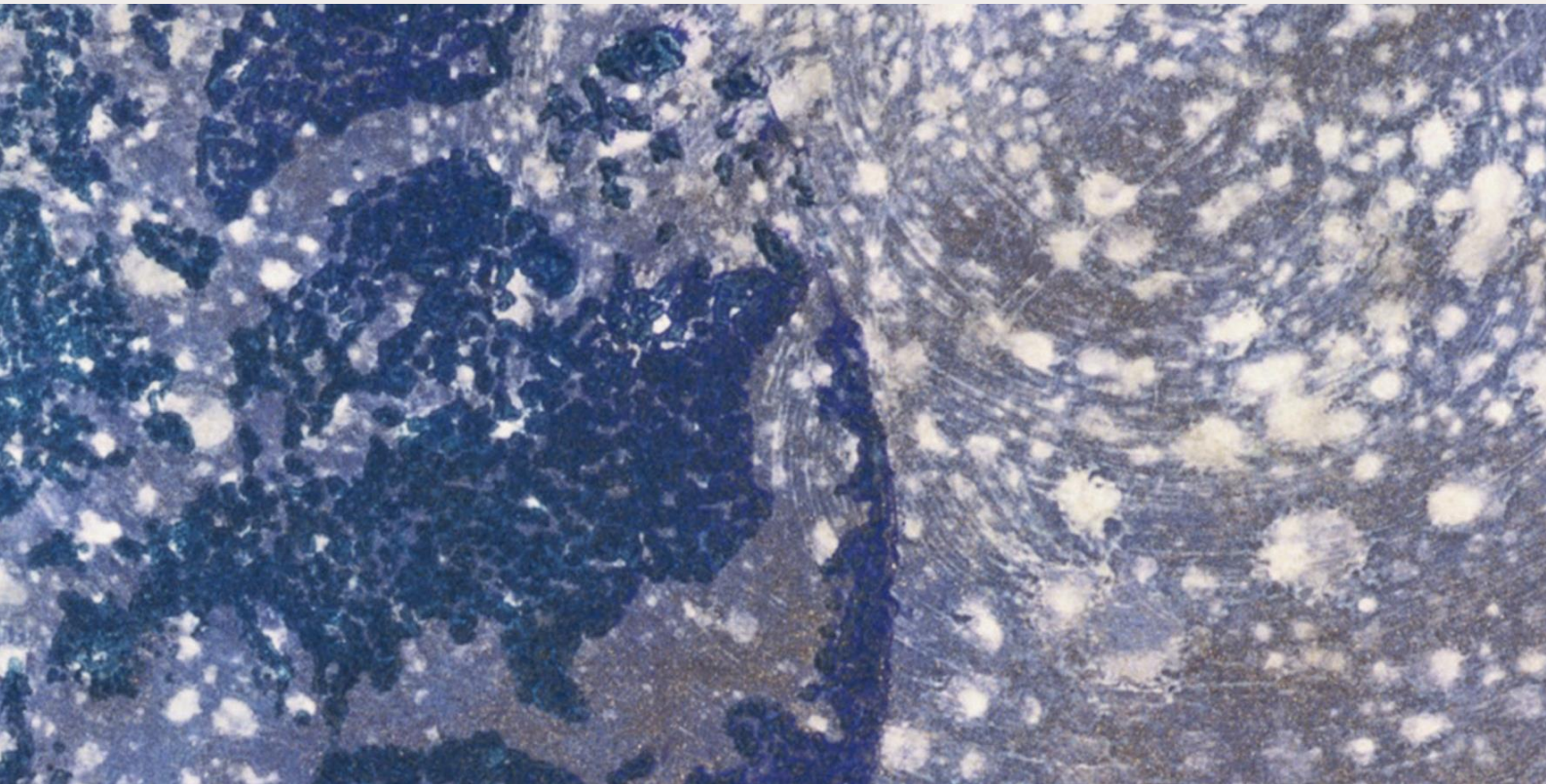


# Values versus interests?

The EU's approach to multilateral negotiations at the United Nations

Anke Schwarzkopf

**ARENA Report 2/2024**



ARENA Centre for European Studies



Values versus interests?

The EU's approach to multilateral negotiations at the United Nations

Anke Schwarzkopf

This project received funding from the Norwegian Ministry of Defense. The thesis reflects only the author's views, and the Norwegian Ministry of Defense is not responsible for any use that may be made of the information it contains.

Copyright © ARENA and the authors

ISBN 978-82-8362-069-6

ARENA Report Series | ISSN 1504-8152

Issued by:

ARENA Centre for European Studies

University of Oslo

P.O. Box 1143 Blindern

0318 Oslo, Norway

[www.arena.uio.no](http://www.arena.uio.no)

**ARENA Centre for European Studies** at the University of Oslo promotes theoretically oriented, empirically informed studies analysing the dynamics of the evolving European political order. The research is multidisciplinary and organized along four key dimensions: A European democratic order; the EU's executive order; expertise and knowledge in the EU; and European foreign and security policy

## Abstract

The EU is the only regional organization that has the ambition to pursue a common foreign policy. The EU is not a state, and it is different from other regional actors at the UNGA, owing to its high level of integration. While the EU has increased its foreign policy activities, the EU's ambitions and ability to influence international interactions have been contested. This debate entails also the discussion whether the EU is a normative and value-driven actor, or just hides its interests behind its normative rhetoric.

This thesis aims to identify the characteristics of the EU's negotiation approach in multilateral negotiation processes at the UNGA. It examines to which extent the EU's normative and value-based aspirations are visible and relevant for the EU's behavior in multilateral interactions. The thesis consists of three articles, which each aim to contribute to the overall research question: *What characterizes the EU's negotiation approach in multilateral negotiations at the UNGA?* While each article stands on its own, the articles complement each other by shedding light on multilateral negotiations in different policy areas at or under the auspices of the UNGA. The three case studies examine the multilateral negotiation processes over the EU's enhanced observer status in the UNGA; the Arms Trade Treaty; and the Global Compact for Safe, Orderly and Regular Migration. The case studies aim to discover whether the EU adopts a negotiation approach that goes beyond the rational assumption of an interest-driven foreign policy behavior and to what extent the EU's value-based aspirations are reflected in its behavior and in interactions with third countries. The research draws upon the theoretical frameworks of rational choice theory and procedural justice to shed light on the research question.

The thesis suggests that the EU's inherently different nature is not always reflected in the EU's behavior in multilateral negotiation processes. The EU's behavior can therefore be characterized by an overlap of an interest-based and value-based behavior. The prioritization of self-interests or its values have shown to vary depending on the international context, the policy issue and the specific self-interest of the Union in the negotiation process. At the theoretical level, the research presented in the thesis suggests that rational choice theory cannot fully capture the EU's behavior, as it is based on assumptions that do not reflect the EU's

capacities and possibilities. Procedural justice provides therefore an additional perspective that helps to achieve an understanding of the characteristics of the EU's behavior. The combination of rational choice theory and procedural justice provide thereby a richer and more nuanced understanding of the EU's approach to multilateral negotiations at the UNGA.

## Acknowledgments

Writing a PhD-thesis has been a long journey and wouldn't have happened without the help and support of many people.

First of all, I would like to thank my supervisor Helene Sjursen who constantly supported and encouraged me throughout my PhD. Her constructive feedback and suggestions to improve my research have made this accomplishment possible.

Without the funding provided by the Norwegian Ministry of Defense, this research project wouldn't have been possible. I thank the Ministry for its generous support, which enabled me to conduct my research, travel for data collection, attend conferences and meet colleagues of my research field.

I would also like to thank all my colleagues at ARENA for the discussions and feedback during academic events, but also during social interactions. The stimulating environment of ARENA has not only allowed me to advance my research, but also inspired me by hearing and discussing the research of my colleagues. A particular thanks goes to the current and former PhD-group at ARENA: Johanna, Johanne, Tine, Claire, Jan, Joris, Trym and Stine. It has been great to having you around.

Another big thanks goes to the research networks NORTIA and UACES, who financed my participation at the EUSA conference in Denver in May 2019 and my research stay in Leuven in autumn 2019. I would particularly like to thank Heidi Maurer and Kolja Raube who supported me in realizing these activities.

There have been many others outside of work that supported me throughout the last year. Above everyone else, I thank Jimmy for his constant support and patience. This thesis would have been finished without you. In addition, I would like to thank my family and friends, who have been part of this journey. Especially, I would like to thank my parents, Karin and Roland, and my siblings, Evi and Julian. Among my many friends that deserve a mention, I want to particularly thank Johanna and Jule.

Last but not least, I would like to thank everybody else that I have had the pleasure meeting and engaging with in the last years! It has been quite a journey! Thank you, and goodbye!

# Table of Contents

<b>Introduction .....</b>	<b>1</b>
Research question.....	4
Literature overview.....	7
Analytical framework.....	11
Research design .....	20
Definition of concepts .....	26
Ethical considerations.....	27
Relationship to the philosophy of science .....	28
Presentation of the articles .....	29
Main findings and implications .....	34
Suggestions for future research.....	41
Bibliography.....	43
<b>Article 55: The EU as a global negotiator? The advancement of the EU's role in multilateral negotiations at the UN General Assembly .....</b>	<b>55</b>
Abstract.....	55
Introduction .....	56
Setting a precedence: the EU's quest for an enhanced status .....	61
The second attempt .....	62
The adoption of resolution 65/276 .....	63
Methodological and analytical framework .....	64
Bargaining towards an agreement? .....	70
Justice beyond UN dynamics?.....	75
Conclusion.....	80
<b>Article 2: Breaking new ground? - The EU's external representation in the multilateral negotiations towards the Arms Trade Treaty .....</b>	<b>83</b>
Abstract.....	83
Introduction .....	84
The ATT Negotiations .....	87
The EU's negotiation objectives .....	88
Methodology and analytical approach .....	89
The EU, a bargaining negotiator? .....	93

Just negotiations, just process? .....	96
Conclusion.....	100
Bibliography.....	102
<b>Article 3: Cooperation or Contestation? - The EU's role in the multilateral negotiation process towards the Global Compact on Migration.....</b>	<b>75</b>
Abstract.....	108
Introduction .....	109
Background .....	112
Methodology and analytical framework .....	115
Self-Interest as a priority?.....	118
The EU - a value-based actor?.....	122
Conclusion.....	125
Bibliography.....	127



## List of Abbreviations

ATT	Arms Trade Treaty
CARICOM	Caribbean Community
CFSP	Common Foreign and Security Policy
Commission	European Commission
Council	Council of the European Union
EEAS	European External Action Service
EU	European Union
FAO	Food and Agricultural Organization
GCM	Global Compact for Safe, Orderly and Regular Migration
HR/VP	High Representative and Vice-President for Foreign Affairs and Security Policy
IO	International organization
P5	the five permanent member states in the UN Security Council
PJ	procedural justice
UK	United Kingdom
UN	United Nations
UNGA	United Nations General Assembly
UNHRC	UN Human Rights Council
UNSC	UN Security Council
USA	United States of America

# Introduction

Aiming to leave its own, independent mark on international affairs, the European Union (EU) has developed and increased its foreign policy activities over the years (Van Schaik, 2013; Keukeleire and Delreux, 2014). Nevertheless, the EU's ability to influence international interactions remains contested. Some see the EU as an emerging global 'superpower' (Leonard, 2005; McCormick, 2007; Meunier and Vachudova, 2018; Reid, 2004), while others describe the Union's global role as rhetorically thin, chaotic, and exaggerated (Allen and Smith, 1990; Menon, 2008). Still others believe that the EU is able to influence multilateral negotiations only as a 'normative' power (Manners, 2002; Smith, 2008; Telo, 2006; Laidi, 2008). The notion of the EU as a normative power is quite similar to what is expressed in the EU's description of itself as an actor that is 'ready to act when [the] rules are broken' and in its claims that 'there is a price to be paid' when states ignore international law and the rules of multilateral cooperation (Council of the European Union, 2003: 36, 38):

The EU will promote a rules-based global order with multilateralism as its key principle and the United Nations at its core. As a Union of medium-to-small sized countries, we have a shared European interest in facing the world together. Through our combined weight, we can promote agreed rules to contain power politics and contribute to a peaceful, fair and prosperous world. (European External Action Service, 2016: 15)

The European Union is fighting intensely to preserve the rules-based international order, which is currently under great strain, in terms of trade, security, climate change or human rights. We say this not only as countries strongly supporting the United Nations, but as a

continent that cares deeply about respect, mutual understanding and solidarity between nations. (Donald Tusk speaking at the UNGA in 2018, cited in Council of the EU, 2018)

However, in the scholarly debate, this self-description of the EU as a value-based, normative actor is not universally endorsed. Instead, the Union's aspirations have been described as ineffective and harmed by a level of incoherence that serves to undermine them (Bengtsson and Elgström, 2012; Larsen, 2014a, 2014b). The debate over the EU's foreign policy – whether it is a normative actor (Manners, 2002; Aggestam, 2004, 2008) or 'a realist actor in normative clothes' (Seeberg, 2009: 81, 95) – has so far focused on the content of the Union's policies rather than on its behavior in specific negotiation processes. Those who see the Union as a normative actor tend to emphasize its efforts to promote respect for human rights, the rule of law, and multilateral cooperation (Manners and Whitman, 2003; Mayer and Vogt, 2006). Those who consider the Union a realist actor point towards the inconsistencies between the EU's rhetoric and its actions (Hyde-Price, 2008: 30; Diez, 2005). Exceptions notwithstanding, scholars have paid less attention to particular negotiations processes and procedures, and have focused instead on the effectiveness and achievements of the EU's foreign policy. The examination of the EU's behavior in negotiation processes and how it goes about pursuing its objectives is important to determine whether or not the EU is a value-based actor. In this thesis, however, the main concern is to identify the extent to which the understanding of the EU as a distinctive, value-based actor is visible and relevant in the EU's behavior in multilateral negotiation processes. To date, it remains to be determined whether the EU is just different in the sense that it is not a state and has reached a higher level of integration than other regional organizations, or whether its foreign policy behavior can be distinguished from that of other actors on account of its value-based character. The fact that the EU is not a state does not necessarily mean that its behavior differs from that of state actors engaged in multilateral cooperation.

The aim of the analyses presented in this thesis is to understand the EU's behavior and external representation in multilateral negotiation processes,

rather than the Union's internal relations or negotiations between its member states. To this end, the research focuses on the relations and interactions between the EU and third parties that affect the negotiation process in the particular cases studied. In each case, the EU's 'common position,' which represents the outcome of the internal negotiations among the EU member states and serves as a guideline for the EU's negotiation strategy, constitutes the starting point for the analysis. While analyzing the EU's internal negotiations might bring forth interesting insights, such processes are not central for answering the research question of this thesis, which aims to increase our understanding of how the EU interacts with third parties on the basis of its common position. Accordingly, internal factors are only mentioned to the extent that they serve an explanatory purpose and further understanding of the EU's external representation and negotiation behavior.

The uncertainties and complexities of multilateral cooperation at the United Nations General Assembly (UNGA) represent both a challenge and an opportunity for the EU. At the UNGA, the EU is an inherently different actor: It is not a state, and thus faces the challenge of how to adapt to the state-centric environment of the United Nations (UN) (Söderbaum et al., 2005; Hettne, 2011). In addition, it differs from other non-state actors at the UNGA, as it is more integrated than other regional organizations. As an observer entity at the UNGA, the EU holds more comprehensive participation rights than other non-state entities but lacks some of the participation rights that states hold, most importantly the right to vote (Blavoukos and Bourantonis, 2017; March and Olsen, 1998). The EU's international engagement is also met with historical distrust, especially by many countries of the global South, due to the colonial legacy of many EU member states (Dworkin and Gowan, 2019). However, the EU is also seen as a more neutral actor that is able to build bridges between the opposing sides in multilateral interactions (Carbone and Orbie, 2015; United Nations, 2021). The African region, the Latin American and Caribbean countries, and states like Canada and Australia have repeatedly expressed their recognition of the EU as a reliable ally and a committed actor in multilateral cooperation (Dworkin and Gowan, 2019; Gowan and Dworkin, 2019).

## Research question

This research project analyzes the EU's behavior in multilateral negotiation processes at the UNGA. It asks the following question:

What characterizes the EU's negotiation approach in multilateral negotiations at the UNGA?<sup>1</sup>

This question is important not just because it addresses a gap in the literature on the EU's so-called normative power. It also raises the more general question of how an actor that is not a state or an international organization (IO) can operate within a state-centric environment such as the UN. The EU is also different from other regional actors at the UNGA owing to its high level of integration and its ambition to have a common external representation that represents more than the sum of its member states. Within the state-centric structure of the UNGA, the EU has limited participation rights, which it and cannot take its participation for granted. The Union is a different, maybe unique, type of polity within the UNGA (Barbe et al., 2016; Gowan and Dworkin, 2019; Larsen, 2014b). The EU's different nature and its explicit normative aspiration have often given rise to the view that the EU is a value-based actor that acts according to its norms (European External Action Service, 2016: 15; Duchêne, 1972; Manners, 2002; Aggestam, 2008). This notion is widely based on Duchêne's (1972) analysis of a 'civilian power Europe' and Manners' (2002) concept of a 'normative power Europe'. While Duchêne justifies its assumption with the Union's lack of military power, Manners built its idea on the ideational impact of the EU's international identity and the substantive and symbolic components of the EU's policies. At present, we do not know enough about how this distinctive and different polity behaves in negotiation processes at the UNGA. The fact that the nature of the EU polity is inherently different from that of states,

---

<sup>1</sup> The research looks at multilateral negotiations either within the UNGA plenary or mandated to a conference under the auspices of the UNGA. The first case study falls under the former category, the second and third case studies under the latter. References to 'negotiations at the UNGA' refer to both types of multilateral negotiations.

however, does not necessarily mean that the Union will take a values-based approach in multilateral negotiation processes.

The state-centric nature of the UNGA represents something of a challenge for the EU's ambition to conduct an autonomous foreign policy. The EU holds more extensive participation rights than other regional organizations but lacks the right to vote and other crucial rights attributed to state actors (Blavoukos et al., 2017; Andresen Guimaraes, 2015). This makes it more difficult for the Union to effectively influence negotiation processes. To analyze how the EU handles this challenge in its efforts to pursue an autonomous foreign policy, as well as the extent to which its negotiation strategy displays distinctive traits, the research presented in this thesis examines the multilateral negotiations over the EU's enhanced observer status at the UNGA, the Arms Trade Treaty (ATT), and the Global Compact for Safe, Orderly and Regular Migration (GCM).

Within this thesis, I draw on two different theoretical perspectives to identify the components of the EU's negotiation approach and offer explanations for it. These perspectives are complementary and are meant to contribute to a more comprehensive and nuanced understanding of the EU's behavior. For the first theoretical perspective, I turn to the standard expectation of international relations according to which actors are viewed as rational and interest-driven. Rational choice theory claims that norms and values do not influence an actor's behavior (Goldstein and Keohane, 1993; Waltz, 1979). According to this perspective, the EU's negotiation approach will be determined on the basis of a calculation of the costs and benefits of different courses of action (Hyde-Price, 2006; Krasner, 1999; Moravcsik, 1997; Tallberg, 2006). Just like a state, the EU is expected to choose the approach that it believes to deliver the highest gains and the lowest costs in terms of its own interests. Within such a perspective, the EU's emphasis on values would be understood as a strategic move to promote the EU's preferences and maximize its achievements (Axelrod and Keohane, 1985; Keohane, 1984; Pollack, 2006: 32-33).

However, rational choice theory is based on assumptions about actors' capabilities that do not fully reflect the situation of the EU. One example

would relate to the EU's lack of the right to vote in the UNGA, which means that the Union has less bargaining power than states, as it cannot oppose in a voting procedure or promise its supporting vote in a later decision. Furthermore, the EU has explicitly claimed that its 'interests and values go hand in hand' in its foreign policy (European External Action Service, 2016: 13), and it therefore seems reasonable to at least try to determine the extent to which the Union's negotiation approach is influenced by its values. I therefore draw on the theoretical framework of procedural justice (PJ) in order to catch any normative and value-based aspects of the EU's negotiation approach. PJ provides indicators for just behavior in negotiation processes (Albin, 2001, 2008; Albin and Druckman, 2012, 2014a), and thus equips the researcher with a tool that can be used to analyze aspects of the EU's negotiation approach that might not be captured by rational choice theory. I consider PJ particularly relevant in the context of this study since the EU links its value-based foreign policy approach to its aspiration for a more just world order. Already in the Declaration on European Identity from the 1973 Copenhagen European Summit, the nine member states of the European Communities expressed their intention to 'play an active role in world affairs and thus to contribute (...) to ensuring that international relations have a more just basis' (Hill and Smith, 2000: 95). What a contribution to 'a more just basis' for world affairs might entail, however, is a contested matter. Often, debates on justice are linked to questions about the distribution of goods and the question of 'who gets what'. PJ is instead concerned with how decisions on 'who gets what' should be made. Little is known about the procedural dimensions of the EU's role in negotiations at the UNGA. The theory of PJ, however, provides explicit indicators regarding what we should expect from an actor who wants to contribute to more just negotiation processes. These indicators are: fair representation, fair treatment and fair play, voluntary agreement, and transparency (Albin, 2001, 2008; Albin and Druckman, 2012, 2014a). PJ looks at the institutions, norms, and structures that affect both a particular negotiation process and the behavior of actors within that process (Albin, 2008; Albin and Druckman, 2014b). PJ acknowledges that actors pursue their self-interests in negotiations. However, it expects that actors are restrained in their pursuit of their own self-interests as a result of taking the needs of others into consideration (Albin and Druckman, 2014a). As an

analytical framework, PJ has to date not been used to analyze multilateral negotiations at the UNGA or negotiation processes, in which there is no clear identification of winners and losers. Accordingly, the research presented in this thesis provides new insights regarding the suitability and explanatory power of PJ in the context of the EU as an actor in multilateral negotiation processes at the UNGA.

## Literature overview

This literature review outlines the main claims about and perspectives on the EU's foreign policy and global role, with a particular focus on the EU's normative power and on what characterizes the role of the EU in multilateral negotiations. The EU is the only regional organization that has a common foreign policy and has become a global actor. It has often been predicted that the EU's member states would never accept the reduction of their sovereignty that would follow from the development of a common European foreign policy (Hoffman, 1966). Nevertheless, the EU's foreign policy has grown in importance over the years. The Lisbon Treaty equipped the Union with a legal personality and created both the position of High Representative and Vice-President for Foreign Affairs and Security Policy (HR/VP) and the EU's own diplomatic service, the European External Action Service (EEAS) (Keukeleire and Delreux, 2014; Laatikainen, 2010). These changes in the EU's foreign policy structure also required some external adjustments, such as the adoption of the EU's enhanced observer status at the UNGA (Blavoukos et al., 2017; Andresen Guimaraes, 2015).

Various attempts have been made to describe what the EU *is* and what characterizes the EU's global role. Following Allen and Smith (1990), Bretherton and Vogler (1999) have claimed that the EU's relative demographic, economic, and ideological weight leads to a 'presence' that impacts the world. Sjöstedt (1977) opened a scholarly debate 'actorness' by discussing the EU's ability to act in international relations and the extent to which it can be considered a foreign policy actor. The concept of 'actorness' describes the capacity of actors 'to develop presence, to become identifiable, aggregate interests, formulate goals and policies, make and implement decisions (Rüland, 2002: 6). In the literature on actorness, however,



understandings of the concept have varied substantively. Some approach the notion of actorness by measuring variables such as recognition, authority, cohesion, and autonomy (Jupille and Caporaso, 1998), while others concentrate on opportunity, presence, and capability (Bretherton and Vogler, 1999). Some see actorness as a requirement to exercise influence (Jupille and Caporaso, 1998; Thomas, 2012; Groen and Niemann, 2012), and others regard actorness as being equivalent to effectiveness (Hill, 1993; Brattberg and Rhinard, 2013; Smith, 2006). In the context of the UN, the concept has frequently been used to refer to the EU's level of active participation (Jørgensen, 2004; Smith, 2005).

It is often assumed that the EU needs to speak with 'one voice' if it is to influence international negotiations processes (see, for example, Blavoukos et al., 2016; Delreux, 2014; Drieskens and Van Schaik, 2014; Gstöhl, 2011; Melin, 2019; Meunier, 2000; Panke, 2014; Romanyshyn, 2015; Thomas and Tonra, 2012). Others claim that a coherent external representation of the EU is a necessary but not sufficient condition to exercise influence (Conceicao-Heldt, 2014; Conceicao-Heldt and Meunier, 2014; Panke, 2014). The Union's coherence has also frequently been analyzed in relation to the effectiveness of the EU's international participation (Conceicao-Heldt, 2014; Conceicao-Heldt and Meunier, 2014; Smith, 2006; Groenleer and Van Schaik, 2007). The most common understandings equate effectiveness with the achievement of one's own interest (see, for example, Blavoukos and Bourantonis, 2017; Dee, 2012; Conceicao-Heldt and Meunier, 2014; Drieskens and Van Schaik, 2014; Kissack, 2011; Oberthür and Groen, 2015; Van Schaik, 2013). Conceicao-Heldt (2014) claims that when the EU is internally unified, it has a higher impact on the outcomes of asymmetric bargaining processes. At times, however, the EU spends so much time and effort on establishing and maintaining its own internal cohesion that it neglects the effectiveness of its external representation (Laatikainen and Smith, 2006). In recent years, other explanations of the EU's low external effectiveness have been put forward, such as the EU's reluctance to exercise its hard power in response to external pressure (Thomas, 2012).

The EU has been observed to speak more coherently in relation to policy areas, in which the Union holds exclusive competences and in IOs that have more welcoming rules of participation for the EU, such as the World Trade Organization and the Food and Agricultural Organization (Gstöhl, 2011). The EU is seen as most effective in trade negotiations, owing to the exclusive competence it has to pursue negotiations on this issue and the high level of internal coherence among its member states in relation to it (Van Schaik, 2014). In this policy area, the EU is described as a power *in trade* and *through trade*. (Dür and Zimmermann, 2007; Meunier and Nicolaidis, 2006). The EU's power in trade negotiations, however, does not automatically translate into a global leadership role for the Union (Elgström, 2007; Laatikainen and Smith, 2006).

Beyond trade negotiations, climate negotiations (see, for example, Bäckstrand and Elgström, 2013; Groen and Niemann, 2013; Von Schaik, 2013; Wouters et al., 2012) and human rights issues have received increased attention in recent years (see, for example, Dee, 2015; Kissack, 2014; Melin, 2019; Romanyshym, 2015; Smith, 2010; Wouters et al., 2012). At the UN, the EU is also described as one of many regional actors, who attempt to promote their values and struggle to claim a leadership role (Buzan, 2012; Larsen, 2014a). In the view of some countries of the global South, the EU is still too much of an old Western power that advocates values that are not accepted or even supported everywhere (Larsen, 2014a; Gowan and Brantner, 2008; Wouters and Meuwissen, 2013).

The EU regards 'effective multilateralism' within the UN, consisting of 'the development of a stronger international society, well-functioning international institutions and a rule-based international order', as a cornerstone of its foreign policy (Council of the European Union, 2003; European External Action Service, 2016). In multilateral settings, the Union often faces normative, institutional, and power-related challenges that force it to choose between its self-interest and living up to its values. Faced with such a situation, however, the EU is not as inflexible and incapable of adapting to change as has often been claimed (Barbe et al., 2016: 16, 227). While scholars acknowledge the EU's potential to build and modernize

multilateral cooperation, the EU has also been accused of using its 'supercilious, sanctimonious and hypercritical' commitment to effective multilateralism as a façade to pursue its self-interest (Bouchard et al., 2014: 33). As power remains a key dimension in multilateral cooperation, the EU's ability to address global challenges and advance an effective multilateralism is limited (Laatikainen and Smith, 2006). At times, the EU's efforts to promote an effective multilateralism do more harm than good, owing to the Union's varying patterns of behavior depending on the setting and negotiation topic (Kissack, 2010). The power dimension is not only visible in the relationship between the EU and third states, but also in the inter-organizational interactions between the EU and the UN (Ojanen, 2018).

Scholars have discussed the extent to which the EU pursues a value-based foreign policy that can be distinguished from the foreign policy behavior of states. This debate goes back to Duchêne's (1972) characterization of the European Community as an 'emerging civilian power'. Scholars have conceptualized the EU as a normative power (Manners, 2002), an ethical power (Aggestam, 2008), a civilian power (Telo, 2006), an integrative power (Koops, 2011), and a transformative power (Keukeleire and Delreux, 2014; Leonard, 2005). The general idea is that the EU's foreign policy is not purely guided by self-interest, but also by a consideration of 'what is right to do' (see, for example, Aggestam, 2004, 2008; Kissack, 2009; Lucarelli and Manners, 2006; Manners and Whitman, 2003; Orbie, 2008). Not surprisingly, critical voices have also pointed towards the overlap between the scholarly descriptions of the EU as a civilian or ethical power and how the EU sees itself (European External Action Service, 2016; Sjursen, 2006; Diez, 2005). In addition, there have been questions about whether the EU can be seen as a 'force for good' on the basis of clear criteria and standards, and whether the EU really is so different from other global actors (Sjursen, 2006). Some scholars have claimed that the EU merely downplays its strategic pursuit of its own interests and actually is 'a realist actor in normative clothes' (Young, 2004; Seeberg, 2009: 81, 95; Hyde-Price, 2006).

In this thesis, I draw on the insights provided in the literature outlined above. Accordingly, I take as my starting point that the EU has a presence in

international interactions and is recognized as a relevant although unorthodox global actor. The insights on the EU's external representation and involvement in international relations show that the EU is a complex entity. It is difficult to find an adequate concept to capture the 'nature of the beast' (Risse-Kappen, 1996). Researchers continue to face the challenge of whether the EU should be compared with other states or with other regional organizations and non-state actors. Such comparisons often fall short, as the EU doesn't really fit any of these categories. This thesis contributes to the debate on how significant the EU's different nature has been for its contribution to the development of events at the international level, drawing in particular on insights from the theory of PJ.

A standard assumption in analyses of multilateral negotiations processes is that actors pursue their self-interest and are focused on the outcomes of negotiations. The research presented in this thesis builds on such an understanding and analyzes the EU's behavior in terms of the expectations of interest-based approaches. In addition, however, I look beyond those expectations by drawing on the conception of a just negotiation process. Relatively little attention has been paid to the effect of a value-based foreign policy on negotiation processes or to the question of what would characterize a just negotiation process. The discussion on the EU's value-based foreign policy has so far aimed to determine what the EU *is* by looking at the content of its policies. I contribute to this debate by focusing the behavior of the EU in negotiation processes, rather than at the substance and the outcomes in multilateral negotiations.

## Analytical framework

Negotiations aim to reconcile conflicting and opposing positions through a joint decision-making process that results in a common outcome (Zartman and Berman, 1982: 1). Traditional negotiation analysis looks at negotiation outcomes and determines whether there has been a 'win-win' or a 'win-lose' result (Putnam, 1994). Instead of focusing on the outcome of negotiations, however, this thesis examines the negotiation process itself and seeks to analyze the EU's behavior and negotiation approach in terms of the expectations of rational choice theory and PJ. As negotiation outcomes at the

UNGA are often non-legally binding and achievements more symbolic than material, analysis of the negotiation process promises more interesting and novel insights into the characteristics of the EU's negotiation approach and global role than analysis of the actual outcomes of negotiations.

