

**UNIVERSITY  
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## **Agreed but Contested**

Normative Contestation and the Common Foreign and Security Policy

by

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# Acronyms

**CBDR** Common but Differentiated Responsibilities.

**CCP** Common Commercial Policy.

**CFSP** Common Foreign and Security Policy.

**CSDP** Common Security and Defence Policy.

**CSOs** Civil Society Organizations.

**EEAS** European External Action Service.

**EU** European Union.

**EUMAA** EU-MERCOSUR Association Agreement.

**HR** High Representative.

**ILO** International Labor Organization.

**IR** International Relations.

**MERCOSUR** Mercado Común del Sur.

**NGOs** Non-governmental Organizations.

**NPE** Normative Power Europe.

**TEU** Treaty of the European Union.

**TFEU** Treaty on the Functioning of the European Union.

**UN** United Nations.

**UNFCCC** United Nations Framework Convention on Climate Change.

# 1

## Introduction

The EU has evolved over the last fifty years and, despite the obstacles, has become a consolidated international actor. The "European" protagonism has shifted from the voluntary cession of sovereignty by States to a supranational institution capable of developing and implementing public policies that change the daily lives of citizens inside and outside the European continent.

The EU is constituted as an actor in the international system recognized by other entities. This construction is based on the common agreement of the member states to promote a supranational structure with greater capacity and at the same time with a much broader agenda of responsibilities in terms of international relations and foreign policy. One of the legal changes that allow us to conceptualize this evolution in terms of "actorness" is the incorporation of the legal personality<sup>1</sup>. This element explicitly recognizes authority and capacity of the European Union to conclude and negotiate international agreements, become part of international organizations, join international conventions, and allow the EU to act legally on behalf of the member states.

This actor's foreign policy characteristics have evolved over time but retain specific components that deserve attention. Its constitutional origin and the extensive normative framework that regulates its foreign policy are particular features of this entity. The promotion of values and norms seems to play a pivotal role in the

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<sup>1</sup>Article 47 of the TEU

foreign policy strategy. This situation led to the intertwined relationship between legal norms, moral values, and political considerations through which the EU makes its internal principles part of its external relations. In the early 2000s, an academic perspective emerged that took account of these characteristics and typified the EU as a normative power. This theoretical approach highlights the particularities of the EU in comparison with other actors in the international system that exhibits patterns of behavior and goal-setting based on other considerations.

As was mentioned, norms are a keystone in the EU identity. The integration process was very particular and highly based on the legally binding and complex cession of sovereign between member states. As a result of an evolution of autonomy, the European Union acquired the capacity, by updating its founding treaties, to implement its external activity in different areas within the framework of the Common Foreign and Security Policy (CFSP). In order to set the thematic framing of the present thesis, we will focus on this policy area since it is the formalization of the EU's external action.

This policy is expected to execute its actions and achieve its objectives under the rule of the values and norms that govern the constitutive treaties like human rights, democracy, the rule of law, and fundamental freedoms. Moreover, from a functional perspective, these values also function as the minimal common base ground of European integration and consolidation ([Graziano and Vink, 2008](#)) ([McCormick, 2010](#)).

The CFSP emerged as a "pillar" upon the entry into force of the Maastricht Treaty as a fundamental part of the EU political integration process. With the Treaty of Lisbon, the "pillar" system was abandoned. However, the importance of foreign policy was recognized with the creation of the post of High Representative for the Common Foreign and Security Policy, which integrated the former European Commissioner for External Relations, and European Neighbourhood Policy was integrated into the same office.

The Treaty of Lisbon also creates the European External Action Service (EEAS).

The external service is constitutionally called upon to be a body (complex unitary body) functionally autonomous from the other institutions, bodies, offices, and agencies of the Union, subject only to the authority of the High Representative of the Union for Foreign Affairs and Security Policy.

## **1.1 Research Questions**

The main objective of this study is to assess the EU's identity as Normative Power Europe (NPE) in the EU External Action by analyzing official discourses and scientific reflections, to assess whether the theoretical construction of NPE contributes to understanding how the European Union works. Also is essential to find if the answers are conclusively affirmative on how these norms are contested or incorporated by other actors in the international system.

Thus, the thesis aims to answer the following research question:

Q1: To what extent is the European Union a normative power with regard to the external promotion of norms and values in third countries since the Treaty of Lisbon?

SQ1: Which policies does the EU deploy, in its External Action, in order to promote norms and values?

SQ2: Which limitations can we identify in the CFSP instruments in the processes of normative convergence and diffusion?

## **1.2 Relevance**

The EU produces effects at the internal level and the international system which involves effects in third states. The idea of this research project is to generate a satisfactory description of the EU's external action and propose a typology of it which takes into account its normative nature and at the same time the level of contestation that these rules can suffer. In addition, the project wishes to see the influence that the EU intends to exert on the international order. External relations

and policy have always constituted a fundamental axis when deciphering the identity and nature of a political actor, and, in this sense, the study of EU policies concerning its external action would be fundamental.

Concerning the previous assessment, an essential element that can highlight the importance of the present research can be related to the EU project consolidation and sustainability. Under this perspective, the consolidation of the European way of life must be internal and external. The internal process is related to the "nation-building" across common symbolism, and a shared history emerges in the public discourse and the historical reformulation of Europe. This strategy faces the threat of the re-emergence of nationalist movements, neoconservative politicians, the rise of open euro-skeptic platforms, and even the Brexit process of dismemberment. The second part of the strategy, directly related to the present research, is based on the fundamental social-constructivist practice of the "otherness" recognition as fundamental to the consolidation of the self-identity. (Wæver, 2000) The recognition of others as an actor by acting is an absolute part of the consolidation of any international actor. The CFSP, in practice, acts as a source of reinforcement of EU identity in the international system. That is another element that increases the relevance of the research topic.

The present research's relevance is also related to the most contemporary debates on the EU. The rule of law, international security, migration, and the ecological agenda are salient EU external and internal action topics. As Beck and Cronin (2006) and Giddens (2006) have already exposed two decades ago, there are several tendencies towards a decline in integration, for two particular points, the different responses to the crises and the "solutionist" vision that integration has for the European authorities, which would be much more problematic with the nationalist revival and the norms contestation from inside the EU.

Finally, the present research findings can eventually serve as a starting point for replicating the methodology in other academic research or even serve as a perspective for other areas of international politics. The proposed typology has the possibility of

applying the same conceptualization to other international actors and eventually developing more sophisticated measures to assess power projection through normative mechanisms subtly.

### **1.3 Structure of the Thesis**

This research work is divided into six chapters; each of them, their relevance and their respective analysis will be explained in the introduction. The writing of the chapters that make up the thesis has been an arduous task consisting of the use of different research methods and tools.

In order to enrich the content of this thesis, a consolidated typology was proposed with the elements considered central to typifying the functional relationship between actors in the international system, the normative content of their practices and the institutions that support values, norms and procedures.

The first chapter is devoted to the introduction, the structure of the project, the research questions and the relevance of the research. Chapter two develops the theoretical framework of this thesis and the central concepts that make up the theories that underpin this work. The third chapter is the framework of the methodology used, the design, the operationalisation and the development of a theoretical model that allows the observation of empirical cases. Chapter four gives a formal account of the data collection methods. The fifth chapter provides an account of the empirical analysis, firstly concerning the EU's constitutive normativity through an account of the evolution of the treaties and their normative content, later a general analysis of contestatory processes at the level of the CFSP in general, under the considerations of the actors and procedural characteristics. The second section of the chapter deals with two cases of EU foreign policy where are exposed normative elements related to the issues, a case description, an analysis of the contestation and a review of the case under the proposed model/typology. Finally, the sixth chapter compiles the conclusions, a recount of the answers to the research questions and final considerations.



# 2

## Theory

### 2.1 Literature Review

A vast cluster of the academic literature often tends to describe the EU as a normative actor ([Manners and Diez, 2007](#)), ([Diez, 2005](#)), ([Forsberg, 2011](#)), ([De Zutter, 2010](#)), ([Pace, 2007](#)), ([Lavenex, 2019](#)), ([Michalski and Nilsson, 2019](#)). The objective of this theoretical development was to resolve the struggle of academics to categorise the EU under the classical categories of Hard Power or Soft Power ([Nye, 1991](#)) or Civilian Power ([Duchêne, 1973](#)). Hedley [Bull \(1982\)](#) harshly criticised the notion proposed by Duchêne as a contradiction in terms arguing in favour of a western European military alliance.

In the early 2000s, both (soft power and civilian power) conceptions were insufficient to explain the empirical record of the EU as an international actor. In consequence, the theoretical developments around the NPE were in search of the elements that allow Europe to promote a sense of "normality" and influence the behaviour and identities of other actors. After the original conceptual proposition of [Manners \(2002\)](#), the concept took a long evolutionary path and was subjected to a process of debate within the IR field where can be founded authors who support NPE typology ([Nygren et al., 2018](#)), while others highlight the limits of it ([Renckens et al., 2017](#)). Other academics express their doubts over the idea that the EU is a normative power, viewing norms promotion as a cover for national economic

interests and hard power (Hettne and Söderbaum, 2005) (Chen, 2021), (Hyde-Price, 2006). Beyond this, the theoretical contribution of the NPE is solid enough to be used in current EU practice as will be recounted in the next section.

### **Impact in the IR Field**

Since 2002 with the publication of Ian Manner's article, the concept of NPE became part of the theoretical explanations and characterisation of the EU from the IR constructivist perspective. Proof of this was the prize awarded to the author in 2007 by the prestigious European Union Studies Association, which rewards the most influential publications in European studies in the last decade.

Despite the impact of the term in academia, however, it is characterised by a high degree of heterogeneity, which is why we find divergent positions on the subject (Youngs, 2004); (Hyde-Price, 2006); (Diez, 2005); (Wiener, 1999). Far from being detrimental, such heterogeneity has enriched the academic discussion of the EU's performance on the international stage, where the normative notion has become the very catalyst for debate. A notion that still needs, in words of Whitman (2013), further development to advance towards the consolidation of other more traditional concepts.

Some critiques to the conceptualisation arises with the argument that the EU is also a military actor under the premises of the Common Security and Defence Policy (CSDP) (Metreveli, 2012), (Merlingen, 2007), (Lavenex, 2019), (Hyde-Price, 2006). Beyond critique, the concept of NPE is widely accepted and of extensive use in the IR field specially between the Norm-focused constructivist scholars.

The categorisation of NPE helps describe an international actor who wants to work in a "normative" way. This assumption means that the ideational constructs, which take the form of values and norms, are guiding political action and can influence and even change political inclinations, set public policy agendas and even identify allies or enemies. The power of ideas is that powerful, conflicting ideas can lead to a conflict of agendas o principles. One example of this "contradiction"

is the alleged conflict between trade policy and the human rights policy (Kerremans and Orbie, 2009) and the academic debate about which logic prevails over the other (Orbie and Khorana, 2015). Some arguments have shown that the EU has struggled to maintain fundamental values over commercial interests (Young, 2007) (Bailey and Bossuyt, 2013). Studies by McKenzie and Meissner (2017) and Hoang and Sicurelli (2017) have been interesting attempts at exploring the inconsistency between rhetoric and practice when it comes to how the EU negotiations with other international actors.

