# Detecting Looming Vetoes: Getting the European Parliament's Consent in Trade Agreements

# Online Annex

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## 1. List of Interviewees

| | | | |
|---|---|---|---|
| 1 | Official of the European Commission, DG Trade | 3 April 2019 | Brussels |
| 2 | Parliamentary Assistant to a Member of the European Parliament | 8 April 2019 | phone |
| 3 | Member of the European Parliament, INTA committee | 15 April 2019 | phone |
| 4 | DG Trade, Commission official | 2 May 2019 | Brussels |
| 5 | Joint Interview with three officials of the European Commission | 6 May 2019 | Brussels |
| 6 | Parliamentary Assistant to a Member of the European Parliament | 18 January 2019 | phone |
| 7 | Official of the European Commission | 3 March 2020 | phone |
| 8 | Official of the European Commission (follow-up with Interviewee 5) | 3 March 2020 | Brussels |
| 9 | Official of the European Commission (follow-up with Interviewee 5) | 3 March 2020 | Brussels |
| 10 | Official of the European Commission, DG Trade | 4 March 2020 | Brussels |
| 11 | Manager, DG Trade, European Commission | 10 March 2020 | Brussels |
| 12 | Official of the European Commission, DG Trade (follow-up with Interviewee 1) | 25 March 2020 | phone |

## 2. Ranking Exercise

*2.1. Questionnaire*

Dear Mr/Ms…,

many thanks for taking your time for our interview today. As a final brief exercise, I would like to ask you to do a small ranking exercise. Below, you find **ten channels** which, according to my research, are at the European Parliament's disposal to express concerns or dissatisfaction with the direction of negotiations. Please rank these channels from the most **important one** with a score of **1** to the **least important one** with a score of **10**. Of course, it is possible to allocate the same score to several channels:

☐ Parliamentary Question

☐ Letter written by the rapporteur to the Commission

☐ Letter written by the shadow rapporteur to the Commission

☐ Letter written by the INTA committee chair

☐ Committee report of the INTA committee

☐ Resolution published by the plenary

☐ Bilateral meeting between a Commission official and a MEP

☐ Bilateral meeting between a Commission official and a committee chair

☐ Bilateral meeting between a Commission official and a party leader

☐ Speech delivered by a MEP in the plenary

If you want to, you can elaborate on your answer (optional, bullet points are fine as well):

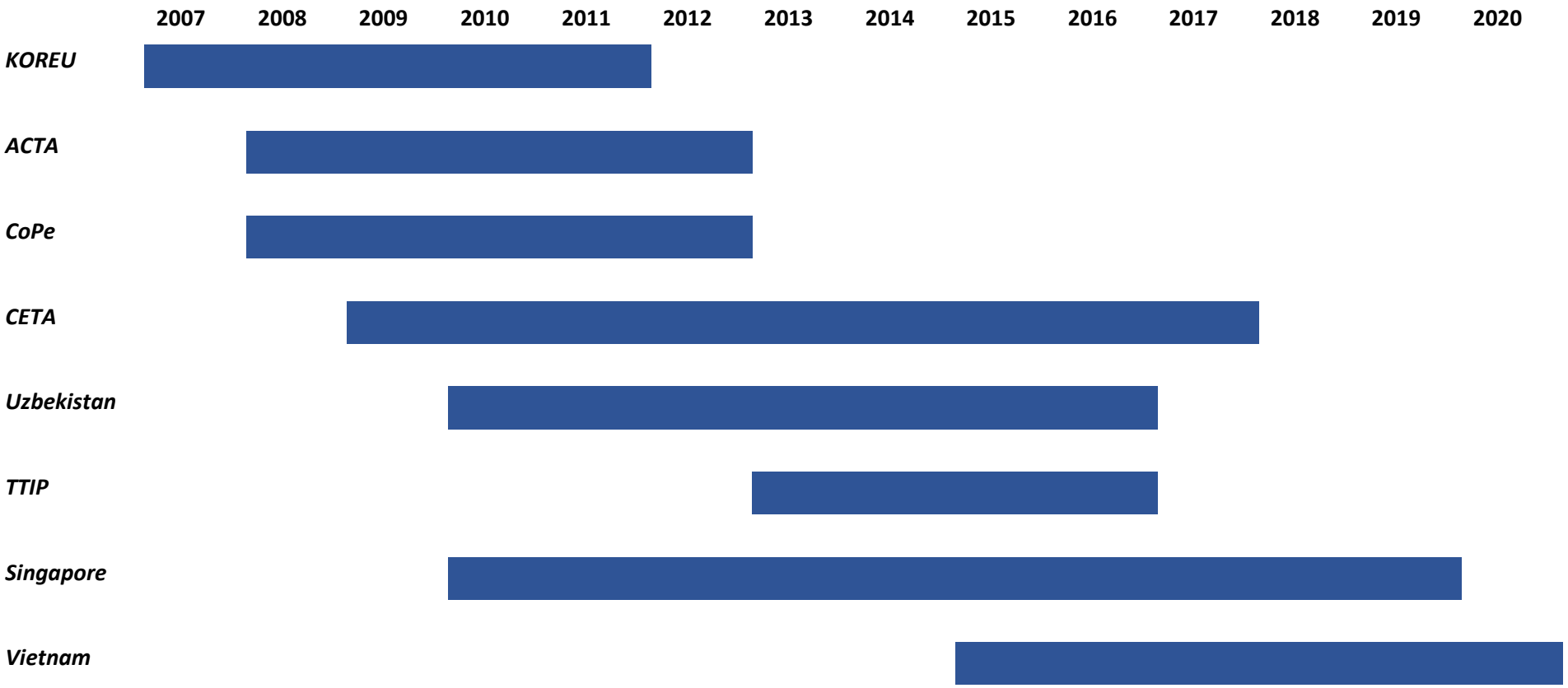
Thank you very much!