The analytical framework used in the three articles of the thesis consists of two theoretical approaches that operate on different levels. Taken together, these aim to provide a nuanced and comprehensive explanation of the traits and characteristics of the EU's approach to multilateral negotiations. Rational choice theory represents a common understanding within international relations, according to which the behavior of actors is interest-driven. International cooperation is assumed to be little institutionalized and rather anarchical (March and Olsen, 1998; Moravcsik, 1997; Tallberg 2006). While rational choice theory consists of various streams and sub-theories, such as neoliberalism and neorealism, they share the view that states are the main actors in international relations and assume that they act rationally and pursue predetermined self-interests. States engage in cost-benefit analysis to identify the best course of action in order to achieve utility maximization (Axelrod and Keohane, 1985; Keohane, 1984; Pollack, 2006: 32-33). The three cases analyzed in this thesis pertain to the sensitive and controversial areas of arms trade, migration, and structural reform of the UNGA, which entailed high security interests and strong self-interests on the part of the actors involved. As the EU has been found to tailor its behavior to existing norms and customs (Kissack, 2011), one might expect that it pursues an interest-based foreign policy. Typical rational behavior on the part of the EU might consist of strategies involving side payments, issue linkage, package deals and power of inflexibility to make concessions (Lindberg and Scheingold, 1970: 94-96, 119). However, the fact that it lacks the right to vote in the UNGA affects the EU's ability to bargain with other powerful actors, especially in sensitive policy areas. It can therefore be expected that the EU will rely on monetary bargaining chips and the promise of support in other international negotiations outside the environment of the UNGA.

As a second perspective, PJ anticipates that the EU will pursue the realization of a fair and just negotiation process. While PJ acknowledges that actors

pursue their own self-interest, it also argues that an actor's self-interest is constrained by the needs of other actors (Albin and Druckman, 2014a). In its Global Strategy, the EU declared its ambition to promote 'multilateralism as [a] key principle' of a 'rules-based global order' and to 'contain power politics' in order to 'contribute to a peaceful, fair and prosperous world' (European External Action Service, 2016: 15). A PJ approach may be able to account for how the EU behaves in negotiation processes in its attempts to manage conflict and power within an institutional setting (MacDonald and Ronzoni, 2012). According to the four principles of PJ – fair representation, fair treatment and fair play, voluntary agreement, and transparency (Albin, 2001, 2008; Albin and Druckman, 2012, 2014a) – the EU is expected to behave in accordance with its declared values and thereby to advance fair and just negotiation processes. PJ concentrates on the institutions, norms, and structures that guide the behavior of actors (Albin, 2001). A fair negotiation process has been shown both to increase the likelihood that an agreement will be reached (Kapstein, 2008) and to enhance the stability and durability of the outcome (Hollander-Blumhoff and Tyler, 2008; Albin 2015). Hence, behaving according to the expectations of PJ would enable the EU to fulfil its commitment to a more just world order.

The theoretical framework outlined above serves as a lens through which to observe the actions and behavior of actors in international relations. Rational choice theory and PJ provide distinct expectations and explanations in relation to the observable behavior of actors. While they are very different theories, and operate on different analytical levels, I consider the use of both approaches beneficial for the research presented in this thesis, as the two theories shed light on different aspects of the EU's behavior. There are, however, limitations to the explanatory power of both theoretical approaches. Since the EU is not a state, it can be expected that certain elements of the EU's behavior and interactions with other actors in multilateral negotiations are not fully grasped by rational choice theory. Some of the claims of rational choice theory are based on assumptions that do not fully reflect the EU's capabilities and possibilities. In turn, PJ has so far only been applied to a few negotiation areas and therefore might not be able to claim the same level of relevance as rational choice theory. Still, given

the nature of the EU's global ambitions, it is a suitable theory to analyze the EU's behavior. Use of the two theories promises to provide a fuller picture owing to their complementary explanatory power and their focus on distinct empirical observations. The selected theories explain different empirical dimensions of the EU's behavior and therefore provide a more comprehensive picture of the EU's behavior in negotiation processes.

PJ adds a new perspective on the EU's role and behavior and complements the insights of rational choice theory. While rational choice theory assumes that the EU will adapt to standard behavior in foreign policy and as far as possible act like a state, PJ accounts for the normative dimension in the characteristics of the EU's behavior in negotiation processes. It permits the analysis of the particularities and possible challenges that the EU faces as a non-state actor in a state-centric environment. My focus is on the observable behavior of the actors involved in the negotiation processes examined, and I therefore look at the types of behaviors predicted by rational choice theory and PJ. Both perspectives assume that interests play a role in actors' behavior, but PJ expects that the pursuit of self-interest is constrained. The observable behavior of actors consists of their bargaining behavior and use of bargaining leverage for rational choice theory, and the four elements of fair representation, fair treatment and fair play, voluntary agreement, and transparency for PJ.

## Interest-based approaches

### *Rational choice theory*

Rational choice theory is not a single theory, but a family of theories that are connected by common assumptions (Pollack, 2006). Rational choice theory expects actors to pursue predetermined preferences based on their perceived self-interest (Eriksen and Weigård, 1997; Pollack, 2006). While the preferences remain stable, the actions of an actor in any given situation are determined by a cost-benefit analysis (Elster, 1986, 2007; Eriksson, 2011). Consequently, actors choose their behavior and goals in accordance with a 'logic of consequences,' whereby alternatives are considered in relation to their expected utility (March and Olsen, 1998). This means that 'when an actor chooses a specific course of action, it is because he thinks it to be the

most efficient means to realize a certain end' (Eriksen and Weigård, 1997: 222). According to rational choice theory, then, any action in international relations is based on the actor's predetermined preferences and calculation of utility maximization, which implies that an actor only enters into an agreement if the actor's preferences are sufficiently integrated in the result and the costs for an agreement are lower than the costs of non-agreement (Tallberg, 2006). The strength of rational choice theory consists in its universalism. However, it has been shown to be unable to explain cases in which actors renounce their self-interest for the sake of larger institutions (Riker, 1990; Green and Shapiro, 1994).

In the context of the UN, rational choice theory expects that agreements will be achieved through interstate cooperation. The UN is seen as an organization with structures that serve the purposes of great powers, who perceive the 'world as a market in which utility-maximizing states compete' (Barnett and Finnemore, 2008: 67). Within this environment, utility maximizing is less concerned with material ambitions than with relative gains related to, inter alia, status, autonomy, and prestige. To assist the creation of agreements, the UN plays a crucial role as facilitator. The UN's structure and customs enable interstate bargaining and power plays (Barnett and Finnemore, 2008). According to rational choice theory, it can be expected that a cost-benefit analysis will be particularly important for actors engaged in multilateral negotiations owing to the large number of actors and opinions involved, along with the emphasis on consensus decisions (Powell, 2002).

### *Bargaining theory*

The bargaining approach is based on the assumptions of rational choice theory, where bargaining is described as a standard characteristic of social interactions and the explanation for the achievement of agreements (Warntjen, 2011). Bargaining assumes that each party pursues its self-interest, and that an agreement is only possible if the outcome improves the status quo (Scharpf, 1988). Bargaining is associated with relative advantages, which means that actors do not care about the consequences for other actors and concentrate on the maximization of their self-interest (Lax and Sebenius, 1986). A bargaining is seen as a process in which actors try to persuade other



involved parties to follow their preferences and the relative strength of the bargaining chips is dependent on the strength of other parties (Elgström and Jönsson, 2000; Ulbert and Risse, 2000; Elster, 2007). Accordingly, the choice of a fitting bargaining chip is crucial to achieving a state's interests in order to avoid a misuse of resources or a misinterpretation of the negotiation context.

The strength of a bargaining actor is determined by both situational and institutional factors. These include among others, the access to information, the prioritization of the issues under negotiation, the willingness to commit, the availability of time, voting rights, and bargaining skills (Windt, 2011; Elgström and Jönsson, 2000). Certain institutional and structural settings make a bargaining strategy more effective or easier to realize, and the UN as a platform both enables and hinders bargaining behavior (Schelling, 1956: 281). In this multilateral environment, bargaining and the pursuit of self-interest have become historically accepted customs. Thereby, bargaining chips are not only exchanged as part of a single negotiation but also affect the long-term relationship between parties over a course of time (Müller, 2004). Typical bargaining behavior includes issue linkage, package deals, 'log-rolling,' and side payments (Lindberg and Scheingold, 1970: 94ff., 119). Within the UNGA, vote-buying takes the form of eliciting support in exchange for payments ('carrots') or through the issuing of threats ('sticks'). Payments can take the form of development aid and multilateral loans, or support and votes in election procedures for seats on the UN Security Council (UNSC) and UN Human Rights Council (UNHRC). Threats are expressed in terms of the possibility of non-participation in a negotiation process or the withdrawal of funds and support. Vote-buying can also take the form of 'log-rolling,' which consists of an exchange of votes or support across different negotiation processes and voting procedures (Eldar, 2008). At the UNGA, the custom to make decisions by consensus limit the use of bargaining chips in certain cases. It also puts pressure on weaker states to accept a bargaining chip and to allow themselves to be persuaded in the hope of being able to receive a favor in return at a later stage (Alger, 2014). The EU as a rational actor is expected to prioritize its own objectives in multilateral negotiations, which are based the agreed common position of the EU

member states and thereby subjected to a low level of flexibility. The ultimate goal is to adopt an agreement that contains most components of the EU's self-interest by the use of least possible resources. The EU holds more limited rights at the UNGA, which influences the choice of bargaining chips. The EU expectedly adapts to existing negotiation standards and pursues a negotiation strategy that equals the behavior of states, which is directed towards the maximization of the EU's influence on the international level.

### *Procedural justice*

The increased need for global solutions leads to the question of what form collective discussions and decision-making should take in order to manage conflict and power in an institutional setting (MacDonald and Ronzoni, 2012). Instead of asking whether decisions taken on the global level are fair and just, global political justice is mainly concerned with the nature and structure of the decision-making processes (MacDonald and Ronzoni, 2012). Justice is seen as a dynamic concept that is influenced by situational developments and the interactions of actors (Wolf, 1997). For a state actor, justice and fairness are usually not the first priorities within multilateral negotiations: the main goal is to secure the state's self-interests and to leave the negotiation with a situation that is perceived as being better than the previous status quo (Albin, 2001; Müller and Druckman, 2014). While there is room for self-interest and strategic use of justice in procedurally just negotiations, the needs and security considerations of other actors need to be taken into account and reflected in the final agreement (Albin and Druckman, 2014a). In addition, if they are to persuade others, justice claims need to be based on credible assertions and behavior that creates a mutually respectful and trusting relationship between actors (Bernstein, 2015: 133; Albin, 2015: 52). A fair and just negotiation process can thereby lead to a greater willingness on the part of states to agree to a consensus (Kapstein, 2008). This is mainly explained by the assumption that confrontations and stalemates are avoided in such an approach, while the exchange of concessions and the coordination of expectations are encouraged (Albin, 2008; Albin and Druckman, 2014b; Hampson and Hart, 1995; Welch, 2014).

As defined in this thesis, the theory of PJ consists of four principles: fair representation, fair treatment and fair play, voluntary agreement, and transparency (Albin, 2001, 2008; Albin and Druckman, 2012, 2014a). To ensure that a decision-making process achieves *fair representation*, a balanced representation of all affected groups needs to be facilitated, so that the individual and specific interests of all groups are presented and reflected at all stages of the negotiation process. *Fair treatment* consists of fair input and fair hearing. During negotiation processes, all parties need to be listened to and their concerns addressed. Informal and exclusive negotiation meetings are prevented from happening, and actors abstain from pursuing hidden agendas. The rules of procedure form a crucial part of the way in which *fair play* is achieved, which means that all participating parties should be involved in the rule-making process and the rules should be followed consistently by all actors. The negotiation process is hosted by an impartial organization and led by an impartial chair. In addition, fair play requires that assistance be provided to disadvantaged parties to ensure that actors with limited financial and material resources have access to the necessary financial means, information, and expertise to maintain an effective participation in the process. In terms of *voluntary agreement*, all involved parties are free to agree or disagree with the outcome of the negotiations without being pressured or forced. Lastly, over the full course of the negotiation process, openness and accessibility to meetings and documents are guaranteed in order to uphold *transparency*. Even decisions that are agreed on bilaterally or in a small group need to be transparently communicated to all involved parties (Albin, 2008; Albin and Druckman, 2014a).

Multilateral negotiation processes at the UNGA are usually driven by the goal of securing the best possible result in terms of relative gains, such as maintaining or improving an actor's reputation, and symbolic achievements. 'Naming and shaming' as a consequence of non-cooperation or a negative attitude can have devastating consequences both for an actor's reputation and for its position in subsequent negotiation processes. Negotiation processes at the UNGA are often interconnected, and the behavior of actors is influenced by their long-term relationships with other actors. As a result,

the winners and losers of a specific negotiation process are not always clearly defined. The structure of the UNGA aims to equalize states and provides actors with equal influence on decision-making procedures (Panke, 2013, 2017). Owing to the use of the 'one country, one vote' principle at the UNGA and the aim of reaching consensus, it might be assumed that what is expected by PJ would be the standard rather than the ideal situation. However, states vary significantly in terms of their power- and size-related resources, and this affects their level of influence and participation during the negotiation phase of decision-making processes (Panke, 2017).

While most research has focused on the role of justice in negotiation outcomes and distributional justice among states, this thesis examines the role of justice in the interactions among actors in multilateral negotiation processes by using the analytical framework of PJ, which has mainly been applied to negotiations on trade relations, conflict resolution, and arms control (see, for example, Albin, 2001, 2015; Albin and Druckmann, 2014a, 2014b). In these negotiation areas, parties are under considerable pressure to reach an agreement, and the outcomes of the negotiations lead to material gains and losses, often described as win-lose and zero-sum situations. A positive outcome is clearly defined, and parties are expected to include justice and fairness considerations both in their positions and in any final agreement (Albin, 2001; Albin and Druckman, 2017). The research presented in this thesis contributes to the development of PJ by applying its theoretical framework to the sensitive and complex topics of arms trade, migration, and structural reform of the UNGA. In negotiations on these topics, the achievement of an agreement is far from certain, and gains are more symbolic than material. Both despite and because of the special negotiation environment at the UNGA, PJ promises interesting insights on the negotiation processes conducted in that forum, particularly in relation to the behavior, procedures, and norms of the involved actors and the negotiation environment.

Descriptions of the EU as a normative actor are largely based on empirical observations related to the content of the EU's policies rather than analysis of the EU's behavior in negotiation processes. The research presented here

provides insights on how certain aspects of the EU's approach to and behavior in negotiation processes contribute to the just character of such processes along the lines anticipated by PJ. Given the value-based aspirations that the EU expresses in its strategies, speeches, and statements, a procedurally just negotiation process is expected to suit the EU's approach to multilateral interactions. The EU is thus expected to ensure the fair representation and involvement of all actors in the negotiation process. The EU presumably works towards a transparent meeting culture and open information sharing. This includes following the negotiation procedures that have been agreed collectively and advocating for openness and transparency throughout the negotiation process. The EU is assumed to work for an agreement that is adopted voluntarily and without pressure on the involved parties. The use of PJ thus represents an opportunity both to analyze the normative dimension of the EU's interactions in negotiation processes and to catch the complexities around multilateral negotiations and the behavior of involved actors.

## Research design

This thesis aims to identify the characteristics of the EU's negotiation approach in multilateral negotiation processes at the UNGA. As an explanatory study, the research consists of three independent case studies that analyze the EU's behavior in multilateral negotiations in different policy fields over a time period from 2009 to 2018.

In this research, a case study is understood 'as an intensive study of a single unit for the purpose of understanding a larger class of (similar) units' (Gerring, 2004; see also Yin, 2014). The three case studies share many similarities, but they also differ in terms of the policy area, the circumstances of the negotiations, and the EU's negotiation strategy. The goal is not just to explain the EU's role in specific cases, but also to uncover the characteristics of the EU's behavior and approach in multilateral settings. The three cases look at different negotiation processes that concern sensitive and controversial policy areas in the field of multilateral cooperation. The cases cover the negotiations on the EU's enhanced observer status at the UNGA; the ATT; and the GCM.

To understand the subject matter of this research – the nature, actions, and behavior of the EU – an interpretative approach is used. This is an explanatory study that aims to increase understanding of why a certain phenomenon occurs and what influences the factors that lead to its occurrence (Ritchie and Lewis, 2003). The importance of ‘understanding’ is emphasized in this context. Weber describes the social sciences as ‘science which attempts the interpretive understanding of social action in order to arrive at a causal explanation of its course and effects’ (Weber, 1947:88). A causal explanation is thus developed on the basis of the ‘interpretive understanding of social action’ (Bryman, 2012: 29ff). In this research, the motivation, interactions, and behavior of the EU in multilateral negotiations are interpreted to uncover the characteristics of the EU’s negotiation approach.

## Case selection

The cases selected for this thesis represent incidents of the EU representing its member states as a unified group pursuing a common negotiation approach and negotiation objectives.<sup>2</sup> In addition, all three cases involve multilateral negotiations that ended with the adoption of an outcome document, which might be a treaty, a resolution, or a compact.

A case is defined as ‘a bounded empirical phenomenon that is an instance of a population of similar empirical phenomena’ (Rohlfing, 2012: 24). This research examines three cases within the ‘similar empirical phenomena’ consisting of the EU as a global actor in multilateral negotiations at the UNGA. ‘A bounded empirical phenomenon’ means that the empirical phenomenon is defined by a temporal or substantive limitation (Rohlfing, 2012: 24). The starting point for a process of multilateral negotiation is clearly established by the launch of an initiative or campaign, or the adoption of a resolution by the UNGA calling for a negotiation process. The end point of the negotiation process is then marked by the adoption of an outcome

---

<sup>2</sup> In the case of the negotiations over the GCM, Hungary opposed the common position. Therefore, the EU represented its common position as the so-called EU-27.

document, either by the UNGA plenary or by the UNGA's negotiation conference.

The three case studies are chosen from a limited time period, from 2009 until 2018. All negotiation processes occurred after the adoption of the Lisbon Treaty, which introduced significant changes to the EU's external representation and the EU's engagement in multilateral negotiations. The selected cases were negotiated with major involvement of the EU and based on a common position.<sup>3</sup> The three case studies look at three different policy areas within the EU's CFSP, which aim to provide a wider picture of the EU in different topical negotiation settings. The case studies look at policy topics that are generally considered to be within the domain of 'high politics' in international relations, and thus are widely seen as sensitive and controversial, which makes the achievement of consensus often difficult. The case studies cover the EU's enhanced observer status at the UNGA as a case of UN reform, the ATT as a topic within of defense and security, and the GCM as a security issue. Besides the objective of securing agreement adopted by consensus, all three multilateral negotiations sought to achieve an agreement that would represent the first ever international agreement in that policy area. The novelty of the negotiation topic in a multilateral context or previous failures to resolve the issue under negotiation added to the delicate and complex context of the negotiation processes examined here. Consequently, the chosen case studies represent critical cases, as the analysis in the chosen cases is expected to provide a better understanding of the circumstances, in which the expectations are fulfilled or not fulfilled (Bryman, 2012: 70).

## Data

To enable an analysis of the characteristics of the EU's negotiation approach in the three cases studied, I collected empirical data from a range of different sources. As a first step, I examined the existing academic literature, media reports, and other publications, such as reports from NGOs and think-tanks. As a next step, I collected primary documents from EU institutions and the

---

<sup>3</sup> Same caveat as footnote no. 2.

UN. Here, I mainly gathered documents from the EU database of legal documents (EUR-Lex) and the official websites of the Commission, the Council, and the EEAS. These documents include EU communications, notes of information from the HR/VP, summary records of the Council, Council decisions, opinions of the legal service, and meeting reports. For UN documents, I examined the official records of the UNGA sessions, (draft) resolutions/treaties/compacts, letters from UN member states, and notes by the UN Secretary-General. In addition, I accessed public speeches by representatives of UN member states, including the EU representation, during the negotiations at the UNGA plenary and at negotiation conferences.

In order to expand and complement the information gathered from UN and EU documents, a total of 27 interviews were conducted with different actors involved in the three negotiation processes. Of these 27 interviews, 15 were with officials from EU institutions (Commission, Council, and EEAS), 6 were with representatives of EU member states, 2 were with state representatives from major groups at the UN, 2 were with representatives of NGOs, and 2 were with UN officials. The interviews were semi-structured and contained open-ended questions to detect interactions and events not mentioned in the official documents and official records.

The collected information was triangulated, whereby the secondary literature served as a basis that was complemented by the insights from the primary documents and the interviews. The secondary literature also provided an overview of the status of current knowledge concerning the specific case studies, as well as possible knowledge gaps. As a next step, the primary documents were analyzed to establish an overview of the facts. During the collection of primary documents, several Freedom of Information requests were made to different EU institutions, which led to the publication of a range of formerly classified documents. Some documents, however, remained classified. The primary documents from the EU mainly provided insights into the EU's internal debates and preparations for the preparatory phases of the negotiations, as well as its campaigning on the relevant issues, but also provided information about the EU's strategies and approaches towards the negotiation processes. The UN documents provided information



about the different views of UN member states and official points of disagreement. In addition, the examination of reports and notes increased the extent of available facts and figures. The draft documents particularly shed light on the process and advancement of the negotiations, as well as areas of disagreement. Unexpected changes in the drafts were often an indicator of an unofficial meeting and/or some form of strategic act by a negotiation actor. The purpose of the interviews was therefore to enable better understanding of the internal actions occurring within the EU that might lead to certain behaviors and actions on the part of the EU. In addition, I received more insight on the views and actions of other UN member states and their views on the EU's representation and interactions in the negotiation process. In diplomatic settings, official records and documents often only illustrate a small part of the interactions between negotiation partners. Disagreements and conflicts are often hidden behind a façade of diplomatic language that might provide hints about the existence of a particular issue but does not grant the researcher the full picture. Consequently, I sought to acquire additional information that would not be found in the official documents – for example, information about unofficial meetings during the negotiations or external factors influencing the negotiation process.

## Methods

The three case studies share a common theme, which consists of the EU as an actor in multilateral negotiation processes at the UNGA on a controversial policy area, which was finalized with an agreement that altered the status quo. This research aims to identify the components of the EU's behavior that explain the direction of the EU's approach to multilateral negotiation processes. By following the lines of process-tracing, this research looks for components that support the EU's behavior fitting the expectations of rational choice theory and PJ. Process tracing is a suitable methodology for this research as it allows to unpack the characteristics of the EU's approach in multilateral negotiation processes at the UNGA (Beach and Pedersen, 2013).

As a relatively flexible method, process tracing is applicable to a variety of analytical units and can be used to identify key decisions and behavior. By tracing a process, it is possible to identify possible factors that lead to a given result, or to exclude others if they didn't influence a given process. Due to the complexity of human interactions and cases in which hidden motives and actions play an important role, it is not always possible to identify a single explanation for a given phenomenon or interaction (Georg and Bennett, 2005).

This takes us to a key difficulty in the analysis of multilateral negotiations and diplomatic relations. In interactions on the international level, states and other actors at times attempt to hide their true motives or interests, either because of power-related ambitions or to protect their reputations. Not giving too much information away may also prove advantageous for strengthening one's negotiation position. Process tracing is therefore a useful tool to identify the EU's approach in such a context, as a variety of behaviors and interactions can be detected and analyzed in relation to their impact and character (Rohlfing, 2012; Georg and Bennett, 2005). Thereby, the use of a limited timeframe facilitates the analysis of a certain behavior or event. The changes in the behavior and interactions of the relevant actors during this period can be traced (Riker, 1990). The case study on the EU's enhanced observer status at the UNGA covers the period from 2009 to 2011, the negotiations over the ATT took place from 2012 to 2013, and the negotiations over the GCM took place from 2017 to 2018.

Based on the theoretical perspectives used in this research, I formulated expectations that guided this research (Rohlfing, 2012). In an interpretative perspective, process tracing allows the analysis of 'the reasons that actors give for their actions and behavior and to investigate the relations between beliefs and behavior' (Jervis, 2006 in Della Porta and Keating, 2008: 233). Due to the complex and different nature of perceptions, preferences and motivations of actors, the assumptions about preferences and perceptions need to be substantiated by empirical evidence (Della Porta and Keating, 2008: 233).

This research consists of three within-case studies, which allow to go into depth in the different negotiation processes and to identify the components and behavior of the EU that influenced and possibly altered the negotiation process. Empirical generalizations are hard to achieve from single case studies and provide little substance as the insights are limited to one case. The strength of case studies is instead the ability to collect a large amount of information and comprehensive knowledge about a single case and its implications (Georg and Bennett, 2005: 90, 123f). Consequently, this research does not aim to generalize the EU's behavior in multilateral negotiation processes. Instead, the three case studies provide insights to the EU's behavior in the three individual negotiation processes and in addition illustrate the relevance of alternative theoretical approaches to the field to explain certain behavioral incidences.

## Definition of concepts

### Multilateral negotiations

A common and widespread understanding views negotiations as a 'process by which conflicting positions are combined to form a common decision' (Zartman and Berman, 1982: 1). More specifically, negotiations at the UN can be described as 'a process of combining conflicting positions into a common position under a decision rule of unanimity, a phenomenon in which the outcome is determined by the process' (Zartman, 1988: 32, based on Kissinger, 1969). A diplomatic negotiation process is commonly understood as the exchange of concessions and compensations in order to reach an agreement that is acceptable to and sufficiently favorable for all involved actors (Albrecht-Carrié, 1970: 8; Kissinger, 1957: 1-2; Jönsson and Aggestam, 2009: 40-60).

Multilateral negotiations can be viewed as having three main characteristics: they are *multiparty*, *multi-issue*, and *multirole*. The *multiparty* character refers to the number of autonomous entities with their own interests within the negotiation process. Thereby, the reconciliation of the interests of the different parties is the main challenge of a multiparty negotiation. *Multi-issue* means that multiple issues are inherent in and an implicit part of each

multilateral negotiation process. This is even the case in multilateral negotiations that deal with a single, independent issue. The *multi-issue* character allows trade-offs and balances the varying prioritization and importance of parties' interests in the issue under negotiation. The *multi-role* character of negotiations refers both to the intensity of parties' activities in the negotiation process and the different roles inherent in actors, which may vary depending on the issue under negotiation (Zartman and Berman, 1982; Zartman, 1994: 4f).

## Consensus

The goal of multilateral negotiations at the UNGA is to achieve a unanimous decision that reflects a compromise between the involved parties. Consensus 'is understood as the absence of objection rather than a particular majority' (United Nations, 2005: 457). Accordingly, consensus describes the achievement of 'a decision only when no participant opposes it so strongly as to insist on blocking it; a consensus can thus bridge wide, though not all too deep, differences' (Szasz, 1979: 529). If a unanimous decision cannot be achieved, parties are generally prepared to accept a consensus and make their dissent clear by placing their position and reservation on the record. Negotiation parties thereby only oppose and block a consensus in cases of strong disagreement (Sabel, 2006: 336ff).

## Ethical considerations

With regard to ethical considerations related to the research presented in this thesis, I referred to the guidelines of the Norwegian National Research Ethics Committees (2016). My main concern during the period of my research was focused on the guidelines' section on 'respect for individuals,' which was crucial in my data collection. My primary data originated mainly from interviews with representatives from the EU, EU member states, and UN member states, as well as NGOs and think-tanks, who requested anonymity in order to be able to speak openly. All interviewees were anonymized and have been referred to in terms of their professional capacities – for example, as an 'EU official,' a 'representative of an EU member state,' or a 'representative of a NGO.' The interviewees interviewed for my research not

as private citizens but as part of their professional role. While I had access to private information, the contact details referred exclusively to the professional positions of the interview partners. Interviewees were informed of my research topic and goal before they agreed to be interviewed in person, on the phone, or via digital solutions. In certain cases, and upon request, the interview questions were provided in advance.

My interview contacts were informed of how the information they provided would be analyzed, the duration and location of storage, and how the information would be used in a confidential way in academic publications and presentations. All data was stored in the University of Oslo's network in an anonymized version. The clear names were kept in a non-digital document in a safe location. All interviewees gave their consent orally, and this was recorded in the interview file. Interviewees were given the opportunity to retract individual statements or the whole interview at any time. Upon request, direct quotes were verified with the interviewee before usage. The storage and use of the data were limited to my PhD project, and re-use was excluded. With the consent of the participants, data will be kept until the successful defense of this project. In addition, the personal data of interviewees were stored according to the General Data Protection Regulation.

## Relationship to the philosophy of science

An engagement with the philosophy of science is indispensable, in order to achieve the research aim of this thesis and to provide a fuller picture of the nature of the research it presents. The ontological question of what it is that we are studying – that is, what is the object of our analysis – and the epistemological question of how we know things are central issues within social science (Della Porta and Keating, 2008). Nevertheless, the issue of what knowledge is and how it is constructed is often seen as self-evident. It is not. Different epistemological assumptions lead to different choices and justifications of methods, which then produce knowledge (Carter and Little, 2007: 1319).

This research pursues an interpretivist approach, which ontologically assumes that objective and subjective meanings are deeply intertwined, and the subjective meaning is the most important element of knowledge. Reality is somewhat knowable, but not separable from human subjectivity (Della Porta and Keating, 2008). Weber (1947) sought to build a bridge between the epistemologies of positivism and interpretivism. He argued that a positivist approach was insufficient for attempts to achieve a full understanding of society and 'people's lives.' Interpretivism aims to complement the positivist approach towards 'understanding the meaning of social actions' by illuminating 'the context of the material conditions in which people live' (Weber, 1947; in: Ritchie and Lewis, 2003: 7). As already noted, objective and subjective meanings are deeply intertwined in an interpretivist approach. Humans are meaningful actors, whose motivation is determined by meanings. Hereby, subjective meaning is at the core of knowledge. The motivations behind an individual's actions and their perception of the world are central to the understanding of different phenomena (Della Porta and Keating, 2008: 24f).

## **Presentation of the articles**

This thesis consists of three articles, which aim to contribute to the overall research question on the characteristics of the EU's negotiation approach in multilateral negotiation processes at the UNGA. While each article stands on its own, the articles complement each other by shedding light on multilateral negotiations in different policy areas.

Each article is based on a single case study that aspires to provide new empirical insights into the particular case under examination. All three articles use the same type of data collection (i.e. interviews and document analysis), methods, and theoretical framework. While the different cases lead to varying conclusions and insights on different aspects of the EU's involvement in multilateral negotiations, they aim to complement each other in answering the research question.

## Article 1: The EU as a global negotiator? The advancement of the EU's role in multilateral negotiations at the UN General Assembly

The article is published in *International Relations* 35(4):574-592.