The debate and confrontation of ideas around the NPE allow progress in its theoretical sophistication and seems and the quantity of academic reflection around the concept seems to be enough to consider it as an influential and valid element to explain and understand the empirical world.

## 2.2 Conceptual framework

The present research is extensively based on two bodies of concepts and presuppositions. First, Ian Manner's Normative Power Europe (NPE) concept; and second the Theory of Normative Contestation consolidated by Antje Wiener.

According to Manners (2002), the concept of NPE overcomes the debate on the EU as a civilian power that was advocated Duchêne (1973) in the 1970s, or as a "theoretical" military power as asserted by for example Smith (2005).

Contrary to Bull (1982), who claimed that the lack of military power undermines the international entity of the EU; or Waltz, who understands that the EU foreign policy is ineffective because it is fragmented, and this condition limits the capacity to become Global Power (Waltz, 2000), Manners stresses that EU's restraint in using hard power is the central element that contributes to his argument that the EU is a normative actor (Manners, 2002), (Youngs, 2004). Manners also argued that the researchers' preoccupation with the EU's ideological identity had diverted attention from the fact that the EU is, in fact, a constituted strategic power and a security community, pursuing its strategic objectives in its particular way.

In the 2001 conference organised by the European Community Studies Association, Ian Manners proposed the notion of Normative Power to the academic community. However, it was not until the publication of the article 2002 "*Normative Power Europe: A Contradiction in Terms?*" in the Journal of Common Market Studies that the the concept became more popular or at least more visible.

The author's skill lies in developing a new concept based on Duchêne's idea of civilian power and the subsequent dialogue with H. Bull. The latter was highly critical of the limitations which, in his opinion, the idea of civilian power presented in the framework of the then bipolar system led by the US and the USSR. Specifically, the term civilian power was characterised by his analysis of the role of the then European Economic Community abroad, paying particular attention to its undisputed commercial weight, as well as to the central civilian values of the European project (such as democracy and human rights) which, without any doubt, had a bearing on its actions on the international scene.

In this way, Duchêne was able to transcend the usual parameters such as military weight (Duchêne, 1973) and promote a different vision under the particularities of the European initiative. For the latter would allow the EEC, in his own words, to become one of the "governors of its time" (Duchêne, 1971) (Duchêne, 1973). For his part, Bull rejected Duchêne's thesis in a rejoinder in the article "*Civilian Power Europe: A Contradiction in Terms?*" in the Journal of Common Market Studies (Bull, 1982).

From an approach close to realism, the author disagreed with the term, finding it highly idealistic because he believed that the lack of military force made it unfeasible for the EEC to develop a relevant role abroad. Thus, he went so far as to propose the establishment of a military alliance that could address Western Europe's main weakness (Bull, 1982, p.152-164).

However, the end of the bipolar system after the disintegration of the USSR had a notable impact, especially for the EU, insofar as the new scenario facilitated external action closer to the terms outlined by Duchêne.

This persuaded Ian Manners to publish the idea of normative power twenty years later and in the same journal in which Bull wrote his reply to Duchêne. From critical theory, this defines the EU as an actual rule changer on the international scene (Manners, 2002).

The backbone of Ian Manners' typology is centred on the EU as an actor based on values and norms. Its members, institutions, and the procedures of the Union must respect these values, which serve as access gates to candidate states to be eligible for membership. EU norms "were first mentioned in the 1973 Copenhagen Declaration on European identity" (Manners, 2002, p.241) and later enshrined in the TEU, which defines the EU as:

*"[...]founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities." (European Union, 1993, Art.2)*

Poststructuralists also contribute to the NPE perspective of understanding the normative content as a discursive construction (Whitman, 2011). This perspective allows us to understand the normative identity as an accepted construction, shared but above all things, temporally and historically conditioned, which is *"perhaps the only form of identity that most of the diverse set of actors within the EU can agree on"* (Diez, 2005, p. 614). This normative identity is the supra-structure that all the constitutional elements<sup>1</sup> of the EU agree with keeping the Union existing even if these elements disagree on everything else.

The poststructuralist approach to discursive identity conformations relies on the assumption that foreign policy discourses build their own identity but at the same time generate the image of others which also helps to reinforce the process. The process of social legitimisation is vital to identity building since they are brought to life through language, discourses, and moral positions.

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<sup>1</sup>Elements like societies, the European Council, the European Commission, the European Parliament as well as EU member states.

Back to the core theoretical elements, Manners' definition of NPE, implies the *"ability to shape conceptions of the "normal" in international relations"* (Manners, 2002, p.239). Also, Manners' identify it *"by the impact it has on what is considered appropriate behaviour by other actors"* (Manners and Diez, 2007, p.175).

Thomas Diez conclude that the potentiality of NPE depends on *"the identity it provides for the EU and the changes it imposes on others, partly through its hegemonic status"* (Whitman, 2011, p.210). In consequence, the identity of NPE, when seen as such by other actors, can desecuritize conflicts in the process of Europeanisation and the empirical evidence was the successful cases of the ascension of many European states (Whitman, 2011, p.214).

We could summarise by underlining that the notion of NPE that the emergence of this theoretical development depends of a reflectivist epistemology (Whitman, 2011, p.242-244) and has as a distinctive element its hybrid nature, adapted to the particular identity that the EU has developed as a post-Cold War, post-Westphalian political form. Ian Manners stresses that the concept refers to the EU's ability to disseminate and export norms and thereby construct a universal reality to suit itself. The EU is not focused on means; it is focused on principles. This situation is what gives *"reflexive"* militarisation a unique content that does not contradict the notion of NPE (Manners, 2006).

The NPE relies in a sophisticated conceptualisation of what are norms. Inside the IR field, norms research began to gain ground upon the emergence of the social constructivist research programme (Kratochwil and Ruggie, 86ed). One of the most influential conceptualisations of international norms, provided by Finnemore and Sikkink (1998) was based on a norm life cycle, which depicts a norm's development from its emergence, its diffusion in the international system to its internalisation by actors. If a norm had been thus established, it was often depicted as stable (Wiener, 2007).

However, the research on norms evolved and focused on the contestation and disputes over norms. Some scholar argue that contestation occur at the diffusion

phase, when single resistant states would reject well-established norms or where states were socialised into international or regional norm systems (Schimmelfennig et al., 2015), (Schimmelfennig and Scholtz, 2010). Norm research has struggled hard to leave behind this implicitly progressive perspective on norms. In the process, the debate has turned its attention towards the contestation of norms and their potential erosion at domestic level (Wiener, 2007), (Wiener, 2018), (Wiener, 2018), or in the international level (Deibert and Crete-Nishihata, 2012), (Gutterman and Lohaus, 2018).

As studies have highlighted, contestation is a common feature of all international norms. However, not all norms seem to be weakened by contestation. On the other hand, some studies argue that contestation does not negatively affect norms validity. In the other way, contestation acts, opens the discussion about norms and eventually can generate the revalidation of them, as some scholars suggest (Deitelhoff and Zimmermann, 2020), (Deitelhoff and Zimmermann, 2019), (Wiener, 2014).

### **NPE: Characteristics**

In contrast to more classical approaches, the NPE notion transcends traditional issues to pay special attention to the ambitious export of norms that the EU promotes in its relations with third states or within international organisations, mainly in multilateral forums (Whitman, 2013). Such promotion reflects its unique nature and identity, as it is the same rules that regulate the endogenous dimension of the European project (European Union, 1993, Art. 2, Art. 3.1-3.4) that, in turn, define and articulate its exogenous dimension (European Union, 1993, art. 3.5 and art. 21 TEU). Specifically, Manners identifies five primary norms: *peace, freedom, democracy, the rule of law, and respect for and defence of human rights and fundamental freedoms*. And four secondary ones: *social solidarity, anti-discrimination, sustainable development, and good governance* (Manners, 2002, p. 243).

These elements constitute its normative core, the vector axis on which the European project is based. Hence, the author argues that the EU should be understood

on the international stage not for what it does or says but for what it is since it is precisely its singular and normative nature that predisposes it to act as a genuine changer of norms - a distinguishing feature in comparison to other actors on the international stage (Manners, 2002, p. 240).

The EU's export of norms should not be understood in terms of superiority and imposition (typical of colonialist argumentation), but rather, on the contrary, it enjoys a universal character insofar as the norms it promotes are also included in international conventions, treaties, and agreements, especially those reached within the framework of the United Nations (Manners, 2006) (Diez, 2005) (Manners and Diez, 2007). In this way, principles such as human rights or fundamental freedoms transcend from a merely communitarian to a cosmopolitan nature, which, in turn, reinforces their export. A normative impulse that, in short, seeks to change the status quo of the international scene (typical of the traditional Westphalian system) towards a new scenario different from that of the phenomenon of globalisation, which is based on a neoliberal ideology.

On the contrary, the EU advocates a different regulation that, in turn, responds to what the current international society considers "appropriate" standards in world politics (Manners, 2002, p. 253). This type of society functions under the premises of certain (albeit limited and imperfect) consensus around principles such as democracy, human rights, and, more recently, environmental protection. This is why the EU's great skill lies in being able to define and promote what is "appropriate", which is the accurate and most relevant power in the current international context (Manners, 2006). In short, the EU seeks to promote certain norms that favour the "Conference on the Future of Europe" through the export of its internal model whose normative core goes beyond the merely communitarian to the universal level. In imposing its normative model, the EU relies on attraction and, in no case, imposition. Specifically, it makes use of the following channels, which - according to the classification developed by Manners - are as follows (Manners, 2002, p. 244-245):

1. "*Contagion*" whereby European export is observed in the initiatives carried



out in other regions of the world that seek to emulate the Union's project. In these, such exportation is not intentional, but, on the contrary, it is understood as an example to be followed as it is considered the most successful model, as was the case with the establishment of MERCOSUR<sup>2</sup>, describe the process as a product of the socialisation in the arena of the international politics, reinforced by sanctions and incentives which allow the validation of a norm thru the substantial endorsement by enough states.

2. "*Informational diffusion*" through innovative communication strategies. In this sense, projects aimed at civil society in third countries seek to bring certain values closer to citizens and, at the same time, counteract false or manipulated information against European action. This channel also contains declaratory communications and political initiatives from the EU authorities.

3. "*Diffusion of procedures*" is based on the institutionalisation of relations, which facilitates a closer approximation to the *EU's acquis*. It occurs in the framework of traditional bilateral relations with third countries and within international organisations. As an example, can we take the case of the WTO, where the EU enjoys a decisive weight; inter-regional dialogue with regional organisations or the enlargement negotiations with the accession countries.

4. "*Transference*": based on the so-called conditionality, which consists of the promotion of links, as well as financial and technical support from the EU in response to the degree of commitment presented by a third state in its approach towards the *acquis communautaire*. In a much more mundane way of expressing it, the "*carrot and stick strategy*" of financial rewards and economic sanctions but applicable also in the political and diplomatic context. In this way, the EU seeks to offer substantial economic, political, and social benefits in return for countries making progress in line with the European model. In particular, the enlargement policy presents outstanding results, which is why it is considered the most successful tool of normative

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<sup>2</sup>Manners use the term "contagion" which is comparable to the use of "diffusion" in Lenz (2012) and in Finnemore and Sikkink (1998, p. 902), these latter authors expressly object to the use of the term contagion in favour of diffusion since they consider the first concept as too passive when in fact the promotion of norm cascades is an active process of international socialisation

transformation in European foreign policy as a whole (Börzel et al., 2017).