*2.2. Ranking Exercise: Results*

| | Median | Minimum | Lower Quartile | Upper Quartile | Maximum | Mode |
|---|---|---|---|---|---|---|
| *Resolution* | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| *INTA report* | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 |
| *Letter by INTA chair* | 3.0 | 2.0 | 2.0 | 3.0 | 7.0 | 3.0 |
| *Letter by Rapporteur* | 4.0 | 2.0 | 3.0 | 5.0 | 7.0 | 4.0 |
| *Bilateral meeting between a Commission official and the INTA chair* | 4.0 | 1.0 | 2.5 | 6.5 | 9.0 | 4.0 |
| *Letter by Shadow Rapporteur* | 5.0 | 4.0 | 5.0 | 5.5 | 7.0 | 5.0 |
| *Meeting between a Commission official and a MEP* | 5.5 | 2.0 | 2.5 | 7.5 | 10.0 | 2.0 |
| *Parliamentary Question* | 6.0 | 4.0 | 5.0 | 6.5 | 8.0 | 6.0 |
| *Bilateral Meeting between a Commission official and a group leader* | 6.5 | 1.0 | 3.5 | 7.5 | 10.0 | 5.0, 7.0 |
| *Speech by a MEP in the plenary* | 6.5 | 2.0 | 3.5 | 7.5 | 9.0 | 7.0 |

**Total number of replies: 8**

### 3. Timeline of Cases




(Source: Authors' own compilation)

## 4. Process Tracing

*4.1. Causal Mechanism: Operationalization*

In order to test our causal mechanism in "empirical waters", we operationalized each step of the mechanism by defining the observable manifestations ("empirical fingerprints") of each step and the evidence needed to (dis) confirm a step. This means that we translated each theoretical step into carefully formulated expectations which were then transferred into case-specific observable implications whose presence/absence we were testing. This approach has been put forward by Beach and Pedersen (2010) in order to assess the quality and the meaningfulness of the evidence gathered. In following this structured approach, we ensure that we avoid "story-telling", a pitfall which often haunts researchers applying process tracing. Thus, by pre-defining how each step of our mechanism manifests in practice before diving into the cases, we ensure a thorough analysis, thus guaranteeing the transparency and trustworthiness of our analysis.

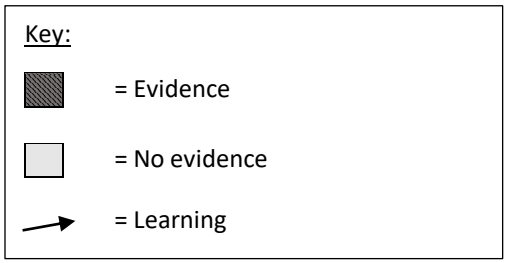
| Step of the causal mechanism | Observable manifestations (empirical fingerprints) | Evidence needed to (dis) confirm |
|---|---|---|
| *Signal assessment (n1)* | The Commission assesses the institutional atmosphere surrounding a trade negotiation by considering the multitude of voices raising a certain issue, the salience of an issue for institutional stakeholders, the frequency with which an issue re-emerges in institutional debates, and the timing of an issue being raised. | The Commission assesses the institutional atmosphere surrounding a trade negotiation by considering:<br>▪ Lobbying efforts *(the multitude of voices raising a certain issue*);<br>▪ Group coherence in the EP (*the multitude of voices raising a certain issue*);<br>▪ Issue salience or topical triggers, meaning that particular topics activate certain players such as specific party groups (*the salience of an issue for institutional stakeholders*);<br>▪ Distribution of parliamentary questions (*the frequency with which an issue re-emerges in institutional debates*);<br>▪ Whether an issue was aggravated before or after the official conclusion of the negotiations (*timing*). |
| *Signal interpretation (correct or incorrect) (n2a/n2b)* | The Commission responds to the signals assessed during step 1. It does so based on a strategic assessment of the support it needs for ratification as well as its experience in persuading MEPs. | The Commission tailors its response to the signals by:<br>Responses can entail:<br>▪ Ignoring the demand (*calling the bluff)*<br>▪ Counter-arguing *(Persuasion: invoking the expected benefits, appealing to joint responsibility, common values )*<br>▪ Offering compromise proposal<br>▪ Yielding *(accepting the demands without pushback)* |
| *Institutional pacification (ya)* | A majority of MEPs are convinced by the Commission's response and will support the negotiated outcome. | The agreement is ratified. MEPs attribute the ratification to the Commission's response to their demands. |
| *Institutional escalation (yb)* | A majority of MEPs is not convinced by the Commission's response and wish to sanction the Commission in response. | The European Parliament sanctions the Commission by:<br>▪ Rejecting the agreement;<br>▪ Postponing ratification (*freezing*); |

| | | |
|---|---|---|
| | | ▪ Requesting the Commission to reopen the negotiations<br>Each of these result in a loss of credibility of the Commission as a negotiator |
| *Learning (yx)* | The Commission reforms its information-processing capacities to better assess future signals emitted by the EP. | The Commission updates the Early Warning system,<br>by expanding:<br>▪ Its institutional network;<br>▪ Its external network;<br>▪ Its resources (staff), or<br>by updating<br>▪ Its internal structure of forwarding information;<br>▪ Its assessment of credible threats |

Based on: Beach, D. & Pedersen, R. B. (2010). *Observing Causal Mechanisms with Process-Tracing Methods – The Benefits of Using a 'Mechanism' Understanding of Causality* (Conference Paper presented at the American Political Science Association 2010 Annual Meeting, Washington DC). SSRN, Elsevier.

*4.2. Cases overview*

| Step | KOREU, 2011 | CoPe, 2012 | ACTA, 2012 | Uzbekistan, 2016 | TTIP (n.c.) | CETA I, 2009-2014 | CETA II, 2015-2016 | EU-Singapore Agreement, 2019 | EU-Vietnam Agreement, 2020 |
|---|---|---|---|---|---|---|---|---|---|
| | *Institutional Pacification* | | | | | | | | |
| *n1 Signal assessment* | | | | | | | | | |
| *n2a Correct signal interpretation* | | | | | | | | | |
| *nya institutional pacification* | | | | | | | | | |
| | *Institutional Escalation* | | | | | | | | |
| *n1 Signal assessment* | | | | | | | | | |
| *n2b Incorrect signal interpretation* | | | | | | | | | |
| *yb Sanction* | | | | | | | | | |
| *yx Learning* | | | | | | | | | |