The first article in the thesis looks at the negotiations over the EU's enhanced observer status at the UNGA. Initiated by the EU, this negotiation process aimed to secure the adoption of a resolution that would grant extended participation rights to the EU and was necessary owing to the regulations of the Lisbon Treaty. The negotiation process can be described as a two-fold one, with the first phase of the negotiation process ending in a setback for the EU. The EU lacked the necessary support for its objective, and the vote on a draft resolution was postponed. The second phase of the negotiation process consisted of an intensified campaign and greater engagement from the EU and ended with the adoption of a resolution granting the EU enhanced observer status. The article asks: *How and why did the EU succeed in its negotiations towards an enhanced observer status (despite the intermediate setback)? How does the EU shape a negotiation process towards agreement?* In order to examine these questions, I use two theoretical perspectives. In the first perspective, which draws on rational choice theory, the EU is understood as a rational actor, in the sense that it is thought to pursue its own interests through the use of bargaining chips. The second perspective, which draws on procedural justice, would expect that the EU contributes to the facilitation of a negotiation process by taking heed of the principles of fair representation, fair treatment and fair play, voluntary agreement, and transparency.

The article uses an interpretative approach based on qualitative data to analyze a within-case study. The primary data consist of EU and UN documents, such as EU communications, notes of information of the HR/VP, summary records of the Council of the EU, official records from the UNGA sessions, draft resolutions, resolutions, letters from UN member states, and notes by the UN Secretary-General. In addition, nine semi-structured interviews were conducted with EU officials and UN member state representatives.

I found that the EU used bargaining behavior at certain points during the negotiation process. As the EU is neither a state nor an IO, it is challenged to find different ways to contribute to multilateral negotiation processes. Particularly the lacking right to vote limited the EU's ability to bargain for its objectives. Instead, the EU's negotiation approach was more similar to what would be expected from a global justice. The case study suggests that the EU is able to establish itself as a central and recognized actor in multilateral negotiations, even in the state-centric environment of the UNGA. The adoption of the resolution on the EU's enhanced observer status suggests that it is possible for a non-state actor such as the EU to influence negotiation processes at the UNGA and promote its norms and values in an international realm.

## **Article 2: Breaking new ground? The EU's ability to promote its foreign policy goals in the multilateral negotiations towards the Arms Trade Treaty**

The article is currently under review at the 'Journal of Contemporary European Research'.

The second article analyzes the case of the EU's negotiations at the UNGA-mandated conference that led to an agreement on the ATT. The EU played a crucial role in initiating the conference, which sought to secure the adoption of the first international, legally binding agreement that would regulate arms exports, imports, and transits. The EU's main aim was to create a 'level playing field' for international arms exporters. In addition, the EU advocated for the inclusion of a broad scope of weapons, assessment criteria that would take human rights into consideration, and a high level of transparency in terms of reporting and implementation. Throughout the negotiation process, a clear division of positions was visible among the arms-exporting and arms-importing countries. The article asks: *How did the characteristics of the EU's negotiation strategy shape the negotiation process towards the ATT?* The article employs a theoretical framework based on rational choice theory, which assumes that the EU would mainly pursue its own interests and promote the common objectives of its member states by bargaining with the negotiation parties. As an alternative perspective, PJ assumes that the EU strives to



contribute to a just process and the fair interactions of negotiation parties. The EU is expected to act according to its norms and to pursue the integration of the principles of fair representation, fair treatment and fair play, voluntary agreement, and transparency.

This article uses an interpretative approach based on qualitative data and turns to process tracing in order to understand the indicators that identify the characteristics of the EU's approach in multilateral negotiations. To analyze this within-case study, I triangulated data from secondary literature, primary documents, and interviews. For this purpose, I analyzed speeches by representatives of the EU and UN member states, along with EU strategy documents and decisions, and conducted eight in-depth, semi-structured interviews with EU member state officials, EU officials, UN officials, and NGO representatives.

The case study revealed that the EU used monetary incentives and changing narratives in order to persuade negotiation parties, as expected by rational choice theory. The EU pursued an outreach and de-dramatization strategy to communicate the EU's perspective as an arms exporter. However, the research also suggests that rational choice is limited in its explanatory power. A major focus of the EU was the achievement of a legally binding agreement, which required consensus among the various parties to the negotiations. As expected by PJ, the EU worked towards fair interactions and transparency of the negotiation process and was frequently described as a 'hub of information' and bridge-builder. I therefore suggest that, as a non-state actor in a state-centric environment, the EU is challenged to find a balance between its own interests and its aspirations as a value-based actor. The negotiation process over the ATT showed that the EU shapes multilateral negotiation processes through behavior that goes beyond the pursuit of its self-interest. The EU's behavior showed the traits of its norms and values that influenced the course of the negotiation process and can be accounted for by PJ.

### **Article 3: Contributing or counterproductive? The EU's role in the multilateral negotiations towards the Global Compact on Migration**

The article is currently under review at 'Conflict and Cooperation'.

The third case analyzes one of the most recent and controversial multilateral negotiation processes, the negotiations towards the GCM. Migration has become an increasingly global topic, and for the EU, migration has been a pressing issue for years, especially since the migration crisis of 2015. The EU was among the actors that initiated the process towards establishing a legally non-binding global agreement that would regulate migration. The negotiation process involved a number of disagreements and manifested as a divide into countries of origin, transit and destination. Each side had different priorities and visions of what should be included in the first international agreement on migration. In addition, the EU faced the challenge of internal disunity, as Hungary did not agree with the common position adopted by the remaining EU-27. The article seeks to address the research question: *How did the characteristics of the EU's negotiation approach contribute to the negotiation process towards the GCM?* According to the assumptions of a bargaining approach, the EU would be expected to prioritize its security considerations and to aim for the maximization of its own interests. Following the second perspective, which draws on PJ, the EU presumably pursues the realization of a just and fair negotiation process. This perspective seeks to explain the EU's behavior in terms of the four principles of fair representation, fair treatment and fair play, voluntary agreement, and transparency.

The article adopts an interpretative approach, using qualitative data from primary documents and interviews. The case study is analyzed through the use of process tracing, which enables the identification of the factors that determine the EU's negotiation behavior. In addition to official records, strategy papers, and negotiation documents from the EU and the UN, ten in-depth, semi-structured interviews were conducted with EU member state officials, EU officials, and UN officials.

The case study shows that the controversial nature of the topic, the EU's own security concerns, and the internal disunity within the Union led to a prioritization of the EU's self-interests and the use of bargaining leverage in the form of money, promises of support and expertise, and political pressure. The analysis drawing on PJ demonstrates that the EU was interested in achieving an agreement functioned as a bridge-builder between different groups of states. The EU provided extended resources to ensure a high level of participation and willingness to reach an agreement. The findings of the case study suggest that the EU's behavior is characterized by an overlap of an interest-driven and value-driven approach. Throughout the negotiation process, the strong self-interest of the EU and the contentious character of migration frequently led to a prioritization of the EU's objectives over its values.

## Main findings and implications

### Empirical implications

The research presented in this thesis finds that while the EU is an inherently different actor, the EU's behavior does not always reflect this difference. As the EU is neither a state nor an IO, the EU's behavior is to a certain extent distinct to the behavior of states. This is based on the lack of certain rights and competences, but also on the EU's aspiration to represent its norms and values. At the same time, the EU has to represent its self-interest, based on its common position, to justify a common foreign policy. Consequently, the EU's behavior is characterized by the pursuit of the EU's self-interest, but also by efforts to promote just negotiation process.

Even though this research finds that the EU's approach to multilateral negotiations is both, interest-and value-driven, it is worthwhile to outline the factors that make the EU different to other actors in multilateral settings. The EU is an inherently different actor, as it is not a state, different from other non-state actors and more integrated than other regional organizations. The lack of certain rights and possibilities in multilateral negotiations processes at the UNGA becomes visible in negotiation processes where the EU aims to integrate its self-interest into the negotiation process but lacks the ability to

promise anything in return. This challenge has implications for the EU's choice of negotiation strategy and behavior, as well as the EU's abilities to negotiate as a central and active actor. The case study on the EU's enhanced observer status exemplifies the consequences of the EU's higher level of integration and the pursuit of an independent foreign policy. It shows that the EU is a different actor owing to its nature, its structure, and the rights it enjoys at the UN. In addition, the UNGA is not just a platform in which all UN member states meet; it is also a place with a long history of interactions and conflicts among actors, which affect negotiation processes. In this context, the EU might be both a relatively new and a different type of actor, but its member states are neither of these things. The colonial past of several influential EU member states creates at times problematic interactions in negotiation processes, particularly with countries of the global South. In all three case studies of this research, the EU has received accusations pertaining the colonial past of its member states.

The EU is not only different due to its nature character, but also based on its ambitions to promote its norms and values and to behave as a value-based actor. Central values of the EU – such as equality, mutual understanding, solidarity, the containment of power, and the creation of a fair world – shape the EU's negotiation approach in multilateral negotiations. Beyond the advancement of its own self-interest, the EU notably engages in activities that aim to enhance the inclusion of all actors, the diffusion of relevant information, and the capacity to compromise. The motives behind the EU's actions might be the strategic pursuit of the EU's own self-interest or altruistic; in either case, the EU's behavior is acknowledged by participating actors as bridge-building and integrating. In the three case studies analyzed in this thesis, the EU received a fair amount of critique concerning its behavior and motives. Nevertheless, the EU's value-based behavior and willingness to put additional efforts into the negotiation processes also received recognition from negotiation parties. The three case studies present examples of the EU's commitment to behave as a value-based actor and to go the extra mile in order to secure an agreement that creates a feeling of ownership and inclusion among the negotiation parties. The EU engaged in the organization of regional seminars for the purpose of information

dissemination and regional exchange (see Article 2 on the ATT), put extensive efforts into persuading the USA to remain part of the negotiation process (see Article 3 on the GCM), and responded to the wish for extensive discussions and particular outreach events by UN member states (see Article 1 on the EU's enhanced observer status). While the aim to adopt the agreements by consensus was not reached in any of the researched cases, the outcome documents were adopted and implemented by the majority of the involved actors. The enhanced observer status, the ATT and the GCM involved a new topic area for multilateral negotiations at the UNGA and the negotiation processes were therefore expected to be more complex than in more established topics of international cooperation. Under such circumstances, the dispersed positions of the various negotiation actors need to be unified in order for an agreement to be reached, and the possibilities for compromise need to be carefully explored. In this multi-actor and multi-interest environment, it is even more difficult for a different type of actor, such as the EU, to promote its norms and values, and to present itself as a global actor. This is by no means to suggest that the EU is a better and more altruistic actor in multilateral negotiations at the UNGA. However, the results of this research indicate that the EU engages in activities and actions in multilateral negotiations that go beyond the achievement of its self-interest, and that it demonstrates an active commitment to efforts to enhance just procedures in multilateral negotiation processes.

The three case studies presented in this thesis have also shown that variation exists concerning the degree to which the EU prioritizes its self-interest and the advocacy of its values. Beyond some variation in the EU's behavior in the three case studies, the international context, in which the negotiations were conducted, has also a significant influence on the course of the negotiation process. The negotiation process on the GCM was a case in which the EU showed considerable self-interest. In that case, the Union tended to prioritize its own interests more strongly than the values of fair participation and fair interactions. The topic of migration became increasingly contentious within the EU but also globally, and it was important for the EU to advance its objectives. During the negotiations on the EU's enhanced observer status and the ATT, the EU showed a more marked inclination to behave as a value-

based actor by addressing the concerns of other actors, providing information, and enhancing interactions among the various actors. In these two cases, it seemed more important for the EU to present itself as a value-driven actor than to persist on its red lines.

In this research, The EU's internal unity was not in the focus of the analysis; however, the observations made in this research support the notion that the EU's internal cohesion is an important but not decisive or sufficient factor to explain the EU's behavior in multilateral negotiations. Only the negotiations on the GCM represented a case of disunity, which affected the EU's representation to a certain extent. In the case of the enhanced observer status and the ATT, unity was not a central issue, which supports the claim, that unity and internal cohesion mainly play a role in cases of disunity. This is because in cases of disunity the EU uses more resources and attention on its internal dynamics, and thereby risks losing focus and attention on its external representation. The consequence of the EU's disunity in the negotiations on the GCM mainly led to internal complications and harmed the EU's reputation but did not significantly affect the EU-27's behavior and role in the negotiation process. I therefore suggest that the EU's disunity created bad optics and a certain degree of confusion among the UN member states but did not seriously affect the EU's ability to negotiate in multilateral settings.

To conclude, the EU pursued its self-interest to varying degrees in the examined negotiation processes and entertained rational negotiation strategies, such as monetary incentives, the power of inflexibility to make concession, package deals and side payments. At the same time, the EU emphasized its values and showed behavior according to its normative objectives, which overlapped and complemented the Union's ambitions to achieve its own interests. The research suggests that the actions and behavior of the EU can be assigned to the Union's self-interest and its values, however, it is more difficult to detect the Union's intrinsic motivation. An act to advance a just negotiation process can be motivated the Union's wish to act according to its values, or by strategic and self-interested motives. It is also frequently hard to determine to what extent the pursuit of self-interest is

within the set limits of just negotiation behavior. Consequently, frequent events of overlapping explanations and motives were found in this research. While the EU is inherently different in its nature and character and aims to present itself as a value-based actor, it also holds strong self-interests and the urge to protect its objectives at the international level. In many aspects, the EU's behavior is not so different from states in multilateral settings. The Union does not depict a single type of behavior and pursues a range of different agendas, which become visible in a heterogeneous behavior, a mix of self-interest and self-values.

### Theoretical implications

As the EU is not a state and holds aspirations to be a value-driven actor, I suggest that the analysis of the EU's character and negotiation approach in such a context requires new theoretical approaches. Rational choice theory is based on the idea that states are the central actors in multilateral cooperation. According to the expectations of rational choice theory, the EU would behave just like state actors and adapt its behavior and action on the international stage to an interest-driven foreign policy behavior. As this research has shown, additional theoretical perspectives are necessary if we are to achieve a more nuanced and comprehensive understanding of the characteristics of the EU's negotiation approach, which also includes its value-based behavior. PJ provides an additional perspective that helps explain the EU's behavior as a non-state actor and may be able to complement existing understandings of the EU as a value-based actor in the state-centric environment of the UNGA.

Rational choice theory cannot fully capture EU's behavior in multilateral negotiations at the UNGA. This is partly due to the fact that the theory it is based on assumptions that do not reflect the EU's capacities and possibilities, including the lacking right to vote at the UNGA and its limited ability to use bargaining leverage against other states. In the case studies presented in this thesis, the EU mainly used financial incentives, the promise of support and expertise, political pressure, its power of inflexibility and other minor concessions as bargaining chips. These forms of bargaining have mainly proven to be successful in relation to the smaller and less powerful UN member states. The use of political and economic pressure has been observed

on a few occasions, but the availability of such an approach seems to be limited and comes at a high cost.

The use of PJ offers a new perspective to analyze the value-based dimensions of EU's role and impact in multilateral cooperation. I show that PJ provides a more nuanced and comprehensive understanding of the EU's approach to multilateral negotiations at the UN, as it focuses more on institutions, procedures, and norms. PJ detects certain dimensions of the EU's behavior that are not visible for rational choice because they are not expected or deemed important from a rational choice perspective. PJ enables an analysis of the EU's aspiration to contribute to the achievement of just and fair negotiation processes. As a result, the analysis shows that the EU's norms and values play a role in the EU's negotiation approach, albeit with certain limitations. While certain expectations of PJ are inherently realized through the UNGA's structure and rules of procedure, the EU's contribution has particularly been in the areas of fair interactions, fair play, and transparency. The EU behaves according to the expectations of PJ by providing for travel and pre-negotiation activities, supplying information and expertise, enhancing the transparency and accessibility of internal documents and non-plenary meetings, and supporting the work of conference chairs. The EU has made extensive efforts in the negotiations over its enhanced observer status, the ATT, and the GCM to keep actors participating in the negotiation process and to keep the goal of a consensus decision viable for as long as possible.

PJ offers an understanding of the EU's behavior that is not limited to the pursuit of its own interests and characterizes the EU's engagement as that of a global and value-based actor at the UNGA. The EU's behavior, however, is not altruistic. The Union also pursues its self-interest, which in all three cases included its common position, but also the conclusion of an agreement. As earlier research has shown, just and fair negotiation processes increase the likelihood that an agreement, and possibly even a consensus decision, will be achieved (Hollander-Blumhoff and Tyler, 2008; Albin 2015; Albin and Druckman, 2012). In such a situation, parties to a negotiation process tend to be more satisfied with the process and feel a higher level of ownership in relation to the outcome. While none of the cases examined for this study



achieved an outcome based on consensus, each negotiation process was pursued with the goal of reaching a consensus decision and the agreement was in the end supported by a large majority of the participating actors. Consequently, the case studies have shown that the EU is able to negotiate to advance its self-interest while at the same time working towards a procedurally just process that satisfies involved actors and creates a sense of ownership.

Not surprisingly, the EU is a global actor that aims to represent the common interests of its member states. Both of the theoretical approaches applied in this study assume that representing one's self-interests is a key concern of negotiating actors, the difference being that PJ limits the pursuit of self-interest with the self-interest and security concerns of other actors (Albin and Druckman, 2014a). The research conducted for this thesis has found that the EU particularly prioritizes its self-interest in cases that concern the EU's 'red lines.' Examples of this can be seen in questions related to the return of migrants to their countries of origin (Article 3), the non-legally binding character of the GCM (Article 3), the implementation process of the ATT (Article 2) and the opposition of the CARICOM countries to the enhanced observer status to the EU (Article 1). While bargaining is not *per se* unjust, PJ sheds light on the interactions among negotiation parties and the procedural components that contribute to the achievement of or failure to reach an agreement.

This thesis has also contributed to the theoretical development of the PJ framework in different policy areas and negotiation platforms than used previously. Previous analyses have concentrated on cases based on material gains that conclude with win-lose outcomes, where the pressure to reach an agreement is higher. This research has shown that PJ also provides explanatory power in cases of multilateral negotiations that aim towards a non-binding agreement and symbolic or relative gains. Thereby, the analysis of negotiation processes according to PJ provides further insights into structural, organizational, and political obstacles to inclusive and fair negotiation processes and the conclusion of agreements. This is also the case in the UNGA, whose structures are based on the geopolitical realities of the

Cold War period and where a wide range of actors with different levels of influence and resources are present. In analysis of a different type of actor, such as a non-state actor like the EU, PJ promises new insights and explanations for the types of behavior and interactions that we might observe.

In conclusion, this research does not suggest that rational choice theory is irrelevant for understanding the EU's negotiation approach at the UNGA. Instead, I suggest that it should be complemented by alternative analytical frameworks if we are to fully understand the processes and mechanisms involved in multilateral negotiation processes. The combination of rational choice theory and PJ provides a richer and more nuanced understanding both of political phenomena in international relations and of the EU's behavior in multilateral negotiations as both an interest-driven and values-driven actor.

## Suggestions for future research

The multilateral system has undergone considerable change in recent decades, which has affected not just the relationships among states and regional blocs, but also the characteristics of the EU's negotiation approach in multilateral settings. Multilateral cooperation and negotiations do not happen in a vacuum; instead, international dynamics, conflicts and other occurrences influence the cooperation of actors at the UNGA, and depending on the international context, enable or hinder the conclusion of an agreement. The ongoing tensions between Russia and the Western states, China's claim to power and the UN's legitimacy crisis (Dworkin and Gowan, 2019; Gowan and Dworkin, 2019) are only a few examples of international incidences that affect the political context and dynamics of multilateral negotiations.

In addition to the external factors that influence the Union's negotiation approach and behavior, the EU's structure and composition is also under continual construction and deconstruction. Following a period of growth, the UK has now become the first member state to leave the EU. Not only has Brexit marked a turning point in the EU's expansion, but it has also shaken up the belief in the EU's durability and stability. In terms of international

cooperation at the UN and in multilateral negotiations, the UK's exit has created new dynamics and, consequently, opportunities for further research. The UK was not just one of the most influential EU member states on the international level; it also holds the permanent membership in the UNSC. This change in the composition of the EU can be expected to lead to an alteration in the EU's possibilities and influence in multilateral negotiations, and therefore to open up new questions and developments that will require further research.

The EU's commitments in the area of security and defense have shown that the EU is moving towards an even greater role and influence in international cooperation. Particularly in policy areas outside climate change and trade, the EU is not yet an established actor. Research concerning the EU's global role in these policy areas is therefore expected to provide new insights and explanations of the EU's negotiation approach.

Given the rise of populist governments in Europe, and the increasing fragmentation of opinions within the EU, the external representation of the EU is not expected to become easier or simpler. The case study on the GCM shows how internal disagreements can complicate the EU's external representation. In the case of the GCM, the real divide occurred after the negotiations concluded, while the EU was able to manage the only deviating member state during the course of the negotiation process. Nevertheless, divisions among the EU member states may appear at an earlier stage of the process in future negotiations on controversial topics. This may create new complications for the EU's external representation and its approaches to negotiation processes.

## Bibliography

- Aggestam, L. (2004). Role identity and the Europeanisation of foreign policy: A political-cultural approach. In: B. Tonra and T. Christiansen (eds) *Rethinking European Union Foreign Policy*. Manchester & New York: Manchester University Press, 81–98.
- Aggestam, L. (2008). Introduction: Ethical power Europe? *International Affairs* 84(1): 1–11.
- Albin, C. (2001). *Justice and Fairness in International Negotiations*. Cambridge: Cambridge University Press.
- Albin, C. (2008). Using negotiation to promote legitimacy: An assessment of proposals for reforming the WTO. *International Affairs* 84(4): 757–775.
- Albin, C. (2015). The many faces of justice in international negotiations. *International Negotiations* 20: 41–58.
- Albin, C., and D. Druckman (2012). Equality matters: Negotiating an end to civil wars. *Journal of Conflict Resolution* 56(2): 155–182.
- Albin, C., and D. Druckman (2014a). Bargaining over weapons: Justice and effectiveness in arms control negotiations. *International Negotiation* 19: 426–458.
- Albin, C., and D. Druckman (2014b). Procedures matter: Justice and effectiveness in international trade negotiations. *European Journal of International Relations* 20(4): 1014–1042.
- Albin, C., and D. Druckman (2017). Negotiating effectively: Justice in international environmental negotiations. *Group Decision and Negotiation* 26: 93–113.
- Albrecht-Carrié, R. (1970). *A Diplomatic History of Europe Since the Congress of Vienna*. London: Methuen.
- Alger, C. F. (2014). *Pioneer in the Study of the Political Process and on NGO Participation in the United Nations*. Heidelberg & New York: Springer International Publishing.
- Allen, D., and M. Smith (1990). Western Europe's Presence in the Contemporary International Arena. *Review of International Studies* 16(1), 19–37.

- Andresen Guimaraes, F. (2015). Speak up! Getting the EU a voice at the UN General Assembly. In: J. Koops and G. Macaj (eds) *The European Union as a Diplomatic Actor*. London: Palgrave MacMillan, 88–102.
- Axelrod, R. and R.O. Keohane. (1985). Achieving Cooperation under Anarchy: Strategy and Institutions. *World Politics* 38(1): 226-254
- Bäckstrand, K., and O. Elgström (2013). The EU's role in climate change negotiations: From leader to 'leadior.' *Journal of European Public Policy* 20(10): 1369–1386.
- Barbe, E., O. Costa, and R. Kissack (2016). *EU Policy Responses to a Shifting Multilateral System*. London: Palgrave Macmillan.
- Barnett, M. N., and M. Finnemore (2008). Political Approaches. In: S. Daws and T. G. Weiss (eds) *The Oxford Handbook on the United Nations*. Oxford: Oxford University Press, 61–78.
- Beach, D., and R. B. Pedersen (2013). *Process-Tracing Methods: Foundations and Guidelines*. Ann Arbor, MI: University of Michigan Press.
- Bengtsson, R., and O. Elgström (2012). Conflicting Role Conceptions? The European Union in Global Politics. *Foreign Policy Analysis* 8(1): 93–108.
- Bernstein, A. (2015). Climate Change and Justice: A Non-Welfarist Treaty Negotiation Framework. *Ethics, Policy and Environment* 18(2): 123–145.
- Blavoukos, S., and D. Bourantonis (2017). *The EU in UN Politics: Actors, Processes and Performances*. London: Palgrave Macmillan.
- Blavoukos, S., D. Bourantonis, M. Gianniou, and I. Galariotis (2016). The European Union's visibility and coherence at the United Nations General Assembly: The post-Lisbon Era. *Global Affairs* 2(1): 35–45.
- Blavoukos, S., D. Bourantonis, and I. Galariotis (2017). In quest of a single European Union voice in the United Nations General Assembly: The politics of Resolution 65/276. *Cooperation and Conflict* 52(4): 451–468.
- Bouchard, C., J. Peterson and N. Tocci. (2014). *Multilateralism in the 21<sup>st</sup> century: Europe's quest for effectiveness*. London: Routledge.
- Brattberg, E., and M. Rhinard (2013). Actorness and effectiveness in international disaster relief: The European Union and United States in comparative perspective. *International Relations* 27(3): 356–374.
- Bretherton, C., and J. Vogler (1999). *The European Union as a Global Actor*. Abingdon: Routledge.

- Bryman, A. (2012). *Social Research Methods*, 4<sup>th</sup> Edition. Oxford: Oxford University Press.
- Buzan, B. (2012). The Inaugural Kenneth N. Waltz Annual Lecture: A world without superpowers – Decentered globalism. *International Relations* 25(1): 3–25.
- Carbone, M. and J. Orbie. (2015). *The trade-development nexus in the European Union: Differentiation, coherence and norms*. Abingdon: Routledge.
- Carter, S. M., and M. Little (2007). Justifying knowledge, justifying method, taking action: Epistemologies, methodologies, and methods in qualitative research. *Qualitative Health Research* 17: 1316–1328.
- Conceicao-Heldt, E. (2014). When speaking with a single voice isn't enough: Bargaining power (a)symmetry and EU external effectiveness in global trade governance. *Journal of European Public Policy* 21(7): 980–995.
- Conceição-Heldt, E., and S. Meunier (2014). Speaking with a single voice: Internal cohesiveness and external effectiveness of the EU in global governance. *Journal of European Public Policy* 21(7): 961–979.
- Council of the European Union (2003). *European Security Strategy: A Secure Europe in a Better World*: Brussels, 12 December. Available at: <https://www.consilium.europa.eu/media/30823/qc7809568enc.pdf> [accessed 26 February 2021].
- Council of the European Union (2018). *Address by President Donald Tusk to the 73<sup>rd</sup> United Nations General Assembly*, 27 September. Press Release. Available at: <https://www.consilium.europa.eu/en/press/press-releases/2018/09/27/address-by-president-donald-tusk-to-the-73rd-united-nations-general-assembly/pdf> [accessed 26 February 2021].
- Dee, M. (2012). Standing together or doing the splits? Evaluating European Union performance in the Nuclear Non-Proliferation Treaty review negotiations. *European Foreign Affairs Review* 17(2): 189–212.
- Della Porta, D., and M. Keating (2008). *Approaches and Methodologies in the Social Sciences: A Pluralist Perspective*. Cambridge: Cambridge University Press.
- Delreux, T. (2014). EU actorness, cohesiveness and effectiveness in environmental affairs. *Journal of European Public Policy* (21)7: 1017–1032.

- Diez, T. (2005). Constructing the Self and Changing Others: Reconsidering 'Normative Power Europe'. *Millennium - Journal of International Studies* 33: 613-636.
- Drieskens, E., and L. G. van Schaik (2014). *The EU and Effective Multilateralism: Internal and External Reform Practices*. Abingdon: Routledge.
- Duchêne, F. (1972). Europe's role in world peace. In: R. Mayne (ed.) *Europe Tomorrow: Sixteen Europeans Look Ahead*. London: Fontana: 32-47.
- Dür, A., and H. Zimmermann (2007). Introduction: The EU in international trade negotiations. *Journal of Common Market Studies* 45(4): 771-787.
- Dworkin, A., and R. Gowan (2019). Rescuing multilateralism. *ECPF Strategic Sovereignty ECFR/289*.
- Eldar, O. (2008). Vote-trading in international institutions. *The European Journal of International Law* 19(1): 3-41.
- Elgström, O. (2007). Outsiders' perceptions of the European Union in international trade negotiations. *Journal of Common Market Studies* 45(4): 949-967.
- Elgström, O., and C. Jönsson (2000). Negotiation in the European Union: Bargaining or problem-solving? *Journal of European Public Policy* 7(5): 684-704.
- Elster, J. (1986). *Rational Choice*. Oxford: Basil Blackwell.
- Elster, J. (2007). *Explaining Social Behavior: More Nuts and Bolts for the Social Sciences*. Cambridge: Cambridge University Press.
- Eriksen, O. E., and J. Weigård (1997). Conceptualizing politics: Strategic or communicative action? *Scandinavian Political Studies* 20(3): 219-241.
- Eriksson, L. (2011). *Rational Choice Theory: Potential and Limits*. Basingstoke & New York: Palgrave Macmillan.
- European External Action Service (2016). *Shared Vision, Common Action: A Stronger Europe - A Global Strategy for the European Union's Foreign and Security Policy*. Available at: [https://eeas.europa.eu/archives/docs/top\\_stories/pdf/eugs\\_review\\_web.pdf](https://eeas.europa.eu/archives/docs/top_stories/pdf/eugs_review_web.pdf) [accessed 26 February 2021].
- George, A. L., and A. Bennett (2005). *Case Studies and Theory Development in the Social Sciences*. Cambridge, MA: MIT Press.

- Gerring, J. (2004). What is a case study and what is it good for? *The American Political Science Review* 98(2): 341–354.
- Goldstein, J., and Keohane, R. (1993). Ideas and foreign policy: An analytical framework. In: J. Goldstein and R. Keohane (eds) *Ideas and Foreign Policy: Beliefs, Institutions, and Political Change*. Ithaca, NY: Cornell University Press, 3–30.
- Gowan, R., and F. Brantner. (2008). A global force for human rights? An audit of European power at the UN. *ECFR Policy paper*, ECFR/08.
- Gowan, R., and A. Dworkin (2019). Three crises and an opportunity: Europe's stake in multilateralism. *ECFR Policy Brief*, ECFR/299.
- Green, D. P., and I. Shapiro (1994). *Pathologies of Rational Choice Theory: A Critique of Applications in Political Science*. New Haven, CT: Yale University Press.
- Groen, L., and A. Niemann (2012). EU actorness and effectiveness under political pressure at the Copenhagen climate change negotiations. *Mainz Papers on International and European Politics*, No. 1.
- Groen, L., and A. Niemann (2013). The European Union at the Copenhagen climate negotiations: A case of contested EU actorness and effectiveness. *International Relations* 27(3): 308–324.
- Groenleer, M. L. P., and L. G. van Schaik (2007). United we stand? The European Union's international actorness in the cases of the International Criminal Court and the Kyoto Protocol. *Journal of Common Market Studies* 45(5): 969–998.
- Gstöhl, S. (2011). EU diplomacy after Lisbon: More effective multilateralism. *Brown Journal of World Affairs* 17(2): 181–191.
- Hampson, F. O., and M. Hart (1995). *Multilateral Negotiations: Lessons from Arms Control, Trade, and the Environment*. Baltimore, MD & London: Johns Hopkins University Press.
- Hettne, B. (2011). The European Union as an emerging global actor. In: J. Wunderlich and D. Bailey (eds) *The European Union and Global Governance*. London: Routledge, 28–36.
- Hill, C. (1993). The capability–expectations gap, or conceptualizing Europe's international role. *Journal of Common Market Studies* 31(3): 305–328.
- Hill, C. and K.E. Smith (2000). *European Foreign Policy: Key Documents*. London: Routledge.