5. *"Diffusion of norms through the EU's physical presence"*. This has increased significantly with the establishment of the European External Action Service (EEAS), which is particularly relevant to the present thesis, and the boost of new EU delegations following the entry into force of the Lisbon Treaty. This is a substantial change with a very positive impact on the momentum of European external action (Bicchi and Bremberg, 2016).

6. *"Cultural filtering"* entails the learning and incorporation of fundamental principles and values by third states, but as the EU understands them. This stage recalls the cultural validation stage in Wiener (2014), especially about the instances after all the normative cycle that leads to the construction of identities by societies. In this learning process, so-called twinning programs or peer reviews play a crucial role insofar as the European perspective is implicit in the changes to be implemented by third countries.

These six channels facilitate a more significant impact on the normative export promoted by the EU. An impact that starts through the processes of socialisation and association and concludes with the desired appropriation of the given norm (Whitman, 2011, p.238-239). The assimilation of the subject of socialisation that the norm constitutes the right thing to do and is thus assumed as one's own. The European normative impact differs in terms of areas and countries. Indeed, the EU's determination and impact on the eradication of the death penalty is the paradigmatic example of the notion of normative power (Manners, 2002). Nevertheless, the EU has made significant achievements (Börzel et al., 2017, p.169-171), for example in the enlargement framework and even the Eastern dimension of the NPE where the Republic of Georgia stands out for leading an ambitious (though still incomplete) normative transformation (Prieto, 2019).

## What is a norm?

The study of standards in the field of International Relations has evolved since the 1980s. The theoretical objective of authors such as Wendt or Kratochwil was to underline the importance of norms in the relations between international actors. Then, towards the end of the 1990s, we find as a cornerstone the work of [Finnemore and Sikkink \(1998\)](#). In this article, the concept of norms is investigated to account for the life cycle of norms. This cycle involves three stages: how norms emerge, how they spread and how they are eventually replaced.

Several authors within this current have analysed this phenomenon based on the study of different cases in which it is evident that various states have redefined their interests, taking as a starting point norms and decisions of constituent bodies of international regimes and demonstrating that in addition to the distribution of power, culture, identity, knowledge and ideas can also generate changes and results at the international level. Norms play a crucial role at the international level since, as Katzenstein mentions:

*[norms]...describe collective expectations for the proper behaviour of actors with a given identity. In some situations, norms operate like rules that define the identity of an actor, thus having "constitutive effects" that specify what actions will cause relevant others to recognise a particular identity. In other situations, norms operate as standards that specify the proper enactment of an already defined identity. In such instances, norms have "regulative" effects that specify standards of proper behaviour. Norms thus either define (or constitute) identities or prescribe (or regulate) behavior, or they do both. (Katzenstein et al., 1996, p.3).*

In the same line, for [Finnemore \(1996\)](#), a norm is an expectation shared by a community of agents for appropriate behaviour. A norm exists even when there is a norm violation since non-compliance inescapably refers to the normative context. Under these elements can be argued two prepositions; first, change in actors'

interests, preferences, or actions are possible, disregarding changes in the distribution of power as more rationalist approaches suggest; and second, the formation, maintenance and transformation of collective identities is based on the socialisation principle by which one identity is always the product of a relationship with another identity.

Following Finnemore, a short typology of norms can help to conceptualise them. We can find:

*Regulatory Norms:* which order and constrain behavior, for example, the WTO publishes rules that regulate commercial behaviour.

*Constitutive Norms:* a norm can lead to the emergence of identity, interests or categories of action, for example, in the Western hemisphere, we cannot think about the modern state without referring to the idea of sovereignty. The emergence of certain entities requires compliance with certain norms that allow entities to become one.

*Evaluative or Prescriptive Norms:* Since norms imply standards of what kind of behaviour will be "acceptable" or "correct" under certain circumstances, it is precisely the prescriptive quality of "ideal behaviour" that differentiates norms from other kinds of rules. Consequently, it seems clear that intersubjectivity is inescapable when talking about norms.

From a critical point of view, a norm had an objective: standardise actors and create a categorisation that will make those who do not participate "abnormal". This 'tribalist' version of normative identity is strongly criticised by [Buzan \(2014\)](#) as a part of the liberal inconsistencies and contradictions, but as we review in the previous paragraphs can be argued that it is an inescapable effect of the identity construction process.

Continuing with the chronological order of the study of norms in international relations for the early 2000s, the reader can already understand that norms are dynamic. The ineffectiveness of the acts of contestation that theorists identified in the 1980s and 1990s was challenged by events in international politics. Although

this dynamism was implicit in constructivist research, empirical studies considered it more or less static. Consequently, the acts of contestation were a problem for theoretical conceptualisation.

After a long period of studying the diffusion of norms, analysts now turn their attention to norm contestation, especially challenges to liberal norms. The critical theory sees normative contestation as inherent to international relations (Deitelhoff and Zimmermann, 2019, p.5). Wiener has analytically questioned the static character of norms (Wiener, 2014). Following Wiener, we understand normative contestation as an interactive practice involving disapproval of norms, usually expressed through language (Wiener, 2014, p.1). Thus, contestation is a discursive process with an increasingly normative erosion character. It is not directed at discussing the application of norms (which usually results in a further specification of the conditions under which they are relevant) but explicitly at contesting their validity. The manifestation of the contestation happens.

According to Wiener, contestation can occur in different spaces, through different discursive codes (formal, semi-formal or informal); and mainly through four modes (arbitration as legal mode, deliberation as political mode, justification as moral mode, and contention as a societal mode). At the same time, the practice of contestation can be executed explicitly (by contention, objection, questioning or deliberation) or implicitly (through neglect, negation or disregard) (Wiener, 2014, p.2). The theory of contestation proposed by Wiener comprises four main features. First, a typology of norms, then the theory moves on to an instance in which norms are contrasted with a typology of contestation. Later, the implementation and also validation of the norms are considered. These are the elements that we want to incorporate in the present thesis since the author understands as fruitful the possibility of combining the norms related to conceptualisations of the Theory of Contestation with the elements that originated around the conceptualisation of Normative Power Europe.

## **NPE: Temporal Limits *vis a vis* Normative Contestation**

The study of European foreign policy has long been approached as the analysis of an international actor that derives its power from its identity and values as well as its ability to project its values in its external relations. Under this perspective, *"the most important factor in shaping the EU's international role is not what it does or says, but what it is"* (Manners, 2002, p.252). As was exposed in the previous section, the NPE entails *"the force of ideas, based on universal values and disseminated through persuasion and not coercion"* (Barbé, 2014, p.8).

However, the reality is not a fixed picture, and as mentioned above, the international order is not the same as it was in the early 2000s. Nor is the EU of 2003 (with internal division over the Iraq War but with consensus on the European security strategy) the same as the Union of 2018 (with the tough negotiations for the UK's exit and debates over the future of European integration). European and global developments have begun to *"question this rather heroic depiction of the Union as a normative power, based on ideational motivations and non-coercive in its behaviour"* (Pollack, 2020, p. 2). Academics and think tanks have begun to identify processes of erosion of some of the values that the EU has promoted internationally and included in this concept of normative power that has been widely accepted for some years and is now being questioned. This process, defined as normative contestation, is defined as an interactive practice involving disapproval of norms, usually expressed through language (Wiener, 2014).

Furthermore, although for some authors, contestation can facilitate both the specification of norms to specific political, social and cultural contexts and the perception of their legitimacy and, ultimately, therefore, their effectiveness (Wiener, 2014), the truth is that contestation is also leading to the erosion of certain fundamental norms. The literature has pointed out how some international norms associated with the international liberal order (and aligned with EU preferences) now seem less secure than they did two decades ago. For example, norms against torture, mercenaries, electoral interference or assassinations of foreign leaders (Großklaus, 2017).

There are also severe indications of the erosion of human rights since 9/11 (Dunne, 2007). Against this backdrop, EU foreign policy has had to confront new and less domestically consensual political and normative dilemmas (Barbé et al., 2016).

Moreover, to an international context that is more adverse to the role it had assigned itself during the second half of the 1990s and early 2000s. In this framework, the thrust of European construction has been channelled in other directions; directions in which what counts is not so much the EU as a model that externalises its internal rules but the Union as an actor that seeks to muscle itself to develop instruments that allow it to increase the range of what it is capable of doing.

## 2.3 Conceptualisation

In order to develop this thesis, it is necessary to clarify and define, to some extent, the particular dimensions that the central concepts required to understand the current research from the correct perspective. Naturally, these concepts are not exhaustive to answer the research questions, but the relation with the implications of the concepts of Power and Norms in the International Relations area seems most evident. In particular, the dimensions of a Normative Power Europe and the dimensions of Norms Contestation.

### Normative Power Europe

For the purposes of this project, "Normative power" is a constructed concept that implies several variables.

In order to consider a political entity as normative, under the selected theoretical framework, we must take into account several characteristics (Manners, 2006) (Wiener, 2007):

1. For a Normative Power, constitutional norms represent crucial factors in determining identity.
2. These norms are embodied in the legal constituent elements of the political actor.

3. A Normative Power should show adherence to norms, and these norms should prevail over other considerations, like material benefits. Normative power can exercise hard or soft power, but they require a normative justification rather than the use of material incentives alone. (Manners, 2009)

4. A Normative Power should be legitimate in the promoted norms, and these norms should count with enough social validation.

5. A Normative Power should be perceived as persuasive in the actions taken to promote such principles.

Evaluating these characteristics will be possible to identify a normative power entity, both in origin and in practice.

### **Normative Contestation**

On the other side, to conceptualise the contesting elements that we find around the normative elements that propose the concentration of the NPE, we can use the Wiener typology and distinguish between:

1. Types of Norms:

(a) Level 1 Norms = Fundamental norms with broad Moral Reach that implies a low level contestation

(b) Level 2 Norms = Organising principles

(c) Level 3 Norms = Standardised procedures with narrow Moral Reach that involves a high contestation

2. Modes of Contestation:

(a) Implicit = neglect, denial or ignorance; at the long time potentially can generate discontent and conflict

(b) Explicit = objection, deliberation or dissidence

3. Stage of Implementation.

(a) Constituting



- (b) Referring
- (c) Implementing

#### 4. Stage of Norm Validation.

- (a) Formal Validity = Official Document
- (b) Social Recognition = Social Group
- (c) Cultural Validation = Individual Experience

The theory of contestation proposes elements that will be excluded from this thesis analysis, mainly for two reasons. On the one hand, the EU and its CFSP are built between the member states but do not subjugate them. This means that the member states still have some "*margin for manoeuvre*" (Seitz, 1993) in their own foreign policy; in consequence, members states can execute bilateral/national focused foreign relations behind and beside the concept of the NEP.

On the other hand, recognising the theoretical value that the Contestation Theory model has for the analysis of norms, the objectives of this thesis are smaller and only seek to identify points of contestation, whether internal or external, is a typology that is not made explicit in Wiener's work where the state actors are usually diffuse.

