton, 1999): it is likely that potential targets are first brought to the attention of decision makers when they have to decide *whether* to impose sanctions, and, only in a second phase, about *what kind* of measures to impose. Therefore, applying this technique makes sense on both conceptual and methodological grounds for my model.

### 4.3 Measuring the Dependent Variables: Carrots and Sticks

In this section, I present a 'carrots' scale and a 'sticks' scale which will be used to differentiate the various reactions to human rights violations in the E.U. and the U.S. The carrots scale varies from 'unconditional' to 'conditional aid', and the sticks scale from 'free trade' to 'total embargo'. Economic measures imposed by the U.S. do not show subtle differences on the surface. The E.U., on the other hand, with its 'preference for positive incentives to promote democracy and human rights' -as the Commission itself so eloquently put it- has been quite creative in designing a broad spectrum of incentives and sanctions. Simple indicators, such as the aid budget or trade figures, do not adequately capture this type of policy response. Previous attempts to measure economic sanctions are numerous, yet -to my best knowledge- very few were undertaken to measure positive measures. Crumm (1995) speaks of positive incentives, but measures them only in a qualitative way. The title of van Bergeijk's 1994 volume *Economic Diplomacy, Trade and Commercial Policy. Positive and Negative Sanctions in a New World Order* sounds promising, but unfortunately, the term 'positive measures' -as the E.U. policy seems to understand them- remains largely confined to the title. The weighted scale that Van Bergeijk (1994) constructed, ranges from 'high intensity of co-operation' (1), through 'neutral activities' (4) to 'high intensity of conflict' (7). It

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<sup>204</sup> Each coefficient shows the effect of a change in a given x variable on the expected value of the latent variable (the  $\lambda$  that estimates the chance to be sanctioned and have a non-zero value on y), holding all other x variables constant (Breen, 1996: 28).

seems to capture more military than economic relations, and in that sense, it seems too broad to be useful for my purposes, and not directly applicable to the E.U.. I need a scale which captures a variety of trade and aid relationships. Moreover, the E.U. often uses both carrots and sticks at the same time. A one-dimensional scale, such as van Bergeijk's, would not capture this. Doxey (1997: 13) designed a very elaborate and sophisticated typology of negative measures, grouping a variety of measures into three areas: (i) financial, (ii) commercial and technical and (iii) communications. While illuminating, especially for policy purposes, the typology seems too detailed to allow for meaningful analytical comparison. Huffbauer et al (1997) distinguish 'limited', 'moderate' and 'extensive' (negative) sanctions:

'We considered minor financial, export, cultural, or travel sanctions to be "limited". Examples include suspending or reducing bilateral aid, and imposing export restrictions on weapons or narrow categories of dual-use technologies. Broader trade or financial sanctions were classified as "moderate". We generally reserved the "extensive" category for comprehensive trade and financial sanctions such as those against Iraq or Serbia. Sometimes, however, a combination of several "moderate" sanctions, such as U.S. export controls against the Soviet Union and Eastern Europe during the Cold War, together with denial of MFN status under the Jackson-Vanik amendment, were together considered "extensive."

The above authors are interested in the *effects* of sanctions, be it on the target state (van Bergeijk 1994; Doxey 1997; Huffbauer et al, 1985) or on the domestic, i.e. U.S., economy (Huffbauer et al, 1997). Since I am concerned with the *imposition* of sanctions, designed only to condemn human rights violations or promote their respect, these three categories do not seem specific enough, at least not for the E.U.. The 'light' category contains quite severe measures in my view, and it is not clear what 'moderate' means. The 'extensive' category seems to refer mostly to sanctions imposed under the mandate of the U.N.. Moreover, I need a zero category which accounts for the instances in which no reaction followed the violations, an omission that has led to serious selection bias in research on sanctions so far.

What would this more refined scale look like? This is what we turn to now. First a scale for negative measures (sticks) will be constructed, containing 5 categories, ranging from 'free trade' (0) to 'total closure' (4). Second, a scale for positive measures (carrots), ranging from 'unconditional co-operation' (0), to 'conditional co-operation' (3). The same number of cases will be coded for each dependent variable.

### 4.3.1 Negative Measures

I base the sanctions scale upon an officially used order of severity. The Commission, in a 1994 report, has provided a way to distinguish its reactions by presenting a rising scale of ten negative or restrictive measures (de Vries, 1998: 3-4; COM (94) 42 fin: 11) which is shown in Table 4-2 below. The Commission slightly altered this list in 1995, commenting on measures that may be taken in response to 'serious' human rights violations. Measures 1 and 3 were excluded, but, the suspension of arms sales and/or the suspension of military co-operation was included as a penultimate measure (De Vries 1998: 4; COM (95) 216 fin., annex 2: 17). Arms embargoes and the suspension of military co-operation were thus seen as a very serious type of sanction, whether it is because of the difficulty for the E.U. Member States to impose them, or because of the nature of the instrument.

European Commission scale of restrictive measures	
1	confidential or public 'demarches';
2	change in the content of co-operation programs or the channels used;
3	deferment of signatures or decisions needed to implement co-operation;
4	reduction of cultural, scientific or technical co-operation programs;
5	deferment of the holding of a joint committee meeting;
6	suspension of high-level bilateral contact;
7	postponement of new projects;
8	refusal to act on partner's initiatives;
9	trade embargoes;
10	suspension of co-operation with the states concerned.

Table 4-2. European Commission Negative Measures scale 1994.

Several aspects of the list provided in Table 4-2 are noteworthy. First, no explicit distinction is made between restrictions on aid, trade and military co-operation. Second, the list is not complete: financial sanctions are not specified, and 'trade embargoes' is much too broad and unspecified. The sudden jump from the not very harsh measure 8 to the extremely severe embargo 9 is unrealistic. For instance, before comprehensive sanctions are imposed, trade preferences are often partly reduced. Therefore, in order to analyse under what conditions a trade measure is imposed in reaction to human rights violations, I propose to add one category that precedes a trade embargo: suspension of trade preferences. This can occur within the framework of the General System of Preferences under GATT, or as an invocation of a human rights clause in a co-operation agreement.

Suspension of non humanitarian aid is not explicitly mentioned in the

Commission's list either, even though the measure is important and often used. I take the suspension of development aid as a moderate sanction, along with the suspension of non-technical/cultural and scientific aid. Moreover, I propose to retain the 1994 category 'deferment of signatures or decisions needed to implement co-operation' in place, since it has happened in the past that the European Parliament pushed respect for human rights by making their consent to certain agreements conditional on human rights practices, though not always with great success. The original 2<sup>nd</sup> category, 'change in the content of co-operation programs or the channels used' seems so subtle a measure that it might be difficult to observe. The same is true for the 'postponement of new projects' and the 'refusal to act on partner's initiatives'. I propose, thus, to group these three categories together. Since confidential 'demarches' are practically impossible to observe, they will be grouped in the same category as the continuation of trade and co-operation.

Financial sanctions are also omitted from the 1994 list. This would have included the freezing of assets, and bans on investment or financial transactions. Although such targeted measures have only recently become more popular as a foreign policy measure, we saw in Chapter 3 that it is possible and established practice for the E.U. Member States to co-ordinate such sanctions. Still, considerable effort is needed since the measures are relatively severe. I thus propose to add them to the 'pen-ultimate resort' category.

Putting restrictions on trade in arms is relatively difficult for the E.U., since, as we saw in Chapter three, it is legally intricate and the Member States have the final say. In addition, military assistance is provided only at bilateral, and not E.U.'s level. For the U.S. we saw that such measures are easier to impose, and its military measures are somewhat more intricate. I consider the denial of import licenses as a minor sanction, but arms embargoes as penultimate resort. For Europeans, on the other hand, it is surprising that the U.S. regards military co-operation as development aid. Hence, 'suspension of aid' means something different for the E.U. than for the U.S. The U.S. Statistical Abstracts list the separate budgets for military aid and economic aid.

The suspension of development aid is often not considered to be a sanction by



many U.S. authors and politicians. Many –especially Republicans- argue that ‘development aid is not an entitlement’. In the E.U. context, however, we saw that the contrary is the case: development aid is an entitlement through the elaborate co-operation agreements reached by E.U. and third countries. Through these agreements, the E.U. is bound to provide certain sums of financial support, provided that the conditions of the agreement are fulfilled. The country on the receiving end can thus reasonably expect the financial support. Cutting off this financial flow, then, means a sanction. In sum, we need umbrella categories that approximate the same reaction for the U.S. and the E.U., yet allow us to acknowledge the differences in the American and European decision-making contexts. I look at the suspension of economic aid as an intermediate sanction. To measure the carrots, I will only look at economic (not military) aid as an alternative measure for the scale.

Table 4-3. The Sticks Scale.

Negative Measures		The Sticks Scale
0	free trade	no reaction; unconditional relationships; (1) confidential demarches;
1	slight closure	(1) public demarches or joint declarations (2) change in the content of co-operation programs or the channels used; (5) deferment of the holding of a joint committee meeting; (6) suspension of high-level bilateral contact; denial of import licenses weapons.
2	substantial economic closure	(3) deferment of signatures or decisions needed to implement co-operation; (4) reduction of cultural, scientific or technical co-operation programs; (7) postponement of new projects; (8) refusal to act on partner's initiatives; suspension trade preferences; suspension or freezing development aid; visa ban or flight ban; prohibition extension guarantees, insurance, credits by EXIM bank.
3	military closure/ "smart sanctions"	(9) suspension of arms sales and/or the suspension of military co-operation; visa and flight ban; financial sanctions; embargo on strategic products such as oil, diamonds; combination of measures listed above.
4	total closure	(9) comprehensive trade embargoes (10) suspension of [economic and military] co-operation with the states concerned.

Note: numbers between brackets refer to 1994 scale of the European Commission.

Table 4-4 below shows the frequencies for E.U. and U.S. negative measures for the period 1989-2000.

Table 4-4. Number of E.U. and U.S. negative measures 1989-2000.

	EU_US			
	us		eu	
	STICKS		STICKS	
	Count	%	Count	%
free trade	111	45.1%	102	41.5%
slight closure	33	13.4%	51	20.7%
substantial closure	35	14.2%	37	15.0%
smart sanctions	49	19.9%	43	17.5%
total closure	18	7.3%	13	5.3%
Total	246	100.0%	246	100.0%

note: N=492, total number of occurrences of human rights violations in data base.

### 4.3.2 Positive Measures

The most obvious problem with the sticks scale is, that it does not allow for the measurement of positive measures. This mix is considered a critical feature of ‘engagement’ and one that some argue distinguishes the European from the American approach. This could simply be remedied by including an additional category measuring the continuation of development aid. Yet, the ingenuity of the E.U. approach seems to be that sometimes they simultaneously use both carrots and sticks to pressure and promote respect for human rights and democratic institutions. The U.S., as well, seems to be moving towards ‘engagement’ and the use of mixed strategies to foster change in third countries.

Jagers and Gurr (1995) constructed a two-dimensional scale to capture the nature of polities. Rather than measuring either democracy or autocracy, they measure the concept behind them: authority. The scales, partly mirroring each other, characterised regimes by both elements. Countries in transition, for instance, can have an intermediate score on both scales, whereas liberal states tend to score very high on democracy, and low on autocracy. In similar fashion, I propose a separate scale for positive incentives. The concept that the carrots and sticks scales have in common is actual concern for human rights by third powers. Like its counterpart, the scale draws upon measures officially referred to by the E.U. and the U.S.. ‘Critical dialogue’, for instance, is used to voice criticism and put human rights formally on the diplomatic agenda, yet co-operation remains in place. Therefore, I regard it as a ‘slight opening’ (1), compared to situations where

violations are not publicly denounced, and no type of support is provided (0). The provision of humanitarian aid can also be viewed as belonging to this first category. A substantial opening (2) is then characterised by an intensified dialogue, with extra diplomatic efforts and the stepping up of humanitarian aid and electoral support. Once a country is eligible for a co-operation agreement, it enters the third category. If financial support granted under the agreement is suspended because of human rights violations, the case will still score on the positive incentives (1) since humanitarian aid is normally continued, while scoring moderately high on the negative measures (2). This was checked by looking at the actual amount of development aid provided in the year of the sanction, and at the changes in aid compared to the previous year.<sup>205</sup> If aid was continued and the agreement as such was not suspended, though, for instance, military sanctions were imposed, the case would show high scores on both scales (3,3). The co-operation between the sender state and the countries concerned remains, thus, conditional in this third phase. If such clauses are deemed unnecessary, since already fulfilled, and co-operation becomes unconditional, a case will be coded in the 0-category since it is no longer considered an explicit inducement.<sup>206</sup>

Table 4-5. The Carrots Scale.

	Positive Measures	The Carrots Scale
0	Unconditional co-operation	no special measures/ business as usual despite human rights violations; confidential demarches;
1	slight opening	public demarches or joint declarations; 'critical dialogue'; provision humanitarian/emergency aid; continuation (certain) economic relationships/ suspension (certain) sanctions.
2	Substantial opening	'intensified dialogue': extra diplomatic efforts; stepping up of humanitarian aid (through NGOs mainly) or election support, lifting of (certain) sanctions; proposal for co-operation agreement with human rights clause, aid under Meda, Phare, Tacis programs (or U.S. equivalent).
3	Conditional co-operation	conclusion of partnership and co-operation agreement (or U.S. equivalent) with human rights clause, including financial support and benefits.

<sup>205</sup> Sources: Eurostat statistics, OECD, World Bank, U.S. Statistical Abstracts, Official publications European Commission and European Parliament, yearly budgets.

<sup>206</sup> Originally, I had designed a fourth category, but in practice it was very difficult to distinguish cases between the 0 and the 4 score. Examples that fell in this category were Australia and Mexico: the E.U. tried to incorporate a human rights clause in the agreements at first, yet, in the end the deal was closed without any such reference, protests of the EP notwithstanding. Since it concerned a distinction between the two extremes of the scale, this would have been extremely problematic and caused distortions in the results.

Does this scale sufficiently fit the characteristics of U.S. carrots? As was explained in Chapter three, the U.S. has somewhat similar legal provisions in place, even though they do not necessarily label them as ‘conditional co-operation’. U.S. relationships with third countries are guided more by general legislation than by bilateral agreements. Some Acts prohibit the extension of benefits under their respective tariff programs to countries that are not making progress towards internationally recognized worker rights. Also, there are some special U.S. agreements that are governed by a similar conditionality principle, such as with countries in the horn of Africa. A problem with some of the general U.S. legislation is that in theory any country can be coded as a 3. However, since no specific agreements were signed between the parties, other than for the Andean countries, they were not coded as such. Table 4-6 below shows the frequencies of E.U. and U.S. positive measures for the years 1989-2000.

Table 4-6. Frequencies E.U. and U.S. carrots.

	EU_US			
	us		eu	
	CARROTS		CARROTS	
	Count	%	Count	%
unconditional cooperation	182	74.0%	50	20.3%
slight opening	23	9.3%	58	23.6%
substantial opening	38	15.4%	45	18.3%
conditional cooperation	3	1.2%	93	37.8%
Total	246	100.0%	246	100.0%

note: N=492, total number of occurrences of human rights violations in combined data base.

An alternative measure for the level of positive incentives imposed, which I will test, is the level of (economic) development aid in dollars/euro for the U.S. and the E.U. This measure also reveals whether there is a linear or a curvilinear relationship between the level of human rights violations and the level of positive measures. One could argue that only mid-level human rights violators, mainly transition regimes, would still manage to receive significant carrots, while gross violators would only be treated with sticks.<sup>207</sup>

<sup>207</sup> This hypothesis can not actually be measured with the techniques used in this thesis. Ordinary Least Squares methods assume a linear relationship. A curvilinear relationship will not be estimated correctly. The question is, however, whether a big difference would be shown between a linear and curvilinear relationship.

### 4.3.3 Mixed Strategies

Thus far, we have tried to find indicators for the level of negative sanctions and for the level of positive incentives. It would also be useful to estimate the probability that mixed strategies, implying both carrots and sticks, would be used. This combination of push-and-pull instruments is what may have distinguished the E.U. from the U.S. for many years. A similar 'honey and vinegar' approach, in the words of the Brookings Institute (Haass 2000), is what the U.S. is now trying to reinvent. What is the chance that a country that violates human rights will receive neither a stick nor a carrot, but a combination of both? In an attempt to measure the mixed strategy as a dependent variable, I constructed a third scale based upon the carrots and sticks scales. There are various ways to try and capture these mixed strategies, none of them being perfect. The best way seems to measure whether a country was not hit by any measure (0), whether it received only carrots (1) or only sticks (2) or both carrots and sticks (3). Such a scale would be measured with a multinomial logit analysis. This type of regression is similar to logistic regression, but it is more general because the dependent variable is not restricted to two categories. It enables us to see what factors determine which cases fall into each of these categories, or in other words, what types of countries are likely to get away with violating human rights, and which ones are likely to get carrots only, sticks only or a combination of the two measures (the variable is called *mix\_3*).

An alternative would be a cumulative variable (labeled 'mix'), which simply adds the scores on the carrots to the scores on the sticks scale, and results in a scale from 0-7 (the highest possible value being 4+3). The problem with this way of measuring the mixed strategy is that, for instance, strong U.S. negative measures and strong E.U. positive measures may cancel each other out. More importantly, in practice it seems impossible to receive the highest score on both: a co-operation agreement plus a total embargo. Its rather arbitrary construction would make it hard to interpret the results, since they could partly depend on the specific scoring of the variables used. Therefore, the above described 3-category measurement using a multinomial logistics analysis was selected as the better of the two.<sup>208</sup>

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<sup>208</sup> If we were to subtract sticks and carrots, and look at the net effect, we would run into a similar problem. I tried various alternative measures of the mixed strategy. For instance, I constructed a new variable by assigning a 0 for no reaction, 1 for

#### 4.4 Measuring the Explanatory Variables

From the literature review in Chapter two, a list of hypotheses was drawn up that corresponds to the various theoretical approaches. The hypotheses indicated three determinants of sanctions: (1) norms (measured by the degree of freedom in the target country or regime type, degree of internal or external conflict, a sudden deterioration or improvement in human rights situation); (2) interests, including economic interests (measured by trade linkage, GDPpc); strategic interests and level of threat (measured as being labeled as a rogue or not, being an adversary or ally, possessing oil and/or nuclear weapons, region, population); and cultural/historic interests (indicated by ex-colonies/ex-patriots) and finally; (3) institutions (measured by time, U.N., and type of institutional arrangement).

Depending on the severity of the violations and the type of response considered, the time lag can vary between some days and two years. If the parliament has a say in the matter (which is not the case for the harshest form of sanctions in the E.U.), a one year time lag would be expected and acceptable. The delay is due to the budget cycle, and to the time it takes for debate on and administration of the measures (Poe, 1990: 511; Cingranelli and Pasquarello, 1984: 544).<sup>209</sup> Though sanctions are often imposed immediately following a sudden violation of human rights and/or democracy, they are not implemented directly. Therefore, and for the sake of consistency, all variables are measured in the year prior to the sanction. If no data were available, variables were measured either two years before or in the year of the sanction, which was then indicated as such, or else indicated as a missing value.<sup>210</sup>

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a relatively strong carrot, 2 for a relatively strong stick, and 3 for both strong carrots and sticks. I also measured the mixed model by multiplying carrots and sticks, after having recoded the scales from 1-4 for carrots, and 1-5 for sticks. Hence a scale with a maximum value of 20 (4\*5) was created. The 3 category variable (no reaction, carrots only, sticks only, mixed) is preferable over all other measurements if analyzed with the appropriate method.

<sup>209</sup> Poe (1990), in fact, speaks of an appropriate time lag of 2 years. This seems exaggerated to me. Moreover, it risks missing the conditions that lead to the imposition of sanctions.

<sup>210</sup> The fact that all cases are coded one year prior to the measure means that some relevant information is dismissed, especially if the measures were a direct response to some violations of democracy or human rights. Coding everything in the year of the sanction, however, would miss the cases in which reactions were delayed. The human rights and autocracy scales measured the year prior to the sanction could then indicate that the country is not violating human rights, which reduces the significance and correlation between the variables. Therefore, an extra variable was included which measures whether the human rights situation deteriorated or improved in the year prior to or of the sanction. All variables measuring human rights and democracy were also coded in the year of the sanction. But this did not make a substantial difference in terms of the outcomes of the analysis. For reliability sake, consistent coding is a requirement, so the first option still seems better than mixing up the years. There were no significant differences in the results whether I used the data coded one year prior or the year of the sanction.

#### 4.4.1 Norms

The Liberal and the Constructivist hypotheses explicitly referred to the norms to respect human rights, democratic principles and the rule of law as motivations of state behavior. Although it may seem impossible to quantify human rights violations -since every individual whose rights are violated has her/his own awful story- it is important to have a picture of the overall amount and kind of violations in order to improve a human rights policy and react accordingly.<sup>211</sup> Due to time constraints and considerations of reliability and validity, it is impossible to conduct such measurements myself. Moreover, I want to draw upon and build on previous research. Various human rights data bases have been constructed over the years, though each has been criticized for independent reasons (Schultz 1981:80; Goldstein 1992). Researchers conducted content analysis of reports generated by the U.N. Commission on Human Rights, Amnesty International, Human Rights Watch, and -although the objectivity of its judgments are more controversial- the U.S. State Department.<sup>212</sup> These institutions are widely regarded as knowledgeable in identifying instances of human rights violations, and as entities that have high levels of contact with decision-makers. Due to their recent inception, the yearly reports of the European Parliament or the Council have not been systematically included in any study. Since its main sources are Human Rights Watch and Amnesty International, which contribute to most other databases and reports, E.U. and U.S. decision makers were most likely exposed to similar information.

Respect for human rights is often mentioned in the same breath as democracy. Of course the two are not the same, human rights can be violated in both democracies and autocracies. Nevertheless, respect for human rights and

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<sup>211</sup> See Goldstein (1992) and Samuelson and Spierer (1992) on the limitations of quantitative data in the field of human rights. Amnesty International warns against quantification of its country reports. See also Meier 1999.

<sup>212</sup> For attempts to quantify human rights, see the overview of data bases 'Human Rights and Statistics' edited by Jabine and Claude (1992). A distinction is made between *events-based data* on individual violations, and *standards-based data*, which measure human rights performance at the national level. The indexes constructed by Freedom House and Humana are an example of the latter. For applications, see: Cingranelli and Pasquarello (1985) who rely solely on the U.S. State Department Reports; a reaction by McCormick (1988); Hofrenning (1990) and an overview article by Poe (1990). Schultz (1981) is considered a pioneer in the field. Schultz ranked countries' human rights records according to experts opinions obtained through a survey. Stohl, Carleton and Johnson (1984) and Carleton and Stohl (1987) used ordinal rankings generated from Freedom House, Amnesty International and the U.S. State Department (Poe, 1990: 502-503). Forewaker and Landman (1997), testing the impact of social movements on civil rights in selected countries, use three indexes, one of them being Humana. The human rights resolutions of the U.N. do not encompass all the countries which practice human rights violations as a matter of policy (Tomasevski, 1989: 81). Bollen (1992) provides an excellent review of human rights data bases in general, and of the Banks and Gastil data bases in particular. Lopez and Stohl (1992) provide insight in measurement problems in human rights and suggestions to improve reliability and validity. Poe recommends the combined use of above mentioned reports and adds that the more relevant question is 'what were our decision makers exposed to?' (Poe, 1990: 510).

democratic institutions tend to go together and reinforce each other. Therefore, it seems that a scale that measures democracy would be a good indicator for respect for human rights, and an autocracy scale for human rights violations. The most widely used data set measuring democracy and autocracy is Polity III by Jagers and Gurr (1995). The 'authority score', measuring autocracy and democracy, for all countries in the world, is a time series and extremely useful for comparative research. It consists of 5 dimensions: (1) competitiveness of political participation; (2) regulation of political participation; (3) competitiveness of executive recruitment; (4) openness of executive recruitment and; (5) constraints on chief executive (1995: 472). Jagers and Gurr have found strong correlations of their measurements with the databases obtained by Humana (1991), Vanhanen (1990), Freedom House (1976-) and others. A major shortcoming, I find however, is that the score does not capture minority rights and only looks at formal democracy. South Africa, for instance, obtains a very high score even during the apartheid regime. Similarly, Turkey ranks among the highest scores. Problems in dealing with minorities (majority in the case of South Africa) seriously discredit the democratic institutions of these two countries, as was continuously expressed by critics from within and outside of these countries over the past decades.<sup>213</sup> Countries in transition or conflict are coded as missing in the Polity III data set. Another disadvantage of using Polity III for my purposes is that the coding only extends to 1994.

Another time series that captures respect for human rights is the Freedom House Reports. These series have been quite controversial in the past, but its measurement criteria have recently improved and the political rights index was found to have a high validity rating.<sup>214</sup> The criticism partly reflected dissent with the yearly State Department Reports, one of its main sources, which was said to be biased mainly against communist countries.<sup>215</sup> Freedom House does not seem to

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<sup>213</sup> The European Union has been criticizing Turkey for the past decades on the role of the military in its political system, various provisions in its constitution, and the poor rights and treatment of the Kurdish population. See numerous resolutions by the European Parliament (E.U. case book in annex to this thesis).

<sup>214</sup> Shannan Blanton (1999: 7) quotes Bollen (1993) for the validity rating, and various other studies that found the index of political rights 'an appropriate and satisfactory indicator of democracy'.

<sup>215</sup> According to Brown and MacLean (1979: xxiii): '[m]ost observers agree that the reports by the Department of State are incomplete, less than candid, and biased in favor of nations the State Departments considers strategically important'. See clear evidence presented by Pritchard (1992) in a comparison between Norwegian and U.S. State Department reports. All human rights report clearly rely heavily on Amnesty International, which sometimes results in more attention to political and cultural rights than economic and social rights. For the development and the use as a policy tool of the U.S. State Department reports, see Innes (1992). Human Rights Watch publishes critiques on the U.S. country reports, see for instance, HRW (1994b): [Gopher://gopher.igc.apc.org:5000/00/int/hrw/general/1](http://gopher://gopher.igc.apc.org:5000/00/int/hrw/general/1). The Freedom House reports, directed by Gastil, was in the past alleged to be clearly biased against communist countries (Scoble and Wiseberg, McCamant in Banks



be as biased against minority rights however. Since I only look at the post-Cold War era there is not much risk for a Communist bias anyway. Notwithstanding its controversy, it is one of the few yearly publications with an index on political and cultural rights (scale 0-7), and provides an indication of ‘free’, ‘partially free’ and ‘not free’ (which I coded as 2, 1, 0 respectively). I will only use the latter scale, since previous analyses showed little difference in impact with the political and cultural rights variables, and including them all would cause multicollinearity. The variable was coded “freedom”, and in some specified cases “dictator”. To make sure, I initially included the autocracy and democracy variables of the Polity III database for 1988-1995. In order to compare Freedom House to Polity III, the scales are reversed: a higher score means more respect for human rights. Using my database I found a very high and significant correlation between these various measurements (see Table 4-7 below).<sup>216</sup> This indicates that these variables, indeed, measure the same phenomenon, with autocracy mirroring the democracy-variables as theorised.<sup>217</sup>

Table 4-7. Cross correlations for various Human Rights Measurements.

		Freedom	AUTOOCR_P	DEMOCR_P
Freedom	Pearson Correlation	1.000	-.800**	.804**
	Sig. (2-tailed)	.	.000	.000
	N	490	320	320
AUTOOCR_P	Pearson Correlation	-.800**	1.000	-.925**
	Sig. (2-tailed)	.000	.	.000
	N	320	320	320
DEMOCR_P	Pearson Correlation	.804**	-.925**	1.000
	Sig. (2-tailed)	.000	.000	.
	N	320	320	320

\*\* . Correlation is significant at the 0.01 level (2-tailed).

The very strong correlation, significant at the highest level, indicates that Freedom House and Polity III capture to a very large extent the same phenomenon. The fact that these variables show high multi-collinearity means that their occurrence in one and the same model ‘eats away’ some of the explained variance. The conceptual argument that they do capture slightly different concepts, led me to retain them in

(1992)). It received, furthermore, criticism for not specifying its resources and criteria on which they base their measurement (Lopez and Stohl, 1992). Banks (1992: 366) favors Humana’s ‘World Human Rights Guide’ over Freedom House, since: “Humana[’s] .. work is not subsidized by any group or government. [However], [t]he chief critics.. Stohl, Carleton, Lopez, and Samuels, .. consider his methodological training inadequate and his investigative techniques vague.”

<sup>216</sup> The autocracy score, AUTOOCR, indicates more autocracy as the score increases (0-11). Shannon Blanton (1999) recoded the Freedom House scales and added them to the Autocracy scales. She took the average of the two as indicating the severity of human rights violations. In some of the statistical analyses in Chapter 5 and 6 I use the original scale which indicates the higher the score, the higher the level of dictatorship or the less freedom. I then label the variable ‘dictator’.

the model. Excluding the autocracy and democracy variables increased the number of observations significantly, keeping observations for the years 1995-2000. In previous analyses, using SPSS, I still used both databases, since after all, human rights violations and autocracy are not exactly the same thing, but the high multi-collinearity distorted the assessment of the impact of other variables. The current analysis is conducted with STATA. This program does not allow missing values on any of the variables since it would not be able to estimate the model correctly. I would therefore automatically exclude all cases after 1995 (170 out of 490). This would mean an unacceptable loss of information for the analysis. Given these shortcomings of Polity III, and given that Freedom House is a more up to date and recently refined data base measuring more or less the same phenomenon as Polity III, it is defensible to use only the Freedom House data.

There is a methodological and conceptual problem with equating level of freedom, or regime type, with degree of human rights violations. The variable 'freedom' can be used for both the Liberal and the Constructivist hypotheses. The former emphasises regime type, the latter human rights norms. In order to test both, ideally, we need two separate indicators. Otherwise we can not know which hypothesis has more explanatory power. The problem is that any alternative measure for human rights violations will correlate highly with any measure for regime type, as we have just seen. Even if we were to ask an independent panel of experts to grade the degree of human rights violations in each case, we would most likely find a high correlation with regime type.<sup>218</sup> Constructivism hypothesised that human rights norms are constitutive elements for the liberal identity of Western Liberal democracies. Because it complements rather than rivals the Liberal hypothesis, we should not need an independent measurement.<sup>219</sup>

Still, as an extra check, we can add additional variables that capture at least an important dimension of the human rights situation that are isolated from regime type. I added three such variables. The first is whether a sudden deterioration in human rights protection occurred (such as the bloody crack-down on the students

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<sup>217</sup> Since autocracy and democracy are scores from the same database, it is natural that they correlate highly. Previous analysis also included the separate scores for civil and political rights as coded by Freedom House. The correlation was so high that it did not make sense to include all of them in the same model.

<sup>218</sup> This is the manner in which the pioneer Shoultz proceeded in 1981.

<sup>219</sup> Constructivism as an ontology can not be falsified.

at Tiananmen Square in June 1989). The second is whether a sudden improvement in the human rights situation occurred, such as democratic elections after years of repression. The third variable is whether and to what extent a country is involved in some type of internal or external conflict. I distinguished five levels: (1) peace, (2) flawed elections, (3) coup d'état, (4) civil war or transition, (5) war or border dispute. We saw that both the E.U. and the U.S. have legislation in place that should trigger a reaction to coup d'états. Flawed elections can also sometimes expect a reaction. Data were obtained from web pages, newspapers and literature (see code book for references). These additional variables should put us on somewhat firmer ground when trying to assess the explanatory power of the Liberal and Constructivist hypothesis.

#### 4.4.2 Economic Interests

The Neorealist hypothesis explicitly referred to the economic importance of the potential target country. Previous research on the success of sanctions has used the so-called gravity model to define the variables capturing economic interests.<sup>220</sup> Van Bergeijk (1994: 146) explains that the model's name is derived from "its similarity to the Newtonian law of gravity: the bilateral trade flow is supposed to be a function of the economic masses of the two trade partners and the inverted distance between the countries." The gravity model indicates what accounts for the level of trade between two countries. It is included in much of the sanctions literature because of its concerns with the *effects* of sanctions. Sanctions will not have a big impact if the gravity variables indicate little probability of intense trade.<sup>221</sup> But the countries to which sanctions are expected to be most effective due to their strong trade ties, are also least likely to be hit by them, due to these same strong trade ties. If this is true, then the literature on economic sanctions success gives a distorted view, since the cases in which sanctions are most likely to be successful according to these scholars are not included in their data bases.

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<sup>220</sup> see Elliott 1997, van Bergeijk 1994 and Frankel 1997. For a brief discussion of the gravity models and other models, see U.S. International Trade Commission (1998). Elliott lists as the core variables of the gravity model (1997: 3-4): size, income, distance, adjacency, and language. She adds a dummy variable to check whether two countries in a pair belong to the same trading bloc.

<sup>221</sup> One can argue that if sanctions are unlikely to have an impact, it is not likely that they will be imposed either. The *less important* countries are in economic terms, the less likely they will be hit by sanctions since there is not much to sanction in the first place. This argument is, however, indeterminate: the counter argument, made by Neorealism, that the *more important* a country is in trade terms, the less likely sanctions will be imposed, was made in Chapter two and seems even more convincing. The measures of concern to this thesis are presumably imposed for human rights reasons, if they are imposed. If they are meant to have more than a political impact, additional measures may be imposed if the trade linkages are so small that economic sanctions are not deemed to have any impact.

By this literature, economic importance is measured as 'absolute trade linkage' (the trade flow between the sender and the target to the *target's* total trade flow, measured in the year prior to the sanction) on the one hand, and by 'proportional trade intensity', total trade as a percentage of the *target's* GDP (measured in the preceding year of the measures) on the other hand (van Bergeijk 1994: 77). Since I am not interested in effects of sanctions but in the conditions for their imposition, I use the variable trade linkage only, meaning the proportion of trade with the target to the *sender's* total trade.

Literature on the effectiveness of sanctions has often used trade linkage as an indicator for success. The higher the trade linkage, the higher the expected efficacy of the sanction (van Bergeijk 1994, Hufbauer et al 1990). One could argue that expected effectiveness would be one of the determining factors for politicians when they decide on sanctions. Therefore, this indicator could capture that hypothesis. Today, the expected effectiveness has shifted from their impact on the population as a whole (and the expectation that by deteriorating the situation sanctions would indirectly lead to an uprising against the regime) to their direct impact on the leaders of the regime. This shift in expected effectiveness becomes thus hard to measure, even though this shift in itself could be a determinant in the changing use of sanctions as a foreign policy instrument. It becomes then more interesting to understand just how this shift came about, which would bring us back to the change in discourse, the role of non-governmental actors and their access to decision-making.

GDP per capita, population, annual growth rate of the target and FDI can count as additional indicators of economic importance to the sender as an 'emerging market'.<sup>222</sup> Debt was included as an extra variable to indicate economic dependency, since it is contended that greater indebtedness would impede the U.S. or E.U. from tough sanctions.<sup>223</sup> The measurement of distance will be discussed in the next paragraph. Data on GNPpc, population and growth rate for the target countries are obtained from the World Bank Development Reports

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<sup>222</sup> Elliott uses log linear analysis. She is however researching the effects of sanction on trade (so the other way around), a continuous variable, whereas my dependent variable can at the most be treated at an interval level.

<sup>223</sup> Nigeria, for instance, had threatened to stop paying off its debts if sanctions would be imposed. Interview record nr. 1. 17/1/00. Baker and Stremlau (1999). The same was done by the Federal Republic of Yugoslavia.

(1989-2000) and its 'countries at a glance' web page (1997-1999).<sup>224</sup> Data on FDI and debt ratios were obtained from the World Finance Table, a joint IMF/WB annual publication. Trade data are calculated from the IMF Direction of Trade Statistics (1989-2000), following, again, van Bergeijk and Elliott (see Annex to this thesis on trade statistics).

Conceptually, we would not expect a linear but a curvi-linear relationship between sanctions and trade and GNPpc. The expectation is not simply 'the more trade, the less likely sanctions are imposed', but there is a threshold at which a one-unit change in trade intensity or GNPpc does not have the same impact any longer as when the trade intensity was still very low. Therefore, we need to take the natural logarithm of the variables, expressed by 'ln'. Indeed, most gravity variables do not show a linear relationship with the dependent variable.<sup>225</sup> Neglecting the linearity assumption would mean a violation of one of the basic assumptions of the Ordinary Least Squares method and would make the correlation coefficient a poor estimate (Berry 1993, Lewis-Beck 1995: 22). Not all variables in the model need to be presented by their loglinear: distance and growth showed a normal, linear pattern. We can enter both transformed and untransformed variables in one model, as long as all the variables are linear in their coefficient (Lewis-Beck 1995: 70). We do, nevertheless, have to be careful when interpreting the meaning of the coefficients of the transformed variables.