- Hoffmann, S. (1966). Obstinate and obsolete? The fate of the nation state and the case of Western Europe. *Daedalus* 95(2): 862-915.
- Hollander-Blumoff, R., and T. R. Tyler (2008). Procedural justice in negotiation: Procedural fairness, outcome acceptance, and integrative potential. *Law & Social Inquiry* 33(2): 473-500.
- Howorth, J. (2010) The EU as a global actor: Grand strategy for a global grand bargain? *Journal of Common Market Studies* 48(3): 455-474.
- Hyde-Price, A. (2006). Normative Power Europe: A realist critique. *Journal of European Public Policy* 13(2): 217-234.
- Hyde-Price, A. (2008). A 'tragic actor'? A realist perspective on 'ethical power Europe'. *International Affairs* 84: 29-44.
- Jönsson, C., and Aggestam, K. (2009). Diplomacy and Conflict Resolution. In: J. Bercovitch, V. Kremenyuk, and I. W. Zartman (eds) *Handbook on Conflict Resolution*. London: SAGE, 33-51.
- Jørgensen, K. E., (2004). Theorizing the European Union's foreign policy. In: B. Tonra and T. Christiansen (eds) *Rethinking European Foreign Policy*. Manchester: Manchester University Press, 10-25.
- Jupille, J., and J. A. Caporaso (1998). States, agency, and rules: The European Union in global environmental politics. In: C. Rhodes (ed.) *The European Union in the World Community*. Boulder, CO: Lynne Rienner, 213-230.
- Kapstein, E. B. (2008). Fairness considerations in world politics: Lessons from international trade negotiations. *Political Science Quarterly* 123(2): 229-245.
- Keohane, R.O. (1984). *After Hegemony: Cooperation and Discord in the World Political Economy*. Princeton, N.J. :Princeton University Press,
- Keukeleire, S., and T. Delreux (2014). *The Foreign Policy of the European Union*. London: Palgrave Macmillan.
- Keukeleire, S. and T. Delreux (2015). Competing Structural Powers and Challenges for the EU's Structural Foreign Policy. *Global Affairs* 1(1): 43-50.
- Kissack, R. (2009). Writing a new normative standard? EU member states and the drafting and ratification of ILO labour standards. In: J. Orbie and L. Torrell (eds) *The European Union's Role in the World and the Social Dimension of Globalisation*. Abingdon: Routledge, 98-112.

- Kissack R. (2010). Pursuing effective multilateralism: the European Union, international organisations and the politics of decision making. New York: Palgrave Macmillan.
- Kissack, R. (2011). The performance of the European Union in the International Labour Organization. *Journal of European Integration* 33(6): 651–665.
- Kissack, R. (2014). The EU and human rights promotion. In: K. E. Jørgensen, A. Kalland Aarstad, E. Drieskens, K. Laatikainen, and B. Tonra (eds) *The Sage Handbook of European Foreign Policy*. London, SAGE, 820–834.
- Kissinger, H. (1957). *A World Restored: Metternich, Castlereagh and the Problems of Peace, 1812–1822*. Boston, MA: Houghton Mifflin.
- Kissinger, H. (1969). The Vietnam negotiations. *Foreign Affairs* 47: 211–234.
- Koops, J. A. (2011). *The European Union as an Integrative Power?* Brussels: VUB Press.
- Krasner, S. D. (1999). Logics of consequences and appropriateness in the international system. In: M. Egeberg and P. Lægreid (eds) *Organizing Political Institutions: Essays for Johan P. Olsen*. Oslo: Scandinavian University Press, 181–213.
- Laatikainen, K. V. (2010). Multilateral leadership at the UN after the Lisbon Treaty. *European Foreign Affairs Review* 15: 475–493.
- Laatikainen, K. V., and K. E. Smith (2006). *The European Union at the United Nations: Intersecting Multilateralism*. London: Palgrave Macmillan.
- Laïdi, Z. (2008). *Norms over Force: The Enigma of European Power*. New York: Palgrave Macmillan.
- Larsen, H. (2014a). Normative Power Europe and the importance of discursive context: The European Union and the politics of religion. *Cooperation and Conflict* 49(4): 419–437.
- Larsen, H. (2014b). The EU as a normative power and the research on external perceptions: The missing link. *Journal of Common Market Studies* 52(4): 896–910.
- Lax, D. A., and J. K. Sebenius (1986). *The Manager as Negotiator: Bargaining for Cooperation and Competitive Gain*. New York & London: The Free Press.
- Leonard, M. (2005). *Why Europe Will Run the 21<sup>st</sup> Century*. London: Fourth Estate.

- Lindberg, L., and S. Scheingold (1970). *Europe's Would-Be Polity*. Englewood Cliffs, NJ: Prentice-Hall.
- Lucarelli, S., and I. Manners (2006). *Values and Principles in European Union Foreign Policy*. London: Routledge.
- Macdonald, T., and M. Ronzoni (2012). Introduction: The idea of global political justice. *Critical Review of International Social and Political Philosophy* 15(5): 521-533.
- Manners, I. (2002). Normative Power Europe: A contradiction in terms? *Journal of Common Market Studies* 40(2): 235-258.
- Manners, I., and R. G. Whitman (2003). The 'difference engine': Constructing and representing the international identity of the European Union. *Journal of European Public Policy* 10(3): 380-404.
- Mayer, H. & Vogt, H. (2006.) *A Responsible Europe? Ethical Foundations of EU External Affairs*. London: Palgrave Macmillan.
- March, J. G., and J. P. Olsen (1998). The institutional dynamics of international political orders. *International Organization* 52(4): 943-969.
- McCormick, J. (2007). *The European Superpower*. Basingstoke: Palgrave Macmillan.
- Melin, P. (2019). The Global Compact for Migration: Lessons for the unity of EU representation. *European Journal of Migration and Law* 21: 194-214.
- Menon, A. (2008). *Europe: The State of the Union*. London: Atlantic Books.
- Meunier, S. (2000). What single voice? European institutions and EU-U.S. trade negotiations. *International Organization* 54(1): 103-135.
- Meunier, S., and K. Nicolaidis (2006). The European Union as a conflicted trade power. *Journal of European Public Policy* 13(6): 906-925.
- Meunier, S., and M. A. Vachudova (2018). Liberal intergovernmentalism, illiberalism and the potential superpower of the European Union. *Journal of Common Market Studies* 56(7): 1631-1647.
- Moravcsik, A. (1997). Taking preferences seriously: A liberal theory of international politics. *International Organization* 51(4): 513-553.
- Müller, H. (2004). Arguing, Bargaining and All That: Communicative Action, Rationalist Theory and the Logic of Appropriateness in International Relations. *European Journal of International Relations* 10(3): 395-435.
- Müller, H., and D. Druckman (2014). Introduction: Justice in security negotiation. *International Negotiation* 19: 399-409.

- Oberthür, S., and L. Groen (2015). The effectiveness dimension of the EU's performance in international institutions: Towards a more comprehensive assessment framework. *Journal of Common Market Studies* 53(6): 1319–1335.
- Ojanen, O. (2018). *The EU's Power in Inter-Organisational Relations*. Palgrave Macmillan UK, London.
- Orbie, J. (2008). *Europe's Global Role: External Policies of the European Union*. Aldershot: Ashgate Publishing.
- Panke, D. (2013). *Unequal Actors in Equalising Institutions: Negotiations in the United Nations General Assembly*. Basingstoke: Palgrave Macmillan.
- Panke, D. (2014). Speaking with one voice: Easier said than done? In: S. Blavoukos and D. Bourantonis (eds) *The EU in UN Politics: Actors, Processes and Performances*. London: Palgrave Macmillan, 27–46.
- Panke, D. (2017). The institutional design of the United Nations General Assembly: An effective equalizer? *International Relations* 31(1): 3–20.
- Pollack, M.A. (2006). Rational choice and EU politics. In: K.E. Jørgensen, M.A. Pollack and B. Rosamond (eds), *Handbook of European Union Politics*. London, SAGE Publications Ltd, 31–56.
- Powell, R. (2002). Bargaining theory and international conflict. *Annual Review of Political Science* 5: 1–30.
- Putnam, L. (1994). Challenging the assumptions of traditional approaches to negotiation. *Negotiation Journal* 10: 337–346.
- Reid, T. R. (2004). *The United States of Europe: The New Superpower and the End of American Supremacy*. New York: Penguin.
- Riker, W. (1990). Political science and rational choice. In: J. Alt and K. Shepsle (eds) *Perspectives on Positive Political Economy*. Cambridge: Cambridge University Press, 163–181.
- Risse-Kappen, T. (1996). Exploring the Nature of the Beast: International Relations Theory and Comparative Policy Analysis Meet the European Union. *Journal of Common Market Studies* 34(1), 53–80.
- Ritchie, J., and J. Lewis (2003). *Qualitative Research Practice: A Guide for Social Science Students and Researchers*. London: SAGE.
- Rohlfing, I. (2012). *Case Studies and Causal Inference: An Integrative Framework*. Basingstoke: Palgrave Macmillan.

- Romanyshyn, I. (2015). Explaining EU effectiveness in multilateral institutions: The case of the Arms Trade Treaty negotiations. *Journal of Common Market Studies* 53(4): 875–892.
- Rüland, J. (2002). Inter- and Transregionalism: Remarks on the State of the Art of a New Research Agenda. *National Europe Centre Paper* 35.
- Sabel, R. (2006). Procedure at International Conferences: A Study of the Rules of Procedure at the UN and at Inter-Governmental Conferences, 2<sup>nd</sup> Edition. Cambridge: Cambridge University Press.
- Scharpf, F. W. (1988). The joint-decision trap: Lessons from German federalism and European integration. *Public Administration* 66: 239–278.
- Schelling, T. (1956). An essay on bargaining. *The American Economic Review* 46(3): 281–306.
- Seeberg, P. (2009). The EU as a realist actor in normative clothes: EU democracy promotion in Lebanon and the European neighbourhood policy. *Democratization* 16(1): 81–99.
- Sjöstedt, G. (1977). *The External Role of the European Community*. Westmead: Saxon House.
- Sjursen, H. (2006) The EU as a ‘normative’ power: How can this be? *Journal of European Public Policy* 13(2): 235–251.
- Smith, C. (2005). Politics and Process at the United Nations: The Global Dance. London: Lynne Rienner.
- Smith, K. E. (2006). Speaking with one voice? European Union co-ordination on human rights issues at the United Nations. *Journal of Common Market Studies* 44(1): 113–137.
- Smith, K. E. (2008). European Union Foreign Policy in a Changing World. Cambridge: Polity.
- Smith, K. E. (2010). The European Union at the Human Rights Council: Speaking with one voice but having little influence. *Journal of European Public Policy* 17: 224–241.
- Söderbaum F., P. Stålgren, and L. van Langenhove (2005). The EU as a global actor and the dynamics of interregionalism: A comparative analysis. *Journal of European Integration* 27(3): 365–380.
- Szasz, P. C. (1979). Improving the international legislative process. *Georgia Journal of International and Comparative Law* 519(9): 519–533.

- Tallberg, J. (2006). Formal leadership in multilateral negotiations: Rational institutionalist theory. *The Hague Journal of Diplomacy* 1: 117–142.
- Telo, M. (2006). *Europe: A Civilian Power? European Union, Global Governance, World Order*. Basingstoke: Palgrave Macmillan.
- The Norwegian National Research Ethics Committees (2016). *Guidelines for Research Ethics in the Social Sciences, Humanities, Law and Theology*. Available at: [60127 fek guidelines nesh digital.pdf](https://60127.fek.guidelines.nesh.digital.pdf) ([forskningsetikk.no](https://forskningsetikk.no)) [accessed 26 February 2021].
- Thomas, D., and B. Tonra (2012). To what ends EU foreign policy? Contending approaches to the Union's diplomatic objectives and representation. *The Hague Journal of Diplomacy* 7(1): 11–29.
- Thomas, D. C. (2012). Still punching below its weight? Coherence and effectiveness in European Union foreign policy? *Journal of Common Market Studies* 50(3): 457–474.
- Ulbert, C., and T. Risse (2000). Deliberately Changing the Discourse: What Does Make Arguing Effective? *Acta Politica* 40: 351–367.
- United Nations. (2005). *United Nations Juridical Yearbook 2005: Part Two. Legal activities of the United Nations and related intergovernmental organizations*. Available at: [https://legal.un.org/unjuridicalyearbook/pdfs/english/by\\_volume/2005/chpVI.pdf](https://legal.un.org/unjuridicalyearbook/pdfs/english/by_volume/2005/chpVI.pdf) [accessed 26 February 2021].
- United Nations. (2021). Secretary-General Highlights Europe's Key Role as Bridge Builder to Safeguard Human Rights, Tackle Climate Crisis, COVID-19 Worldwide, at European Parliament Session. Press Release, SG/SM/20794, 24 June 2021.
- Van Schaik, L. G. (2013). *EU Effectiveness and Unity in Multilateral Negotiations: More Than the Sum of Its Parts?* Basingstoke & New York: Palgrave Macmillan.
- Waltz, K. (1979). *Theory of International Politics*. Reading, MA: Addison-Wesley.
- Warntjen, A. (2011). Bargaining. In: K. Dowding (ed.), *Encyclopedia of Power*. Thousand Oaks, CA: SAGE, 56–60.
- Weber, M. (1947). *The Theory of Social and Economic Organization*. New York: Free Press.

- Welch, D. A. (2014). The justice motive in international relations: Past, present, and future. *International Negotiation* 9: 410–425.
- Windt, P. (2011). Bargaining in international relations. In: K. Dowding (ed.) *Encyclopedia of Power*. Thousand Oaks, CA: SAGE, 61–64.
- Wolf, A. (1997). *Quotas in International Environmental Agreements*. London: Earthscan.
- Wouters, J., H. Bruyninckx, S. Basu, and S. Schunz (2012). *The European Union and Multilateral Governance: Assessing EU Participation in United Nations Human Rights and Environmental Fora*. Basingstoke: Palgrave Macmillan.
- Wouters, J., and K. Meuwissen (2013). *The European Union at the UN Human Rights Council: Multilateral human rights protection coming of age? KU Leuven Working Paper, No. 126*.
- Yin, R. K. (2014). *Case Study Research Design and Methods*. Thousand Oaks, CA: SAGE.
- Youngs, R. (2004). Normative dynamics and strategic interests in the EU's external identity. *Journal of Common Market Studies* 42(2): 415–435.
- Zartman, I. W. (1988). Common elements on the analysis of the negotiation process. *Negotiation Journal* 4(1): 31–43.
- Zartman, I. W. (1994). *International Multilateral Negotiation: Approaches to the Management of Complexity*. San Francisco, CA: Jossey-Bass.
- Zartman, I. W., and M. R. Berman (1982). *The Practical Negotiator*. New Haven, CT: Yale University Press.

# Article 1

The EU as a global negotiator? The advancement of the EU's role in multilateral negotiations at the UN General Assembly

The article is published in *International Relations* 35(4):574-592.

## Abstract

This paper aims to account for the EU's role in multilateral negotiations at the UNGA by looking at the negotiations on the enhanced observer status. During the negotiation process, the EU experienced significant opposition and had to accept an intermediate setback in form of a postponement of the vote. Despite this, the EU's enhanced observer status was adopted by the UNGA in May 2011 as resolution 65/276. This research contributes to the understanding of the EU as an actor in multilateral negotiations and the interaction between state and non-state actors. I argue that the EU is in the process of establishing itself as an active and recognized actor at the UN and determining its role as a highly integrated regional organization and non-state entity in the state-centric environment of the UNGA. I analyse the negotiation process and the final agreement through the lenses of a bargaining approach and as an alternative, mutual recognition as global justice.

Key words: EU external representation, multilateral negotiations, UN General Assembly, global justice, regional organizations



## Introduction

Over the years, the EU has become a frequent participant in multilateral negotiations and has collectively represented the goals of the Union and its Member States (MS). The negotiations towards the enhanced observer status followed the adoption of the Lisbon Treaty (ToL) and aimed to alter the Union's participation rights at the UN General Assembly (UNGA). The ToL<sup>4</sup> regulated that the EU should be represented by the High Representative and Vice-President for Foreign Affairs and Security Policy (HR/VP) instead of the rotating Council Presidency.<sup>5</sup> An informal practice at the UNGA allows major groups of UN MS to be represented by a single state representative and to speak at the very beginning of plenary debates.<sup>6</sup> As long as the EU was represented by the Council Presidency, the EU could benefit from this practice and speak at the beginning of UNGA session among the major groups. As the HR/VP is not a state representative, but an intuitional representative, the EU would have spoken at the end of UNGA session among the non-state observer entities. Instead of achieving a more effective representation and more visibility at the UNGA, the EU feared losing the possibility to be able to take part in the UNGA on the same terms as before and therefore initiated the negotiations on the enhanced observer status.<sup>7</sup>

As a case of structural reform at the UNGA, the EU's request for enhanced participation rights is a particularly relevant and interesting case of the EU's

---

<sup>4</sup> Article 27 in the Treaty of the EU created the European External Action Service (EEAS) and established the new role of the HR/VP that should represent the Union in matters of foreign policy and security. Article 32 and 34 TEU asks MS to consult each other and to streamline their actions on matters of foreign and security policy in international organisations and conferences. If the Union decides on a common approach, the HR/VP and the MS' Foreign Ministers should coordinate their actions.

<sup>5</sup> European Union, Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union, *Official Journal of the European Union* C 326, 2012.

<sup>6</sup> EU-7, Interview with EU Official, April 2018; Council of the European Union, Participation of the European Union in the Work of the United Nations: Recommendations for action and draft UN General Assembly Resolution, 11823/10, 7 July 2010.

<sup>7</sup> EU-6, Interview with EU Official, April 2018; Council of the European Union, *Participation of the European Union*, 7 July 2010.

foreign policy and role in multilateral negotiations. It illustrates the EU's capacity to negotiate for its own sake, navigate the complexities of multilateral negotiations, and interact in the state-centric system of the UN. The negotiation process towards the enhanced status was the logical consequence for the EU to implement the regulations of the ToL and to preserve the status quo of the EU's representation at the UNGA. The EU aimed towards an enhanced observer status, which consists of an institutional representative but holds the same rights as a major group at the UNGA. While the envisioned status did not have any limiting effect on the rights of the UN MS, it touched upon the sensitive issues of the UNGA's structure and created some uncertainty concerning the EU's future position in the UNGA.

The literature looking at the EU's role in multilateral negotiations has frequently concentrated on the EU's "presence"<sup>8</sup> that impacts international relations and the EU's ability to act in multilateral cooperation. As the EU is not a state, even though it shares some characteristics with states, it has been assumed that the EU is a different actor that pursues a different foreign policy, which is not only guided by self-interest but also by the right thing to do.<sup>9</sup> A common claim in this regard has been that the EU needs to speak with one voice and needs to be a unified actor, in order to be effective and perform well on the international stage. Effectiveness in this regard has frequently been assumed to be achieved by the fulfilment of goals and has been used to assess the EU's foreign policy objectives and the outcomes of international negotiations.<sup>10</sup> Trade negotiations have not only been the area

---

<sup>8</sup> David Allen and Michael Smith, 'Relations with the rest of the world', *Journal of Common Market Studies*, 45(09), 2007, pp. 163-181; Charlotte Bretherton and John Vogler, *The European Union as a Global Actor* (Abingdon: Routledge, 1999).

<sup>9</sup> Lisbeth Aggestam, 'Introduction: Ethical power Europe?' *International Affairs*, 84(1), 2008, pp. 1-11; David McKay, 'The EU as a self-sustaining federation: Specifying the constitutional conditions', in Andreas Follesdal and Lynn Dobson (eds.), *Political Theory and the European Constitution* (New York: Routledge, 2004) pp. 23-39; Sonia Lucarelli and Ian Manners, *Values and Principles in European Union Foreign Policy* (London: Routledge, 2006).

<sup>10</sup> Spyros Blavoukos and Dimitris Bourantonis, *The EU in UN Politics: Actors, Processes and Performances* (London: Palgrave MacMillan, 2017); Eugenia Da Conceição-Heldt and

of multilateral negotiations that have received most scholarly attention but represent also a field, in which the EU's foreign policy has been successful and the EU is seen as a powerful actor.<sup>11</sup> In the case of the EU's enhanced observer status, researchers highlight the EU's ability to negotiate a certain outcome in international settings, but also its lacking flexibility and experience to steer the negotiation process towards an envisioned result.<sup>12</sup> This research goes beyond the existing literature by concentrating on the

---

Sophie Meunier, 'Speaking with a single voice: internal cohesiveness and external effectiveness of the EU in global governance', *Journal of European Public Policy*, 21(7), pp. 961-979; Edith Drieskens, Laura Van Dievel, and Yf Reykers, 'The EU's Search for Effective Participation', in Edith Drieskens and Louise Van Schaik (eds.) *The EU and Effective Multilateralism: Internal and External Reform Practices* (London: Routledge, 2014) pp. 15-32; Siglinde Gstoehl, 'EU Diplomacy After Lisbon: More Effective Multilateralism', *Brown Journal of World Affairs*, 17(2), 2011, pp. 181-191; Diana Panke, 'The European Union in the United Nations: an effective external actor?', *Journal of European Public Policy*, 21(7), 2014, pp.1050-1066; Lisanne Groen and Arne Niemann, 'The European Union at the Copenhagen climate negotiations: A case of contested EU actorness and effectiveness', *International Relations*, 27(3), 2013, pp. 308-324; Daniel C. Thomas, 'Still Punching Below its Weight? Coherence and Effectiveness in European Union Foreign Policy?', *Journal of Common Market Studies*, 50(3), 2012, pp. 457-474.

<sup>11</sup> Andreas Dür and Hubert Zimmermann, 'Introduction: The EU in International Trade Negotiations', *Journal of Common Market Studies*, 45(4), 2007, pp.771-787; Ole Elgström, 'Outsiders' perceptions of the European Union in international trade negotiations', *Journal of Common Market Studies* 45(4), 2007, 949-967; Sophie Meunier and Kalypso Nicolaidis, 'The European Union as a conflicted trade power', *Journal of European Public Policy*, 13(6), 2006, pp. 906-925.

<sup>12</sup> Fernando Andresen Guimaraes, 'Speak Up! Getting the EU a Voice at the UN General Assembly', in Joachim Koops and Gjovalin Macaj (eds.), *The European Union as a Diplomatic Actor* (London: Palgrave MacMillan, 2015), pp. 88-102; Spyros Blavoukos, Dimitris Bourantonis and Ioannis Galariotis, 'In quest of a single European Union voice: the politics of Resolution 65/276', *Cooperation and Conflict*, 52(4), 2017, pp. 451-468; Spyros Blavoukos and Dimitris Bourantonis, *The EU in UN Politics*; Evan Brewer, 'The Participation of the European Union in the Work of the United Nations: Evolving to Reflect the New Realities of Regional Organizations', *International Organizations Law Review*, 9, 2012, pp. 181-225; Katie V. Laatikainen and Martin Palous, 'Contested Ground: The Campaign to Enhance the Status of the European Union in the UN General Assembly', *GLOBUS Research Paper* 9/2018; Pedro A. Serrano de Haro, 'Participation of the European Union in the Work of the United Nations: General Assembly Resolution 65/276', *Cleer Working Papers*, 2012/4.

EU's behaviour in the negotiation process and the interactions with state-actors. I thereby provide a more nuanced understanding of the interactions in negotiation processes and the negotiation dynamics at the UN. This research highlights the EU's ability to exercise a negotiation strategy with which it is able to influence the direction of multilateral negotiation processes and interact with state-actors.

In this paper, I aim to account for the EU's ability to contribute to a multilateral negotiation process leading to the adoption of an agreement. I strive to understand how the EU influences a negotiation process by analysing the EU's interaction with other negotiation parties and its behaviour in advancing its agenda. As part of this, I argue that the EU is in the process of establishing itself as an active and recognized actor at the UN, and therefore has to navigate the state-centric negotiation dynamics at the UNGA. While the EU's particular character and its high level of integration cause certain difficulties when actively engaging in multilateral negotiations, it also provides the chance to shape and alter negotiation processes and interactions. I show that the enhanced observer status was a crucial step towards this goal, as extensive participation rights are indispensable for an active and involved role. In addition, this research depicts how the EU is able to contribute to multilateral cooperation that goes beyond the activities of the EU's MS. The EU is frequently described as the most integrated regional organization, and as such, is required to find its place as a non-state entity in the state-centric environment of the UNGA. I therefore ask: How and why did the EU succeed in its negotiations towards an enhanced observer status (despite the intermediate setback)? How does the EU shape a negotiation process towards agreement?

As a standard assumption, rational choice is frequently seen as the most appropriate way of explaining the interactions among states. In the state-centric environment of the UN, rational choice theory suggests that the EU adapts its negotiation strategy to traditional foreign policy behaviour and existing patterns of interaction.<sup>13</sup> Bargaining is thereby often seen as an ever-

---

<sup>13</sup> Adrian Hyde-Price, 'Normative power Europe: a realist critique', *Journal of European Public Policy*, 13(2), 2006, pp.217-234; Andrew Moravcsik, 'Taking preferences seriously:

present part of social interaction and explains the path towards collective agreements.<sup>14</sup> In multilateral negotiations at the UNGA, actors frequently negotiate according to their self-interest and use bargaining to achieve its fulfilment. In negotiations that affect the UNGA structure, UN MS often pursue a negotiation strategy that protects their power position and follows their self-interest.<sup>15</sup> Consequently, negotiation parties use their bargaining leverage to achieve their self-interest and to make other negotiation parties support their goal.<sup>16</sup> It is, however, also commonly understood that a bargaining approach carries certain risks and is a costly negotiation strategy, and considering the state-centric environment at the UN, this might exceed the EU's resources. As the EU is not a state and does not hold all the rights and capabilities, rational choice might not be able to fully capture the EU's behaviour in multilateral negotiations. Consequently, I turn towards an additional perspective following mutual recognition as global justice, which might provide additional insights explaining the EU's behaviour and interactions in multilateral negotiations. Just negotiations help to coordinate expectations and to exchange concession, and therefore increase the likelihood of an agreement. Consequently, states actually care about just and care negotiations, and are more willing to compromise.<sup>17</sup> The EU's initial

---

A liberal theory of international politics', *International Organization*, 51(4), 1997, pp. 513–553; Jonas Tallberg, 'Formal leadership in multilateral negotiations: Rational institutionalist theory', *The Hague Journal of Diplomacy*, 1, 2006, pp. 117–142; Robert Kissack, 'The performance of the European Union in the International Labour Organization', *Journal of European Integration*, 33(6), 2011, pp. 651–665.

<sup>14</sup> Andreas Warntjen, 'Between bargaining and deliberation: decision-making in the Council of the European Union', *Journal of European Public Policy*, 17(5), 2010, pp. 665–679.

<sup>15</sup> Michael N. Barnett and Martha Finnemore, 'Theorizing the United Nations', in Sam Daws and Thomas G. Weiss (eds.), *The Oxford Handbook on the United Nations* (Oxford: Oxford University Press, 2008).

<sup>16</sup> Jeffrey Checkel, 'Why Comply? Social Learning and European Identity Change', *International Organization* 55(3), 2001; Jon Elster, *Rational Choice*. (Oxford: Basil Blackwell, 1986); Robert Powell, 'Bargaining Theory and International Conflict', *Annual Review of Political Science* 5, 2002.

<sup>17</sup> Cecilia Albin, *Justice and Fairness in International Negotiations* (Cambridge, UK, Cambridge University Press, 2001); David A. Welch, 'The Justice Motive in International Relations: Past, Present, and Future.' *International Negotiation*, 19(3), October 2014, pp. 410–425.

setback would therefore be explained by the lack of fairness and justice in the initial course of the negotiation process. The setback offered the possibility to pursue a just and fair negotiation process that leads to the achievement of an agreement.<sup>18</sup>

## Setting a precedence: the EU's quest for an enhanced status

The EU's preparations to present the initiative towards enhanced observer status to the UN membership in New York already started in 2007, even before the ToL was adopted in 2009. Internally, various EU institutions were involved in the preparations and several Council Presidencies expressed their ideas on a possible pathway towards an enhanced observer status.<sup>19</sup> The first consultations were conducted unofficially, without a mandate from Brussels, and without a text being presented to the UN membership. In spring 2010, the EU Delegation in New York launched the first official campaign, including consultations with around 100 countries. However, no draft resolution was tabled until July 2010, so that consultations remained rather vague and unspecific. The first draft resolution presented by the EU aimed for the following participation rights: participation in the UNGA general debate, its committees and working groups, international meetings and conferences; the right to speak in the same fashion as other major groups; the ability to circulate documents; the right to make proposals and amendments; the right to raise a point of order; and to use the right of reply. The EU did not aim for the right to vote.<sup>20</sup>

As the EU leaders wanted to take the opportunity to speak and present the EU visibly at the 65<sup>th</sup> UNGA ministerial week, it was decided to put the enhanced status to a vote in September 2010. The consultations had already led to some changes in the draft resolution, such as highlighting the

---

<sup>18</sup> Erik O. Eriksen, 'Three Conceptions of Global Political Justice', *GLOBUS Research Papers* 1/2016; Helene Sjørnsen, 'Global Justice and Foreign Policy: The Case of the European Union', *GLOBUS Research Papers* 2/2017.

<sup>19</sup> Laatikainen and Palous, 'Contested Ground'.

<sup>20</sup> EU-5, Interview with EU Official, March 2018; Council of the European Union, *Participation of the European Union*, 7 July 2010.

intergovernmental nature of the UN and the possibility for other regional organizations to achieve enhanced participation rights in the future. Consequently, the EU announced the upcoming vote on the revised draft resolution to the UN membership and finalized the consultations.<sup>21</sup> During the UNGA plenary session on 14 September 2010, the African Group, the Caribbean Community (CARICOM) and some individual states, such as Iran and Venezuela, expressed their opposition due to the lack of sufficient time for consultations, the shortcomings in transparency and inclusiveness, and the possible effects on the UNGA's intergovernmental structure. A motion to postpone the vote on the draft resolution was introduced and adopted with 76 votes in favour, 71 opposed and 26 abstentions. Thus, the EU's pledge for an enhanced observer status had experienced an intermediate setback and was put on the provisional agenda for next year's session of the UNGA.<sup>22</sup>

## The second attempt

Following the setback, the EU revised its negotiation strategy and enhanced its internal communication and decision-making procedures. A task force was set up to coordinate the EU institutions, the EU MS and the EU Delegation in their outreach activities and campaigning.<sup>23</sup> The new strategy aimed for more inclusion and transparency and the adoption of the resolution was made a priority in all meetings of the EU and the EU MS with third countries. While the adoption of the enhanced status by consensus was still the goal, the tight schedule was loosened. The EU tried to accommodate the opposing countries with small concessions and language changes in the draft resolution.<sup>24</sup> After some months of campaigning, the EU had

---

<sup>21</sup> EU-5, Interview with EU Official; Laatikainen and Palous, 'Contested Ground'.

<sup>22</sup> United Nations General Assembly, *122nd Plenary Meeting*, Official Records A/64/PV.122, 14 September 2010.