Remarkably, the Stages of Implementation in Wiener involves a deep agency analysis that can not be covered in the extension of the present thesis but seems to be especially interesting to further investigations.

Consequently, the intentions are limited to consolidating an analytical model that will be presented in the following chapter through the triangulation of the theoretical elements gathered, to generate a model of his own that will make it possible to qualify foreign relations policies through their normative content.

# 3

## Methods

This qualitative study researches for evidence of normative content in the EU External Action and if actors contest these norms. This chapter introduces a research design that is fit to adequately do so and logically derives from the theoretical framework introduced in the previous chapter. After introducing the research method, the chapter outlines how the variables are operationalised. The focus then shifts to case selection and data generation before elaborating on validity and reliability.

The validity and reliability capabilities of the plan rely on attributes like consistency in the method of finding the normative content in the First Source Documents and Public Declarations. The model also can be reliable since it can be applied to other cases since it is abstract enough to be applied to other actors in the international arena. This characteristic is clearly in favour of the adaptability of the plan. Lastly, the proposed path of action can be considered neutral after the limitations recognition of the theoretical perspectives.

It can be argued that the data we need to collect to answer the research questions are primarily discursive elements with normative content in the official documents, reports, and statements of officials, related to the objects of study; in the case of this project, the foreign policy of the EU focused on Common Foreign and Security Policy and the Common Commercial Policy. If references to the norms and values are founded or used as fundamentals for action, the act of speech, or as justification for decision making, we can consider that the value is positive and the measurement

is normative instead of other characterisation. The recognition of these elements as discursive acts should not limit us in the object of this research,

This research is also interpretive; the analytical goal is to make sense of the context and the relationship between the Norms and Political Action. Therefore, the underlying iterative process consists of data collection and data analysis in the search for an adequately coherent interpretation is reached.

To be an extent, in order to answer the question about the instrument deployed by the EU External Action, the thesis will focus the topic on political topics that allow tracking the CFSP evolution and position to evaluate the normative action and contestation.

### **3.1 Strategy and design**

The focus of this project is firstly to analyse the EU two external policy instruments (CFSP and the CCP) and to categorise these institutional instruments as normative or non-normative. In order to do it, the analysis of the institutional and legal elements that shape and control their functioning is fundamental. The constitution of the EU as a political entity has come about through an evolution of the legal order, which has involved the development over time of treaties between European states, mainly driven by political elites. For this reason, European constitutional norms are crucial to conceptualise the EU as an international entity properly.

This research aims to provide a comprehensive and concrete analysis of how the EU externally and internally promotes norms and values and how effective it is. The first part of the research is an in-depth empirical qualitative research focus on literature, document analysis, and diplomatic practice. The selection criteria of documentation are under the limits of the EU external affairs, and they should incorporate values and norms.

For the first part, following [Blatter and Haverland \(2012\)](#), a congruence analysis approach can help to provide empirical evidence for the explanatory relevance or relative strength of the NPE as a theoretical approach. By applying the operational-

isation in empirical elements, it is expected to verify the accuracy of the theoretical frameworks to explain the actual reality and test their current explanatory value. Here is important to highlight the temporal setting of the present research, restricted to EU policies posterior to the Treaty of Lisbon. Naturally, the constitutive documentation like treaties or agreements are previous to 2007, and the academic debates around the NPE predated the TEU.

Therefore, a central feature of congruence analysis is reflecting meticulously on the relationship between theory and empirical evidence. This reflection is a three-step process.

The first step is to compare empirical data with general theoretical expectations about European foreign policies. Some initials elements were already mentioned in the Conceptual Framework.

The second step involves the reflection over which elements of the NPE make sense for a specific observation, which determines whether the cases are identifiable as part of the model.

Accordingly, the analysis will draw inferences about the explanatory value of the NPE to specific cases by considering whether the evidence based on the empirical cases confirms or denies the theoretical premises.

Assuming the process as positive, the present work proposes, following the [Schimmelfennig \(2003\)](#) suggestion of combining the NPE and the Normative Contestation paradigms in a complementary way and explaining how the normative dynamics can also ratify the normative identity even under contestation. In other words, it is possible to show how rhetorical action can link the two paradigmatic approaches in IR.

## **3.2 Operationalization**

Understanding the operationalisation of variables is how the variable is transformed from abstract concepts to concrete, observable, and measurable terms. In the case of this thesis proposal, the value of identifying the normative content in European

foreign policy implies identifying different policies and acts of speech with normative content that we assume as influential in the foreign policy.

By expanding the normative dimensions, we will be able to de-contextualise and triangulate these various "normative dimensions" to gain a greater understanding of the phenomenon and consequently be able to answer the research question. If it is possible to find normative traits in all instances and detect the promotion of those rules in the selected cases, we will be able to conclude the investigation question affirmatively.

Therefore, the empirical research on speeches and practices seeks to identify meanings associated with norms under-recognised conditions of moving social practices. The qualitative methodology will profoundly study the most relevant social elements identified in the theoretical framework. The way to rationalise the potential characteristics is by laying down specific indicators. The potential systemic condition in the research question (a selective constitutive normative framework) can be operationalised by the identification of elements in each of the following variables:

1. Normative Identity

- (a) Constitutional Values
- (b) Internal Norms
- (c) Rule of Law

2. Normative Practice

- (a) Cosmopolitan Recognition of the others
- (b) Self limitation and Compliance with International Norms
- (c) Diffusion

3. Normative Strategies of Power

- (a) Recognition
- (b) Sharing

(c) Reconciliation

4. Normative Objectives

(a) Standardization / Harmonization of policies

(b) International Rules and Global Projects

(c) Universalization of Values

Following [Finnemore and Sikkink \(1998\)](#), this study takes into account the process of norm emergence, cascading and internalisation, and with the objective of revealing the mechanism behind the normative objectives diffusion, some strategies can be pointed out:

1. The EU, thru its external actions, can promote/adapt/respect norms as essential elements of legally binding agreements;
2. Through pursuing countries to sign and implement multilateral/regional agreements based on universal values;
3. As a prerequisite for financial assistance, economic partnerships or diplomatic endorsement;
4. Through restrictive measures like sanctions and/or embargoes

The operationalisation of values under the present discussion found its source in the TEU, which stipulates elements like human dignity, freedom, democracy, equality, and the rule of law, among others. Now the concept of norms was broadly defined by [Katzenstein et al. \(1996\)](#) as collective expectations about proper behaviour for a given identity. Sometimes norms operate like rules defining an identity. The typology of norms can be consolidated following [Wiener \(2014\)](#):

As such, indicators for the degree to which the EU seeks to employ its normative approach are the following:

1. The degree to which the aforementioned fundamental values are implicitly or explicitly reflected between the EU and third actors;

2. The types of norms which the EU officials implicitly or explicitly pursues third actors to sign and implement multilateral/regional even when contestation exist;
3. The degree to which the EU makes financial support to target countries conditional upon adherence to the aforementioned values.

Identifying the above elements will provide information on the focus of official CFSP documents concerning their normative content. In this way, it will become clear when the EU manifests itself as a normative power in its foreign policy.

The first proposition to identify is that *"The EU applies the normative power in its external policy positions"*. Underlying this expectation is the conceptualization that *"The CFSP positions are grounded by promotion of EU norms"*. To measure this proposition, the data will be analysed specifically through propositive terms in the socialisation process combined with terms related to the Level 1 Norms.

The second expectation is: *"EU standards in external relations"*. To justify the specific measurement of this expectation, the documents will be analysed by focusing on the EU's explanations of the use of norms and values in its foreign policy positions. This should imply an improvement of the third party situation and/or norms as a result of the application of norms and values. Here the terms must be related to Type 2 Norms and to monitoring mechanisms.

The third underlying expectation is: *"Norms in the CFSP are adapted to ensure their applicability"*. This expectation will be measured by looking at how the EU mentions the local aspect and context in its documents. Reference to Type 1 Norms but referenced by Type 3 Norms are the indications needed.

### **3.3 Contested NPE: a proposed model to analysis**

The social approach that Wiener proposes allows us to analyse the CFSP policies as a supranational actor, subject to a dynamic process of social contestation of the norms. That also has its own institutional structure different from that of Member

States but that at the same time encompasses and represents them, particularly in the CFSP. In consequence, here can be proposed five models to characterise the type normative power and its contestation considering three elements, endorsement, norms, and institutional alignment:

*Hegemonic structure:* In this configuration, all elements agree with each other. A situation then arises in which endorsement, norms and institutions claiming universality combine in a coherent way. In this case, institutions are able to convey the preferences of a "critical mass"<sup>1</sup> of actors and to do so in a way that is perceived as legitimate by others.

*Normative congruence:* this model responds to a situation in which institutions and norms are in sync, but lack of support from the actors. In other words, norms and institutions are not supported by a sufficiently strong coalition of member states to ensure their durability. The lack of congruence may be due to the institution defending norms that are supported by a coalition of entrepreneurs that loses strength.

*Material congruence:* this model responds to a situation in which considerable support of the actors and institutions agree with each other, but not with emerging norms. In this case, institutions represent either the preferences of the dominant actors because they are a clear representation of the distribution of power or because they institutionalise rules according to their preferences. In contrast, there is a mismatch between institutions and norms. This mismatch can occur, for example, because a normative entrepreneur outside the dominant actors succeeds in legitimising a new idea.

*Institutional misalignment:* the third model occurs when actors and norms are in sync, but not with institutions. In other words, institutions do not correspond to the ideas supported by dominant actors. Institutions are slower to evolve compared to change in terms of the distribution of power or the allocation of legitimacy. Institutions remain locked into the conditions under which they were created. A

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<sup>1</sup>The concept can sound elusive but tries to cover the quantity variable (enough actors should endorse the norms) and the quality (sufficient political power should be part of the endorsement) of the needed critical mass to accept and support the norm (Finnemore and Sikkink, 1998, p.901)



paradigmatic example of how the institution does not respond to the distribution of power is the UN Security Council.

*Dysfunctional structure:* finally, we can add a completely dysfunctional model which corresponds to a situation in which none of the actors are in tune with each other. Thus, dominant actors can only impose themselves coercively; ideas cannot be translated into norms, as they do not have the support of an actor or actors strong enough to impose them; and, as for institutions, they are perceived as ineffective and illegitimate.

The previous stages or models are static *per se* when the international relations are not as we are going to confirm in the empirical analysis section on the EU Foreign Policy evolution. That is why change and the passage from one model to another are associated, as mentioned above, with norms contestation. Thus, each of the above structures can become another because it undergoes challenges, either in actorness endorsement, normative changes or institutional validation. In the case of actors, for example, such a challenge can be product of the erosion of a coalition by new actors who change the previous dynamics in an area. In the case of norms, for example, the emergence of new social demands or agreement on new law principles generates movement in the structure. Finally, in the case of institutions, it is even a little more straightforward to perceive, given that we usually observe the emergence of new institutions in international relations, with different objectives, often as a reaction to previous contestation.

