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Overlapping negotiations, conflicting interests?
EU-Singapore negotiations

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Abstract

In 2013, the European Union (EU) concluded its first comprehensive trade agreement with a Southeast Asian partner. The EU-Singapore agreement (EUSFTA) was meant as a blueprint for further negotiations in the region and indeed it was paralleled by trade talks between the EU and other members of the Association of Southeast Asian Nations (ASEAN). Given the significant challenges and roadblocks the EU faced in concluding both inter-regional and bilateral trade deals in Asia prior to the EUSFTA, the conclusion of this agreement can be understood as a significant success. However, this success has come at the cost of a shift in EU external relations away from the promotion of its own foundation norms of human rights, rule of law and democracy. This shift has had a deleterious effect on the EU's legitimacy, founded on upholding these norms, both internally and in the Asian region. As a blueprint agreement, the EUSFTA can be analyzed to understand how this shift in the EU's external relations will shape the EU's wider trade policy in East Asia as well as the future of EU-Asia trade relations. This working paper will explore these negotiations and argue that the EU unbundled trade policy from its rights-based foreign policy in the EUSFTA. We argue that this creates significant opportunity for Singapore and other Asian states, but also presents a critical risk to the EU's foundation norms, which were compromised in the EU's negotiation of the EUSFTA.

Keywords

European Union, human rights, Singapore, trade agreement, values.

Introduction*

Scholarship to date has tended to see the European Union (EU)-Singapore free trade agreement (EUSFTA) as significant in the context of the European Court of Justice's (ECJ 2017) decision that it is a mixed agreement, meaning that competencies are shared between the EU and Member States, and the subsequent implications for trade and investment in EU trade policy. It has also been acknowledged as a ground-breaking agreement for the EU's trade strategy in the East Asian region. However, the EUSFTA has significance well beyond precedence in EU trade competencies. Key concessions on the EUSFTA, particularly on human rights conditionality, represent an inflection point in the EU's external relations and trade policy. In this way, the EUSFTA provides an important case for how geo-economic considerations and third-party interests in a trade negotiation can shape policy outcomes, and impact on the relationship between political objectives and commercial interests in EU trade policy.

Furthermore, the case of the negotiations with Singapore points to the broader challenge of EU trade engagement in Asia, beyond commercial and economic concerns, extending to the EU's core narrative and foundation norms. We will argue that the EUSFTA had and continues to have major implications for EU-Asia relations and for the EU's global political legitimacy. This agreement is likely to act as a template for future free trade agreements (FTAs), thus shaping the intersection of trade policy, political norms and conditionality. By extension, the EUSFTA as a model deal may have wider implications for the EU's approach to sustainable development through trade negotiations into the future. These implications, which we will explore in this chapter, resulted from tensions in EU external relations between hard commercial interests, on the one hand, and its foundation norms expressed in what we term values-based policies or interests, including human rights, on the other hand.

In the case of the EUSFTA, these tensions were accelerated by two factors. First, EUSFTA negotiations happened in a context of parallel, competing trade initiatives and overlapping negotiations which made the EU hard wired for a commercially ambitious agreement (Meissner 2018). Second, the limited salience of the agreement in the sense of low public visibility led to a near complete absence of the European Parliament (EP) in negotiations. The EP's retreat meant in EUSFTA negotiations major European concessions on values-based interests such as human rights, or in this case the death penalty (McKenzie and Meissner 2017). Paradoxically, this context of little visibility and parallel trade initiatives was a source for conflicting interests for the EU, rather than for Singapore.

Singapore, in turn, managed to successfully exploit these tensions in EU external relations to its benefit in the EUSFTA negotiations. How was Singapore, the structurally weaker player in the negotiations in terms of market size and foreign policy influence, able to advance its interests to have a more commercially oriented deal that watered down human rights conditionality to an extent unseen in the EU's previous agreements? Furthermore, what does this case tell us about the future of the EU's trade engagement in the Asian region? We argue that a political lens is critical in answering these questions, focusing both on the geo-economic factors at play, and the politics of decision-making within the context of negotiations, where the EU's (often disparate) interests are set against those of Singapore.