*4.3. Evidence per case*

*4.3.1. EU-Korea Agreement (2011)*

| Step | EU-Korea Agreement, 2011 |
|---|---|
| *n1*<br>*Signal assessment* | Already during the pre-negotiation phase, the Korean negotiating team around Chief Negotiator Kim Han-Soo made it clear that duty-drawback (DDB) which the Commission had included in the initial proposal was a red line for the Koreans (Interview 12). At the Civil Society Dialogue on 11 March 2009, the European car sector, most notably the European Automobile Manufacturers Association (ACEA) discovered DDB as a fruitful lobbying ground to bring the negotiations to a halt (DG Trade, 2009; Interview 12).<br>→ Reason: Strategic choice (issue would not be solved easily; magnify the issue of exporter discrimination, thereby mobilising other industry groups; Korea had already made concessions on other issues)<br>**→ Hence: strong lobbying efforts by interest groups from the very beginning signalled a high threat potential.**<br><br>Additionally, MEPs **had not been very active throughout the negotiations** and had only produced one resolution on 10 March 2010 which was highly supportive of the negotiations and did not even mention DDB (European Parliament, 2010). As our interviewees unanimously ranked the resolution as the most important parlimanetary signal, this inaction in producing resolutions was taken as a measure of latent support. Moreover, not much interaction had taken place between INTA and DG Trade as the latter's inter-institutional unit was still in construction (Interview 1; Marangoni, 2013, p. 41). **This meant that, although lobbying indicated a high threat potential, the Commission did not yet fear a looming veto.**<br><br>Over the course of 2009/2010, the car lobbyists placed a particular focus on Italy where Fiat, Italy's leading car company, had a particularly high degree of interest in avoiding a DDB provision (Interview 1). The Italian deputies in the Council's Trade Policy Committee (TPC) therefore quickly turned into the epicentre of ACEA's large-scale lobbying campaign (Interview 12). Under the pressure of these lobbying efforts, the national delegations in the Council split into two camps.<br><br>**Significantly, this lobbying pressure spilled over to the European Parliament:** On 23 June 2010, INTA adopted no less than 54 amendments during its first legislative reading on its own-initiative report. Most of these amendments were put forward by Italian and German MEPs and were formulated with a strong language on transparency and on Parliament's right to implement trade legislation. While a majority of parliamentarians coming from the centre-right parties (most notably from the EPP and ALDE) was still supportive of the agreement (Interview 12), the S&D began to lose its **group cohesion** (Interview 2; Interview 3). The INTA report as the second most important parliamentary signal thus indicated **shifting majority ratios in the EP** and meant that there was **veto player alignment with the Council**.<br>At the same time, the agreement's **safeguard mechanism** and DDB became a **recurring topic** as an analysis of the parliamentary questions reveals (safeguard mechanism: 34.61%; TSD: 19.23%; intellectual property: 11.53%). Parliamentary questions which were ranked to be medium important by our interviewees hence serve as a tool to capture the frequency with which a topic is brought up. |

| | | |
|---|---|---|
| | | **The Commission**, which had mainly focused on the Council and on its horizontal network with the INTA committee, **was taken by surprise**. As the lead negotiator of the agreement recalled when reporting to INTA after a negotiation round,<br><br>> I was a little bit surprised because my only point of reference was a very supportive resolution […but…] then practically all Parliamentarians […] support the position of the car industry, saying 'This really needs to be looked at carefully, because we are very concerned that such an important sector like the car industry is against this agreement'. (Interview 1) |
| *Institutional Pacification* | *n2a*<br>*Correct signal interpretation* | Nevertheless, our Commission respondents stressed that they **did not perceive this situation to constitute a veto threat**. As KOREU was the first trade agreement after Lisbon which was subject to a parliamentary vote, our respondents emphasised that they expected the European Parliament to behave as a "sensible" and "responsible" partner (Interview 1; Interview 4; Interview 7; Interview 11; Interview 12). Next to resolutions, reports and letters which are formalised signals in the sense that they are 'visible' to the 'outside world', our respondents stressed that bilateral personal meetings behind closed doors constitute the fifth most important signal to test the political 'heat' in the EP (Interview 11).<br><br>Indeed, already in July 2010, the INTA committee stressed that it would not be the one to "close the door on the agreement" (Kleimann, 2011, p. 23) and postponed a vote on its position to wait for the Council. Moreover, Vital Moreira, **then chair of the INTA committee**, **assured DG Trade officials in bilateral meetings that he would steer the agreement through the plenary despite the lobbying campaign**. Hence, there was an **intrinsic sense of institutional responsibility or institutional partnership in the European Parliament** which the Commission could capitalise on.<br><br>DG Trade officials relied on the EWS by engaging into bilateral talks with key players, most notably Vital Moreira (S&D, PT), then chair of the INTA committee, as well as with Pablo Zalba Bidegain (EPP, ES; rapporteur for the safeguard issue), Robert Stury (ECR, UK; rapporteur for the assent procedure), Jonas Fernández (S&D, ES; rapporteur for the socialists), David Martin (S&D, UK; group leader) and Daniel Caspary (EPP, DE; coordinator of INTA). During these meetings, Commission officials stressed the mutual interest to ratify the agreement.<br><br>During informal trilogue negotiations over the course of July to October 2010, the Commission remined the European Parliament that, in case of a rejection, "**everybody has to take the responsibilities**" (Interview 9). Likewise, the Commission offered a public statement in which it ensured that it would provide yearly reports on the implementation of the safeguard clause. Thereby, the Commission self-entrapped itself in a promise; **a low-cost strategy to increase the cost of rejection for the Parliament** (European Parliament, 2011; European Commission, 2011). |
| | *nya*<br>*Institutional pacification* | The Commission could bring the **European Parliament on board even before the Council** (Interview 12). On 5 October 2010, one day before the official conclusion of negotiations, INTA retreated from many of its demands while those which found their way into the agreement did so in a toned-down version (Kleimann, 2011, p. 24). On 26 January 2011, three weeks before the final ratification, INTA adopted a resolution which formalised this "remarkable political compromise" (ibid.). **The agreement was finally accepted on 17 February 2011 with 465 votes to 128 and 19 abstentions** (European Parliament, 2011). |

| | | |
|---|---|---|
| *Institutional Escalation* | *n2b*<br>*Incorrect signal interpretation* | |
| | *nyb*<br>*Sanction* | |
| | *yx*<br>*Learning* | In response to KOREU where lobbying efforts had easily spilled over to INTA despite reporting back to the committee occasionally, **more regular channels of communication** were introduced to improve the flow of information between DG Trade and the INTA committee in order to get an early read of the actors trying to influence the EP (Interview 7; Interview 9; Interview 10). So-called **monitoring groups** were launched in 2011 following an ALDE initiative (Kerremans et al., 2019, p. 13). As monitoring group meetings are held *in camera* and provide the Commission with an opportunity to report in detail on the progress of a negotiation, they are a way to feel the "political heat" within the EP (Interview 11; Puccio & Harte, 2018, pp. 400-401). Thus, monitoring groups were a way to **extend the institutional pillar of the early-warning system** by helping the Commission to get a first indication of what issues have the potential to be more contentious and how contentious they already have become. |