Up to this point, the model only shows which element may have a contesting aspect but gives no indication of its intensity. This element is essential for identifying and preventing real status quo threats and adding theoretical specificity to social phenomena. What is certain is that the academic literature presents an unresolved debate on this question (mainly on the argument of whether the contestation produces the reinforcement of a norm or its critique and eventual crisis). Far from being able to resolve it in the present thesis, we will temporarily choose to identify the impetus of the contestation by the alignment between Discourse and Practice. Under

this criterion, the contestation may acquire different levels according to whether the acts are mere discursive acts, issues of execution and compliance, or a combination of both. Consequently, we would have a scale where we find:

*Low Contestation* when discourse and practice are in line with the Normative Power. Within the discursive components we can identify the acceptance of the legitimacy of a norm by States, international organizations and civil society in general. We can assume a generalized belief in the legitimacy of the institutions in charge of supervising or applying the norms; it can also be identified when the number of ratifications of international treaties increases on the part of the addressees; and when safeguard and opt-out clauses are minimal or non-existent. Other discursive elements are the reactions to norm violations in the form of discursive condemnation or material sanctions. From the practical elements, we can observe the adoption of international norms and the implementation of norms in the legal framework, but also the level of compliance with these norms in the effective sense.

*Regular Contestation* A middle level of limited contestation where there is alignment in Discourse. This can take primarily two forms, the most common is the reaction to the violation of the norm, where actors decide to avoid the direct costs of condemning the transgression to a previously agreed norm. Another form of merely discursive response is the inadmissibility of a norm. This is what is evident in the moments of negotiation on new norms, where actors denounce it for the same negotiation strategies, either to modify the final articulation or to obtain lateral compensation.

Finally, a level of *High Contestation* level of complete contestation where both discourse and practice oppose the Normative Power strategies. This implies acceptance of the legitimacy of a norm by States, international organizations and civil society in general. We can assume a generalized belief in the legitimacy of the institutions in charge of supervising or applying the norms; it can also be identified when the number of ratifications of international treaties increases on the part of the addressees; and when safeguard and opt-out clauses are minimal or non-existent.

Within the discursive components we can also identify third-party reactions to norm violations reactions of other norm addressees to norm violations in the form of discursive condemnation or material sanctions

# 4

## Data

### 4.1 Data Collection Methods

As this study takes a qualitative approach, its resources mainly fall within the categories of peer-reviewed academic articles, policy briefs and reports, and media articles related to declarations of EU officials. Also, primary documents will be used. This would also include a review of government reports, position papers by EU institutions and academic literature relevant to the theoretical framework, and the empirical analysis of the case studies.

# 5

## Empirical Analysis

### 5.1 EU Foreign Policy: Politicization by Contestation

In recent decades, it has become increasingly clear that foreign policy is no longer the preserve of an elite and that competing concepts of national interest are fundamentally challenging the way EU and national foreign policies are formulated. Policy areas that were considered the prerogative of national executives or diplomats have come to directly affect EU citizens and have thus come under increasing public scrutiny. The permissive consensus that characterised EU decision-making until the 1980s is no longer the norm. Instead, an increasing number of policy areas have become subject to restrictive dissent born of internal contestation and politicisation of foreign policy. ([Hooghe and Marks, 2009](#))

The CFSP is still presented as a textbook example of intergovernmental governance but the Lisbon Treaty, which entered into force in 2009, was considered by many insiders to be revolutionary in this categorization ([Keukeleire and Delreux, 2022](#)). It introduced the possibility of greater supranational integration in defence matters, which is currently taking shape in PESCO (Permanent Structured Cooperation). Also, the creation of the dual-hatted High Representative for Foreign Affairs and Security Policy HR and the EEAS reinforced the Brussels-based system of Eu-

ropean foreign policy-making. At the same time, the Commission's delegations were transformed into EU delegations worldwide. Both the HR and the EEAS were given agenda-setting powers<sup>1</sup>, which posed a defiance to national diplomatic services. In the post-Lisbon period, the European Commission expanded its previously modest role in the security field, including the launch of the European Defence Fund.

All these developments (among others) have the potential to increase internal contestation and eventually derive politicisation of the issues. The evolution of the CFSP implies the transfer of traditional member state functions to the European level in areas of fundamental state functions.

Disagreement has always been part of CFSP: between Europeanists and Atlantacists, large states and small states, as well as different national foreign policy traditions. These divisions reflect real trade-offs in debates over the EU's role in the world, but there is little connection between them and the ways in which political conflict is structured beyond the boundaries of the CFSP community. To the extent that disagreements over EU foreign policy begin to align with the cosmopolitan-community cleavage and resonate with political conflicts more broadly, they will more readily lead to the expansion of contestation over time and derive in the politicisation of the CFSP. CFSP will be debated in high-profile conflicts that attract wider public attention, which may lead to changes in the range of actors actively engaged in CFSP debates; the degree of polarisation of such debates, or their level of visibility. By reaching beyond the confines of the CFSP practitioner and observer community, politicised debates over CFSP are likely to take place at both the EU and national levels.

Simultaneously, the emergence and consolidation of populist parties like the Fidesz party in Hungary and the Law and Justice Party (PiS) in Poland, among other examples as Syriza, ANO and VOX. The emerging literature on populism and foreign policy shows that populist right radical parties tend to be opposed to EU integration, citing migration issues and “the loss of sovereignty” ([Basile and Maz-](#)

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<sup>1</sup>TEU - Art. 18 and 30.1

zoleni, 2020). The populism, mainly the right-wing oriented, contests fundamental values behind European foreign policy, which are likely to clash with the domestic agendas. As Coman and Leconte (2019) affirms, sovereignty is often defined in countries like Hungary or Poland as opposed to the EU's "interfering" in domestic politics, especially in the areas of the rule of law and migration.

In general terms, contestation at the CFSP stage can concentrate on agenda-setting since successful agenda-setting will require an express agreement among the leading institutional actors. Consequently, EU member states and executive actors at the EU level are the fundamental actors at this stage. The contestation occurs by the opposition of actors in this arena and can take the form of other actors who may decide to take the process to other fields (e.g. parliaments or courts) or give it a higher profile so that the public can participate. When this happens, contenders entangle the relevance of a particular issue, presenting the attention (not) devoted to it in political debates due to political bias or malicious intent. This process is a strongly normative or ideological act that takes place through communicative discourse.

In the formulation phase, challengers contest the dominant problem definition and policy paradigms that underpin the main measures under debate. These acts of contestation take place mainly in institutional venues such as the Political and Security Committee, Working groups or parliamentary committees. Challengers will include state representatives, Commission officials or specialised members of the European Parliament (Biedenkopf et al., 2021). It is expected that technical figures use discourses of coordination, framing their arguments in technical terms rather than discourses over the moral content of specific politics.

CFSP Contestation can emerge also at the adoption stage. It involves the formal act of policy adoption within the relevant institution. Acts of contestation can therefore present a combination of coordinative and communicative discourses. Coordinative discourses occur in the relevant institutional settings and are used by actors with a formal role in decision-making. They usually refer to the specific

parameters of the policies to be adopted during or after the final policy debates. Moreover, the communicative discourse of visible political or social figures may call everything back into question, from the very need to address the issue to the choice of policy paradigm and concrete measures.

Finally, implementation can be contested in three broad ways. First, states can ignore CFSP decisions and simply neglect implementation. This amounts to an implicit or tacit challenge and, if normalised, can have a significant effect on the relevance of CFSP. Non-compliance can also be an overt and defiant act. In this case, contestation is as much about state behaviour as it is about communicative discourse. Since compliance depends on states, non-compliance will take place in national, not EU, arenas and by national actors. Finally, litigation is also open to actors other than states, such as NGOs seeking to prevent the implementation of a policy. Successful litigation strategies push back the policy process and trigger new negotiations.

## **5.2 CFSP as Contested Normative arena: two cases**

### **5.2.1 Environment: The CBDR criteria**

Since the ratification of the TFEU, the EU is competent to act on issues related to the environmental policy, such as pollution and climate change ([European Union, 2009](#), Art.11, Art.191). Its scope for action is limited by the principle of subsidiarity and the requirement for unanimity in the Council. However, the question raises concerns around the global implications of the environmental agenda, and the CFSP has a function in order to foster and generate international norms and regulations in order to archive some degree of success in the mitigation of climate change. The principle that governs sustainable development in the external action of the EU is established as the "sustainable development of the Earth" ([European Union,](#)



1993, Art.3.5) and "help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development;" (European Union, 1993, Art.21.2.f).

Since the United Nations Conference on Environment and Development in Rio de Janeiro in 1992, the European Union has played a leading role in international environmental policy. The EU had already begun to take a key role in international environmental negotiations since the late 1980s, largely due to the leadership vacuum left by the United States, which began to oppose the adoption of international environmental agreements (Afionis, 2017, p.8). This, together with the creation of an explicit internal competition for environmental policies, favoured the Union to reassert itself as a protagonist actor, formulating the most ambitious proposals among developed countries at the Rio Conference and assuming the leading role in other more specific negotiations (Afionis, 2017, p.28).

The EU has undoubtedly been ahead of other players in the international system, such as the United States, China and India, in this field, as can be seen from a comparison of the signature and ratification of the main environmental agreements, protocols and conventions since 1971: the EU has signed and ratified all of them, except for the 2004 International Convention for the Control and Management of Ships' Ballast Water and Sediments and the Nagoya Protocol on Access to Genetic Resources, while the US has not ratified 12 of the 15 most important international agreements since the early 1980s, including the Convention on the Law of the Sea, the Basel Convention, the Convention on Biological Diversity and the Kyoto Protocol (Ruiz, 2016, p.106).

It was during the negotiation stage of the Kyoto Protocol that the EU achieved its highest level of influence; on the one hand, it was the first major player to present a specific proposal to reduce developed countries' emissions by 15 per cent by 2010 compared to 1990, which allowed it to acquire a proactive and leading role in the negotiations. On the other hand, it used this leading role to promote strict regula-

tion of the flexibility and emissions trading mechanisms, which it had been opposed to, but which were demanded as an essential requirement by the United States to support the Protocol. Although it was not immediately successful, this attitude earned it significant legitimacy from the rest of the international community. During the negotiation stage of the Protocol's implementation, from 1997 onwards, this legitimacy would end up being reinforced even further, as the change of Administration in the United States and the arrival of George Bush as President led to the withdrawal of the US from the Protocol in 2001, once again favouring European diplomatic proactivity and the construction of an image of a power committed to multilateralism and the environment (Ruiz, 2016, p.107). European leadership at this stage consisted more of flexibility and pragmatism in adapting to the conditions demanded by Japan and Russia than in proposing advanced targets. However, the underlying logic remained intact: to advance international climate policy and avoid deadlocks in the negotiations. As a result, in the same year as the US resignation, agreements were reached in Bonn and Marrakesh, ensuring the Protocol's entry into force in 2005 (Afionis, 2017, p.102).

However, the post-Kyoto phase, marked from the outset by the debate on the future of the international climate regime after 2012, posed several difficulties for European leadership in the climate field; the EU would lose influence in climate negotiations due to changes in international power relations, marked by the return of the United States to the negotiations and by the greater importance of the voice of emerging countries, mainly the BRICS. Despite new unfavourable systemic and structural conditions, the EU continued to advocate ambitious climate targets, with large emission reductions by 2020 and 2050 for large industrial countries and, above all, for developed countries, of a binding nature (Afionis, 2017, p.154) (Dimitrov, 2010, p.19).

