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journals.sagepub.com/home/ire**Michael Sampson**

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Abstract

This article compares the EU and China's approaches to negotiating free trade agreements (FTAs). We show how China's approach is more gradualist with regards to coverage of issues, and argue that this gives China advantages, which it leverages in later deals. While there are important differences in the scope and approach of EU trade negotiations, we argue that the EU could gain similar advantages by incorporating more Chinese-style gradualism to how it negotiates FTAs. Paradoxically, we argue that mirroring Chinese strategy in this regard could be used by the EU to secure very different ends from China's such as normative reforms in the areas of human rights, the rule of law, and democratic government. More gradualism would allow the EU to scale up trade cooperation and regulatory convergence in an incremental manner while autocratic partner countries make democratic reforms, and would also enlarge the scope of more coherent positive conditionality.

Keywords

China, conditionality, European Union, free trade agreements, gradualism, normative power Europe

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Introduction

The European Union claims to use free trade agreements (FTAs) as one of its tools to promote a normative agenda in foreign policy including democracy, human rights, and the rule of law.¹ This is one of the reasons the EU has been called a 'normative power' in foreign affairs.² 'Normative Power Europe' can be critically examined from several different angles. For example, does the EU really pursue normative goals consistently, or is normative language mainly a rhetorical guise to mask self-interested behavior? Or, despite 'good intentions', is the manner in which the EU pursues normative goals effective? This article contributes to the literature on normative power Europe, highlighting several aspects of the EU's current approach to negotiating FTAs that undermine its normative goals. We look both at the strategic efficacy of the EU's current approach and its normative coherence with the values the EU seeks to promote (using the normative-theoretical approach of immanent critique). On both normative and strategic grounds we conclude that the EU's current strategy for negotiating FTAs does not serve the EU's agenda well.

Contrasting the EU's approach to negotiating FTAs with China's, marked by considerably more gradualism, we argue that the EU could learn lessons from the Chinese approach. This would further improve the EU's bargaining position vis-à-vis many autocratic partners, a position that could be used to leverage many sorts of concessions, including the political reforms central to the EU's normative agenda. We also argue for a somewhat surprising conclusion – that this more deliberate gradual approach can, in the context of EU FTAs with proximate autocratic partners, also assuage some of the weaknesses of the EU's current strategy in terms of its normative coherence.

There is something obviously paradoxical in arguing that the EU can learn from China to be better able to pursue its normative foreign policy goals. China does not pursue human rights, the rule of law, or democratic reform in the countries with which it makes free trade deals. Indeed, while it does pursue strategic interests, it largely steers clear of the normative conditionality that characterizes many EU FTAs.³ It is also, by all standard measures, a deeply authoritarian country. Still, we argue, the gradual approach that China uses to exact greater strategic and economic concessions from partners could increase the EU's bargaining position in some cases and reduce the initial adjustment costs imposed on developing countries. With that improved bargaining position, the EU could better pursue many different ends, including normative ends. Furthermore, gradualism improves the *normative coherence* of the EU's strategy of using free trade to further normative goals, or so we argue.⁴

The article is structured as follows: in part 1, we lay out and analyze the advantages of China's gradualist free trade strategy. In part 2, we contrast this approach with the EU's strategy, using the example of the Euro-Med region. While the EU also has a sequential approach (starting with smaller agreements and moving on to larger ones), we show that EU agreements are more comprehensive than Chinese agreements both in terms of issue coverage and the depth of liberalization. Section 3 traces the development of 'Normative Power Europe'. We show why and how the EU uses conditionality to pursue a normative agenda in foreign policy, and assess the origins of this approach in EU development policy. In part 4, we turn to the normative-theoretical part of the paper.

Taking the trade agreement negotiating strategies as our independent variable, we argue that the EU's current approach to pursuing normative foreign policy goals through FTAs can be normatively incoherent; FTAs with proximate autocratic partners can undermine democratic values while claiming to promote them. In part 5 we show that, similarly to China, the EU's bargaining position with countries in the Euro-Med has improved over time. This means the EU could extract more concessions (including normative/political reforms) from partners in later deals. Finally, we integrate the strategic and normative-theoretical parts of our argument, arguing that adopting a more gradualist approach to FTAs can strengthen *normative* power Europe for three reasons: (1) it would create more room for positive conditionality, lessening the risk of normatively incoherent 'weak conditionality'; (2) smaller agreements make lower legitimacy demands on autocratic states unable by definition to meet stringent democratic standards; and (3) making further trade integration conditional to democratic reform ensures that subsequent broader and deeper FTAs are better able to meet democratic legitimacy standards.

Gradualism: China's approach to free trade agreements

Recent decades have witnessed a dramatic expansion of global trade. The increasing complexity of international supply chains has been accompanied by the multiplication in the volume of world merchandise trade by three times in the last two decades. A significant part of this growth has been driven by the integration of China into the global trade system in 2001 since when its merchandise trade has grown by over 29 times.⁵ This period has also been characterized by a growing proliferation of regional trade agreements, with 178 agreements concluded globally since 2001.⁶ The EU has concluded 29 regional trade agreements in this period, while China has completed 16.⁷ However the recent shocks to world trade and global supply chains represented by COVID-19 and Russia's invasion of Ukraine have led to growing calls to reduce dependence and increase economic self-sufficiency.⁸ These shocks have combined with the already increasing protectionist rhetoric and disputes at the WTO to put the global trade trends of the last two decades in doubt.⁹ In this context of evaluation, this article asks what the EU could learn from China's rapid growth in trade.