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*4.3.2. EU-Colombia-Peru Agreement (2012)*

| Step | | EU-Colombia-Peru Agreement, 2012 |
|---|---|---|
| *n1*<br>*Signal assessment* | | Because Colombia and Peru have long records of human rights violations and were repeatedly criticised for their low labour standards, the issues of human and labour rights attracted **vocal criticism from NGOs from the very beginning**. This criticism took off immediately after the Commission had announced the official start of negotiations on 13 November 2008 (Fritz, 2010, p. 7) but could only be voiced to the Commission at the first and only CSD on the CoPe agreement. This CSD was held 12 April 2011, i.e., *after* the negotiations had officially been concluded on 19 May 2010. Thus, vocal criticism by civil society erupted during but even more so after the conclusion of the negotiations (Dijkstra, 2017, p. 23) (**timing**). This late-stage voicing of criticism rendered it more difficult for the Commission to address the issues under scrutiny as this would have necessitated to re-open the negotiations.<br><br>Significantly, the **human rights issues acted as a topical trigger for parliamentarians from the left** such as the GUE/NGL and the Greens. Yet, due to the prominence of these human rights concerns following mass assassinations of trade unionists in Colombia in 2008 and 2009 (Fritz, 2010, p. 7), also larger parts of the S&D (the Austrians, the Belgians, the French, and the Italians) began to criticise the agreement with Colombia and Peru (→ **declining group cohesion and thus shrinking majority ratios).**<br><br>Additionally, over the course of June to November 2011, **parliamentary interest** in the human rights situation in Colombia and Peru peaked. This became visible in the form of parliamentary questions which were mainly raised after the official conclusion of negotiations. With 71.21%, the sustainable development basket was by far the largest . These questions were mainly asked by members of the left. The EPP, ALDE and the ECR were more interested in market access for goods and technical barriers to trade. |
| *Institutional Pacification* | *n2a*<br>*Correct signal interpretation* | The Commission perceived human and labour rights **to be uncontentious** and, like during KOREU, **did not fear a veto**: Although lobbying efforts had aggravated the human rights issue, personal **contacts with parliamentary key players** offered the impression that many MEPs from the more neo-liberal parties (EPP, ALDE, ECR) were not willing to reject a trade-beneficial agreement because of human rights issues. Instead, centre-right parties emphasised that a **human rights roadmap** which could be added to the agreement as a separate document would suffice (Dijkstra, 2017, p. 24). This gave the Commission the impression that the European Parliament "never made it a condition to change the agreement" (Interview 7).<br><br>Having interpreted these signals, the Commission sought to pacify a potential rejection **by appealing to institutional responsibility and by formalizing concessions through public statements**, thus raising the cost of rejection for the European Parliament. In its **follow-up fiche to the EP's resolution of 13 June 2012,** the Commission officially recognised the need to "assist the governments of Colombia and Peru in the establishment and implementation of a roadmap" (European Commission, 2012; European Parliament, 2012a). It also took a strong public stand on the human rights situation in Colombia and Peru and supported the European Parliament's position publicly. At the same time, the Commission **negotiated stronger civil society mechanisms**. The final CoPe agreement now includes a sub-committee on sustainable trade and development which convenes once a year (Art. 282), unilateral Domestic Advisory Groups (Art. 281) and bilateral civil society meetings. |

| | | |
|---|---|---|
| | *nya*<br>*Institutional pacification* | At the day of ratification (11 December 2012), those MEPs which were still opposing the agreement thus had to decide whether they wanted to take this compromise, thereby upholding their institutional honesty or whether they still wanted to reject it. **A remarkably large majority of MEPs (72%) voted in favour**. Parliament's final resolution explicitly referred to this decision by stating that "new powers regarding international agreements […] bring new responsibilities" (European Parliament, 2012b). |
| *Institutional Escalation* | *n2b*<br>*Incorrect signal interpretation* | |
| | *nyb*<br>*Sanction* | |
| | *yx*<br>*Learning* | |

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*4.3.3. ACTA (2012)*

| Step | | Anti-Counterfeiting Trade Agreement, 2012 |
|---|---|---|
| | *n1*<br>*Signal assessment* | Already when Commission officials were designing the Lisbon Treaty in 2007, **there was the general feeling that "the Parliament would block a…trade agreement and it turned out to be ACTA"** (Interview 11). However, the actual negotiations which had started on 1 June 2008 were quite uncontroversial. Although a few interest groups occasionally pointed to ACTA's lack of transparency, **the waters were calm between 2008 and 2010**.<br><br>Indeed, over the course of the negotiations, **the Commission could rely on the EP's long-term support** which had been formalised through various **resolutions**. Thus, the resolution on counterfeiting of medical products of 7 September 2006 had "call[ed] on the Commission to go beyond its 'Strategy to enforce intellectual property rights in third countries'" (Art. 2) (European Parliament, 2006). The resolution of 18 December 2008 had been even more supportive and had merely reminded the Commission to consider the multilateral framework negotiated under TRIPS (European Parliament, 2008). In its follow-up fiche, the Commission had explicitly "welcome[d] the support of the European Parliament to the need for further harmonisation of existing laws" (European Commission, 2008). In 2010, the plenary even rejected a resolution put forward by the left that was critical of ACTA (Dür & Mateo, 2013, p. 1213). Instead, it adopted its resolution of 9 September 2010 which recognised ACTA "as a tool for making the existing standards more effective" (Art. 7) (European Parliament, 2010). **In the eyes of the Commission, these supportive and strong signals in the form of resolutions rendered it unlikely that Parliament would reject ACTA** (Interview 12).<br><br>In fact, **a coalition of EPP, ALDE and ECR MEPs still supported the agreement until late April 2012** (Matthews, 2012, p. 5). |
| *Institutional Pacification* | *n2a*<br>*Correct signal interpretation* | |
| | *nya*<br>*Institutional Pacification* | |
| *Institutional Escalation* | *n2b*<br>*Incorrect signal interpretation* | The **large-scale anti-ACTA campaigns** which rendered the agreement (in-) famous only took off in December 2011, after eight countries had already signed the agreement on 1 October 2011 (**timing**) (Dür & Mateo, 2013, p. 1202). These protests were triggered by successful street protests in the US against the Stop Online Piracy Act (SOPA) and the Protect IP Act (PIPA) (Interview 10, p. 7). After the US Congress rejected both bills in December 2011, public criticism **spilled over to Europe** where ACTA was perceived to be similar to the rejected bills (Losey, 2014, p. 213). Over December 2011, a **massive social media campaign** unfolded in many European member states (Interview 10; Interview 11; Dür & Mateo, 2013, p. 1202; Haggart, 2014, p. 76).<br><br>**This massive public uproar spilled over to the European Parliament** as public opinion "created a tsunami, a type of weight that the Parliament was not prepared to resist" (Interview 11). As a result, **the issues which concerned the public became reflected** |