In answering these question, we will proceed in three steps. First, we will explore the geo-economic context of overlapping and parallel negotiations and elaborate on the EU's motives in negotiating a comprehensive FTA in the Southeast Asian region and in singling out Singapore for a bilateral agreement. The EU's position to conclude a commercially ambitious EUSFTA was matched by

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Singapore's near exclusive focus on commerce and market access. Second, we will explore the negotiation dynamics between the EU and Singapore. They took place in a context of competing trade initiatives and parallel negotiations which pushed the EU into major concessions on foundational values, notably human rights conditionality. Third, we will discuss the EUSFTA design with a particular focus on the human rights conditionality clause and discuss implications for the EU's global political legitimacy and externalities for the Southeast Asian region.

Conditionality and EU trade policy

Trade policy is a major capability for the EU to promote its foundational values and political interests through the use of FTAs and conditionality clauses. The Treaty on the EU in Article 3(5) concretizes the EU's foundational values:

In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law [...].

Two principles explain why these foundational values and political interests are enshrined in EU trade policy: coherence and conditionality (Szymanski and Smith 2005: 175 ff.). According to its treaties, the EU is supposed to ensure coherence of its activities, and its international agreements should be coherent with political values. From the imperative of maintaining coherence, trade policy does not only serve the Common Commercial Policy (CCP), but also as an instrument to promote EU values externally. Promoting values such as democracy, fundamental rights, and the rule of law through conditionality clauses has been a cornerstone of EU external relations (Lerch and Schweltnus 2005; Smith 1998; Szymanski and Smith 2005).

In the EUSFTA negotiations, we have seen a decisive shift away from this approach of linking human rights to trade agreements through the use of conditionality. In addition to this shift, we observe a decoupling of the EU's trade policy from its wider external political objectives in EU-Singapore relations, notably support for regional integration in East Asia. First, the shift from an inter-regional approach to bilateral negotiations, starting with Singapore, marked a major sacrifice of the EU's established principle of inter-regionalism in favor of a commercially ambitious bilateral trade deal (Meissner 2016a). Second, the EU made major concessions on human rights in the EUSFTA through the use of a side letter attached to the agreement. In this side letter, the EU in effect recognizes – and thus legitimizes – Singapore's human rights practices (McKenzie and Meissner 2017). Singapore is no exception in the EU's shift from values-based or politically oriented interests to commercial orientation in its relations with Asia. Rather, Allison (2015), for instance, finds that the EU often prioritizes economic interests and falls short of its normative rhetoric in Southeast Asia.

The EU's prioritization of commercial interests over political objectives in the EUSFTA negotiations is part of a general shift in the EU's new generation FTAs and a more general decoupling from its wider foreign policy objectives (García 2013; Heydon and Woolcock 2009; Woolcock 2014). These new generation FTAs constitute a shift away from linkage of trade to development and norms promotion towards a more strictly commercial orientation (McKenzie 2016). García (2013) conceptualized this shift from promoting regional integration, multilateralism and development to increased emphasis on Europe's competitiveness. A turning point in EU trade policy was DG Trade's *Global Europe* strategy paper (European Commission 2006). *Global Europe* directed the EU towards bilateral FTAs from the stalled Doha Round at the World Trade Organization (WTO) in order to seize market potential of third states and aim for “the highest possible degree of trade liberalization” (European Commission 2006, 11).

Exploration of the EUSFTA negotiations are instructive in that they indicate the drivers of this policy shift, and expose how this shift has created challenges for the EU in executing its trade policy in Asia.

We argue that this is less a strategic shift and more a product of the both geo-economic considerations and third country interests. The case demonstrates the significant challenge the EU faces in fulfilling its strategic objectives and maintaining both its coherence and legitimacy as a political and trade actor as it negotiates trade agreements in the Asian region.