The EU's approach to trade agreements has been rather consistent over recent decades. However, given the recent shocks to global trade, there may be benefits to both the EU and its trade partners in now reassessing its strategy and developing a new approach. There is now an increasing diversity of strategies pursued by states when negotiating and concluding trade agreements.¹⁰ Some have tended to adopt initially more *comprehensive* agreements whilst others exhibit a preference for a more limited and *gradual* approach to both liberalization and issue coverage.¹¹ By a gradual approach we mean that the initial trade agreement is comparatively more limited in terms of liberalization as well as with regards to which issues are covered with respect to elements such as harmonization, competition, government procurement, services, and investment.¹²

As this section shows, when it comes to coverage of issues beyond goods liberalization, China is recognized for the limited nature of its initial agreements, its gradual approach to trade negotiations, and the distinct lack of formal policy conditionality attached to its international agreements more generally.¹³ EU agreements tend to be more

comprehensive, incorporating clauses related to regulatory alignment, services liberalization, intellectual property protections, and competition from the outset (see Section 2).¹⁴ What are the advantages of China's approach and what lessons might the EU draw? We suggest that adopting a more gradual approach in terms of issue coverage and liberalization may increase the bargaining leverage of the EU in some cases (see Section 5). That increased bargaining power can improve the EU's position vis-à-vis its trade objectives is clear, but we also argue that a gradual approach to policy conditionality can improve the EU's position in terms of its normative agenda (see Section 6).

A comparison between China's regional agreements in Asia and the EU's Euro-Med partnership agreements is instructive. China is currently party to 17 trade agreements, including nine with regional partners in Asia and the Pacific region.¹⁵ These agreements have tended to focus on economically minor but strategically significant partners (e.g. Pakistan, New Zealand, and Singapore), only in more recent years turning to negotiations with larger economies such as South Korea. Beijing's trade agreements can be divided into two categories: the first are with regional partners with whom China has adopted the 'neighboring country relations strategy', whilst those in the second category are with countries that have resources and raw materials that China wants to more easily access.¹⁶

In comparing the EU and China's approach to concluding trade deals with neighboring countries, the first category of Chinese deals is a natural focus. China's reputation for more limited trade agreements in terms of both issue of coverage and depth of liberalization (i.e. what we call China's gradualist approach) is long-standing.¹⁷ China has adopted a piecemeal approach to the negotiation of FTAs and the resulting agreements are both of lower coverage and characterized by a low level of legal obligations.¹⁸ In many of its negotiations with regional partners, Beijing has pushed for agreements that are initially narrow, entail limited liberalization and a limited coverage of issues, and which are subsequently expanded in numerous negotiation rounds.¹⁹ Thus, China's agreements leave many elements beyond goods liberalization to continued negotiations.²⁰ China has also often provided relatively generous terms up-front, and then subsequently both expanded the agreements and balanced the terms through later negotiations. This has the effect of increasing the economic dependence of these actors on China early on and subsequently increasing China's bargaining leverage. The agreements with ASEAN and Pakistan are good examples of this.

The ASEAN-China agreement in particular provides the closest analog in terms of relative power position and power dynamics to the EU relationship with its Mediterranean neighbors. For this reason, it can be an instructive comparison.²¹ The initial agreement with ASEAN incorporated liberalization in goods only. In their early negotiations with China, ASEAN states were worried that their markets would be inundated with more competitive Chinese goods.²² To address this concern, China offered an 'Early Harvest Program' (EHP) which provided protections for agricultural sectors in ASEAN countries during the implementation period of the agreement. It meant elimination of tariffs on around 200 agricultural products by China whilst tariffs could be maintained by less developed ASEAN members until much later. Subsequent agreements on services were concluded in 2007, followed by an investment agreement in 2009.

As the agreement was expanded, ASEAN members' economic dependence on China increased. ASEAN exports to China grew dramatically whilst their combined

GDP remained relatively stable and thus compared unfavorably to China's impressive growth.²³ As a result, businesses in Indonesia expressed concerns prior to full implementation of the deal that industries such as textiles and electronics would be adversely affected.²⁴ Despite this, a protocol was signed in 2015 to upgrade the free trade area further.²⁵

Similar dynamics can be observed in China's negotiations with Pakistan. A goods agreement with limited liberalization was concluded in 2006.²⁶ An EHP was again included to protect the agriculture sector in Pakistan in the early phases of implementation. The agreement did not include clauses on competition, intellectual property rights, or public procurement. It did however include sections related to subsequent expansion of the agreement. A protocol on special investment zones was concluded in 2008, followed by an expansion of the agreement to include services. In 2011, a second phase of talks on expanding the agreement was initiated.

Again, over the period of agreement expansion, Pakistan's economic dependence on China grew. Subsequently, a further eight rounds of negotiations were conducted under phase two of the agreement, culminating in an upgrade of the deal in 2016 despite the reluctance of Pakistan's government.²⁷ Pakistan was holding up negotiations because many domestic producers were concerned about competition from their Chinese counterparts.²⁸ The agreement is controversial in Pakistan but nevertheless China subsequently requested that Pakistan reduce duties to 0% on 90% of products under a revised FTA. Under phase I of the agreement, Pakistan reduced duties to 0% only on 35% of its products, while China reduced duties to 0% on 40% of Pakistan's. Expansion to 90% was therefore a challenge for Pakistan's businesses already struggling to cope.²⁹ Pakistan subsequently requested revision of the existing treaty, arguing that the agreement brought no added advantages compared with countries that had no agreement with China, but Beijing was unwilling to accept Islamabad's request.³⁰