The low correlation coefficients shown below, indicate that the gravity variables measure various aspects of 'economic importance'. The idea to conduct a factor analysis, constructing one variable combining the various economic importance indicators, would therefore not make sense, since that technique requires high correlation. Moreover, despite the extensive data search, some variables show a lot of missing values. This is partially explained by the high number of countries in transition and newly independent countries in the data base. These countries do not (yet) have independent statistical records of the past ten years. This would lead STATA to throw out more than a hundred cases in the final analysis. The results of a model that included FDI, Debt, Population, GNPpc and Growth showed a significant relation for GNPpc at a significance level of 4%. Again 75

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<sup>224</sup> <http://www.worldbank.org/cgi-bin/dendoff.cgi>

cases would be lost. Leaving GNPpc out of the analysis did not have a major impact on any of the other coefficients, yet it did increase the overall fit of the model and the number of observations left. A model with only trade linkage and population did show significant relationships for both. The various indicators were only collected in order to come up with the best possible proxy for 'economic importance'. Previous analysis, showed that these gravity variables together indeed predict the trade linkage very well.<sup>226</sup> Therefore, I choose to include only the variable 'trade linkage' and population in the final analysis, which have values on almost all cases. GNPpc will be included in the carrots model, since development aid presumably depends at least in part on the level of poverty in the target country, in this sense GNPpc serves as a null-hypothesis.

Table 4-8. Cross correlation of variables indicating economic Importance.

		Correlations							
		LNTRADE	LNGNPPC	POP	GROWTH	DISTANCE	REGION	FDI	DEBT
LNTRADE	Pearson Correlation	1.000	.227**	.216**	.149**	-.503**	-.087	.182**	.086
	Sig. (2-tailed)	.	.000	.000	.007	.000	.062	.000	.093
	N	466	393	436	325	432	466	408	381
LNGNPPC	Pearson Correlation	.227**	1.000	-.092	.044	-.138**	-.364**	.073	-.095
	Sig. (2-tailed)	.000	.	.063	.420	.007	.000	.163	.074
	N	393	408	408	332	383	408	370	354
POP	Pearson Correlation	.216**	-.092	1.000	.351**	.176**	-.039	.676**	-.003
	Sig. (2-tailed)	.000	.063	.	.000	.000	.407	.000	.949
	N	436	408	454	338	425	454	404	382
GROWTH	Pearson Correlation	.149**	.044	.351**	1.000	.139*	-.029	.288**	.128*
	Sig. (2-tailed)	.007	.420	.000	.	.013	.598	.000	.029
	N	325	332	338	338	322	338	306	292
DISTANCE	Pearson Correlation	-.503**	-.138**	.176**	.139*	1.000	.225**	.117*	.088
	Sig. (2-tailed)	.000	.007	.000	.013	.	.000	.021	.096
	N	432	383	425	322	454	454	389	359
REGION	Pearson Correlation	-.087	-.364**	-.039	-.029	.225**	1.000	.011	.249**
	Sig. (2-tailed)	.062	.000	.407	.598	.000	.	.821	.000
	N	466	408	454	338	454	492	424	394
FDI	Pearson Correlation	.182**	.073	.676**	.288**	.117*	.011	1.000	-.032
	Sig. (2-tailed)	.000	.163	.000	.000	.021	.821	.	.534
	N	408	370	404	306	389	424	424	388
DEBT	Pearson Correlation	.086	-.095	-.003	.128*	.088	.249**	-.032	1.000
	Sig. (2-tailed)	.093	.074	.949	.029	.096	.000	.534	.
	N	381	354	382	292	359	394	388	394

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

<sup>225</sup> This was checked by plotting the standardized residuals of the model for positive and negative measures against the variables.

<sup>226</sup> In order to assess the explanatory power of the gravity model I regressed in an earlier analysis 'trade linkages' (ln of proportional trade) on the ln of distance, target's GNPpc and population, and E.U. GDP (which changed dramatically over the past decade due to accession of more member states) I did not yet include the appropriate interaction terms (GNPpc target x GNPpc E.U. etc). The result showed how strongly the gravity variables account for the trade intensity between the targets and the E.U. ( $R^2=.924$ ). Except of growth rate and distance, all variables were significant at the 0.05 level or lower. Including them all in the model that is supposed to explain the imposition of negative and positive measures, would therefore be misleading. They showed the expected signs, apart from GDP E.U. This has to do with the fact that GDP E.U. is already in the denominator of the dependent variable, and is therefore not a good predictor.

#### 4.4.3 Strategic Interests

Neorealism hypothesized that countries that pose a threat are likely to be punished harsher, than those of security importance (unless they also pose a threat). Various indicators for strategic importance and threat were used:

- (1) the target's possession of oil and/or nuclear bombs,
- (2) is the target an ally, an adversary, or neutral country
- (3) is it labeled as a supporter of terrorism or narcotics activities,
- (4) in which region is it located, and its geographical distance from the sender,
- (5) its population size.

Data about oil were obtained from the IMF Direction of Trade Statistics and the BP Statistical Review of World Energy, June 1988, World Energy Statistics and Balances 1971-1987, OECD/IEA, 1989.<sup>227</sup> Data on the possession of nuclear bombs and membership to a strategic/military alliance were obtained from newspapers and literature. A country was coded 1 if it has either bombs or oil, and 0 otherwise. This variable was labeled "security".

Allies were coded 3, neutrals 2 and adversaries 1.<sup>228</sup> Most countries were coded 2 (neutral), only overt adversaries towards which no diplomatic contacts are maintained, countries whose leaders are not recognised (such as the SLORC in Myanmar), countries on the 'rogue' list for the U.S., and those at war with either the U.S. or the E.U. were coded 1. Members of strategic or military alliances and of the E.U. or NAFTA were coded 3, as are countries receiving extra ordinary large amounts of military assistance, such as Egypt and Israel. The variable was labeled "allies".

Data on terrorism and narcotics (the so called 'rogue states') were obtained from official U.S. publications (<http://www.treas.gov/ofac/>). The variable label is 'terroris' and is coded either 0 or 1. Table 4-9 below indicates that the variables ally, terrorism and security do capture various elements of security importance. Few variables are significantly correlated: naturally, allies tend not to be 'terrorist'.

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<sup>227</sup> As a cut off point a minimal production of 350 barrels a day was chosen.

<sup>228</sup> For alliances, I used Rengger (1990) and HSE (1990) following Drezner (1999). To compare: HSE (1990: 47) classified the prior relations between sender and target as (1) Antagonistic: if the sender and target countries are in opposing camps, illustrated by most East-West cases; (2) Neutral: if the sender country does not have strong ties to the target, but there is a workable relationship without antagonism; (3) Cordial: if the sender and target countries are close friends and allies.

Some countries of security importance tend to be allies, whereas others tend to be 'terrorists'. The level of conflict can be an indicator for the degree of human rights violated, but also for a source of instability and aggression that poses a potential security threat.

Table 4-9. Variables measuring security importance.

		Correlations					
		TERRORIS	ALLY	WAR	SECURITY	POP	REGION
TERRORIS	Pearson Correlation	1.000	-.445**	.058	.144**	-.018	.004
	Sig. (2-tailed)	.	.000	.198	.001	.698	.935
	N	492	492	492	492	454	492
ALLY	Pearson Correlation	-.445**	1.000	-.082	.097*	.054	.031
	Sig. (2-tailed)	.000	.	.069	.031	.249	.493
	N	492	492	492	492	454	492
WAR	Pearson Correlation	.058	-.082	1.000	.013	-.057	-.090*
	Sig. (2-tailed)	.198	.069	.	.778	.227	.047
	N	492	492	492	492	454	492
SECURITY	Pearson Correlation	.144**	.097*	.013	1.000	.059	-.219**
	Sig. (2-tailed)	.001	.031	.778	.	.213	.000
	N	492	492	492	492	454	492
POP	Pearson Correlation	-.018	.054	-.057	.059	1.000	-.039
	Sig. (2-tailed)	.698	.249	.227	.213	.	.407
	N	454	454	454	454	454	454
REGION	Pearson Correlation	.004	.031	-.090*	-.219**	-.039	1.000
	Sig. (2-tailed)	.935	.493	.047	.000	.407	.
	N	492	492	492	492	454	492

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

Neorealism also expects that countries that are geographically closer to the sender, will be hit harder if they pose a threat. Geographical distance between sender countries and target countries (see Frankel 1997) is measured by 'how the crow flies'. I took the distance between Brussels, Belgium, and the target's capital for E.U. cases, and Chicago, IL, for U.S. cases. Brussels was chosen mainly because of its centrality of decision-making in the E.U., not as the heart of external trade for the E.U. However, any city would have given a similar result; had I chosen Milan or Frankfurt, only the absolute but not the relative distance would have changed. Chicago was used for the U.S., following Frankel 1997. Data were obtained from the web and from the CIA Fact Book 1998.<sup>229</sup> To facilitate interpretation, the trade variable was divided in quintiles, so that the upper and lower 20% of trade importance could be compared (the variables were labeled respectively "dist" and "dist-q"). In addition I also included a variable indicating the region where the target is located: Europe (East/Central/Mediterranean), Middle



East, Asia/Pacific, Africa or Central/Latin America. Certain regions are of more security importance than others, just as some regions are more war prone than others.<sup>230</sup> The regions were coded as follows: (1) Europe; (2) Middle East; (3) Asia/Pacific; (4) Africa and; (5) Latin/Central America. Region and distance were only included in the bi-variate analysis to see whether the E.U. and the U.S. react differently to distance.

Finally, the E.U. and the U.S. may watch each others' reactions and then decide to follow the other power or not. Therefore, a dummy will be included to signal the type of response by the other power. I added the variable E.U.\_U.S. (1 if E.U. imposed negative measures, 0 for U.S.).

#### 4.4.4 Cultural/Historical Links

Liberalism hypothesizes that, depending on domestic structure, special interest groups can have more or less impact on decision-making.<sup>231</sup> For reasons explained in Chapter two, I look at the interests of one particular group only, groups that represent cultural or historic links with the potential target of sanctions. For the E.U., such links are counted by whether or not there are former colonial links with the target, which often implies immigrant communities in the former colonial power. For the U.S., the links are measured by the number of ethnic-Americans from the potential target country. Since this variable is measured in different entities for the E.U. and the U.S., it can only be tested in the specific E.U. and U.S. models, but not in the general model. Historical data for E.U. colonies were obtained from Buignan and Gann (1975: 65, 694), Crowder (1984: 6, 19, 612-13), Rengger (1990), as well as from the CIA Fact Book 1998. Only countries that were still colonies in 1945 were coded as such. Countries that became independent before the end of the Second World War, were not coded as such

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<sup>229</sup> The distance between the sender and the target countries was calculated from <http://www.indo.com/cgi-bin/dist/> The CIAO Fact Book 1998 data on the capitals and some other country information were obtained through the webpage: <http://www.capitals.com/> See Frankel (1997) for a discussion of the way of measurement.

<sup>230</sup> For the case of regions the sign is not very meaningful, since they are more or less arbitrarily coded 1-5.

<sup>231</sup> Earlier analysis included a variable that measured whether the EP asked for a different course of action than the Council undertook. If yes, it was coded 'E.C.>CM' as 1, and 0 otherwise. The political pressure of societal actors is to an important extent channeled through the EP. Therefore, this variable could reveal some of this societal impact. The Parliament is extremely active in this field, and increasingly so over the years. It proved, however, difficult to obtain data on this variable for all cases. Therefore, the variable was not included in the later analysis. Knopf (1998) tried to measure societal impact through counting the articles in the New York Times that signaled some kind of social protest on U.S. arms control policy. I could do something similar, but I do not expect social protest or NGO lobbies to be that explicit about sanctions. Moreover, I did not find Knopf's quantitative analyses very convincing.

since the ties are deemed less intense compared to countries with a more recent colonial past.

Such groups, be they represented by governments or immigrants, can have direct or indirect influence, which can only be approximated by the presence or absence of the former colonial power in the council. Decision-making procedures have made it increasingly difficult over the years for one Member State to prevent the imposition of sanctions against one of its former colonies. An additional dummy variable was constructed to see whether the likelihood to be hit by negative measures varies per colonial power. Countries were coded 1 if they were a French former colony, 2 if British, 3 if other, and 0 if they had not been a former colony after 1945. An additional bivariate dummy was created indicating 1 for former colonies, and 0 otherwise. The multinomial variable was labeled “colony” and the dichotomous variable “col-biv”.

For the U.S., so-called “hyphenated-Americans” can make themselves be heard in Congress. Some such groups will be better organised than others, and they may lobby in favour or against positive or negative measures. The variable indicating U.S. cultural/ethnic links with a target country was measured by the total number of people living in the U.S. originating from the target state (in thousands).<sup>232</sup> Data were obtained from the Statistical Abstracts of the U.S.. Countries not mentioned separately were coded as 0. In the bivariate analysis the number of “hyphenated-Americans” was included in quintiles of 20%, to compare their relative importance. The variable was labeled “ex-pats”.

#### 4.4.3 Institutions

We derived four hypotheses from Neoliberal Institutionalism:

1. Liberal democracies will sanction the relatively more important trading partners with equally harsh measures since they will seek U.N. rather than bilateral sanctions;
2. Liberal democracies will more easily reach international agreement on the imposition of (U.N.) sanctions against the worst human rights violators. U.N. sanctions will tend to be harsher against these target states.
3. The more foreign economic relations become institutionalized by formal agreements, the less likely it is that sanctions will be imposed, since the target is granted a certain degree of legal certainty.
4. Since the E.U. has institutionalized its relations with African, Caribbean and Pacific states to a further extent than the U.S. has, the E.U. is likely to impose a lower level of sanctions towards these countries than the ‘unbounded’ U.S.

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<sup>232</sup> Immigrants in thousands, by country of birth: 1981-90. Statistical Abstract of the U.S., 1994 and 1998.

The degree of multilateral co-operation was simply measured by whether or not a sanction was imposed by the U.N., coded 1 if yes, and 0 otherwise. U.N. resolutions on sanctions in reaction to human rights violations from 1989-2000 were scrutinized (<http://www.un.org/documents/scres.htm>) along with literature on U.N. sanctions. The variable was labeled “U.N.”. For the E.U. cases, the type of institutional arrangement with third countries was measured by the existence of an agreement (1 if yes, 0 otherwise). For the U.S. cases, measures that were directly triggered by specified legislation were coded as a 1, and 0 otherwise. Finally, as a very broad indicator, the variable ‘year’ was included to capture institutional developments over time. This variable can however also pick up other phenomena and is therefore tricky.

#### 4.5 The Carrots and Sticks Model

Two similar models will be tested, with opposite signs expected on the outcomes. The models test the following: economic measures in reaction to human rights violations ( $Y_i$ ) are a function of the target’s respect for human rights ( $x_{5-8}$ ); economic importance ( $x_{13-14}$ ); strategic importance ( $x_{9-12}$ ); level of institutional development ( $x_{1-4}$ ) plus random error (unobserved disturbance terms) and a constant. A third tentative model will be tested, estimating what causes the probability that the E.U. and/or U.S. react to human rights violations with a combined strategy that incorporates both carrots and sticks. The model that seeks to explain the use of carrots and/or sticks in reaction to human rights violations, then, is presented by the following equation, in which: the sigma ‘ $\Sigma$ ’ indicates the sum; the unknown constants are presented by  $b_k$ , the error term by  $u_j$ ; the subscript  $i$  denotes the  $i^{\text{th}}$  observation from the sample size  $N$ ,  $j$  denotes the sample:

$$Y_j = \Sigma b_k X_{ik} + u_j$$

The hypothesised models to explain the imposition of positive, negative and mixed measures read as follows, in which  $Y_1$  is the use of positive incentives,  $Y_2$  the use of negative measures and  $Y_3$  is the use of mixed measures:

- I.  $Y_1$ : Positive measures = constant + b1 (year) + b2 (E.U./U.S.) + b5 (freedom) + b4 (institutionalization) + b7 (improvement human rights) – b8 (war/conflict) – b9 (security) + b10 (ally) – b11 (terrorism) + b12 (population) + b13 (trade) – b14 (GNPpc) + b15/b16 (colony/expats).
- II.  $Y_2$ : Negative measures = constant - b1 (year) - b2 (E.U./U.S.) + b3 (U.N.) – b4 (institutionalization) – b5 (freedom) + b6 (worsening hr) + b7 (war/conflict) – b9 (security) – b10 (ally) + b11 (terrorism) – b13 (trade) - b12 (population) - b15/b16 (colony/expats).
- III.  $Y_3$ : Mixed measures = constant + b10 (ally) – b11 (terrorism) + b9 (security) – b7 (war/conflict) + b1 (year) + b5 (freedom) – b6 (worsening) + b7 (improvement human rights) + b13 (trade) + b12 (population) + b4 (institution) + b15/b16 (colony/expat).

The general model will be tested with all three data sets, after which I compare the results to see which factors are more important for the E.U. when deciding on sanctions, and which for the U.S. I also test specific models for each Western power: for the E.U. I test whether former colonies are less prone to be sanctioned, and for the U.S. I test the impact of ethnic lobbies on the policy outcome. In addition to the original models, I checked whether China distorts the overall results, especially because of its huge population, but also because it occurs various times in the data.<sup>233</sup> The carrots model also includes GNPpc.

The next chapters will discuss the results of the analysis and make some final remarks about the extent to which these models offer a correct presentation of the theory, and the extent to which the theory explains the observed variation in positive and negative measures across targets and between the E.U. and the U.S. for the period 1989-2000. Chapter 5 analyses the variation in types of sanctions across targets, and Chapter 6 the variation in types of sanctions across the E.U.

and the U.S.. Table 4-10 at the end of this Chapter presents an overview of the variables, their values, and the expected direction of the relationship with the dependent variables. The descriptive statistics of the variables are shown in Table 4-11, also at the end.

The conclusions I draw from the analyses in the last Chapter, are based upon the methodological choices I outlined in this Chapter. Further modifications are also introduced in the following chapters.

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<sup>233</sup> One could of course argue that then the same should be done for other outliers that may distort the data. Since they are all part of reality I opted to let them in, but will diagnose their individual impact on the results.

Table 4-10. Overview variables and measurement of the Carrots and Sticks model.

VARIABLE	VARIABLE NAME	EXPECTED SIGN	SCORES	VALUES	
Y1	POS MEAS		0	unconditional co-operation	
			1	slight opening	
			2	substantial opening	
			3	co-operation agreement human rights clause	
Y2	NEG MEAS		0	free trade despite protests	
			1	slight closure	
			2	substantial economic closure	
			3	military closure/ targeted sanctions	
Y3	MIXED		0	total closure	
			1	no reaction	
			2	only carrots	
			3	only sticks	
				carrots and sticks	
<b>SENDER'S ATTRIBUTES: INSTITUTIONAL ARRANGEMENT, REACTION OTHER POWER, TIME</b>					
X1	E.U.-U.S.	- Y2	0	the U.S. imposed negative measures	
			1	the E.U. imposed negative measures	
X2	YEAR	+ Y1	year	Year of sanction	
		- Y2			
X3	U.N.	+Y2	0	No U.N. sanctions	
			1	U.N. sanctions	
X4	INSTIT	-Y1	0	Institutional arrangement governing relations	
		+Y2	1	No institutional arrangement governing relations	
<b>TARGET'S ATTRIBUTES I: HUMAN RIGHTS SITUATION</b>					
X5	FREE	+ Y1	0	not free	
			- Y2	1	partly free
				2	free (Freedom House data 1988-2000)
X6	WORSE HR	-Y1	0	no deterioration in freedom in year of or year prior to sanction	
			+Y2	1	deterioration in freedom in year of or year prior to sanction
X7	IMPROV HR	+Y1	0	No improvement in freedom in year prior to or of sanction	
			-Y2	1	Improvement in freedom in year prior to or of sanction
X8	WAR/CONFL	-Y1	0	Peace	
			-Y2	1	Flawed elections
				2	Coup d'etat
				3	Civil war or period of transition
			4	War or border dispute	
<b>TARGET'S ATTRIBUTES II: SECURITY IMPORTANCE</b>					
X9	SECURITY	- Y1	0	target country is no oil exporter and/or nuclear power	
		- Y2	1	target country is an oil exporter and/or nuclear power	
X10	ALLY	-Y1	1	Adversary	
			+Y2	2	Neutral
				3	Ally
X11	TERRORISM	-Y1	0	Target classified as supporter of terrorist or narcotics activities	
			-Y2	1	Target not classified as supporter of terrorist or narcotics activities
X12	POPULATION	+Y1	million	World Bank Development Reports	
		-Y2			
<b>TARGET'S ATTRIBUTES III: ECONOMIC IMPORTANCE</b>					
X13	Trade linkage	+Y1	%	[log linear of] total exports plus imports of E.U. with target in year prior to sanction in millions of dollars (IMF Direction of Trade Statistics) divided by E.U. total exports and imports of year prior to sanction.	
		-Y2			
X14	GNPpc	-Y1	Mln. \$	World Bank Development Reports. Log linear taken.	
<b>E.U. SPECIFIC</b>					
X15	COLONY	+ Y1	0	target was no former colony of one of the E.U. member states	
			- Y2	1	target was former colony of France
				2	Target was former colony of Britain
				3	Target was former colony of other E.U. member state
<b>U.S. SPECIFIC</b>					
X16	EXPATS	+Y1	Thou-	Total amount of population originally from target country living in U.S. (U.S. Statistical Abstract).	
		+Y2	sands		

## Descriptive Statistics

	N	Minimum	Maximum	Mean	Std. Deviation
AGREEM	492	0	1	.26	.44
AID	321	-1614.0	4379.0	118.513	395.344
ALLY	492	1	3	1.91	.40
AUTOOCR_P	320	0	10	3.84	3.53
COLONY	492	0	3	.49	.92
DEBT	394	.0	76.0	15.978	12.958
DEMOCR_P	320	0	10	3.73	3.96
DISTANCE	454	720	16749	7352.54	3688.14
EC_AID	412	.0	1410.0	50.314	181.528
EU_US	492	0	1	.50	.50
EXPATS	492	.0	1653.3	32.870	144.907
FDI	426	-356.0	43751.0	1006.775	4660.102
FREE_PRE	490	0	2	.54	.65
GNPPC	408	80	27980	1802.53	3344.24
GROWTH	338	-16.3	12.1	.805	4.098
IMPRO_HR	478	0	1	.15	.35
MIL_AID	406	.0	1800.0	42.009	229.272
POP	454	.2	1239.0	75.143	224.352
REGION	492	1	5	3.11	1.32
SECURITY	492	0	1	.28	.45
TERRORIS	492	0	1	.17	.37
TRADE	476	.00000	14.33903	.7823214	1.9428600
UN	489	0	1	.14	.35
WAR	492	0	4	1.24	1.57
WORSE_HR	478	0	1	.21	.41
YEAR	492	1989	2000	1994.25	2.95
Valid N (listwise)	141				

Note: descriptive statistics are computed after having removed the missing values.

Table 4-11. Descriptive statistics of the variables

## Chapter 5. Who gets Away with Violating Human Rights?

### Explaining Variation in Sanctions across Targets.

Chapter 2 identified various hypotheses to explain the variation in types of sanctions across target states, the indicators of which were measured in Chapter 4. In this Chapter I use the combined E.U.-U.S. data set to test these hypotheses. The Chapter is divided in three sections, each of which focuses on one of the three types of policy responses. For each part, I assess the various hypotheses that seek to explain the variation across targets through estimation of the multivariate models, using Ordinary Least Squares and Tobit analysis. I will conclude each section by discussing the findings in light of the various theories. The most important finding is that sanctions are triggered by the level of human rights violations regardless of economic or security concerns. Constructivist and Liberal hypotheses explained state behavior as motivated by respect for norms of human rights and democratic principles, Across the various models, these hypotheses held up best in explaining variation in type and level of sanctions across targets. Neorealist explanations stressing economic and strategic importance were least supported by the data. The Institutionalists claims need further qualitative assessment.

#### 5.1 Estimation of the Sticks Model

I will estimate the multivariate Sticks model with two related methods: Ordinary Least Squares (OLS) and Tobit. Counter-intuitive or ambiguous results will be further scrutinized through bivariate analysis.

##### 5.1.1 Ordinary Least Squares Estimation

The overall model, shown in Table 5-1 shows what is considered a fairly good fit in Social Science ( $r^2=0.4889$ ). Out of 11 variables, 8 are statistically significant. This means that the model is a fairly good approximation of the determinants of sanctions. Some of these variables also show relatively high coefficients, signifying a strong impact on how the E.U. and the U.S. decide to react to human rights violations. Normative motivations seem to determine state behavior to a much larger extent than previous research on foreign policy and sanctions suggested. The multivariate analysis confirms that, compared to other



possible explanations, human rights norms, regime type and alliances matter most when Western liberal democracies decide whether and how to react to human rights violations. Contrary to common assertions, security interests in the form of the target's capacity to produce oil or nuclear bombs have no significant impact on the level of sanctions. Sanctions do tend to be harsher if the U.N. is involved and softer if they are imposed by the E.U.

To facilitate interpretation, the freedom variable, that originally went from low to high, was reversed and recoded into 'dictator': the higher the score on dictator, the higher the chance that sanctions are imposed.<sup>234</sup> I will now discuss the implications of statistical analysis for the various theories from which the hypotheses were derived.

Source	SS	df	MS	Number of obs = 423		
Model	340.892488	11	30.9902262	F( 11, 411)	=	35.74
Residual	356.426661	411	.867218153	Prob > F	=	0.0000
Total	697.319149	422	1.65241504	R-squared	=	0.4889
				Adj R-squared	=	0.4752
				Root MSE	=	.93125

sticks	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
terroris	.137692	.14267	0.965	0.335	-.1427619	.4181459
ally	-1.180875	.1531407	-7.711	0.000	-1.481912	-.8798388
secur	-.0982672	.1172275	-0.838	0.402	-.3287075	.132173
war	.0737891	.0328909	2.243	0.025	.0091337	.1384445
pop	.0010265	.0002291	4.481	0.000	.0005762	.0014768
lntrade	.1196019	.0252311	4.740	0.000	.0700039	.1691999
year	.058534	.0161424	3.626	0.000	.026802	.090266
dictator	.3925419	.0805228	4.875	0.000	.2342539	.5508298
worse_hr	.1511994	.1169752	1.293	0.197	-.078745	.3811437
_un	1.389871	.162213	8.568	0.000	1.071	1.708741
eu_us	-.8969335	.2026046	-4.427	0.000	-1.295204	-.4986631
_cons	-113.1514	32.1505	-3.519	0.000	-176.3514	-49.95152

Table 5-1. Multivariate (OLS) Regression analysis of Sticks model.

<sup>234</sup> Freedom was coded 0 if not free, 1 if partly free and 2 if free. Dictator is coded 0 if free, 1 if partly free and 2 if not free.

### *Security Interests*

First, I found no significant relationship between the level of sanctions imposed and whether or not a country is of security importance or whether or not it is marked as a rogue state. In reacting to human rights violators, states are thus not significantly held off by security concerns. An additional measurement for threat perception was the level of involvement in domestic or inter-state conflict. As the level of conflict increases, the probability that these countries are subject to more severe sanctions indeed becomes bigger, but only slightly so (0.074).

On the other hand, if we measure threat perception in terms of alliances, we do find support for the thesis. Allies are much less likely than adversaries to be severely sanctioned if they violate human rights. The type of sanctions imposed against allies is more than one point lower on the sanctions scale than those against adversaries. We can speak of quite a strong impact. Drezner's hypothesis (1999) thus holds for the E.U. and U.S. data in the nineties. Bivariate analysis will shed more light on what turns countries into allies or adversaries.

More populous countries are slightly more likely to be subject to more severe sanctions as they violate human rights, but the relationship is so weak as to be negligible.<sup>235</sup> Excluding the outlier China from the data makes this relationship even weaker.<sup>236</sup> If population size is a fair indicator for security importance, then this finding again refutes Neorealism.

### *Economic Interests*

Countries that are relatively more important as trade partners are not at all shielded from sanctions. As trade importance goes up with each standard deviation, the chance to be sanctioned harshly goes slightly up –rather than down- with 0.12 on the sanctions scale. This finding refutes the hypothesis that economic interests would discourage Western liberal democracies from imposing harsher sanctions. On the contrary, they seem to find more at stake if their economic interests are threatened by a military regime and seek to punish that

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<sup>235</sup> Including the loglinear of population in stead of population as such strengthens this relationship. Looking at the distribution of population through a partial regression plot shows that there are a few outliers that may slightly distort the estimated relationship. Taking the loglinear of population shows a more even spread of the data points. Yet, difficulties with the interpretation and convention made me include the normal population variable instead. This decision is justified by the fact that, apart from showing a slightly stronger relationship (the coefficient of  $\ln pop$  was 0.163, se. 0.037), both variables had the same direction and both were significant.

<sup>236</sup> Conducting a regression analysis with identical variables, yet excluding China from the data base, slightly alters the coefficients and, for the case of terrorism, their significance. The coefficient for population now becomes 0.0004 and is no longer significant. The coefficient indicating freedom slightly decreases in strength from  $-0.39$  to  $-0.29$ , indicating that as a regime becomes more liberal, its chance of being sanctioned decreases slightly less compared to illiberal regimes if China is taken out of the comparison. Also the coefficient for  $eu\_us$  decreases in strength from  $-0.897$  to  $-0.69$ . This indicates that if the sender is the E.U. rather than the U.S., the chance of being sanctioned is lower, and apparently this is especially true for China.

regime rather than let it get away with its misdeeds. Other variables indicating economic importance, such as GNPpc, debt ratio and figures on Foreign Direct Investment all proved statistically insignificant in earlier analyses.<sup>237</sup>

### *Institutions*

The Institutional variables contribute to the explanatory power of the model, but due to their somewhat ambiguous operationalization they should be further explored in a qualitative analysis.

If the U.N. is involved, sanctions tend to be tougher (compared to unilateral sanctions, U.N. sanctions show a higher score on the sanctions scale of 1.4). This indicates that tougher sanctions tend to be multilaterally imposed and unilateral measures tend to be less harsh (see Chapter 6). Why would this be so? Neoliberal Institutionalism pointed to the fact that the E.U. and the U.S. are economic competitors: due to free booting incentives, both the E.U. and the U.S. are unlikely to impose unilateral sanctions. This means that especially important markets are either not hit with sanctions, or if any sanctions are imposed, they are likely to be multilaterally co-ordinated by the U.N.. Bivariate analysis casts some light on these assertions.

Table 5-2. Are unilateral measures only imposed against the least important trading partners?

STICKS \* TRADE\_Q \* UN Crosstabulation

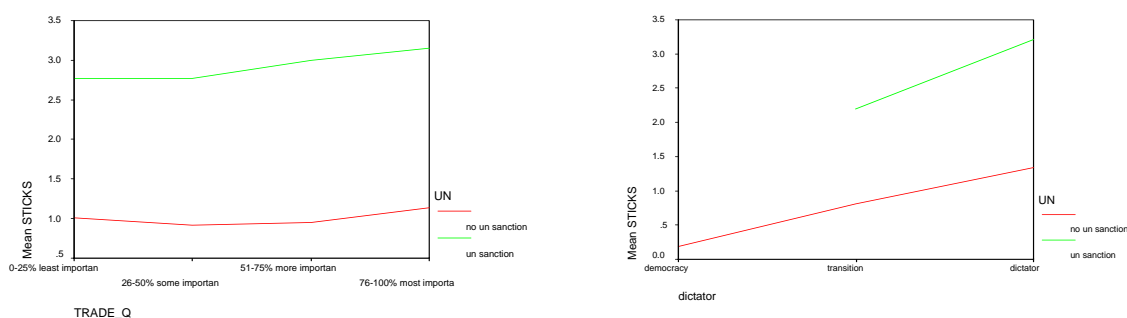
Count			TRADE_Q				Total
			0-25% least importance	26-50% some importance	51-75% more importance	76-100% most importance	
UN no un sanction	STICKS	free trade	47	61	52	43	203
		slight closure	19	13	23	24	79
		substantial closure	18	13	14	19	64
		smart sanctions	6	18	15	16	55
		total closure	6	1	1	2	10
	Total	96	106	105	104	411	
un sanction	STICKS	free trade	2	1	1	1	5
		slight closure		2			2
		substantial closure	4		1		5
		smart sanctions	11	6	8	7	32
		total closure	5	4	4	5	18
Total	22	13	14	13	62		

The relationship is not significant for the U.N. cases, which means that the hypothesized relationship between multilateralism and increasing trade importance for the main senders

<sup>237</sup> Conducting the regression analysis including GNPpc shows that the relationship between GNPpc and sanctions is not significant, although the direction of the relationship was the one expected by Neorealism: the higher GNPpc, the less likely it is that sanctions will be imposed. Since it is however not significant, we cannot refute the null-hypothesis that there is no relationship. Although this is a significant

is falsified.<sup>238</sup> Still, 64% of all total closures were U.N. led, out of which almost 30% were against the relatively more important trading partners of the E.U. and U.S..<sup>239</sup> Of the non-U.N. led sanctions, 20% of total closures and almost 30% of smart sanctions were imposed against more important trading partners. The relationship is only barely significant for the unilateral measures.<sup>240</sup> We see in Figure 5-1 (right-hand) that the alternative hypotheses is significant: Western liberal democracies tend to seek and find multilateral co-operation to react to the worse human rights abuses.<sup>241</sup> Norms rather than economic calculations inspire and facilitate multilateral co-operation in this case.

Figure 5-1. What factors inspire multilateral co-operation on sanctions: trade or norms?



At a domestic institutional level, we see that E.U. sanctions tend to be significantly softer than U.S. sanctions: almost one point on the sanctions scale (-0.987).<sup>242</sup> How can we explain this difference? This has been one of the central questions of this thesis. Is the E.U. softer on human rights than the U.S. and more constrained by its security and economic interests? The argument in Chapter 3 suggests otherwise. The type of reaction employed by the E.U. seems due instead to the different institutional mechanisms for decision-making. Since domestic structure had to be measured somewhat differently for the E.U. and the U.S., it is only incorporated in the models tested in the next Chapter.

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finding, I did not include it in the analysis because of the high number of missing values on the GNPpc variable. Including it reduced the total sample size from 423 to 270. A lower N reduces the reliability of the estimators. See Chapter four.

<sup>238</sup> Pearson's chi-square has a value of 13.8, whereas at an alpha level of 0.01 with 12 degrees of freedom, a critical value of 26.22 is needed to be statistically significant.

<sup>239</sup> Recall that in the previous Chapter the trade importance of the targets was divided into quintiles. The most important trading partners mean the upper 25%.

<sup>240</sup> Pearson's chi-square has a value of 21.7 at an alpha level of 0.04 with 12 degrees of freedom. To be statistically significant at an alpha level of 0.05, we need a critical value of 21.03.

<sup>241</sup> This is supported by bivariate correlations: UN and dictator show a highly significant coefficient of 0.153\*\*.

<sup>242</sup> E.U. is coded 1 and U.S. is coded 0.

In the late nineties, negative measures were harsher than those of the early nineties, as is indicated by the statistically significant variable 'year'.<sup>243</sup> The instrument thus has become more popular over time, but only in an incremental way. At the same time, the institutional design of decision-making in the E.U. changed to a qualified majority vote when deciding on what type of sanction to impose on human rights violators. Rather than having to stick to the 'lowest common denominator', which would favor softer measures, it has thus become easier for the E.U. to be tougher on such regimes. This change in institutional design also had an impact on the access and thus influence of non-governmental actors. At the same time that the debate on the effectiveness of sanctions changed and the call to make sanctions 'smarter' increased, proponents of this debate have also had greater opportunities to make their voices heard.

### *Norms*

The central Liberal hypothesis that regime type matters, holds: illiberal states are likely to be subject to more severe measures than liberal states. The less respect a regime shows for democratic principles and the rule of law, the harsher the punishment. We also found empirical support for the Constructivist hypothesis that human rights matter in foreign policy, and increasingly so over time. Even if we cannot claim with confidence that human rights rhetoric is translated into action, it is clear that security and trade importance do not trump human rights norms. Contrary to Constructivist claims, however, we do not find that sudden human rights abuses receive stronger punishment than structural violations. Although the sign of the relationship is positive as hypothesized (if a sudden deterioration occurs, the more likely it is that sanctions are imposed), it is not significant. We can, however, conclude that the level of freedom enjoyed in a country does have a relationship with the likelihood that a country will be subject to sanctions. The less free a country, the more likely it is to be punished for human rights violations. This relationship is strong and significant: dictators are punished harsher than democracies with a factor 0.39 on the sanctions scale. This is a major finding that refutes human rights skeptics.

Over time, sanctions are increasingly imposed against human rights violators even if only slightly so (an increase of 0.06 on the sanctions scale). If we take sanctions as a sign of 'taking human rights seriously', we can thus conclude that human rights norms gained in importance over time, and that the E.U. and U.S. moved beyond rhetoric to actions. Freer

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<sup>243</sup> To allow for time to have a non linear relationship with the dependent variable, the square of year was added to the model. Both variables year and year-square became insignificant, which meant that we can only use year and assume a linear relationship. As an

countries are more shielded than less free countries if they violate human rights. We can assume that this is explained by the fact that their violations of human rights are minor compared to those of autocracies or countries in transition.<sup>244</sup>

The level of conflict (which often involves human and minority rights violations and violent deaths) as an alternative measure for degree of human rights violations also has a mild impact on the level of sanctions (0.074). Sanctions are likely to be slightly harsher as the level of internal or external conflict increases.