Before *Global Europe*, the EU pursued trade liberalization with industrialized states at the multilateral level through the WTO's Doha Round, rather than through bilateral FTAs (as is now the case with the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada or the EU-Japan agreement). In multilateral negotiations, the EU was at the forefront of promoting norms of sustainable development (Kerremans and Orbie 2009). Bilateral negotiations targeted primarily developing states, and these talks were strongly linked to development objectives. The trade-development nexus (Carbone and Orbie 2014) diminished in importance in EU trade policy as one DG Trade official affirmed, "the focus on development is lessening because the concern is shifting towards safeguarding the basics at home; the EU feels weaker in terms of global competition, and has to start protecting itself" (Interview 10 LM). Indeed, recent scholarship (García 2013; Heydon and Woolcock 2009; Hoang and Sicurelli 2017; McKenzie and Meissner 2017; Woolcock 2014) has observed a change in EU trade policy in favor of a strong commercial orientation. Yet the dynamics of this change, the extent to which it is contested within the EU and its implications for the EU trade and foreign policy are yet to be fully explored. The EU made significant concessions on conditionality through the EUSFTA. This concession and the EU's commercial orientation in the negotiations are significant in that their resulting negotiation outcomes will have implications for other trade agreement negotiations in the region.

The EU's strong commercial orientation in negotiations with Singapore were not a forgone conclusion. In this case, we see the dynamics of economic orientation accelerated by two factors, the overlapping negotiations in the Asian region and the dynamics of negotiations with Singapore specifically. First, we argue that overlapping negotiations or parallel trade initiatives drive more commercial orientation in EU trade policy due to Europe's attempted competitiveness vis-à-vis rival actors (Meissner 2018). Second, an absence of saliency or politicization of trade negotiations is likely to result in little emphasis on values-based interests due to the EP's retreat from strong advocacy in negotiations with little public visibility (Meissner and McKenzie 2019). Before we dive into the EUSFTA negotiation dynamics in the subsequent section, we will unfold this argument below.

Firstly, we contend that parallel and (partly) overlapping trade initiatives accelerate the EU's commercial orientation in external relations towards third actors in Asia. Especially in the context of Asia, the EU faces intensified competition with great powers like China or the United States (US) for economic and security influence in the region; Chinese and US American trade initiatives in Southeast Asia therefore reinforce the EU's need for favorable agreements (Meissner 2016a; Postnikov and Adriaensen 2019). This resonates with recent scholarship arguing that the EU's focus on values-based interests in FTAs diminished due to Europe having less bargaining power on the international stage (Conceição-Heldt 2014; Conceição-Heldt and Meunier 2014; Orbie and Khorana 2015). One source for the EU's decreased bargaining power stems from competing initiatives by China, Japan or the US which create alternative or exit options for negotiation partners (Hennessy and Winanti 2019). In other words, trade partners in Asia have good fallback options in the context of parallel negotiations so that they may refuse to make concessions on political issues such as fundamental rights. We find instances of offensive preferences and bargaining positions from Asian partners in the EU's negotiations with Singapore (McKenzie and Meissner 2017) but also India (Frennhoff Larsén 2017), South Korea (Hilpert 2019) or Indonesia (Hennessy and Winanti 2019).

Secondly, we argue that heavy emphasis on economic issues compared to values-based interests is likely to appear in trade negotiations with limited political salience. The reason for this lies partly in the EU's institutional configuration and its trade policy-making procedure where decision-makers pursue heterogeneous and often conflicting preferences (McKenzie 2016; McKenzie and Meissner 2017). Intra-institutionally, the European Commission's Directorate General (DG) Trade and EU member states

prioritize specific commercial interests over values-based objectives, and some scholars argue that these have more weight in decision-making in new generation FTAs (Leeg 2014; Zimmermann 2008). However, over recent years the EP has empowered itself in the negotiation of international agreements and, in some FTA talks such as with Japan or the US (currently on ice), it has been involved from the very beginning of trade talks (Héritier et al. 2019; Meissner 2016b; Meissner and Schoeller 2019; Frennhoff Larsén 2017; Van den Putte, de Ville and Orbie 2016). The EP usually is an advocate of values-based interests in trade negotiations where it promotes coherence of EU external relations, fundamental political rights and democracy (Van den Putte, de Ville and Orbie 2016). However, recent research shows how the EP acts primarily upon dynamics of saliency or politicization and tends to invest political resources only when political issues or events are visible and resonate with public opinion (Meissner and McKenzie 2019). Thus, an absence of saliency or politicization likely results in limited engagement from the EP in trade negotiations. In other words, where FTA talks have limited public visibility, advocates of political objectives are similarly disengaged which creates political space in intra-EU decision-making that reinforces DG Trade and member states' preferences for a strong commercial orientation in the EU's external action.