As trade cooperation developed, China became an increasingly important trading partner for Pakistan: Goods exports from Pakistan to China increased from \$500 million in 2006, before the conclusion of the agreement, to \$1.4 billion in 2017, when it was its third largest destination for exports of goods. Exports of goods from China were worth \$4.2 billion in 2006 and Pakistan was the 33rd largest importer. By 2018, this figure had increased more than four-fold to \$18 billion but Pakistan remained a relatively minor economic partner, in 27th place.³¹ Meanwhile, in 2017 China was the destination for around 27% of Pakistan's exports (its next biggest destination for exports in 2017 was UAE at 13%). During the period of agreement expansion, China took a higher percentage of Pakistan's exports than its next three export destinations combined.³² Despite controversy in Pakistan, the process of agreement expansion continued, and Pakistan has limited alternatives given the costs of replacing what is now its third largest market. Concerns persist in Pakistan about not being able to secure meaningful market access.³³

The EU's approach to free trade agreements

Compared to China, the most distinctive aspect of EU trade policy is that it explicitly links trade objectives with normative and political objectives through conditionality clauses either in many of the agreements themselves or through links to other political

agreements between the parties (we return to this in Section 3).³⁴ There are three main types of trade agreements the EU makes. First, the most comprehensive are customs unions, where the EU and the partner countries agree to mutually eliminate customs duties and adopt common tariffs for external importers. Next are various types of FTAs such as Association Agreements, Deep and Comprehensive Free Trade Agreements, and Economic Partnership Agreements, which all mutually remove or reduce customs tariffs in bilateral trade. Finally, the EU also makes more limited Partnership and Cooperation Agreements, which seek to develop a general framework for bilateral trade, but generally exclude tariff reductions.³⁵

The EU adopts a varying approach to the breadth and depth of its trade agreements, which can be divided into three broad categories. The first encompasses agreements with partners in Europe, North America, Latin America, and East Asia; these agreements are comprehensive from the outset. Agreements such as those with Canada, South Korea, Singapore, Vietnam, Moldova, Ukraine, and Georgia are comprehensive in global terms, matching the most comprehensive US agreements.³⁶ Often these agreements entail high levels of liberalization and include areas such as services, investments, regulatory standards, public procurement, competition, and intellectual property.³⁷ The second group are with regional partners in North Africa and the Middle East under the framework of the Euro-Med partnership. These agreements are often initially more limited, though in contrast to the approach adopted by China they still cover a wider range of issue areas and often incorporate sections on intellectual property, competition, government procurement, and broader sections on standards harmonization. This is in addition to coverage of non-trade issues in the Association Agreements which, given that the EU does this to a much greater extent than China, only increases the contrast.

The EU also utilizes a Generalized Scheme of Preferences (GSP) in three variants. The first is standard GSP, by which customs duties are partially or fully removed on two thirds of tariff lines for lower income countries. In GSP+ reduces these tariffs to 0% for vulnerable lower income countries that implement 27 international conventions related to human rights and good governance. Finally, 'Everything but Arms' (EBA) deals provide duty-free and quota-free access for all products except arms, and are used for the least developed countries.³⁸

In 2011, the European Commission announced 'a partnership for democracy and shared prosperity going far beyond market access to further deepen integration with countries in the Southern Mediterranean and promote human rights, good governance and democratic reforms'.³⁹ It simultaneously announced its intention to open negotiations on Deep and Comprehensive Free Trade Agreements (DCFTA) with Egypt, Tunisia, Jordan, and Morocco.⁴⁰ When announcing the initiative, the Commission emphasized that: 'One of the basic objectives of the EU is to ensure that economic growth and development go hand in hand with social justice'.⁴¹ Examining a subset of these agreements will shed light on the particularities of the EU approach and the opportunities for a shift in strategy. Particularly, we will see how the EU's approach is relatively more comprehensive than China's.

The EU and Morocco concluded an Association Agreement (AA) in 2000, covering trade in goods.⁴² There were subsequent negotiations on issues such as agriculture, fisheries products and a bilateral dispute resolution mechanism.⁴³ The two parties

subsequently concluded an agreement on geographical indications in 2015.⁴⁴ Simultaneously, Morocco signed the Agadir Agreement along with Jordan, Egypt, and Tunisia in 2004. This ‘committed all parties to removing all tariffs on trade between them and to harmonizing their legislation with regard to standards and customs procedures’.⁴⁵ The EU already adopted a limited form of gradualism then but, unlike comparable agreements with China, the EU-Morocco agreement included clauses on political dialog and trade related issues such as intellectual property, competition, and investment protections. In the 12 years following entry into force, the deal envisioned the abolition of all duties on goods covered in the agreement.⁴⁶ With respect to depth of liberalization and issue coverage, the EU-Morocco agreement is considerably more comprehensive than China’s regional agreements.

A similar AA was concluded by the EU with Egypt in 2004. It focused on removal of tariffs on industrial goods but negotiations on services liberalization are currently on hold.⁴⁷ As with the Morocco agreement, the deal with Egypt envisioned deep liberalization. By the end of implementation of the agreement, Egypt will have liberalized tariffs on 99.9% of its imports from the EU.⁴⁸ A subsequent deal concerned with agriculture, and fisheries products entered into force 6 years later. The two parties began talks on a DCFTA in June 2013.⁴⁹ Since the conclusion of the 2004 agreement, EU-Egypt trade has increased from €11.8 billion in 2004 to €27.9 billion in 2017. Trade with the EU now constitutes around a third of Egypt’s total trade.⁵⁰

A year after Egypt’s, an AA between the EU and Algeria entered into force, covering liberalization in both goods and services. It includes advanced provisions on investment, domestic regulations, intellectual property, and state-owned enterprises. The two parties envisioned the abolition of quantitative restrictions and duties within the 12-year transition period.⁵¹ Following the agreement, the EU is now Algeria’s most significant trade partner, accounting for 46.7% of Algeria’s trade in 2019.⁵² In 2017, both countries agreed on new partnership priorities that emphasized political dialog, governance, the rule of law, and the promotion of fundamental rights alongside economic development.⁵³

As these examples illustrate, EU agreements with Euro-Med partnership are relatively comprehensive both in terms of the liberalization envisioned in the agreements and in terms of issue coverage, both in relation to trade and non-trade issues. In this, and despite the fact that they have a more sequential nature than those signed with some other trade partners, they contrast strongly to China’s agreements (see Section 1). Given that the gradualist strategy has worked to Beijing’s advantage, it is interesting to consider whether similar successes could be made for the EU, and to what ends. In the next section, we make the somewhat paradoxical case that adopting more Chinese-style gradualism could help the EU to pursue its normative foreign policy agenda.