### 5.1.2 Tobit Estimation

We explained in Chapter four that because the scores of the cases on the dependent variable were censored on the left end of the normal distribution (see figure 4-1) we need a Tobit estimation in order to accurately estimate the parameters of the model. The Tobit estimation is shown in Table 5-3. Terrorism, security, and worsening human rights conditions are not significant in this model, either, but the other variables remain significant. We can thus be more confident about the reliability of the conclusions.<sup>245</sup>

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additional check, partial regression plots of year and year-square were compared, but they showed little observable difference.

<sup>244</sup> The correlation between 'freedom' and the two alternative measures for degree of human rights violations is  $-0.136^{**}$  with 'worse human rights' and  $-0.053$  with 'war', but the latter is not significant. Both relationships are negative, hence the more free, the less likely a sudden deterioration or conflicts will occur in a country.

<sup>245</sup> It is hard to interpret the overall fit of the tobit estimation. The pseudo  $r^2$  ranges between 0-1 and is calculated by dividing the chi-square for overall fit (c) by sample size N plus c. It does not incorporate a penalty for increasing the number of exogenous variables, nor is it universally accepted let alone used. Aldrich and Nelson (1984: 58-59), therefore, recommend to use this summary measure 'with extreme caution if at all'. We know from the OLS estimation that the widely used and accepted  $r^2$  was reasonably high.

Table 5-3. Multivariate (Tobit) Regression estimation of the Sticks model.

sticks		Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
terroris		.2490533	.2286991	1.089	0.277	-.2005092	.6986159
ally		-1.493919	.2545151	-5.870	0.000	-1.99423	-.9936091
secur		-.1722258	.1970489	-0.874	0.383	-.5595725	.2151208
war		.1564633	.0547556	2.857	0.004	.0488281	.2640985
pop		.0013141	.000366	3.590	0.000	.0005946	.0020335
lntrade		.1734551	.0432487	4.011	0.000	.0884394	.2584707
year		.1038962	.0269259	3.859	0.000	.050967	.1568255
dictator		.726591	.1473462	4.931	0.000	.4369469	1.016235
worse_hr		.2981737	.1924896	1.549	0.122	-.0802105	.676558
un		1.579693	.2559956	6.171	0.000	1.076473	2.082914
eu_us		-1.194278	.3473978	-3.438	0.001	-1.877172	-.5113849
_cons		-203.785	53.64037	-3.799	0.000	-309.2279	-98.34203
_se		1.44006	.0732051	(Ancillary parameter)			
Obs. summary:		186 left-censored observations at sticks<=0					
		237 uncensored observations					

Countries involved in conflict are more prone to sanctions than the OLS estimations led us to believe. The more conflict prone, the more likely they are to be sanctioned (the severity of the level of sanctions imposed against countries in conflict increases with a level of 0.16 on a scale of 0-4 instead of the previously estimated level of 0.073). Adversaries are more likely to be punished than allies, if we control for the fact that allies are not likely to be sanctioned in the first place. If allies are sanctioned, they are subject to less severe sanctions than adversaries (the level of sanctions imposed against allies is 1.49 times lower on a scale of 0-4 compared to adversaries. OLS had estimated a smaller effect, namely 1.18).

The E.U. is even less likely than the U.S. to impose sanctions, and if they do, its measures are softer (targets are likely to be subject to sanctions that are 1.19 points softer on a scale from 0-4 if subject to E.U. sanctions, instead of the previously estimated level of 0.89). As countries become more important trading partners, the probability they will be sanctioned decreases slightly more, and if they are sanctioned, it is with slightly more severity than the previous analysis indicated: a level of 0.17 on the sanctions scale instead of the OLS estimation of 0.12.

The most significant finding is that human rights and regime type are much stronger correlated with sanctions if estimated by Tobit. Using OLS would have led us to underestimate the effect of the degree of human rights violations or regime type in getting sanctioned. Countries that respect the rule of law tend not to be sanctioned, even if they are still criticized for human rights violations. While OLS estimates an increase on the sanction scale by a factor of 0.39 as autocratic rule goes up, Tobit shows a 0.73 increase in level of sanctions for illiberal countries compared to liberal ones. It is thus especially the liberal countries that tend to score zero on the sanctions scale, meaning they tend not to be sanctioned despite occasional problems respecting human rights.

This finding is telling. Previous sanctions research has always singled out cases in which sanctions were imposed, and they were always countries ruled by a dictator or autocratic regime.<sup>246</sup> Although the selection bias in such studies was evident, it did not prevent researchers from generalizing their conclusions. I argued that we need to know why it is that autocracies and adversaries are likely to be punished in the first place before concluding that security and economic interests shield them from harsh punishment. Including the cases in which there were no reactions to human rights abuses indeed reveals that it is the level of atrocities and general restrictions on freedom that make countries susceptible to tougher measures. It is thus not security or economic importance that prevents countries from being singled out for such measures. Statistical analysis using a larger sample also shows that once measures are imposed, economic importance leads to tougher rather than softer measures and security importance is not significant at all. In contrast, and contrary to qualitative findings, a relatively higher level of freedom and respect for human rights does significantly reduce the level of sanctions.

Finally, interpreting the Tobit results as estimating the chance to be sanctioned or not, we find that allied countries and democracies are not likely to be sanctioned. Countries that are involved in conflict, have large populations or are led by a dictator have a much higher probability of being sanctioned. Sanctions were imposed more frequently in the late nineties, than in the early nineties, and were much more likely to be instigated by the U.N. or the U.S. than by the E.U. Over time sanctions in reaction to human rights violations and dictatorships were somewhat harsher and more frequently imposed than we thought (0.1 instead of 0.06). Security importance did not matter significantly. Sudden deteriorations in

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<sup>246</sup> See for instance Hufbauer, Scott, Elliot (1995, 1990), Haass (1999, 2000), Cortright and Lopez (1995, 2000), Drezner (1999), Crawford and Klotz (1999).



human rights conditions, the possession of oil and/or bombs or the support of terrorism have little influence on the probability of being sanctioned by Western Liberal Democracies.

### 5.1.3 Counter-Intuitive Results?

There are a few results that warrant further investigation. Data analysis showed that allies tend not to be sanctioned severely, which was expected. Yet, what does that finding teach us? What is it that turns a country into an ally or an adversary? It may be the fact that a country respects the rule of law, or the fact that it tends to be an important trading partner. In other words, the relationship as such may be spurious, with other variables, such as regime or trade importance, explaining the variation. On the other hand, we saw that contrary to our expectations relatively more important trading partners tend to be punished slightly more, rather than less, severely. Additional statistical tests may shed more light on these questions. In fact, bivariate analysis shows that the results obtained through the multivariate analysis are not so counter-intuitive: allies tend to be democracies. They receive few or no sanctions because they tend to respect human rights and the rule of law in the first place.

The hypothesis is hard to verify first of all because there are not many allies in the data base. But there are many 'neutral' countries that can be compared to the adversaries. The frequencies (demonstrated in Table 5-4 below) suggest that, indeed, more severe negative measures are imposed against foes than against neutrals or friends. We can reject the null-hypothesis that there is no connection between the variables since the chi-square is significant.<sup>247</sup> For allies it is rare to receive punishment beyond slight closure, whereas for adversaries it is rare to be punished lightly. Still, considerably severe measures are also imposed against neutrals. The graph below shows that, on average, adversaries are punished harsher than neutrals and allies, while neutrals are sanctioned more severely than allies. Hence, whereas all have a probability of being sanctioned, adversaries are at greater risk than allies.

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<sup>247</sup> The chi-square test is a test of statistical significance based on a comparison of the observed cell frequencies of a joint contingency table with frequencies that would be expected under the null hypothesis of no relationship. Chi-square compares expected with observed frequencies over the whole table. With 8 degrees of freedom, the critical value of chi-square need only be 20.09 for a significance level alpha of 0.01. Since chi-square is 219.522 we can clearly reject the null-hypothesis that there would be no relationship between the two variables. If there was no relationship, the column percentages would have been identical over all the rows and the row percentages would be identical over all columns.

	adversary		neutral		ally	
	STICKS		STICKS		STICKS	
	Count	%	Count	%	Count	%
free trade	2	3.2%	201	48.9%	10	55.6%
slight closure	1	1.6%	76	18.5%	7	38.9%
substantial cl	12	19.0%	59	14.4%	1	5.6%
smart sanction	20	31.7%	72	17.5%		
total closure	28	44.4%	3	.7%		
Total	63	100.0%	411	100.0%	18	100.0%

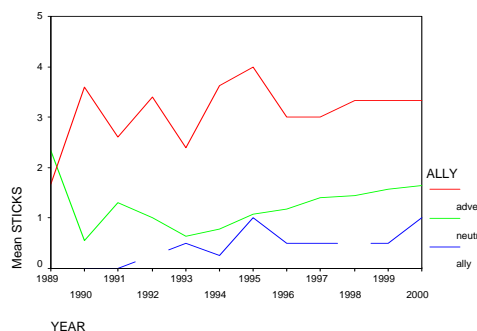


Table 5-4. Sanctions against allies and adversaries.

Figure 5-2. Sanctions against allies and adversaries.

Now, what turns countries into allies? Ally relationships may develop out of a certain 'like-mindedness'. Similarly, important trade partners may be more friendly towards each other than they are to others. The bivariate correlations shown in Table 5-5 below, indicate high and significant correlations between these variables, but not so high as to be multi-collinear. Table 5-5 shows that the variable 'ally' shows a stronger correlation with the dependent variable 'sticks' than the variables that measure type of regime, trade and security importance.

Table 5-5. What turns countries into allies?

		ALLY	STICKS	FREE_PRE	LNTRADE	SECURITY
ALLY	Pearson Correlation	1.000	-.498**	.377**	.203**	.109*
	Sig. (2-tailed)	.	.000	.000	.000	.016
	N	492	492	490	466	492
STICKS	Pearson Correlation	-.498**	1.000	-.353**	-.002	.116*
	Sig. (2-tailed)	.000	.	.000	.965	.010
	N	492	492	490	466	492
FREE_PRE	Pearson Correlation	.377**	-.353**	1.000	.120**	-.140**
	Sig. (2-tailed)	.000	.000	.	.009	.002
	N	490	490	490	465	490
LNTRADE	Pearson Correlation	.203**	-.002	.120**	1.000	.203**
	Sig. (2-tailed)	.000	.965	.009	.	.000
	N	466	466	465	466	466
SECURITY	Pearson Correlation	.109*	.116*	-.140**	.203**	1.000
	Sig. (2-tailed)	.016	.010	.002	.000	.
	N	492	492	490	466	492

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

But we are not sure yet what turns a country into an ally. Maybe it is the very fact that a country respects human rights that makes it an ally. In fact, the data show that there are actually no free adversaries, and no not-free allies in the sample, while the chi-square statistic indicates a relationship between the two variables, meaning the more free a country

is, the likelier that it is also an ally.<sup>248</sup> This relationship is also illustrated by Table 5-6 below. Even though, again, this may seem a trivial finding, it gives less support to the neorealist hypotheses that stress the security motivations of states, and suggests the greater plausibility of the approach that stresses the importance of respect for human rights and the rule of law in driving state behavior.

	FREE_PRE					
	not free		partial free		free	
	ALLY		ALLY		ALLY	
	Count	%	Count	%	Count	%
adversar	62	23.3%	1	.5%		
neutral	204	76.7%	169	92.9%	36	85.7%
ally			12	6.6%	6	14.3%
Total	266	100.0%	182	100.0%	42	100.0%

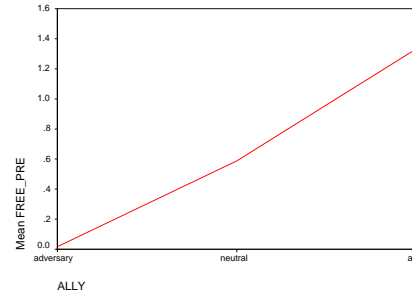


Table 5-6. Do allies tend to be liberal and adversaries illiberal?

Figure 5-3. Liberal allies, illiberal adversaries?

The second counter-intuitive result from the multivariate analysis was that the more important trading partners tend to be subject to slightly more severe sanctions. Neorealism posited that the more costly sanctions are to the sender, the less likely they will be imposed, despite human rights violations. Economic motivations would prevent states from punishing their trade partners. Costs are determined in large part by trade importance. To test this hypothesis at a bivariate level, we run into the problem that the most important trading partners of the E.U. and U.S. are not in the sample. Only countries that were noted to have violated human rights are in the sample, and apparently among them there are not many very important trading partners. The most important trading partner was responsible for 14% of all trade. 25% of all targets accounted for less than 0.0002% of E.U./U.S. trade, 50% for less than 0.0133%, 75% less than 0.396%. Within the sample of countries eligible for sanctions, however, we see that trade importance is not an important impediment to impose sanctions, on the contrary. The variation across types of sanctions against these four categories of trade partners is not linear and it is not significant.<sup>249</sup> This suggest that there would be no relationship between the level of sanctions and trade importance. In confirmation with Neorealism, continuation of free trade is the most common reaction towards all targets in absolute terms, whether they are important in trade terms or not. The least important trading partners tend to be punished severely, but no more so than important

<sup>248</sup> Pearson's Chi-square has a value of 79.7 and is highly significant. With 4 degrees of freedom only a critical value of 9.49 is needed to reject the null-hypothesis at an alpha level of 0.05.

trading partners (Table 5-7). Countries of intermediate trade importance are less likely to be sanctioned.

Since the multivariate analysis found a highly significant relationship, we conclude that the level of sanctions increases –rather than decreases- as trade importance goes up. We can speculate that trade partners are better served by a stable and democratic environment in which the rule of law is guaranteed, then by countries where this is not the case. We see how single or comparative case studies can easily arrive at biased conclusions.

	TRADE_Q							
	0-25% least importance		26-50% some importance		51-75% more importance		76-100% most importance	
	STICKS		STICKS		STICKS		STICKS	
	Count	%	Count	%	Count	%	Count	%
free trade	49	41.5%	63	52.5%	53	44.5%	45	37.8%
slight closure	19	16.1%	15	12.5%	23	19.3%	25	21.0%
substantial cl	22	18.6%	13	10.8%	15	12.6%	19	16.0%
smart sanction	17	14.4%	24	20.0%	23	19.3%	23	19.3%
total closure	11	9.3%	5	4.2%	5	4.2%	7	5.9%
Total	118	100.0%	120	100.0%	119	100.0%	119	100.0%

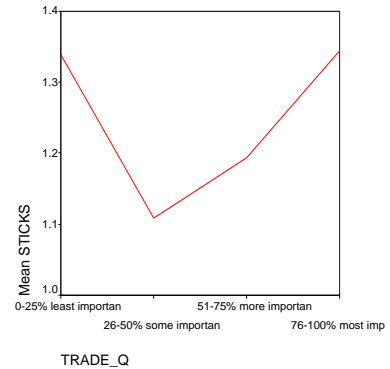


Table 5-7. Sanctions against trading partners.

Figure 5-4. Sanctions against trading partners.

It is important to reveal which countries do get away with violating human rights though, since their number is still considerable (see Table 5-18 at back of Chapter 5 for listing). If regime type and degree of human rights violations did not matter for these countries, we could reject the Liberal and Constructivist claims. Table 5-8 below, employs yet another alternative test by calculating the mean of scores on various variables for all countries that were not sanctioned (level 0), compared to countries that were sanctioned (levels 1-4).

<sup>249</sup> The chi-square test is not significant (Pierson's chi-square is 13.9 at a significance level of 0.3 and 12 degrees of freedom). Hence we cannot reject the null hypothesis of no relationship.

Table 5-8. What type of country gets away with violating human rights?

Expl.var	level of sanctions (sticks)					
	0	1-4	1	2	3	4
Freedom	0.74	0.39	0.69	0.35	0.28	0.03
Ally	2.04	1.81	2.07	1.85	1.78	1.10
War	0.77	1.60	1.26	1.71	1.76	1.74
Worsening	0.15	0.25	0.20	0.34	0.23	0.24
Improvement	0.19	0.11	0.14	0.08	0.11	0.07
Security	0.23	0.31	0.32	0.18	0.36	0.45
Trade	0.53	0.98	0.93	0.82	1.27	0.63
Nr. of cases	213	279	84	72	92	31

Note: cells give mean scores per explanatory variable on each value of 'sticks'.

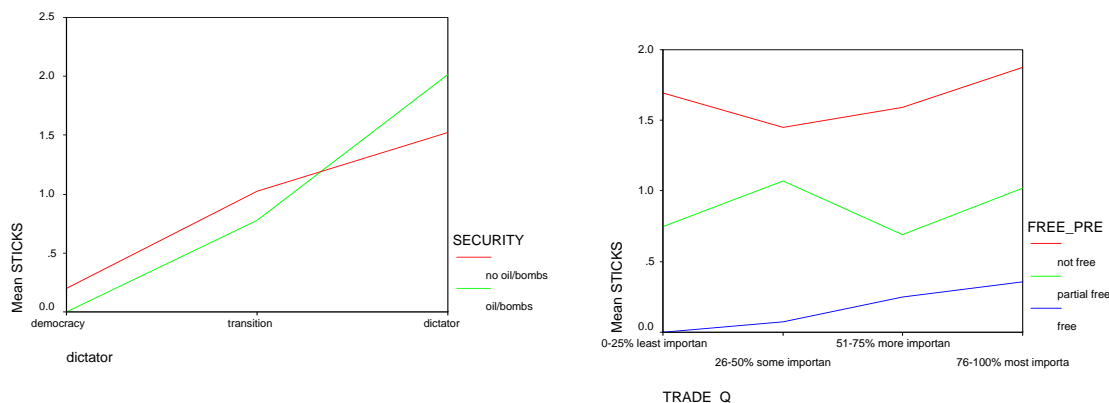
Among countries not subject to sanctions, the score for freedom is higher than that of countries who were sanctioned. Likewise, countries receiving a higher level of sanctions have weaker ally relationships. The degree of conflict tends to be much higher as one goes up the scale of sanctions. Countries that did not get punished do not tend to show the same level of deterioration of the human rights situation as those that are subject to more severe sanctions. In contrast, they tend to show more improvement in respecting human rights. Trade importance does not show a consistent pattern, but the countries hit hardest were relatively of more trade importance than those that did not get sanctioned at all. We note the same pattern for security importance: the countries that did get sanctioned were on average of more security importance than those that got away with violating human rights.<sup>250</sup>

The finding that human rights would trump trade and security interests is also confirmed by cross tabulations. These demonstrate a stronger and more significant correlation between 'freedom' and 'sticks' than between sanctions and 'security' or 'trade'.<sup>251</sup> If we control for security importance, countries that are less free are still more likely to be sanctioned more severely. Similarly, controlling for trade importance shows that even economically more important countries are likely to be subject to harsher sanctions the more illiberal they are. This is visualised in Table 5-9 below. We see that dictatorships of security importance receive harsher sanctions than dictatorships of little or no security importance.

<sup>250</sup> At a significance level of  $\alpha=0.01$  and 4 degrees of freedom, the critical value to reject the null hypothesis under the chi-square distribution is 13.28. We found a value of 14.32 and can thus just barely reject the null hypothesis.

<sup>251</sup> The correlation coefficient between freedom and sticks is  $-0.353^{**}$ , between security and sticks  $0.116^*$ , between trade and sticks  $-0.002$ .

Table 5-9. Dictators are punished despite security or economic importance.



We can conclude that countries that are not subject to negative measures tend to be liberal countries, allied with the sender country, and not engaged in war. Neither trade nor security importance is a factor of importance. We have thus found additional confirmation of the hypothesis that norms are an important determinant of state behavior.

#### 5.1.4 Conclusion

We can conclude that the Neorealist hypotheses that sanctions are imposed depending on security and economic interests is false. Neorealism does better in explaining the extreme cases, according to the bivariate analysis. Its claims that more threatening countries will be more prone to be sanctioned did not hold. On the contrary, trade and security importance do *not* shield human rights violators from being punished for their deeds. On the other hand, the Neorealist claim that allies are not sanctioned, whereas adversaries are, did hold, and strongly so. We saw, however, that these countries tend to be also law and norms abiding: they are democracies and in not in war. Countries involved in conflict were somewhat more likely to be sanctioned, which can very well be because of the degree of human rights violations occurring. Constructivism stipulated that such norms violations subsequently turn these countries into a threat.

While the results of the empirical analysis thus largely refute Neorealism, Liberalism and Constructivism do well in the empirical analysis. Liberal norms are more important determinants of state behavior than economic or security interests. The Liberal claim that liberal countries are less sanctioned than illiberal ones was verified. The Constructivist

argument that human rights norms increasingly matter over time, also seems plausible. The E.U. and U.S. act as if respect for human rights is now a central component of the liberal identity of Western democracies. Our evaluation of the Constructivist interpretation comes from assuring that E.U. and U.S. sanctions activity against human rights violators is a proxy for their beliefs. These norms were codified with increasing sophistication in domestic and international legal and institutional mechanisms. Indeed, the Neoliberal-Institutionalist hypothesis that stressed the importance of international institutions is supported in the analysis.

The most interesting theoretical puzzle emerging from this analysis is whether the likelihood of being sanctioned is best explained by the freedom of a country's regime (Liberalism), their degree of respect for human rights (Constructivism) or their status as an adversary (Neorealism). One problem in coming to a conclusion is that we do not have a good independent measurement to distinguish the Liberal claim from the Constructivist claim. Two such independent measures were attempted: involvement in conflict and sudden deterioration of the human rights situation. On average, countries in internal or external conflict were punished harsher than countries in peace.<sup>252</sup> But this is not the best way to distinguish Liberalism from Constructivism because democracies tend not to fight each other.<sup>253</sup> Sudden abuses of human rights in dictatorships tended to be subject to more severe sanctions but these incidents were rarer in free or partially free countries. The difficulty of distinguishing the explanatory power of these two paradigms would suggest that an 'isms' approach is not very powerful and that analyses should be directed more at highlighting the importance of liberal norms as determinants or motivations of state behavior.

We found a relatively high correlation between allies and democracies (0.377\*\*). It is more logical that a country becomes an ally because it is like minded (democratic or liberal) than that a country becomes democratic because it is an ally. For those who prefer the 'isms' approach, we can conclude that Liberalism has a slight edge over Neorealism in explaining variation in types of sanctions across targets. If adherence to norms constitutes the liberal identity of modern democracies, and constitutes what they perceive to be in their interest, Constructivism offers complementary insights to both Liberalism and Neorealism. However, Liberal theories receive the most empirical support and seem to better explain variation

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<sup>252</sup> We could reject the null-hypothesis of no relationship. At a significance level of  $\alpha=0.01$  and 16 degrees of freedom, the critical value of chi-square needs to be 31.99. We found a value of 84. Therefore the covariation of 'level of conflict' and 'degree of sanctions' is not coincidental.

<sup>253</sup> Bivariate analysis showed that partially free countries did tend to be punished harsher when involved in conflict than democracies, but not as harsh as dictatorships in conflict.

across targets. In practical terms, the most important finding remains that liberal norms take precedence over strategic and economic interests when Western liberal democracies decide on how to react to human rights violations abroad.

## 5.2 Estimation of the Carrots Model

Sometimes changes in a human rights situation are answered with positive measures, or by a combination of positive and negative measures. The hypothesis testing for 'carrots' will follow that done for 'sticks'. I will conduct a multivariate regression analysis to assess the strength and significance of the hypothesized relationships, using Ordinary Least Squares regression analysis and Tobit estimation. Any counter intuitive results will be further explored through bivariate analysis. The main finding is that liberal regimes and low degrees of human rights violations lead to higher rewards from the E.U. and the U.S. Whereas it is not surprising that poorer countries receive more carrots, I found that needy democracies receive more support than needy autocracies. Countries that pose a threat in terms of security are not likely to receive any incentives. The E.U. is more keen on using the carrots instrument than the U.S. and Chapter 6 will explore why this is the case.

The carrots model contains several variables not used in the sticks model. Since we are talking about positive incentives in reaction to a change in a human rights situation, I included a measure for wealth (GNPpc), for improvement in the human rights situation in the previous year (impro\_hr) (instead of deterioration), and I excluded the U.N. variable since the U.N. is only involved in coordinating support packages in extreme cases, such as peace missions.

### 5.2.1 Ordinary Least Squares Estimation

The overall fit of the model, for which the test results are presented in Table 5-10, is fairly good:  $r^2=0.43$ , which is considered high in social science research. Nevertheless only 4 out of 11 variables were significant at the highest levels.



Table 5-10. Multivariate (OLS) Regression Analysis of the Carrots model.

Source	SS	df	MS			
Model	251.771963	11	22.8883602	Number of obs =	383	
Residual	334.541353	371	.901728715	F( 11, 371) =	25.38	
Total	586.313316	382	1.53485161	Prob > F =	0.0000	
				R-squared =	0.4294	
				Adj R-squared =	0.4125	
				Root MSE =	.94959	

carrots	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
terroris	-.0307292	.1708724	-0.180	0.857	-.3667291	.3052707
ally	.1865005	.1773051	1.052	0.294	-.1621484	.5351494
secur	-.2645744	.1282356	-2.063	0.040	-.5167341	-.0124146
war	-.0620222	.0352497	-1.760	0.079	-.1313364	.007292
pop	-.0002729	.0002533	-1.078	0.282	-.000771	.0002251
lntrade	.0859784	.030792	2.792	0.006	.0254297	.1465272
lngnppc	-.1761058	.0481596	-3.657	0.000	-.2708059	-.0814057
year	.0578608	.0176248	3.283	0.001	.0232038	.0925179
dictator	-.1601561	.0848428	-1.888	0.060	-.3269893	.006677
impro_hr	.0298606	.1397965	0.214	0.831	-.2450322	.3047535
eu_us	.8988777	.2391884	3.758	0.000	.4285428	1.369213
_cons	-113.0713	35.09516	-3.222	0.001	-182.0817	-44.06095

I now evaluate the hypotheses provided by theory.

### Security Interests

The empirical evidence does not support the Neorealist hypotheses. On the contrary, the relationship found between carrots and security is contrary to the one hypothesized by Neorealism. The hypothesized relationship for non-rogues and allies to be rewarded more is not significant, and can thus be discounted. While the security variable is significant, its direction is contrary to the Neorealist prediction. The *more* important countries are in terms of security, the *less* incentives they are likely to receive. Unstable countries, or countries in war, are somewhat less likely to receive positive measures, although the relationship is not significant at the highest level. There is no relationship between having a large population and being likely to receive more carrots.

### Economic Interests

Economic interests are a good determinant in two respects: trading partners and poor countries tend to get more carrots. Giving development aid to less developed countries may however show more a social than an economic concern. The more important trading partners are more likely to receive more incentives. The relationship between trade importance and the level of positive measures is significant at the highest levels, albeit that

an increase in trade importance only makes for a small increase in level of incentives (0.09 on the carrots scale). Countries with a lower GNPpc receive higher positive measures than more wealthy countries. As countries get more developed they tend to score 0.18 lower on the carrots scale.

### *Institutions*

Institutionalism stresses the role of international law and institutions in dealing with human rights to prevent free riding behavior and to foster mutual gain. Other than in the case of negative measures, however, the U.N. does not offer specific incentives in reaction to changes in human rights situations apart from its numerous structural development projects and peace missions. The reason, following the same logic, may be that there is no free rider problem caused by the provision of carrots as we saw for the imposition of sanctions. Hence, multilateral co-operation is less frequently sought except for very expensive and risky undertakings such as Peace-keeping operations, which are not included. I only measured the specific E.U. and U.S. reactions, which were sometimes institutionalized through formal agreements or general legislation, other times not. The question thus becomes whether states with highly institutionalized relations with the sender state are more likely to be rewarded than others, and if so how much, despite their human rights violations. Chapter 3 suggested that at least for the E.U. it is institutionally speaking easier to agree on positive than on negative measures. For the U.S., in contrast, it seems more difficult to resort to carrots due to little domestic support for development co-operation. The multivariate analysis shows that the E.U. indeed tends to be more generous than the U.S. (almost one point on the carrots scale). Indeed the E.U., more than the U.S., tends to adopt the strategy of co-operation agreements as a way to engage a country, while the U.S. seems to equate 'engagement' with free trade. The reasons for this difference between the E.U. and the U.S. will be further explored in Chapter 6.

The positive instruments, at least of the E.U., have become more intricate over the past decade. The multivariate analysis suggests that the employment of positive measures has gradually become more popular over time but only very incrementally so (for each increase in year the likelihood of a positive measure on the carrots scale that ranged from 0-3

increased by 0.06).<sup>254</sup> Many co-operation agreements were signed during the early nineties, but the number of such agreements decreased after 1996.<sup>255</sup>

### *Liberal Norms*

The multivariate analysis confirms that dictators are likely to be rewarded less than countries in transition and democracies. A change towards authoritarian rule leads to a decrease in the level of positive measures of 0.16 on the carrots scale (the relationship is significant at a 6% level instead of the standard level of 5% or lower). There is no relationship between sudden improvements and a positive response in kind. As the call to respect human rights grew stronger over the years, so did the recourse to positive measures. Chapter three indicated that this change in discourse coincided with an increasing openness of the E.U. decision-making process --which may have amplified its impact.

#### *5.2.2 Tobit Estimation*

The censoring phenomenon observed on the distribution of the sample suggests Tobit estimation for the carrot models as well. The Tobit estimation below reveals that OLS estimates lead us to underestimate the strength of certain coefficients. All coefficients are stronger in the Tobit estimation, which is shown in Table 5-11.

The most important difference shows up in the variable 'dictator'. Here, the relationship is much stronger and statistically significant at the highest level. A liberal regime type and a low degree of human rights violations matter in the E.U.'s and U.S.'s decisions to award incentives. Since we can interpret the Tobit coefficients as in a probit analysis, we can state that a move towards autocracy means positive incentives are most likely to be brought to a halt.

Economic and strategic interests do figure in the decision to react positively rather than negatively to a change in human rights situation. According to our expectations, adversaries are not likely to receive carrots (although this relationship is only significant at an 8% level). A lower GNPpc matters slightly more. An increase in GNPpc leads to a decrease in the

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<sup>254</sup> In contrast to the Sticks model, checking for year-square is significant. Both the variables year and year square show significant signs when included in one model. This suggests that the relationship is not linear but curvilinear.

<sup>255</sup> We seem to run into a problem of measurement of the dependent variable here. Once a co-operation agreement is concluded, it can not be concluded again. Hence the large wave of co-operation agreements in the mid-1990s can not be equaled again at a later stage. This would mean that if our time span would only reach till the 1996, we would interpret the empirical results in favor of Constructivism. To counter this problem, a country would still receive a score of 3 if it occurred again at a later stage in the data base, unless the aid granted under the agreement was frozen.

level of positive measures of 0.3 on the carrots scale. An increase in trade importance leads to a higher increase in rewards than the OLS estimated (0.15 instead of 0.085 on the carrots scale). Once a country is eligible for carrots, it is likely to get greater rewards from the E.U. than it is from the U.S. (by a factor of 1.4 on the carrots scale).

Table 5-11. Multivariate (Tobit) Regression Analysis of the Carrots Model.

Tobit estimates				Number of obs	=	383
Log likelihood = -483.40587				LR chi2(11)	=	210.72
				Prob > chi2	=	0.0000
				Pseudo R2	=	0.1790
-----						
carrots	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
-----						
terroris	.1005513	.2895457	0.347	0.729	-.4688002	.6699028
ally	.5347889	.3089333	1.731	0.084	-.0726855	1.142263
secur	-.4312798	.2219357	-1.943	0.053	-.8676855	.005126
war	-.0758879	.0604256	-1.256	0.210	-.1947064	.0429306
pop	-.0001732	.0004218	-0.411	0.681	-.0010026	.0006561
lntrade	.1504921	.0549598	2.738	0.006	.0424212	.258563
lngnppc	-.3026018	.083968	-3.604	0.000	-.4677133	-.1374904
year	.0868714	.0304303	2.855	0.005	.0270345	.1467083
dictator	-.3036522	.1434602	-2.117	0.035	-.5857467	-.0215577
impro_hr	.046579	.2400613	0.194	0.846	-.4254682	.5186263
eu_us	1.423541	.4207821	3.383	0.001	.5961309	2.25095
_cons	-171.1284	60.59992	-2.824	0.005	-290.2898	-51.96709
-----						
_se	1.454646	.0775796	(Ancillary parameter)			
-----						
Obs. summary:	171 left-censored observations at carrots<=0					
	212 uncensored observations					

### 5.2.3 Counter Intuitive Results?

There are a few observations stemming from the multivariate analysis that warrant further statistical testing. First, which countries tended not to be rewarded at all? (see listing in table 5-19 at the end of this Chapter). Table 5-12 compares the mean scores of various explanatory variables per level of sanctions. Countries that did not get any positive measures tend to be less free and more hostile than those that did get incentives. They were of less trade importance, and showed somewhat less improvement towards the respect for human rights. They also tended to be relatively peaceful.

Table 5-12. What type of country did not get any carrots?

Expl. Var.	Level of Carrots				
	0	1-3	1	2	3
Freedom	0.48	0.60	0.52	0.47	0.79
Allies	1.86	1.95	1.96	1.88	2.01
Security	0.28	0.27	0.38	0.25	0.19
War	1.10	1.37	1.75	1.57	0.89
Worsening	0.16	0.25	0.32	0.24	0.20
Improvement	0.14	0.15	0.12	0.13	0.19
Trade	0.55	0.99	0.76	0.89	1.26
Nr. Of cases	232	259	81	83	96

Note: The cells give mean scores per explanatory variable on the dependent variable 'carrots'.

Secondly, it would be interesting to learn more about countries in transition. In Chapter 2 I argued that liberal countries or states in transition would be more willing to accept conditions set upon them by the E.U. or U.S. than illiberal ones. In fact, some had even requested the institutionalization of a human rights clause (Moravcsik 2000, Krasner 1999). Are Western Liberal Democracies more likely to reward countries in transition? Table 5-13 below shows that 53 partially free and 15 free countries were willing to accept conditions incorporated in an agreement, as opposed to 61 not free countries. Of all free countries, 35.7% accepted an agreement, and of all countries in transition almost 30%. The hypothesis can be rejected: the relationship between the two variables is not significant.<sup>256</sup> The graph indicates that as freedom or 'democraticness' goes up, the average willingness to accept or offer a co-operation agreement goes up as well. A cross correlation presented in Table 5-13 shows that the relationship is significant, but very weak, for both allies and free countries.

	AGREEM			
	no cooperation agreement		cooperation agreement	
	FREE_PRE		FREE_PRE	
	Count	%	Count	%
not free	205	56.8%	61	47.3%
partial free	129	35.7%	53	41.1%
free	27	7.5%	15	11.6%
Total	361	100.0%	129	100.0%

Table 5-13. Are countries in transition more willing to accept conditions than democratic states?

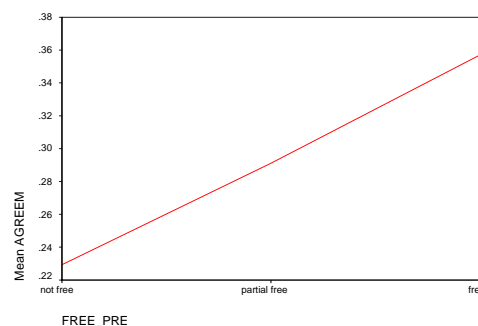


Figure 5-5. Willingness to accept conditions.

<sup>256</sup> At an alpha level of 0.01, the critical value for 2 degrees of freedom is 9.2, the value found was only 4.2 and hence not large enough to reject the null hypothesis.

Another way of measuring this assertion is to see whether unstable countries are more likely to accept conditional co-operation than stable ones. Of all countries with co-operation agreements, a majority lived in a state of peace (70%), as did most countries in the sample. Hence we need to look at the cross correlation in Table 5-14. It shows that there is no significant relationship between the strength of carrots offered and the degree of conflict or instability a country finds itself in. The correlation between 'agreement' and carrots is so strong because they measure to a large extent the same thing. Because of this, the variable 'agreement' was thus not incorporated in the multivariate model. The relationship between degree of freedom and strength of incentives is somewhat stronger than the one between allies and carrots, but the relationship is not very strong either.

Table 5-14. Correlation between possible explanations for variation across carrots.