We contend that the potential negative externalities of the resultant shift from promoting political values to prioritizing economic objectives in the EU's external relations are by and large underexplored. In the following section, we will use the case of the EUSFTA to interrogate this problem.

EU-Singapore negotiations in an international context of parallel and overlapping negotiations

The negotiation of the EUSFTA occurred in the context of stalled attempts at trade relations that revolved around mixing EU preferences for inter-regional political and economic arrangements with the Southeast Asian region, as well as commercial objectives in specific member states of the Association of South East Asian Nations (ASEAN). This inter-regional approach took the form of the negotiation of a comprehensive EU-ASEAN FTA, negotiations which were initiated in 2007. In preparatory talks, both the EU and ASEAN member states explored mutual benefits and exchanged technical details. However, it soon became clear that the EU's ambitious vision for a trade agreement would clash with divergent interests among ASEAN member states. Hence, it was in the negotiations with ASEAN that DG Trade realized it was not going to be able to reach a comprehensive and ambitious agreement with the entire ASEAN group (Meissner 2016a; 2018). Only two years after the EU had started FTA talks with ASEAN, the Commission was openly considering alternatives to an inter-regional agreement. The European Commission and EU member states had learnt a lesson about the execution of trade policy in an era when agreements were meant to be both comprehensive and ambitious in the level of liberalization they achieved. That lesson was that achieving ambitious commercial objectives was made difficult when coupled with non-commercial interests, in this case building inter-regional institutional capacity. In 2010, the European Commission therefore asked the Council to amend the negotiation mandate in favor of a bilateral approach.

As the EUSFTA negotiations occurred within a context of parallel trade initiatives, such overlapping negotiations accelerated the EU's need for a commercially ambitious deal. This took place on three levels. First, negotiations between the EU and Singapore became significant for the Europeans due to competing trade initiatives in the region with China, Japan and the US (Meissner 2018). Thus, the EU's rationale for starting bilateral, commercially comprehensive negotiations with Singapore was heavily influenced by the international context. Next to already existing Singaporean trade agreements with China, Japan and the US, in 2009 the US announced the negotiation of the Transpacific Partnership (TPP) which had been planned as an "ambitious, next-generation, Asia-Pacific trade agreement" (US 2015) reflecting the US's economic priorities. TPP (from which the US withdrew under the Presidency of Donald Trump) targeted eleven like-minded Asian-Pacific states, including Singapore, with which the US aimed at an economically ambitious trade deal. The European Commission made it clear that it

targeted an equally ambitious trade deal with Southeast Asia (Interview 1 KM, 2 KM). Any FTA, according to the European Commission, should go beyond tariff reductions and include regulatory standards (Interview 2 KM). These factors were significant in shaping the approach to the negotiation of the EUSFTA to be highly ambitious, commercially comprehensive and targeting behind-the-border obstacles to trade.

The negotiations were also important in maintaining the EU's global economic competitiveness. In an effort to have equally beneficial treatment as the US in negotiations with Singapore, the EU observed Singaporean concessions granted to the US and demanded the same degree of commitments. Examples are the foreigner buyers' stamp duty on which Europe unsuccessfully pushed hard because Singapore had granted the inclusion of the issue in negotiations with the US but not with the EU (Interview 1 KM); another example is the automobile sector where Singapore granted more to the EU than the US (Interview 1 KM). Hence, Europe's preference in favor of a comprehensive and ambitious FTA with Singapore can be understood as an effort to enhance the EU's global competitiveness. Thus, a successful conclusion of the EUSFTA would promise to enhance the EU's credibility of being able to implement its trade agenda in Asia when faced with the increasing engagement of the EU's competitors.

Seeing an agreement that would be commercially comprehensive and ambitious, Singapore was perceived as a natural first partner for an agreement given that its economic openness would guarantee a deep and comprehensive FTA. Being the first bilateral negotiations in the region, the EUSFTA would function as a blueprint for the EU's negotiation policy with other states in the region, including the EU-Vietnam FTA negotiations which quickly followed the launch of negotiations with Singapore (Sicurelli 2017) (second level). Thus, the EU had a strong preference for an ambitious agreement with Singapore to set a benchmark and precedence, so that any future trade deals in Southeast Asia would meet those standards. In parallel to Singapore, the EU started preparatory talks with Indonesia (Hennessy and Winanti 2019) and opened trade negotiations with Malaysia (2010), Thailand (2013), and Vietnam (2012).