In making this case, it is important to recognize that there are significant differences in the way that trade policy is formulated and implemented. Chinese trade policy is more centralized and arguably less subject to lobbying pressures. As such, we must be cautious when arguing that the EU could mirror Chinese FTA negotiation strategies. Nevertheless, these differences, while important, do not prevent lessons from being drawn for a number of reasons. The extent of decentralization of EU trade policy, though real, should not be overstated. The Commission has a relatively wide range for discretion compared to agents in other international organizations. It has agenda-setting power; it can submit

proposals to negotiate trade agreements, including the choice of partners and negotiating objectives. It also negotiates on behalf of the EU member states and thus exercises representational power. Finally, the Commission is in charge of implementation, as it manages things such as trade defense measures.⁵⁴

Though subject to more pressure than Beijing's negotiators, the Commission is not entirely powerless in the face of interest group lobbying. It can administer access by lobbyists and can favor those actors with similar preferences with greater access.⁵⁵ Finally, whilst some trade agreements such as TTIP become controversial, many agreements simply fly under the radar of popular opinion and do not become an issue in the European Parliament or with member states. For example, the EU-Japan negotiations have gone 'almost entirely unnoticed by CSOs, parliamentarians and the general public'.⁵⁶ As did the EU-Vietnam and EU-Singapore agreements. The EU-Korea agreement attracted opposition largely from the auto industry only.⁵⁷ Agreements such as TTIP are therefore not typical in the response evoked from member states and sub-national groups.⁵⁸ Furthermore, the response to TTIP was a reaction to the extent of the liberalization of trade and investment in that agreement and the side-lining of political concerns.⁵⁹ The recommendation we make in this paper, that the EU adopt a more gradualist approach in FTAs with proximate autocratic states, thus seems unlikely to generate a similarly negative public reaction.

Normative power Europe: using trade for governance reform

If we are to take EU rhetoric seriously, FTAs are an important part of the EU's toolbox to pursue its normative foreign policy agenda. The EU ostensibly uses FTAs to pursue democratic governance, the rule of law, human rights, environmental standards, labor standards, and good governance.⁶⁰ Normative foreign policy goals such as these have led to the EU being labeled as a 'civilian power'⁶¹ and a 'normative power'.⁶² We interpret the term 'Normative Power Europe' in the following way: for Europe to be a normative power it must be able to use its power resources to further European fundamental values abroad. European fundamental values are understood as simply those values listed in Article 2 of the Treaty on European Union (TEU): 'respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities'.

Some argue that EU foreign policy, and perhaps especially FTAs, should not be assessed in terms of normative goals, or that behind the normative rhetoric the EU in fact pursues a more hard-nosed, realist, and self-interested agenda in its foreign and trade policy.⁶³ This may well be true. In this article however, we take seriously the EU's professed normative orientation for two reasons. First, we depart from the view that while actors in the EU might be divided on this point, there remain a significant number committed to a normative agenda in foreign policy. Indeed, the European Commission's discursive commitment of normative goals in the context of FTA's has been steady. For instance, the very first paragraph of the summary of the EU Action Plan on Human Rights and Democracy 2020–2024 insists that the EU will use trade to 'consistently and

coherently' promote human rights and democracy, while elsewhere the Commission speaks of Free Trade Agreements as 'key instruments in support of democratic transformation' in neighboring countries.⁶⁴ Second, even where the commitment to normative foreign policy and trade goals is only skin deep, there are sometimes legal and political imperatives to do so. Pointing out inconsistencies and contradictions between specific EU policies and the EU's normative foreign policy goals is therefore one way of holding the EU to account.

This section offers examples of the EU's strategy of marrying 'trade goals' and 'normative goals' in this way, focused on the Euro-Med region. We track the development of conditionality from development policy to cooperation agreements and trade agreements. In the next section, we show how the EU has not coherently applied normative standards across economic and trade relations with different partners.

The main – and most successful – strategy of normative power Europe has been 'leverage'⁶⁵: using political and economic conditionality to incentivize progress toward greater respect for human rights, democratization reforms, etc. *Positive* economic conditionality revolves around the offer of financial resources or economic benefits in exchange for progress, whereas *negative* economic conditionality freezes assets, rolls back trade, and so on. Political conditionality mobilizes political capital to the same ends, both via incentives (e.g. liberalized visa regimes or a pathway to EU membership) and sanctions (e.g. travel bans).⁶⁶

The primary arena of normative power Europe was post-Cold War democratization.⁶⁷ Strategies of political and economic conditionality however first arose in EU development policies. The Lomé agreements, the first of which was signed between the EU and African, Caribbean, and Pacific group (ACP) countries in 1975, would eventually formalize commitments to human rights and democratic principles. While Lomé I did not provide for any formal mechanisms of conditionality, the EU did suspend official aid to Uganda (with the exception of humanitarian assistance) in reaction to human rights violations by the Idi Amin regime.⁶⁸ Partly in response to this, Lomé III formalized certain political commitments to human rights and human dignity. It was not until the fourth Lomé Convention (1990–2000) though that commitments to democracy and the rule of law were formalized, while conditionality was introduced only in a 1995 revision to Lomé IV. Article 366a of this revised convention contained a suspension clause permitting parties to suspend the convention as a measure of last resort for violations of 'respect for human rights, democratic principles and the rule of law'. The suspension clause was consequently invoked by the EU against Burundi (1996), Niger (1996), Nigeria (1993), Rwanda (1995), and Sierra Leone (1997).