		Correlations					
		CARROTS	FREE_PRE	AGREEM	WAR	ALLY	AID
CARROTS	Pearson Correlation	1.000	.149**	.766**	-.009	.125**	.068
	Sig. (2-tailed)	.	.001	.000	.838	.005	.224
	N	492	490	492	492	492	321
FREE_PRE	Pearson Correlation	.149**	1.000	.093*	-.053	.377**	.215**
	Sig. (2-tailed)	.001	.	.040	.244	.000	.000
	N	490	490	490	490	490	320
AGREEM	Pearson Correlation	.766**	.093*	1.000	-.002	.115*	.003
	Sig. (2-tailed)	.000	.040	.	.963	.010	.958
	N	492	490	492	492	492	321
WAR	Pearson Correlation	-.009	-.053	-.002	1.000	-.082	.071
	Sig. (2-tailed)	.838	.244	.963	.	.069	.206
	N	492	490	492	492	492	321
ALLY	Pearson Correlation	.125**	.377**	.115*	-.082	1.000	.309**
	Sig. (2-tailed)	.005	.000	.010	.069	.	.000
	N	492	490	492	492	492	321
AID	Pearson Correlation	.068	.215**	.003	.071	.309**	1.000
	Sig. (2-tailed)	.224	.000	.958	.206	.000	.
	N	321	320	321	321	321	321

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

In favour of the claim, almost 30% of those accepting the conditions were in transition. But 23.5% of countries in transition did not accept such conditions. The graph in Figure 5-6 indicates that there may be a threshold: totally unstable countries, as measured by being in a state of war, tend not to sign or be offered co-operation agreements.<sup>257</sup> Logically speaking, it is unlikely that any agreement will be concluded with a country in war, or one without a legitimate regime in place after a coup d'état or during a civil war.

	AGREEM			
	no cooperation agreement		cooperation agreement	
	WAR		WAR	
	Count	%	Count	%
peace	218	60.2%	74	56.9%
flawed elections	4	1.1%	2	1.5%
coup d'etat	14	3.9%	10	7.7%
civil war/transition	85	23.5%	37	28.5%
war	41	11.3%	7	5.4%
Total	362	100.0%	130	100.0%

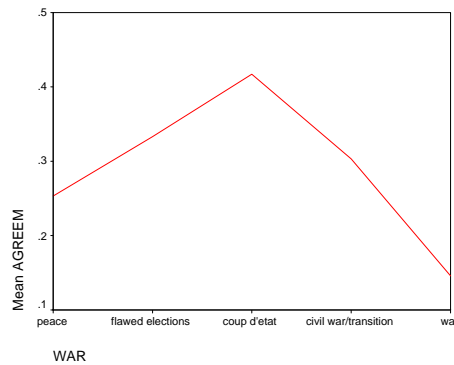


Table 5-15. Are unstable countries more likely to accept conditions than stable ones? Figure 5-6. Conditions to countries in conflict.

Finally, since we found only mixed explanatory power for the ‘interest based’ determinants of state behavior, a cross correlation of these variables is in order to check whether and to what extent they measure the same phenomena. We see in Table 5-16, that the reason why countries of greater security importance tend to receive fewer carrots, may be explained by the fact that some of them are accused of supporting terrorism (we found a positive if weak correlation of 0.11\*). Terrorists are obviously less likely to receive incentives. On the other hand, security importance is even more strongly correlated with trade importance (0.2\*\*). Important trading countries tend to have a larger population and GNPpc. The more populous countries also tend to be the ones that are of more security importance (this is probably largely explained by the cases of China and India). The correlations are nevertheless not as high as to cause multicollinearity.

<sup>257</sup> We should reject the hypothesis. Pierson's chi-square has a value of 7.6. For 4 degrees of freedom a critical value of 9.49 is needed to reject the null-hypothesis at an alpha level of 0.05. This estimation is probably not correct, given the fact that we see a curvilinear instead of a linear relationship.

Table 5-16. Cross correlations of Neorealist variables.

		Correlations						
		CARROTS	TERRORIS	ALLY	SECURITY	LNTRADE	POP	LNGNPPC
CARROTS	Pearson Correlation	1.000	-.106*	.125**	-.080	.493**	.007	-.057
	Sig. (2-tailed)	.	.018	.005	.077	.000	.879	.251
	N	492	492	492	492	466	454	408
TERRORIS	Pearson Correlation	-.106*	1.000	-.445**	.110*	-.002	-.018	.067
	Sig. (2-tailed)	.018	.	.000	.015	.959	.698	.174
	N	492	492	492	492	466	454	408
ALLY	Pearson Correlation	.125**	-.445**	1.000	.109*	.203**	.054	.101*
	Sig. (2-tailed)	.005	.000	.	.016	.000	.249	.042
	N	492	492	492	492	466	454	408
SECURITY	Pearson Correlation	-.080	.110*	.109*	1.000	.203**	.389**	.145**
	Sig. (2-tailed)	.077	.015	.016	.	.000	.000	.003
	N	492	492	492	492	466	454	408
LNTRADE	Pearson Correlation	.493**	-.002	.203**	.203**	1.000	.216**	.227**
	Sig. (2-tailed)	.000	.959	.000	.000	.	.000	.000
	N	466	466	466	466	466	436	393
POP	Pearson Correlation	.007	-.018	.054	.389**	.216**	1.000	-.092
	Sig. (2-tailed)	.879	.698	.249	.000	.000	.	.063
	N	454	454	454	454	436	454	408
LNGNPPC	Pearson Correlation	-.057	.067	.101*	.145**	.227**	-.092	1.000
	Sig. (2-tailed)	.251	.174	.042	.003	.000	.063	.
	N	408	408	408	408	393	408	408

\*. Correlation is significant at the 0.05 level (2-tailed).

\*\*. Correlation is significant at the 0.01 level (2-tailed).

#### 5.2.4 Conclusion

We can conclude that liberal norms are very important determinants of state behavior in terms of their decision to grant positive measures. In other words, the Liberal hypothesis came out strongest in the multivariate analysis. Regression analysis showed, that the higher a country scores on dictatorship, the smaller its chance is to be rewarded. Or, in Constructivist terms, the less respect for human rights, the less chance of benefitting from positive measures. Over time, the use of positive measures increased. Although we are not sure which theory is best supported by this finding, it is likely explained by the change in institutional decision-making that both encouraged positive measures and allowed for more influence from non-governmental actors at a time in which respect for international human rights norms became more 'fashionable'. Speaking against Constructivism, sudden improvements were not rewarded, but the measurement of this variable could be improved.

Neorealism is of mixed utility in explaining the variation in type and degree of carrots across targets. The Tobit analysis suggests that allies and important trading partners are likely to be somewhat more rewarded in reaction to a change in human rights violations. Contrary to Neorealist predictions, countries of security importance are less likely to receive carrots. The likeliest candidates for incentives are poor countries.



Carrots are more likely to be granted by the E.U. than by the U.S. and they are more lucrative if rewarded by the E.U.. This may be due to their domestic institutional systems and modes of decision-making, or their domestic lobby groups. If we would have included military aid as a carrot, this picture may have looked different.<sup>258</sup>

The carrots model –especially the scale- needs improvement in terms of measurement. It may be more suitable for the European case than the American case. The next Chapter will further explore this observation. Although development aid was included as an additional check on the dependent variable carrots, no relationship was found between the two (see Table 5-14). This may be due to measurement problems<sup>259</sup>, a high number of missing values, or because development aid is included in the the structural budget and is not granted in ad hoc reactions. For similar reasons, development aid was not included in the final model.

### 5.3 Mixed Strategies

What is the chance that a country that violates human rights will not receive a certain type of stick *or* a certain kind of carrot, but a combination of both? Chapter four explained the difficulties and possibilities of measuring the likelihood that mixed strategies are imposed. I selected a multinomial logistics analysis of a model which measures ‘mixed strategies’ by allowing four categories: no reaction (0), only carrots (1), only sticks (2), or carrots and sticks (3). The outcome is shown in Table 5-17 below. It compares the odds of a country getting only carrots versus no reaction, getting only sticks versus no reaction, or getting both carrots and sticks versus no reaction. We find that relatively poor but authoritarian allies, that are of no security importance but of some economic importance, are the most likely candidates to which Western liberal states employ mixed strategies. The mixed strategy is increasingly used over time.

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<sup>258</sup> I did not consider military assistance as a carrot for the substantive and methodological reasons explained in Chapter three and four.

<sup>259</sup> It proved fairly difficult to find comparable figures of E.U. development aid for all the countries in the database for the various years, despite extensive research in archives of the European University Institute, Eurostat, the European Commission and at the library of the European Parliament in Brussels. Also official E.U. development aid is a fraction of what all E.U. Member States combined donate bilaterally. For U.S. development aid, only economic aid was included, not military aid.

Table 5-17. Which countries are likely to receive both carrots and sticks?

Iteration 6: log likelihood = -350.83102						
Multinomial regression				Number of obs = 383		
Log likelihood = -350.83102				LR chi2(36) = 299.88		
				Prob > chi2 = 0.0000		
				Pseudo R2 = 0.2994		
	mix_3	Coef.	Std. Err.	z	P> z	[95% Conf. Interval]
<b>1 carrots only</b>						
	ally	.4930535	.7601846	0.65	0.517	-.996881 1.982988
	terroris	.0363479	.5965021	0.06	0.951	-1.132775 1.20547
	security	-1.406325	.4390289	-3.20	0.001	-2.266806 -.5458443
	war	-.2081254	.1293749	-1.61	0.108	-.4616956 .0454448
	year	.2132722	.0651185	3.28	0.001	.0856423 .3409021
	dictator	-.2796492	.3730473	-0.75	0.453	-1.010808 .45151
	worse_hr	.1217891	.4312898	0.28	0.778	-.7235234 .9671017
	impro_hr	.544145	.4595993	1.18	0.236	-.3566531 1.444943
	lntrade	.3827498	.1122868	3.41	0.001	.1626717 .6028278
	lngnppc	-.5842559	.167324	-3.49	0.000	-.912205 -.2563068
	pop	.0009957	.0013469	0.74	0.460	-.0016442 .0036356
	eu_us	.5938917	.8073043	0.74	0.462	-.9883956 2.176179
	_cons	-420.9887	129.3454	-3.25	0.001	-674.501 -167.4764
<b>2 sticks only</b>						
	ally	-4.603135	1.190831	-3.87	0.000	-6.93712 -2.26915
	terroris	-.4695958	.5782514	-0.81	0.417	-1.602948 .6637561
	security	-.826246	.4496427	-1.84	0.066	-1.70753 .0550375
	war	.3603833	.1233677	2.92	0.003	.1185871 .6021796
	year	.1350799	.0646167	2.09	0.037	.0084335 .2617263
	dictator	1.052566	.3865777	2.72	0.006	.2948878 1.810245
	worse_hr	.6460858	.4140582	1.56	0.119	-.1654534 1.457625
	impro_hr	.5772067	.4857245	1.19	0.235	-.3747958 1.529209
	lntrade	.4498063	.1138746	3.95	0.000	.2266163 .6729963
	lngnppc	-.40282	.1747276	-2.31	0.021	-.7452797 -.0603602
	pop	.0021131	.0012363	1.71	0.087	-.0003099 .0045362
	eu_us	-2.447131	.8473963	-2.89	0.004	-4.107997 -.7862644
	_cons	-255.9141	128.423	-1.99	0.046	-507.6185 -4.20972
<b>3 carrots and sticks</b>						
	ally	-4.414782	1.288308	-3.43	0.001	-6.939819 -1.889745
	terroris	-.8993172	.6799206	-1.32	0.186	-2.231937 .4333026
	security	-1.464731	.5542662	-2.64	0.008	-2.551073 -.3783892
	war	.2243188	.1484854	1.51	0.131	-.0667072 .5153448
	year	.3569741	.0758648	4.71	0.000	.2082818 .5056663
	dictator	1.278276	.4698321	2.72	0.007	.3574215 2.19913
	worse_hr	.4718635	.4938672	0.96	0.339	-.4960984 1.439825
	impro_hr	-.2321835	.6811041	-0.34	0.733	-1.567123 1.102756
	lntrade	.5441489	.1423518	3.82	0.000	.2651446 .8231532
	lngnppc	-.5855016	.207108	-2.83	0.005	-.9914257 -.1795774
	pop	.0017964	.0013307	1.35	0.177	-.0008117 .0044045
	eu_us	-1.811488	1.051017	-1.72	0.085	-3.871444 .2484682
	_cons	-697.7125	150.8092	-4.63	0.000	-993.293 -402.132

(Outcome mix\_3==0 NO REACTION is the comparison group)

Rogues are not likely candidates for a mixed strategy. In fact alleged support for terrorism plays no significant role according to this analysis. Countries of no security importance that violate human rights are more likely to receive a combination of carrots and sticks than to suffer no reaction at all. The odds of getting both carrots and sticks are more or less equal to getting only carrots, although the latter is even less likely.

Contrary to the separate carrots and sticks models, we see now that adversaries are more likely to be approached through a mixed strategy than allies. Being a friend or a foe plays no significant role for being rewarded, but it is an important factor in determining the likelihood

of being either purely punished or approached through a push-and-pull technique. In fact the odds are more or less the same for these two categories.<sup>260</sup> This finding contradicts Drezner's (1999) thesis that adversaries are less likely than allies to be rewarded, except in exceptional circumstances.

Being involved in some type of conflict does not increase the odds of receiving mixed measures, as compared to the odds of getting no reaction at all. It is, in contrast, a determining factor for being punished (odds increase). The odds to get carrots only diminish if a country is in conflict.

One very interesting finding is that trade linkage is a significant factor for all types of measures, compared to the odds of getting no reaction. Countries of no trade importance are thus very unlikely to receive any type of foreign policy reaction. This may have to do with the expected effectiveness of the measures. It is no use to impose economic sanctions if there is no economic activity to be sanctioned. Trade importance is most important to determine the odds to get carrots only (0.46\*\*), slightly less for a mixed strategy (0.34\*\*) and still less for sticks only (0.16\*\*).<sup>261</sup> The relationship is always positive, which means – again- that economic interests do not shield human rights violators from being noticed.

Countries with a smaller GNPpc are more likely beneficiaries of the push-and-pull strategy than rich countries. We see that as GNPpc increases, the odds of getting a mixed strategy decrease (-0.47\*\*), and the odds of getting carrots only decrease even further (-0.64\*\*). Poverty or richness is, in contrast, not significant when western liberal powers decide to punish with negative measures only.

Countries that score higher on dictatorship than on democratic liberties are more likely to encounter a mixed strategy than no reaction at all (1.1\*). The type of regime is more important for sender countries' decisions on mixed strategies than for decisions on sticks only (0.79\*). Regime type is of no significant importance for decisions on carrots only, although the relationship is negative. Mixed strategies may thus be employed for countries in transition, if measured by their regime type. Improvements in human rights conditions are not met with mixed incentives, and nor are sudden abuses. These two variables have no effect on the type (or combination) of measures a human rights violator is likely to get. We

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<sup>260</sup> The coefficient is almost equal for the variable ally in both the category of 'sticks only' and 'mixed' (respectively -4.07 and -4.00).

<sup>261</sup> This means for instance that the odds from getting mixed measures over sticks only is  $\log(0.34-0.16/0.16)$ .

can conclude that the more human rights are violated, the more likely mixed or negative measures are imposed. The more human rights are respected, the less likely mixed measures are imposed.

Over time Western liberal states have increasingly tended to adopt mixed instruments over no reaction, more so than they preferred only carrots or only sticks. We see that the U.S. has been much more likely than the E.U. to adopt negative measures only. Table 5-17 shows us that over time, Western liberal powers have been more and more likely to react in some way rather than not to react at all (the relationships are significant for all types of measures compared to no reaction, but are strongest for mixed measures).

Table 5-17 thus also shows us something about the characteristics of countries towards which only carrots or only sticks were imposed. Countries that tended to be rewarded were poor countries of no security importance, yet of some trade importance. Countries that tended to be punished were dictatorial regimes of an adversarial nature, engaged in conflict, poor and populous.

#### **5.4 Conclusions: Variation Across Targets Explained**

Who gets away with violating human rights? Countries that are allies, democracies and in peace. Who does not get away with such behavior? Adversarial dictatorships, regardless of their strategic or economic importance. This Chapter sought to explain the variation in carrots and sticks imposed in reaction to human rights violations. The most important finding is that respect for liberal norms matters more than economic or security interests in a country's likelihood of being punished or rewarded. Institutions matter too. We found empirical support for the central puzzle of this thesis, namely that whereas over the past decade the U.S. has imposed more severe negative measures than the E.U., the E.U. was more keen in using positive measures than the U.S. Over time both powers increasingly tend to use a combination of carrots and sticks.

The most striking result of the multivariate analysis is the rivalry between the Liberal and Constructivist hypotheses on the one hand, and the Neorealist 'allies' hypothesis on the other hand. What explained variation across targets better: regime type, degree of human rights violations or being an adversary or ally? Logically speaking, it is more conceivable

that human rights norms constitute a liberal identity, and that like-minded and liberal countries become allies, than that allies become liberal minded. Statistically speaking, we found empirical support for the Liberal thesis in all three estimated models. Similarly, the allies hypothesis did well in all models. The multivariate analysis of the carrots and sticks models showed that most other Neorealist variables did not fare very well. The terrorism, security and population variables were not significant, and the war/instability variable was only weak. Bivariate analysis showed however, that allies tend to be both like-minded and important trading partners. This finding thus renders the Neorealist hypothesis undistinguishable from the other hypotheses.

Whereas we can interpret the high significance and strength of the freedom variable as supporting Constructivism, we need an independent measurement to distinguish between Constructivism and Liberalism. If one takes the reactions to a sudden deterioration of human rights as an alternative indicator, we can confirm Constructivist claims independently from Liberalism. Whereas worsening human rights situations did not seem to evoke immediate carrots or sticks, they did evoke mixed strategies, regardless of economic or security importance. In practical terms, the finding to keep in mind is that human rights norms trump security and economic importance of potential target countries. Democracies do not tend to be such targets in the first place because first and foremost they respect the rule of law.

The same was true for the carrots: the less respect for human rights, the less likely a regime is to get any positive incentives. Countries in transition are a different story. No significant relationship was found between the strength of carrots offered and the degree of conflict or instability a country finds itself in. Contrary to previous research, I found no proof that countries in transition were significantly more willing to accept conditions to cooperate with the E.U. or the U.S. than other countries.

The Institutional hypothesis contributes most to the explanation of the extreme sanctions cases by controlling for whether a measure was instigated by the U.N. or not. U.N. sanctions tended to be harsher than unilateral sanctions. Neoliberal Institutionalism also argues that the E.U. and the U.S. are more likely to seek international co-operation when the potential target is an important trading partner, out of fear that unilateral action will harm

its competitive edge. I did not find empirical support for this claim through bivariate tests. The fact that U.N. sanctions are harsher may instead be better explained by the fact that international agreement is easier over the most extreme violations of human rights, such as atrocities in Iraq, the Federal Republic of Yugoslavia and Sierra Leone.

I did find support for the assertion that, over time carrots, sticks, and mixed strategies have all become more frequently used instruments in reaction to human rights abuses. It is not clear whether this is driven more by the changes in the institutional mechanisms, or by a change in beliefs about how countries should approach human rights violations. The next Chapter seeks to assess how we can explain the variation in type of sanctions across the E.U. and the U.S., and the current convergence towards a combined use of carrots and sticks by both.

Table 5-18. Countries to which no sanctions were imposed in reaction to human rights violations 1989-2000.

U.S.	YEAR	E.U.	YEAR	U.S.	YEAR	E.U.	YEAR	U.S.	YEAR	E.U.	YEAR	U.S.	YEAR	E.U.	YEAR
AFG	1993	ALB	1994	CZE	1993	EGY	1996	LBN	1990	MAU	1990	ROM	1990	SAU	1990
ALB	1993	ALB	1997	DJI	1990	EST	1992	LBN	1997	MAU	1993	ROM	1993	SLO	1993
ALB	1994	ARM	1996	ECU	1993	ETH	1992	LES	1994	MCA	1992	SAF	1998	SRI	1994
ALB	1997	ARM	1999	EGY	1994	GEO	1996	LTU	1992	MDV	1990	SAU	1990	SWZ	1994
ALG	1995	AZE	1996	EGY	1996	GIN	1990	LTU	1994	MDV	1995	SEN	1994	TCD	1990
ARM	1993	AZE	1999	ELS	1993	GNB	1990	LVA	1992	MEX	1995	SLO	2000	TJK	1993
AST	1997	BDI	1996	ERI	1999	GTM	1996	LVA	1994	MEX	1991	SLO	1993	TKM	1993
BDI	1993	BHR	1994	EST	1992	HND	1993	MAC	1996	MEX	1997	SRI	1990	TKM	1998
BHR	1994	BOL	1991	EST	1994	HTI	1996	MAU	1990	MOL	1996	SRI	1994	TUN	1995
BOL	1991	BOL	1993	ETH	1990	HUN	1991	MCA	1992	MON	1992	SVE	1996	TZA	1990
BOL	1993	BRA	1992	ETH	1992	IND	1993	MDV	1990	MON	1996	SWZ	1994	UAE	1990
BRA	1992	BRM	1989	GAB	1994	IND	1995	MEX	1995	NGA	1999	TCD	1990	UAE	1996
BRN	1990	BRN	1990	GIN	1990	IRN	1992	MEX	1991	NIC	1993	TGO	1992	UKR	1994
BTN	1993	BTN	1993	GNB	1990	IRN	2000	MON	1992	OMN	1990	TGO	1995	UKR	1996
BUL	1993	BUL	1993	GNB	1998	ISR	1994	MOR	1995	PAK	1991	TGO	1998	URU	1992
CAF	1993	CAF	1997	GNB	1999	KAZ	1995	NGA	1995	PAN	1993	TJK	1993	UZB	1993
CAF	1997	CHL	1991	GNQ	1992	KHM	1990	NIC	1993	PAR	1992	TKM	1993	UZB	1996
CHL	1991	CIV	1994	GNQ	1994	KHM	1992	NIG	1993	PAR	1996	TUN	1995	VEN	1993
CIV	2000	CMR	1990	GTM	1994	KHM	1994	NIG	1999	POL	1991	TUR	1993	VNM	1995
CIV	1994	CMR	1992	HND	1993	KYR	1996	OMN	1990	PRK	1990	TUR	1994	YEM	1995
CMR	1990	COL	1996	HUN	1991	LAO	1990	PAN	1993	PRK	1999	TUR	1999	ZAR	1990
COL	1994	COR	1993	IND	1993	LAO	1997	PAR	1992	PRU	1993	TZA	1990		
COM	2000	CUB	1990	IND	1995	LBN	1997	PAR	1996	PRU	2000	UAE	1990		
CON	1997	CUB	1992	ISR	1990	LTU	1992	POL	1991	QAT	1990	UGA	1992		
COR	1993	CZE	1993	ISR	1994	LTU	1994	PRU	1992	ROM	1993	UKR	1994	U.S.	
CRO	1991	ECU	1993	JAM	1994	LVA	1992	PRU	1993	SAF	1994	URU	1992	YEM	1995
CYP	1993	EGY	1994	KEN	1997	LVA	1994	QAT	1990	SAF	1998	UZB	1993	ZAR	1993
												VEN	1993		

Table 5-19. Countries to which no carrots were offered 1989-2000.

E.U.	YEAR	U.S.	YEAR	U.S.	YEAR	U.S.	YEAR	U.S.	YEAR	U.S.	YEAR
ARM	1996	ALB	1993	GNQ	1994	TGO	1995	TKM	1998	UAE	1996
AZE	1996	ALB	1994	GTM	1994	TGO	1998	UKR	1996	VNM	1990
BHR	1994	ALB	1997	HND	1993	TJK	1993	UZB	1996	ZIM	2000
BOL	1991	ARM	1993	HUN	1991	TKM	1993	ZAR	1990	AFG	1999
BRM	1989	AST	1997	IND	1993	TUN	1995	ZAR	1996	ANG	1993
BRN	1990	BDI	1993	JAM	1994	TZA	1990	ZMB	1996	ANG	1996
CUB	1990	BRA	1992	KEN	1997	UAE	1990	AFG	1996	ANG	1998
CUB	1992	BRN	1990	LBN	1990	UGA	1992	AZE	1992	CHN	2000
EST	1992	BTN	1993	LES	1994	UKR	1994	BDI	1996	CRO	1995
GEO	1996	BUL	1993	MAC	1996	URU	1992	BDI	1997	ERI	2000
IRN	1992	CAF	1993	MAU	1990	UZB	1993	BRM	1989	ETH	2000
KHM	1990	CAF	1997	MCA	1992	VEN	1993	BRM	1996	ETH	1999
KHM	1994	CHL	1991	MDV	1990	YEM	1995	BRM	1997	FRY	1998
LAO	1990	CIV	2000	MEX	1991	ZAR	1993	BRM	2000	FRY	1999
LBN	1997	CIV	1994	MON	1992	ALG	1998	BRM	1991	HTI	1991
LTU	1992	CMR	1990	MOR	1995	ARM	1996	CMR	1992	HTI	1993
LVA	1992	COL	1994	NIC	1993	ARM	1999	COL	1996	IDN	1991
MDV	1990	COM	2000	NIG	1993	AUS	2000	GMB	1994	IDN	1999
MDV	1995	CON	1997	NIG	1999	AZE	1996	GTM	1996	IND	1999
MEX	1995	COR	1993	OMN	1990	AZE	1999	HTI	1996	IRN	1992
MEX	1991	CRO	1991	PAN	1993	BLR	1998	KEN	1991	IRN	1994
MOL	1996	CYP	1993	PAR	1992	GEO	1996	KHM	1997	IRN	1997
OMN	1990	CZE	1993	POL	1991	KAZ	1995	LBR	1990	KHM	1992
PRK	1990	DJI	1990	QAT	1990	KHM	1990	MAU	1993	LBR	1992
QAT	1990	ECU	1993	ROM	1990	KYR	1996	MDV	1995	NGA	1995
SAU	1990	ELS	1993	ROM	1993	LAO	1990	MWI	1992	NGA	1996
UAE	1990	ERI	1999	SAU	1990	LAO	1997	PAK	1991	PAN	1989
UAE	1996	ETH	1990	SEN	1994	MOL	1996	RUS	1992	RWA	1994
UZB	1993	GAB	1994	SLO	2000	MON	1996	RUS	1995	SAF	1990
AST	1997	GIN	1990	SLO	1993	NGA	1993	SDN	1990	SAF	1991
CYP	1993	GNB	1990	SRI	1990	NIG	1996	SDN	1994	SAF	1992
SAF	1990	GNB	1998	SVE	1996	PAK	1994	SDN	1996	SAF	1994
TGO	1998	GNB	1999	SWZ	1994	PRU	2000	SYR	1992	SLE	1997
BRM	1996	GNQ	1992	TCD	1990	RUS	1999	SYR	1994	YUG	1991
BRM	1997			TGO	1992	TJK	1996	SYR	1996	CUB	1990
BRM	2000									CUB	1994
CHN	1991									IRQ	1990
CHN	1992									LBY	1992
CHN	1993									LBY	1993
CHN	1997									LBY	1996
CHN	2000									LBY	1999
FRY	1998									PRK	1990
LBY	1992									YUG	1992
LBY	2000										
SAF	1993										
YUG	1991										
FRY	1999										
LBY	1993										
LBY	1996										
YUG	1994										

## Chapter 6. How Different are the E.U. and U.S. Reactions and Why?

This Chapter seeks to explain the variation and convergence in E.U. and U.S. reactions to human rights violations. To what extent have the E.U. and U.S. reacted differently to human rights violations? The multivariate regression analysis shows that despite all their differences, the behavior of the E.U. and the U.S. tends to be guided by similar motivations when imposing negative measures. The E.U. may impose slightly less harsh sanctions on average, but not to an extent that justifies assertions that the E.U. is softer on human rights than the U.S. The Liberal-Constructivist hypothesis that both powers act according to the liberal norms that constitute their political identities, seems the most plausible explanation for the similarities between E.U. and U.S. sanctions in reaction to human rights violations. The slightly harsher negative measures imposed by the U.S. can be ascribed to institutional differences since none of the alternative hypotheses turned out to be significant.

The E.U. and the U.S. are, however, significantly different in their use of economic incentives to induce change. Whereas respect for human rights also figures prominently in E.U. decisions to impose positive measures, this is not the case for the U.S.. Engagement means not much more than continued free trade for the U.S., but involves an elaborate and institutionalized push-and-pull strategy from the E.U.. Higher levels of human rights violations lead to lower levels of E.U. incentives, in contrast to the U.S.. For the latter, forming an alliance is more important for its decision to grant incentives or employ mixed strategies. Again, the institutional set-up and historical experience can be considered important factors in explaining this difference.

### 6.1 Statistical analysis: How Different are the E.U. and U.S. Reactions?

In this section I use regression analysis to assess the independent explanatory power of the various variables in a multivariate model. First I discuss the general sticks model for both data sets, secondly the specific models for the E.U. and the U.S., and, finally, the carrots and mixed models. In the previous Chapter I used a combined data set with both U.S. and E.U. sanctions to estimate the variation in measures across targets in general. In order to compare E.U. and U.S. measures, I estimated the sticks model separately for the E.U. and



for the U.S. data with the Ordinary Least Squares and the Tobit method. The Tobit estimations are reported in Tables 6-40 to 6-47 in the appendix to this Chapter. I compared the two estimations with each other, but also checked whether the apparent differences are significant by including dummies in the models tested through the combined data set.

The overall sticks model fits the U.S. data (Table 6-2) slightly better than the E.U. data (Table 6-1), with an  $r^2$  of 0.48 for the E.U. and an  $r^2$  of 0.53 for the U.S.. For the E.U. model 8 out of 10 variables are statistically significant at a 0.05 level or higher, whereas for the U.S. only 6 out of 10 variables show such a significant relationship.

Table 6-1. Multivariate Regression Analysis of General Sticks Model: E.U.

. regr negeu ally terroris secur war pop lntrade year dictator worse_hr un						
Source	SS	df	MS	Number of obs = 213		
Model	160.382552	10	16.0382552	F( 10, 202) = 18.74		
Residual	172.866274	202	.855773633	Prob > F = 0.0000		
Total	333.248826	212	1.57192843	R-squared = 0.4813		
				Adj R-squared = 0.4556		
				Root MSE = .92508		
negeu	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
ally	-1.210386	.2373651	-5.099	0.000	-1.678417	-.7423545
terroris	.0575071	.1887792	0.305	0.761	-.3147233	.4297376
secur	-.3373885	.1560915	-2.161	0.032	-.6451661	-.0296109
war	.1010014	.0455582	2.217	0.028	.0111707	.190832
pop	.0008565	.0003076	2.785	0.006	.00025	.0014631
lntrade	.1485911	.0388861	3.821	0.000	.0719164	.2252658
year	.078011	.022324	3.494	0.001	.0339931	.1220289
dictator	.4095681	.108591	3.772	0.000	.1954508	.6236854
worse_hr	.2870032	.1647747	1.742	0.083	-.0378958	.6119021
un	1.363825	.2251274	6.058	0.000	.9199242	1.807727
_cons	-152.7992	44.49483	-3.434	0.001	-240.5331	-65.06531

Table 6-2. Multivariate Regression Analysis of General Sticks Model: U.S.

```

. regr negus ally terroris secur war pop lntrade year dictator worse_hr un

```

Source	SS	df	MS	Number of obs = 210		
Model	190.614145	10	19.0614145	F( 10, 199) = 22.14		
Residual	171.309664	199	.860852585	Prob > F = 0.0000		
Total	361.92381	209	1.73169287	R-squared = 0.5267		
				Adj R-squared = 0.5029		
				Root MSE = .92782		

	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
ally	-1.110069	.2128733	-5.215	0.000	-1.529846	-.6902925
terroris	.3044266	.2208316	1.379	0.170	-.1310436	.7398969
secur	-.0020076	.1628759	-0.012	0.990	-.3231917	.3191765
war	.0284843	.0474415	0.600	0.549	-.0650682	.1220368
pop	.0010519	.0003264	3.223	0.001	.0004083	.0016956
lntrade	.110156	.0337311	3.266	0.001	.0436397	.1766722
year	.0510067	.0233147	2.188	0.030	.0050312	.0969823
dictator	.376338	.1182952	3.181	0.002	.143065	.609611
worse_hr	.033858	.1657784	0.204	0.838	-.2930497	.3607658
_un	1.472648	.2311232	6.372	0.000	1.016883	1.928413
_cons	-98.33345	46.42723	-2.118	0.035	-189.8859	-6.780983

In order to compare whether the apparent differences between the separate estimations of the sticks model for the E.U. and the U.S. are significant, I fitted a model which included interaction terms of all variables with the E.U.. Moreover, a dummy for the E.U. was added to allow for a difference in the average level of sanctions between the E.U. and the U.S.

The estimations presented in Table 6-3 below, show that *none of these differences is significant*.<sup>262</sup> Hence, the often made assertions that the U.S. is tougher on human rights than the E.U., or alternatively, that the E.U. is tougher than the U.S., are false. I did not find any empirical evidence of such a claim, despite small differences that will be highlighted in the next sections. Moreover, the motivations behind their reactions to human rights violations are similar and are mainly inspired by liberal norms. This is a very important empirical and theoretical finding.

<sup>262</sup> A Tobit estimation of the same variables shows the same result, see Table 72 in the Annex to this Chapter, apart from the U.N. variable which seems to suggest that the effect of U.N. sanctions leads to higher sanctions for the E.U. than for the U.S..

Table 6-3. Are differences E.U.-U.S. statistically significant?

```

. regr sticks ally terroris security war pop lntrade year dictator worse_hr un
> eu_us eu_ally eu_terro eu_secur eu_war eu_pop eu_trade eu_year eu_dict eu_
> worse eu_un

```

Source	SS	df	MS	Number of obs = 423		
Model	342.078491	21	16.2894519	F( 21, 401) = 18.39		
Residual	355.240658	401	.885886928	Prob > F = 0.0000		
Total	697.319149	422	1.65241504	R-squared = 0.4906		
				Adj R-squared = 0.4639		
				Root MSE = .94122		

sticks	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
ally	-1.148617	.2165451	-5.304	0.000	-1.574322	-.7229112
terroris	.2930071	.2234238	1.311	0.190	-.1462211	.7322354
security	.0998259	.171247	0.583	0.560	-.2368281	.43648
war	.0573767	.0481256	1.192	0.234	-.0372332	.1519867
pop	.0010897	.0003372	3.232	0.001	.0004269	.0017526
lntrade	.0920759	.0341186	2.699	0.007	.0250022	.1591495
year	.0417011	.0238048	1.752	0.081	-.0050967	.0884989
dictator	.3880523	.1589671	2.441	0.015	.0755393	.7005654
worse_hr	.042596	.1672661	0.255	0.799	-.286232	.371424
un	1.414464	.2352905	6.012	0.000	.9519065	1.877021
eu_us	-73.7564	65.67088	-1.123	0.262	-202.8586	55.34581
eu_ally	-.0953637	.3240881	-0.294	0.769	-.7324876	.5417602
eu_terro	-.2531358	.294394	-0.860	0.390	-.8318842	.3256126
eu_secur	-.2988217	.2374421	-1.259	0.209	-.7656084	.167965
eu_war	.0540196	.0669998	0.806	0.421	-.0776951	.1857343
eu_pop	-.0000301	.0004667	-0.064	0.949	-.0009476	.0008874
eu_trade	.0404067	.0519099	0.778	0.437	-.0616428	.1424563
eu_year	.0367241	.0329669	1.114	0.266	-.0280855	.1015336
eu_dict	.1274781	.2144293	0.594	0.553	-.2940679	.5490241
eu_worse	.2716423	.2363239	1.149	0.251	-.1929463	.7362309
eu_un	-.0793426	.3292366	-0.241	0.810	-.7265881	.5679028
_cons	-79.55861	47.39793	-1.679	0.094	-172.7381	13.62086

What are the implications of the estimated coefficients and their significance levels for the various theories and their hypotheses? What do they teach us about the motivations of state behavior? I will start with a discussion of economic and strategic interests as determinants of state behavior (Neorealism), proceed with institutions (Neoliberal Institutionalism and domestic structure arguments), and finish with a discussion of the role of liberal norms in foreign policy (Liberalism and Constructivism).