The Copenhagen Accord on the future of the climate regime, resulting from the 2009 Copenhagen Conference, marked a significant loss of centrality for the EU (Dimitrov, 2010, p.22). In the climate negotiations, by establishing only a strategy of

unilateral and non-binding commitments on limiting emissions or adopting climate policies outside the framework of the UN Framework Convention on Climate Change and completely distant from the EU proposals, by building on the interests of the BRICS countries, the new key players in the negotiations.(Dimitrov, 2010, p.18).

Overall, however, the Union has managed to act coherently and consolidate a credible and legitimate international image as a green power by adapting to the new negotiating reality from an ambitious but more flexible perspective, seeking to introduce essential nuances and references in the final documents<sup>2</sup> (Afionis, 2017, p.102). The current balance of the EU's role in international climate policy is therefore positive, as it has allowed the EU to build an image as an ambitious international actor in environmental matters, committed to multilateralism and capable, on certain occasions, of acting with a single voice and leading international negotiations.

The EU has demonstrated that when an issue is considered truly important, there can be sufficient political will and policy commitment on the part of its Member States and EU institutions to bridge their differences and build bold proposals beyond minimum consensus through effective decision-making procedures based on technical expertise and the general interest. In this way, it can be observed that the Union, under certain circumstances -such as those existing in the international climate regime- acts according to a normative logic, placing universal objectives that are beneficial to the whole of International Society, such as the reduction of gas emissions, environmental protection, ecological transition and the control of climate change, before its immediate economic interests. At the same time, it attempts to institutionalise at the international level a set of norms and rules whose effects imply a structural scope; in other words, it tries to define what is considered normal in international relations based on its own values and standards related to the promotion of sustainable development.

A recurrent example of the norms contestation studies cover specifically the case of the CBDR from a global perspective (Lowinger et al., 2021) (Johansson-Nogués

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<sup>2</sup>For example, references to the two Celsius degrees limit for global temperature increase or the distinction between countries in the North and the South.

et al., 2020) (Wiener, 2014). In this sections, will be analysed from a European perspective to observe specifically the EU's position in the international climate change negotiation as a strongly normative actor (probably the most normative restrained of all actors). Reviewing this case, we can focus on the discussions around the evolution of the principle and apply the theoretical model to the case to highlight the NPE under Contestation at work.

The CBDR is a normative principle derived from the joint support of international actors on the belief in climate change mitigation and the administration of public policies to archive it. The articulation of this principle is in the UNFCCC, which recognises individual countries' different capacities and responsibilities in addressing climate change. In lesser words, the UNFCCC define the international norm by which states will be required to make commitments and at the same time evaluate their actions.

In the 1992 UNFCCC treaty, the CBDR principle established that *"... the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, in accordance with their common but differentiated responsibilities and respective capabilities, as well as their social and economic conditions"*.(United Nations, 1992, p.1)

Operationally, CBDR involves differentiating between "Annex I" and "non-Annex I" countries based on their level of GHG emissions. Under the Convention, "Annex I" countries have a more significant mitigation role than "non-Annex I" countries. The European Union, the United States and Japan, among others, were Annex I countries, and the rest of the countries were "non-Annex I" countries. It is essential to recall that this happened in 1992-1997 between the Conferences of Rio de Janeiro and Kyoto. (Kuyper et al., 2018)

Since then, countries such as China, India and Brazil have acquired new capacities while maintaining relatively low per capita emissions, and tensions have arisen over the defined "Annex I" and "non-Annex I" country lines.

In the years following the 1992 treaty, the emissions trajectory of the most populous developing countries also attracted attention. Fossil fuel-based development in highly populated developing countries would prevent the stabilisation of GHG concentrations, the ultimate objective agreed by the UNFCCC. The responsibility for the costs of shifting to a sustainable development path, especially for large but emerging countries with very low per capita emissions and little access to finance, was a matter of contestation between "Annex I" countries like the EU, US, Australia and Switzerland; which demanded a change in the CBDR bifurcation. On the other side, Brazil, China and India, and a long list of other countries favouring the Kyoto bifurcation.

The problem with the post-Kyoto CBDR principle seems to be that countries' economic and social realities are fast-paced, and principles and institutions change at a glacial pace, especially when they require a high level of consensus. On this thematic issue, we can conclude that there is a situation of Institutional Misalignment. In this configuration, the CBDR does not respond to the expectations of Normative Power (the EU) and neither to the objectives that exist in the norms (effective stewardship of Climate Change and the norm of equity in international law) that underpin the previously agreed principle (the CBDR by itself).

At this point the contestation dynamic presents particular characteristics. Seems clear that the contestation is discursive and practical in this issue. It is discursive since it argues that the principle is inadmissible in the face of evolution and changing times. Furthermore, it is practical since maintaining the original CBDR would imply renouncing the objectives of GHG emissions mitigation, which are the behavioral change expected in the normative framework. In other words, the maintenance of the original bifurcation criteria could signify the erosion or displacement of fundamental values principles.

Other elements of the contestation dynamic within the norms underpin the international negotiations on climate change and how these are reinterpreted in light of the circumstantial changes. The UNFCCC framework limits the quantity and char-

acteristics of the involved actors, in consequence, limiting the contestation in the deliberative and negotiation stage between member states of the UN. In the other side, since a consensual mechanism is a requirement in the UNFCCC international negotiations, following the typology of Wiener, this contestation process will be of a deliberative type. The process of deliberative contestation consists directly and clearly of conflicting positions taken by different actors with different positions and, above all, with different conceptions of the norms, some of whom came to outline that speaking of "another" type of CBDR implied an act of illegality. This reason behind this is mainly because agreements on climate issues need a level of consensus, depends of a high level of compliance by all the parts, and, in consequence, cannot be resolved with the majority of votes alone.

The impact of the CBDR contestation in the institution of Global Climate Action and in the principle of equity implies a hard contestation as it affect the operational principles of climate action, specifically the responsibility of each of the actors in a problem of global impact. The response of the EU on the interpretation of the CBDR represents a case of open contestation since it cannot be considered diffuse in any way and that it does not have an element of silent response or mere use of the issue for internal political purposes or rely only on the non-compliance policy on the matter quietly. This was not a valid option for two reasons. Firstly, as mentioned above, the issue involved consensus-building among all parties. Secondly, it can be argued that the EU as a normative power is limited in its options in terms of the possibility of taking contestation actions based on non-compliance or non-implementation of articulations of norms that it promotes and adheres.

From an evaluative point of view, the role EU's role in this issue reinforces its legitimacy as an actor in the climate change arena, but at the same time, reinforces the normative principle of CBDR that will finally be codified in 2015 in the Paris Agreement. Consequently, it also shores up norms and principles in the international system. In consequence, the theoretical assumption that the act of contestation does not always imply an eventual normative change but can also be a source of

reinforcement by institutional adaptation.

One element that this empirical case reveals is that a normative power such as the EU can act as a contestatory force at a global level and promote new or revised types of norms and values. While the EU pushed for a Paris Agreement that includes commitments by all Parties, it also advocated for differentiation concerning countries' capabilities and responsibilities. In other words, acts of contestation seems practically inevitable since a normative power can act conservatively (protecting the status quo) or as an entrepreneur of new norms. In this case, not all the "Annex I" states act as norm entrepreneurs and not all acts like normative powers in the sense of a normative objectives and mechanisms. Particularly the EU position; searching for consensus in a consensus mandatory arena (in procedural but also in practical dimensions) can help to identify the normative promoter characteristics. Probably for its adherence to the requirements of the arena where the contest was taking place, the result of this process is strongly affected by the role of the EU deliberations.

At the conclusion of the process, the EU would set an achievable common ground between both positions even when the original objective was the reinterpretation of the principle to reflect better the realities of systemic change. The EU prefer aligning itself to a more balanced intermediate point using a conciliatory language to increase the adhesion of states. Show flexibility in his position implies adherence to the consensual mechanism of this particular arena.

With the objective of archive an agreement, the EU positioned itself in a much more flexible place than other developed countries, which defended a much tougher instance based on eliminating the difference between States. A consequence of choosing this conciliatory path (but at the same time committed to promoting an adjusted interpretation of the CBDR principle) has had a positive effect on the perception of legitimacy that the European Union projects in the global negotiations on climate change.

## 5.2.2 International Trade: The EU-MERCOSUR Association Agreement

The norm of an open, rules-based trading system is of crucial importance to the EU, and it promotes this norm globally. The normative content of the EU Trade Policy are anchored in the principle of freedom which is based on the freedoms promoted in the internal market and on the European Union's commitment to freer and fairer trade in its relations with the world (TEU Art 3.5). The European Union tried to maintain an uncomfortable stand between the liberalization of the market inside and outside the EU while at the same time trying to keep the European social model protected (such as agricultural policy, environmental impacts or data protection) through regulations and regulations. Another normative element underlying trade policy is the principle of social solidarity which is referenced the social market economy (TEU Art 3.3) which in its external facet expresses through solidarity and mutual respect among peoples (TEU Art. 3.5)

The EU's bilateral and multilateral trade agreements are the organizing principle of this standard. Trade agreements, whether multilateral, plurilateral, regional or bilateral, involve an institutionalization of the costs and rules of exchange between the companies that operate in the entities that have signed the agreements and between them. Modern "deep" trade agreements address the rules and regulations in force within the territorial borders of the signatories, in order to increase compatibility and accessibility, thus reducing barriers to trade and investment. To that end, modern trade agreements include standardized procedures that are largely absent in more superficial agreements that focus solely on tariffs and quotas.

This section analyzes the contestation of the negotiation procedures suffered by the trade agreement by examining the highly politicized negotiations on the EU-MERCOSUR Association Agreement EUMAA archived in 2019.<sup>3</sup>

The agreement implies an Association Agreement made up of three pillars (po-

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<sup>3</sup>The agreement has been approved and signed by the European Commission and the chancelleries of the MERCOSUR countries, however, in order to put it into operation, it needs to be ratified by the European Council, the legislatures of the Member States of both blocs.



litical dialogue, cooperation and free trade) which culminated a negotiation process extended over more than 20 years (European Parliament, 2019). And it is that since the Rio de Janeiro Summit held on June 28, 1999, the starting signal for the construction of this bi-regional association, the negotiations fluctuated between slowness and indefiniteness (Bouzas, 2004)

The EUMAA links more than thirty economies that represent 25% of the Global Gross Domestic Product, 37% of world exports of goods and services and 10% of the world population (de Azevedo et al., 2019). Notably, it is a large-scale union that aims to take advantage of the full potential of bi-regional economic relations. In this sense, this Agreement positively affects trade and real GDP in both areas.

In addition to the flexibility of trade that guarantees tariff reductions, this Agreement seeks to promote the flow of foreign direct investment. Which is a remarkable fact considering that the EU is not only Mercosur's second trading partner but also its largest foreign investor (de Azevedo et al., 2019). Economic competitiveness and the attraction of the investments also contemplate the role of Small and Medium Enterprises, which are crucial to the productive framework and for which specific incentives are established (Martins et al., 2019). Along with these lights of free trade between the blocs, some shadows must be pointed out. And it is that the structural heterogeneity between both regions translates into an asymmetric trade relationship (Sanahuja and Rodríguez, 2019) (Zelicovich, 2019) The EU, more industrialized with four times the productive capacity of MERCOSUR, is specialized in products with medium and high added value. MERCOSUR, however, specializes in agricultural and primary products and raw materials with lower levels of added value (Ghiotto and Echaide, 2020). On the one hand, these patterns reflect the historical dynamics of North-South trade and bring to light the unquestionable certainty that, as usual, the Agreement will generate winners and losers on both sides of the Atlantic (Ghiotto and Frenkel, 2019).