<sup>23</sup> EU-4, Interview with EU Official, March 2018; EU-5, Interview with EU Official; Council of the European Union, *Resolution on the Participation of the European Union in the Work of the United Nations: Strategy for adoption*, 14749/10, 12 October 2010.

<sup>24</sup> EU-5, Interview with EU Official; Council of the European Union, *Resolution on the Participation of the European Union in the Work of the United Nations General Assembly: Tabling the draft resolution*, 7309/11, 16 March 2011.

persuaded the majority of the UN MS, while the CARICOM was still opposed to the draft resolution. Due to increasing impatience among the remaining UN membership, the EU decided that the consultations had gone on for long enough, and it was time to wrap the negotiation process up. In the remaining time, the EU intensified its consultations with the MS of CARICOM to come to an agreement before the adoption date. The EU was especially afraid that the opposition of the CARICOM would influence the African states to alter their position again.<sup>25</sup> The HR/VP Ashton came to New York to support the final negotiation effort and put more political weight on the EU's negotiation efforts. It was however not until the night before the voting session, that an agreement between the EU and CARICOM was finally reached. The CARICOM permanent representatives agreed to support the EU and vote in favour of the draft resolution the next day.<sup>26</sup>

## The adoption of resolution 65/276

On 3 May 2011, the draft resolution on the enhanced observer status was presented to the UNGA plenary. While broad support for the EU's goal was expected, some interruption was caused by a last-minute amendment introduced by Zimbabwe, to cut out the right of reply from the resolution. The amendment failed with a clear majority. Subsequently, the UN MS took the vote on the draft resolution and adopted the enhanced observer status for the EU as resolution A/RES/65/276 by consensus, with 180 votes in favour, no opposition and two abstentions.<sup>27</sup>

After the adoption, the CARICOM explained their vote and outlined their position towards a restrictive interpretation of the resolution. Despite the EU's condemnation of this move, the MS of CARICOM submitted a letter to

---

<sup>25</sup> EU-5, Interview with EU Official; Council of the European Union, Resolution on the Participation of the European Union in the Work of the United Nations: Adoption, 10100/11, 12 May 2011.

<sup>26</sup> EU-1, Interview with EU Official, February 2018; EU-5, Interview with EU Official; Council of the European Union, *Resolution on the Participation*, 12 May 2011; Laatikainen and Palous, 'Contested Ground'.

<sup>27</sup> United Nations General Assembly, *88th Plenary Meeting*, Official Records A/65/PV.88, 3 May 2011; United Nations General Assembly, *Participation of the European Union in the Work of the United Nations*, A/Res/65/276, 10 May 2011.



the Secretary-General, in which they presented the opinion that the EU should be the last major group to speak, as it was represented by an institutional representative, instead of a state representative.<sup>28</sup> The Secretary-General settled the issues formally by highlighting the custom that the order of the speeches by major groups was varying from session to session.<sup>29</sup> Nevertheless, the CARICOM states continued to disturb the EU's participation in the upcoming period by attempting to establish a custom that the EU should be speaking as the last of all major groups.<sup>30</sup>

## Methodological and analytical framework

In this paper, I conduct a within-case study of a critical case by applying an interpretative approach with qualitative data. This methodology allows for a better understanding of the circumstances, in which the hypotheses of this research are or are not fulfilled. This is achieved by a theory-testing exercise, which determines the analytical framework with the stronger explanatory power. The interpretative approach is suitable to explain the context of the negotiations, the dynamics and the interactions.<sup>31</sup> My primary sources consist of EU and UN documents, and additionally semi-structured interviews with EU official and UN MS representatives.<sup>32</sup> The primary data

---

<sup>28</sup> EU-5, Interview with EU Official; EU-7, Interview with EU Official; United Nations General Assembly, Letter dated 9 May 2011 from the Permanent Representative of the Bahamas to the United Nations addressed to the Secretary-General, A/65/834, 10 May 2011b.

<sup>29</sup> Council of the European Union, *Resolution on the Participation*, 12 May 2011; United Nations General Assembly, *Participation of the European Union in the work of the United Nations*, Note by the Secretary-General A/65/856, 1 June 2011.

<sup>30</sup> EU-6, Interview with EU Official; EU-7, Interview with EU Official.

<sup>31</sup> Alan Bryman, *Social Research Methods*, 4<sup>th</sup> ed. (Oxford: Oxford University Press, 2012); Donatella Della Porta and Michael Keating, *Approaches and Methodologies in the Social Sciences: A Pluralist Perspective*. (Cambridge: Cambridge University Press, 2008).

<sup>32</sup> As part of the primary sources, I have analyzed EU communications, Notes of information of the HR/VP, summary records of the Council of the EU. From the UNGA, I have examined Official Records from the UNGA sessions, draft resolutions, resolutions, Letters from the UN MS, and Notes by the Secretary-General. I interviewed seven representatives from different EU entities and two UN MS representatives. I used the primary sources to outline the EU's goals, the UN MS' reactions, and the result. I thereby

covers the positions of the most involved negotiation groups and is able to provide a comprehensive understanding of the different positions and points of interactions. I triangulate the primary interview data with the primary document data and secondary sources. The aim is to close the gaps of the primary documents, which are at times unable to show the events occurring behind the official façade of diplomatic relations, and to verify the information received during the interviews.

Rational choice theory assumes that actors choose their negotiation strategy following their self-interest and permanent preferences.<sup>33</sup> A bargaining actor evaluates a negotiation mainly from the view of its utility. A bargaining approach assumes that actors aim to maximize their strategic goals and their interests in the outcome agreement. Preferences are ranked in terms of the expected utility maximization. A rational actor chooses the highest-ranking preferences with the highest expected utility. The calculation of costs and benefits are ideally conducted before entering an interaction with other actors.<sup>34</sup> A bargaining approach is thereby defined as involving manipulative tactics, threats, and firm commitments, as well as win-lose attitudes.<sup>35</sup> In multilateral negotiations, a cost-benefit-analysis is considered particularly important for actors due to a large number of actors and opinion

---

identified the EU's negotiation approach and the reaction to it from the UN membership. I also tracked any changes in the strategy and the behavior of the EU. The number of interviews from UN MS representatives is caused by low availability and willingness to talk. I have received insights from the two primary active blocs in the negotiations, which I then triangulated and expanded with the primary data from official documents and secondary sources.

<sup>33</sup> Erik O. Eriksen and Jarle Weigård, 'Conceptualizing Politics: Strategic or Communicative Action?', *Scandinavian Political Studies*, 20(3), 1997, 219-241.

<sup>34</sup> Checkel, 'Why Comply?'; Elster, *Rational Choice*; Ole Elgström and Christer Jönsson, 'Negotiation in the European Union: Bargaining or Problem-solving?' *Journal of European Public Policy*, 7(5), 2000, pp.684-704.

<sup>35</sup> Elgström and Jönsson, 'Negotiation in the European Union'; Cornelia Ulbert and Thomas. Risse, 'Deliberately Changing the Discourse: What Does Make Arguing Effective?' *Acta Politica* 40, 2000, pp. 351-367.

involved in a negotiation process, and the aim to reach a consensus decision is emphasised.<sup>36</sup>

As a standard assumption in international negotiations, rational choice is often seen as the most appropriate way of explaining how states interact. International cooperation is assumed to be little institutionalized and rather anarchical. Rational behavior and bargaining theory assume that the EU will adapt its strategy to traditional foreign policy behavior.<sup>37</sup> The UN is often seen as a facilitator of interstate cooperation by providing a platform to solve problems in a mutually beneficial way. Nevertheless, the UN is also perceived as the playground of great powers that have built the organization's structures to serve their purposes as part of a "world as a market in which utility-maximizing states compete".<sup>38</sup> Negotiations at the UNGA are particular in the sense that the results are often legally non-binding and aim towards consensus-decisions. However, the UN's structure and customs also enable interstate bargaining and power plays.<sup>39</sup> A great deal of power-play can be observed as decisions affect the reputation and power perceptions of states.<sup>40</sup> In this multilateral environment, bargaining is part of a social role and favours are not only exchanged as part of one negotiation, but also over a course of time that determines the quality of the long-term relationship.<sup>41</sup> While the goal to achieve a consensus decision might restraint bargaining behaviour in certain cases, it also puts pressure

---

<sup>36</sup> Robert Powell, 'Bargaining theory and international conflict', *Annual Review of Political Science*, 5, 2002, pp. 1-30.

<sup>37</sup> Hyde-Price, 'Normative power Europe: a realist critique'; Moravcsik, 'Taking preferences seriously'; Tallberg, 'Formal leadership in multilateral negotiations'.

<sup>38</sup> Barnett and Finnemore, 'Theorizing the United Nations', p. 67.

<sup>39</sup> Barnett and Finnemore, 'Theorizing the United Nations'.

<sup>40</sup> Chadwick F. Alger, *Interaction and Negotiations in a Committee of the United Nations General Assembly*. (Springer International Publishing AG, 2014); Barnett and Finnemore, 'Theorizing the United Nations'; EU-5, Interview with EU Official.

<sup>41</sup> Harald Mueller, 'Arguing, Bargaining and All That: Communicative Action, Rationalist Theory and the Logic of Appropriateness in International Relations', *European Journal of International Relations*, 10(3), 2004, pp. 395-435.

on weaker states to accept a bargaining chip and be persuaded in the expectation of receiving favours in return at a later stage.<sup>42</sup>

At the UNGA, bargaining behaviour is a frequently entertained negotiation strategy and is often conducted as a *quid pro quo* by exchanging favours within the UN system.<sup>43</sup> Typical bargaining behaviour includes issues linkage, package deals, 'log-rolling', and side-payments. Payments can take the form of development aid and multilateral loans, support and votes in campaigns for seats in the Human Rights Council and the Security Council (SC), text changes in a draft resolution or the promise to abstaining instead of opposing during a vote.<sup>44</sup> More forceful ways of bargaining entail threatening and coercion, including the threat of non-participation in negotiations, non-signing of agreements or taking away funding for the UN. These types of bargaining are usually reserved for the more powerful UN MS.<sup>45</sup> The goal of bargaining at the UN aims less to an increase of material advantages and concentrates more on reputational advances and relative gains as part of a power play.<sup>46</sup>

The use of a bargaining approach in multilateral negotiations at the UNGA is not only a costly strategy but is also often based on the voting right within the UN system. Consequently, the EU is expected to be limited in using bargaining leverage in order to persuade UN MS of their objectives. Mutual recognition as global justice provides an alternative perspective to explain the EU's behaviour. Global justice expects the EU to promote its self-interest

---

<sup>42</sup> Alger, *Interaction and Negotiations*; MS-1, Interview with a UN-Member State representative, February 2018; EU-3, Interview with EU Official, March 2018.

<sup>43</sup> Barnett and Finnemore, 'Theorizing the United Nations'; Robert Keohane, 'The Study of Political Influence in the General Assembly', *International Organization*, 21(2), 1967, pp. 221-237.

<sup>44</sup> Ofer Eldar, 'Vote-trading in international institutions', *The European Journal of International Law*, 19(1), 2008, pp- 3-41; Leon Lindberg and Stuart Scheingold, *Europe's Would-Be Polity* (Englewood Cliffs, NJ: Prentice-Hall, 1970).

<sup>45</sup> Elgström and Jönsson, 'Negotiation in the European Union'; Powell, 'Bargaining Theory'.

<sup>46</sup> Barnett and Finnemore, 'Theorizing the United Nations'.

but also aims towards the realization of a fair and just negotiation process.<sup>47</sup> Particularly in an environment, in which every state holds one vote and larger resources only influence a decision-making process to a certain extent, mutual recognition might provide an insightful explanation concerning the EU's role in the complex environment at the UNGA.

While research has shown that a global justice approach enhances the chances to achieve mutually beneficial and durable agreements, it has mainly been applied in the area of trade negotiations, conflict resolution and arms control.<sup>48</sup> This article adapts this framework to a case of reform in the UNGA, and produces new insights concerning the behaviour of actor in multilateral negotiations and the power- and resource-based relationships among actors. For states, justice is an important element of multilateral negotiations, and states are more willing to agree to a consensus after fair and just negotiation processes.<sup>49</sup> In procedurally just negotiations, there is room for self-interest, as long as the security needs of other involved actors are taken into consideration and reflected in the final agreement. Justice claims might thereby be declared out of altruistic motives or for purely rhetorical and tactical reasons.<sup>50</sup>

Global justice scrutinizes the creation and reform of institutions and the background of decision-making processes concerning their fairness. Instead of asking whether these decisions are correct, global justice is mainly concerned with the process and the structure of the decision-making

---

<sup>47</sup> Albin, *Justice and Fairness*; Cecilia Albin and Daniel Druckman, 'Bargaining over Weapons: Justice and Effectiveness in Arms Control Negotiations', *International Negotiation*, 19, 2014;

<sup>48</sup> Albin, *Justice and Fairness*; Albin and Druckman, 'Bargaining over Weapons'; Cecilia Albin and Daniel Druckman, 'Procedures Matter: Justice and Effectiveness in International Trade Negotiations', *European Journal of International Relations*, 20(4), 2014.

<sup>49</sup> Albin, *Justice and Fairness*; Albin and Druckman, 'Bargaining over Weapons'; Fen Osler Hampson and Michael Hart, *Multilateral Negotiations: Lessons from Arms Control, Trade, and the Environment* (Baltimore: The John Hopkins University Press, 1995); Welch, 'The Justice Motive'

<sup>50</sup> Albin, *Justice and Fairness*; Albin and Druckman, 'Bargaining over Weapons'.

process.<sup>51</sup> Buckinx claims that global justice can only be achieved by involving global agents in the fight against injustice, and by creating awareness that the design of global institutions needs to include the issue of global justice in their role and structure.<sup>52</sup>

In institutions, such as the UNGA, not only the outcome of a negotiation is crucial, but even more the process towards agreement.<sup>53</sup> Consequently, Albin claims that procedural justice is even more influential in negotiations within a normative setting that aim for consensus.<sup>54</sup> Albin and Druckman also stress that procedural justice mainly looks at the relationship among parties, the treatment of negotiation parties, and the realization of the negotiation process, including the modes of representation and decision-making.<sup>55</sup> The understanding of procedural justice is based on fair representation, fair treatment and fair play, voluntary agreement, and transparency.<sup>56</sup> The requirement of fair treatment and fair play aligns closely to mutual recognition as global justice as it assigns particular importance to the interaction among negotiating parties. Fair representation requires a decision-making process with a balanced representation of all affected groups that are able to participate and introduce their interests at each phase of the process. Fair play and fair treatments expect that all involved parties are heard and all their concerns are included in the debate. In addition, closed meetings, informal and exclusive negotiations, and hidden agendas should not be part of the negotiation process. As a consequence, the input of

---

<sup>51</sup> Terry Macdonald and Miriam Ronzoni, 'Introduction: The Idea of Global Political Justice', *Critical Review of International Social and Political Philosophy*, 15(5), 2012, pp. 521-533.

<sup>52</sup> Barbara Bucknix, Jonathan Trejo-Mathys and Timothy Waligore, *Domination and Global Justice: Conceptual, Historical, and Institutional Perspectives*. (New York and London: Routledge, 2015);

<sup>53</sup> Albin, *Justice and Fairness*.

<sup>54</sup> Albin, *Justice and Fairness*; Albin and Druckman, 'Bargaining over Weapons'; Cecilia and Druckman, 'Procedures Matter'.

<sup>55</sup> Albin and Druckman, 'Procedures Matter'.

<sup>56</sup> Albin and Druckman, 'Bargaining over Weapons'.

all negotiation parties is equally as important and should receive adequate attention.<sup>57</sup>

Mutual recognition takes fair play and fair treatment a step further, as the main focus goes beyond the state as the main object of justice. Instead, individuals, states and groups are also seen as rightful claimants of justice. Mutual recognition raises awareness for the issue of unjust treatment in formal procedures meaning that even in a just order and just structures, inequalities and injustice may occur. This also might lead to situations where a one-solutions-fits-all approach is unsuitable in terms of fulfilling the requirements of global justice adequately and successfully.<sup>58</sup> The particular characteristics of an actor, such as a nation's experiences, history and resources, play a crucial role in the hearing process of an actor. Therefore, a process of *due hearing* is particularly crucial to living up to the requirements of global justice. This means that it is not only necessary to hear the concerns of all involved, but also that all concerns have to be reflected in a just and fair solution. Thus, the uniqueness and particularity of each actor should be recognized and taken into consideration.<sup>59</sup> In the context of the UNGA, *due hearing* is a crucial component of negotiation processes. *Due hearing* is operationalized as open, transparent, and inclusive negotiations, an outreach effort consisting of multilateral and bilateral meetings, an open time frame to make an informed and comprehensive decision, and lastly, "consultations of the whole"<sup>60</sup>.

## Bargaining towards an agreement?

From a rational perspective, the campaign to negotiate an enhanced observer status for the EU's participation in the UNGA was the logical consequence

---

<sup>57</sup> Cecilia Albin, 'Using negotiation to promote legitimacy: an assessment of proposals for reforming the WTO', *International Affairs*, 84(4), 2008; Albin and Druckman, 'Bargaining over Weapons'; Eriksen, 'Three Conceptions'.

<sup>58</sup> Eriksen, 'Three Conceptions'.

<sup>59</sup> Sjørnsen, 'Global Justice'; Eriksen, 'Three Conceptions'.

<sup>60</sup> "Consultations of the whole" is a common part of negotiations at the UNGA, consisting of informal consultation meetings on a specific issue, where the full UN membership is invited and all open questions can be discussed. They may also be called open consultations, open meetings or full consultations.

of the EU's preferences. The EU's preferences originated from the need to adapt the EU's participation rights at the UNGA to the new regulations in the ToL concerning the EU's external representation. The EU's request presented an extension of participation rights of observer entities at the UNGA and was comparable to the request for enhanced participation rights by Palestine and the Holy See some years earlier. Several non- papers from Council Presidencies were used to develop ideas on the exact form of the EU's future status.<sup>61</sup> Before the EU's preferences were fully defined out, the EU Delegation in New York entered informal consultations to gather information on the positions of UN MS and to spread the word about their aim.<sup>62</sup>

Even after the launch of the official campaign in spring 2010, the EU did not have a draft ready to show their negotiation partners the specific components of their envisioned status. This led to a lack of information and clarity concerning the objectives of the EU, and difficulties for the UN MS to define their position. It also irritated some UN MS and took the momentum from the EU negotiation campaign.<sup>63</sup> In addition, the EU rather engaged in bilateral meetings instead of inviting larger groups or so-called "consultations of the whole".<sup>64</sup> The choice of the EU's outreach was highly strategic and allowed the EU to tailor its approach to the specific negotiation partner. However, the selective nature of the outreach campaign and the strategic choice of outreach fora also led to limited information and an incomplete picture of the UN MS' positions.

The consultations showed that the EU was supported by many large states, such as Russia, China, India, and the United States. While those countries did not actively promote the EU's initiative, as they did not want to invest

---

<sup>61</sup> EU-4, Interview with EU Official, March 2018; EU-6, Interview with EU Official; Laatikainen and Palous, 'Contested Ground'; European Union, Consolidated versions of the Treaty; Council of the European Union, *Participation of the European Union*, 7 July 2010.

<sup>62</sup> EU-5, Interview with EU Official.

<sup>63</sup> EU-5, Interview with EU Official; MS-1, Interview with a UN-Member State representative; Laatikainen and Palous, 'Contested Ground'.

<sup>64</sup> EU-5, Interview with EU Official; EU-1, Interview with EU Official; MS-1, Interview with a UN-Member State representative; United Nations General Assembly, *122nd Plenary Meeting*.



political capital, they considered a more influential EU as a positive development and assumed the EU to be a stabilizing factor in international relations. The EU promised these states that the enhanced status would lead to a more stable representation and a clearer, more well-defined policy of the EU and its MS.<sup>65</sup>

The EU however, missed the existing dissatisfaction among some smaller UN MS, particularly within the African Group and the CARICOM. This was caused by the EU's insufficient focus and communication with these groups but was also a consequence of the high divergence within these groups and their internally changing positions.<sup>66</sup> The lack of interactions was partly caused by miscommunications between the EU's negotiation leaders and decision-makers in Brussels and discontinuity of leadership due to the EU's representation by the rotating presidency. In addition, a lack of understanding existed in the EU institutions in Brussels concerning the negotiation dynamics in New York and the strategically most promising path forward.<sup>67</sup> The opposition of the smaller states, particularly the CARICOM and the African Group, was described as followed:

“we already struggle to have our voices heard, and we are constantly fighting for recognition of our national identities in today's globalized world” (Nauru on behalf of the small Islands)

“[UN] Member States are presented today with an anomaly in procedure, where a request for change in the rights and privileges of observers is being deliberated in plenary meeting. (Suriname on behalf of the CARICOM)<sup>68</sup>

“...we most certainly did not want to have a precedence set. We saw no purpose in it other than undermining the intergovernmental nature of the GA. (...) it is the one body that where one country one

---

<sup>65</sup> EU-5, Interview with EU Official.

<sup>66</sup> EU-2, Interview with EU Official, February 2018; EU-4, Interview with EU Official.

<sup>67</sup> EU-5, Interview with EU Official; EU-1, Interview with EU Official; EU-3, Interview with EU Official.

<sup>68</sup> All three quotes from: United Nations General Assembly, *122nd Plenary Meeting*.

vote regardless the size and economic influence or any other normally divisive criteria might be used” (UN MS Representative).<sup>69</sup>

In addition, the EU was surprised by the lacking support from its longstanding allies, Canada and Australia, who entered a *quid pro quo* with other UN MS. Both countries agreed on the postponement of the vote on the enhanced status, as they had applications running for a seat at the Security Council (SC) at the time. With the African Group and the CARICOM forming opposition towards the enhanced status and aiming for a postponement of the vote, Canada and Australia decided to abstain in order to secure the support for their campaigns by these regions.<sup>70</sup> The EU was unable to leverage Canada and Australia to support their new status and instead, the Union had to accept that other bargaining chips were more influential.

The intermediate setback in form of the postponement of the vote led to a wake-up call for the EU and forced the EU to rethink its outreach campaign and interactions with UN MS. The EU acknowledged the omissions and mistakes made, set up a task force and prioritized the negotiations in all contacts with other UN MS.<sup>71</sup> Rational choice theory would at this point expect the development of bargaining leverage on the EU’s part, possibly in form of monetary incentives, text changes, and political pressure. In addition, the EU could have used the influence of its MS to create further bargaining leverage. This, however, did not occur, as it was decided that the EU as an institution should take the lead on the achievement of its enhanced status at the UNGA and the EU MS would only support in an assisting capacity.<sup>72</sup> In the second part of the negotiation campaign, the EU agreed to alter the language of its draft resolution significantly and changed the EU-focused tone to a more general text. The compromise existed in an opening

---

<sup>69</sup> MS-1, Interview with an UN-Member State representative.

<sup>70</sup> EU-5, Interview with EU Official.

<sup>71</sup> EU-3, Interview with EU Official; EU-4, Interview with EU Official; Blavoukos, Bourantonis and Galariotis, ‘In quest of a single European Union voice’; Council of the European Union, *Resolution on the Participation*, 12 October 2010.

<sup>72</sup> EU-4, Interview with EU Official; EU-7, Interview with EU Official; Council of the European Union, *Resolution on the Participation*, 16 March 2011; Council of the European Union, *Resolution on the Participation*, 12 May 2011.

for other regional organisations to apply for an enhanced status, while at the same time integrating a high threshold to achieve enhanced participation rights to avoid complications in the cooperation at the UNGA.<sup>73</sup> Furthermore, the EU concentrated on extensive consultations bilaterally, regionally and of the whole UN membership, in order to satisfy the smaller UN MS. In addition, further resources and time were allocated to negotiate towards a full consensus.<sup>74</sup> While the draft resolution was completely rewritten, the EU aimed to avoid substantive changes to the scope of the envisioned participation rights.<sup>75</sup> This strategy consisting of realising the time pressure, behaving more cooperatively, and making cosmetic changes to the original draft resolution provided significant progress despite little sign of actual bargaining.

Particularly the final agreement with the CARICOM can be described as an outcome of a bargaining effort. As the CARICOM was the last opposing major group, and the EU feared that other states or groups would withdraw their support, bilateral negotiations were launched and the political pressure was increased.<sup>76</sup> The bargaining chips offered by the EU mainly consisted of text concessions and the use of political capital and pressure. The bilateral negotiations resulted in two changes in the draft resolution<sup>77</sup> to guarantee support from the CARICOM. In addition, the HR/VP's active involvement in the final negotiations put significant political pressure on the CARICOM and increased the CARICOM's stakes in case of continuing opposition.<sup>78</sup> While this incident is a clear sign of bargaining of the EU during the negotiations, the deal between the EU and CARICOM only survived the vote. During the explanation of the vote, and the implementation phase of the enhanced observer status, the CARICOM clearly expressed their

---

<sup>73</sup> EU-5, Interview with EU Official.

<sup>74</sup> EU-4, Interview with EU Official; EU-5, Interview with EU Official.

<sup>75</sup> EU-5, Interview with EU Official.

<sup>76</sup> EU-5, Interview with EU Official.

<sup>77</sup> The EU did not receive the right to raise points of orders and the right to reply was limited to one intervention per agenda item.

<sup>78</sup> EU-5, Interview with EU Official; MS-1, Interview with a UN-Member State representative; Laatikainen and Palous, 'Contested Ground'; Council of the European Union, *Resolution on the Participation*, 12 May 2011.

dissatisfaction and continued to undermine the EU's new rights whenever possible.<sup>79</sup>

It can be concluded that the EU entered into some bargaining activity during the negotiations, and that particularly during the second attempt, bargaining was to a certain extent contributing to the positive outcome. However, the EU did not clearly determine its preferences until a late point in the negotiations, and only gathered insufficient information concerning involved negotiation parties. During the negotiations with the remaining UN membership and particularly sceptical UN MS, such as the African group, Iran and Venezuela, bargaining was not a very visible strategy. While text changes and political pressure have been used as bargaining chips, the EU did not fully use its resources to bargain with UN MS. As an example, monetary incentives have not been used. The traditional foreign policy expectations of rational choice theory cannot fully capture the EU's behaviour in multilateral negotiations, as it is based on assumptions that do not reflect the EU's abilities and possibilities.

## Justice beyond UN dynamics?

Global justice provides a complementary explanation of the EU's behaviour in the negotiation process towards the enhanced observer status by focusing on the interactions in the negotiation process and the dynamics between negotiation parties. According to the research of Welch and Albin<sup>80</sup>, states actually care about justice in multilateral negotiations, and in addition, just negotiation structures, processes and outcomes increase the likelihood of success. This is also supported by Walker<sup>81</sup> who claims that showing respect for individuals, cultural diversity and the procedures of UN negotiations smoothens the negotiation process and facilitates the closure of an agreement.

---

<sup>79</sup> EU-4, Interview with EU Official; EU-5, Interview with EU Official; United Nations General Assembly, *88th Plenary Meeting*.

<sup>80</sup> Albin, *Justice and Fairness*; Welch, 'The Justice Motive'.

<sup>81</sup> Hayley Walker, 'Mutual Recognition in Global Negotiations: The Case of the 2015 Paris Climate Summit' *GLOBUS Research Paper 8/2018*.

To evaluate the negotiation process towards the enhanced observer status according to global justice and mutual recognition, the negotiation customs at the UNGA have to be scrutinized. Beyond the formal rule of procedure, the UNGA's internal dynamics determine the interactions among states and the achievement of just and fair negotiations.<sup>82</sup> Frequently observed components of UN dynamics are the importance of personal relationships among diplomats at the UN and North-South dynamics that lead to polarization between the Global North and the Global South.<sup>83</sup> Moreover, these dynamics are based on the sovereign equality of all UN MS and voting equality in the UNGA, which "provides one vote for each Member State regardless of size, ideology or level of economic development".<sup>84</sup> Consequently, the "UN is a very treasured forum for small countries".<sup>85</sup> Smaller states with less political and economic influence value these principles very highly, as they guarantee a certain level of influence. Respecting the UNGA's dynamics and established negotiation principles is crucial to ensure not only a just and fair negotiation process but also to increase the likelihood for the EU to achieve the adoption of the enhanced observer status.

During the negotiations on the enhanced observer status, the tendency to fall into North-South divides was quite noticeable.<sup>86</sup> Particularly, the African states and CARICOM aimed to counter their lack of visibility by solidarizing within their regional group and transformed the concern of one state into an issue for the whole group. During the first part of the negotiation process towards the enhanced status, these groups expressed their dissatisfaction with the process and referred during the debates to the history of colonialism, imperialism and the domination of the West. One example was Jamaica, which used the negotiations to strengthen its position in another

---

<sup>82</sup> United Nations General Assembly, *88th Plenary Meeting*.

<sup>83</sup> EU-4, Interview with EU Official; EU-5, Interview with EU Official; United Nations General Assembly, *88th Plenary Meeting*.

<sup>84</sup> MS-2, Interview with a UN-Member State representative, March 2018.

<sup>85</sup> MS-1, Interview with a UN-Member State representative.

<sup>86</sup> EU-4, Interview with EU Official; EU-5, Interview with EU Official; United Nations General Assembly, *122nd Plenary Meeting*.

conflict with the EU. The remaining CARICOM countries solidarized with Jamaica's cause and created a bloc of opposition against the EU.<sup>87</sup>

The main concern of mutual recognition, *due hearing*, can in the context of the UNGA be described as a process of open, transparent, and inclusive negotiations, including multilateral and bilateral meetings, an outreach campaign and the availability of information. In addition, negotiations are conducted with an open time frame to make an informed and comprehensive decision and particular to the UNGA, consultations of the assembled UN membership are conducted, so-called "consultations of the whole".<sup>88</sup> During the first attempt, the EU mainly conducted regional and bilateral meetings to consult and negotiate on the enhanced status. "Consultations of the whole" were hereby seen as counterproductive and little useful to reach the goal. Additionally, the EU negotiated for quite a while without a written draft, as the internal coordination process was ongoing, and the EU wanted to keep certain flexibility.<sup>89</sup> Many smaller MS perceived the lack of "consultations of the whole" and the lack of transparency from the EU's side as counterproductive. This position was made clear by a number of UN MS:

"These sorts of initiatives undergo a process of inclusive negotiations where all member states are invited to what we call informal negotiation processes. (...) The EU said that it had met with various key actors, key groups, but we had never all come together as it is normal practice for negotiating a resolution." (UN MS representative)<sup>90</sup>

"The process of the evolution of the draft resolution did not offer the necessary transparency, which could only have been provided through open and inclusive discussions. [...] the long established United Nations practice of holding informal open meetings [...]"

---

<sup>87</sup> EU-5, Interview with EU Official.

<sup>88</sup> MS-1, Interview with a UN-Member State representative; MS-2, Interview with a UN-Member State representative.

<sup>89</sup> EU-3, Interview with EU Official; EU-5, Interview with EU Official.