| | | |
|---|---|---|
| | | **in the parliamentary questions**: 24.39% of questions criticised ACTA for its lack of transparency, 13.41% of questions referred to the issue of criminal sanctions, while 9.75% doubted ACTA's compatibility with the EU *acquis*. Importantly, an increasing amount of these questions was put forward by MEPs from the more trade-positive centre-right parties. In the case of ACTA, parliamentary questions thus did not only serve as a signal of the frequency with which a topic was taken up by the MEPs. Even more so, questions served as am indicator of how far public protest had already 'torpedoed' the ranks of the plenary.<br><br>Within the European Parliament, it was once again the S&D group which became split along national lines (**decreasing group cohesion**). In particular, the German social democratic delegation, then headed by Udo Bullmann, stressed in its interaction with DG Trade that it could not support the agreement as early as February 2012 (Interview 10).<br><br>**The Commission attempted to de-escalate the situation similarly to KOREU and CoPe**, namely by **interacting with key players in the INTA committee** and by **appealing to Parliament's sense of institutional responsibility**. Thus, it was once again Vital Moreira, chair of the INTA committee, who acted as the main key player. In fact, until the final plenary session, Moreira was one of the very few who pleaded to support the agreement (Interview 11). Additionally, DG Trade interacted with the group coordinators and appealed to them to bring the agreement through the plenary (Interview 3).<br><br>However, **civil society actors continued to raise the political pressure**. In April 2012, La Quadrature du Net developed a Political Memory tool, an open-source tool that allowed citizens to track their MEP and their view on ACTA (Losey, 2014, pp. 219-220). MEPs that still supported ACTA became **entrapped** by close public scrutiny, meaning that it became difficult for them to still vote in favour (Interview 3). On 27 April 2012, ALDE leader Guy Verhofstadt therefore publicly declared that ALDE would join the anti-ACTA campaign. In a way, ACTA thus had become **the "perfect storm"** (Interview 10), i.e., "an agreement which was easy for the Parliament to strike down" (Interview 11) (→ **low cost of rejection**). |
| | *yb*<br>*Sanction* | As of then, the parliamentary committees involved in ACTA fell like dominos: On 31 May 2012, the committee on Industry, Research and Energy, the committee on Legal Affairs, and the committee on Civil Liberties rejected ACTA, followed by the committee on Development on 4 June and by INTA on 21 June. **On 4 July 2012, the plenary rejected ACTA with a majority of 63.6%.** |
| | *yx*<br>*Learning* | The negative experience of ACTA but also KOREU and CoPe ignited a **reform process** within the Commission as it had become clear that the early-warning system required recalibration (Interview 12). ACTA in particular had shown that **greater engagement with civil society** but also **better communication with the European Parliament** were necessary.<br><br>Next to setting up monitoring groups after the KOREU experience, the Commission allocated **more resources** to the units dealing with Parliament and civil society. For example, the negotiation teams received more staff to better keep an eye on Parliament (Interview 7; Interview 10), while the communications unit began to interact more with civil society by constructing a network with national and regional journalists, NGOs, and civil society actors in the member states (Interview 11). **As one interviewee stressed, "since then, my sense is that we would really have to be a little bit blind if we [would] not identify that [something] is problematic"** (Interview 1). |

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*4.3.4. Uzbekistan (2016)*

| Step | | Textile protocol to complement the EU-Uzbekistan Partnership and Cooperation Agreement of 1999 (2016) |
|---|---|---|
| *n1*<br>*Signal assessment* | | The negotiations between the Commission and the Uzbek government which had started on 9 June 2010 were already officially concluded in April 2011 (Interview 8; Yunusov, 2014, p. 5). **It was thus expected that the protocol would be ratified quickly (EPRS, 2018).** |
| *Institutional Pacification* | *n2a*<br>*Correct signal interpretation* | |
| | *nya*<br>*Institutional pacification* | |
| *Institutional Escalation* | *n2b*<br>*Incorrect signal interpretation* | However, disputes sped up in civil society regarding the issue of child labour in the cotton industry. Even though Uzbekistan had ratified the Worst Forms of Child Labour Convention (No. 182) in 2008 and the Minimum Age Convention (No. 138) in 2009, child labour continued to exist in the textile business (Yunusov, 2014). As in the case of Colombia and Peru, civil society actors, most vocally Save the Children, brought this issue to the EP's attention where mainly leftist parties quickly adopted this criticism (→ **lobbying spill-over**).<br><br>Moreover, similar to the CoPe negotiations, the social democrats once more had to decide on whether to be a responsible coalition partner of the EPP by voting the protocol through or whether to stay true to the social democratic ideal of strengthening sustainable development issues in trade policy. **Due to the salience of this issue for social democratic voters**, large parts of the S&D threw their weight behind the critical voices, thus negatively impacting the **group cohesion** of the S&D (Interview 8; Weitz, 2018, p. 49). |
| | *nyb*<br>*Sanction* | Because the Parliament was now split almost evenly into supporters and opponents, **the ratification of the protocol was delayed by five years from 2011 to 2016** – a reaction which came "pretty close to voting down" (Interview 9; Interview 11). |
| | *yx*<br>*Learning* | While the textile protocol with Uzbekistan was not as relevant as a trade agreement, especially considering that the actual Partnership and Cooperation Agreement was still in place, the experience of getting sanction by 'freezing' the protocol led to a change of action: On the basis of the EP's demands to have Uzbekistan ratify the two missing child labour conventions, **the Commission re-entered discussions with the Uzbeki government** "and slowly but surely they came to a decent solution" (Interview 8). As the International Labour Organization recognised Uzbekistan's progress in ratifying its conventions, the European Parliament could be convinced that this progress sufficed (ibid.). **In 2016, a majority of parliamentarians approved the protocol** (Interview 8). |

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*4.3.5. TTIP (not concluded)*