Although trade agreements regulate economic relations, they also reflect States' political dynamics and interests. The EUMAA is no exception. The political climate

has been a fundamental element in its culmination. This symbolism surrounding its approval is the first noteworthy political implication. Thus, the Agreement reaffirms the commitment to trade multilateralism and economic liberalism by both economic blocs.

By consolidating its presence, the EU strengthens economic and cultural ties with the region and moves towards the Europeanisation of the national foreign policies of Spain and Portugal. It occupies a disputed geoeconomic space between the United States and China trade war. This move by the EU was a clear step forward in the building of strategic autonomy; seeking to secure new supply chains, mainly of raw materials, in relatively peaceful areas of the globe with relatively high levels of human development. The EUMAA –embedded in European trade policy and therefore aligned with its foreign policy (Steinberg, 2020) – reflects how the EU is moving towards a more independent and proactive role in international trade. In other words, the Agreement joins others recently reached and showed that the EU is leading the defence of an open economic system based on stable and predictable rules and supported by economic cooperation institutions (Malamud and Steinberg, 2019).

The institutionalization of this bi-regional association provides legal certainty and increases the attractiveness of MERCOSUR as a market to European investors and consumers. For example, regulations on non-tariff issues such as sanitary and phytosanitary measures give greater predictability and transparency to trade between regions. Also, commitments to political dialogue and cooperation also provide greater security and stability to the regional political environment (de Azevedo et al., 2019). The projection of normative power in the agreement by the EU seems evident by these examples, specially under the mechanisms of diffusion and normalization. In this reflective framework, the EU's aspiration to play a role in the region should not be overlooked. In other words, the association could give the EU the possibility of contributing to strengthening the Mercosur integration process by providing lessons learned from its experience (Malamud and Schmitter, 2006)

(Malamud, 2010).

However, in the final phase of the negotiation, a block to the agreement's ratification began due to the protest by CSOs belonging to agricultural sectors that managed to influence the position of some member states (France, Ireland, Belgium and Poland). Faced with this situation, Spain led a determining letter of commitment and defense of the EUMAA that would be supported by Germany, the Netherlands, Latvia, Portugal, the Czech Republic and Sweden.

The EU leads this trend including, on the one hand, clauses referring to human rights and, on the other more recent, provisions to promote sustainable development. It is a commitment to reconcile the economic development generated by the agreements with their possible negative externalities, increasingly in the social spotlight.

The case that concerns this work is the norms based agreement led by the Commission. In fact, it is one of the most advanced agreements in terms of sustainability requirements and the most demanding in sanitary and phytosanitary regulations (Sanahuja and Rodríguez, 2019). Along these lines, political dialogue and bi-regional cooperation open spaces for cooperation in very diverse areas such as science, technology and innovation, education, the digital economy, migration, or social and business responsibility, all of which are vital for the multidimensional development of the regions. Measures are even agreed to ensure the responsibility of supply chains or the protection of human rights and indigenous communities (European Commission, 2019).

Likewise, the EUMAA dedicates an entire chapter to Trade and Sustainable Development with principles and actions that cover labor standards that ensure decent work and environmental aspects that guarantee sustainable development, in line with the United Nations 2030 Agenda. Thus, the social implications of the Agreement will largely depend on the degree of compliance with these ambitious commitments. Concerning labor regulation, the parties must respect the treaties in force of the International Labor Organization (ILO) recognizing high standards

for workers involved in the export sector. The eight core ILO Conventions include standards that regulate forced and child labor, non-discrimination at work, freedom of association, and the right to collective bargaining ([European Commission, 2019](#)). Its inclusion results from tough debates within the framework of the European Economic and Social Committee (EESC) and responds to the demands of European businessmen and unions concerned that Latin American competitiveness is forged at the cost of lower labor standards.

In environmental matters, the EU's involvement in the fight against climate change translates into an inescapable commitment on both sides to the Paris Agreement on Climate Change and the CITES Convention on trade in wild species. Commitments that refer directly to the Brazilian Amazon are also included. A special attention is articulated over the Amazon and its role as a "green lung". If the Agreement materializes there is a risk that the potential increase in Brazilian beef production will come at the expense of the Amazon. To this end, commitments are agreed to stop illegal deforestation and wood sales from illegal logging are prohibited ([European Commission, 2019](#)). The fires in the Amazon in 2019 placed the environmental issue at the epicentre of tensions between France and Brazil. Although the Agreement is not seriously in danger, this episode already predicted the sensitivity of the ratification processes and validity.

Considering the international trade policy of the EU and its legal articulation, rules and norms are orientated to the opening of the international trade system. This can be found in the treaties of the EU<sup>4</sup>. Where promoting the rules of an open international trading system is of crucial importance in the European Union power projection ([European Parliament. Directorate General for Parliamentary Research Services, 2016](#)). It promotes economic liberalism while adding dimensions of social purpose to commercial relations. This strategy has persisted over time, but it is possible to detect a change in the principle derived from the institution. The principle has always included different types of trade agreements, but there is now a greater

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<sup>4</sup>TFEU - Art. 206

emphasis on deep bilateral agreements with standardised procedures (bilateralism is expected to complement rather than replace multilateralism as [Mattelaer \(2019\)](#), [Young \(2017\)](#), [García-Duran and Eliasson \(2018\)](#) argued).

Following this point, the EU appear as displaced from a stage where multilateralism was the organizing principle of its trade policy to a scenario in which it is negotiating bilateral or regional agreements with developed and emerging economies throughout the world. In other words, the EU's fundamental norm in the field of trade is an open trading system thru a flexible implementation, and it is understood as a liberalising agenda that includes a social purpose dimensions. These integration features of modern trade agreements have led to the emergence of certain standardised procedures in EU bilateral negotiations ([European Parliament. Directorate General for Parliamentary Research Services, 2016](#)). While deep agreements are negotiated following the same EU decision-making procedures as traditional trade agreements, they are now all expected to include provisions on sustainability, various types of regulatory convergence, investment protection and transparency provisions as was mentioned before.

These last paragraphs show the drift of the European Union from a model of multilateral relations to a more focused bilateral one. However, since it does not represent a normative change. It is completely strict in terms of the behaviour of the European Union. These movement in EU strategy hardly imply an act of contestation against the principles that underpinned the multilateral trade but rather as an intermediate strategy in the face of the consecration of the liberal values that it promotes.

Marked this consideration, in the particular case of the EUMAA, the most important source of contestation comes from the intra-EU level. Several NGOs, mostly of them concentrated around farmers associations and environmental groups, carried out successful political mobilization campaigns opposing the agreement. They carry out their contestation strategies in discursive and practical ways, thru modes of deliberation, justification, and contention at different stages.

Opposition to the EUMAA is based on four main lines of argument related to the areas in which adverse effects are expected. According to these oppositional parties, the impact can be economic, political, social and environmental factors. All factors are intertwined, and the materialisation of one of them is usually about the appearance of others. For example, one of the economic concerns found in the speeches of farmers' organisations was the unfair competition fostered by the Agreement (AFP, 2019). This goes hand in hand with social impacts such as the precariousness and the health impact on agriculture workers. Environmental impacts epitomise several configurations: biodiversity loss, ecosystem destruction, deforestation, increased carbon/GHG emissions, land degradation, climate change, pollution, and threats to public health (Baltensperger and Dadush, 2019). Regarding economic concerns, sectorial groups denounced the Agreement for unfair competition effects, especially in the livestock sector. The European producer's associations understand that cheaper beef products from South America are expected to create oversupply (Müller and Polotzek, 2021) and eventually put pressure on prices, creating a dangerous race to the bottom in the sector that can break its already fragile economic sustainability (Müller and Polotzek, 2021). For this reason, the defence and protection of the sector are crucial to the contestatory parties, especially in terms of imports to the EU. In addition, the agricultural sector has been considered the bargaining chip of the Agreement. The European Commission has agreed to cede in this field to obtain export earnings from other industries, especially cars and financial services. This situation of "winners and losers" has been identified by farmers' organisations and NGOs fuels the grievances and helps to mobilise the opposition.

From the normative contestation perspective, the first case systematically mentioned is an inherent contradiction present in the EU's policies and standards of procedure. NGOs with economic and ecological backgrounds argue that EU action plans such as the Green Deal and the Farm to Fork policies, specifically concerning climate neutrality and reduced deforestation, are potentially undermined by the expected effects of the EUMAA (Kelly, 2022). In addition, the expected increase in food

production in the MERCOSUR coincides with the reduction of socio-environmental protections in the country, especially in Brazil and Paraguay, thus increasing the chances of curbing the goals and values promoted by the EU.

The second case of contestation was addressed mainly by farmers' organisations and referred to the fact that there are different production standards between the blocs. These production requirements are considered essential by the EU Commission as they guarantee aspects considered necessary by the EU society, such as animal welfare, food safety and environmental protection (COPA-COGECA *et al.*, 2021). However, allowing free entry of goods produced to lower standards than required in the EU undermines this idea while disadvantaging EU farmers and disappointing consumer expectations. Furthermore, safeguards were put in place to fight market disruption and protect the sector. They are considered insufficient concerning the expected losses in the sector. In addition, this was considered a possible driver of the relocation of production, decreasing Europe's self-sufficiency in food production despite the recognised high European production standards and its greater climate efficiency. This situation suggests that food safety standards could be undermined, especially if proper control and enforcement mechanisms are not in place, which is yet another contradiction.

Although, as mentioned at the beginning of this section, there is a verbal intention to guarantee food safety (Anglin Treat, Sharon, 2020) and standards and an approved socio-environmental origin of the products, there are no control or compliance mechanisms that can guarantee them. The EUMAA does not include legally binding clauses or mechanisms in its chapter on trade and sustainable development, although these are present in other chapters.

We are facing processes of discursive contestation manifested in the normative inadmissibility of the terms of the EUMAA and the reaction to potential violations of European norms and standards.

The origin of the contestation is at the intra-EU level, given that the primary opponents of the EUMAA were European NGOs. In a second stance, this contesta-

tion evolved and reached a consensus at the national political level, which concluded in the governmental blockade of the ratification process. This also reveals the process of politicisation as a mechanism of practical contestation. Regarding the modes of contestation, as was mentioned above, the forms of contention and justification were widely deployed. The containment implies the politicisation of the issue given its social relevance, which implies a consequent political mobilisation against the EUMAA. Numerous organisations deployed their protest mechanisms, speeches and campaigns on social networks to increase popular support and reinforce opposition to the EUMAA. The justification mode was also deployed. The contestation act questions the need to agree with the MERCOSUR based on other normative elements (preservation of European standards of food quality, ecological impact mitigation).

In consequence, the justification mode implies two elements. In the first place, the contestation did not propose new norms but the maintenance of those in force at the European level. The Agreement was innovative, and that innovation would not signify an improvement in the European standard of living (at least for the mobilised sectors). Secondly, the contestation process sought to show the contradictions between the EUMAA with current rules and regulations, most notably the EU Green Deal, the Farm to Fork framework and the Common Agricultural Policy.