<sup>90</sup> MS-1, Interview with a UN-Member State representative.

cannot be replaced by a limited number of unilateral briefings and a series of bilateral consultations.” (Iran)<sup>91</sup>

While the EU had already included some wishes of the UN membership by including a reference to the UNGA’s intergovernmental character and the future possibility for other regional organisations to achieve a similar status, the lack of transparency and open deliberations remained a point of critique during the UNGA session in September 2010. This shows that the EU made the concession too late in the negotiation process, and in addition, did not manage to communicate its openness to debate the draft resolution. This shows apart from the insufficient process of *due hearing* also the lack of communication and transparency from the EU’s side.<sup>92</sup>

“...we do not consider that the revisions go far enough to provide such clarity as would enable us to make an informed decision. Moreover, (...)the CARICOM member States are concerned about the unofficial manner in which Member States have been asked to deliberate and consider this draft resolution” (Suriname on behalf of CARICOM)

“[the draft resolution] would also accord powers to it equal to those held by the Member States. We wish to lay particular stress on the intergovernmental nature of the United Nations” (Venezuela)<sup>93</sup>

The omission to conduct an extensive, open and inclusive consultation process did not only cause irritations among some UN MS but also caused a lack of knowledge for the EU concerning the different positions and implicit expectations. Instead of taking sufficient time to achieve the envisioned consensus, the EU leadership pressured for a quick adoption so that the EU could visibly speak at the Ministerial week and actively participate in the session.<sup>94</sup>

---

<sup>91</sup> United Nations General Assembly, *122nd Plenary Meeting*.

<sup>92</sup> MS-1, Interview with a UN-Member State representative; United Nations General Assembly, *122nd Plenary Meeting*.

<sup>93</sup> All quotes are derived from United Nations General Assembly, *122nd Plenary Meeting*.

<sup>94</sup> EU-5, Interview with EU Official.

The EU took the postponement of the vote as a warning and scaled up its efforts and resources in response to the mentioned critique.<sup>95</sup> This included the creation of a task force and an extensive outreach campaign. In addition, it was decided not to set up a rigorous timeline for the remaining negotiation process, and instead remain flexible concerning an adoption date.<sup>96</sup> The EU pursued an outreach campaign following the expectations of *due hearing*, consisting of “consultations of the whole” and several regional meetings in New York. In addition, the EU and its MS launched outreach activities in Brussels, New York and the respective countries to ensure a constant exchange of opinions.<sup>97</sup> While the EU was active in meeting and listening to UN MS, the reformulation of the draft resolution was mainly symbolic, the main goals continued to be represented in the substance of the text. Minor changes according to the requests of UN MS were made.<sup>98</sup> There was, however, no critique raised as to the lack of willingness of the EU to make more fundamental changes to its draft resolution. Many UN MS instead expressed their satisfaction with the second part of the negotiation process as the following:

“...the draft resolution, which was agreed in open, transparent and inclusive informal consultations...” (Paraguay)

“...the proposal now [...] has been adamant in its readiness to engage in consultations in a spirit of openness, friendship and mutual respect” (Bahamas on behalf of CARICOM)<sup>99</sup>

The final agreement with the CARICOM is however difficult to account for by global justice, as the bi-regional negotiations went beyond the expression of wishes and the consideration of the particularities of the different groups. The CARICOM used their own agenda to pressure the EU, while the EU confronted the CARICOM with political pressure by the presence of the

---

<sup>95</sup> EU-4, Interview with EU Official; Blavoukos, Bourantonis and Galariotis, ‘In quest of a single European Union voice’.

<sup>96</sup> EU-2, Interview with EU Official; EU-3, Interview with EU Official.

<sup>97</sup> EU-5, Interview with EU Official; Council of the European Union, *Resolution on the Participation*, 12 May 2011.

<sup>98</sup> EU-5, Interview with EU Official.

<sup>99</sup> all quotes are derived from: United Nations General Assembly, *88th Plenary Meeting*



HR/VP and the public announcement of the adoption date. It also became clear that the EU provided sufficient exchange and consultation possibilities to the CARICOM and was willing to accommodate the CARICOM's wishes to a certain extent. The EU took additional time to negotiate with the CARICOM after all other states had been convinced and approached the CARICOM with possible solutions. It could have been possible to proceed with a less aggressive approach with more time. However, due to the impatience of other UN MS, the EU was forced to make a decision that would secure an agreement.<sup>100</sup>

The analysis showed that the achievement of just and fair multilateral negotiations is not only complex but also hard to fully accomplish. The EU achieved the adoption of the enhanced observer status as resolution 65/276, however not with a full consensus and not by fully complying with the requirements of global justice. Nevertheless, the negotiation process was to a large extent perceived as fair and just, which supports the claim that it is not only important to act fair and just, but also to be perceived as such.<sup>101</sup>

## Conclusion

This article finds that the EU can be a successful negotiator and can advance its role in multilateral negotiations at the UNGA. The successful adoption of resolution 65/276 on the enhanced observer status shows that the EU can present its own agenda as a "demandeur" and persuade the UN MS to support its initiatives. The negotiation process on the enhanced observer status has also highlighted that agreements require a certain level of engagement and the use of sufficient resources. This is especially the case in multilateral negotiations, where a large number of states and groups are involved and aim to realize their self-interest. The EU has to find a middle way on the fine line between adapting existing customs and integrating its own character into the negotiation process.

---

<sup>100</sup> EU-5, Interview with EU Official; Council of the European Union, *Resolution on the Participation*, 12 May 2011.

<sup>101</sup> Ole Elgström, 'The European Union as a Leader in International Multilateral Negotiations – a Problematic Aspiration?', *International Relations*, 21(4), 2007, pp. 445-458.

This article also suggests that rational choice is not fully able to explain the EU's behavior and its negotiation strategy. In the case of the enhanced observer status, the EU was not only negotiating for its own advantage but also attempted to negotiate without the explicit use of its MS's bargaining power. The EU was able to use some text concessions and political pressure as bargaining chips in the final stage of the negotiations, which also carried the cost of losing some privileges of its participation rights to achieve an agreement. While multilateral negotiations in another thematic area and within a field of the EU's exclusive competence would equip the Union with stronger bargaining power, the EU generally faces the obstacle of lacking the right to vote at UN and thereby, faces a limitation in its ability to bargain towards its interest.

Beyond this and to reach this final stage of the negotiations, the EU behaved more according to the assumptions of global justice to advance its initiatives and achieve consensus. Hereby global justice has proven to provide a strong explanatory power in the negotiations towards the enhanced observer status, but possibly also beyond. The expectations of global justice and *due hearing* are able to explain the behaviour of many smaller UN MS, other regional organisations and the general negotiation dynamics at the UNGA. Global justice provides a new perspective to analyse the EU's role in multilateral negotiations at the UNGA and creates a better and more nuanced understanding of the EU's approach to multilateral negotiations at the UN. Consequently, the negotiations on the EU's enhanced participation rights can be accounted for by a global justice approach with a certain overlap of a bargaining approach. As self-interest has to a limited extent a place in a justice approach, as long as it is limited by the self-interest and the security needs of others, the EU's pursuit of its own participation rights lies within the boundaries of a negotiation strategy according to global justice. The negotiations on the enhanced observer status have illustrated that the EU can promote its norms and values in an international realm and advance its objectives in a multilateral setting. By pursuing a negotiation process that is inclusive and fair the EU is able to shape a negotiation process and to achieve even the inclusion of its own interest in an agreement. The enhanced observer status provides the EU with the opportunity to further increase its

*The EU as a global negotiator?*

role in multilateral negotiations and establish itself as a meaningful and credible negotiator.

# Article 2

## Breaking new ground? – The EU's external representation in the multilateral negotiations towards the Arms Trade Treaty

This article is currently under review at the 'Journal of Contemporary European Research'.

### Abstract

This paper examines the EU's behavior and characteristics in multilateral negotiation processes at the UNGA. The negotiation process towards the Arms Trade Treaty serves as an example of the EU representing its MS in an area of shared competences and in negotiations on a sensitive topic. The EU is not a state but aims to interact in and to contribute to the state-centric environment of the UNGA. As the EU's nature is inherently different, this might be reflected in the Union's negotiation approach. I suggest that the EU is challenged as a non-state actor in a state-centric environment to find a balance between its own interests and its aspirations as a value-based actor. Rational choice theory expects that the EU pursues its own interests and employs bargaining chips in negotiation interactions. As a second perspective, procedural justice assumes that the EU works towards a just negotiation process that increases the chances to adopt an agreement.

Keywords: European Union, CFSP, United Nations, multilateral negotiations, arms trade

## Introduction

Since the Cold War, global arms trade has experienced a period of decline. However, from 2002 and onwards, the volume of traded arms has constantly increased.<sup>102</sup> The globalization of arms trade has created problems of regulation and transparency, which makes the prevention of illicit trade and the exploitation of loopholes and gaps significantly more challenging. While special types of weapons, such as nuclear weapons and landmines have been addressed by the Ottawa Convention in 1999 and the Oslo Convention in 2008, the trade of conventional weapons has long remained largely unregulated and untransparent (EU-2; Geneva Academy, 2012). Earlier attempts to regulate arms trade, such as the UN Register of Conventional Arms (1991) and the UN Small Arms Conference (2001), have been little successful. The multilateral negotiations towards an Arms Trade Treaty (ATT) aimed to adopt the first international treaty to regulate arms trade (Geneva Academy, 2012; Panke, Lang and Wiedemann, 2018). The idea of an ATT was subsequently not to prevent legal arms trade, but to set up rules and guidelines that regulate arms trade and make it more transparent and actionable (Geneva Academy, 2012; EU-2). This case is particularly interesting, as arms trade is a very sensitive area that affects the national security and defense policies of states. Even among the Member States (MS) of the European Union (EU), the commercial and security interests varied significantly and created diverging interests.

The EU accounts for 30% of international weapon exports and is therefore among the biggest weapon producers and exporters globally (European Parliament, 2012). In the last years, the EU has increased its efforts and interests in the area of defense and has aimed towards a more streamlined and coordinated defense cooperation among the EU MS (Howorth 2010; Strickwerda, 2016). At the same time, the EU expresses its ambitions to *'contribute to a peaceful, fair and prosperous world'* and *'to foster peace and safeguard security within and beyond its borders'* (European External Action Service, 2016). Considering the strong interests in the area of security and defense, it can be assumed that the EU aims to pursue an interest-driven

---

<sup>102</sup> With the exception of 2008.

negotiation approach. However, the Union also aims to pursue its value-driven aspirations and the dissemination of its norms, which are expected to be part of its negotiation strategy (Hofmann and Wisotzki, 2014). This consideration is based on the fact that the EU is not a state and also the regional organization with the highest level of integration. In the state-centric environment of the United Nations General Assembly (UNGA), the EU is a different actor that has to adapt to existing dynamics (Söderbaum, Stålgren and Van Langenhove, 2005). However, it remains uncertain to what extent the EU's inherently different nature and the EU's claims to pursue value-based goals is reflected in the EU's negotiation approach in multilateral negotiations. This research therefore asks: How did the characteristics of the EU's negotiation strategy shape the negotiation process towards the ATT?

The UNGA's state-centric structure and dynamics leads to the assumption that the EU behaves similar to states and its behavior can be accounted for by the foreign policy expectations of rational choice theory. The EU is expected to prioritize its own interests and to use bargaining leverage to achieve its goals (Hyde-Price 2006; Moravcsik, 1997; Tallberg 2006). Considering that the EU has no voting right at the UNGA, certain assumptions of rational choice theory do not fully reflect the EU's capabilities and characteristics. As a second perspective, I turn therefore towards procedural justice (PJ) to account for the EU's behavior following its norms and values. According to PJ, the principles of fair representation, fair treatment and fair play, voluntary agreement, and transparency lead to fair and just negotiation processes (Albin, 2001, 2008; Albin and Druckman, 2012, 2014a). A fair and just negotiation process is expected to create a feeling of ownership among the negotiation actors, which balances setbacks with successes and increases the acceptance of a compromise (Albin, 2008; Kapstein, 2008). I therefore suggest that the EU's different nature and normative aspirations are also reflected in the EU's value-based behavior in multilateral negotiation processes. This research expects that the EU does not only advocate for its self-interests, but also contributes to the realization of a just and fair process.

To examine the characteristics of the EU's negotiation strategy, I turn to the literature on the EU's global role and involvement in multilateral negotiations. A popular debate in this literature has circled around the EU's actorness in global cooperation, as the ability of an actor to act in international relations (Sjösted, 1977; Rhinard and Sjösted, 2019) and the EU's 'presence', through which it is able to impact the world (Bretherton and Vogler, 2006; Allen and Smith, 2007). A common assumption in this regard has been that the EU needs to speak with one voice and to be a unified actor, in order to perform well and effectively on the international stage (Blavoukos and Bourantonis, 2017; Dee, 2012; Romanyshyn, 2015; Van Schaik, 2013). By looking at the EU's effectiveness and actorness, scholars have attempted to determine the existence of the EU's effectiveness and actorness (Bretherton and Vogler, 2006; Conceicao-Heldt, 2014; Oberthür and Groen, 2015; Smith, 2006). Other scholars claim that coherence is a necessary but not sufficient condition for an effective role of the EU (Thomas, 2012; Conceicao-Heldt, 2014).

Even though the EU is not a state, it shares some but not all the characteristics of a state actor in international cooperation (McKay, 2005). Consequently, intense efforts have been made to find a fitting description of what the EU *is*, including the notions of the EU as a 'civilian power' (Duchêne, 1972), a normative power (Manners, 2002), and an ethical power (Aggestam 2008). These kinds of attributions have also received critique as they overlap significantly with the EU's self-perception and lack clear criteria to determine their existence (Sjursen, 2011). Some describe the EU instead as 'a realist actor in normative clothes' (Seeberg, 2009: 81, 95) that uses norms and values as strategic instruments to achieve its goals (Youngs, 2004; Elster, 2007; Hyde-Price, 2006). In any case, in the context of the UN, the EU has been described as an inherently different and special actor (Söderbaum, Stålgren and Van Langenhove, 2005).

## The ATT Negotiations

The negotiation process towards an ATT emerged from the idea of a code of conduct on arms transfers by a group of Nobel Price laureates first raised in 1997 (Depauw, 2012; Panke, Lang and Wiedemann, 2018). It took, however, another decade until the UN preparatory process was launched to negotiate a global, legally binding framework to regulate, but not to prohibit, international arms trade (EU-2; MS-3; NGO-1; Geneva Academy, 2012).

In July 2012, the first UN Conference on the ATT took place and was dominated by contentious discussions concerning the inclusion of human security issues, the criteria for arms transfer, and the scope of included arms (UN, 2013 DC/3420). Towards the end of the negotiation, the USA, Cuba, North Korea, Russia and Venezuela continued to criticize the content of the draft and requested more time to work on the text (Bromley, Cooper and Holtom, 2012; Woolcott, 2014). The first conference consequently closed without having reached a consensus on the ATT.

The Final UN Conference on the ATT took place in March 2013 ‘in order to finalize the elaborations of the ATT’ (UNGA, 2013 A/RES/67/234A; Woolcott, 2014). The consultations started out with a considerable amount of political will among the negotiating parties, however, certain disagreements continued to prevail. As Syria, Iran and North Korea refused to accept the outcome document on the ATT, the final conference also concluded without the adoption of the ATT (UN, 2013 DC/3423; Woolcott, 2014).

The UNGA resolution 67/234A had a built-in redundancy, which asked the conference’s chairs to report the outcomes of the ATT negotiations to the UNGA plenary. This allowed the delegations to legitimately take the draft to the UNGA plenary for adoption. The treaty was in the end adopted by the plenary on 2 April 2013 with a large majority, only 23 states abstaining and Syria, Iran and North Korea opposing (UNGA, 1 June 2013 A/RES/67/234B, United Nations, 2013 DC/3423). The ATT entered into force on 24 December



2014 after the 50th state had ratified the ATT (Geneva Academy, 2013; Woolcott, 2014). So far<sup>103</sup>, 110 states have ratified the Treaty.

## The EU's negotiation objectives

Finland and UK were among the states initiating the negotiations process at the UN, in which the EU participated based on its enhanced observer status at the UNGA. As the ATT touched upon both exclusive competences of the EU and the Common Foreign and Security Policy (CFSP), the European Commission drew up negotiation guidelines for the EU MS, and the EU's exclusive competence was transferred to the EU MS for the purpose of the negotiations (Council of the EU, 2012). The EU however coordinated the positions among the EU MS and spoke unitedly for its MS (EU-1; EU-2).

The EU's objectives for the ATT negotiations were agreed upon in a Common Position (2008/944/CFSP) (Council of the EU, 2008). The Common Position was based on the EU Code of Conduct, which despite the wish of certain MS for more extensive objectives, was a compromise between the EU MS with arms industry and MS with little interest in the topic (EU-2). The main goal for the EU was to create a 'level playing field' located at the EU's level of regulating arms trade, so that globally, all actors needed to follow the same rules (MS-1, MS-3; Council of the EU, 1998). Thereby, the EU envisioned an arms trade without the perceived disadvantage of the European producers and the setup of regulations that would not limit arms trade but oblige all arms exporters to the same set of rules (MS-1; MS-3; Stavrianakis, 2016). The EU's goals can be described as ambitious, owing to the lack of preceding international law on the topic and the lack of support from large powers, such as the USA, Russia and China (NGO-1; NGO-2; MS-1, EU-1). While Latin America, the Caribbean, the Gulf region and Africa generally agreed with the EU's objectives, their specific wishes diverged at times significantly from the EU's overall goals. Apart from the few arms producing countries in

---

<sup>103</sup> Status from the 23 February 2021, <https://thearmstradetreaty.org/treaty-status.html?templateId=209883>.

these regions, most countries focused on issues of transits and imports, and stressed the human rights criteria (EU-1; UN-1; MS-2; Romanyshyn, 2015).

To achieve a 'level playing-field', the EU strived for an extensive scope, clear and specific parameters to assess arms export, the inclusion of a human rights criterion, annual reporting mechanism and the emphasis of sovereignty in the ATT<sup>104</sup>. In addition, the EU lobbied for the possibility of regional organizations to sign and ratify the ATT (the so-called 'RIO-clause') (UNGA, 2007 A/62/278; Council of the EU, 2008).

## Methodology and analytical approach

For this paper, I conduct a within-case study of a critical case and apply an interpretative approach with qualitative data using process tracing. Process tracing is particularly suitable for this research as the main aim is to understand the aspects of the EU's behavior during the negotiation process (Bryman, 2012; Bennett and Checkel, 2014). I therefore analyze the effects of the EU's participation and the choice of the Union's negotiation strategy, either along the lines of rational choice theory or PJ, on the multilateral negotiation process towards the ATT. The data was collected from primary EU and UN documents, interviews, and secondary sources, in order to allow for verification and triangulation. I conducted eight in-depth, semi-structured interviews with EU Member State officials, EU officials, UN officials, and NGO representatives. These interviews were complemented with primary documents from the EU and the UN and thereby provided an in-depth understanding of the EU's behavior. These documents included

---

<sup>104</sup> More specifically, the EU strived for the inclusion of conventional arms, small arms and light weapons, ammunition, and related technology into the scope of the treaty. The parameters should encompass clear, strong and comprehensive criteria to assess arms export and brokering. The violation of international human rights law or international humanitarian law should prohibit any arms export. States should be responsible for the implementation, including the establishment of legal and administrative systems to realize the control mechanism. To increase transparency, the EU aimed for annual reporting, including public and obligatory reports on the implement status of the ATT (EU-2; MS-2; UNGA, 2007 A/62/278 part II, UNGA, 2011 A/66/166/Add.1, Council of the EU, 2008).

information on the negotiation process from the preparatory phase at the UN to the final adoption in the UNGA plenary, and the internal processes at the EU from the first internal discussions to the ratification of the ATT by the EU MS.

In arms control negotiations, states usually hold strong security interests, prioritize their self-interest first and use bargaining leverage to achieve their security needs. According to rational choice theory, the course of a negotiation process is dependent on an actor's strength and the bargaining chips that can be used to persuade other involved parties (Elster, 2007). Actions in such an environment are the result of the preferences that an actor has defined and determined according to its self-interest. Interests are hereby assumed to be permanent, and remain unchanged (Eriksen and Weigård, 1997). An actor presumably determines its actions and preferences based on a cost-benefit-analysis. An agreement is made if the costs of complying outweigh the costs of a non-agreement (Tallberg, 2006). Bargaining is generally a costly strategy, as it requires large resources and may also lead to time-consuming negotiations. The usage of a cost-benefit-analysis is therefore particularly important in the case of multilateral negotiations, where a multitude of preconditions, aims, and opinions exist, and agreements are often based on a consensus decision (Powell 2002).

As the EU is not a state but shares many characteristics of actors that usually interact in multilateral negotiations (McKay, 2005), the Union is expected to behave rationally in order to adapt its behavior to existing customs (Kissack, 2011). At the UNGA, bargaining is usually conducted as a *quid pro quo* by exchanging favors within the UN system (Barnett & Finnemore, 2008). Consequently, support is traded in exchange for support during another resolution initiative. It could also be traded in return for the vote in a campaign for a seat in a UN organ, such as the Human Rights Council and the Security Council, or the promise to abstain instead of opposing during a vote. More forceful ways of bargaining entail threatening and coercion, including the threat of non-participation, non-signing or taking away funding for the UN. These types of bargaining are usually reserved to the more powerful UN MS (Elgström and Jönsson, 2000; Powell, 2002).

In accordance with rational choice theory, the EU is expected to entertain a cost-benefit-analysis to determine the preferences that both include the smallest common denominator among the EU MS, but also considers the cost for the achievement of these preferences. At the same time, the EU expectedly uses pre-negotiations and meetings at the UN to acquire information concerning the positions of other UN MS. This is particularly important in arms trade negotiations due to the sensitive and controversial nature of the topic, which affects states' sovereignty and defense policies. The EU's common position and the collected information form the basis of the EU's negotiation and bargaining strategy. As bargaining chips in multilateral negotiations at the UNGA are often dependent on voting rights, the EU is forced to rely on monetary bargaining chips and the promise of support in international negotiations outside the UNGA. During a negotiation process, the EU is ideally able to convince negotiation parties that the EU's aims are either compatible with their own, or that their own preferences are too costly to pursue. The usage of bargaining chips is presumed to lead to a negotiation process, in which the EU's preferences are reflected and few resources in the form of bargaining chips need to be used.

Global justice has not been particularly present in the international relations research and in analyses on multilateral negotiations. However, research has shown that PJ increases the chances for mutually beneficial agreements and the durability of the agreement (Albin and Druckman, 2014a). States seem to actually care about justice in multilateral negotiations, and consequently, states are more willing to come to a satisfactory agreement after a just and fair negotiation process (Albin and Druckman, 2014b; Hampson, 1995). In international institutions, such as the UNGA, not only the substance of the decisions is important, but also the process of how decisions are made. Thereby, it is crucial to weigh the competing demands for efficiency, fairness and legitimacy in the negotiation process in order to keep all members involved (Albin, 2008). While the justice approach also leaves room for self-interest, the pursuit of self-interest is limited by the self-interest and the security needs of others (Albin and Druckman, 2014a).

Albin and Druckman (2014a) define PJ by four principles: fair representation, fair treatment and fair play, voluntary agreement, and transparency. Fair representation requires a decision-making process with a balanced representation of all affected groups. All parties need to be able to participate and to introduce their interests at each phase of the process. Fair treatment demands fair input and fair hearing, in which all parties are listened to, all concerns are addressed, no informal or exclusive negotiation meetings are conducted, and no hidden agendas are pursued. Fair play expects that the rules of procedure are agreed upon by all participating parties and followed consistently. In addition, negotiation processes require impartial leadership and an impartial hosting organization. Disadvantaged parties are supported with the financial means and expertise to be able to participate effectively. A voluntary agreement is reached when all involved parties are free to agree or disagree with a negotiation proposal based on the freedom from imposition and the freedom of one's own volition. Lastly, transparency requires openness and accessibility to meetings and documents at all stages of the negotiations. This entails that all involved parties are informed of decisions reached bilaterally or in groups (Albin, 2008; Albin and Druckman, 2014a).

Following the assumptions of PJ, the Union aims to contribute to a procedurally just negotiation process. To enhance fair representation, the EU expectedly ensures that all involved parties can participate, including observer entities. In addition, the EU would promote outreach measures to provide information and to advance regional cooperation. To achieve fair treatment and fair play of and towards all involved actors, the EU is expected to ensure that all voices are heard and considered in the draft agreement. Thereby, all involved actors are seen as equally important. The EU would not enter unofficial deals and counter the formation of exclusive groups that make decisions without everyone interested involved. To sign a voluntary agreement, the EU is assumed to support an open and accessible negotiation environment. Lastly, the EU is expected to advance a transparent negotiation process by keeping backroom deals or unofficial negotiations to a minimum and openly communicate the results of any such meetings. In addition, the

EU would advance reporting mechanisms that allow all negotiation parties to be updated on discussions in thematic groups.

## **The EU, a bargaining negotiator?**

The EU's main interests during the multilateral negotiations towards the ATT were based on the Code of Conduct on Arms Exports from 1998 and the Common Position from 2008 (Council of the EU, 1998, 2008). The EU MS mainly worked within the Council Working Group on conventional arms export (COARM) and COARM-ATT to discuss their position and define their common preferences. As the EU already had rules and procedures for the export of weapons in place, it was not a major process to agree on the EU's Common Position (EU-1; EU-2; MS-1; MS-3). The EU's main objective was to create a 'level playing field', meaning that the same competition regulations would be applicable for all arms producers (Council of the EU, 1998; MS-3). In addition, the EU had an interest in the global applicability of the Treaty, meaning that all UN MS would become parties to the ATT (MS-1). Thus, the EU and many European arms producers hoped to abolish their perceived disadvantages on the international market, which was a consequence of the higher standards of the EU's arms trade regulations (MS-1; MS-3). The achievement of a level playing field was an ambitious goal to set but also the result of a cost-benefit-analysis (EU-2; EU-1).

With the Common Position in place, the EU needed to gather more information on the position of other states and regions. During the preparatory phase, the EU had the opportunity to disseminate its position among the UN membership and at the same time, get an idea of possible allies and areas of conflict (UNGA, 2007, A/62/278; UNGA, 2011, A/66/166/Add.1; EU-1; EU-2). The EU's negotiation strategy was two-fold. The first part consisted of outreach activities, which mainly provided the funding for regional seminars and for the travels of the chairs for the conferences, but also consisted of the intensification of third-party contact. The regional seminars aimed to provide states with the opportunity to collect information about the effects and consequences of an ATT and to discuss a regional approach (Council of the EU, 2009; EU-1; EU-2; UN-1). The second

component of the negotiation strategy was the so-called 'de-dramatization'. The EU intended to reassure other negotiation parties that the Union's preferences would mainly provide arms exporters with legal security. Thereby, it was particularly important to downplay the role of transparency in future arms trade, which would affect national security interests and defense strategies. The EU assured states that the specific details of their arms imports would neither be made public nor compromise their security interests. (EU-1). The outreach and 'de-dramatization'-strategy was a measure in line with a bargaining approach, as it served to acquire information from other UN MS and at the same time promoted the EU's position in the upcoming negotiation process (UN-1).

As the USA was able to successfully change the negotiation procedures from a majority vote to a consensus decision, the power relations in the negotiation process shifted. Many smaller states were relatively passive, as they were either little affected by arms trade, did not have national arms industry, or lacked the resources for intense campaigning (EU-1; EU-2, NGO-1). Thereby a number of arms producing countries received more influence and showed their reluctance to agree to an ATT. This group included the USA, Russia, China, and India, and led to serious difficulties for the EU's ability to exercise bargaining leverage. The five permanent members of the Security Council (P5) conducted large parts of the negotiation within a closed group. While the P5 had a certain interest in showing that the UN system was able to deliver results, and that there was no need to conduct the ATT negotiations outside the UN realm, many issues were also settled within the P5 internally with little possibility to influence the process (EU-2). With the UK and France, two EU MS were involved in the P5's internal negotiations. While France and the UK shared a limited amount of information with the EU, the Union did not have full access to the internal discussions. The UK and France committed to the EU's common Position; however, they had little interest to use their political capital for the sake of the EU's preferences, as they had differing priorities in the P5 than in the EU. They considered it their primary goal to unite the P5 group, and only secondly, to press the P5 group towards the EU position (EU-2; MS-1; MS-2). The USA, China and Russia prevented the EU's ambition of an ATT with a wide scope, including future

technologies and ammunition, and the incorporation of the so-called RIO-clause. The USA carefully blocked all possibilities to undermine the Americans 2nd Amendment rights and the interests of the American arms industry. China was generally opposed to the EU due to the EU's weapons embargo on China since 1989 (EU-1; EU-2; NGO-1; Geneva Academy, 2013). The EU made extensive attempts to accommodate the wishes of the USA, Russia, India and China in bilateral meetings, and to make the Treaty acceptable by offering significant concessions; however, these efforts showed little success. (EU-2). As a consequence, the EU had to accept that technologies and ammunition were only mentioned outside the scope of the Treaty with less impact on the remaining regulations in the ATT. In addition, the EU's ambition to become a signatory was not accomplished (EU-1; EU-2; NGO-2).

The EU also wanted to make sure that the ATT was not only signed, but also effectively implemented. The EU stressed its experience in implementation processes and its willingness to offer cooperation and assistance, in order to reduce the heavy burden on underdeveloped authorities. The EU offered financial and material assistance for the effective implementation of the transparency mechanisms and domestic control of arms trade. The EU succeeded, however, the opposition for this measure was also limited. The bargaining strategy to offer monetary support and knowledge transfer was nevertheless able to introduce certain control mechanisms and to refute the opposition arguing with the lack of administrative experience and resources. Thus, the EU did not only achieve the inclusion of its interest in the treaty, but it also ensured its active and involved role in the implementation process (Panke, Lang and Wiedemann 2018; EU-1; NGO-2; UN-1).

While the EU was able to push for the objectives of its Common Position and to gather information, the Union did not achieve to persuade the larger powers of its objectives (EU-1; UN-1). Particularly Russia, the USA, India and China were opposing the EU's ideas and the EU had little bargaining leverage to use (EU-2; NGO-1; NGO-2). The negotiations showed that the EU was able to persuade many developing countries, which consisted mainly of



arms importing countries, with promises of financial support and expertise to accept and support the EU's goals. In total, the EU was able to have extensive discussions around its major aims and managed to include several important interests in the final text (EU-2). Instead of influencing the negotiation process, many powerful and arms producing countries decided in the end to oppose the Treaty or to withdraw their signature.

## Just negotiations, just process?

To complement the analysis of the bargaining approach, I turn to PJ to uncover the normative dimension of the EU's behavior and negotiation approach. The understanding of PJ follows the categories of fair representation, fair treatment and fair play, voluntary agreement, and transparency (Albin, 2008). In terms of PJ, there are two sides to multilateral negotiations: firstly, there are structural issues that the EU cannot alter as part of a multilateral negotiation. This would require a reform process of the UNGA's structure and rules of procedure. The second component is negotiation customs and interactions that the EU's behavior and characteristics can influence and change (Albin, 2001, 2008).