| Step | | Trans-Atlantic Trade and Investment Partnership (TTIP) |
|---|---|---|
| *n1*<br>*Signal assessment* | | After ACTA, the European Parliament showed a particular "appetite" for confronting its institutional counterparts (Roederer-Rynning, 2017, p. 9). The EP deliberately adopted its **first TTIP resolution on 23 May 2013** which was one day before the Council officially published the negotiating directives. Within the resolution, the section "the role of the Parliament" "recall[ed] that Parliament will be asked to give its consent to the future TTIP agreement" (European Parliament, 2013a, Art. 25), thereby already highlighting some "pre-ratification conditions" (Interview 8). Although the **resolution of 13 June 2013** was more supportive (European Parliament, 2013b), other stumbling blocks haunted TTIP immediately.<br><br>While several issues such as TTIP's regulatory standards or its lack of transparency resonated well with the general public (Interview 10; Interview 12), investor-to-state dispute settlement (ISDS) turned into the most hotly debated issue in the European Parliament.<br><br>Due to public fears regarding ISDS, the issue entered the European Parliament early on. Interestingly, although it was ISDS which would later turn into the "Achilles' heel of TTIP" (Interview 12), an equal number of questions, namely 12.26%, referred to both ISDS and the lack of transparency. Moreover, **the density of questions increased** following the first anti-TTIP protests. This development served as an early signal to the Commission that the political 'heat' in the EP was slowly beginning to rise. Interestingly, these questions came **from almost all party groups** with the exception of the S&D and the GUE/NGL . Hence, by March 2014, the Commission was facing a divided Council where Germany (due to the *Abhörskandal*), Austria (due to its vital NGOs) and France (fearing for its *exception culturelle*) were dissatisfied with the agreement (De Bièvre, 2018, p. 73). |
| *Institutional Pacification* | *n2a*<br>*Correct signal interpretation* | At the same time, MEPs from all party groups became sceptical of ISDS while a cross-national protest network had formed in civil society. Although the grand coalition of the S&D and the EPP in the European Parliament still stood firm (Roederer-Rynning, 2017, p. 520), TTIP was thus beginning to show the same characteristics as ACTA. As a result, **the Commission feared another veto** (Interview 10; Interview 12).<br><br>The Commission therefore **stalled the TTIP negotiations** between 17 March and 13 July 2014 **and launched a public consultation**. Within these four months, "[it] got 158.000 responses…at a time when normally [it] would get…300-600 replies" (Interview 11). 97% of these replies were against ISDS (Roederer-Rynning, 2017, p. 519). Furthermore, as the Commission was still negotiating the Comprehensive Economic Partnership Agreement (CETA) with Canada, the public strongly criticised the consultation as a "chill pill" (Dietz & Dotzauer, 2015, p. 19). **TTIP was ultimately "put in the freezer"** by US President Donald Trump on 8 November 2016 **and was never voted on** (Interview 6). |
| | *nya*<br>*Institutional pacification* | |

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| *Institutional Escalation* | *n2b*<br>*Incorrect signal interpretation* | |
| | *nyb*<br>*Sanction* | |
| | *yx*<br>*Learning* | Much of the politicisation surrounding the TTIP negotiations originated from organised civil society which zoomed in on issues that, heretofore, had not caused much controversy (ISDS). The creation of the informal TTIP Advisory Group, which was subsequently transformed into a Commission expert group, formalised the EU's access to societal input and aimed to better anticipate and respond to future sensitivities (Adriaensen, 2017). Similarly, initiatives to enhance transparency were deemed important to extend to other trade negotiations besides CETA and TTIP so as to avoid jeopardising its ratification (Bercero, Emberger & Vandenberghe, 2018). |

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*4.3.6. CETA I (2009-2014)*

| Step | | Comprehensive Economic Trade Agreement (2017) |
|---|---|---|
| *n1*<br>*Signal assessment* | | The negotiations on CETA which had begun on 10 June 2009 **had largely gone unnoticed**. While the European Parliament and civil society showed some interest in the negotiations, this interest concerned predominantly technical issues. Thus, during the two CSDs on 30 March 2011 and on 8 March 2012, civil society actors mainly debated labour issues and rules of origins yet did not even mention ISDS (DG Trade, 2011; DG Trade, 2012). Additionally, frequent interaction between the chief negotiator, the Director-General for Trade and the rapporteur meant that the **relationship between INTA and DG Trade was working "at the highest level"** (Interview 7). And yet, when TTIP was stalled, "the public attention needed to go somewhere and the next thing [it] jumped on was CETA" (Interview 11). As of August 2014, **CETA therefore "got sucked into [TTIP's] slipstream"** (Interview 8). |
| *Institutional pacification* | *n2a*<br>*Correct signal interpretation* | |
| | *nya*<br>*Institutional pacification* | |
| *Institutional escalation* | *n2b*<br>*Incorrect signal interpretation* | **The Commission was "wrongly confident**" (Hübner, Deman & Balik, 2017, p. 852) **that CETA would be ratified**. Although public opinion turned towards CETA between March and July 2014, **the Commission continued the negotiations**. Trusting in Parliament's long-term support for the agreement, the Commission misread the degree of politicisation and the contentiousness of ISDS in the Parliament. The political heat surrounding ISDS induced the S&D leadership to cast a vote on its official group line on 4 March 2015. Here, an overwhelming majority voted to oppose ISDS in TTIP and CETA (Siles-Brügge, 2018, p. 18). This **formalisation of the S&D position** had two important implications: First, it signalled that now **the entire social democratic group** – 185 MEPs in total – **was lost**, together with 52 Green MEPs and 52 GUE MEPs which were likewise opposing ISDS. Second, the vote signalled that "ISDS [had become] the Achille's heel of the traditional EPP-S&D grand coalition, driving a wedge not only between the EPP and the S&D, but also within the S&D" (Roederer-Rynning, 2017, p. 520). |
| | *yb*<br>*Sanction* | Due to these fault lines, **the plenary vote on CETA** which was originally scheduled for 10 June 2015 **had to be postponed** (ibid., p. 521). Instead, the European Parliament formalised its position through its **resolution of 8 July 2015** which included several "red lines" regarding the negotiations and which "made it quite clear that [Parliament] needed to give its assent" (Interview 12; European Parliament, 2015). As 58.05% of MEPs voted in favour, the resolution showed the power of the ISDS issue to unite MEPs across all parties (Interview 5; Interview 10). At this point in time, **a majority for CETA was no certainty anymore.** |
| | *yx*<br>*Learning* | The CETA negotiations showed the limitations of an appeal to institutional responsibility. The Commission could not rely on past statements of support and had to accept the prospect that the political onus of trade negotiations may lie in the endgame of attaining parliamentary consent requiring a more flexible approach. The concrete revisions to the early warning system have also been elaborated in section 4.3.5 on TTIP (not concluded). |

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*4.3.7. CETA II (2015-2016)*