These justifications based on the contradictions between instrumental policies of the EU related to environmental protection and the defence of the European agricultural sector are a crucial point when it comes to an understanding its impossible ratification. Elements such as a greater harmonization between the blocks on issues like food standards or livestock production regulations can improve the EUMAA opportunities, at least from the more technical critics.

In this case, the effect of the contestation generate a erosion in the reputation of the Commission when it comes to concreting these types of agreements has been eroded by functional issues; the negotiation and ratification process of deep trade agreements is much more complicated and tedious. Other elements affect the repu-



tation like the omission or failures to cover all the procedural norms<sup>5</sup> In this case, the European Commission was denounced and found guilty of maladministration by the European Ombudsman. (European Ombudsman, 2021) Consequently, it can be said that, considering the proposed model, when it comes to CFSP issues that require ratification by each of the national parliaments<sup>6</sup> (even in the case of Belgium, ratification by regional parliaments is required) Under the theoretical model, the EUMAA shows a Hegemonic Structure. European actors' will and support to sign the free trade agreement with Mercosur were clear. The Agreement incorporated normative elements; norms were incorporated, diffused between the blocs, and regulations to encourage trade liberalization were homogenized. However, after the political Agreement, it faced the opposition of CSOs who managed to generate enough social support to transform the structure and build a situation of Normative Congruence. This drift and the failure of the Commission to promote the EUMAA internally shows the limitations of the EU as a normative power but, at the same time, increases the internal legitimacy of the EU since it can be seen closer to the citizenship.

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<sup>5</sup>One of the events that represented a violation of the procedural rules was the failure to finalise a "sustainability impact assessment" (SIA) before concluding negotiations on a trade agreement. The complainants claimed that by failing to finalise the assessment, the Commission disregarded its own guidelines on SIAs and violated EU law. The EU ombudsman concluded that the Commission proceeded by committing maladministration. The SIA was finally completed by the London School of Economics and submitted in March 2021. In consequence, the SIA saga has been a major impact to the agreement since its signature and will require further communication efforts by the Commission to be solved.

<sup>6</sup>TFEU - Art. 207

# 6

## Conclusion

### 6.1 Research Aims

Under consideration of the extensive theoretical framework developed, its conceptualisation and operationalisation as well as its application in the selected empirical cases, we must return to the questions that were outlined at the beginning of this thesis in order to obtain answers that will clarify the situation around the issue. Responding first to the initial formulation of the study topic under consideration

- To what extent is the European Union a normative power with regard to the external promotion of norms and values in third countries since the Treaty of Lisbon?

Whether through the promotion of contested norms, norms that have lost institutional support or that have been opposed by other international actors, and despite the strategic and agenda changes that seem to be guiding the CFSP in a different direction from the EU, the European Union's power to promote norms and values in third countries is not so strong as appear in previous stages of the integration. The theoretical elaborations of the NPE served to explain the period in which the EU was expanding its membership and diffusing norms across Europe in the after-match of the URSS disintegration. However, the loss of strength does not imply the loss of normative identity. We can highlight the normative charac-

ter of EU foreign policy, which we have already made evident at the constitutive and empirical levels as developed in the preliminary sections. This characterisation predates the Lisbon Treaty. However, it has taken on independence and proactivity since the functional changes that took place after 2007, especially by the creation of the HR and the EEAS. Both elements imply a diplomatic bureaucracy that is more independent and proactive in terms of the EU's objectives and promotes a gradual evolution of norms and values. Repeating some insights of the previous section, the identity of the EU is redefined constantly by processes of internal contestation and politicisation, as evidence of that, the EU foreign policy seems to have developed certain level of independence by the CFSP and the CSDP. In a counterpoint to Ian Manners' premise that "the EU should be understood for what it is in the international system and not for what it says or does", it would seem that, as changes in the international system and in the EU's objectives generate changes in identity, its foreign policy loses normative features, mainly since 2016 when the discourse of strategic autonomy occupy more and more space in the EU objectives, and particularly in the areas of CSDP and trade policy. In the cases analyzed, we were able to observe how normative influence is attempted to be projected outwards in both multilateral and bilateral arenas. We also found that in some cases this influence can be effective, but in others it can fail because contestation happen mainly on standards that define regulatory issues (level 3 standards) and imply an unacceptable change to the quality of life or lifestyle of politically mobilised sectors.

- Which policies does the EU deploy, in its External Action, in order to promote norms and values?

On this point, the present thesis concentrated more on the process of such normative projection and covered experiences where different mechanisms were unveiled. In the case of Environmental Policies, the EU has a leading role, mainly by promoting and setting the agenda in international conferences under the protection of internally maintaining a strict and committed environmental regulation that serves as an example for other actors. The commitment maintained over time is also a mech-

anism for the diffusion of norms among other actors. It seems of utmost importance to recognise the reasons of urgency that promoted the commitment of the European position in the climate change mitigation negotiations and the moral obligation to recognise the CBDR approach as a way to address the issue in a truly global and cosmopolitan way.

In the area related to trade policy in the first stage, we can detect a strong commitment to multilateralism, mainly anchored in the negotiating arena of the WTO. Since 2006, a higher level of bilateralism began to be perceived in trade agreements, which implied the expansion of the regulatory space of the common market. In this instance, what appears to be a contradiction it is not from the normative point of view. The EU promotes level 1 values when it adheres to the multilateralism; on the other hand, it promotes level 2 and 3 norms and regulations when it establishes deep trade agreements in order to generate certain regulatory homogeneity. Having said this, we can return to the case of the EUMAA to corroborate that even though the EU seeks to promote standards at the international level. In this case level 1 norms were already aligned between blocs EU and MERCOSUR. However, contestation over standards and regulations derived in strong contestation and suspended the agreement.

- Which limitations can we identify in the CFSP instruments in the processes of normative convergence and diffusion?

Can be expected certain normative convergence among officials of member states that hold memberships in several international institutions like the UN, the EU or NATO. These international organisations work as socialisation arenas promoting specific patterns of expected behaviour, and in consequence, normative convergence seems most likely to occur. However, this scenario only affects the involved bureaucracies and depends strongly on the legitimacy and commitment to the rules of procedure.

Naturally, it can be assumed that in the international arena, there are other powerful actors with other interests, often contradictory to their own. However,

this tautological explanation tells us nothing about the limitations of foreign policy instruments. The CFSP policies fundamentally depend on the legitimacy and coherence behind them and how other actors perceive them. The more holistic the proposals and the more integral their articulation are, the greater the number of actors that will endorse these norms, promote them, and sustain them over time. It seems that to the extent that foreign projection pursues less cosmopolitan objectives and intellectual frameworks based on zero-sum games, the less regulatory power the European Union will be able to project. The discourse of strategic autonomy seems to drive the EU in this way.

A realist view of strategic autonomy, which would imply an increase in material capabilities in the face of a much more unstable systemic context in terms of security and power projection, normative power can offer a different approach. Suppose a "normative" strategic compass opens the space for adopting a particular version of strategic autonomy. In other words, it is feasible that strategic autonomy can act as a reinforcement of EU normative power; there should be no limitations between the two concepts. Based on the case study on the role of the European position in multilateral negotiations, it is possible to envisage a version of strategic autonomy that would give the EU the capacity to act under the objectives of promoting rules-based multilateralism, human rights and ecological objectives in the context of global instability and increasing competition between actors.

Ultimately, normative power has an implicit weakness in the monitoring and enforcement phase. The reconfiguration of material capacities that underpin normative power can enhance compliance with those norms even through force if authorised by the UN Security Council, which would make normative power more credible and even contribute to making it a strategic instrument.

As has been mentioned on several occasions, the NPE implies the capacity to construct normalities, that is, to develop and establish norms that can shape the behaviour of other states. Focusing on a rules-based international order is both a principled conviction and a strategic instrument. However, limitations arose when

thinking about timeframes and expected outcomes. A normative power approach focuses on norm-setting and coalition-building for fair play, which in turn will depend on the sanctioning capacities of normative power.

Consequently, normative power helps develop the EU's strategic compass and is already well established in the EU's arsenal. Even if, in recent years, it has lost prominence in the political discourse, throughout this thesis, we have seen how NPE remains relevant. Although the EU and its member states do not always comply with the norms and values they impose on themselves, some features of normative power have become institutionalised in EU foreign and security policy. For example, the Treaty continues to provide a clear normative reference point for EU foreign and security policy. In this way, normative power continues to significantly influence how the EU behaves as an international security actor. An essential aspect of norm-setting is developing a multilateral framework for upholding norms, process that the EU are committed to maintain. Strategic autonomy cannot be reduced to a reconstruction of material capabilities or the specification of what kind of missions the EU may or may not authorise. A broad conceptualisation of what strategic autonomy entails must consider how the EU positions itself as a normative geopolitical actor. While measures that would strengthen the EU's material capabilities are important, the Strategic Compass presented as a guide for the CFSP could use the NEP as an instrument.

Another of the criticisms outlined from abroad by the NPE is that "Europe of normative power" is a platonic ideal. Taken as a statement of fact, it whitewashes the EU's foreign policy and ignores the paternalistic and neo-colonial undertones of that policy. It whitewashes the EU's foreign policy, ignores the paternalistic and neo-colonial undertones of that policy, and portrays other actors in the system (including allies like the US) as grotesquely realistic unprincipled rationales. A careful and systematic reading of the EU's role in world affairs suggests a much more mixed and nuanced story than the heroic image of the 'Europe of normative power'. However, it is hard to argue against the positive role of the EU and its

Member States in human rights, democracy and the rule of law.

The academic discussion over the EU foreign policy and NPE has entered a stage in which scholars understand it not as an ideal type but as a falsifiable research agenda. The actual NPE academic approach seems to hold the EU politically accountable for its foreign policy and understand the conditions and ways in which the EU projects or does not project its values in contemporary international relations.

Unfortunately, such a research program must also confront that the EU's liberal values are increasingly questioned and threatened both inside and outside the Union. In an era of reemerging populism, fundamental European values are under threat from both sides of the political spectrum.

This rise of illiberalism in the heart of Europe, and the toleration of such illiberalism by EU institutions and member states, poses a double threat to the Europe of normative power. At the level of preferences, it raises the question of whether the EU will be able to reach a consensus on the definition and projection of the fundamental values of the Union. In contrast, at the global level, it offers reasons to question whether a divided Union that tolerates illiberalism within its borders can continue to serve as a normative example for the rest of the world.

## **6.2 Future Research**

Naturally, at the conclusion of this work, I consider that many open lines of research can be treated in depth by future research. The incorporation of conditional normative clauses treaties can be a research topic by itself. Also, the promotion of norms at the international level but at a level that does not directly affect the states and the individuals are closely related to international criminal offences with the regime of sanctions on natural persons recently established by the European Union. Lastly, it should be noted that the selected cases are not exhaustive of the foreign policies of the European Union. I understand that many other areas can be analysed in search of normative content, including its evolution. The processes of internal contestation that the European Union suffers from its Member States on procedural rules but

also some fundamental values are exciting elements for future research and that I understand could also be analysed within the model proposed in this thesis.



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