### 6.1.1 Security Interests:

The multivariate analysis indicates the following:

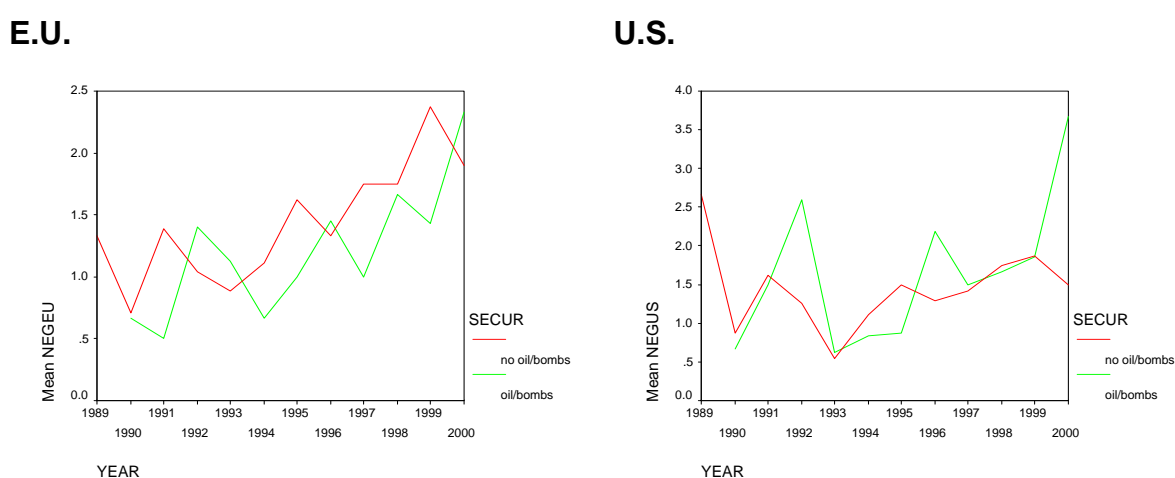
- Allies play a similar role for both the E.U. and the U.S. in deciding what type of sanction to impose. If allies are punished, they tend to be hit softer than adversaries with more than one point of difference on the sticks scale that varied from 0-4. Both estimations show a highly significant and more or less equally strong relationship. For the E.U. being an ally leads to a lower sanction level of 1.2 on the sanctions scale, and for the U.S. to a lower level of 1.1.
- Terrorism is not a significant motivation to impose sanctions for the E.U., or more surprisingly, for the U.S.
- Countries of security importance, possessing bombs and/or oil, have more success with the E.U. than with the U.S. in avoiding harsher sanctions. For the U.S. it is no factor of importance in its reaction to human rights violations, whereas it tends to slightly reduce the strength of E.U. measures with 0.34 on the sanctions scale. This effect is intensified in the Tobit estimation.
- Countries involved in conflict have a slightly higher chance of being sanctioned by the E.U. than by the U.S. A greater level of conflict leads to only a small increase in sanctions (0.1), but it is significant in both OLS and Tobit estimations. Level of conflict does apparently not figure into the U.S. decision about what level of sanctions to impose, or whether to impose sanctions at all. In contrast, in a number of policy papers on how to react to countries involved in armed conflict, the E.U. mentions sanctions as important potential measures. Bivariate analysis shows that the E.U. is especially harsh in its reactions to coup d'états compared to the U.S..
- Population as one of the proxies for security importance shows a significant but very weak impact on the level of sanctions, both for the E.U. and the U.S.

Some of these findings are striking and deserve further scrutiny. Multivariate analysis showed that in certain aspects (allies, terrorists) the E.U. and U.S. show a similar reaction, whereas in other aspects (bombs/oil, conflict) they react slightly differently. Do the E.U. and the U.S. perceive security importance and threats in a similar way, as hypothesized by Neorealism, or in a different way (Constructivism)? Have their interpretations of threats, as measured by their reactions, remained stable over the post-Cold War period as Neorealism

predicts, or have they changed as Constructivism would suggest? I will conduct additional bivariate tests to highlight differences and similarities of E.U. and U.S. reactions to human rights violations depending on the following characteristics of the potential target: its possession of bombs or oil, its status as a rogue, an adversary, and its geographic proximity.

The graphs in Figure 6-1 below show the different reactions the E.U. and the U.S. had to countries said to be of security importance, or as posing a threat.

Figure 6-1. E.U. and U.S. average reactions towards countries of security importance.



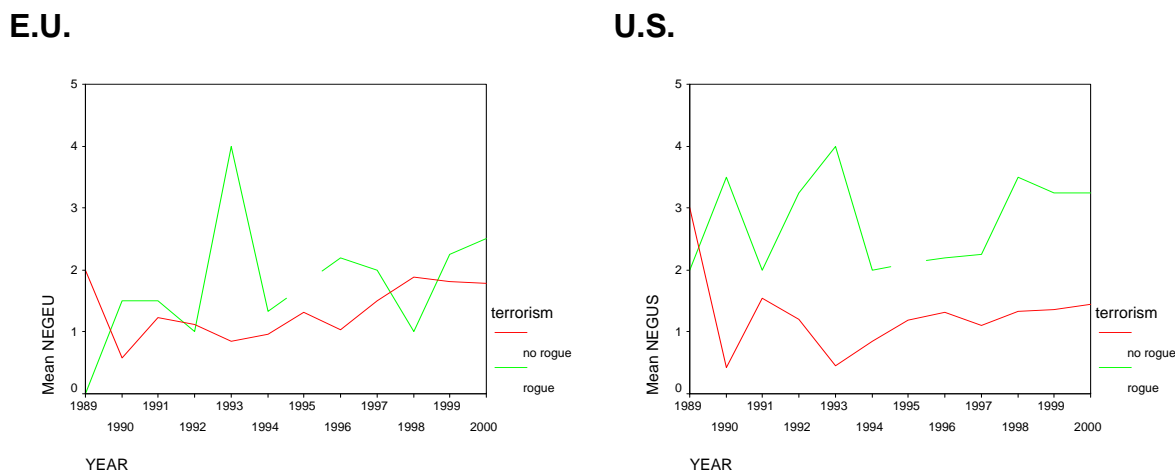
We see that the E.U. on average punishes fewer countries that possess oil and/or bombs than the U.S. does, and with lighter measures. Contrary to the E.U., the U.S. has at times punished countries with oil and/or bombs more severely than those without these crucial goods. This could be explained by the fact that several rogue states possess oil and/or bombs, but, although security importance and terrorism are significantly correlated, the relationship is not very strong.<sup>263</sup> Changes in sanctions regimes towards Libya and Iraq in 1992, 1996 and 2000 seem to account for this.<sup>264</sup> The term 'rogue' is a U.S. invention that the E.U. never followed. In fact, the correlation between security importance and sanctions is significant in the multivariate analysis but only for the E.U. Higher security importance softens sanctions by the E.U., but, in contrast, higher security importance has no significant impact on American-imposed sanctions.

<sup>263</sup> The correlation coefficient is 0.140\*. There are only very few countries that scored on both variables: Iran, Iraq, India, Libya, Nigeria and Syria.

<sup>264</sup> The extreme E.U. measure against a rogue state in 1993 concerned Haiti, which was at the time listed as a supporter of drugs trafficking by the U.S..

The multivariate analysis shows that “rogueness” is not a significant factor for the E.U. or the U.S. for the level of sanctions imposed. Given U.S. legislation and rhetoric on the subject, we would expect that the U.S. would be much harsher than the E.U. against ‘rogue states’ compared to ‘non-rogue’ states.<sup>265</sup>

Figure 6-2. E.U. and U.S. average reactions to “rogue states” (1989-2000).



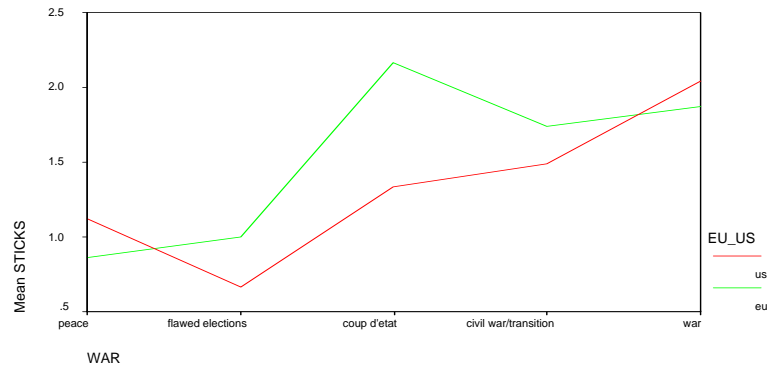
This is indeed demonstrated by Figure 6-2, above. The E.U., on the other hand, is somewhat harsher against ‘non-rogues’. The American and European perception of security importance, or at least of how to best deal with countries of security importance, is thus quite different. This is in line with Constructivist thinking. Over time, we see increasingly severe measures dealt out by the E.U., while the U.S. response has been relatively constant.

Multivariate analysis shows that the E.U. reacts stronger to countries in conflict than does the U.S. Figure 6-3 below takes the mean level of conflict, and shows that both powers tend to impose harsher sanctions as the level of conflict increases. The E.U. on average tends to react somewhat stronger to coups d’etat and countries in civil war.<sup>266</sup> This can be interpreted as being harsh on human rights violators. Again, Neorealism would probably not expect such diverse reactions.

<sup>265</sup> The correlation between terrorism and level of sanctions for U.S. data is 0.453\*\* and for E.U. data 0.194\*\*.

<sup>266</sup> The correlation between level of conflict and sanctions is for U.S. data 0.181\* and for the E.U. data 0.345\*\*.

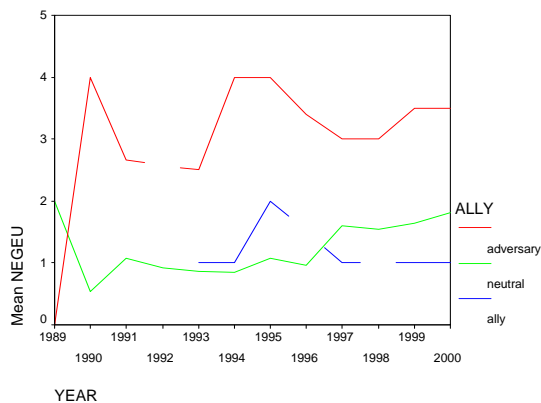
Figure 6-3. Do E.U. and U.S. react differently depending on level of conflict in target state?



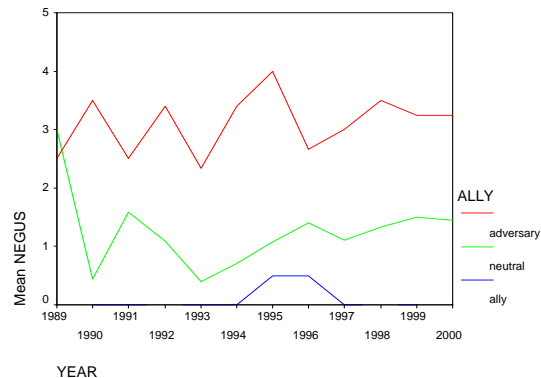
The multivariate analysis showed that the E.U. and U.S. both react more mildly towards their allies than towards their adversaries. The graphs in Figure 6-4 below illustrate that both powers react more strongly against adversaries violating human rights than to neutrals, and more strongly against neutrals in comparison to allies.

Figure 6-4. E.U. and U.S. sanctions against friends and foes.

**E.U.**



**U.S.**



The most notable difference is that the E.U. has at times imposed light to moderate measures against allies. This is explained by the more critical stance it took towards Turkey –a NATO ally- in the mid-nineties. The EP adopted a resolution in 1995 stating “that the human rights situation in Turkey is too serious to allow the formation of the proposed customs union at present”.<sup>267</sup> The U.S. Congress blocked the sale of helicopters to Turkey in that same year. The U.S. also sanctioned its ally, Mexico, in 1996. It blocked the entry of certain items from Mexico since they were allegedly “produced or manufactured by convict

<sup>267</sup> Official Journal No C056, p. 113/03/06. Resolution on the draft agreement on the conclusion of a customs union between the E.U. and Turkey. 6 months later the Customs Union was adopted “in spite of evidence that Turkey was then, and is still, committing serious breaches on human rights and breaches of democracy”. Official Journal No C174, p. 157, 1998/06/08. Subject: Human rights in Turkey. Interview record 29, 2/2/2000.

labor, forced labor or indentured labor".<sup>268</sup> The other ally the E.U. approached critically was Australia in 1997 when it refused to adopt a human rights clause in the planned Framework Agreement.<sup>269</sup> The most extreme reaction of the E.U. in 2000 was the suspension of political relations by all E.U. Member States after the Freedom Party (FPÖ), known for its extremist views, was installed as a coalition partner in the Austrian government.<sup>270</sup>

As an additional check of the findings, there is one other way to measure security importance, namely the level of military aid provided by the U.S.. We find a negative and significant correlation of -0.144\* between military aid and level of sanctions for the U.S. case. Clearly, countries that are sanctioned tend not to receive military aid. This would indicate that the likelihood and level of sanctions goes down as security importance goes up. For the U.S., military aid is not only a sign of security importance but also of alliance. We find a significant and strong correlation between military aid and allies (0.413\*\*). There is no such equivalent measure for the E.U..

A final factor that is often indicated as a determinant of the likelihood and level of sanctions is distance. Neorealism hypothesizes that:

The closer a potential target is in terms of geography, the tougher the reaction will be. Since the E.U. and the U.S. are located differently, they will thus react to different countries with different intensities.

In earlier multivariate analysis of the more broadly defined models, this factor did not turn out to be of any significance. The problem is that certain regions are more conflict prone than others, or possess more natural resources than others, which makes the hypothesis difficult to verify. Nevertheless, bivariate analysis does provide some insight on how proximity matters in decisions on sanctions. If Neorealism is correct, we would expect to find that the E.U. tends to sanction countries in Central, Eastern Europe and the Mediterranean,

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<sup>268</sup> Forced Labor Smoot-Hawley Tariff Act of 1930, Act of June 17, 1930, c. 497, Title III, §307, 46 Stat. 689, 19 U.S.C.A. § 1307 (West 1980) This Act prohibits imports of goods mined, produced or manufactured by convict labor, forced labor or indentured labor. Treasury regulations currently indicate that certain items from Mexico are made in violation of this Act, and so will be denied entry into U.S. ports. See 19 C.F.R. §12.42 (1996). See U.S. International Trade Commission 1998.

<sup>269</sup> <http://www.usaengage.org/studies/append12.html#Forced>  
European Report no 2230, June 7, 1997. 'E.U. and Australia abandoned planned Framework Agreement .. [and talk now] on a weaker Joint Declaration.., prompted by Australia's refusal to include a clause referring to human rights, for fear that it may leave the country open to trade-related sanctions.' De Vries (1998: 12); Riedel and Will (2000): 20.

[http://europa.eu.int/comm/external\\_relations/australia/intro/index.htm](http://europa.eu.int/comm/external_relations/australia/intro/index.htm): The main document governing the bilateral relationship is the 1997 Joint Declaration on Relations between Australia and the European Union. In it, both sides reaffirm their determination to build up their relationship in order to support democracy and the rule of law, to promote peace and security, non-proliferation, a sound world economy with low inflation, high employment, a stable international financial system and a strong multilateral trade system based on free and open market principles.

<sup>270</sup> Council conclusions February 2000. Sources say.. No. 2890, Feb, 2,2000. Sources say.. No. 2899, Feb. 8, 2000. The U.S. also imposed political sanctions against Austria, but since Austria is not a member of the NATO, it was not coded as a formal ally to the U.S.. It was coded as a formal ally of the E.U. due to its membership to the E.U. The political sanctions against Austria demonstrate the need to also look at the E.U. as a non-unitary actor.



whereas the U.S. is tougher on Central and South America. Table 6-4, Figure 6-5 below and a chi-square test confirm the hypothesis.<sup>271</sup> Of the harshest E.U. sanctions, 30.8% were imposed on other European countries (compared to 16.7% of the U.S.), whereas 27.8% of the harshest U.S. measures were directed at Central and South American countries (compared to 15.4% of the E.U.). The Middle East, compared to other regions, is sanctioned most severely by both powers (44.4% U.S., 38.5% E.U.), while Africa gets the lion's share of 'smart' sanctions (40.8% U.S., 44.2% E.U.). Hence, we can conclude that the more important a region is in security terms, the more likely it will be sanctioned.

**STICKS \* REGION \* EU\_US Crosstabulation**

Count		REGION					Total
		europa w/east/centr/med	middle east	asia/pacific	africa	central/south america	
us	STICKS free trade	28	11	15	36	21	111
	slight closure	7	1	17	5	3	33
	substantial closure	3	4	12	13	3	35
	smart sanctions	5	4	16	20	4	49
	total closure	3	8	1	1	5	18
	Total	46	28	61	75	36	246
eu	STICKS free trade	16	13	32	18	23	102
	slight closure	11	5	13	13	9	51
	substantial closure	8	2	2	23	2	37
	smart sanctions	7	3	14	19	4	43
	total closure	4	5	2	2	2	13
	Total	46	28	61	75	36	246

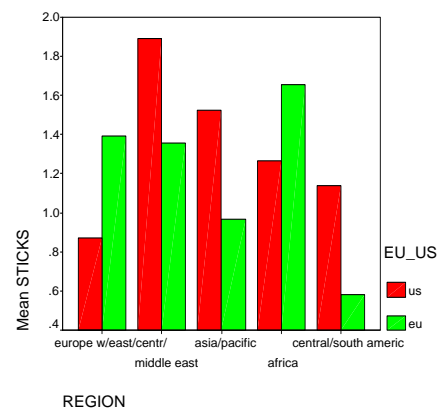


Table 6-4. E.U. and U.S. sanctions across regions.

Figure 6-5. E.U. and U.S. sanctions across regions.

A different way to measure this hypothesis is to compare pure distance in kilometers between the capitals of the target and the sender countries.<sup>272</sup> Are remote countries more easily and severely sanctioned than those who are geographically close? Table 6-5 below shows, indeed, that for both the E.U. and the U.S., nearby countries receive harsher punishments than those that are farther away. Chi-square confirms that distance matters.<sup>273</sup> During interviews with senior diplomats, it was a common contention that “when targets are close by, the Member States are more interested in them”.<sup>274</sup> The argument is however not credible, given the difficulty in isolating geographical distance from other (significant) factors such as conflict, trade importance or natural resources. Moreover, the credibility of the argument was challenged by the fact that distance was not significant in previous multivariate analyses.

<sup>271</sup> A Chi-square analysis shows that we can reject the hypothesis that the variables are independent, meaning that the chance to find this pattern if no relationship existed is smaller than 5%. At an alpha level of 0.001, and 15 degrees of freedom, Pearson's Chi-Square is 61.9 for the U.S. cases, and 59.1 for the E.U. cases whereas only a critical value of 32.8 is needed for the higher alpha level of 0.005.

<sup>272</sup> As was explained in Chapter 4, distance is divided into quartiles, which indicate the countries closer by and further away in 25 percentage points.

<sup>273</sup> Pearson's chi-square had a value of 41.518 and was highly significant. With 4 degrees of freedom a critical value of 13.28 is needed at an alpha level of 0.01.

	DIST Q							
	0-25%		26-50%		51-75%		76-100%	
	STICKS		STICKS		STICKS		STICKS	
	Count	%	Count	%	Count	%	Count	%
free trade	46	41.1%	53	46.9%	51	44.3%	42	36.8%
slight closure	22	19.6%	19	16.8%	23	20.0%	13	11.4%
substantial clo	16	14.3%	20	17.7%	11	9.6%	22	19.3%
smart sanctor	14	12.5%	18	15.9%	22	19.1%	32	28.1%
total closure	14	12.5%	3	2.7%	8	7.0%	5	4.4%
Total	112	100.0%	113	100.0%	115	100.0%	114	100.0%

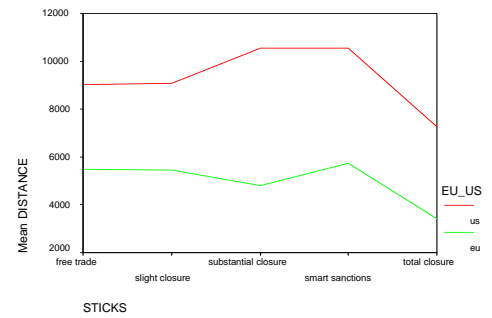


Table 6-5. Sanctions depending on geographical distance.

Figure 6-6. E.U. and U.S. sanctions depending on distance target.

We can conclude that of all the factors that indicate security importance, being an ally or an adversary is the only one that is significant for both the E.U. and the U.S. The additional bivariate tests fleshed out some further detail, but offered no more conclusive evidence. It did suggest slightly different threat perceptions across the E.U. and the U.S. Contrary to the U.S., for the E.U. the level of conflict and the possession of oil and/or bombs also had a significant –albeit weak- impact on its level of sanctions. Surprisingly, accusations of terrorism were of significance to neither.

### 6.1.2 Economic Interests

The multivariate analysis indicates that trade importance does not discourage the E.U. and the U.S. from levying sanctions. In fact, the higher the trade importance, the *higher* the probability that harsher sanctions will be imposed, with a slightly greater use by the E.U. (0.15) than by the U.S. (0.11). The Tobit method estimates an even stronger relationship, 0.22 for the E.U. and 0.17 for the U.S.). It is important to note that the really important trading partners of the E.U. and the U.S. are not in the sample. They apparently do not violate human rights to an extent that makes them targets for sanctions. One could say that the Neorealist hypothesis therefore becomes irrelevant.

Figure 6-7, shown below, indicates that although the U.S. is willing to impose harsher sanctions than the E.U., it hits the least important countries harsher than the E.U. does. In fact, the U.S. does not sanction the countries that are comparable to the upper 25% of trade importance to the E.U. at all, which is in sharp contrast to the E.U. This is an important finding that explains that sanctions often cost the E.U. much more than the U.S. The effort

<sup>274</sup> Interview record 24, 18 January 2000.

to co-ordinate and decide upon negative measures is thus more difficult in the E.U. than in the U.S., since there is on average a higher price tag attached to them. The more immediate neighbours of the E.U., that tend to be punished harsher if they violate human rights, are also more important trading partners.<sup>275</sup> The accusation of a large and important segment of the U.S. business community that the E.U.'s foreign policy is driven by mercantilist objectives to enter markets closed to U.S. investors may be partly true. The U.S. on average punishes countries (and thus its own investors) more severely than does the E.U. But Figure 6-7 indicates that the the E.U.'s 'softness' on sanctions is largely due to the fact that many of these markets are of relatively greater importance to the E.U. The U.S. does not interfere in markets of similar importance to its own investors either, as was confirmed by the survey conducted by the U.S. International Trade Commission (1998: 3-2/4). A final important finding is that, contrary to Neorealism, we see again that for both the E.U. and the U.S., countries of relative trade importance are still punished for human rights violations.

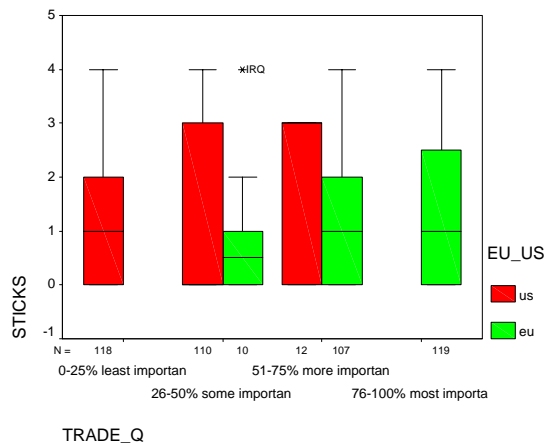


Figure 6--7. E.U. and U.S. sanctions depending on targets' trade importance (box plot).

While unimportant trading partners are often subject to relatively severe measures, it is also true that neither power shields important trading countries from negative measures -- especially not the E.U.

<sup>275</sup> Bivariate correlations between distance and trade show a highly significant coefficient of  $-0.226^{**}$ .

### 6.1.3 Institutions

The multivariate analysis shows that the U.N. has an equal impact on the probability that E.U. and U.S. sanctions will be tougher. This is not surprising since they are bound to impose the same type of sanction ordained by U.N. Security Council Resolutions. Time plays only a marginal role for both the E.U. (0.078\*\*) and the U.S. (0.051\*) in the OLS estimation. This means that as time goes by, sanctions have become only slightly more harsh. The Tobit estimation confirms this finding. We saw more evolution over time in E.U. perception and actions than in the U.S. This is in confirmation with Constructivist claims. The impact of the domestic level of institutionalization is estimated in more detail by the specific models in the next section.

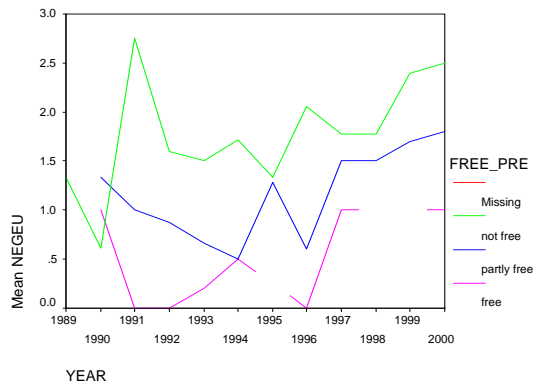
### 6.1.4 Liberal Norms

The multivariate analysis shows that dictators are more or less equally likely to be punished harder by both the E.U. (0.41\*\*) and the U.S. (0.38\*\*). Tobit estimates the effect of level of dictatorship to be higher for both, but especially for the U.S. (U.S.: 0.83\*\*, E.U.: 0.64\*\*). The fact that dictators are almost equally punished by both the E.U. and the U.S. confirms the hypothesis that Western Liberal Democracies will react similarly to human rights violations. Sudden infringements on human rights are much more likely to get a harsh reaction from the E.U. (0.29\* OLS, 0.48\* Tobit) than from the U.S. (insignificant).

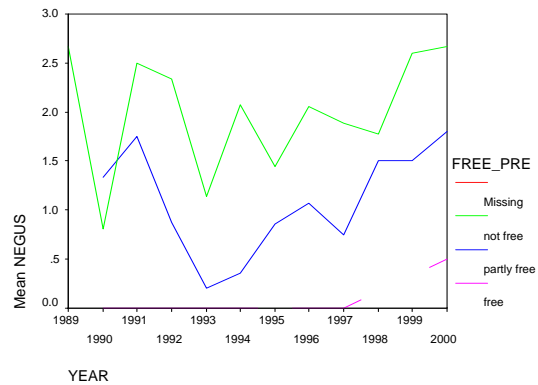
Liberalism –and also Constructivism- predicts similar levels of concern for human rights since both powers are liberal democracies. Figure 6-8 below shows a fairly similar pattern. Liberal countries get hit hardest by both the E.U. and the U.S. The E.U. seems to have been somewhat harsher and quicker in its reactions against human rights violations in partly free countries. As with its allies, and contrary to the U.S., the E.U. has not shied away from sanctioning ‘like minded’ countries.

Figure 6-8. Average E.U. and U.S. sanctions towards free, partly free and not free countries.

**E.U.**



**U.S.**



An additional way to test the Liberal hypothesis is to compare the means. On the basis of Table 6-6 we can confirm that the U.S. on average sanctions illiberal countries somewhat more severely than the E.U., while the E.U. sanctions partially free countries more but only very slightly so, and liberal countries considerably more than the U.S.

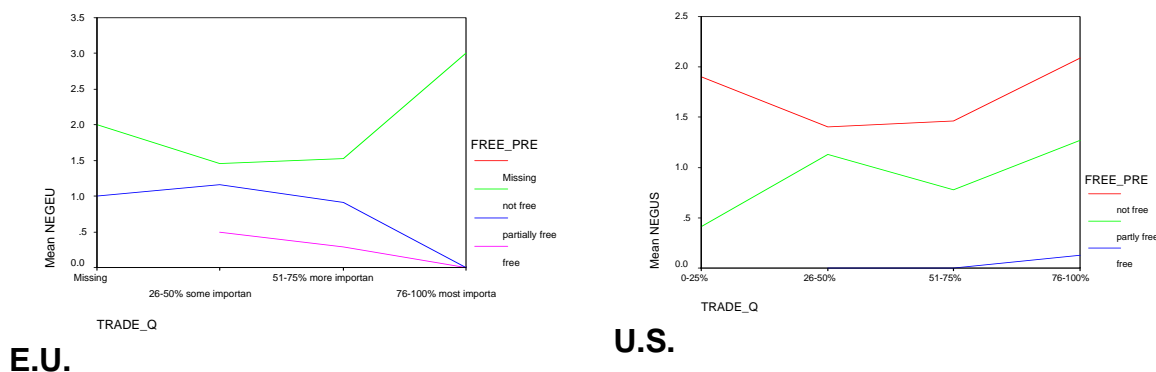
Table 6-6. Comparison of means E.U. and U.S. sanctions towards various regime types.

Liberalism	E.U. - mean	U.S. - mean	Total
Not free	1.58 (sd. 1.42)	1.75 (sd. 1.46)	133
Partially free	0.98 (sd. 1.06)	0.93 (sd. 1.17)	91
Free	0.33 (sd. 0.48)	0.05 (sd. 0.22)	21

Do human rights trump trade importance for either the E.U. or the U.S.? Do sanctions tend to be harsher as the human rights violations become more atrocious? The answer seems to be yes. Neorealism predicts that if trade importance goes up, the likelihood for sanctions goes down, despite human rights violations. Constructivism predicts that if human rights violations increase, the likelihood for sanctions to be imposed increases too, despite trade importance. What happens if a country is both of trade importance and a notorious human rights violator? Figure 6-9 below shows the average E.U. and U.S. reactions, as dependent on trade importance and degree of human rights violations. If we take the differences in scale into consideration (that are due to the fact that the U.S. on average sanctions imposes harsher sanctions) the Constructivist hypothesis seems to hold. The most notorious human rights violators are punished most severely by both, even (or rather especially) if they are important trading partners. As trade importance of partly free countries goes up, sanctions diminish in strength for the E.U., but still increase for the U.S. The U.S., thus, seems to be

tougher on partly free countries than the E.U. is, regardless their relative trade importance. Democracies that violate human rights are punished, but not if they are of high trade importance to the E.U. Liberal states are sanctioned considerably less than illiberal states by both powers.

Figure 6-9. E.U. and U.S. sanctions despite increasing trade importance.



Both the E.U. and the U.S. tend to react more strongly against adversaries violating human rights than against neutrals and their allies. We found little support for the other Neorealist hypotheses. We found slightly different American and European perceptions of what constitutes a threat or a security importance. Although the U.S. perception seemed relatively constant over time, the E.U. started to impose harsher sanctions towards the end of the nineties. Also, the E.U. tends to react stronger to countries in conflict, or unstable countries, than the U.S. does. This different perception of security interests confirms Constructivism rather than Neorealism. The E.U. is more willing to pay the economic price of sanctions than the U.S. is, despite often heard allegations to the contrary. In relative terms, the price tag for the E.U. to close its economic relations tends to be much higher than the price tag for the U.S.

The U.S. is willing to impose more severe measures than the E.U. but it also hits relatively unimportant countries harder than the E.U. does. Hence, the U.S. does not close its more important markets for its own investors either, despite often heard complaints. Still, in confirmation of Constructivism and Liberalism, dictators that violate human rights tend to be punished harsher than democracies, even if they are of trade importance. Hence, human rights violations do not go unanswered, even if economic importance would expect cynics to evoke not more than rhetoric. Partly free countries of trade importance are more likely to be

sanctioned softer, especially by the E.U., although a couple of free countries still get sanctioned. This confirms that human rights violations, if serious enough, trump trade importance, but less so if the violations are less appalling.

We have seen that the reasons behind the level of E.U. and U.S. sanctions in reaction to human rights violations are similar rather than different. Can it be that some specific motivations were not included in the models? To find out, I will next test models that include the impact of domestic institutions and special interest groups on E.U. and U.S. sanctioning behavior.

## **6.2 The Domestic Structures Argument: E.U. and U.S. Specifics**

Chapter three alluded to the fact that reactions to human rights violations may be influenced by domestic structures and the influence of special interest groups. Chapter four designed ways to measure the potential impact of such groups. The E.U. measure is a binomial variable indicating whether or not the target is a former colony or not. The U.S. measure is based on the size of its immigrant communities from the target country. Other differences may be found in the ways in which relationships with third countries are institutionalized and in the ideological denomination of the political party in power.

### *6.2.1 The European Union*

I will assess the specific traits of E.U. sanctions by looking at three variables: (1) the way in which it treats its former colonies compared to non-former colonies, (2) reactions to countries with special agreements compared to countries without such agreements, and (3) whether the dominant coalition of political parties in power across Europe has an impact on E.U. foreign policy. I also seek to assess whether and how E.U. foreign policy has developed over time. I will use both multivariate and bivariate statistical techniques to assess the various claims.

## 6.2.1.1 Protecting Former Colonies?

If we make the general model more specific to the E.U., we see in Table 6-7 indeed a slight improvement in the overall fit of the model, to a  $r^2$  of 0.51. Ten out of twelve variables are statistically significant at a 0.05 level or higher. Contrary to our original expectations, we found that the probability that colonies are punished more harshly in reaction to human rights violations is significantly higher rather than lower (0.28\*). Former colonies are, thus, in general not shielded from economic sanctions. Instead, they are more likely to be subject to more severe sanctions. Indeed, we see a drop in the strength of the coefficient of the variable dictatorship, compared to the general model. Former colonies tend to be less democratic than non-former colonies.<sup>276</sup> Thus, the fact that a country has a dictatorial regime, rather than a past colonial relationship with an E.U. country determines how the E.U. will react if human rights are violated.

Table 6-7. Multivariate Regression Analysis of Specific Sticks Model: E.U.

Source	SS	df	MS			
Model	169.740176	12	14.1450146	Number of obs = 213		
Residual	163.508651	200	.817543253	F( 12, 200) = 17.30		
Total	333.248826	212	1.57192843	Prob > F = 0.0000		
				R-squared = 0.5093		
				Adj R-squared = 0.4799		
				Root MSE = .90418		
negeu	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
ally	-1.086145	.2350484	-4.621	0.000	-1.549636	-.6226538
terroris	-.0505974	.187611	-0.270	0.788	-.4205468	.3193519
secur	-.4021495	.155969	-2.578	0.011	-.7097043	-.0945947
war	.0906287	.0446697	2.029	0.044	.0025447	.1787127
pop	.0007639	.000304	2.513	0.013	.0001644	.0013633
lntrade	.1511935	.0380712	3.971	0.000	.076121	.226266
year	.0857782	.022036	3.893	0.000	.0423255	.1292309
dictator	.3402355	.1108394	3.070	0.002	.1216718	.5587993
worse_hr	.2765664	.1610874	1.717	0.088	-.0410812	.5942139
un	1.351781	.2202646	6.137	0.000	.9174421	1.78612
col_biv	.2783811	.1374885	2.025	0.044	.0072681	.5494941
agreem	-.4310789	.1385913	-3.110	0.002	-.7043665	-.1577913
_cons	-168.287	43.91758	-3.832	0.000	-254.8879	-81.68611

Are former colonies treated similarly, or is this the moment to problematize the unitary actor assumption about the E.U.? Whereas decisions on the curtailing of development aid towards the African, Caribbean and Pacific countries are now taken by qualified majority, this has not always been so. Moreover, even then, Member States can appeal to their colleagues to soften or intensify the measures proposed by the European Commission.



The allegation that the French are more keen to shield their former colonies than others, and that the British are more disposed to punish their's, can be tested by introducing interaction terms (Table 6-9). French former colonies are just as likely to be punished as non former-colonies but rather less likely than non-British and non-French former colonies. British colonies are just as likely as non-colonies to be punished for human rights violations. French former colonies are subject to slightly harsher measures (with  $0.706-0.659=0.047$ ) on the sanctions scale compared to other former colonies. British former colonies are punished a bit more harshly than the French ones (with  $0.706-0.529=0.177$ ) on the sanctions scale. The difference in punishments compared to other former colonies is virtually zero. Cross correlation also suggests, however, that the French ( $-0.224^*$ ) are likely to be sanctioned with less intensity in general, while non-French former colonies ( $0.358^{**}$ ) or former colonies in general ( $0.146^*$ ) are likely to be sanctioned more. The common allegation that the French prefer silent diplomacy over biting measures, and still try to protect their former colonies more so than other former colonial powers, has thus found empirical support.

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<sup>276</sup> The correlation between colony and freedom is  $-0.248^{**}$  and highly significant. This is, however, far from being so strong as that we should conclude multi-collinearity.