Next to negotiations with Singapore, the EU pursued ambitious trade talks with third countries outside the region (third level). Among them were the high profile negotiations on the CETA with Canada (2009-2016). In this context, the EU aimed for a model text on investments and investor-state-dispute-settlement (ISDS) with Singapore which it could use for other agreements like the one with Canada (McKenzie 2016). As a result of the Lisbon Treaty, investment was an EU competence, and thus DG Trade was aiming for a blueprint on investment and ISDS for future negotiations. As DG Trade's Chief Economist has stated, "the well-established investment ties between the two partners make Singapore an obvious candidate to be among the first countries to negotiate an investment protection with the EU" (European Commission 2013, 16). This was supported by EU member states which also sought an ambitious deal on investments and ISDS. In the words of one Singaporean negotiator interviewed, "the Commission was looking to make a model text for ISDS" (Interview 8 LM). In this way the EUSFTA would be a testing ground for the EU's new commercially ambitious trade agenda not only in the South East Asian region, but globally in all EU trade policy.

On the Southeast Asian side, we can observe a growing divergence among ASEAN's member states over foreign trade throughout the initial inter-regional preparatory talks to the eventual bilateral negotiations on a EUSFTA. While some states decreased their number of commercial exchanges with the EU, others even increased their economic ties (Meissner 2016a). In consequence, some ASEAN member states were more interested than others in an FTA and Singapore belonged to the former camp. ASEAN's divergence led to very different a priority within South East Asia regarding the different negotiation issues an eventual agreement should entail (Camroux 2010). One Singaporean negotiator, for instance, reported that Singapore unsuccessfully tried to build a coalition in ASEAN in favor of an inter-regional and ambitious FTA with the EU (Interview 1 KM). Due to ASEAN's divergence it became clear that an inter-regional agreement with the EU was no longer an option. These different positions became obvious during the negotiations when the countries in South East Asia realized that they had no

common position on issues that were crucial to the EU such as non-tariff trade barriers (Interview 3 KM).

Singapore stood out among its ASEAN partners in that it was very liberal on all issue areas targeted by the EU – while other countries were not ready to the same degree. In some respect, Singaporean negotiators aligned with the DG Trade’s preference in favor of a commercially ambitious and wide-ranging trade agreement. Indeed, the Singaporean government perceives the EU primarily through commercial interests and as a trade partner. One Singaporean interlocutor interviewed stated that “the EU is more of an economic force” (Interview 9 LM). The same interlocutor acknowledged that “the EU is very principled in its approach to negotiations” but that “the EU is a bit lost on foreign policy” (Interview 9 LM). For Singaporean interlocutors, the EU is not perceived as having significant foreign policy capabilities in the Southeast Asian region, and its political ambitions for inter-regional development or promotion of political objectives including human rights do not feature heavily in their framing of the relationship. In this way, Singapore was focused nearly exclusively on the commercial aspects of a deal with the EU.

The dynamics of negotiations: Trading off values for commercial interests

Against this background of parallel trade initiatives in the region and beyond, the DG Trade set a negotiating agenda that was ambitious in its commercial objectives in relation to EU trade policy of the past (Interview 4 KM). However, this commercial orientation came at a cost in the form of concessions in the EU’s longstanding approach of linking trade policy with the promotion of value-based foreign policy interests, codified in the Treaties and the common approach. These concessions constitute a tension in the EU’s external relations which impacts on the EU’s legitimacy. These tensions are set between economic ambition pursued primarily by DG Trade and the member states, on the one hand, and foundational values the EU seeks to export through trade agreements, on the other hand. In the EUSFTA negotiations two issues emerged which created this tension in the EU’s external relations: first, the principle of pursuing inter-regional relations and thereby support regional integration in other world regions; second, the promotion of values-based objectives such as human rights through conditionality clauses attached to trade deals.