| Step | | Comprehensive Economic Trade Agreement (2015-2016) |
|---|---|---|
| | *n1*<br>*Signal assessment* | Between August 2014 and July 2015, the Commission saw itself confronted with declining group cohesion in the European Parliament, most notably in the S&D which became "split down the middle" (De Bièvre, 2018, p. 78) over the ISDS dispute. Yet, also MEPs from the EPP and the ECR began to change their position, causing the trade-positive coalition in Parliament to shrink. On 10 November 2015, the S&D made this very explicit by directly telling the Commission that<br><br>> the number of MEPs opposing ISDS is much higher than the number of MEPs opposing CETA. ISDS is the thorn in the flesh of CETA. […] If an improved text can make the treaty more acceptable and legitimise for European and Canadian society, it would be absurd not the seize the opportunity. (Sorin Moisă, S&D Romania. In: Hübner, Deman & Balik, 2017, p. 853)<br><br>Although a speech in the plenary was ranked as the least important parliamentary signal, Moisă's address to the Commission was significant in that it provided a formalisation of the S&D's position: Putting it 'out there' to the public that most MEPs were willing to reject the agreement if ISDS would remain in it, the threat became more credible. As one interviewee put it, "[sic] if [the MEPs] go on the record, it's more difficult for them to back down and it's more difficult for [the Commission] to find solutions" (Interview 11). |
| *Institutional pacification* | *n2a*<br>*Correct signal interpretation* | Coming from the S&D, this statement contained considerable explosiveness as social democrats were sitting in the governments of key EU member states such as Germany, France, and Italy (Siles-Brügge, 2018, p. 18). This meant that there was **a high probability of *veto player collaboration*, meaning that ISDS which had heretofore not been prominent in the Council, could easily spill over**. Moreover, this discontent came with a bad *timing*: While dissatisfaction on TTIP had already boiled up from the very beginning, the criticism on CETA came at a significantly later stage of the negotiations, namely after their official conclusion. Just as had been the case with ACTA, this late timing rendered it more difficult for the Commission to address the issues which were put on the table (Interview 7). Having learned from ACTA and having expanded the scope of its early-warning system, the Commission anticipated that a veto was likely.<br><br>Therefore, it decided to "make the treaty more acceptable" **by re-negotiating the investment chapters of CETA over the first half of 2016 as an extension of the legal scrubbing phase** (Interview 4; Interview 5). Following consultations with the Parliament and the Council, the Commission replaced ISDS with an Investment Court System (ICS) which mirrored, with some adjustments, the WTO Appellate Body (Alvarez, 2020, pp. 10-11). |
| | *nya*<br>*Institutional pacification* | Although one third of social democrats could not be convinced by this "charm offensive" (Siles-Brügge, 2018, p. 21), two thirds supported the new approach. When the plenary voted on CETA on 15 February 2017, **the agreement was accepted with 54.3%.** |
| *Ins tit* | *n2b*<br>*Incorrect signal interpretation* | |

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| | *nyb*<br>*Sanction* | |
| | *yx*<br>*Learning* | TTIP and CETA thus taught the Commission that, in order to get Parliament's consent during the endgame, more flexible solutions were required. Parliament's willingness to postpone the CETA vote (see section 4.3.6.) furthermore rendered the Commission more cautious in interpreting and preventively reacting to signals emitted by the EP. As one interviewee acknowledged, one should "never underestimate the consequences of a negative vote by the European Parliament" (Interview 5). |

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*4.3.8. Singapore (2019)*

| Step | | EU-Singapore Free Trade Agreement (2019) |
|---|---|---|
| *n1*<br>*Signal assessment* | | On 17 October 2014, roughly at the same time of concluding CETA, the Commission was also wrapping up the negotiations with Singapore. **Parliamentary interest in the actual negotiations which had started on 3 March 2010 was quite low** (McKenzie & Meissner, 2016, p. 11).<br><br>**Initially, ISDS had been excluded from the negotiating mandate of the Commission.** However, due to the importance of the topic for Singapore, the Commission asked for an extension of the negotiating directives in February 2011. This request rendered many MEPs sceptical, not at least because the European Parliament had not yet delivered an opinion on the inclusion of ISDS. In its **resolution of 8 June 2011**, the European Parliament therefore noted "not without concern, that the Commission submitted to the Council a proposal for modifying the negotiating directives […] without waiting for Parliament to adopt its position" (European Parliament, 2011, Art. 11). **Early dissatisfaction with ISDS and with ignoring Parliament hence already formed in 2011.**<br><br>Consequently, the EU-Singapore agreement was facing similar criticisms as TTIP and CETA, particularly with regard to its investment chapter (Hindelang, Baur & Schill, 2019, pp. 17-18; McKenzie & Meissner, 2016, p. 6). As a result, it also saw itself confronted with **declining group cohesion**, most notably within the S&D, the EPP and the ECR (Interview 2). Kathleen Van Brempt, the coordinator of the S&D in INTA, even explicitly insisted on several **"pre-ratification conditions" regarding ISDS** and "emphasise[d] that [the EP] needs to be involved and fully informed, in a timely manner, at all stages of the procedure" (European Parliament, 2016, Art. 35; Interview 8). |
| *Institutional pacification* | *n2a*<br>*Correct signal interpretation* | However, **public attention was predominantly focused on TTIP and CETA**, meaning that Singapore was never explicitly politicised. Although citizens were roaming the streets with protest signs against TTIP and CETA, Singapore itself never made it onto the placards (De Bièvre & Poletti, 2020). The EUSFTA hence went largely under the public's radar and caused much less controversy than one would have expected (Young, 2019, p. 1886).<br><br>Due to the expanding scope of the early-warning system, DG Trade was aware of the de-politicised character of the EUSFTA and could deduce from its earlier experiences that there were only few incentives for the Parliament to establish itself as the *vox populi* (Interview 1). Therefore, **the Commission never perceived the EUSFTA to be under threat** (Interview 1; Interview 5).<br><br>Nevertheless, **the Commission stalled the negotiations on Singapore while re-negotiating TTIP and CETA** (Interview 4). Additionally, as the investment issue was causing so much controversy in the European Parliament, in the public and in the Council, the Commission **referred to the European Court of Justice (ECJ) on 10 July 2015** and asked for a court opinion on the competence to conclude the agreement. In its Opinion 2/15, the ECJ argued that the EU holds exclusive competence on all matters related to trade but that portfolio investment and ISDS are shared competences (De Bièvre, 2018, p. 80). |

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| | | As a reaction to this opinion, the Commission **"decided to take the agreement and […] split it in two**: [One] part of the agreement [being] EU-only which is 99% of the agreement and a small part of the agreement covering investment…" (Interview 11).<br><br>Moreover, **by constantly interacting with key players in the INTA committee**, the Commission sought to prevent the EP from being mobilised by once more **stressing the cooperative partnership between both institutions**. |
| | *nya*<br>*Institutional pacification* | This strategy proved effective. Indeed, some parliamentarians from the centre-right parties stressed that they have come to see themselves as allies of the Commission with whom you "negotiate before you reject" (Interview 3). As a result of this institutional socialisation process, **the Commission anticipated that a majority of MEPs supported splitting up the agreement.On 13 February 2019, the Singapore agreement was then accepted by a majority of 62%.** |
| *Institutional escalation* | *n2b*<br>*Incorrect signal interpretation* | |
| | *nyb*<br>*Sanction* | |
| | *yx*<br>*Learning* | |