Table 6-8. Are French and British former colonies sanctioned differently from the rest?

```

. regr negeu ally terroris secur war pop lntrade year dictator worse_hr un
col_biv agreem french brittish

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Source	SS	df	MS	Number of obs = 213		
Model	175.848931	14	12.5606379	F( 14, 198) = 15.80		
Residual	157.399895	198	.794948967	Prob > F = 0.0000		
Total	333.248826	212	1.57192843	R-squared = 0.5277		
				Adj R-squared = 0.4943		
				Root MSE = .8916		

negeu	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
ally	-1.144742	.2327582	-4.918	0.000	-1.603745	-.6857384
terroris	-.0442377	.1906079	-0.232	0.817	-.4201199	.3316445
secur	-.4151087	.1539157	-2.697	0.008	-.7186332	-.1115843
war	.0798542	.0442406	1.805	0.073	-.007389	.1670975
pop	.0007831	.0003021	2.592	0.010	.0001874	.0013788
lntrade	.1410576	.0377269	3.739	0.000	.0666595	.2154557
year	.0800653	.0218628	3.662	0.000	.0369515	.1231792
dictator	.3514917	.1105178	3.180	0.002	.1335486	.5694348
worse_hr	.3027471	.1592152	1.901	0.059	-.0112282	.6167223
un	1.156167	.2284012	5.062	0.000	.705756	1.606578
col_biv	.7069709	.2089269	3.384	0.001	.2949633	1.118978
agreem	-.4202053	.1367661	-3.072	0.002	-.6899105	-.1505002
french	-.6591232	.2531398	-2.604	0.010	-1.158319	-.1599272
brittish	-.529688	.2274369	-2.329	0.021	-.9781975	-.0811785
_cons	-156.7813	43.57691	-3.598	0.000	-242.7157	-70.8469

For the E.U., we see an opposite relationship in Table 6-9: former colonies are more likely to be sanctioned harshly, especially those that were not under French or British but others' rule.

Table 6-9. E.U. sanctions towards former colonies.

	COLONY							
	no former colony		french former colony		british former colony		other former colony	
	NEGEU		NEGEU		NEGEU		NEGEU	
	Count	%	Count	%	Count	%	Count	%
free trade	61	49.2%	16	45.7%	20	35.1%	5	16.7%
slight closure	24	19.4%	8	22.9%	16	28.1%	3	10.0%
substantial closure	16	12.9%	9	25.7%	7	12.3%	5	16.7%
smart sanctions	16	12.9%			13	22.8%	14	46.7%
total closure	7	5.6%	2	5.7%	1	1.8%	3	10.0%
Total	124	100.0%	35	100.0%	57	100.0%	30	100.0%

In the E.U., we see differences across former colonizers. The political system of the E.U. makes it more difficult to lobby, since both the national capitals as well as the E.U. institutions could in principle be approached. In the case of ethnic groups, it seems to go mainly through the national capitals. The former French protectorate is still relatively shielded from negative measures, despite human rights violations, especially between 1995

and 1998.<sup>277</sup> During that period the British former colonies were punished more severely.<sup>278</sup> Countries that have been occupied by others than the British or French, were hit most severely, and were thus apparently relatively undefended in the Council by their former colonizers. Yet, cross correlations between sanctions and former British (0.016) and former French (-0.086) colonies were not significant. The bivariate correlation of negative measures with 'colony' is 0.140\* and non-British/non-French former colonies 0.284\*\*.

Figure 6-10. Some E.U. Member States protect, others punish their former colonies.

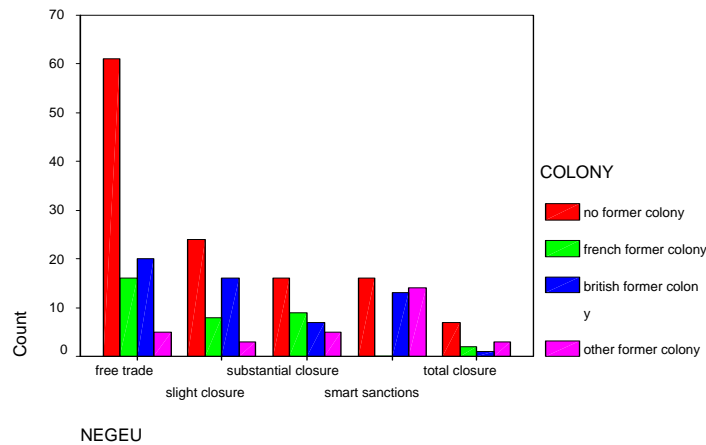


Figure 6-11 below compares the average level of sanctions across former colonizers. It demonstrates the striking efforts that France and, to a lesser extent, the British make to protect their former colonies from harsh sanctions compared to other former colonial powers (Belgium, the Netherlands and Portugal).

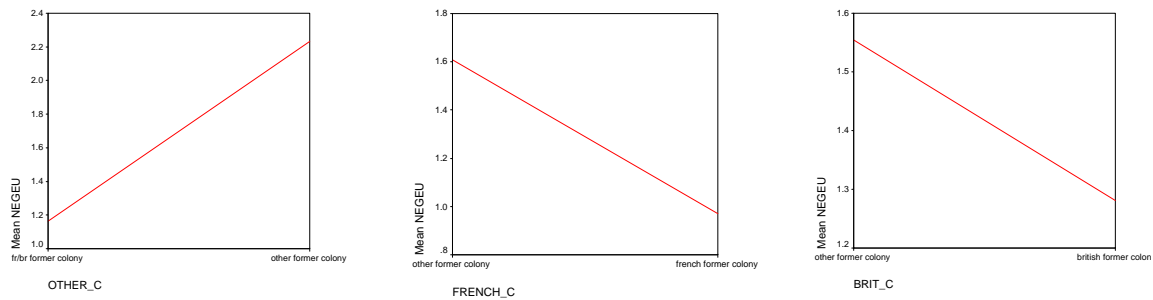


Figure 6-11. Average level of sanctions against former colonies compared.

<sup>277</sup> Various interviews confirm this. Among others, interview record 1, 17/01/00, Interview record 35, 17/02/00, Interview record 8, 14/01/00. Interview record 10, 14/01/00. Interview record 67, 23/12/99. There are also cases in which France was more active: interview record 4, 14/02/00, Interview record 21, 6/12/99.

<sup>278</sup> Confirmed by interviews: record 6, 22/3/00. Interview record 11, 16/12/99. Interview record 12, 22/3/00. Interview record 33, 28/01/00.

A possible explanation for the difference in treatment is that former colonies tend to have higher levels of human rights violations than non-former colonies (cross correlation coefficient is  $-0.25^{**}$ ). The relationship between colonies and level of sanctions could thus be spurious. We see in table 6-10, that among the former colonies, the former French colonies actually on average score the worst on the scale of freedom.

Table 6-10. Comparison of average level of freedom across former colonies.

	Level of	Freedom	
<i>Target</i>	<i>mean</i>	<i>number</i>	<i>Stand. dev.</i>
No former colony	0.70	124	0.71
Former colony	0.38	121	0.54
French former col.	0.24	34	0.43
British former col.	0.44	57	0.57
Other former col.	0.43	30	0.57

### 6.2.1.2 Institutionalization of Relations with Third Countries

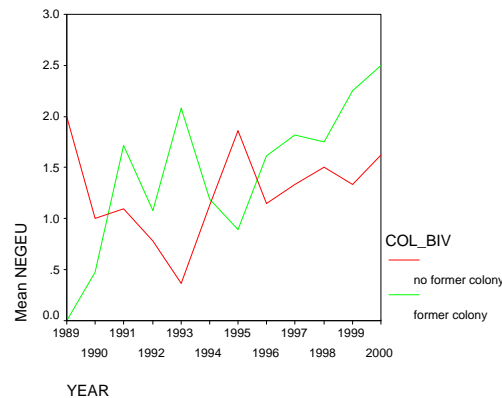
Special interests apparently do not have the same influence in the E.U. and the U.S.. Figure 6-12 reveals that, on average, former colonies get harder punishments than do countries that never had a colonial relationship with any of the E.U. member states.<sup>279</sup> The peak in 1995 against a non-former colony is caused by the strong sanctions against the Former Republic of Yugoslavia. Similarly, we see in Figure 6-15 that countries with large immigrant populations currently living in the U.S. are sanctioned more severely than countries with no one lobbying for or against them in Congress (also apart from the year 1995). The U.S. peak in negative measures in 1998 against a country with a large group of immigrants currently living in the U.S. is caused by changes in legislation towards Cuba.<sup>280</sup> The peak in 1991 is caused by the measures against China.<sup>281</sup> These are both countries with particularly large immigrant communities in the U.S.

<sup>279</sup> The E.U. peak in negative measures in 1993 is partly caused by the sanctions against former French colony Haiti. U.N. Resolution 841 of 16 June 1993 imposed an arms and oil embargo, froze foreign assets, and set up a Security Council sanctions committee. The embargo was suspended on 27 August 1993 by Resolution 861 and then re-imposed on 18 October 1993 by Resolution 873 of 13 October. Official Journal No L155 p. 2, 1993/06/26, Council Regulations (EEC) No 1608/93 of 24 June 1993 introducing an embargo concerning certain trade between the European Economic Community and Haiti.

<sup>280</sup> See code book for exact references. As of March 20, 1998, the Regulations have been amended to authorize U.S. persons to send remittances of up to \$300 for the support of a close relative's household in Cuba in any consecutive three month period. Direct passenger charter flights between the U.S. and Havana are also being permitted as is the licensing of travel transactions for sales representatives from pharmaceutical and medical companies in connection with permitted sales of health care products to Cuba. (OFAC Regulations for the Financial Community, Department of the Treasury, August 19, 1999, page 5).

<sup>281</sup> See code book for exact references. <http://www.iie.com/FOCUS/SANCTION/china1.htm#chron>. On 10 July 1991, The U.S. House of Representatives votes 313 to 112 to renew China's MFN status, but imposes stiff conditions on further renewal if the human rights situation there does not improve. The U.S. Senate votes 55 to 44 to extend MFN status for one year but also link further renewal to progress in human rights and weapons proliferation. (Asia Society 1992, 149, 150; Washington Post, 24 July 1991, A1). Negative measures were coded 3 since arms embargo maintained, although Eximbank loans were resumed.

Figure 6-12. Does the E.U. caress its former colonies?

**E.U.**

We thus saw that immigrant communities or former colonies can have an impact on E.U. and U.S. reactions to human rights violations. What explains the difference in impact of such special relations with third countries in the E.U. and the U.S.? Chapter two hypothesized that it may depend on the ways in which their potential influence channels are institutionalized:

- Since the E.U. has institutionalized its relations with African, Caribbean and Pacific states to a further extent than the U.S. has, the E.U. is likely to impose a lower level of sanctions towards these countries than the 'unbounded' U.S..
- The more foreign economic relations become institutionalized by formal agreements, the less likely it is that sanctions will be imposed, since the target is granted a certain degree of legal certainty.

The E.U. and U.S. have different ways of institutionalising their relationships with third countries, as we saw in Chapter three. Institutionalization is not an easy phenomenon to measure, so we need to look for proxies. The main agreements for the E.U. that incorporated a human rights clause are the Europe Agreements, the Lomé/Cotonou Agreements, the Meda Agreements, the Phare and Tacis programs, and of course membership of the E.U.

We did find support for the assertion that the E.U. tends to impose a lower level of sanctions on countries with whom it has a special agreement. Agreements including a clause indicating the respect for human rights and democratic principles are considered to be among the essential elements of the agreement were coded with a 1, 0 otherwise. In confirmation of the Institutionalists hypothesis, we found a strong (-0.43\*\*) relationship

between level of institutionalization and the level of sanctions. The tighter the external relationship between the E.U. and a third country is institutionalized, the lower the probability that harsh sanctions are imposed.

Table 6-11 below shows the number and type of sanctions against countries with and without such agreements. We see that half of the countries with an agreement experienced some type of sanction against them imposed by the E.U. The human rights clause is thus more than rhetoric. On the other hand, the chi-square statistic confirms that countries with an agreement tend to be sanctioned in a softer manner than those without an agreement.<sup>282</sup> Of all total embargoes, 15% had an agreement with the E.U.. Of all smart sanctions this percentage was 35%, while only 6% of substantial closures and 5% of slight closures had an agreement.

Institutionalization of foreign policy measures indicates a large role for the Legislature. The data suggest that when the EP has a say in E.U. sanctions, the measures imposed are softer, than when the Council decides alone. In the U.S., this is just the other way around. Congress on average has so far legislated harsher measures than the President was usually prepared to take. In the E.U. this seems to have less to do with the EP being softer on human rights than the Council, than with the fact that the harshest measures within the EP competence are still relatively weak.

	AGREEM			
	no agreement		agreement	
	NEGEU		NEGEU	
	Count	%	Count	%
free trade	41	33.1%	61	50.0%
slight closure	28	22.6%	23	18.9%
substantial closure	16	12.9%	21	17.2%
smart sanctions	28	22.6%	15	12.3%
total closure	11	8.9%	2	1.6%
Total	124	100.0%	122	100.0%

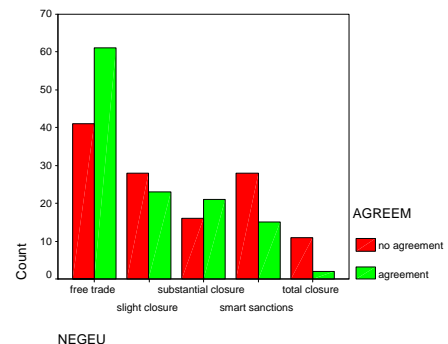


Table 6-11. Is the E.U. less likely to impose sanctions against countries with agreements?

Figure 6-13. E.U. reactions against countries with agreements.

<sup>282</sup> Pearson's chi-square has a value of 15.23 with 4 degrees of freedom and an alpha level of 0.01 only a critical value of 13.28 is needed to reject the null-hypothesis.

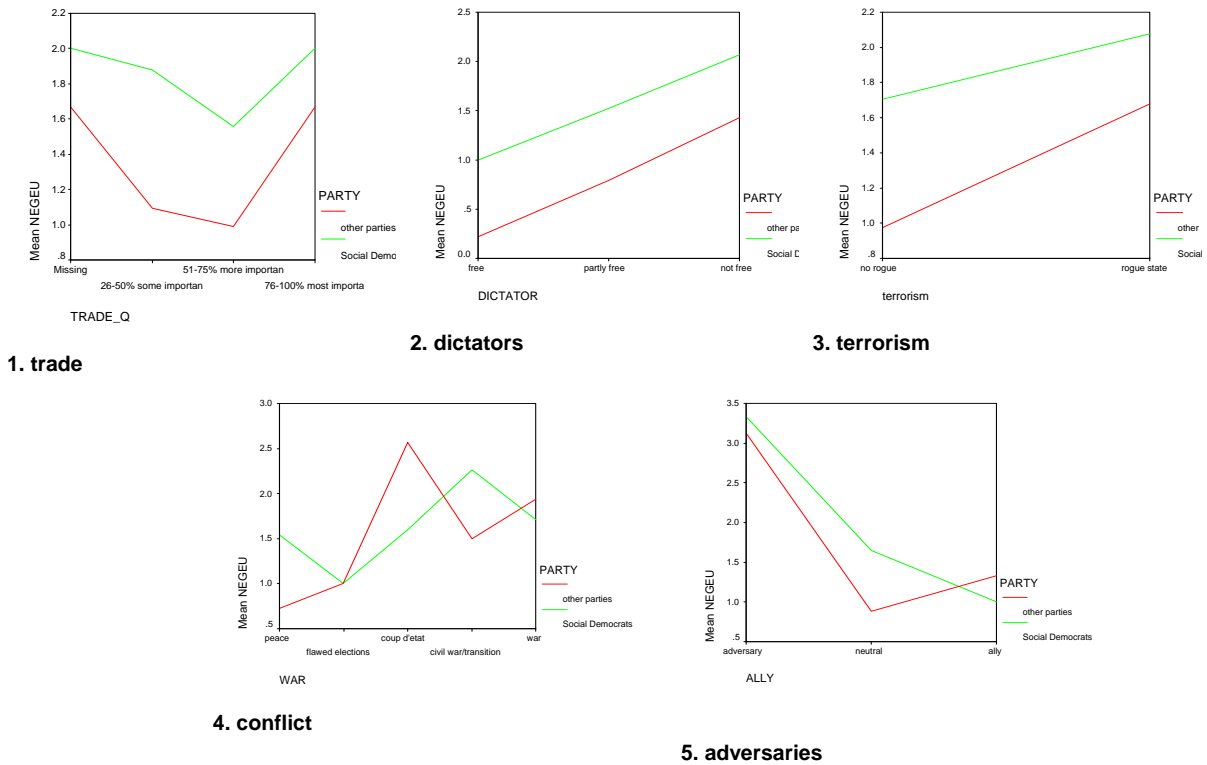
### 6.2.1.3 “Third Way” Politicians: Tougher on Human Rights?

A final determinant of foreign policy reactions to human rights violations may be situated more at the Member State level than at the E.U. level. Whereas in the U.S. we can simply look at the party allegiance of the President or the party in control of Congress, it is difficult to find a comparable measure for the E.U.. Given the large number of parties and its limited say, it would not make much sense to look at the majority in the European Parliament. As a proxy for the impact of party politics, we could however look at the political composition of the Council of Ministers.

The political dominance of Social Democratic Parties in Europe in the late nineties was a change from the early nineties, when Christian Democrats ruled in many countries. With the election of Tony Blair of the Labour party in the UK and Lionel Jospin of the *Partie Socialiste* (PS) in France in 1997 and Gerhard Schroeder of the *Social Demokratische Partei* (SDP) and Massimo d’Alema of the former communist party in Italy in 1998 the heads of the four biggest states in the E.U. identified themselves with the ‘third way’. Social Democrats also held the majorities in the Legislatures and governments of various smaller E.U. Member States. Figure 6-14 compares the stance of the ‘third way’ politicians to other parties on trade, dictators, terrorism, conflict and adversaries.

Figure 6-14 suggests that the leaders of the ‘third way’ have on average been reacting much stronger against human rights violations than in previous times. This assertion holds for countries of relative trade importance, dictatorial regimes, terrorist states, adversaries, and countries in conflict (except for reactions to coup d’etats). Since these parties were in power to determine E.U. foreign policy for much of the mid and late nineties, we can also conclude that E.U. foreign policy matured over this same period of time.

Figure 6-14. Party Politics in the majority of E.U. Member States



Although the correlation between European party politics and negative measures is positive and highly significant (0.231\*\*), apart from the attitude towards conflict (0.161\*), the other differences are not significant.<sup>283</sup> The problem is that there may just have been more wars in the late nineties than in the early nineties, or higher degrees of human rights violations. The same goes for the impact of time. Was it party politics, the development of institutional mechanisms or something else that caused the stronger reactions to human rights violations? Bivariate techniques do not allow us to confirm with great confidence that party politics matter.

<sup>283</sup> Party was coded 1 if 'third wave', 0 otherwise. The cross correlation of 'party' with ally was 0.021, trade 0.029, conflict 0.161\*, dictator 0.029. In the multivariate model it is not significant once year is also included in the model (0.145), but strongly so if year is not included (0.555\*\*). The multi-collinearity between year and party politics is too high to included both in the same model (0.772\*\*).



### 6.2.2 The United States of America

For the U.S., a similar investigation into the impact of special interests, the institutionalization of relations with third countries and the impact of party politics is conducted.

#### 6.2.2.1 The Helping Hand of Hyphenated-Americans?

As a particular immigrant community in the U.S. becomes larger, we can assume that their electoral importance and lobby efforts intensify. Since many of these immigrants are political refugees one could expect a lobby effort to punish the political leaders of their countries of origin. The data show the contrary. Table 6-15 below shows that in America, as an immigrant population from one country grows, the likelihood of harsh sanctions against their home country becomes smaller.<sup>284</sup>

	0-100		101-200		201-300		301-402		>402	
	NEGUS		NEGUS		NEGUS		NEGUS		NEGUS	
	Count	%	Count	%	Count	%	Count	%	Count	%
free trade	101	49.5%	2	9.5%	4	66.7%	3	25.0%	2	66.7%
slight closure	27	13.2%	4	19.0%	1	16.7%			1	33.3%
substantial c	30	14.7%	3	14.3%			2	16.7%		
smart sanction	33	16.2%	7	33.3%	1	16.7%	7	58.3%		
total closure	13	6.4%	5	23.8%						
Total	204	100.0%	21	100.0%	6	100.0%	12	100.0%	3	100.0%

Table 6-12. The helping hand of hyphenated Americans?

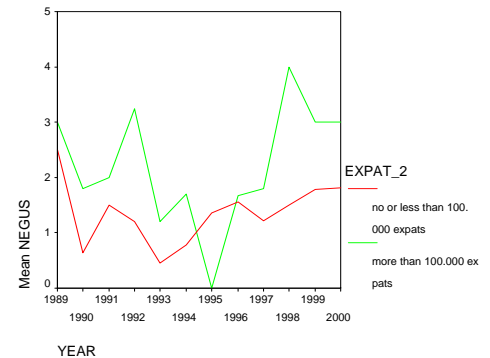


Figure 6-15. Impact of immigrant groups on U.S. sanctions.

Note: Expats in U.S. were divided in categories less (0) or more (1) than 100,000. Basic appearance of the graph does not change if expats is divided in less (0) or more (1) than 200,000.

This surprising result was not confirmed by the multivariate regression analysis (the relationship was very weak and not significant).  $R^2$ s remained the same in this specified model (0.53), which means that controlling for the impact of special interest groups has no additional explanatory impact compared to the general model.

<sup>284</sup> Remember that 'expats' were measured in 20% slices. The first 20% of Ethnic-American groups were smallest, the highest 20% largest in size.

Table 6-13. Multivariate Regression Analysis of Specific Sticks Model: U.S.

. regr negus ally terroris secur war pop lntrade year dictator worse_hr un expats institut						
Source	SS	df	MS	Number of obs = 210		
Model	192.999606	12	16.0833005	F( 12, 197) = 18.76		
Residual	168.924204	197	.857483267	Prob > F = 0.0000		
Total	361.92381	209	1.73169287	R-squared = 0.5333		
				Adj R-squared = 0.5048		
				Root MSE = .926		
negus	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
ally	-1.170907	.2192351	-5.341	0.000	-1.603256	-.7385581
terroris	.7868996	.4398137	1.789	0.075	-.0804477	1.654247
secur	-.0034416	.1626295	-0.021	0.983	-.3241599	.3172767
war	.0377306	.0478478	0.789	0.431	-.0566291	.1320903
pop	.0009066	.0003376	2.685	0.008	.0002408	.0015724
lntrade	.1052083	.0340416	3.091	0.002	.0380756	.1723411
year	.0477139	.0234167	2.038	0.043	.0015343	.0938935
dictator	.3365522	.1205248	2.792	0.006	.0988678	.5742366
worse_hr	.0947562	.1697252	0.558	0.577	-.2399553	.4294676
un	1.47562	.2313771	6.378	0.000	1.019326	1.931914
expats	.0006182	.0003989	1.550	0.123	-.0001686	.0014049
institut	-.522427	.3899755	-1.340	0.182	-1.29149	.2466355
_cons	-91.6612	46.63504	-1.966	0.051	-183.6292	.3067854

### 6.2.2.2 Institutionalization of Relations with Third Countries

The Institutionalist hypothesis suggests that the more a foreign policy reaction to a particular behavior in a third country is institutionalized, the less likely it is that additional measures will be imposed. The reasoning is that the target is granted a certain degree of certainty with regard to what reaction it can expect if it behaves in a certain way. This was not confirmed by the multivariate regression analysis. The relationship was not significant. Congress has typically legislated strong sanctions in reaction to countries that are certified to support terrorism. Not surprisingly, the variable 'level of institutionalization' shows high multicollinearity with the variable terrorism:  $0.887^{**}$ .<sup>285</sup> Human rights violators, coup d'états or nuclear testing should automatically trigger sanctions according to the legislation. These variables show a significant but not very strong correlation with the variable institutionalization, meaning that an increase in human rights violations, war or nuclear testing triggers a relatively low level of sanctions.<sup>286</sup> We seem to be in need of a better measure of institutionalization for the U.S..

<sup>285</sup> Indeed, both significance and strength of the variable terrorism increased compared to the general model. If only the variable 'institut' was included in the model, and 'terrorism' was excluded, the impact of the level of institutionalization on the level of sanctions was not significant nor strong. A cross correlation between institutionalization and sanctions showed, on the other hand, a significant coefficient of  $0.365^{**}$ .

<sup>286</sup> Cross correlation between 'institut' and security was  $0.148^*$ , dictator  $0.135^*$ , terrorism  $0.887^{**}$ , war  $0.42$ .

Since the variables used to test the hypotheses on the level of institutionalization and the impact of special interest groups were measured in different ways for the E.U. and the U.S., we cannot quantitatively estimate whether the E.U. and the U.S. are significantly different in this respect or not. The impression articulated in Chapter 3, that Congress institutionalizes harsher sanctions than the EP, seems plausible. Differences in domestic structure that allow U.S. Congress more say than the E.U. legislature seem the most obvious explanation for this finding. Bivariate analysis may be helpful here.

For the U.S., the institutionalised sanctions that can be automatically triggered are directed at countries suspected of supporting terrorism, tolerating drug trafficking, or testing nuclear bombs. Countries that violate labour rights would also be automatically hit by sanctions, according to the law.<sup>287</sup> A new variable was created (labeled 'institut') that coded the various countries that fell into these categories over the years as a 1, and those who did not as a 0. We see in Table 6-14 that 80% of the countries found supporting the above-mentioned activities faced some type of sanction. The chi-square statistics confirm the existence of a relationship.<sup>288</sup> As the level of institutionalisation goes up, the level of sanctions goes up as well. Judging from the numbers below, it thus seems that the U.S. Congress tends to institutionalise harsher sanctions, whereas the E.U. typically institutionalises softer sanctions.

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<sup>287</sup> Andean Trade Preference Act, as amended, Pub.L. 102-182, Title II, §§ 202-203, 105 Stat. 1236 (December 4, 1991), 19 U.S.C.A. §§ 3201-3202 (West 1980 & Supp. 1996). Only the Andean countries were coded in this category: Bolivia 1993 and 1991, Peru 1992 and 1993. Problem with the general legislation is that in theory any country can be coded as a 1, but since no specific agreements were signed between the parties, they were not coded as institutionalized. The special agreements with Ethiopia, Somalia and Sudan were also coded as institutionalized. Nato allies were not included, since nothing in that agreement contains a provision on respect for human rights and democracy. Countries that are on the 'certification list' of the U.S. were coded as institutionalized, since, even as there is no specific agreement between them and the U.S., the legislation is specific enough to capture only those countries on the list.

<sup>288</sup> Pearson's chi-square is 55.76 at 4 degrees of freedom. At an alpha level of 0.01 only a critical value of 13.28 is needed in order to reject the null-hypothesis.

	INSTITUT			
	not institutionalized		institutionalized	
	NEGUS		NEGUS	
	Count	%	Count	%
free trade	102	52.3%	10	19.6%
slight closure	30	15.4%	3	5.9%
substantial closure	21	10.8%	14	27.5%
smart sanctions	38	19.5%	10	19.6%
total closure	4	2.1%	14	27.5%
Total	195	100.0%	51	100.0%

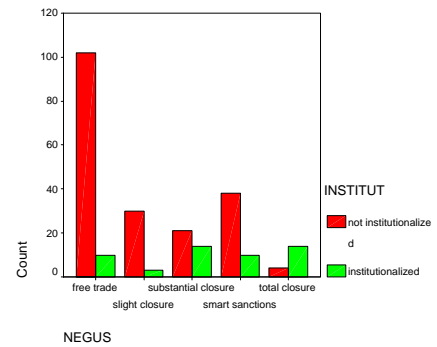


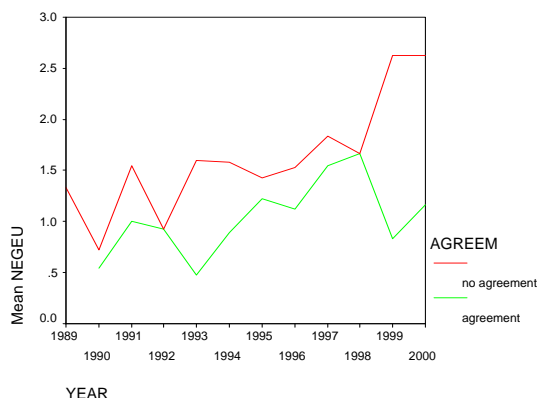
Table 6-14. Does institutionalisation have an impact on the level of U.S. sanctions?

Figure 6-16. Impact of institutionalization on U.S. sanctions.

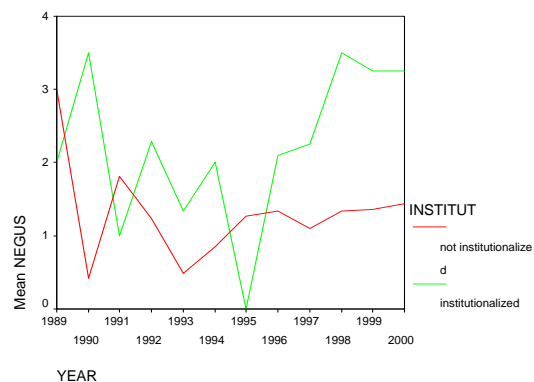
Figure 6-17 below confirms the Institutional hypothesis for the E.U., but not for the U.S.. On the one hand, we see that countries with institutionalised agreements with the E.U. score consistently under those without agreements for the E.U., while this is exactly the other way around for countries engaged by the U.S. We also see that the institutionalised sanctions are tougher in the U.S. than in the E.U. On the other hand, it is true that the institutionalisation of relationships went up over time in the E.U., as is shown in the graph. But it is not true that the intensity of sanctions diminished over that period of time. Contrary to what some authors allege, countries that violate human rights are still sanctioned, despite agreements with the sender country.<sup>289</sup> For the U.S., we can make a similar assertion: it does not only sanction countries that fall within the margins of its legislation, but is prepared to sanction for other reasons as well.

Figure 6-17. Average E.U. and U.S. measures towards countries with institutionalized relations.

**E.U.**



**U.S.**



<sup>289</sup> David Forsythe (2000: 209) writes that “Washington’s trade statutes include language that allows trade to be made conditional on human rights behavior. But as in E.U. relations with non-European trade partners, this conditionality is rarely if ever invoked in practice”.

The multivariate analysis did not confirm that institutionalization matters in explaining the different reactions of the E.U. and the U.S.. Still, the bivariate analysis shows more detail about the relationship. In the U.S., institutionalization leads to harsher sanctions while, in the E.U. it leads to softer sanctions. We have to keep in mind the difficulty we had in measuring the level of institutionalization in a quantitative way. The domestic structures argument seems to explain the different ways in which the level of institutionalization works for the E.U. and the U.S.: the two legislatures have different powers in setting the reactions to human rights violations.

### 6.2.2.3 “Coddling Dictators”: Bush or Clinton?

A last explanatory variable pointing to the impact of domestic structures is party politics. Does it matter whether the U.S. is led by a Republican or a Democratic President? Under which conditions are their different ideas on foreign policy translated into different reactions to human rights violations? Traditionally, the Republican party tends to be more isolationist than the Democratic party. Whereas under Clinton a large number of sanctions was imposed, Bush jr. had promised to “simplify and reduce America’s use of sanctions” before he became president. So far, he has yet to put his words into action.<sup>290</sup>

During the period 1989-2000 the U.S. had two Presidents, George Bush senior (Republican 1989-1993) and Bill Clinton (Democratic 1993-2001). The variable for the party identity of the President is not significantly correlated with economic sanctions.<sup>291</sup> Cross correlation also indicates that the differences in Presidency did not have a significant impact on the level of sanctions imposed.<sup>292</sup> Whereas the level of human rights violations significantly mattered in general terms, whether there was a Republican or Democratic president in power did not, despite election rhetoric.

Nonetheless, to give some insight in the ways in which the foreign policies of Republican and Democratic Presidents can differ, I conducted a series of bivariate tests to see whether they had a different attitude towards human rights violators, depending on (1) trade importance, (2) regime-type, (3) terrorism, (4) conflict and (5) alliances. The results are shown in graphs 1-5 in Figure 6-18 below.

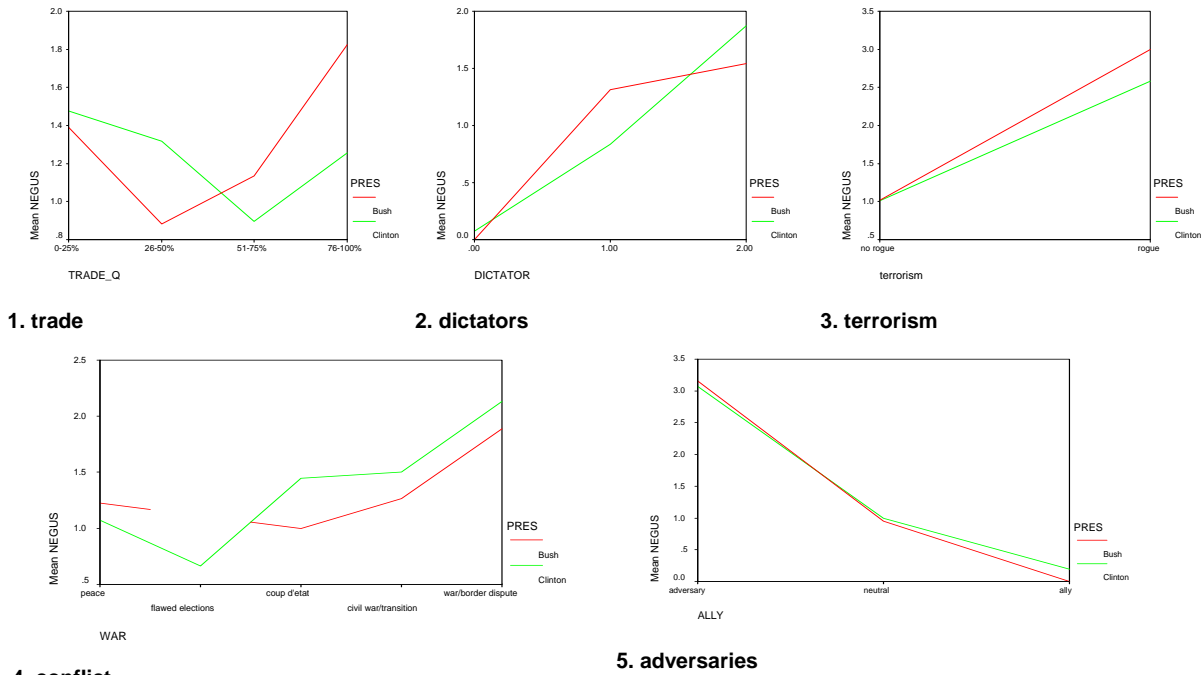
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<sup>290</sup> The Economist, 18 July 2001, “Unsanctioned”.

<sup>291</sup> The correlation is  $-0.03$ . It is not significant and extremely weak. If included in the multivariate regression analysis it is only not significant (coefficient  $-0.17$ ), unless also the variable year is included, but the multi-collinearity between the two variables is too strong to add them in one and the same model ( $-0.757^{**}$ )

<sup>292</sup> The variable ‘President’ was coded 0 if Bush and 1 if Clinton. Hence, if the relationship is negative, it means the probability and level of sanctions imposed by the Clinton Administration were lower. Cross correlations with President and ally was 0.04, trade 0.011, war 0.042, dictator  $-0.078$ . The cross correlation between President and level of sanctions was also not significant:  $-0.003$ .

Figure 6-18. Do U.S. party politics matter for human rights?



The graphs in Figure 6-18 suggest that the Bush Administration was *more* willing than the Clinton Administration to impose sanctions on countries that are of relative economic importance. Ironically, during the election year Clinton had accused Bush of ‘coddling dictators’, especially because of Bush’ China policy.<sup>293</sup> In the subsequent years, however, Clinton was under huge pressure to change his initial tough stance, and by 1994 he announced his decision to stop making MFN status for China contingent on its human rights conditions.<sup>294</sup> The graphs indicate that Clinton was somewhat harsher on dictators than Bush was, while Bush was somewhat harsher on partially free countries. Bush was also lightly tougher on rogue states. This may signal the change in paradigm under Clinton, who by the end of his tenure departed from the term ‘rogue’ and somewhat changed the U.S. stances towards Iran, Libya, Cuba and North Korea. Clinton reacted more strongly to countries involved in conflict. Both the Republican and the Democratic administrations had the same attitude towards allies, neutrals and adversaries.

<sup>293</sup> On 24 May 1990 Bush renewed China’s MFN status, arguing that “by maintaining our involvement with China we will continue to promote the reforms for which the victims of Tiananmen gave their lives.” (Washington Post, 25 May 1990, A1; 29 May 1990, A18). In March 1992 President Bush vetoed Senate and House legislation introduced in 1991 that requires China to improve human rights policies and curb exports of nuclear and missile technology in order to qualify for MFN treatment. The House of Representatives voted 357 to 61 to override President Bush’s veto of conditional MFN renewal Legislation, but the U.S. Senate fell six votes short of the needed two thirds majority. (Asia Society 1992, 161, 162).

<sup>294</sup> In May 1994 President Clinton announced his decision to delink China’s most-favored-nation status from its near-term human Rights performance. See Federal News Service MARCH 16, 1995.

### 6.3 The Carrots Model

The likelihood and level of positive measures imposed will be tested through the carrots scale, as well as through a comparison of E.U. and U.S. aid levels to human rights violators. The overall fit of the carrots model presented in Table 6-15 (E.U.) and Table 6-16 (U.S.) is not very good:  $r^2$  for the E.U. data is 0.23 and for the U.S. data 0.14. The only relationships that are significant in the model as estimated for the U.S. data are population size and the size of expatriate groups. Both relationships have a very weak impact on the level of carrots. None of the other variables, whether they are security related variables, human rights norms-related variables or economic need variables seem to impact the U.S. decision on what kind of incentives to impose. The poorer fit of the carrots model to the U.S. data may simply reflect the fact that there is less variation in how the U.S. uses carrots. The Tobit estimation does not return different results (Table 6-28 U.S., Table 6-29 E.U.). Alternatively, the U.S. uses different types of positive measures, such as military assistance, that were not included in the model. The poor fit indicates that the model is underspecified, although most possible explanations for the imposition of carrots for either the E.U. or the U.S. are included. Another explanation for the poor fit could be that the measurements of the variables may simply not capture the hypotheses well enough.

Table 6-15. Multivariate Regression Analysis of Carrots Model: E.U.

Source	SS	df	MS			
Model	59.1245342	11	5.37495766	Number of obs =	193	
Residual	193.248523	181	1.0676714	F( 11, 181) =	5.03	
Total	252.373057	192	1.31444301	Prob > F =	0.0000	
				R-squared =	0.2343	
				Adj R-squared =	0.1877	
				Root MSE =	1.0333	

poseu	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
ally	.4399512	.3127066	1.407	0.161	-.1770681	1.05697
terroris	-.2941467	.2531864	-1.162	0.247	-.7937233	.2054299
secur	-.2334696	.1864424	-1.252	0.212	-.6013498	.1344106
war	-.1446787	.0539523	-2.682	0.008	-.2511351	-.0382222
pop	-.0013056	.0003796	-3.439	0.001	-.0020547	-.0005565
lntrade	.1017258	.052512	1.937	0.054	-.0018886	.2053402
lngnppc	-.2759853	.0913607	-3.021	0.003	-.4562543	-.0957162
year	.0951367	.0265975	3.577	0.000	.0426557	.1476178
dictator	-.3300351	.1303682	-2.532	0.012	-.587272	-.0727982
impro hr	.0441922	.2207449	0.200	0.842	-.391372	.4797565
col_biv	.2544641	.1795318	1.417	0.158	-.0997804	.6087086
_cons	-186.0236	52.98948	-3.511	0.001	-290.5801	-81.467

Table 6-16. Multivariate Regression Analysis of Carrots Model: U.S.