As would later be the case in the European Neighbourhood Policy, partner ACP countries saw the normative goals of the Lomé agreements as Euro-dominated. The unilateralism of suspension mechanisms in Lomé IV and the absence of joint procedures for measuring these metrics led to 'vociferous, albeit ineffective, ACP opposition'.⁶⁹ Partly in response to this, the Cotonou agreements, do not unilaterally impose development policies on third parties. Rather, the norm (or at least the rhetoric) is that partner countries articulate the policies and goals in partnership, including through developing common and jointly implemented standards for the evaluation of these policies.

Conditionality as a strategy of EU foreign relations thus preceded the EU democratization programs of the 1990s. Full conditionality, however, which includes both negative and positive conditionality, developed with instruments such as the first MEDA (from *Mesures d'accompagnement*) program (1995–1999) and the European Initiative for Democracy and Human Rights (1994–2007). In preparation for the 1995 Euro-Med conference, the 1994 Commission Communication ‘Strengthening the Mediterranean Policy of the European Union: Establishing a Euro-Mediterranean Partnership [EMP]’ emphasized that respect for democratic principles constitutes an ‘essential element’ of the relationship (paragraphs 10 and 22). This type of clause is familiar from the 1996 revision of Lomé IV, and indicates that anti-democratic practices can constitute grounds for suspending the relationship. This set the stage for the EU strategy of using trade deals to exact normative reforms in Euro-Med countries (see Section 2). However, as we shall see, the EU has not applied conditionality consistently, undermining the normative power agenda.

Conditionality and normative power Europe

The way that the EU currently pursues normative foreign policy goals via free trade deals with autocratic states can be normatively incoherent. By normative coherence we mean ‘weak coherence’ whereby a set of policies, laws, rules, or principles do not conflict with one another; normative incoherence is therefore when a set of policies, laws, rules, or principles do conflict with one another.⁷⁰ Inconsistent application of especially negative conditionality also undermines *expressive* adequacy while broad demands on autocratic countries for regulatory convergence undermines the EU’s commitment to democratic government.

Weak conditionality and expressive adequacy

On the whole, the EU has only used negative conditionality in extraordinary circumstances, and, even then, has applied it inconsistently. This ‘weak conditionality’ undermines the expressive coherence of the EU’s commitment to normative goals.

While suspension clauses were used in some cases in Eastern Europe – for instance in denying aid to Serbia-Montenegro and Croatia under the pre-accession PHARE program – they have been less used in countries without an EU membership perspective. In fact, suspension clauses have *never* been used to suspend a signed AA, although the EU has suspended negotiations with Libya (for a framework agreement) and has indefinitely postponed signing the AA with Syria. Much the same applies to Partnership and Cooperation Agreements (PCAs).⁷¹ While a formal aspect of PCAs is to support the democratic *and* economic development of the partner country, in practice the focus of these agreements has been economic cooperation and the furthering of trade relations.⁷² Only in two cases did the EU suspend existing agreements – with Romania in 1989 and with Yugoslavia in 1991 – and these instances both predate the more comprehensive PCAs of the 1990s.

The only exception worth mentioning is the fact that the EU has not implemented its PCA with Belarus for its failing to live up to democracy, human rights, and

market-economy principles.⁷³ PCAs with all countries in what the EU refers to as the 'Eastern Partnership' went into force in the late 1990s. In the case of Belarus, however, a PCA was negotiated in the early 1990s and signed in 1995. As Lukashenko's regime took an increasingly authoritarian turn in 1995, the EU made the implementation of interim economic and trade agreements conditional on democratic and economic reforms. The worsening situation with regards to democracy and human rights led to a suspension of technical support and funding, and the abandonment of the ratification process. The isolation of Belarus deepened when Lukashenko failed to give up his office as President at the end of his original term in the summer of 1999.

Not only has the EU applied conditionality inconsistently in its pursuit of its normative goals, many have argued that what makes the difference in whether the EU applies conditionality or not are strategic and economic concerns.⁷⁴ For instance, the EU continued to negotiate an AA with Azerbaijan in 2005, despite widespread electoral fraud in the 2005 Azerbaijani general election, in part because of the important pipelines running through Azerbaijan to the EU.⁷⁵ Similarly, in the Mediterranean, scholars have argued that the lack of EU conditionality can often be explained through instrumental considerations that have little relation to the extent that partner countries live up to – or violate – so-called fundamental values.⁷⁶

What is the problem with weak conditionality in the context of normative power Europe? For normative power Europe to succeed, the EU must have some power resources, and must know and be able to clearly communicate its normative foreign policy goals. One aspect of clearly communicating normative commitments is *expressive adequacy*. Pursuing normative goals through trade policy serves the expressive function both of drawing EU member states together as a value community (i.e. toward a shared perspective of which values are fundamental to EU member states) and communicating to partners the importance the EU accords these values. Where EU trade policy is able to further these values, claims to using trade policy in the service of normative ends is expressively adequate. Where not, this policy is a poor vehicle for expressing normative commitments – they are expressively inadequate.