First, Europe’s ambitious vision for an FTA resulted in conflicting interests for the EU whether to pursue an inter-regional, but rather shallow trade deal, or several bilateral agreements delivering on economic ambition. The EU understood during the negotiations with ASEAN that an inter-regional and comprehensive agreement would not be feasible (Interview 5 KM; 6 KM; 3 KM). The main difficulties in initial inter-regional negotiations with ASEAN were different levels of ambition and heterogeneity among Southeast Asian states which is why the EU could not move far substantially in trade talks (Interview 7 KM). Hence, Europe’s principle of organizing relations inter-regionally clashed with the objective of reaching an ambitious FTA (Meissner 2016a). In this situation, the EU decided in favor of a ‘pragmatic’ approach (Interview 4 KM) whereby it made a strategic shift towards bilateral trade negotiations starting with Singapore. ASEAN and the EU still have as an objective to consolidate all bilateral FTAs into a single inter-regional one (Interview 6 KM) although this seems unlikely given Southeast Asia’s heterogeneity which will result in diverse agreements. Nevertheless, the EU’s emphasis on inter-regional relations in Asia declined to a certain extent (Gaens, Jokela and Mattlin 2012) for which the EUSFTA is symptomatic.

Tensions also played out in the form of specific concessions made during the negotiations to the EU’s common approach and practice of linking values based foreign policy interests with trade policy. In the negotiations, DG Trade’s strong commercial orientation, backed by EU member states, resulted in tension with values-based objectives usually promoted through conditionality clauses. The EUSFTA was conceptualized by DG Trade and EU member states in the Trade Policy Committee (TPC) as commercially significant. Germany and the United Kingdom (UK), in particular, had strong business

interests in the region and therefore prioritized commercial interests in the TPC rather than values-based interests (McKenzie and Meissner 2017).

Singapore's interests in the negotiations were overwhelmingly oriented towards trade and market access. Thus, Singaporean negotiators were opposed to linking the EUSFTA to a political agreement which would include human rights conditionality (Interview 8 LM). More specifically, the Singaporean government rejected the idea of signing up to the EU's conditionality clauses based on a western understanding of human rights values. This was expressed by a Singaporean negotiator who stated, "the human rights clause was a problem [in the negotiations]" and that "the EU has this idea that their way [in regards to human rights] is the best way, but this is not always the case" (Interview 8 LM). While Singapore eventually embraced the idea of a political agreement accompanying the EUSFTA, it insisted on its human rights practices by requesting a "positive, explicit statement on the compliance of its domestic laws and practices with the essential elements" (UK Parliament 2014).

Importantly, Singapore prioritized the commercial orientation and market access issues in negotiations with the EU which resonated with the preferences of trade policy decision-makers in the EU, namely the Commission's DG Trade, but were misaligned with longstanding proponents of trade-political linkages and conditionality, namely the EP.

The EP – which often advocates fundamental rights in FTAs – attached low levels of political salience to the EUSFTA as a location to invest political resources to strengthen the EU's promotion of fundamental values like the protection of human rights (McKenzie 2016). Since the negotiations with Singapore were off the public radar, members of the EP (MEPs) perceived the EUSFTA as being of little importance and subsequently demonstrated little interest in the negotiation process when compared to negotiations including the Anti-Counterfeiting Trade Agreement (ACTA) or CETA (McKenzie and Meissner 2017). Unlike in these other negotiations, the EP was notably passive in the case of the EUSFTA and it made little use of its formal or informal parliamentary rights (Héritier et al. 2015, 94-96). Since the EUSFTA was paralleled by other more significant and much more politicized negotiations, MEPs put their political energies into negotiations such as ACTA or CETA rather than negotiations with Singapore which were neither highly visible nor highly contested in the European public.

The absence of a strong position taken by the EP in combination with the prioritization of commercial interests over values promotion by DG Trade and EU member states resulted in major European concessions on conditionality. Given Singapore's opposition to the EU's practice of linking trade agreements to political issues including human rights and the death penalty, DG Trade and the European External Action Service (EEAS) in the EUSFTA negotiations undermined their very conditionality clause. In response to Singaporean opposition, conditionality in the EU-Singapore Partnership and Cooperation Agreement (ESPCA) – which was linked to the EUSFTA – was accompanied by a side letter. The letter set out that "neither party are aware (...) of any of each other's domestic laws, or their application, which could lead to the invocation of the non-execution mechanism" (UK Parliament 2014). In effect, this side letter recognizes Singapore's human rights practices, and therefore constitutes a major concession by the EU on its foundational values.