```

. regr posus ally terroris secur war pop lntrade lngnppc year dictator impro
> _hr expats

```

Source	SS	df	MS			
Model	15.8663366	11	1.44239423	Number of obs =	190	
Residual	100.74419	178	.565978594	F( 11, 178) =	2.55	
Total	116.610526	189	.616986912	Prob > F =	0.0051	
				R-squared =	0.1361	
				Adj R-squared =	0.0827	
				Root MSE =	.75232	

posus	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
ally	.1230165	.1923157	0.640	0.523	-.2564957	.5025286
terroris	.3257194	.2033123	1.602	0.111	-.0754931	.7269319
secur	-.1697659	.1440112	-1.179	0.240	-.4539549	.1144231
war	.0301903	.0413733	0.730	0.467	-.0514549	.1118355
pop	.0005822	.0002888	2.016	0.045	.0000123	.0011521
lntrade	.0246727	.0330336	0.747	0.456	-.0405152	.0898606
lngnppc	-.0365679	.0610018	-0.599	0.550	-.1569478	.0838119
year	.0107393	.0204643	0.525	0.600	-.0296445	.0511232
dictator	-.1026907	.0998275	-1.029	0.305	-.2996884	.0943069
impro_hr	.0187155	.1554209	0.120	0.904	-.287989	.3254201
expats	.0005461	.0002793	1.956	0.052	-4.99e-06	.0010972
_cons	-20.76514	40.7115	-0.510	0.611	-101.1044	59.57415

I will discuss the theoretical implications of the empirical findings for the E.U. and the U.S. together.

### Security Importance

The Neorealist variables allies, terrorism, and security are not significant for the E.U. or for the U.S. This means that none of these factors play a role of importance for decisions on the granting of incentives.

- The more populous a country is, the less likely it will receive inducements, yet the inducements only very marginally diminish as population grows. If population is a good proxy for security importance, this finding can be seen as refuting Neorealism. This effect may however be caused by India and China, which are outliers. Highly populated countries have a slightly lower chance to be rewarded generously by the E.U. (the difference is significant, see Table 6-17).
- We see a significant difference in E.U. and U.S. reactions to countries in conflict (see Table 6-17). Whereas level of conflict does not impact U.S. positive measures, the more a country is involved in some type of conflict, the smaller the probability that it will receive substantial inducement from the E.U.. A Tobit estimation further supports this finding. If we interpret war and instability in Neorealist terms as a threat, this finding confirms Neorealism. If, on the other hand, we interpret war as a situation in which



human rights and international norms are violated, this finding confirms Constructivism.

- Need is significantly more important to the E.U. than to the U.S. in deciding on carrots (see table 6-17). Richer countries are less likely to receive big carrots, while poor countries get more E.U. support as their need increases (E.U. coefficient  $-0.28^*$ , U.S. coefficient  $-0.037$ ). The Tobit estimation strengthens this finding even more (E.U. coefficient  $-0.68^*$ ).
- The E.U. also tends to provide higher levels of carrots to its more important trading partners ( $0.1^*$ ), whereas this is insignificant for the U.S.. The difference between the E.U. and the U.S. is not significant in this respect.

### *Liberal Norms*

The empirical findings tell us the following about the Constructivist and Liberal hypotheses:

- Higher levels of human rights violations, or the presence of a dictatorship drive down levels of positive measures from the E.U. ( $-0.33^{**}$  in OLS and  $-0.949^{**}$  in Tobit), but do not affect the U.S. responses. The difference between the two powers is, however, not significant (Table 6-17). Therefore, we can sustain the hypothesis that the liberal identity produces similar types of foreign policy behaviour.
- Sudden improvements in human rights conditions are not automatically rewarded. The relationship is weak and insignificant.
- The use of more lucrative incentives has increased over time, even if only gradually so. Time matters significantly more for the E.U. than for the U.S.
- Dictators are much less likely to receive substantial rewards than democracies. As the level of democraticness goes down, the probability of being rewarded diminishes as well (E.U. coefficient  $-0.33^{**}$ , U.S. coefficient not significant). Since the difference is not significant, this finding confirms Liberalism. Still, we note that while U.S. incentives do not hinge on this variable, it is important in E.U. decisions.

Finally, the domestic structures argument pointed to the potential impact of specific interests groups. Table 6-15 shows that these are not likely to influence the level of carrots rewarded in the E.U. In contrast, immigrant communities in the U.S. turn out to make a small but significant difference in the level of positive measures to their countries of origin. Their influence on negative measures is not significant however. In conclusion, the differences found between the levels of E.U. and U.S. carrots turn out to be significant (see Table 6-17).

Degree of dictatorship, degree of conflict, time, and need play significantly different and more important roles in the E.U.'s decisions to grant carrots to third countries. Furthermore, it seems that the U.S. call towards 'engagement' has yet to materialise. This is an important finding that underlines a substantial difference in E.U. and U.S. approaches to human rights violations. Whereas we did not find significant differences in their approach towards negative measures, their use of positive incentives is significantly different.<sup>295</sup> It is not clear what the greater U.S. rhetoric on "engagement" amounts to in practice.

Table 6-17. Is the E.U. significantly different from the U.S. in its imposition of carrots?

Source	SS	df	MS	Number of obs = 383		
Model	288.88137	21	13.7562557	F( 21, 361) =	16.70	
Residual	297.431946	361	.823911209	Prob > F =	0.0000	
Total	586.313316	382	1.53485161	R-squared =	0.4927	
				Adj R-squared =	0.4632	
				Root MSE =	.9077	
carrots	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
ally	.2588979	.225186	1.150	0.251	-.1839432	.7017389
terroris	.3540557	.244342	1.449	0.148	-.1264568	.8345683
security	-.1748259	.178971	-0.977	0.329	-.5267826	.1771308
war	.023909	.0489133	0.489	0.625	-.0722818	.1200998
pop	.0007728	.000355	2.177	0.030	.0000747	.0014708
lntrade	.0344212	.0404407	0.851	0.395	-.0451077	.1139501
lngnppc	-.0244253	.0652771	-0.374	0.708	-.1527964	.1039457
year	.0085623	.0247945	0.345	0.730	-.0401976	.0573222
dictator	-.0043404	.1560891	-0.028	0.978	-.3112985	.3026177
impro_hr	.0150377	.1872985	0.080	0.936	-.3532954	.3833708
eu_us	-170.6005	67.92473	-2.512	0.012	-304.1784	-37.02265
eu_terro	-.6831661	.3300168	-2.070	0.039	-1.332163	-.0341691
eu_ally	.2195978	.3549289	0.619	0.536	-.4783901	.9175856
eu_year	.0871261	.034114	2.554	0.011	.020039	.1542132
eu_dict	-.2753832	.2114535	-1.302	0.194	-.6912185	.140452
eu_war	-.1650334	.0679589	-2.428	0.016	-.2986784	-.0313883
eu_trade	.0804108	.0608733	1.321	0.187	-.0392999	.2001215
eu_gnppc	-.2437373	.0913827	-2.667	0.008	-.4234467	-.0640279
eu_pop	-.0018532	.0004919	-3.768	0.000	-.0028206	-.0008859
eu_secur	-.2904735	.2457512	-1.182	0.238	-.7737573	.1928102
eu_impro	.0696363	.2678286	0.260	0.795	-.4570638	.5963365
_cons	-16.79472	49.33127	-0.340	0.734	-113.8075	80.21804

<sup>295</sup> A Tobit estimation shows significant differences compared to U.S. for E.U. reactions to terrorist states, states in conflict, poor and more populous states. See table 71 in Annex to this Chapter.

An alternative way to compare E.U. and U.S. positive reactions to changes in human rights conditions is to compare the rankings of their top aid recipients.<sup>296</sup> Tables 6-18 present the aid levels for the U.S. and the E.U. U.S. allies are on top of the list of economic aid recipients, and are often simultaneously beneficiaries of military aid (notoriously Israel and Egypt). Countries of strategic importance also get priority. For example, Pakistan, Turkey, El Salvador and Haiti are top beneficiaries. The E.U. also has some countries on top of the list that are of obvious economic or strategic importance, such as China, Egypt, Turkey, and Yugoslavia. Finally, many needy and populous countries, especially in Africa, also receive high levels of incentives. Average levels of E.U. aid are much higher than U.S. aid.

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<sup>296</sup> The ranking was created by sorting the data base on the level of economic aid received. Countries for which missing values were noted where not included in the ranking. The list is thus by no means exhaustive. For the U.S. aid figures are give in U.S. \$ of the year in which provided, for the E.U. aid figures are in ECU for the year in which provided.

Table 6-18. U.S. and E.U. Ranking to Economic Aid Recipients 1989-2000

Rank	U.S. CASE	YEAR	AID in \$	MIL_AID	Rank	E.U. CASE	YEAR	AID in ECU
1	RUS	1995	1410.0	0	1	IND	1993	893.40
2	ISR	1990	1200.0	1800	2	KEN	1991	825.90
3	ISR	1994	1200.0	1800	3	CHN	1994	749.50
4	EGY	1996	975.8	1301	4	EGY	1994	735.30
5	EGY	1994	748.0	1302	5	IDN	1996	691.00
6	BOS	1996	686.0	0	6	CIV	1994	673.90
7	ELS	1990	253.0	81	7	IDN	1991	648.80
8	ELS	1993	234.0	23	8	ZAR	1990	548.40
9	PAK	1991	230.0	.	9	BOS	1996	445.19
10	TUR	1994	200.0	453	10	FRY	1999	385.77
11	UKR	1996	178.8	707	11	TUR	1993	363.10
12	HTI	1996	157.6	0	12	PAK	1994	329.60
13	IND	1995	155.4	0	13	MOR	1995	328.90
14	NIC	1993	128.0	0	14	PAK	1996	327.10
15	BOL	1993	127.0	0	15	ETH	1990	309.10
16	GTM	1991	114.0	0	16	CMR	1990	308.30
17	HTI	1994	106.0	0	17	ALG	1995	305.90
18	KAZ	1995	104.6	0	18	TUR	1994	290.40
19	ANG	1996	83.0	0	19	POL	1991	267.56
20	ANG	1998	83.0	0	20	TUR	1995	255.30
21	SAF	1993	80.0	0	21	ZMB	1996	236.40
22	SAF	1994	80.0	0	22	MEX	1995	224.30
23	PRU	1992	69.0	25	23	NIG	1996	214.50
24	ANG	1993	66.7	0	24	RWA	1994	205.70
25	HND	1993	65.0	6	25	NIG	1993	201.80
26	IDN	1996	61.0	0	26	SDN	1990	194.40
27	BOL	1991	58.0	0	27	SDN	1994	170.70
28	KHM	1994	57.0	0	28	SDN	1996	170.70
29	MWI	1992	57.0	0	29	ISR	1990	161.40
30	RWA	1995	54.2	0	30	RUS	1995	161.20
31	ARM	1996	52.0	0	31	TUN	1995	161.00
32	SAF	1992	50.0	0	32	TCD	1990	160.90
33	IDN	1991	48.0	2	33	SOM	1990	159.80
34	UGA	1992	45.0	0	34	ISR	1994	159.20
35	JAM	1994	43.0	1	35	NIC	1993	156.30
36	HTI	1991	42.0	1	36	ANG	1993	143.10
37	GEO	1996	39.3	0	37	RUS	2000	139.70
38	GTM	1996	39.2	0	38	SYR	1992	135.70
39	UKR	1994	39.0	1	39	HUN	1991	135.20
40	GMB	1994	38.0	0	40	MWI	1992	133.40
41	KEN	1991	36.0	11	41	GIN	1990	130.60
42	ZAR	1990	36.0	4	42	GAB	1994	129.50
43	CMR	1990	33.0	0	43	TGO	1992	121.90
44	GTM	1994	33.0	0	44	BDI	1993	120.40
45	SAF	1991	33.0	0	45	ZAR	1993	119.50
46	HTI	1993	31.0	2	46	SRI	1990	113.60
47	SDN	1996	30.0	0	47	RUS	1992	111.00
48	ZMB	1996	29.5	0	48	MEX	1991	107.70
49	NIG	1993	29.0	2	49	BUL	1993	102.60
50	SRI	1990	29.0	0	50	ALB	1997	96.40

Another way to test the carrots model is to estimate statistically how the levels of economic aid for the E.U. and for the U.S. can be explained. We see, indeed, that U.S. aid is directed mainly towards allies, but also towards countries in war (the coefficient indicates that an increase of one unit in the explanatory variable, leads to a change of that factor times U.S. \$1000 in aid). The overall fit of the model is poor ( $r^2=0.177$ ). If we look at the factors that determine military aid (Table 6-32) we find a better fit of the model ( $r^2=0.37$ ). Again allies are abundantly rewarded, expatriate communities seem to have a small but significant impact on lower levels of military aid to certain recipients, and oddly, some designated rogues received military support. This may be an effect of the military aid provided to Colombia in 1991 and 1996 and the Sudan in 1990. If we look at what explains combined U.S. military and economic aid (Table 6-33), we find again that the main beneficiaries were allies and countries in conflict. Ethnic-Americans had a negative impact on aid levels to their home countries.

Table 6-19. What factors determine U.S. Economic Aid?

Source	SS	df	MS	Number of obs = 161		
Model	1459453.58	11	132677.598	F( 11, 149)	=	4.12
Residual	4800103.95	149	32215.4628	Prob > F	=	0.0000
Total	6259557.53	160	39122.2346	R-squared	=	0.2332
				Adj R-squared	=	0.1765
				Root MSE	=	179.49

ec_aid	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
terroris	19.01321	56.35539	0.337	0.736	-92.34578	130.3722
ally	164.7126	51.71116	3.185	0.002	62.53066	266.8945
year	-3.958742	6.590975	-0.601	0.549	-16.98259	9.065111
free_pre	44.4345	25.94651	1.713	0.089	-6.836135	95.70514
war	22.25081	11.17181	1.992	0.048	.1751706	44.32645
pop	-.0046852	.0855692	-0.055	0.956	-.1737711	.1644006
secur	18.51034	38.35834	0.483	0.630	-57.28623	94.30692
expats	-.1297192	.0784738	-1.653	0.100	-.2847843	.025346
lntrade	10.42453	8.773652	1.188	0.237	-6.912319	27.76138
lngnppc	7.748533	15.88722	0.488	0.626	-23.64482	39.14188
impro_hr	-45.46465	40.06672	-1.135	0.258	-124.637	33.70772
_cons	7616.135	13106.03	0.581	0.562	-18281.55	33513.82

E.U. aid is triggered mainly by being a former colony, GNPpc, relative trade importance and population size. The overall fit is  $r^2=0.43$ . The E.U. gives both ad hoc incentives, as was shown by the analysis of the carrots model, as well as structural assistance.

Table 6-20. What determines E.U. levels of economic aid?

Source	SS	df	MS	Number of obs = 114		
Model	1721434.72	11	156494.065	F( 11, 102) =	6.96	
Residual	2292412.19	102	22474.6294	Prob > F =	0.0000	
				R-squared =	0.4289	
				Adj R-squared =	0.3673	
Total	4013846.91	113	35520.7691	Root MSE =	149.92	

aid	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
terroris	-2.827431	72.15325	-0.039	0.969	-145.9431	140.2882
ally	28.27576	52.53495	0.538	0.592	-75.92706	132.4786
year	1.477547	5.997704	0.246	0.806	-10.41887	13.37396
dictator	-1.188088	26.86843	-0.044	0.965	-54.48149	52.10532
war	-7.105728	9.927559	-0.716	0.476	-26.79699	12.58554
pop	.2195554	.0945056	2.323	0.022	.032104	.4070068
secur	63.99654	36.11664	1.772	0.079	-7.640631	135.6337
col_biv	73.38818	35.02448	2.095	0.039	3.917298	142.8591
lntrade	48.62599	9.524482	5.105	0.000	29.73423	67.51776
lngnppc	-56.65074	19.46169	-2.911	0.004	-95.25292	-18.04857
impro_hr	9.923212	40.67432	0.244	0.808	-70.75411	90.60053
_cons	-2481.133	11933.8	-0.208	0.836	-26151.78	21189.51

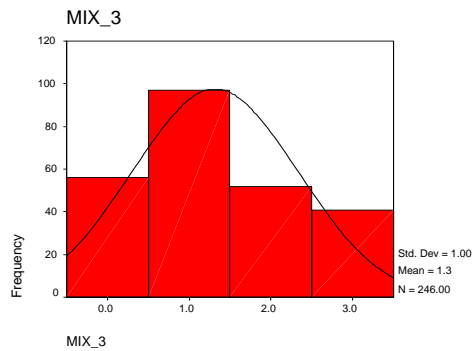
If we measure the level of positive incentives by levels of aid, we can conclude that the U.S. is more inclined to reward allies and countries in conflict. The E.U., on the other hand, grants higher levels of aid to countries of trade importance, former colonies, and poor and populous countries. The level of human rights violations or regime type is not significant for either power. Table 6-34 in the appendix shows that these important differences in economic aid levels for the E.U. and the U.S. are significant.

#### 6.4 The Mixed Model

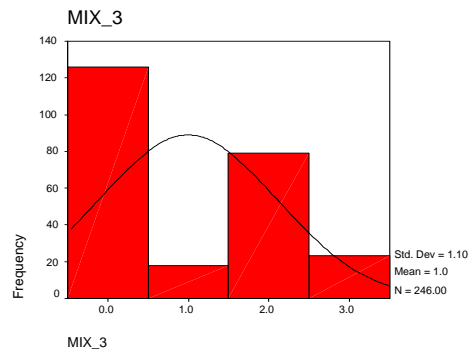
We see in Figure 6-19 that the E.U. almost always reacts in some manner to human rights violations, be it in the form of carrots, sticks or both, whereas the U.S. very often does not react at all. The E.U. tends to employ a combination of carrots and sticks more often than the U.S.

Figure 6-19. Frequency distributions of E.U. and U.S. mixed strategies.

**E.U.**



**U.S.**



Note: 0=no reaction; 1=only carrots; 2=only sticks; 3=carrots and sticks

The graph on the left hand side in Figure 6-20 below shows the variation over time in the average use of mixed strategies for the E.U. and the U.S.. Whereas we still see quite a wide gap between the E.U. and the U.S. at the end of the nineties, there is a discernible trend upwards to employ these mixed strategies for human rights reasons. Table 6-21 gives the frequency scores by the E.U. and U.S. in imposing no measures, only carrots, only sticks or both. The difference between the E.U. and the U.S. is significant.<sup>297</sup>

	EU_US			
	us		eu	
	Count	%	Count	%
no reaction	126	51.2%	56	22.8%
carrots (>2)	18	7.3%	97	39.4%
sticks (>2)	79	32.1%	52	21.1%
"engagement" (carrots and sticks)	23	9.3%	41	16.7%
Total	246	100.0%	246	100.0%

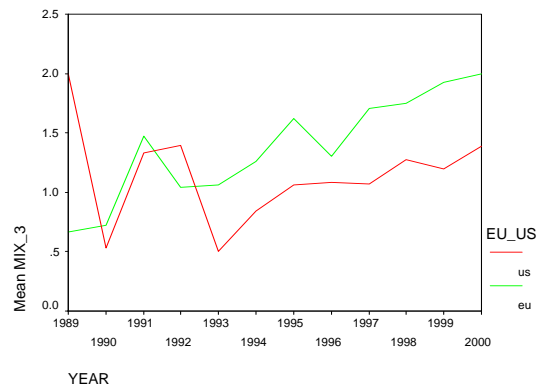


Table 6-21. E.U. and U.S. mixed strategies over time.

Figure 6-20. E.U. and U.S. mixed strategies over time.

The estimation of the mixed model for E.U. data through multinomial logistics analysis is shown in Table 6-22 below and has a fairly good overall fit (pseudo  $R^2=0.45$ ). Candidates most likely to receive both carrots and sticks are those countries that have some type of co-operation agreement with the E.U. It is thus not true that these countries are shielded from

<sup>297</sup> Pearson's chi-square is 91.82, with 3 degrees of freedom and an alpha level of 0.000.

sanctions.<sup>298</sup> They are even more likely to get carrots only, however (5.8\*\*), compared to a mixed strategy or no reaction.

We see that holding adversary status is related to the E.U.'s decision to impose negative sanctions (-2.9\*), but is not very important for the E.U.'s carrots policies, and not at all important in the decision to employ a mixed strategy. Rogue states are significantly less likely to get mixed strategies than they are to get no reaction at all, and their status has no impact on whether or not they receive carrots or sticks. Possessing oil and/or bombs does significantly decrease the likelihood of getting any type of reaction according to the multinomial regression. Countries that do possess these strategic goods are least likely to get mixed measures (-2.14\*), slightly less likely to get sticks only (-1.93\*) and still less to get carrots only (-1.68\*). Strategic interests are thus of importance to the E.U. when deciding how to react to human rights violations.

Liberal norms are also important. Dictators are slightly more likely to get sticks only (1.86\*) than to be approached with a mixed strategy (1.7\*\*). Receiving positive incentives is not related to regime type. Sudden infringements on human rights are a significant factor in getting sticks only (1.9\*), but have no bearing on other types of reaction.

Economic importance matters greatly, but not in the way that is often assumed. The E.U. punishes countries despite their economic importance. We see again that trade links are significant determinants for E.U. reactions to human rights violations. Countries of no economic importance are likely to get no reaction at all. The higher the economic importance, the *higher* the odds of being either punished or getting mixed measures (the odds are the same, namely 0.7\*). This goes against the allegations that E.U. reactions to human rights violations are softer when it comes to their trading partners.

Being a former colony seems to have no influence on E.U. mixed strategies towards target countries, nor is it important to get only sticks or only carrots. The conflict, wealth, and human rights improvement variables also drop out.

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<sup>298</sup> This was checked by performing the analysis again while taking 'carrots only' as the comparison group, rather than 'no reaction'. The coefficient for getting mixed strategies is higher 3.9\*\* than for sticks only: 2.9\*.



Table 6-22. Multinomial Logistics Analysis of Mixed Model: E.U.

Iteration 6: log likelihood = -133.26035						
Multinomial regression			Number of obs = 193			
Log likelihood = -133.26035			LR chi2(39) = 218.56			
			Prob > chi2 = 0.0000			
			Pseudo R2 = 0.4506			
mix 3	Coef.	Std. Err.	z	P> z	[95% Conf. Interval]	
<b>1 ONLY CARROTS</b>						
ally	2.508652	1.393233	1.80	0.072	-.2220335	5.239338
terroris	-.3990895	1.031583	-0.39	0.699	-2.420955	1.622777
secur	-1.675517	.8625827	-1.94	0.052	-3.366148	.015114
war	-.2699974	.2493649	-1.08	0.279	-.7587437	.2187488
year	.3759252	.140069	2.68	0.007	.101395	.6504554
dictator	.4548652	.6781355	0.67	0.502	-.8742559	1.783986
worse_hr	.4694721	.8793945	0.53	0.593	-1.254109	2.193054
impro_hr	.9737794	1.034599	0.94	0.347	-1.053998	3.001557
lntrade	.4451323	.2327303	1.91	0.056	-.0110107	.9012753
lngnppc	-.722201	.3946775	-1.83	0.067	-1.495755	.0513526
pop	.0001419	.0027197	0.05	0.958	-.0051885	.0054723
agreem	5.789857	1.171862	4.94	0.000	3.493049	8.086664
col_biv	.2969996	.746179	0.40	0.691	-1.165484	1.759484
_cons	-750.5152	278.5424	-2.69	0.007	-1296.448	-204.5822
<b>2 ONLY STICKS</b>						
ally	-2.88543	1.370812	-2.10	0.035	-5.572172	-.1986876
terroris	-1.702083	1.007193	-1.69	0.091	-3.676144	.2719787
secur	-1.934429	.9315543	-2.08	0.038	-3.760242	-.108616
war	.3438059	.2435733	1.41	0.158	-.1335891	.8212009
year	.3307135	.1398337	2.37	0.018	.0566444	.6047826
dictator	1.864958	.7693894	2.42	0.015	.3569827	3.372934
worse_hr	1.93099	.8812399	2.19	0.028	.203792	3.658189
impro_hr	.905901	1.169143	0.77	0.438	-1.385578	3.19738
lntrade	.6976811	.2685786	2.60	0.009	.1712766	1.224086
lngnppc	-.8333468	.4603615	-1.81	0.070	-1.735639	.0689452
pop	.0010832	.0026618	0.41	0.684	-.0041339	.0063003
agreem	2.870056	1.261395	2.28	0.023	.3977661	5.342345
col_biv	.118883	.8443106	0.14	0.888	-1.535935	1.773701
_cons	-651.1077	278.3448	-2.34	0.019	-1196.653	-105.562
<b>3 CARROTS AND STICKS</b>						
ally	-1.749462	1.570886	-1.11	0.265	-4.828342	1.329418
terroris	-2.670676	1.132779	-2.36	0.018	-4.890883	-.4504695
secur	-2.140553	.9271039	-2.31	0.021	-3.957643	-.3234624
war	.2390697	.2491354	0.96	0.337	-.2492267	.727366
year	.5767899	.1465811	3.93	0.000	.2894961	.8640836
dictator	1.709492	.7524856	2.27	0.023	.2346469	3.184336
worse_hr	1.080913	.9140897	1.18	0.237	-.7106702	2.872496
impro_hr	-.5215822	1.238274	-0.42	0.674	-2.948555	1.905391
lntrade	.6868029	.2544114	2.70	0.007	.1881657	1.18544
lngnppc	-.4431427	.4060867	-1.09	0.275	-1.239058	.3527726
pop	-.0007618	.0027947	-0.27	0.785	-.0062394	.0047158
agreem	3.942305	1.226606	3.21	0.001	1.538201	6.346409
col_biv	.8929696	.7869035	1.13	0.256	-.6493329	2.435272
_cons	-1146.405	291.8483	-3.93	0.000	-1718.417	-574.3931

(Outcome mix\_3==0 NO REACTION is the comparison group)

Table 6-22 also demonstrates the odds that a country will continue to get only carrots or only sticks relating to going completely untouched by the E.U. for its human rights conditions. Countries who get only carrots tend to be important trading partners of little security importance that are connected to the E.U. via other agreements. Countries that face purely negative measures are usually headed by adversarial dictators, and suffer sudden breaches in the rule of law. The same analysis was done for the U.S., as is shown in Table 6-23 below, which shows an overall fit of  $R^2=0.31$ . The only factors significant in this case are its relative trade importance, and poverty. None of the other factors seems to

have any significant impact. Apparently, the newly advocated approach of 'engagement' does not have any well defined bench marks at this stage. Economic importance is the only outstanding factor, implying that 'engagement' is just another term for continued free trade.

Trade importance is similarly determinant in getting mixed measures (0.45\*) as opposed to sticks only (0.42\*\*), but of no significance for getting carrots only. The U.S. does punish countries, just like the E.U., regardless of their trade importance. The impact of trade on the odds of getting sanctioned rather than getting no reaction is positive and significant (0.415\*\*). Again, economic importance matters but not in the way usually assumed.

If we look at what factors determine whether a country is rewarded by positive measures only, we find that liberal countries tend to be rewarded significantly more than illiberal regimes (-1.36\*). The importance attached to liberal norms also stands out in the U.S. sticks policy: the level of dictatorship (1.04\*) is an important determinant. The other important variable for the U.S.'s imposition of negative measures is the level of conflict engaged in by the target country (0.43\*\*).

According to multinomial regression analysis, strategic factors do not seem to matter in U.S. decisions on how to react to human rights violations. The variables indicating security, terrorism and alliances are not significant. Immigrant communities also do not play any significant role in determining what type of measure a human rights violator can expect, though there seems to be a slight influence on positive measures (0.003 at a significance level of 0.06).

Table 6-23. Multinomial Logistics Analysis of Mixed Model: U.S.

Iteration 22: log likelihood = -142.38598						
Multinomial regression			Number of obs =		190	
Log likelihood = -142.38598			LR chi2(36) =		126.75	
			Prob > chi2 =		0.0000	
			Pseudo R2 =		0.3080	
mix_3	Coef.	Std. Err.	z	P> z	[95% Conf. Interval]	
<b>1 CARROTS ONLY</b>						
ally	-2.470604	2.439201	-1.01	0.311	-7.251349	2.310142
terroris	2.14146	1.190769	1.80	0.072	-.1924053	4.475325
secur	-.1126565	.9960797	-0.11	0.910	-2.064937	1.839624
war	.1116149	.2829334	0.39	0.693	-.4429243	.6661541
year	.002376	.1290702	0.02	0.985	-.2505968	.2553489
dictator	-1.356589	.6405766	-2.12	0.034	-2.612096	-.1010817
worse_hr	1.289294	.8082782	1.60	0.111	-.2949021	2.87349
impro_hr	.5544216	.8218167	0.67	0.500	-1.05631	2.165153
lntrade	.2019136	.2205259	0.92	0.360	-.2303091	.6341364
lngnppc	-.2537203	.4082423	-0.62	0.534	-1.053861	.5464199
pop	.001148	.0021375	0.54	0.591	-.0030414	.0053373
expats	.0030312	.0016248	1.87	0.062	-.0001533	.0062156
_cons	2.026365	256.284	0.01	0.994	-500.2811	504.3339
<b>2 STICKS ONLY</b>						
ally	-22.50773	124.1165	-0.18	0.856	-265.7715	220.7561
terroris	.9559791	.9403606	1.02	0.309	-.8870939	2.799052
secur	-.5007679	.5853414	-0.86	0.392	-1.648016	.6464801
war	.4289368	.1681919	2.55	0.011	.0992868	.7585868
year	.0159524	.0800171	0.20	0.842	-.1408781	.172783
dictator	1.040613	.4457485	2.33	0.020	.1669618	1.914264
worse_hr	.0633761	.5438956	0.12	0.907	-1.00264	1.129392
impro_hr	.5180618	.5719343	0.91	0.365	-.6029088	1.639032
lntrade	.4153014	.1390616	2.99	0.003	.1427457	.6878571
lngnppc	-.2724971	.2450886	-1.11	0.266	-.7528618	.2078677
pop	.0011544	.0018966	0.61	0.543	-.0025629	.0048717
expats	-.0001907	.0037632	-0.05	0.960	-.0075665	.0071851
_cons	15.37029	229.4563	0.07	0.947	-434.3558	465.0964
<b>3 CARROTS AND STICKS</b>						
ally	-23.02023	124.1949	-0.19	0.853	-266.4377	220.3973
terroris	1.535744	1.218336	1.26	0.207	-.8521502	3.923638
secur	-1.388133	1.071124	-1.30	0.195	-3.487498	.7112317
war	.3078307	.2970354	1.04	0.300	-.274348	.8900093
year	.2276653	.124847	1.82	0.068	-.0170302	.4723609
dictator	1.897005	1.005142	1.89	0.059	-.0730377	3.867048
worse_hr	.0585092	.8785176	0.07	0.947	-1.663354	1.780372
impro_hr	.9130766	1.087949	0.84	0.401	-1.219264	3.045417
lntrade	.4503709	.2366249	1.90	0.057	-.0134055	.9141473
lngnppc	-1.061865	.5129784	-2.07	0.038	-2.067284	-.0564457
pop	.0006112	.002413	0.25	0.800	-.0041182	.0053407
expats	.0060047	.0045166	1.33	0.184	-.0028478	.0148572
_cons	-403.8101	.	.	.	.	.

(Outcome mix\_3==0 NO REACTION is the comparison group)

The mixed results indicate several problems of interpretation, possibly related to how 'carrots' were measured. In addition, we could not precisely distinguish the extent of the mixed strategy. At the same time, the analysis did shed light on which characteristics of target countries lead to no reaction, all-positive reactions, all-negative reactions, and mixed reactions from the E.U. and the U.S.

## 6.5 Conclusions

This Chapter sought to analyze differences in the E.U. and U.S. reactions to human rights violations. The main finding is that although there are discrete tendencies in foreign policy by each power, their differences are not as significant as is often assumed. In terms of the imposition of negative measures, both countries seem to use similar criteria in their reactions to human rights violations. The fact that security and economic interests are trumped by human rights principles in these cases contradicts mainstream IR Theory. I explain this convergence by the shared liberal norms that are so central to the E.U.'s and U.S.'s identities as Western liberal democracies. The increasing tendency of the liberal states to react to human rights violations indicates that Western liberal powers stand by their word on human rights principles, and will not tolerate offenses to the norms of the international community. The fact that the U.S. does tend to sanction more severely, can be explained by its different institutional set up and the relative ease compared to the E.U. with which it can react quickly and decisively. Similarly, I argued that the institutional set up of the E.U. favors a positive rather than a negative approach.

In contrast to the similar employment of negative sanctions, the two countries differ in their uses of positive incentives. The U.S. favors allies and the E.U. favors the needy. Engagement means more than business as usual for the E.U., but little else for the U.S. I argued that differences in domestic structure and historical links with the target countries facilitate positive measures from the E.U. The two powers also differ in the sense that the U.S. is a military state, while the E.U. is a civilian-cum-trading state. The military assistance option open to the U.S. was not included in the carrots scale, because the E.U. can not offer an equivalent. Suggestions for improvements in the measurement of this scale and of the model were put forward.

## Appendix to Chapter 6: Tobit Estimations

Table 6-24. Tobit Estimation of General Sticks Model: E.U.

Tobit estimates						
Log likelihood = -279.97846			Number of obs	=	213	
			LR chi2(10)	=	100.50	
			Prob > chi2	=	0.0000	
			Pseudo R2	=	0.1522	
-----						
negeu	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
-----						
ally	-1.230554	.3652437	-3.369	0.001	-1.950712	-.5103959
terroris	.2372161	.2979438	0.796	0.427	-.3502453	.8246775
secur	-.5138596	.2586872	-1.986	0.048	-1.023918	-.0038012
war	.198231	.0739418	2.681	0.008	.0524384	.3440235
pop	.001048	.00048	2.183	0.030	.0001016	.0019944
lntrade	.2188006	.0648073	3.376	0.001	.091019	.3465823
year	.1117501	.0361344	3.093	0.002	.0405032	.1829971
dictator	.6372457	.1884633	3.381	0.001	.265649	1.008842
worse_hr	.483555	.2627956	1.840	0.067	-.034604	1.001714
un	1.580411	.3479284	4.542	0.000	.8943943	2.266428
_cons	-220.956	72.04474	-3.067	0.002	-363.0079	-78.90398
-----						
_se	1.399682	.0992237	(Ancillary parameter)			
-----						
Obs. summary:	91 left-censored observations at negeu<=0					
	122 uncensored observations					

Table 6-25. Tobit Estimation of General Sticks Model: U.S.

Tobit estimates						
Log likelihood = -263.44657			Number of obs	=	210	
			LR chi2(10)	=	125.78	
			Prob > chi2	=	0.0000	
			Pseudo R2	=	0.1927	
-----						
negus	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
-----						
ally	-1.611289	.3718801	-4.333	0.000	-2.344598	-.8779805
terroris	.3336907	.357754	0.933	0.352	-.371763	1.039144
secur	-.020816	.275426	-0.076	0.940	-.5639276	.5222955
war	.0773594	.08047	0.961	0.338	-.081319	.2360378
pop	.001246	.000531	2.346	0.020	.0001989	.0022931
lntrade	.1733736	.0590852	2.934	0.004	.0568637	.2898835
year	.1180632	.0400497	2.948	0.004	.0390894	.1970371
dictator	.8346262	.2290161	3.644	0.000	.3830301	1.286222
worse_hr	.1138519	.2788755	0.408	0.684	-.4360616	.6637653
un	1.671077	.3668138	4.556	0.000	.9477585	2.394396
_cons	-231.9357	79.7674	-2.908	0.004	-389.2288	-74.64269
-----						
_se	1.439973	.1056205	(Ancillary parameter)			
-----						
Obs. summary:	96 left-censored observations at negus<=0					
	114 uncensored observations					

Table 6-26. Tobit Estimation of Specific Sticks Model: E.U.

Tobit estimates		Number of obs = 213				
Log likelihood = -272.75991		LR chi2(12) = 114.94	Prob > chi2 = 0.0000			
		Pseudo R2 = 0.1740				
negeu	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
ally	-.9819709	.359227	-2.734	0.007	-1.690308 -.273634	
terroris	.0468397	.2924687	0.160	0.873	-.5298607 .6235401	
secur	-.6150139	.2570706	-2.392	0.018	-1.121915 -.1081126	
war	.1817785	.0717496	2.534	0.012	.0403 .323257	
pop	.0009225	.0004694	1.965	0.051	-3.03e-06 .0018481	
lntrade	.2188413	.0628449	3.482	0.001	.0949214 .3427611	
year	.119947	.0352161	3.406	0.001	.0505066 .1893873	
dictator	.5322576	.1883215	2.826	0.005	.1609185 .9035968	
worse_hr	.4485903	.2545969	1.762	0.080	-.0534333 .9506138	
un	1.549794	.3359843	4.613	0.000	.887288 2.2123	
col_biv	.5933907	.2248182	2.639	0.009	.1500859 1.036696	
agreem	-.7581778	.2293057	-3.306	0.001	-1.210331 -.3060244	
_cons	-237.4493	70.21483	-3.382	0.001	-375.9015 -98.99714	
_se	1.349973	.0952986	(Ancillary parameter)			
Obs. summary: 91 left-censored observations at negeu<=0 122 uncensored observations						

Table 6-27. Tobit Estimation of Specific Sticks Model: U.S.

Tobit estimates		Number of obs = 210				
Log likelihood = -261.46547		LR chi2(12) = 129.74	Prob > chi2 = 0.0000			
		Pseudo R2 = 0.1988				
negus	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
ally	-1.680541	.3801575	-4.421	0.000	-2.430219 -.9308643	
terroris	1.704597	.9592994	1.777	0.077	-.187158 3.596352	
secur	-.0156039	.2726759	-0.057	0.954	-.5533255 .5221177	
war	.0949363	.0807289	1.176	0.241	-.0642625 .2541352	
pop	.0008923	.0005566	1.603	0.110	-.0002052 .0019898	
lntrade	.1656952	.0588662	2.815	0.005	.04961 .2817805	
year	.1119099	.0397843	2.813	0.005	.0334546 .1903652	
dictator	.7731782	.2295725	3.368	0.001	.3204573 1.225899	
worse_hr	.2315049	.283087	0.818	0.414	-.3267476 .7897573	
un	1.705007	.3656814	4.663	0.000	.9838769 2.426137	
expats	.0013851	.0007707	1.797	0.074	-.0001348 .002905	
institut	-1.436606	.8973501	-1.601	0.111	-3.206196 .3329843	
_cons	-219.5628	79.24088	-2.771	0.006	-375.8272 -63.29843	
_se	1.424413	.1043542	(Ancillary parameter)			
Obs. summary: 96 left-censored observations at negus<=0 114 uncensored observations						

Table 6-28. Tobit Estimation of Carrots Model: E.U.

Tobit estimates		Number of obs = 193				
Log likelihood = -251.71342		LR chi2(11) = 45.15				
		Prob > chi2 = 0.0000				
		Pseudo R2 = 0.0823				
poseu	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
ally	.8707638	.7656213	1.137	0.257	-.6398713	2.381399
terroris	-.6892965	.6105542	-1.129	0.260	-1.893971	.5153782
secur	-.4369336	.4718261	-0.926	0.356	-1.367886	.4940189
war	-.3821862	.139179	-2.746	0.007	-.6567981	-.1075742
pop	-.003099	.0010054	-3.082	0.002	-.0050828	-.0011153
lntrade	.208427	.1338558	1.557	0.121	-.0556818	.4725358
lngnppc	-.6836646	.2450052	-2.790	0.006	-1.16708	-.2002487
year	.1965667	.0688688	2.854	0.005	.0606828	.3324506
dictator	-.9493913	.3520845	-2.696	0.008	-1.644084	-.254699
impro_hr	.1556627	.575263	0.271	0.787	-.9793795	1.290705
col_biv	.5101735	.4619229	1.104	0.271	-.4012392	1.421586
_cons	-384.4299	137.1614	-2.803	0.006	-655.0609	-113.7988
_se	2.320239	.2321821	(Ancillary parameter)			
Obs. summary:		31 left-censored observations at poseu<=0				
		72 uncensored observations				
		90 right-censored observations at poseu>=3				

Table 6-29. Tobit Estimation of Carrots Model: U.S.

Tobit estimates		Number of obs = 190				
Log likelihood = -212.59354		LR chi2(11) = 27.25				
		Prob > chi2 = 0.0042				
		Pseudo R2 = 0.0602				
posus	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
ally	.1227335	.1880241	0.653	0.515	-.2482955	.4937625
terroris	.3230166	.1987694	1.625	0.106	-.069216	.7152493
secur	-.1713199	.1407887	-1.217	0.225	-.449139	.1064992
war	.0324606	.0404773	0.802	0.424	-.0474135	.1123346
pop	.0005796	.0002823	2.053	0.042	.0000225	.0011367
lntrade	.0247003	.0322984	0.765	0.445	-.0390343	.0884348
lngnppc	-.0388715	.0596599	-0.652	0.516	-.1565987	.0788557
year	.0099835	.0200124	0.499	0.618	-.029507	.049474
dictator	-.1037648	.0976112	-1.063	0.289	-.2963815	.0888519
impro_hr	.0164549	.1519484	0.108	0.914	-.2833858	.3162955
expats	.0005472	.000273	2.004	0.047	8.50e-06	.0010859
_cons	-19.23929	39.81289	-0.483	0.630	-97.80228	59.32369