The issue of fair representation is mainly provided by the UNGA mandating the UN Conference on the ATT and by that, all 193 UN MS were invited to participate in the negotiations (UNGA, 2010, A/RES/64/48). Nevertheless, a debate arose at the beginning of the 2012 ATT Conference on whether the observer states Palestine and the Holy See should be allowed to participate. The EU supported, in alignment with other UN MS, the participation of the Holy See and Palestine, as an attempt to enhance the position of observer entities (EU-1). In the end, Palestine and the Holy See were able to participate in the negotiations; however, they could not sign and ratify the Treaty (UN, 2013 DC/3420). Fair representation is also significantly affected by the financial resources of the negotiation parties. Multilateral negotiations depend on frequent travel and the possibility to send representatives to a range of different preparatory meetings in addition to the actual conferences. While certain inequalities are difficult to diminish, the EU was engaged in different outreach efforts, including regional seminars. All invited states and

non-state actors received financial support to attend the regional seminars and were thereby provided with the opportunity to exchange views and inform themselves about the consequences of an ATT. The EU contributed to that fund and also provided funding for the travels by the conference chairs in order to disseminate the idea of an ATT and to collect the UN membership's view on the content and scope of an ATT (Council of the EU, 2009; EU-1; EU-2; UN-1). The EU therefore supported the realization of fair representation by providing platforms and financial support for consultations and exchange.

The primary factor to achieve fair play is the determination of the rules of procedures for the negotiation process. As the negotiations were conducted under the auspices of the UNGA, most rules were pre-set. The USA, however, repeatedly threatened with non-participation and requested a change of the rules of procedures from a majority decision to consensus as a prerequisite for its involvement. This provided the more skeptical states with a form of veto-power and shifted the power balance noticeably. The EU was actively involved in persuading the USA to participate in the negotiations, and therefore agreed on the change of the procedural rules in exchange for the participation of the USA (EU-2; MS-2; MS-2; NGO-2). In the end, the decision on the agreement was moved to the UNGA plenary for adoption, as consensus could not be achieved during the negotiation conferences. The final vote in the UNGA could be seen as an unjust deviation from the rules of procedure, however, the provision was already agreed upon in the initial resolution. Therefore, it can be assumed that UN MS put this redundancy into the resolution for a reason and were aware of its effect (MS-1; UNGA, 1 June 2013 A/RES/67/234B; UN-1). The UNGA was seen as a suitable and impartial hosting organization for the negotiations despite the frequent critique of the UN system. The leadership was not only described as impartial, but also as doing an outstanding job in achieving inclusion and equal participation. The EU worked closely with both conference chairs to enhance interactions and communications among the negotiating parties (NG-1; EU-1; EU-2). In order to guarantee that all countries received the expertise and knowledge sharing needed, the EU funded regional seminars and travels by the chairs to several regions (UN-1; NGO-1; EU-1). In addition,

representatives of NGOs were allowed to become part of EU MS's delegations, which allowed them to participate fully in the negotiations and to support the efforts of smaller countries. To achieve the principle of fair treatment, discussions and decisions should be made with all involved parties. In multilateral negotiations, with a large number of participants and varying priorities, this is hard to achieve (EU-2; MS-3; NGO-1). The chairs therefore delegated certain thematic issues to smaller groups and arranged for open communication and the distribution of the results (MS-2; MS-3; NGO-2). These smaller negotiation groups were unproblematic in terms of PJ, as they were open and accessible to all. The EU was described as an active and integrating actor within the official negotiation modalities (MS-1; NGO-1; NGO-2). However, the EU was unable to prevent the meetings behind closed doors of the more influential countries and the P5. As a consequence, a lot of decisions were achieved outside the official negotiation process, which sabotaged the official negotiation ambitions to a certain extent. This created quite some frustration and irritation among the remaining UN memberships (EU-2; MS-2; MS-2; NGO-2). While the negotiation chairs attempted to create an unofficial group, consisting of the P5, Germany and at times the EU, in order to achieve a greater transparency, this only had limited effect in terms of transparency and openness (EU-2). Even though France and UK were part of the P5, the EU had little possibility to change this mode of negotiation, as France and the UK strictly dissociated their role in the EU from the P5 group (NGO-1). In conclusion, the problematic power structure of the UN, which is inherently unjust and complicates the achievement of procedurally just negotiation processes, countered fair play and fair treatment. The EU showed great engagement in providing fair input and an inclusive process; however, it had little effect on the behavior of the large powers. In addition, as two EU MS were part of the P5, the EU was also an inherent part of the unjust negotiation process in terms of fair play and treatment.

The issue of voluntary agreement was relatively unproblematic. The claim that all states entered the ATT voluntarily is substantiated by the fact that

several countries abstained or voted against the Treaty.<sup>105</sup> The motivation behind the agreement, and the expectations linked to the adoption of course varied, particularly along the lines of arms importing and arms exporting countries (NGO-1; EU-2). In addition, the ATT required several consecutive steps, including signing, ratifying and implementing the ATT, before the Treaty came into effect (UN, 2013 DC/3423). Following this argumentation, I assume that all states have voluntarily agreed to adopt the ATT.

The final requirement for PJ is transparency. In negotiations under the auspices of the UN, all meeting records and official draft documents are published. The chair of the conference regularly provided all negotiation parties with drafts that reflected the status of the negotiation process. This also included the summary of the results from the smaller working groups (EU-2; MS-2; MS-3; NGO-1). The EU was described as a 'hub of information' that organized the information going in and out, and made sure that this information facilitated the finding of a consensus (Dee, 2012). In addition, the information provided by civil society and journalists from the EU region advanced the level of transparency during the negotiations. The EU was in general under great scrutiny compared to other countries, such as China or Russia, who have tried to keep their arms exports secret. The negotiations on the ATT increased the level of public interest in countries' arms policies and trade. This forced the negotiation parties to more transparency throughout the negotiation process, but also led to more transparent arms trades in general (EU-2). The earlier mentioned regional seminars and particularly the wide inclusion of civil society in the negotiation process also helped to raise the transparency during the negotiation process (EU-1; EU-2; MS-1). Nevertheless, negotiations behind closed doors and in informal exclusive meetings also occurred during the negotiation process, particularly among the P5. The EU was engaged in augmenting the level of transparency and invested significant resources in the exchange and availability of information (NGO-1; NGO-2; Dee, 2012). However, certain negotiation customs and the

---

<sup>105</sup> Syria, North Korea and Iran voted against, and further 23 countries abstained during the voting procedure.

structural impediments made it hard to achieve full transparency and limited the EU's achievement in that area.

I claim that the EU's negotiation approach and behavior followed in many areas the expectations of PJ. The EU behaved according to its norms and values in many ways as accounted for by PJ. The analysis also showed that in certain areas, the EU's efforts failed or were non-existent. While the EU had difficulties to influence the positions of the large powers and the P5, the EU earned with its behavior and engagement, the appreciation of the developing countries (NGO-1; NGO-2). The description of the EU as a 'bridge-builder' and 'information-hub' shows that the EU was seen as a connecting force that worked towards consensus and aimed to integrate different positions, beyond the pursuit of its self-interest (Dee, 2012; Depauw, 2012; EU-1; UN-1).

## Conclusion

The adoption of the ATT was without any doubt a big step forward towards a more regulated international arms trade. The main objective of the negotiation process, to adopt a treaty, was achieved even though a detour via the UNGA plenary was necessary. Consensus on the ATT would most probably have led to a greater momentum and a higher moral obligation for states to sign, ratify, and implement the ATT (EU-1). Nevertheless, the ATT was adopted by a majority of the UN MS, and entered into force. Even though certain important arms exporting states have not signed and ratified the ATT, its existence is a major step forward in the area of arms trade regulation. The legal procedures in British and international courts concerning arms exports to Saudi-Arabia and the United Arab Emirates in relation to the war in Yemen is a first sign of the effect of the ATT and its path of being used as international law (Perlo-Freeman, 2020; NGO-1).

The analysis showed that rational choice theory and PJ accounted for the EU's behavior and negotiation approach in an overlapping and complementary manner. As the EU has no right to vote in the UNGA, the ability of the Union to behave according to the expectations of rational choice and bargaining are limited. The EU was able to use monetary incentives and

the strategy of changing narratives in order to advance its own interests. This strategy has shown to be most successful in relation to the smaller UN MS and arms importers. While the EU's ability to shape the negotiation process reached its limits when it came to the large powers, the EU showed a high interest and engagement to interact with all states. The negotiations on the ATT illustrated that the states with the largest weapon production had most to lose, while many developing countries had a lower interest in investing in the process. According to PJ, the EU behaved to a great extent according to the principles of fair representation, fair treatment and fair play, voluntary agreement, and transparency. The EU had an interest in concluding an agreement, which was more likely by pursuing a fair and just negotiation process (EU-2; Albin and Druckman, 2014b; Hampson, 1995). The EU was described as a bridge-builder and information-hub, which suggests that during the negotiations towards the ATT, the EU invested in the achievement of a fair and just process as expected by PJ (Dee, 2012; Depauw, 2012; EU-1; UN-1).

I suggest that in the state-centric environment of the UNGA, the EU's different nature and value-based aspirations are reflected in its behavior. Rational choice theory and PJ have accounted for different areas of the characteristics of the EU's negotiation approach and behavior in the multilateral negotiations towards the ATT. The process showed that the EU shaped the multilateral negotiation process with behavior that went beyond the expectations of rational choice. This research demonstrates that the EU pursued its interests but also depicted a value-based behavior, as claimed by the notion 'that norms and interests penetrate and depend on each other' (Müller 2010: 6).

## Bibliography

- Aggestam, L. (2008). 'Introduction: ethical power Europe?' *International Affairs*, 84(1): 1-11.
- Albin, C. (2001). *Justice and Fairness in International Negotiations*. Cambridge, Cambridge University Press.
- Albin, C. (2008). 'Using negotiation to promote legitimacy: an assessment of proposals for reforming the WTO.' *International Affairs*, 84(4).
- Albin, C., and D. Druckman (2012). 'Equality Matters: Negotiating an End to Civil Wars'. *Journal of Conflict Resolution*, 56(2): 155-182.
- Albin C and D. Druckman (2014a). 'Bargaining over Weapons: Justice and Effectiveness in Arms Control Negotiations'. *International Negotiation*, 19.
- Albin, C. and D. Druckman (2014b). 'Procedures Matter: Justice and Effectiveness in International Trade Negotiations'. *European Journal of International Relations*, 20(4).
- Allen, D. and M. Smith (2007). 'Relations with the Rest of the World'. *Journal of Common Market Studies*, 45: 163-181.
- Barnett, M.N. and M. Finnemore (2008). 'Theorizing the United Nations'. In: S. Daws and T.G. Weiss (eds), *The Oxford Handbook on the United Nations*. Oxford: Oxford University Press.
- Bennett A and J.T. Checkel (2014). *Process Tracing: from Metaphor to Analytic Tool*. Cambridge: Cambridge University Press.
- Blavoukos S and D. Bourantonis (2017). *The EU in UN Politics: Actors, Processes and Performances*. London, Palgrave MacMillan.
- Bretherton, C. and J. Vogler (2006). *The European Union as a Global Actor*. Abingdon, Routledge.
- Bromley M, N. Cooper and P. Holtom (2012). 'The UN Arms Treaty: Arms export controls, the human security agenda and the lessons of history'. *International Affairs*, 88(5): 1029-1048.
- Bryman, A. (2012). *Social Research Methods*, 4th Edition. Oxford: Oxford University Press.
- Council of the European Union (5 June 1998). *European Union code of Conduct on Arms Exports*, 8675/2/98.

- Council of the European Union (8 December 2008). Council Common Position defining common rules governing control of exports of military technology and equipment, 2008/944/CFSP.
- Council of the European Union (19 January 2009). Council Decision on support for EU activities in order to promote among third countries the process leading towards an Arms Trade Treaty, in the framework of the European Security Strategy, 2009/42/CFSP.
- Council of the European Union (19 September 2012). Council Decision authorising the Member States to negotiate in the United Nations Conference on the Arms Trade Treaty (New York, 2-27 July 2012) on matters coming under the exclusive competence of the Union - Adoption, 11524/1/12 REV 1 EXT 1.
- Conceicao-Heldt, E. (2014). 'When speaking with a single voice isn't enough: bargaining power (a)symmetry and EU external effectiveness in global trade governance'. *Journal of European Public Policy*, 21(7): 980-995.
- Depauw, S. (2012). 'The European Union's Involvement in Negotiating an Arms Trade Treaty'. *Non-Proliferation Papers*, 23.
- Dee, M. (2012). 'Standing together or Doing the Splits? Evaluating European Union Performance in the Nuclear Non-proliferation Treaty Review Negotiations'. *European Foreign Affairs Review*, 17(2).
- Duchêne, F. (1972). 'Europe's Role in World Peace'. In: R. Mayne (ed), *Europe Tomorrow: Sixteen European's Look Ahead*. London, Fontana: 32-47.
- Elgström, O. and C. Jönsson (2000). 'Negotiation in the European Union: Bargaining or Problem-solving?' *Journal of European Public Policy*, 7(5).
- Elster, J. (2007). *Explaining Social Behavior. More Nuts and Bolts for the Social Sciences*. Cambridge: Cambridge University Press.
- Eriksen, E. and J. Weigård (1997). 'Conceptualizing Politics: Strategic or Communicative Action?' *Scandinavian Political Studies*, 20(3): 219-241.
- European External Action Service (2016). *Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign And Security Policy*. Online: <https://op.europa.eu/en/publication-detail/-/publication/3eaae2cf-9ac5-11e6-868c-01aa75ed71a1> [accessed 20 February 2021].
- European Parliament (2012). Motion for a Resolution to wind up the debate on the statement by the Vice-President of the Commission/High



- Representative of the Union for Foreign Affairs and Security Policy, 2012/2636(RSP).
- Geneva Academy of International Humanitarian Law and Human Rights (2012). *The Draft Arms Trade Treaty. Academy Briefing*, No. 2.
- Geneva Academy of International Humanitarian Law and Human Rights (2013). *The Arms Trade Treaty (2013). Academy Briefing*, No. 3.
- Hampson, F.O. and M. Hart (1995). *Multilateral Negotiations: Lessons from Arms Control, Trade, and the Environment*. Baltimore and London, Johns Hopkins University Press.
- Hofmann, G.P. and S. Wisotzki (2014). 'Global Governance Efforts in Tension Between Humanitarian Concerns and State Sovereignty Rights'. *International Negotiation*, 19: 487-517.
- Howorth, J. (2012). 'Decision-making in security and defense policy: Towards supranational intergovernmentalism?'. *Cooperation and Conflict*, 47(2): 433-453.
- Hyde-Price, A. (2006). 'Normative power Europe: a realist critique'. *Journal of European Public Policy*, 13(2): 217-234
- Kapstein, E.B. (2008). 'Fairness Considerations in World Politics: Lessons from International Trade Negotiations'. *Political Science Quarterly*, 123(2).
- Manners, I. (2002). Normative power Europe: a contradiction in terms? *Journal of Common Market Studies*, 40(2): 235-58.
- McKay, D. (2005). 'The EU as a self-sustaining federation: specifying the constitutional conditions'. In: L. Follesdal and A. Dobson (eds), *In Political Theory and the European Constitution*. New York, Routledge.
- Moravcsik, A. (1997). 'Taking Preferences Seriously: A Liberal Theory of International Politics'. *International Organization*, 51(4): 513-553.
- Müller, H. (2010). 'Justice and Peace: Good Things Do Not Always Go Together'. *PRIF Working Paper*, No. 6.
- Oberthür S and L. Groen (2015). 'The Effectiveness Dimension of the EU's Performance in International Institutions: Towards a More Comprehensive Assessment Framework'. *Journal of Common Market Studies*, 53(6): 1319-1335.

- Panke, D., S. Lang and A. Wiedemann (2018). *Regional Actors in Multilateral Negotiations: Active and Successful?* London: Rowman and Littlefield International Ltd.
- Perlo-Freeman, S. (2020). 'Looking ahead – the arms trade on trial in the UK and The Hague'. *Forum on the Arms Trade*. <https://www.forumarmstrade.org/blog/looking-ahead-the-arms-trade-on-trial-in-the-uk-and-the-hague>
- Powell, R. (2002). 'Bargaining Theory and International Conflict'. *Annual Review of Political Science*, 5.
- Rhinard, M. and G. Sjöstedt (2019). The EU as a Global Actor: A new conceptualisation four decades after 'actorness'. *UI Paper*, No. 6.
- Romanyshyn, I. (2015). 'Explaining EU Effectiveness in Multilateral Institutions: The Case of the Arms Trade Negotiations'. *Journal of Common Market Studies*, 53(4).
- Seeberg, P. (2009). 'The EU as a Realist Actor in Normative Clothes: EU Democracy Promotion in Lebanon and the European Neighbourhood Policy'. *Democratization*, 16(1): 81-99.
- Sjöstedt, G. (1977). *The External Role of the European Community*. Westmead: Saxon House.
- Sjursen, H. (2006). 'The EU as a "normative" power: how can this be?' *Journal of European Public Policy*, 13(2): 235-251.
- Smith K.E. (2006). 'Speaking With One Voice? European Union Co-ordination on Human Rights Issues at the United Nations'. *Journal of Common Market Studies*, 44(1): 113-137.
- Söderbaum F., P. Stålgren and L. Van Langenhove (2005). 'The EU as a Global Actor and the Dynamics of Interregionalism: A Comparative Analysis'. *Journal of European Integration*, 27(3): 365 -380.
- Stavrianakis, A. (2016). 'Legitimising liberal militarism: politics, law and war in the Arms Trade Treaty'. *Third World Quarterly*, 37(5): 840-865.
- Strikwerda, J. (2017) 'Sovereignty at stake? The European Commission's proposal for a Defence and Security Procurement Directive'. *European Security*, 26(1): 19-36.
- Tallberg, J. (2006). 'Formal Leadership in Multilateral Negotiations: Rational Institutional theory'. *Hague Journal of Diplomacy*, 1, 117-142

- Thomas, D.C. (2012). 'Still Punching Below its Weight? Coherence and Effectiveness in European Union Foreign Policy?' *Journal of Common Market Studies*, 50(3): 457-474.
- United Nations (18 March 2013). 'Absence of Global Standards for Arms Trade 'Defies Explanation', but after Long Journey, Final Destination in Sight, Secretary-General Tells Conference'. *Meeting Coverage DC/3420*.
- United Nations (28 March 2013). 'Efforts to Replace Piecemeal System of Global Arms Restraint with Binding Treaty Thwarted When Handful of States Says Text Ignores National Concerns Final Conference'. *Meeting Coverage DC/3423*.
- United Nations General Assembly (17 August 2007). Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms: Report of the Secretary-General, A/62/278 (Part I and II).
- United Nations General Assembly (12 January 2010). *The arms trade treaty*. A/RES/64/48.
- United Nations General Assembly (19 September 2011). *The arms trade treaty: Report of the Secretary-General: Addendum*. A/66/166/Add.1.
- United Nations General Assembly (4 January 2013). *The arms trade treaty*. A/RES/67/234A.
- United Nations General Assembly (1 June 2013). *The arms trade treaty*. A/RES/67/234B.
- Van Schaik, L.G. (2013). EU effectiveness and unity in multilateral negotiations: More than the sum of its parts? Basingstoke: Palgrave Mcmillan.
- Youngs, R. (2004). 'Normative dynamics and strategic interests in the EU's external identity'. *Journal of Common Market Studies*, 42(2): 415-35.
- Woolcott, P. (2014) *The Arms Trade Treaty*. United Nations Audiovisual Library of International Law.

## **Interviews**

EU-1: Interview with EU official, 29.04.2019.

EU-2: Interview with EU official, 25.06.2019.

MS-1: Interview with EU MS representative, 04.07.2019.

MS-2: Interview with EU MS representative, 16.07.2019.

MS-3: Interview with EU MS representative, 19.08.2019.

NGO-1: Interview with NGO representative, 25.06.2019.

NGO-2: Interview with NGO representative, 27.06.2019.

UN-1: Interview with UN official, 11.07.

# Article 3

## Cooperation or Contestation? – The EU's role in the multilateral negotiation process towards the Global Compact on Migration

This article is currently under review at the journal 'Conflict and Cooperation'.

### Abstract

This paper examines the characteristics of EU's behavior and interactions in multilateral negotiation processes at the UNGA. The case study looks at the negotiations towards the Global Compact on Migration, which exemplifies the EU's attempts to interact and influence the course of a multilateral negotiation process. This case is particularly interesting as it represents the first attempt to achieve a global agreement in the sensitive and controversial area of migration. In the state-centric environment at the UNGA, the EU is an inherently different actor given its nature and its value-based aspirations. I therefore suggest that the EU aims to balance its negotiation approach by introducing its self-interest but also by promoting its norms and values. Rational choice expects the advancement of the EU's self-interest and interactions with large powers. Procedural justice assumes that the EU behaves according to its own norms and works towards a fair and just negotiation process.

Keywords: European Union, CFSP, United Nations, multilateral negotiations, migration

## Introduction

'The global flow of refugees and migrants is one that poses challenges, opportunities and obligations for countries around the world, which the United Nations (UN) itself has been investigating in some depth.' Jean Claude Juncker outlined the importance of the Global Compact for safe, orderly, and regular Migration (GCM) during his State of the Union speech in 2017, and with that also expressed the European Union's (EU)<sup>106</sup> ambition to establish itself as a global actor in migration (Apap et al., 2019: 2, 7). Migration has been a constant issue on the agenda of the EU and its member states, especially since the so-called migration crisis in 2015. Beyond Europe, migration movements in other parts of the world pushed the topic on the international agenda. Syrians have been fleeing the civil war in their country, the Rohingyas have been escaping from the violence against their ethnic group in Myanmar, and people from several Central American countries have been moving north to get away from gang violence, poverty and a lack of perspective. All these movements created attention and awareness for the global issue of migration, and the need to address it in a transnational manner. Migration was no longer seen as an exclusively humanitarian matter, instead migration underwent a process of politicization and securitization (Interview UN-1; Fella, 2019; Klein Solomon and Sheldon, 2018). In this context, the ambition towards the GCM, a non-binding global agreement, represented not only the first attempt to regulate global migration in international law, but also a tremendous challenge due to the deep divides between countries of origin, transit and destination (Interview UN-1). The goal was not to reduce migration, encourage migration or to even give migrants more rights, but merely to manage the flows of migration coming from the countries of origin, during their journey through countries of transit, towards the countries of destination (Interview MS-1, EU-5).

Over the last years, the EU has not only increased its foreign policy activities, but also aimed to represent more than the sum of its member states in multilateral cooperation (Van Schaik, 2013). As its foreign policy strategy, the

---

<sup>106</sup> With EU, I refer to the EU institutions. In cases that the EU Member States are included, I will refer to the 'EU and its member states'.

EU is committed to a 'rules-based global order with multilateralism as its key principle', to 'promote agreed rules to contain power politics and contribute to a peaceful, fair and prosperous world' (European External Action Service, 2016:15). As the EU is not a state and is more integrated than any other regional organization, the Union is an inherently different actor in the state-centric environment of the United Nations General Assembly (UNGA) (Söderbaum et al., 2005). The debate on whether the EU is a value-based actor that behaves differently than states has been long ongoing. The general sentiment has been that the EU's foreign policy is not only guided by the EU's self-interest, but also by a consideration of the 'right' behavior (for example: Aggestam, 2008; Kissack, 2009; Lucarelli and Manners, 2006). The assumption of the EU being a value-based actor has however also received a lot of critique, describing the EU as a 'realist actor in normative clothes' (Seeberg, 2009: 81, 95). Critical voices have also pointed towards the overlap between the EU's self-description and the scholarly debate on the EU as a normative power (Sjursen, 2006). To represent a unified foreign policy of its member states, the EU also needs to pursue its self-interest, which raises the question, whether the EU's behavior is so different from the behavior of states.

In this article, I analyze the EU's behavior in multilateral negotiation settings at the UNGA. The EU is an inherently different actor at the UNGA, as it is not a state and has achieved a higher level of integration than other regional organizations. In the state-centric environment of the UNGA, the EU faces the challenge to adapt to existing structures and dynamics. The EU outlines its aspiration to 'promote a rules-based global order with multilateralism as its key principle and the United Nations at its core' (European External Action Service, 2016) and to fight 'intensely to preserve the rules-based international order' (Council of the EU, 2018). Whilst participating in multilateral negotiations to present the common objectives and self-interest of its member states, the EU's nature and aspirations also lead to the assumption that the EU aims to be a value-based actor. It can therefore be expected that besides the pursuit of the EU's self-interest, the Union behaves according to its value-based aspirations and advocates for a just negotiation process. I therefore look at the characteristics of the EU's negotiation

approach and behavior in the multilateral negotiations towards the GCM and ask: How did the characteristics of the EU's negotiation approach contribute to the negotiation process towards the GCM?

Particularly the securitization and politization of migration within the EU, but also globally, lead to the assumption that self-interest might trump justice-related ambitions. The EU's interest to protect its external borders and to return migrants without the right to stay, creates the expectation that the EU behaves state-like and follows foreign policy behavior assumed by rational choice theory (March and Olsen, 1998; Moravcsik, 1997; Tallberg, 2006). In this light, the EU, as a region of destination, is expected to negotiate on an interest-based approach that highlights domestic security and sovereignty. The EU's approach to the negotiations is thereby marked by a pursuit of its preferences and a cost-benefit-analysis (Elster, 2007; Powell, 2002; Tallberg, 2006).

As rational choice theory is based on certain assertions that do not match the EU's capabilities and resources, I turn to the alternative framework of procedural justice (PJ). PJ expects actors to care about fairness and justice in multilateral negotiation processes and assumes that just negotiation processes lead to lasting and stable agreements due to a feeling of inclusion and ownership among the negotiation parties (Hollander-Blumhoff and Tyler, 2008). As a value-based actor in multilateral negotiations, the EU is expected to advocate for a negotiation process based on the principles of fair representation, fair treatment and fair play, voluntary agreement, and transparency (Albin, 2008; Albin and Druckman, 2014a, 2014b).

To characterize the EU's behavior in multilateral negotiation processes at the UNGA, I speak to the literature on the EU as a global actor. The EU is seen as the only regional organization with an autonomous foreign policy and has thereby become a global actor. The EU's global roles has been described with a 'presence' that impacts the world (Bretherton and Vogler, 2006; Allen and Smith, 1990). Sjösted (1977) analyzes the EU's foreign policy with 'actorness' entailing an actor's ability to act in international relations (Sjösted, 1977) are thereby crucial parts of the EU's global role. A central assumption is that the



EU needs to speak with a common voice, in order to achieve its goals and to be recognized as a global actor (Blavoukos and Bourantonis, 2017; Conceicao-Heldt and Meunier, 2014; Drieskens et al., 2014; Jørgensen et al., 2011; Melin, 2019; Meunier, 2000; Thomas, 2012; Van Schaik, 2013). Coherence and cohesion have thereby also been approaches to measure actorness (Jin and Hosli, 2013; Blockmans and Wessel, 2009; Ojanen, 2006). However, more recent research has also shown that coherence is a necessary, but not sufficient condition for an effective role of the EU (Thomas, 2012; Conceicao-Heldt, 2014).

As the EU is not a state, the Union shares some but by far not all the characteristics of actors in international cooperation (McKay, 2005). Thereby, the EU as a value-based actor has been assigned a range of descriptions, including an 'emerging civilian power' (Duchêne, 1972), a normative power (Manners, 2002), an ethical power (Aggestam, 2008) or an integrative power (Koops, 2011). These descriptions and attributions have not remained uncriticized (Seeberg, 2009; Sjursen, 2006), and some scholars assume that norms are merely part of the EU's strategic behavior (Elster, 1991; Young, 2004; Hyde-Price, 2006). In the area of multilateral negotiations, trade negotiations are the most important area for the EU's establishment as a global actor (Dür and Zimmermann, 2007; Elgström, 2007). While it has been suggested that the EU is able to transform its trade power into influence in other foreign policy areas (Dür and Zimmermann, 2007; Meunier and Nicolaidis, 2006), at the UN, the EU is not perceived as a leader. Instead, the EU is seen as just another actor that aims to promote its values (Buzan, 2012), while the EU's norms are at times not particularly popular (Bachman, 2013).

## **Background**

The Sustainable Development Goals served as a central reference to the creation of the GCM by recognizing the positive contribution of migration for inclusive growth and sustainable development (Klein Solomon and Sheldon, 2018; Interview MS-1; UN-1) The increasing migration flows on the African continent towards Europe, in Asian, and Southern and Central America towards North America, motivated the EU among others to take a

step towards an agreement on the management of global migration (Interview UN-1, MS-1, EU-2, EU-5, EU-6). The negotiations towards an agreement on global migration were formally initiated by the adoption of the New York Declaration for Refugees and Migrants (UNGA, 2016 A/RES/71/1) in 2016 as the result of the UNGA High-Level Meeting on Large Movements of Refugees and Migrants. The New York Declaration called for the two Global Compacts, one on migration and one on refugees, and laid the groundwork for the content of the Compacts (Interview UN-1, EU-5; Fella, 2019).

The intergovernmental negotiation process aimed to adopt the first ever global agreement to regulate migration and it was therefore anticipated that a lot of disagreement concerning the content and the scope of the Compact would come up during the negotiations (Interview EU-2, UN-1; Fella, 2019). The preparatory phase on the GCM started out in April 2017, followed by the main negotiation process in 2018 and the adoption of both Compacts in September 2018 at the UNGA Plenary meeting. However, the support and enthusiasm from the New York declaration faded quickly, and the political climate led to more disagreements and controversies among the involved actors. In December 2017, the USA announced that it would no longer participate in the negotiations (Melin, 2019, 195; Fella, 2019, 14; Carrera et al., 2018). Shortly after the USA had left the negotiations, Hungary openly voiced concerns and opposed the common position of the EU member states (Interview EU-5, EU-6). This further politicized the internal EU negotiations, as disagreements among various EU institutions arose concerning the need for unanimity or the possibility for a qualified majority to adopt a common position of the EU member states (Interview EU-2, MS-2). All attempts to find a way around the established practice to represent the EU at international negotiations due to Hungary's opposition failed as other EU member states did not want to create a precedent for a 'creative solution' (Interview EU-1, EU-5, MS-1, MS-2). Consequently, the EU continued to negotiate as EU-27, giving common statements through Austria, while the EU Delegation in New York conducted the coordination and interactions with third countries (Interview EU-1, EU-2, EU-6, MS-1, MS-2, MS-3). The main goals of the EU-27 included a balanced approach between forced return and legal migration,

the differentiation between regular and irregular migration, the avoidance of a legally binding agreement, a legal obligation of states on the return of migrants, and no transferability of social rights for migrants (Interview EU-2, EU-6). In addition, the EU put a clear focus on the protection of migrants, human rights and the special attention to migrants in vulnerable situations and positions (Interview MS-3).

During the negotiations, a clear North-South-divide became visible. The disagreements existed among countries of origin and countries of destination, whereby the main points of disagreement consisted of the organization of migrants' return, the transferability of social rights, and the distinction between regular versus irregular migration (Interview EU-2, EU-6, MS-1, MS-2, MS-3). After the formal negotiation process was concluded, Austria voiced its concerns and withdrew from the consensus followed by Poland, Bulgaria, and the Czech Republic (Melin, 2019, 195; Fella, 2019 14; Carrera et al., 2018). Nevertheless, the final draft was adopted at the intergovernmental conference in Marrakesh, Morocco on 10-11 December 2018 by consensus, as states disagreeing with the Compact did not attend the conference (Interview EU-3, EU-5, EU-6).