This concession, facilitated by the DG Trade's and member states' orientation towards commercial interests who did not perceive human rights conditionality as significant in the EUSFTA negotiations, was a result of the decoupling of trade policy from the promotion of value-based foreign policy interests. This decoupling was the result of a rationale, developing among EU trade policy decision-makers since the stalling of the inter-regional FTA with ASEAN, and increases to global commercial competition, that trade policy needed to separate from other policy interests in order to effectively advance a more ambitious commercial agenda. While this process has borne fruit in the form of a successfully concluded deal that formed the blueprint and benchmark in the region, it has significant implications for the EU's legitimacy. As one Singaporean negotiator explained how the EEAS, which negotiated the ESPCA, stressed that conditionality "was very theoretical" (Interview 9 LM). As the EU's promotion of value-

based foreign policy interests, codified in the Treaties and the common approach, moves from tangible policy commitments to theoretical policy outcomes, the resulting implications for the EU's legitimacy and effectiveness are significant. In addition, this marks a significant shift in the course of the EU's relations with Asian states.

The EUSFTA was Europe's first trade agreement with a Southeast Asian partner country. The EU intended that the agreement should set a blueprint for further negotiations in the region. It was within this context that the EU prioritized commercial interests over political objectives, including the support for regional economic integration among ASEAN member states and the promotion of its foundational values including human rights. The impact of the EUSFTA as a template can be seen in the EU-Vietnam negotiations where the EU put emphasis on non-traditional trade issues such as regulatory standards, while it was less stringent on values-based interests (Hoang and Sicurelli 2017). These foundation values set out in the Lisbon Treaty as respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, had been linked to trade policy through a number of mechanisms, chiefly conditionality clauses, consistent with the common approach set out in Article 16 of the Treaty. Among Europe's fundamental norms is the abolition of the death penalty on which the EEAS and DG Trade made a major concession in form of a side-letter recognizing Singaporean human rights practices.

The dynamics we observe in the EUSFTA negotiations are congruent to scholarship on EU-Asia relations which contends a decline of normative commitments in the region (Gaens, Jokela and Mattlin 2012, 96). In relations with Singapore, and in Asia more generally, the EU's approach to the advancement of its foundation norms across the spectrum of its external relations has become less consistent and less coherent (see also Saltnes 2018). Indeed, this shift has been occurring in the EU's external relations globally. What the case of the negotiation of the EUSFTA demonstrates is that this shift is not the result of a deliberate change in policy away from the promotion of foundational values towards a realist promotion of commercial interests. Instead, it occurred reactively as a response to trade agreements negotiations, but with wider implications for the legitimacy with which the EU maintains and promotes its own values.

The lack of coherence in the EU's actions regarding, for example, human rights conditionality might ultimately lead to a diminishing of global legitimacy. Indeed, Ole Elgström (2007) finds that incoherence of EU actions in external relations and an absent inner-institutional unity inflict damage on Europe's leadership potential and its perceived legitimacy. This resonates with current writing on the EU in external affairs which observes a shift towards more immediate, short-term material interests rather than taking into account Europe's long-term objectives of preserving its legitimacy (Lucarelli 2018, 8; Smith and Youngs 2018).

Negotiated outcomes: Results and comparison

The EUSFTA is an agreement which negotiations and outcome were significantly shaped by the international context. It occurred among parallel and partly overlapping negotiations on three levels. On a first level, the EU's motives to achieve an ambitious FTA in Southeast Asia were to a large extent driven by competing initiatives in the region. China, Japan, and the US were all active in negotiating and concluding trade deals. Their activism in combination with the stagnant WTO talks made the EU aware of their (perceived) need to strive for equally ambitious and comprehensive trade agreements. On a second level, the EUSFTA was paralleled by negotiations with other ASEAN member states such as Vietnam. One of the EU's very reasons to start with Singapore as a bilateral trade partner out of the ASEAN group was Singapore's economic significance and its liberal agenda. Both the EU and Singapore were interested in a far-reaching ambitious FTA which would include market access beyond trade in goods to including non-tariff trade barriers. In the belief that the EUSFTA would set a benchmark in the region, the EU started negotiations with Singapore and sought to replicate the likely ambitious liberalization results with further ASEAN member states.