Normatively, expressive adequacy matters for two reasons. First, on democratic expressivist lines,⁷⁷ it may be considered valuable in itself to unite EU member states as a common value community. Second, expressive clarity is useful in order to facilitate communication to partner states on what EU commitments to normative foreign policy goals consist of, as well as their relative importance. Inconsistent application of conditionality in response to breaches by partners of fundamental values undermines both of these normative ends.

The tension between comprehensive regulatory convergence and EU fundamental values

Though weak conditionality undermines normative power Europe through expressive inadequacy, the answer is not uniform application of strong conditionality in EU trade. Strong conditionality can also undermine the EU's fundamental values. This problem arises once we recognize that the EU pursues multiple ends in its trade and foreign

policy, and that those ends can come into conflict. Indeed, we saw this in the previous subsection in the context of the EU sometimes prioritizing economic and trade goals over the protection of democracy, as in Azerbaijan in 2005⁷⁸ and in the Euro-Med region following the Arab Spring.⁷⁹ Where such conflicts over different ends occur, normative power Europe prescribes prioritizing the EU's normative agenda. But we wish to focus on a different point that has seen less attention: the way the EU currently pursues trade agreements with autocratic partners can *itself* undermine the EU's fundamental values.

The main thrust of the argument is as follows: in its more comprehensive trade agreements, the EU requires partners to adopt regulatory norms and standards that can have wide-ranging and quite fundamental impact on their domestic economies.⁸⁰ Presumably, partner countries' governments are persuaded that the benefits of freer trade with the EU are worth the costs of such comprehensive regulatory convergence. Yet, undoubtedly, there *will be* such costs, and some domestic economic actors will lose out as a consequence to freer trade, even if the net impact of FTAs is positive.⁸¹ This is not a problem when partner countries are democratic, as processes are in place for those affected by free trade policies to influence their government's foreign policy, and potentially sanction government commitments that they feel run counter to their interests. But in autocratic partner states, these democratic legitimacy mechanisms are absent. Incentivizing autocratic partners to adopt economic and regulatory norms therefore seems to run counter to the EU's commitment to democratic government.

But is it really the case that the EU incentivizes partners to unilaterally adopt EU norms *via* its FTAs? The EU insists that its approach to trade agreements is consensual; that partners agree on both the economic and trade goals and on the normative values that these agreements claim to pursue.⁸² If this is correct, then the EU is simply supporting autocratic partner countries that wish to take steps toward, say, democratization, in achieving that goal.

There are two things wrong with this objection. First, despite the rhetoric, the EU in fact imposes fairly monolithic trade agreements on partners – particularly where those partners are weaker, there is little to show for the rhetorical commitment to mutuality.⁸³ Second, *even if* the governments of autocratic partner states were to accept the comprehensive package of economic and regulatory norms the EU imposes, along with the normative agenda for governance reform, the fact of the matter is that autocratic states, *by definition*, lack democratic legitimacy. The wholesale adoption of EU regulatory norms and standards in the *acquis communautaire* by autocratic partners incentivized by trade liberalization thus undermines the EU's commitment to the development of democratic government in those partner states.

In the following two sections we argue that learning from China's approach to gradualism in free trade policy can further normative power Europe in two ways. First, gradualism can sometimes increase the EU's bargaining advantage vis-à-vis the current, more comprehensive approach (Section 5, below). Second, in section 6, we argue, counter-intuitively, that gradualism can take the sting out of the normative critique developed in this section, and can offer a way out of the anti-democratic effects of imposing economic and trade norms comprehensively on autocratic partners.

Learning from China: the advantages of gradualism

The preceding discussion of China's trade agreements (Section 1) suggested how some aspects of its more gradual approach to trade negotiations have served to maximize bargaining leverage by combining the growing asymmetric economic dependence of partner countries with delayed negotiations over crucial trade issues. Over the following two sections we argue how the EU can further its normative agenda via more gradualism by (a) scaling back the sectoral coverage and depth of liberalization in FTAs with proximate autocracies, and (b) progressing more incrementally (i.e. at a slower speed) from narrower to more extensive agreements with autocratic trading partners.

We have seen that the scope of EU agreements is broader in terms of issue coverage and deeper in terms of initial liberalization when compared to China (Section 2) and this leaves fewer opportunities for the EU to utilize its growing bargaining power in pursuit of its goals. However, the EU's Euro-Med agreements do exhibit some similarities with China's approach in terms of their sequential character. The Barcelona process is associated with a number of initially limited bilateral FTAs. Agriculture and services liberalization is often excluded, and technical barriers to trade are often significant even after conclusion of early agreements. This section places the issue of China's leverage over its trade partners in direct comparison with the bargaining approach of the EU. If the EU can take greater advantage of a gradualist approach to trade, it could improve its bargaining position from which to pursue normative foreign policy goals.

From the EU perspective, what would an approach that maximizes its leverage in trade look like? What was called the 'influence effect' of trade by Albert Hirschman derives from the fact that the trade conducted between one state, is worth something to a second state, and the latter would consequently grant political, or economic advantages to retain trade with the former.⁸⁴ If a state wants to increase its leverage over another, it must create a situation in which the latter would make concessions in order to retain their trade with it. This is achieved when it is costly for the second state to lose the trade relationship completely or to replace the first state as a market. The possibility that the first state would expand an already established trade relationship is a mechanism by which it can influence its trade partners (positive conditionality). This option is more easily available to actors adopting a gradual approach to trade negotiations since it increases opportunities for subsequent expansion.