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*4.3.9. Vietnam (2020)*

| Step | | EU-Vietnam Free Trade Agreement (2020) |
|---|---|---|
| *n1*<br>*Signal assessment* | | The negotiations on Vietnam which had started on 27 June 2012 and were officially concluded on 2 December 2015 were **expected to be far more controversial than Singapore** due to Vietnam's history of human and labour rights abuses. **DG Trade therefore anticipated a dynamic similar to the CoPe negotiations** (Interview 1).<br><br>The potential explosiveness of human rights issues revealed itself over the course of 2013 when the European Parliament adopted a **resolution on 18 April 2013** which was tabled by the EFDD, EPP, S&D, ECR, Greens/EFA and ALDE groups. Already in Article 1, the European Parliament strongly condemned the violation of human rights in Vietnam, for example through the imprisonment of journalists and bloggers. It therefore "urge[d]" Vietnam to change this situation immediately" (European Parliament, 2013). In Article 11, the Parliament went even so far as to "request that the ASEAN Intergovernmental Commission on Human Rights [shall] examine the situation concerning the state of human rights in Vietnam" (ibid.).<br><br>The strong wording of the April 2013 resolution led to a **harsh reaction from the Vietnamese government** which strongly emphasized that the inclusion of human rights stipulations into the agreement was a clear dealbreaker (Thu & Schweisshelm, 2020, p. 19). The Vietnam case thus placed DG Trade in the difficult position that, on the one hand, the EP had formalised its emphasis on human rights through a resolution, while on the other hand the Vietnamese government was demanding exactly the opposite.<br><br>The relevance of human rights issues during the negotiations with Vietnam also became reflected in the parliamentary questions: Between June 2012 and December 2020, 71.42% of the questions referred to either human rights (particularly the freedom of expression) or to labour rights (→ **Signal: recurring topic**).<br><br>Similar to CoPe, this magnification of human rights issues impacted on the **group cohesion** of several political groups (Interview 2; Interview 3; Interview 6). As the Commission **had already lost the Italian and Spanish MEPs from the ECR** because of agricultural disputes (Interview 8), by 2015/2016, it thus seemed like Vietnam would have to **face a highly critical Parliament. (→ anticipation of high threat potential)** |
| *Institutional pacification* | *n2a*<br>*Correct signal interpretation* | In addition to this parliamentary criticism, **pressure was exerted by civil society actors**. Already at the first CSD on Vietnam on 11 June 2013, the International Federation for Human Rights (FIDH) urged the Commission to include "strong commitments" to human and labour rights provisions into the agreement (DG Trade, 2013). On 30 April 2013, it supported the EP's resolution of 18 April 2013 in an open letter to the Commission (Sicurelli, 2015, p. 240).<br><br>However, the Vietnamese case **was never explicitly politicised**. While ACTA, TTIP and CETA had filled the streets of Europe's capitals with protestors and had thus entrapped many supportive MEPs, **Vietnam never caused such public controversy**. The |

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| | | Commission hence read the Vietnam case similar to how it had read the CoPe agreement: Although human rights issues had turned into an important topic for MEPs, the lack of external shocks in the form of mass protests or entrapment in public opinion indicated that there were fewer incentives for parliamentarians to vote against the agreement for strategic reasons. The cost of rejection therefore remained high.<br><br>KOREU had revealed a sense of institutional responsibility in Parliament which had the potential to trump parliamentary dissatisfaction. It was this **sense of responsibility** which the Commission appealed to when proposing to strengthen "the possibility of suspension of the PTA in case of severe human rights abuses" (Sicurelli, 2015, p. 240).<br><br>Moreover, DG Trade supported an **INTA mission to Vietnam** which allowed MEPs to discuss their concerns with Vietnamese NGOs. As Vietnamese stakeholders stressed that they supported the ratification of the agreement, the mission appealed to Parliament's sense of institutional partnership by raising the stakes of rejection (Interview 8, p. 15). In a way, the INTA mission thus provided a "**face-saving exit strategy**" (Interview 11) for all sides. |
| | *ya*<br>*Institutional pacification* | As a result, the agreement received a **two-thirds majority on 13 February 2020**. Surprisingly, this level of parliamentary support was even higher than for the less controversial Singapore agreement (Interview 9). |
| *Institutional escalation* | *n2b*<br>*Incorrect signal interpretation* | |
| | *yb*<br>*Sanction* | |
| | *yx*<br>*Learning* | |


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*4.4. Summary Evidence*

| Step of the causal mechanism | Certainty | Uniqueness |
|---|---|---|
| *Signal assessment (n1)* | ***High***<br>Across the different cases, we offered account and pattern evidence that show how the Commission tried to decipher the signals sent by the EP. Central here is the Early Warning System that interviewees pointed out.<br>The evidence in each case expands on how the Commission assessed the potential of the EP vetoing the agreement. | ***High***<br>The Commission's efforts to read the EP's position in on-going negotiations is primarily done in light of the latter's power of consent. While contacts with the EP or other groups in society can also be based on the desire to gain (technical) expertise, the interviews specifically focused on the detection of potential veto threats. |
| *Signal interpretation (correct or incorrect) (n2a/n2b)* | ***High***<br>Each of the cases indicate a measured response by the Commission based on its (initial) assessment of the veto-potential of an issue. The ability to rely on account evidence through interviews increased the certainty of our findings. We were able to corroborate the responses of the Commission through documents as well. | ***High (Medium)***<br>In terms of uniqueness of the evidence collected, the Commission explained its actions as a direct consequence. The focus on both correct and incorrect readings limited the scope for social desirability bias. Still, a critical reading of the evidence suggests the retrospective design of our interviews may inflate the uniqueness, i.e., it could be the case that the Commission's response was only interpreted post-hoc in relation to the EP's majority. |
| *Institutional pacification (ya)* | ***High***<br>In the different cases where institutional pacification took place the agreement was ratified. | ***High (Medium)***<br>In the case of Colombia-Peru and Singapore, the EP made explicit reference to the institutional responsibility argument forwarded by the Commission. For CETA II, such message was less directly conveyed but the pattern and the trace evidence suggest that the revisions made by the Commission in response to concerns were part of the motives for ratifying CETA. |
| *Institutional escalation (yb)* | ***High***<br>Escalation in each of the cases resulted in the EP postponing ratification, requiring (partial) renegotiation or flat-out rejecting the agreement. Such sanctioning behavior offers compelling evidence of dissatisfaction by the EP over the negotiated agreement. | ***Medium***<br>For ACTA, we were able to gather account evidence by interviewees to support the claim that dissatisfaction over the Commission's response at handling their demands triggered escalation. For Uzbekistan and CETA I, the evidence was less unique in that additional considerations beyond the Commission's actions could have played a role in triggering the sanction. |

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| *Learning (yx)* | ***High***<br>Account evidence by interviewees indicate that the Early Warning System is subject to continuous adaptation to ensure credible threats of veto are monitored on time. Such updating was observed through the extension and intensification of networks with the EP but also through capacity enhancement and restructuring. | ***High (Medium)***<br>The account evidence provided by several of the interviewees pointed explicitly towards experiences in previous negotiations.<br>However, evidence was more uniquely attributable to learning when referring to experiences of institutional escalation than from institutional pacification. |