The GCM was then transferred to the UNGA to be adopted together with the Global Compact on Refugees. During the UNGA session the GCM was adopted as UNGA resolution 67/34B with 152 votes in favor, five votes against, and 12 abstentions. The countries voting against were the Czech Republic, Hungary, Israel, Poland and the USA (UNGA A/73/PV.60; UNGA A/RES/67/234B). The outcome document on the GCM consisted of 23 objectives to achieve safe, orderly and regular migration. Connected to each objective there were several actions that would advance the achievement of each individual objective (UN 2018, A/CONF.231/7; Fella 2019, 11).

## Methodology and analytical framework

This paper consists of a within-case study using an interpretative approach and is based on a qualitative data analysis along the lines of process tracing. Process tracing is particularly suitable for this research as the main aim is to understand the characteristics of the EU's negotiation strategy and its behavior throughout the course of the negotiation process (Bennett and Checkel, 2014). I thereby assess the EU's negotiation approach and aim to characterize the EU's behavior by using the theoretical frameworks of rational choice theory and PJ. The usage of different data sources, including primary documents from the EU and UN, interviews, and secondary sources, enables the verification and triangulation of the information. I conducted ten in-depth, semi-structured interviews with EU Member State officials, EU officials, and UN officials. The interviews were necessary to complement the information from primary documents and secondary sources. In diplomatic interactions and negotiation environments, publicly available documentation is limited in its informative value concerning the interactions and behavior outside the official meetings. The insights from interviews are therefore necessary to complement the existing information and detect informal occurrences and interactions.

Migration, which was typically seen as a humanitarian issue, has undergone a securitization process, which leads to the expectation that actors prioritize their own interests (March and Olsen, 1998; Moravcsik, 1997). As the EU had strong self-interests in migration, and the internal dynamics have proven complex and controversial, the EU is expected to adapt to the standard behavior of international interactions and an interest-based approach. According to rational choice theory, an actor's strength and the bargaining chips determine the result of negotiations. Actors try to persuade other involved parties of their preferences and depending on the relative strength of the bargaining chips in comparison to other parties' strength (Elster, 2007). An actor's self-interest is the decisive component to define the actor's permanent preferences and consequent actions (Eriksen and Weigård, 1997). Actions and preferences are determined by a cost-benefit-analysis. An

agreement is made if the costs of complying outweigh the costs of a non-agreement (Tallberg, 2006).

Actors are socialized in a world which is ruled by encounters that move from the exchange of interests to rule-building. Positions are at first based on interests; however, Müller (2004) claims that states follow rules when the rules are clear. States entertain a cost-benefit-analysis when determining their approach in negotiations. A bargaining approach is a relatively costly negotiation strategy, and states need to make sure that their approach and resources lead to the envisioned results (Powell, 2002). Therefore, the choice of a specific bargaining chip is crucial to achieve the state's interests, without jeopardizing the negotiation process due to misuse of resources or misinterpretation of the negotiation context. Bargaining chips can range from threats and coercion over *quid pro quo* and buying out, to the choice of a more cooperative approach, such as attraction or persuasion (Müller, 2004; Elgström and Jönsson, 2000; Powell, 2002).

On the global stage, the EU represents a different type of actor who does not hold all the rights and capabilities of other actors in the state-centric-environment of the UNGA. At the UNGA bargaining chips frequently take the form of side-payments, logrolling and package deals (Eldar, 2008). Actors thus exchange support for their resolution initiatives, agree to an abstention instead of an opposition vote, or vote for a candidature in a UN body. More forceful ways of bargaining at the UN entail the threat of non-participation, actual non-participation, withdrawal from signatures or agreements or retracting funds from UN organizations. These stronger forms of bargaining are often reserved to the more powerful UN member states (Jørgensen et al., 2011; Meunier and Nicolaidis, 2006). For the EU, negotiation chips are mostly based on money or promises outside the UN context. In addition, the EU can use its power of inflexibility by claiming that the 'smallest common denominator' among the EU member states is impossible to change. This negotiation chip can both be used to communicate the factual status of the EU's unity concerning a position, but also as a way to pressure negotiation parties. Thereby, 'the power of a negotiator often rests on a manifest inability

to make concessions and to meet demand' (Jørgensen et al., 2011; Meunier and Nicolaidis, 2006).

Consequently, rational choice theory might not be able to fully capture the EU's behavior in multilateral negotiations, as it is based on assumptions that do not reflect the EU's capacities and rights, most importantly the lacking right to vote at the UNGA. PJ offers an alternative perspective to analyze the value-based dimension of the EU's behavior in multilateral negotiation processes. In institutions, such as the UNGA, not only the substance of the decisions is important, but also the process of how decisions are made (Albin, 2008). In negotiation processes, just elements have shown to lead to a higher willingness to provide information, to increase trustworthiness, and achieve more integrative and durable agreements (Hollander-Blumhoff and Tyler, 2008). The EU is not a state and therefore different from other observer entities at the UNGA. In addition, the EU aspires to be a value-based actor. To capture the normative dimension of the EU's behavior, that is not explained by the expectations of rational choice theory, this article uses PJ to analyze the EU's contribution to a just and fair negotiation process (Albin and Druckman, 2014a, 2014b). While the justice approach also leaves room for self-interest in multilateral negotiations, the pursuit of self-interest is limited by the self-interest and the security needs of others (Albin and Druckman, 2014a).

Albin (2001) provides a framework to analyze justice and fairness in negotiations that comprises of three parts. Firstly, the structure of the negotiations, which consists of the conditions and constraints that negotiation parties are facing during the course of the deliberations. Examples for the structural issues of PJ are participation and representation, power relations, and agenda setting. Fair participation entails that every interested or affected party is offered a seat at the table, so that their interests are taken into consideration. Agenda setting is mainly looking at the nature and the agenda of topics to be discussed. International negotiations are often based on earlier agreements and are therefore related to certain sets of norms, principles and objectives. These pre-predetermined factors might limit the negotiation process and prioritize the central issue from former, unjust

negotiation processes and agreements (Albin, 2001; Albin and Druckman, 2014a).

Secondly, the negotiation process looks at the course of negotiations, such as the interaction between negotiation parties, and their behavior during the construction of an agreement. The strategies and tactics of negotiation parties need to follow a fair behavior, including fair hearing and fair input for all involved groups. All interests should be considered, irrespectively of an actor's ability to push its interests during the debate or even participate in the negotiation. Another issue of fair behavior is fair play, meaning that negotiations should follow pre-determined rules that can only be altered by consensus. Transparency pertains to the openness and accessibility of the negotiation meetings and documentation to all concerned and involved parties during the decision-making process. This includes that all involved parties are informed of decisions reached bilaterally or in a small group. Finally, all decisions need to be made by fair will, whereby the final outcome is accepted or rejected freely by each negotiation party without threats being made or force being applied (Albin, 2001; Albin and Druckman, 2014a).

The final component is the mutual benefit of the outcome. Whereby, each involved party should have more benefits with the agreement concluded than with a failure to agree on an outcome. The external criterion concentrates on the consensus and the impartiality of the agreement. It claims that the motivation to behave justly lies in the long-term cooperation that is destroyed using threats, coercion and force (Albin, 2001; Albin and Druckman, 2014a, 2014b).

## **Self-Interest as a priority?**

Migration is seen as a sensitive issue, which faces the challenge of uniting the varying interests of countries of origin, transfer and destination. The EU was among the initiating parties to the GCM and found itself in the group of the countries of destination, which provided the EU with a good position among the more influential states at the UNGA (Interview EU-5).

During the preparatory phase of the negotiations, the EU pursued a clear set of preferences to enhance the management of global migration, which included the achievement of a legally non-binding document and a regulated return of migrants, but also a focus on human rights and the protection of migrants in vulnerable positions (Interview MS-3, MS-1, EU-2, EU-6). While the EU member states appeared unified throughout the preparatory process, the diverging position of Hungary soon became apparent and certain disagreements concerning the distribution of competences between the EU and its member states surfaced (Interview EU-1, EU-5, UN-1). Within the EU, migration is a shared competence, and a qualified majority is sufficient to adopt a common position. As the GCM touches marginally on the volume of admission of migrants, which is a member state competence, the Council presented the opinion that the whole Common Position needed to be adopted by unanimity (Interview MS-2). The need for unanimity led to the possibility of Hungary to punch up its weight and to request far-reaching demands that were unacceptable for most EU member states. As a consequence, the EU member states did not achieve a Common Position, and instead of the EU Delegation speaking for the whole Union, Austria represented the EU-27 as the Council Presidency. While a close-to-unified representation was possible, the lack of cohesion was visible, and no common preferences could be presented (Interview EU-3, EU-6, MS-3). Therefore, the EU, as a whole, lacked clearly defined preferences. The common position only applied to the EU-27, and Hungary frequently voiced its opposing views to the remaining UN member states (Interview MS-1, MS-2, EU-4).

The self-interests of the negotiation parties were predominately divided along the lines of countries of origin, destination and transit. The bloc-negotiations facilitated the collection of information for the EU and the interaction with other regions, but also complicated the interaction, as these blocks had no formal structures and the EU still had to interact with states individually (Interview EU-2, MS-1). In the group of countries of destination, many states aimed for a more security-oriented approach on migration than the EU, which even included usual allies of the EU, such as Australia, Canada and Japan (Interview MS-1, MS-2.). The USA participated in the negotiations,



however, declared already early on that it had no intentions of signing any treaty on migration and planned to oppose the outcome document. China and Russia were surprisingly quiet during the negotiations, neither did significantly contribute nor prevent an agreement from being achieved (Interview UN-1, EU-2, EU-6). In that setting, the EU faced the dilemma between its values, including human rights and protecting vulnerable groups, and pursuing its security agenda (Interview EU-5, UN-1). Consequently, the EU found itself to be very often in a defensive position, in which it had to defend its goals and at the same time searched for allies (Interview EU-1, MS-2).

In terms of active bargaining, the EU was very much engaged in keeping the USA in the negotiations, due to the importance of the USA as a destination country, especially for Latin America (Interview EU-2, MS-1, MS-3). After the withdrawal of the USA, the EU feared a spill-over to the Latin American countries as they didn't see 'the point [of the negotiations] if you don't have one of the big migration players' involved. The EU attempted to persuade the USA and the Latin American countries to continue participating in the negotiations by making certain concessions, such as providing Mexico with the carrot of becoming the co-facilitator (Interview UN-1). It became clear, however, that the USA's interests were not only too far from the rest of the negotiation parties, but also that the USA had no interest at all in the achievement of a compromise or being associated with an international migration agreement (Guild et al., 2019; Interview MS-3). While the Latin-American countries remained part of the negotiations, the USA's withdrawal created a spill-over effect. It provided other states, among them Hungary, with the opportunity to leave without being the first to leave and with less risk of harming their reputation (Interview EU-2, EU-6, MS-2, MS-3).

The EU also used its power of inflexibility to request concessions and to make demands by referring to its small margin to compromise within (Interview EU-3). The EU stressed repeatedly that the Union's member states would not agree and sign any agreement without a clear obligation of the UN member states to take back their citizens that had arrived in Europe irregularly (UN, 2018 A/73/PV.60 and A/73/PV.61; Interview EU-6). The strong red lines of

the EU were also a result of the internal disagreement among EU member states and the consequent narrow mandate of the EU-27 (Interview MS-2; MS-3). Considering that the issue of return remained unsolved until the very end of the negotiations, the EU was able to exercise a significant influence on this issue that in particular the countries of origin were unable to match (Interview EU-6).

Concerning the main topics of disagreement, the return of migrants, the EU used different narratives and formats to persuade states. In countries of transit, the EU would point towards the risk of ending up with an increasing number of irregular migrants in their countries, if no regulation on return was included in the GCM. To countries of origin, the possibility to facilitate the integration of returning migrants, the management of remittance systems and similar were promised in exchange for concessions to the EU's goals (Interview EU-6). By using a strategy of small, informal meetings and selective invitations to negotiate, the EU was able to persuade countries of their position and offer strategic concessions that served the EU's self-interest (Interview EU-6).

Lastly, the EU used its monetary possibilities as bargaining chips by providing traveling funds for developing countries and civil society. Considering the lack of interest of many developing countries in the topic of global migration, the funds were an instrument to ensure broad participation and possible support for the GCM. In addition, the EU's financial engagement also created the implicit expectations that the EU would generously contribute to the implementation of the GCM in the future. While the EU never explicitly promised any funds, the expectation influenced the position of some actors (Interview EU-5).

The EU used a lot of energy and resources during the negotiations in order to achieve its goals and to avoid the inclusion of any of its red lines in the agreement. Considering the circumstances, the EU faced a difficult negotiation process caused by the inability to represent the Union as a whole, and by the lack of support through a coherent group of countries of destination. While the EU claimed that the most important objectives were

reached, the Union was forced to make certain concessions and to accept several setbacks (Interview EU-1). The EU was nevertheless able to insert its interests into the debate. In absence of the involvement and engagement of the usual big players, the EU mainly faced a strong and outspoken opposition from the countries of origin and the Global South (Interview EU-1). Several acts of bargaining were visible, and the EU was seen as an actor with a strong self-interest.

## **The EU – a value-based actor?**

The structure of the negotiation process was based on the UNGA's rules of procedure and under the mandate of a UNGA plenary decision. The New York Declaration for Refugees and Migrants called for a Global Compact for Safe, orderly and regular migration and provided the guidelines for the upcoming consultations (UNGA, 2016 A/RES/71/1; Interview EU-1). Following the UNGA's rules of procedure, all states and observer entities at the UNGA were able to participate in the negotiation conferences following the rights and duties that their respective observer status entails (Interview EU-1). To ensure fair representation beyond the pure formal possibility, the EU provided funding to the International Organization of Migration that organized the negotiation process, which provided travel assistance to both countries with limited resources and civil society organizations in order to participate in consultations and negotiations (Interview EU-1). While the financial contribution increased the level of fairness in terms of participation, the quality of representation and the resources varied significantly. The EU initially also planned to conduct regional seminars to enable regional partners to meet and consult on their positions. These outreach seminars however never took place and were dismissed even before internal divisions appeared (Interview EU-3). The initial idea to negotiate the GCM came from the countries of destination whose self-interest circled around the issues of border security and return. (Interview UN-1, EU-5). The representation and engagement during the negotiation process, however, were dominated by the countries of transit and origin, due to their sheer number. The lack of interest and active participation of many larger powers, such as the USA, Russia and China, also led to unusual power relations (Interview EU-6, MS-

1). In that context, the EU-27 could be described as one power player that clearly outlined its red lines. The Latin American region on the other side formed a strong block of like-minded countries that very visibly presented their views to the plenary (Interview EU-1, UN-1). Therefore, the North-South-divide along the lines of countries of destination and countries of origin became mostly visible on the most controversial topics, such as regular versus irregular migration, climate change, and return (Interview EU-5, MS-1, UN-1; UN 2018, A/73/PV.60 and A/73/PV.61.). The divided interests led to a lacking sense of ownership for the negotiation process. Several states were not ready to commit or to compromise on their red lines, while other felt that their priorities were not considered (Interview EU-1; EU-2, EU-5, UN-1). While the EU tried to overcome the disagreements with the countries of origin, the Union's strong interest in the security and return dimension of the negotiations stood in the way for a more inclusive approach of the EU (Interview EU-5; MS-1).

Nevertheless, over the course of the consultations and negotiations, the EU took the opportunity to advocate for a fair negotiation process according to fair treatment and fair negotiation dynamics. The negotiations were divided into preparatory committees according to their thematic focus, in order to increase the level of expertise of the involved personnel and to make the negotiation process more effective. This division, however, was also problematic in terms of participation. Despite the provision of travel funding by the EU, the varying locations of the six preparatory sessions affected the ability of all involved actors to provide input and to voice their positions (Interview EU-5, EU-3, EU-4). In terms of fair play, the EU provided a divided picture. On one hand, the EU was heavily invested in keeping the hesitant states in the negotiation process. While the EU couldn't keep the USA from leaving, and thereby had to accept the spill-over effect of other states withdrawing, the EU worked hard on keeping other uncertain states in the negotiations, such as Brazil and Australia (Interview EU-2, EU-6, MS-1, MS-2, MS-3). While the presence of many actors and opinions reduced the effectiveness of the negotiations, it was made sure that a high diversity of concerns and positions were heard and included in the final agreement (Interview EU-1, EU-5, UN-1). In addition, the EU was heavily engaged in

keeping the talks between countries of origin, destination and transit going. As part of the group of countries of destination, the EU presented a rather moderate position compared to Australia, Japan or Canada. Consequently, the EU tried to find a middle-ground of the different positions and served as a bridge-builder (Interview EU-4, MS-1, UN-1). On the other hand, the EU also entertained varying narratives and formats depending on the objective and the negotiation partner in order to persuade states of their aims. This strategy was for example used in negotiations with the countries of origin, especially on the issue of return and the clear separation of regular and irregular migration, which remained a disputed topic until the very end. In that way, the EU attempted to manipulate states and highlighted the importance of agreeing with the EU's objectives (Interview EU-6).

The withdrawals of several EU member states right after the negotiation process had concluded and before the adoption of the agreement, was seen as an act of bad faith. The exit left a dark mark on the EU's appearance and on the EU's value-based behavior in the negotiation process (UN 2018, A\_73\_PV.60; Interview EU-1, EU-5, MS-1). The GCM lost thereby some momentum in its implementation process and particularly in Europe, the GCM became a 'damaged good' (Interview EU-5).

While the fair treatment and fair behavior of the negotiation process shows some flaws, rhea UN member states generally reported of negotiations in good faith and with a balanced outcome. It was seen as a 'product of an (...) open, transparent and inclusive process' (UN 2018, A/CONF.231/7). Particularly the co-facilitators were perceived as impartial and effective in mediating the different positions and keeping a high level of transparency (Interview MS-1, UN-1; UN 2018, A/73/PV.60 and A/73/PV.61). While the EU also upheld the importance of transparency throughout the process, and the crucial role of outreach activities, the EU also involuntarily increased the level of transparency by a leaked document of its internal coordination process (Interview EU-5).

Turning towards a fair outcome of the negotiations, the large majority supporting the adoption of the GCM at the UNGA session in December 2018,

showed the great interest in advancing the outcome document despite certain critique. Most countries acknowledged that many views had found its way into the document, whereby some views were more visible than others (Interview UN-1; UNGA 2018, A/73/PV.60). It can be concluded that the EU's negotiation approach was at least partially characterized by a value-based behavior according to PJ. The large controversies among UN member states, the lack of interest of many powerful states, the internal EU division, the usual North-South divisions at the UN, and the unclear legal status of the outcome document were serious obstacles in the achievement of a just negotiation process. The omissions in the negotiation process were also visible in the outcome, which lacked the ownership of the involved parties and therefore did not lead to a stable and lasting agreement (Interview EU-2, EU-5, UN-1). It can be concluded that the EU's efforts to pursue a just and fair negotiation process were hampered by its self-interest and red lines that prevented more inclusive and open interactions with involved actors.

## Conclusion

The adoption of the GCM was a significant step towards the regulation of global migration streams, and consolidation of migrants' rights. It is the first international agreement on the topic of migration and despite the lack of support and will to implement the Compact, it is a significant step towards international law in the area of global migration. The securitization of migration led to fragmented opinions and controversies among UN member states, and thereby a consensus decision was difficult to achieve (Interview EU-5, UN-1, MS-1). Even though the GCM is a non-binding agreement and several UN member states withdrew from the negotiation process, the adoption of the Compact by a large majority of UN member states represents a symbol of successful multilateral cooperation (Interview EU-2). The GCM is out there and constitutes a step forward in the cooperation on global migration. The GCM is therefore both significant and symbolic for the possibilities of multilateral cooperation and the path towards international law.

The EU's negotiation approach can be characterized by an attempt to balance its value-based aspirations and the pursuit of its security interests. The EU behaved along the lines of rational choice by using its power to push for return-related contents of the agreement and to promise financial support (Interview EU-2, EU-6). As part of this strategy, the Union used unofficial meetings behind closed doors, manipulated UN member states with changing narratives and used its power of inflexibility to justify its position. At the same time, the empirics also illustrated the EU's behavior along the lines of PJ that aimed towards the achievement of a just negotiation process and the conclusion of an agreement. The EU put efforts into persuading UN member states to remain part of the negotiation process, finding a compromise among their positions and building bridges among opposing negotiation groups (Interview EU-3, MS-1). As expected by PJ, the EU attempted to include various opinions and provided resources and expertise for a broad participation. In addition, the EU attempted to build up a sense of ownership among negotiation parties in order to achieve a consensus that would have led to a lasting and stable agreement (Interview EU-1). Consequently, clear signs of the EU as a value-based actor were observable, however hampered by the EU's strong self-interest and red lines. Migration has become a highly controversial, politicized and securitized issue. The behavior and the position of the EU and of other UN member states and regions made a procedurally just process difficult. The EU's incoherent behavior did not only affect its representation, but possibly harmed its credibility and legitimacy. Both analytical approaches provide some explanatory power, which speaks to the assumption, that in the diplomatic arena of the UN, justice arguments are frequently intertwined with interest- and power-related arguments and that 'the most plausible approach to the justice/interest relationship is thus that norms and interests penetrate and depend on each other' (Hofmann and Wisotzki, 2014; Mueller, 2010: 6). Consequently, the EU's behavior and characteristics during the negotiation process is accounted for by an overlap of rational bargaining behavior and PJ.

## Bibliography

- Aggestam L (2008) Introduction: ethical power Europe? *International Affairs* 84(1): 1-11.
- Albin C (2001) *Justice and Fairness in International Negotiations*. Cambridge: Cambridge University Press.
- Albin C (2008) Using negotiation to promote legitimacy: an assessment of proposals for reforming the WTO. *International Affairs* 84(4).
- Albin C and Druckman D (2014a) Bargaining over Weapons: Justice and Effectiveness in Arms Control Negotiations. *International Negotiation* 19.
- Albin C and Druckman D (2014b) Procedures Matter: Justice and Effectiveness in International Trade Negotiations. *European Journal of International Relations* 20(4).
- Allen D, and Smith M (1990). Western Europe's Presence in the Contemporary International Arena. *Review of International Studies* 16(1): 19-37.
- Apap J, Adorna Diaz D and Urbina Trevino G (2019) A Global Compact on Migration: Placing Human Rights at the Heart of Migration Management. European Parliamentary Research Service. *Briefing PE*: 614-638.
- Bachman V (2013) The EU's Civilian/Power Dilemma. *Comparative European Politics* 11: 1-23.
- Bennett A and Checkel JT (2014) *Process Tracing: from Metaphor to Analytic Tool*. Cambridge: Cambridge University Press.
- Blavoukos S and Bourantonis D (2017) *The EU in UN Politics: Actors, Processes and Performances*. London: Palgrave MacMillan.
- Blockmans S and Wessel RA (2009) The European Union and Crisis Management: Will the Lisbon Treaty Make the EU More Effective? *Journal of Conflict and Security Law* 14(2): 265-308.
- Bretherton C and Vogler J (2006) *The European Union as a Global Actor*. Abingdon: Routledge.
- Buzan B (2012) The Inaugural Kenneth N. Waltz Annual Lecture - a World without Superpowers: Decentered Globalism. *International Relations* 25(1): 3-25.



- Carrera S, Lannoo K, Stefan M and Vosyliute L (2018) Some EU governments leaving the UN Global Compact on Migration: A Contradiction in Terms? *CEPS Policy Insights* No. 2018-15.
- Conceicao-Heldt E (2014) When speaking with a single voice isn't enough: bargaining power (a)symmetry and EU external effectiveness in global trade governance. *Journal of European Public Policy* 21(7): 980-995.
- Conceição-Heldt E and Meunier S (2014) Speaking with a single voice: internal cohesiveness and external effectiveness of the EU in global governance. *Journal of European Public Policy* 21(7): 961-979
- Council of the European Union (2018) *Address by President Donald Tusk to the 73rd United Nations General Assembly*. Press Release. Available at: <https://www.consilium.europa.eu/en/press/press-releases/2018/09/27/address-by-president-donald-tusk-to-the-73rd-united-nations-general-assembly/>.
- Drieskens E, Van Dievel L and Reykers Y (2014) The EU's Search for Effective Participation at the UN General Assembly and UN Security Council. In: Drieskens E and Van Schaik LG (eds) *In The EU and Effective Multilateralism: Internal and External Reform Practices*. Oxon: Routledge.
- Duchêne F Europe's Role in World Peace. In: Mayne R (ed) *Europe Tomorrow: Sixteen European's Look Ahead*. London: Fontana, pp. 32-47.
- Dür A and Zimmermann. H (2007) Introduction: The EU in International Trade Negotiations. *Journal of Common Market Studies* 45(4): 771-787.
- Eldar O (2008) Vote-trading in international institutions. *The European Journal of International Law* 19(1): 3-41.
- Elgström O (2007) Outsiders' Perceptions of the European Union in International Trade Negotiations. *Journal of Common Market Studies* 45(4): 949-967.
- Elgström O and Jönsson C (2000) Negotiation in the European Union: Bargaining or Problem-solving? *Journal of European Public Policy* 7(5).
- Elster J (1991) Rationality and social norms. *European Journal of Sociology*, 32(1): 109-129.
- Elster J (2007) *Explaining Social Behavior. More Nuts and Bolts for the Social Sciences*. Cambridge: Cambridge University Press.
- Eriksen OE and Weigård J (1997) Conceptualizing Politics: Strategic or Communicative Action? *Scandinavian Political Studies* 20(3): 219-241.

- European External Action Service (2016) *Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign And Security Policy*. Available at: <https://op.europa.eu/en/publication-detail/-/publication/3eaae2cf-9ac5-11e6-868c-01aa75ed71a1>.
- Fella S (2019) The United Nations Global Compact for Migration. *Briefing Paper Number 8459*, House of Commons Library.
- Guild E, Basaran T and Allison K (2019) From Zero to Hero? An Analysis of the Human Rights Protections within the Global Compact for Safe, Orderly and Regular Migration (GCM). *International Migration* 57(6): 43-59.
- Hofmann GP and Wisotzki S (2014) Global Governance Efforts in Tension Between Humanitarian Concerns and Statist Sovereignty Rights. *International Negotiation* 19: 487-517.
- Hollander-Blumoff R and Tyler TR (2008) Procedural Justice in Negotiation: Procedural Fairness, Outcome Acceptance, and Integrative Potential. *Law & Social Inquiry* 33(2): 473-500.
- Hyde-Price A (2006) Normative power Europe: a realist critique. *Journal of European Public Policy* 13(2): 217-234.
- Jin X and Hosli MO (2013) Pre- and Post- Lisbon: European Union Voting in the United Nations General Assembly. *West European Politics* 36(6): 1274-1291.
- Jørgensen, KE, Oberthür S and Shahin J (2011) Introduction: Assessing the EU's Performance in International Institutions - Conceptual Framework and Core Findings. *Journal of European Integration* 33(6): 599-620.
- Kissack R (2009) Writing a new normative standard? EU member states and the drafting and ratification of ILO labour standards. In: Orbie J and Torrell L (eds) *The European Union's Role in the World and the Social Dimension of Globalisation*. Oxon, Routledge: 98-112.
- Klein Solomon, M. and S. Sheldon. 'The Global Compact for Migration: From the Sustainable Development Goals to a Comprehensive Agreement on Safe, Orderly and Regular Migration'. *International Journal of Refugee Law* 30(4) (2018), 584-590.
- Koops JA (2011) *The European Union as an Integrative Power?* Brussels: VUB Press.

- Lucarelli S and Manners I (2006) *Values and Principles in European Union Foreign Policy*. London: Routledge.
- Manners I (2002) Normative power Europe: a contradiction in terms? *Journal of Common Market Studies* 40(2): 235-58.
- March JG and Olsen JP The Institutional Dynamics of International Political Orders. *International Organization* 52(4): 943-969.
- McKay D (2005) The EU as a self-sustaining federation: specifying the constitutional conditions. In: Follesdal L and Dobson A (eds) *In Political Theory and the European Constitution*. New York, Routledge.
- Melin P The Global Compact for Migration: Lessons for the Unity of EU Representation. *European Journal of Migration and Law* 21(2019): 194-214.
- Meunier S (2000) What Single Voice? European Institutions and EU-U.S. Trade Negotiations. *International Organization* 54(1): 103-135.
- Meunier S and Nicolaidis K (1997) The European Union as a conflicted trade power. *Journal of European Public Policy* 13(6): 906-925.
- Moravcsik A (1997) Taking Preferences Seriously: A Liberal Theory of International Politics. *International Organization* 51(4): 513-553
- Müller H (2004) Arguing, Bargaining and All That: Communicative Action, Rationalist Theory and the Logic of Appropriateness in International Relations. *European Journal of International Relations* 10(3): 395-435.
- Ojanen H (2006) The EU and the UN: a shared future. *FIIA Report No. 13*.
- Powell R (2002) Bargaining Theory and International Conflict. *Annual Review of Political Science* 5.
- Seeberg P (2009) The EU as a Realist Actor in Normative Clothes: EU Democracy Promotion in Lebanon and the European Neighbourhood Policy. *Democratization* 16(1): 81-99.
- Söderbaum F, Stålgren P and Van Langenhove L (2005) The EU as a Global Actor and the Dynamics of Interregionalism: A Comparative Analysis. *Journal of European Integration* 27(3): 365 -380.
- Sjöstedt G (2006) *The External Role of the European Community*. Westmead: Saxon House.
- Sjursen H (2006) The EU as a 'normative' power: how can this be? *Journal of European Public Policy* 13(2): 235-251.
- Tallberg J (2006) Formal Leadership in Multilateral Negotiations: Rational Institutional theory. *Hague Journal of Diplomacy* 1: 117-142.

- Thomas DC (2012) Still Punching Below its Weight? Coherence and Effectiveness in European Union Foreign Policy? *Journal of Common Market Studies* 50(3): 457-474.
- United Nations (2018) Report of the Intergovernmental Conference to Adopt the Global Compact for Safe, Orderly and Regular Migration. Marrakech, Morocco: A/CONF.231/7, 10 and 11 December 2018.
- United Nations General Assembly (2016) *New York Declaration for Refugees and Migrants*, 71st Session. UN Resolution A/RES/71/1, 3 October 2016.
- United Nations General Assembly (2018) *73rd Session*, Official Records A/73/PV.60., 19 December 2018.
- United Nations General Assembly (2018) *73rd Session*, Official Records. A/73/PV.61., 19 December 2018.
- United Nations General Assembly (2013) *The arms trade treaty*. UN Resolution A/RES/67/234B, 1 June 2013.
- Van Schaik LG (2013) EU effectiveness and unity in multilateral negotiations: More than the sum of its parts? Basingstoke: Palgrave Mcmillan.
- Youngs R (2004) Normative dynamics and strategic interests in the EU's external identity' *Journal of Common Market Studies* 42(2): 415-35.

## **Interviews**

- EU-1: Interview with EU official, 28.10.2019
- EU-2: Interview with EU official, 19.11.2019
- EU-3: Interview with EU official, 22.11.2019
- EU-4: Interview with EU official, 22.11.2019
- EU-5: Interview with EU official, 27.11.2019
- EU-6: Interview with EU official, 06.05.2020
- MS-1: Interview with EU MS representative, 19.11.2019
- MS-2: Interview with EU MS representative, 04.05.2020
- MS-3: Interview with EU MS representative, 08.05.2020
- UN-1: Interview with UN official, 19.12.2019