We can take the Chinese approach as a template for this positive conditionality mechanism. As we have seen, China's agreement with Pakistan covered liberalization in goods only, and these tariffs were eliminated on only 35% of products. Alongside this, there was also weak liberalization in a number of areas including textiles and plastics; the agreement consequently falls far short of commitments under GATT article XXIV on eliminating tariffs on 'substantially all trade' and the initial deal did not include services or chapters on intellectual property, competition, or government procurement.⁸⁵

Expansion was built into the deal with Pakistan under phase two. However, discussions under this second phase were difficult; in 2015, Pakistan raised concerns regarding competition faced by the local industries represented by cheap imports from China. Nevertheless, in contrast to its initially generous approach, Beijing subsequently demanded Islamabad reduce duties to 0% on 90% of products under the proposed revised

FTA. In 2019, the second phase was implemented with further liberalization on both sides. Running concurrently with these negotiations were concessions on the part of Pakistan in the form of a 2018 agreement to use the Yuan instead of the US Dollar for bilateral trade. In 2019, Pakistan also offered tax breaks for Chinese corporations alongside a series of strategic concessions related to the China-Pakistan Economic Corridor (CPEC).

Similarly, with ASEAN, trade dependency increased over time with total trade between China and ASEAN reaching \$480 billion in the 10 years after the agreement and China becoming a much more important partner for the group of nations. This asymmetry has real consequences for bargaining power; previous research has shown that increased trade dependence on China is correlated with more accommodative positions on the part of China's partners on economic issues.⁸⁶

How does this compare to EU trade deals in the Euro-Med region? To take Algeria first, since the AA was concluded in 2005, Algerian exports of goods to the EU have increased substantially, from \$22 billion in the year before the agreement to over \$41 billion in 2008, reaching a peak of over \$42 billion in 2013 before declining with exports valued at \$26 billion in 2019.⁸⁷ Over this period, Algeria's trade dependence on the EU was substantial and increasing. With growing trade concentration, the EU now constitutes over 50% of its total trade and is a significant importer of natural gas and oil.⁸⁸ This is unsurprisingly an asymmetric dependence; Algeria is only the EU's 20th largest partner for imports and its 24th largest partner for exports.⁸⁹ Yet, despite this growing dependence on the part of Algeria, there is little evidence the EU has utilized initially limited agreements to maximize its leverage. Likewise, Morocco's exports to the EU have expanded to an even greater degree than Algeria's following the AA, going from around \$6 billion in 2000 to \$18 billion in 2019.⁹⁰ Yet, whilst there is evidence of some success in the EU's support for democratic reforms, there is little evidence that the EU has utilized the leverage arising from Morocco's growing trade dependence in pursuit of these goals. Similarly, since the conclusion of the AA with Egypt in 2004, EU-Egypt trade has more than doubled from almost \$12 billion in 2004 to \$28 billion in 2017, with the EU being responsible for around 30% of Egypt's total trade volume.⁹¹

Clearly, in the context of normative power Europe, the success of the agreements should be measured not only in terms of the economic concessions gained, but also in terms of the political reforms undertaken by these countries. We suggest however that the commercial leverage should not be foregone, because this actually helps secure progress on the political chapters. There are weaknesses in the political aspects of the agreements with Algeria and Morocco,⁹² and utilizing commercial leverage could help strengthen these parts further. That is not to say that commercial interests should never be sacrificed for political ones – the balance the EU attempts to strike between these should be politically and democratically determined and indeed our argument is geared toward increasing the scope, impact, and efficacy of the EU's normative agenda. However, quick and early economic concessions should not be made for minor and shallow political reforms (as arguably characterizes the EU-Morocco deals, for instance) as this undermines both the economic and political aspects of the AAs.

There is therefore substantial scope for the EU to improve the use of positive conditionality in relation to its Euro-Med trade partners. In particular, a change in approach on

the depth of initial liberalization, in the same fashion as China, will have the dual benefits of giving developing economies time to adjust to the new trade relationship, as well as maximizing long-term EU leverage in non-trade areas as progressive liberalization is tied to progress elsewhere. This would require a major shift in the EU approach to adopt one which sacrifices short-term economic advantages for longer-term leverage.

Beyond the neighborhood countries, the EU does have an alternative system to support normative objectives. The GSP+ incentive arrangement reduces duties on two thirds of tariff lines to 0% for vulnerable low and lower-middle income countries that implement 27 international conventions related to human rights and good governance). The latest incarnation of the scheme was adopted in 2012,⁹³ with the goal of assisting developing countries in assuming ‘the special burdens and responsibilities resulting from the ratification of core international conventions on human and labor rights, environmental protection and good governance as well as from the effective implementation thereof’⁹⁴ To qualify for the GSP+ scheme, a country must be vulnerable, defined in terms of a ‘lack of diversification and insufficient integration within the international trading system’, and must have ratified all 27 conventions.⁹⁵

However, GSP+ has been criticized for many reasons. First, not all of the countries involved need the same kinds of help in securing the same objectives.⁹⁶ Further, by rewarding countries that have already implemented these conventions, it is inevitable that developing countries with the greatest capacity to implement are rewarded over those with more limited initial capacity. Second, under GSP+, tariff concessions are withdrawn if there is a lack of progress. Yet the trade concessions exist to help support the progress of development and compensate for the costs of implementing the conventions. Logically then, it makes little sense to withdraw these concessions when they are likely to be needed the most (i.e. when progress is not yet secured).⁹⁷

The advantage of the gradualist approach to trade negotiations would have over the GSP+ system is, that the particular circumstances of partner countries could be better taken into account. The same is true in general of more gradualism with regard to EU trade deals with authoritarian partners. Indeed, a more gradualist approach would allow the EU to reward progress over time rather than punish backsliding. Gradualism would also be more in line with taking into account the particular circumstances in partner countries as it would result in agreements that are tailored to them rather than imposing a standard template. For these reasons, both in the context of vulnerable GSP+ countries and in the context of other countries with whom the EU has a trade advantage and who would be likely targets of the EU’s normative foreign policy agenda, more gradualism seems like a powerful strategy to adopt in the service of normative power Europe.