On a third level, the EU engaged in negotiations with trade partners outside the Asian region, namely the CETA talks with Canada. DG Trade conceptualized the EUSFTA and its text on ISDS as a potential blueprint for investment agreements with industrialized states such as Canada or the US. The parallel negotiations in which context the EUSFTA was concluded made the European and the Singaporean negotiators hard wired for a commercially ambitious agreement. Hence, the EU-Singapore negotiations reflect a clear strategic interest in concluding an ambitious commerce agreement which could serve as a point of reference for future FTAs inside and outside the Southeast Asian region.

From the point of view of aiming at a commercially ambitious agreement, the EU's and Singapore's stances in the EUSFTA negotiations were remarkably consistent (table 1). The Commission's DG Trade and Singapore aligned on their preferences for a comprehensive FTA which goes beyond trade in goods to tackle non-tariff trade barriers. In the negotiation dynamics, this ambition was reflected on multiple grounds. Firstly, the EU and ASEAN realized during the initial preparatory talks that an inter-regional agreement would lead to the lowest common denominator and result in a little ambitious FTA. Upon mutual understanding, the EU thus shifted to a bilateral format whereby it started to single out 'willing' trade partners. Secondly, within the EU, it was the DG Trade and liberal member states which were most vocal in the negotiations and which were able to shape the EUSFTA. The EP – which usually is an advocate of strong political interests such as fundamental rights – was passive and focused its parliamentary resources on agreements which it perceived as more important, namely the CETA. This context produced an agreement which aimed at commercial liberalization and which made a major sacrifice on the EU's foundational values. The result was a linkage clause between the EUSFTA and the political framework agreement which was accompanied by a side letter recognizing – and thus legitimizing – Singapore's human rights practices.

Table 1: EU's and Singapore's motives in the EUSFTA negotiations

	EU	Singapore
Motives for negotiation	Commercial orientation	Commercial orientation
Partner selection	Preference for Singapore as liberal trade partner	Interest in trade agreement with the EU (next to other trade partners)
Negotiation dynamic	Shift from inter-regional to bilateral format Little salience in public and in the EU Strong commercial orientation of DG Trade and EU member states	Initial try to build a coalition within ASEAN Shift to bilateralism uncontested Priority on commercial orientation and (initial) opposition to linkage with political agreement
Agreement design	Comprehensive and ambitious trade agreement Linkage clause to political agreement Qualifying side letter to political agreement, especially the human rights conditionality clause	

Source: own compilation

Conclusion

Negotiations for an FTA with Singapore marked a major shift in EU trade policy and the use of conditionality, particularly in human rights conditionality. This chapter has explored how geo-economic considerations in the selection of Singapore to negotiate an FTA, and the dynamics of the negotiations – namely Singapore's preferences – lead to major concessions on conditionality. Thus, the EUSFTA marks an inflection point in the EU's trade policy and foreign policy, where there has existed a long standing practice of linking values-based political interests with market power through the EU's trade

agenda. This is significant in that it highlights the tension (and relationship) between strictly commercial interests, political and foreign policy interests and the EU's foundation norms. The case of the EUSFTA negotiations highlights how the EU's new trade agenda is putting these links under strain, and how, instead of a considered and strategic shift towards a new trade strategy concerning the intersection of trade policy and political objectives, individual negotiation dynamics can force the EU's hand, resulting in concessions which have significant policy implications. This becomes all the more significant because of the template effect in contemporary trade negotiations. Namely, negotiation outcomes with Singapore will be used as a template and can inform future negotiations. Importantly, this may have wider implications for EU trade policy, and may extend to a shift in approach or preferences in the EU's promotion of sustainable development clauses in bilateral trade agreements with third countries, as these clauses also sit at the intersection of the commercial and the political orientation in trade policy. As the EU continues to negotiate a network of trade deals in the East Asian region, there is a significant likelihood that concessions made in the EUSFTA will be replicated and expanded on, with potentially significant impact for the EU's trade agenda. Considering the importance of foundation values including human rights for the EU's political legitimacy, and for the European publics' support for the EU's trade agenda, the EU may well have traded off wider support and legitimacy of its trade agreements for greater capacity to conclude more narrowly commercially focused deals.

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