_se	.7354963	.0380869	(Ancillary parameter)			
Obs. summary:		188 uncensored observations				
		2 right-censored observations at posus>=3				

Table 6-30. Tobit Estimation of Differences E.U. and U.S. Carrots

Tobit estimates		Number of obs = 381				
Log likelihood = -464.16602		LR chi2(22) = 239.78	Prob > chi2 = 0.0000			
		Pseudo R2 = 0.2053				
carrots	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
ally	.7813378	.4237585	1.84	0.066	-.052023	1.614699
terroris	.8148549	.44819	1.82	0.070	-.0665527	1.696263
security	-.441613	.3634813	-1.21	0.225	-1.156433	.2732071
war	.066121	.0938222	0.70	0.481	-.1183891	.2506311
pop	.001645	.0006212	2.65	0.008	.0004234	.0028666
lntrade	.0850844	.0821654	1.04	0.301	-.0765016	.2466704
lgnppc	-.0260513	.130102	-0.20	0.841	-.2819091	.2298066
year	.0215651	.048643	0.44	0.658	-.074096	.1172261
dictator	-.092994	.308838	-0.30	0.764	-.7003529	.5143649
impro_hr	.0699649	.3674309	0.19	0.849	-.6526224	.7925522
eu_us	-172.1206	121.7655	-1.41	0.158	-411.5839	67.34266
eu_terro	-1.064251	.5668151	-1.88	0.061	-2.178946	.0504439
eu_ally	-.2050521	.6159794	-0.33	0.739	-1.416433	1.006329
eu_year	.0890274	.0611662	1.46	0.146	-.0312617	.2093165
eu_dict	-.3140291	.3818172	-0.82	0.411	-1.064908	.4368502
eu_war	-.2473517	.1228951	-2.01	0.045	-.4890365	-.0056669
eu_trade	.0539036	.1089873	0.49	0.621	-.1604302	.2682375
eu_gnppc	-.3476052	.165023	-2.11	0.036	-.6721384	-.023072
eu_pop	-.0031314	.0008398	-3.73	0.000	-.0047828	-.0014799
eu_secur	-.0923716	.448797	-0.21	0.837	-.974973	.7902298
eu_un	.2969154	.3861261	0.77	0.442	-.4624378	1.056269
eu_impro	.0592632	.4714837	0.13	0.900	-.8679538	.9864803
_cons	-44.48195	96.78192	-0.46	0.646	-234.8127	145.8488
_se	1.383078	.0740632	(Ancillary parameter)			
Obs. summary:	171	left-censored observations at carrots<=0				
	210	uncensored observations				

Table 6-31. Tobit Estimation of differences in E.U. and U.S. Sticks.

Tobit estimates		Number of obs = 381				
Log likelihood = -491.4714		LR chi2(22) = 157.05	Prob > chi2 = 0.0000			
		Pseudo R2 = 0.1378				
sticks	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
ally	-2.328412	.4483166	-5.19	0.000	-3.210068	-1.446755
terroris	.2648422	.4299552	0.62	0.538	-.5807052	1.11039
security	-.0197598	.3445681	-0.06	0.954	-.6973853	.6578656
war	.2385022	.0940077	2.54	0.012	.0536273	.4233772
pop	.0007176	.0006436	1.12	0.266	-.000548	.0019833
lntrade	.2557494	.0793297	3.22	0.001	.0997402	.4117586
lgnppc	-.2427572	.1315857	-1.84	0.066	-.501533	.0160185
year	.1482087	.0471412	3.14	0.002	.0555012	.2409162
dictator	.8949363	.3096152	2.89	0.004	.286049	1.503824
worse_hr	.0441026	.3155446	0.14	0.889	-.5764455	.6646506
eu_us	82.36714	127.564	0.65	0.519	-168.4995	333.2338
eu_terro	-.4615129	.5874069	-0.79	0.433	-1.616704	.6936779
eu_ally	1.049732	.6616176	1.59	0.113	-.2514014	2.350865
eu_year	-.0439765	.0641091	-0.69	0.493	-.170053	.0821
eu_dict	-.3328734	.4145892	-0.80	0.423	-1.148202	.4824551
eu_war	.0006072	.1325928	0.00	0.996	-.260149	.2613634
eu_trade	-.068211	.1161591	-0.59	0.557	-.2966488	.1602269
eu_gnppc	.1973272	.1806577	1.09	0.275	-.1579531	.5526074
eu_pop	.0009036	.0008852	1.02	0.308	-.0008372	.0026445
eu_secur	-.3463198	.4688917	-0.74	0.461	-1.268439	.5757996
eu_un	1.513462	.4442593	3.41	0.001	.6397839	2.387139
eu_worse	.6671138	.4395381	1.52	0.130	-.1972792	1.531507
_cons	-287.5911	93.68558	-3.07	0.002	-471.8326	-103.3496
_se	1.553028	.0867291	(Ancillary parameter)			
Obs. summary:	181	left-censored observations at sticks<=0				
	200	uncensored observations				



Table 6-32. What factors determine U.S. military aid levels?

Source	SS	df	MS	Number of obs = 158		
Model	3901684.23	11	354698.566	F( 11, 146) = 7.80		
Residual	6640957.78	146	45486.0122	Prob > F = 0.0000		
				R-squared = 0.3701		
				Adj R-squared = 0.3226		
				Root MSE = 213.27		
Total	10542642.0	157	67150.586			
mil_aid	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
terroris	187.7069	75.63204	2.482	0.014	38.23186	337.182
ally	425.587	62.42974	6.817	0.000	302.2042	548.9697
year	-10.64465	7.908373	-1.346	0.180	-26.27432	4.985033
dictator	-32.0512	30.95311	-1.035	0.302	-93.22525	29.12284
war	22.27057	13.37937	1.665	0.098	-4.171688	48.71283
pop	.0335828	.1017672	0.330	0.742	-.1675443	.2347099
secur	-14.54367	45.7696	-0.318	0.751	-105.0002	75.91289
expats	-.2200747	.09344	-2.355	0.020	-.4047444	-.0354049
lntrade	2.686831	10.46557	0.257	0.798	-17.99675	23.37042
lngnppc	22.0824	19.12647	1.155	0.250	-15.71811	59.88292
impro_hr	-28.1667	48.77799	-0.577	0.565	-124.5689	68.23547
_cons	20327.05	15733.09	1.292	0.198	-10766.98	51421.08

Table 6-33. What factors cause U.S. total (military and economic) aid levels?

Source	SS	df	MS	Number of obs = 158		
Model	9852421.27	11	895674.661	F( 11, 146) = 6.70		
Residual	19530986.2	146	133773.878	Prob > F = 0.0000		
				R-squared = 0.3353		
				Adj R-squared = 0.2852		
				Root MSE = 365.75		
Total	29383407.4	157	187155.461			
tot_aid	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
terroris	225.2443	129.7038	1.737	0.085	-31.09518	481.5837
ally	596.1796	107.0627	5.569	0.000	384.5867	807.7725
year	-14.06328	13.56232	-1.037	0.301	-40.86711	12.74054
free_pre	77.56211	53.08246	1.461	0.146	-27.34717	182.4714
war	45.48673	22.9447	1.982	0.049	.1400675	90.83338
pop	.0321142	.1745237	0.184	0.854	-.312805	.3770334
secur	1.413394	78.49172	0.018	0.986	-153.7134	156.5402
expats	-.3536998	.1602432	-2.207	0.029	-.6703957	-.0370039
lntrade	13.55325	17.94773	0.755	0.451	-21.91768	49.02417
lngnppc	28.34227	32.80058	0.864	0.389	-36.48302	93.16756
impro_hr	-67.6142	83.6509	-0.808	0.420	-232.9373	97.7089
_cons	26802.17	26970.12	0.994	0.322	-26500.12	80104.46

Table 6-34. Are difference in E.U.-U.S. aid levels significant?

Source	SS	df	MS	Number of obs = 265		
Model	13672537.6	21	651073.221	F( 21, 243)	=	4.45
Residual	35529454.6	243	146211.747	Prob > F	=	0.0000
				R-squared	=	0.2779
				Adj R-squared	=	0.2155
Total	49201992.3	264	186371.183	Root MSE	=	382.38

aid	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
terroris	124.1489	121.4866	1.02	0.308	-115.1524	363.4501
ally	693.1932	111.5472	6.21	0.000	473.4703	912.916
year	-29.22231	14.73038	-1.98	0.048	-58.23784	-.206778
dictator	16.1614	75.06362	0.22	0.830	-131.697	164.0198
war	80.25417	24.55181	3.27	0.001	31.89265	128.6157
pop	.1675034	.1743753	0.96	0.338	-.1759766	.5109835
security	-125.3874	92.99354	-1.35	0.179	-308.5637	57.78886
lntrade	-18.9873	20.73625	-0.92	0.361	-59.83302	21.85843
lngnppc	134.7086	39.77995	3.39	0.001	56.35111	213.0662
impro_hr	-65.73935	89.87834	-0.73	0.465	-242.7794	111.3007
eu_us	-56102.64	42194.22	-1.33	0.185	-139215.7	27010.45
eu_terro	-109.4159	219.5279	-0.50	0.619	-541.8362	323.0045
eu_ally	-664.8837	173.7226	-3.83	0.000	-1007.078	-322.6893
eu_year	29.63136	21.22593	1.40	0.164	-12.17894	71.44165
eu_dict	-10.43211	111.3913	-0.09	0.925	-229.8479	208.9837
eu_war	-87.15542	35.25832	-2.47	0.014	-156.6064	-17.70449
eu_trade	71.20438	31.64999	2.25	0.025	8.861044	133.5477
eu_gnppc	-207.6907	58.76902	-3.53	0.000	-323.4524	-91.92902
eu_pop	-.0003041	.3093247	-0.00	0.999	-.609604	.6089958
eu_secur	172.7351	132.6534	1.30	0.194	-88.56223	434.0324
imp_eu	73.5666	136.9421	0.54	0.592	-196.1785	343.3117
_cons	55898.91	29265.26	1.91	0.057	-1747.056	113544.9

## Chapter 7. Conclusions: Competitive Engagement?

Under which conditions do Western liberal democracies put their human rights ideals into practice in their relationships with third countries? More specifically, under which conditions do the E.U. and the U.S. impose sanctions in reaction to human rights violations and what explains: (1) the general variation in type of measures across targets and over time and (2) the particular variation in types of responses between the U.S. and the E.U. over time and across targets? These were the central questions this thesis sought to answer. This final Chapter will summarize the main findings and discuss their implications for theory, policy and future research.

Two findings stand out. First, Western liberal democracies adhere to their human rights ideals even if a potential target is of economic and security importance. In numeric terms, almost half of the countries that committed human rights violations are not subjected to economic measures in connection with such violations. Such inaction on the part of Western liberal democracies can be explained by the fact that these countries tend to be liberal, allies, and in peace. Countries that tend to be subject to the most severe measures are countries that violate human rights most. These countries tend to have illiberal regimes and are adversaries to the West. Geographically closer targets are subject to a relatively higher level of sanctions. If the U.N. is involved, sanctions tend to be more severe than if they are unilateral. Ultimately we see that countries are subjected to negative measures despite their economic importance.

Second, differences between the E.U. and the U.S. regarding the use of punitive measures are not statistically significant. This is explained by the fact that both powers adhere to the same liberal norms and both tend to act if these norms are violated. There were some notable differences in their focus and approach, but these are not significant when other variables are controlled for. The U.S. on average tends to impose slightly more severe measures than the E.U. The E.U.

reacts stronger to conflict situations, the U.S. to 'rogue' states. The E.U. is somewhat softer on countries that possess oil and/or bombs, but reacts more harshly to sudden infringements of human rights in third countries than the U.S. does. Potential targets with special historical or cultural links tend to be subject to more severe rather than softer sanctions by the E.U. With certain exceptions, immigrant groups tend not to have much impact on the level of U.S. sanctions. The fact that the U.S. tends to impose stronger sanctions on average than the E.U. does, is explained by the fact that Congress has institutionalized harsher sanctions and that it has a much more important say in the final outcome than its European counterpart. We currently see a reverse trend in Congress against the use of unilateral sanctions and towards so-called 'engagement'.

The most important difference between the E.U. and the U.S. in their approach to human rights is the way in which they make use of economic incentives as an attempt to induce target regimes to change. Such carrots are used much more by the E.U., while the U.S. slogan of 'engagement' has yet to materialize if it is to mean anything else than free trade. Whereas the degree of freedom and adherence to human rights norms plays a significant role for the E.U. in deciding on the level of support it is ready to grant, for the U.S. it is not a factor of importance. The U.S. tends to favor its allies, whereas the E.U. reaches out to poorer countries. Again, this may be explained by differences in political structure. It seems easier for the E.U. Member States to agree on a positive approach. The European Development Fund is not part of the E.U. budget –and thus out of reach for the EP- but administered by the Commission. The U.S. Congress tends to be less enthusiastic about foreign assistance yet has a much bigger say on the matter than the EP.

Over time we saw an increasing use of mixed strategies both in the E.U. and the U.S. This is explained by institutional developments and changes in the popular and academic discourse about the humanitarian effects of embargoes in the target country, and the domestic costs of sanctions in the sender country. Both the E.U. and the U.S. have adopted new strategies with relations to sanctions in response

to these concerns towards the end of the nineties. The E.U. has intensified its resolve as a foreign policy actor which has led to an increase in the use of negative measures. The U.S., during the Clinton Administration, started in contrast to move away from the 'rogue' state jargon towards a more positive approach. By the late nineties the institutional arrangements of the E.U. had evolved to such an extent as to facilitate decision-making through qualified majority voting for some types of measures. This widened the array of policy options compared to the early nineties when the Commissioner or certain Member States could dominate E.U. reactions in an opaque manner. The E.U. has now developed a sophisticated combination of carrots and sticks to react to coup d'états and human rights violations. The E.U. determined that pressure to foster democracy and respect for human rights is more effective through agreements that incorporate carrots and sticks than through isolation of regimes that leave the population even worse off.

### **7.1 Theoretical Implications**

What are the theoretical implications of these findings? This thesis moved away from the 'isms' approach and identified three broad motivations of state behavior: interests, institutions and liberal norms. These variables are linked to the most vibrant theories in International Relations today, namely: Neorealism, Institutionalism, Liberalism and Constructivism. If we link the findings to the original hypotheses (see Table 2-2, page 59) we can conclude that we found support for some, that we falsified others and could not accurately test all hypotheses. Table 7-1 below provides a summary of the results of the statistical analysis.

Table 7-1. Summary of Statistical Results.

Significant? Model	Across targets			E.U.			U.S.		
	Sticks	Carrots	Mixture	Sticks	Carrots	Mixture	Sticks	Carrots	Mixture
<b>INTERESTS</b>									
<b>security</b>									
1. ally	-.**	.	.	-.**	.	.	-.**	(**)	.
2. terrorism	.	.	-.**	.	.	-.*	.	.	.
3. security	.	-.*	-.**	-.*	.	-.*	.	.	.
4. population	**	.	.	**	-.**	.	**	*	.
<b>Economic</b>									
5. trade	**	**	**	**	*	**	**	.	*
6. GNPpc		-.**	-.*		-.**	.		.	-.*
<b>INSTITUTIONS</b>									
1. year	**	**	**	**	**	**	*	.	.
2. U.N.	**			**			**	.	.
3. agreement				-.**	.	**	.	.	.
<b>NORMS</b>									
1. Dictator	**	-.*	*	**	-.**	*	**	.	.
2. historic ties				*	(*)	.		*	.
3. improvement		.	.		.	.		.	.
4. deterioration	.	.	.	.	.	.	.	.	.
5. conflict	*	.	.	*	-.**	.		(*)	.
E.U. U.S.	-.**	**							

Note: \*\* = significant at highest levels 1% or better; \* = significant at 1-5%; . = not significant; - = negative sign; (\*) = significant in alternative model only (aid in \$). blank = not included in model

### The role of strategic and economic interests

Interests, as defined by Neorealism, were not useful in determining which countries are or are not sanctioned for violating human rights. Obviously, the struggle for power between states is inherent in international relations. Power is usually defined in terms of interests, namely strategic and economic interests. The hypothesis that the more important a state is in economic or strategic terms the less likely it will be subject to sanctions if it violates human rights was falsified. As a corollary, the hypothesis that sanctions become less likely the more costly they are to the senders could not be affirmed. On the contrary, important trading partners tended to receive harsher punishment if they violated human rights. The costs were usually higher for the E.U. than for the U.S. Contrary to common belief, western powers apparently care more about their trading partners adhering to the rule of law in the long term than the loss of business in the short term. The hypothesis that adversaries are more likely to be subject to more severe sanctions was confirmed for both the E.U. and the U.S. It was noted, however, that adversaries tend to be illiberal states, whereas allies are like-minded. Allies, thus, are not likely to be sanctioned for human rights violations in the first place, which renders the hypothesis irrelevant.

To what extent can Realism explain the variation between the E.U. and the U.S.? Security importance plays a somewhat more important role for the E.U. than for the U.S., but the difference was not significant. The fact that the U.S. tends to impose more severe measures on rogue states may be explained by the fact that the U.S. is a military power, whereas the E.U. is not. The E.U. and the U.S. do focus their attention on different regions and both tend to punish countries in their back yard harder than those far away. Such was confirmed in a bivariate, but not in a multivariate analysis. The findings suggest that perceptions of threat and motives to form alliances have changed in the post-Cold War world. Violations of international standards are now perceived as threatening to the stability of the international system of states.

### The role of institutions

It was argued that institutions matter at two levels: internationally and domestically. I found that they do have an important impact at both levels, but not quite in the ways assumed. First, I did not find that the E.U. and the U.S. sought multilateral co-operation through the U.N. when imposing sanctions against relatively important trading partners, despite the logic that such co-operation is said to be a rational remedy against free riders that try to profit from markets that are sanctioned by others. I argue instead that the level of U.N. sanctions tends to be higher because it is easier to agree on measures against the worst of atrocities at a multilateral level. Higher levels of human rights violations and conflict (hence probably the most appalling and uncontested cases) tend to face multilateral action against them, and indeed, such measures tend to be more severe than unilateral sanctions. Keeping in mind that members of the Security Council are excluded as potential targets of U.N. sanctions, trade importance of a target does not lead to multilateralism: both the E.U. and the U.S. are willing to impose sanctions without a U.N. mandate, even if they are costly. The findings suggest that adherence to international norms, not economic incentives, play a role in the cost benefit analysis of states and in fostering multilateral co-operation.

Secondly, I found that the more foreign economic relations become institutionalized by formal agreements, the less likely it is that sanctions will be imposed, since the target is granted a certain degree of legal certainty. Countries with special E.U. agreements are sanctioned less than those without them. Whereas it appears that the E.U. is more restrained towards countries with whom it has institutionalized relations, these agreements have intricate push-and-pull provisions. Indeed, many dictators are still punished despite such agreement. For the U.S., countries that are considered problematic by the U.S. Congress, in contrast, tend to be subject to more severe measures which are institutionalized. These are countries designated to be supporting terrorism, drugs trafficking or nuclear testing. We thus see that domestic institutions matter: legislatures and executives have different levels of influence in the E.U. and the U.S., and their political systems grant different access to societal pressure. In the E.U. we see that where the EP or the Commission have more influence, the E.U. tends to take a harsher and more pro-active stance. Historically and institutionally speaking, it is easier for the EU to decide on positive measures than on negative measures. The institutional set up of US sanctions policy, in contrast, favors the use of sticks, given the role of Congress in the decision-making, while positive measures have a much smaller constituency. The very struggle to control the more sensitive foreign policy instruments underlines the importance of institutions in explaining reactions to human rights violations.

### The role of liberal norms

Adherence to liberal norms is shown by upholding the principles of the rule of law, democracy, and human rights. First, I found that liberal states are much more likely to sanction illiberal states than 'like-minded' states. The E.U. also tends to reward liberal rather than illiberal states. This is an important finding, that twists Cold War notions about what it is that poses a threat. In the nineties, respect for the rule of law rather than security and economic interests seems to have gained in importance in international relations, as opposed to the period during the Cold war when Western states supported countries solely based upon strategic concerns. Like-minded states seem to form alliances on the basis of shared norms



and identities, and tend to act against the “non-alike” in defense of their own values. Countries in transition may be more eager to join the liberal community of states or to accept their conditions than are illiberal or unstable countries, but no such membership is offered to the latter. Leaders of countries in transition may seek to solidify their liberal goals, and they may be more sensitive to ‘shaming’ by the Liberal community. This finding adds to the notion that sanctions against illiberal regimes tend to lead to really-around-the-flag effects if there is no viable opposition that can use the shaming of their leaders to their advantage. Whereas punishing human rights violators for their misbehavior is ethically sound, imposing conditions on countries in transition and supporting them to fulfill these conditions seems more fruitful.

Second, special historical or cultural links with the target country had an impact on E.U. sanctions, but not on U.S. sanctions. Contrary to what one could expect, former colonies tended to be punished harsher, rather than softer compared to non former colonies by the E.U. Former colonies are also rewarded more than others. Indeed, cultural links do factor positively in the decision to provide incentives in both the E.U. and the U.S.. France, whose former colonies tend to have more human rights problems than others, was better able to shield its former protectorate from measures in the beginning than towards the end of the nineties. This was to an important extent caused by institutional changes in the E.U. towards qualified majority voting. If we were able to measure the impact on policy of other special interest groups, we could well arrive at different conclusions. Such groups normally have better access in the U.S. than in the E.U., and are also better organized in the U.S. For example, the campaign organized by a coalition of U.S. businesses and farmers (USA\*Engage) was able to set the agenda for sanctions reform in the U.S.. Businesses in the E.U. mainly became active on sanctions because of the extra-territorial dimension of U.S. federal and sub-federal sanctions.

Finally, do worse norms violations lead to stronger reactions of Western Liberal powers? Yes, they do. The degree of norms violations was one of the most, if not *the* most, important factor, after being an ally or not, that determined the level of sanctions for both powers. We measured human rights on a scale of freedom, level of conflict and as sudden set backs or improvements in the human rights situation. We can infer that genocides are punished harsher than the hanging of human rights activists or the jailing and shooting of student protesters. Atrocities committed during civil wars are reprimanded more severely than restrictions on the freedom of speech. Even if each exception is one to many, human rights norms do tend to trump security and economic importance in foreign policy. This may be caused by the increasingly explicit adherence to norms by Western Liberal Democracies since the fall of Communism. Constructivism suggests that human rights or liberal norms constitute the identity formation of liberal states and make them recognize each other as 'like minded' and turn them into allies. Although Constructivism is, thus, clearly complementary rather than rival to other theories of International Relations, independent indicators and measurements would further refine and substantiate its claims. Concepts as 'norms' or 'identity' remain rather intangible.

A Constructivist question remaining for further qualitative assessment concerned possible differences in the perception of interest. What is it that makes the E.U. react somewhat more strongly to conflict and more softly to security importance, and the U.S. more strongly to 'rogue' states? In interviews, many E.U. officials and diplomats expressed the opinion that a lack of respect for human rights and democracy threatens the stability in a country and in a region. This is most apparent in the stricter yet more constructive stance of the E.U. towards Mediterranean countries, Turkey, and new applicant states. Many of these countries border the E.U. and, thus, stability is essential. Sharing the same principles of human rights and democracy is considered vital to maintaining and growing stability in the region. The fact that the U.S. is more transfixed on threats such as terrorism may have to do with the search for new threats after the end of Communism and the impact of the Pentagon in foreign policy matters. Also, the

U.S. does not have the same border issues as the E.U. does and it is the target of terrorism more than many other countries. Whereas the U.S. is a military state, the E.U. is more a civilian-cum-trading state. While opposed to the label 'rogues', the E.U. does not deny terrorism as a threat. Military issues are still the exclusive domain of the Member States, however, despite recent developments towards a rapid reaction force.

In sum, we can conclude that to explain the variation in reactions to human rights violations across targets and across the E.U. and the U.S., adherence to liberal norms mattered most, institutions played a more intricate yet undeniable role and interests are not any more simply defined in security or economic terms.

## **7.2 Implications for Future Research**

The implications for future research stemming from my findings are both of a methodological and a theoretical nature. The advantage and advancement of this thesis is that it presents an entirely new database which enables us to analyze hundreds of cases on human rights violations and sanctions, instead of a selected –and often biased- few, while controlling for the potential impact of many variables instead of just one or two. The data set also avoids many of the pitfalls of other sanctions data sets. Most importantly, it avoids the selection bias problem by including cases of human rights violations where no sanctions resulted. It also codes both positive and negative sanctions, which is unprecedented. This research was the first quantitative study of E.U. sanctions and the first comparison of E.U. and U.S. foreign policy in the post Cold-War period.

All decisions about coding have been clearly spelled out and the process of coding followed a systematic approach. This data set can be used for further research on human rights in foreign policy. Additional testing in both quantitative and qualitative ways to substantiate and clarify the arguments is required. Methodological improvements and alternatives for the measurement of both independent and dependent variables would strengthen confidence in the findings. In particular, ambiguities were noted with the measurement of the carrots scale and the mixed

strategies, although additional alternative measurements were used without altering the conclusions. More research is needed to compare and analyze non-state activities that are geared towards 'engagement'.

Testing insights developed during the Cold War period on data from the nineties shed a new light on established theories, such as Realism, and put relatively young theories such as Constructivism through empirical analysis. I did not directly confront the data collected for this research with data from before the nineties. Although one would need to address the difficulty of how to compare different levels of decision-making for the E.U. before that time, a more longitudinal study could prove insightful.

An important issue for theoretical debate was raised by the finding that countries that tend to be sanctioned are illiberal, adversarial and involved in conflict, whereas countries that do not tend to be sanctioned are liberal, allies and in peace. Members of the Liberal community also tend to trade more amongst themselves. The democratic peace literature explained that democracies do not tend to fight each other. These countries are, however, similar on other important accounts such as trade linkages and stability. I argued that it is the most logical if first, states adhere to liberal norms, then they take on a liberal identity, which subsequently makes them look for allies among other like-minded states. We saw that adherence to norms mattered more than economic or security importance. According to this account Constructivism has a complementary or constitutive explanatory power to Liberalism, which in turn helps explain Neorealist assertions on the formation of alliances and threat perceptions. The development of more specific indicators and arguments is needed to better distinguish the various theories. Moving away from the 'isms' brought clarity on what factors determine international relations between states.

Several potential arguments for the explanation across targets and the E.U. and the U.S. were not directly addressed or tested in this analysis. Looking further into the role of institutions seems an important avenue for further research on E.U. and

U.S. reactions to human rights violations. The fact that sanctions occupy the middle ground between foreign and economic policy caused tensions between the various institutions on both sides of the Atlantic. What exactly is the impact of domestic structure on foreign policy in general, and on sanctions in particular? In what ways do domestic structures grant access and influence to some rather than other societal interests? What, then, is the role of state and non-state actors in the development and formation of policy on sanctions and human rights? The peculiarities and various levels of the E.U. decision-making system and its implications for E.U. reactions to human rights violations merit in-depth study by themselves. For instance, one alternative explanation not investigated in this study was the bureaucratic politics argument. To what extent does the internal bureaucratic organization of E.U. and U.S. decision-making on sanctions have an impact on the final outcome? What is the importance of the fact that one system concentrates the final direction and decision-making power in the hands of only one or a few actors, whereas the other system has a more horizontal structure?

### **7.3 Implications for Policy**

“Stop, look and listen before you impose a sanction... count to 10, then call me”. These were the words of Collin Powell, Secretary of State under the Bush Administration during his confirmation hearing in Congress in January 2001. Powell explicitly referred to the studies of the National Association of Manufacturers and USA\*Engage, when expressing his desire to “get rid of most” sanctions. Human rights NGOs are pointing to the humanitarian impact of sanctions and their poor success record. With the next world trade round in sight, the E.U. is shying away from a ‘sanctions based trade policy’ and favors a positive approach. Are we to enter a new era in which sanctions are no longer considered viable foreign policy tools?

This dissertation started with the question, if sanctions are often not effective and even strengthen the position of repudiated leaders while causing the population to suffer, why, then, are they still imposed? This study showed that they are imposed to protest against violations of human rights, in defence of freedom and to stop

worse atrocities from happening. Illiberal regimes, adversaries and countries in conflict will remain on the agenda of Western liberal democracies since they are perceived as a threat to the principles for which they stand and which define their identity. The fine line between inducements or punishment to foster change will have to be adjudicated again in the future. Moreover, the successful ousting of Milosevic by an opposition that could play the trump card to have the international community lift the sanctions, gave new impetus to the debate on the effects and effectiveness of sanctions.

Western powers can react in various ways to human rights violations. Sanctions have been a popular response in the past decade since the willingness to incur costs shows resolve, both at home and abroad. These costs are now being questioned, both the human costs abroad and the economic costs at home. Since sanctions aim to punish, contain and discourage human rights violators, they should not be counter-effective. Yet, between doing nothing in the face of violations and throwing bombs, sanctions still seem to be the foreign policy option that is least costly in human and in economic terms. Sanctions are an instrument at the disposal of all liberal states. They can rally multilateral co-operation and, if implemented well, are a more credible and proportionate response in defence of human liberty and safety than either silence or explosions. Sanctions should be targeted at the regime and its cronies whose actions are repudiated, while those segments within the target country that can foster change from within should be supported.

We saw that the E.U. and the U.S. have different approaches to human rights, even though the difference in reasons behind the level of their negative reactions was not significant. Both have various policy options at their disposal, and their constituents seem to have favoured particular types of reactions to human rights violations over time. In the U.S., such reactions may be more of a military nature, whereas the E.U. is better at and more willing to provide economic assistance. More resources should be invested in ensuring that sanctions hit their targets and are effectively implemented, especially in the E.U.. The E.U. and the U.S. could and should do a much better job in co-ordinating their efforts to foster human

rights and democracy. Extra-territorial measures are not the way forward to foster such co-operation.

Common ground for such co-operation could be found in the concept of 'engagement', which tries to combine instruments of persuasion and punishment. This concept seems at the heart of both transatlantic accusations about the conquering of markets at the expense of human rights, as well as at the possible middle ground occupied by human rights and business advocates alike. Engagement should mean more than continuing business as usual. Rather than trying to be competitors in engagement, the E.U. and the U.S. should work together. Whereas the E.U. has a lot to learn from the U.S. in terms of how to monitor and implement sanction regimes effectively and timely, the U.S. can learn a lesson from the E.U. in terms of co-operation between states and designing institutional mechanisms that include push-and-pull factors.

Dictators will be more worried when they face a good cop and a bad cop that combine their strengths and means, than if they face half-hearted sanction regimes with automatic sunset clauses. It will be much harder for such 'rogues' to play sender states off one another if the cops stand together. Otherwise, dictators –especially those with lucrative markets or goods for sale- will just look, listen, count to ten and continue atrocities until Collin Powell gives them a call. The commitment to stand up and act in the face of human rights violations will be effective only if both the E.U. and the U.S. remain willing to pay a price for their principles. This price is much lower and promises much higher rates of return than the cost of human rights violations.

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