Gradualism in light of normative coherence

In the previous section we argued that the EU could learn from China’s approach to negotiating more limited initial FTAs in order to improve its bargaining position. A stronger bargaining position could be used to many ends, but one of those ends is normative power Europe.⁹⁸ Of course, using the improved bargaining position pursuant to a more gradualist strategy to pursue normative foreign policy would starkly contrast with

China's use of its strategic power in this domain which is focused on economic advantage.

Adopting a more wide-ranging gradualist approach⁹⁹ also serves normative power Europe in three other ways. First, using gradualism would create more room for positive vis-à-vis negative conditionality. Given the EU's reluctance to use negative conditionality, leading to inconsistent application of such mechanisms ('weak conditionality', see Section 4.1), improving the balance of positive to negative conditionality tools is likely to improve the normative coherence of EU free trade policy. Second, in prioritizing smaller agreements, requiring less transfer of regulations and standards, gradualism would make lower demands on democratic legitimation in partner countries. For countries that currently perform poorly on democracy and the rule of law, this would mean EU FTAs no longer undermine EU fundamental values (in the manner described in Section 4.2). Third, awarding partner countries increased trade cooperation, corresponding to increased demands of regulatory convergence, incrementally as they take steps to democracy also enables subsequent more comprehensive deals to better meet the standards of domestic democratic legitimation.

Using the example of trade agreements with the Euro-Med region, we have discussed how the EU's current approach is relatively comprehensive in terms of both issue coverage and depth of liberalization (see Section 2). Despite the sequentialism of these deals (more limited deals being followed by more extensive deals), EU trade negotiation strategy stands in stark contrast to China's approach of using gradualism to maximize its leverage (see Section 1). Pivoting from the EU's current strategy to a more deliberate gradualist strategy would improve the normative coherence of the EU's FTAs in light of the normative goals the EU professes to pursue with free trade.

Currently, the EU applies conditionality inconsistently – we have called this 'weak conditionality' (see Section 4.1). Whereas in exceptional circumstances the EU has backtracked on agreements – as in the case of Belarus – often the EU has not applied negative conditionality mechanisms despite partner states clearly regressing on normative governance goals – democracy, human rights, the rule of law, etc. This inconsistency undermines the EU's commitment to fundamental values that ground this normative foreign policy agenda, drawing attention to the fact that the EU often prioritizes other ends such as stability, security, or economic development.¹⁰⁰ As laid out in Section 4.2, it exposes normative power Europe to an *expressive inadequacy* that both undermines the ability of EU member states to unite as a common value community and the ability of the EU to clearly communicate the importance and even the content of the EU's normative foreign policy goals.

Of course, one possible solution to the inadequacies of 'weak conditionality' is simply that negative conditionality is more consistently applied. But there is another option; a more gradualist approach would change the focus of conditionality mechanisms from negative conditionality to positive conditionality, given that limited agreements leave much further cooperation open. Subsequent, incrementally deeper and more comprehensive agreements could be offered to those partner states that make real reforms toward governance goals. Of course, not all partner regimes will respond the same way to EU conditionality in trade agreements – some regimes, like Morocco and Tunisia, have seemed to be fairly open to making reforms in response to EU leverage,¹⁰¹ while the

success of EU conditionality in other states, such as the states of the Western Balkans, has been much more limited.¹⁰² However, that not every authoritarian state will respond identically to the same sorts of incentives does not mean that the EU will not be better positioned to pursue its normative agenda where adopting gradualism improves its leverage. Indeed, the gradualist approach would provide more numerous opportunities for the EU to tailor its approach in reaction to the behavior of these trade partners.

In Section 4.2 we laid out how the way the EU now pursues deeper and more comprehensive free trade agreements can also more directly undermine democracy – a purported value that the EU's free trade agenda intends to further. The problem is that such comprehensive deals necessarily affect domestic actors in different ways; even if one can expect that the aggregate economic impact is positive, there will still be losers in partner countries, and indeed in the EU.¹⁰³ Furthermore, DCFTAs come with significant demands for partner countries to converge their regulations and economic policies with EU norms. Democratic legitimacy standards demand that such sorts of policies are legitimated by democratic procedures, but those procedures are absent or flawed in the proximate autocratic countries that the EU makes free trade deals with. Adopting a more gradualist approach like China's would require less regulatory convergence early on, thereby lowering the democratic legitimacy demand. Consequently, for partner countries with flawed democratic procedures – or none at all – limited trade deals would not undermine the EU's commitment to democracy.

This 'negative' argument (that gradualism is preferable because it is not flawed in the way the EU's current comprehensive approach can be) also has a 'positive' correlate: awarding autocratic partner countries increased economic and trade cooperation as they make real progress toward democratization makes each subsequent deal more legitimate from the perspective of democratic governance. Very extensive trade deals requiring significant regulatory convergence with the EU would thus be reserved for democratic partners. In other words, this would not only help communicate the EU's commitment to normative power Europe by 'sweetening the deal' on offer when democratic, human rights and rule of law reforms are extensive and durable, but it would also make such extensive deals more *internally* coherent qua legitimated by domestic democratic processes in the partner countries in question.

The idea of the EU learning lessons from China on trade policy to further its normative foreign policy is counter-intuitive. It is *prima facie* strange to say that the EU could better pursue some of its normative agenda using strategies that better characterize the Chinese approach to FTAs. The strangeness lies both in the vast dissimilarities of the EU and China as (political) economies and in their stark differences on core normative values such as liberal democracy, human rights, and the rule of law. However, while the counter-intuitive nature of the argument makes it more striking, it does not undermine its validity. Indeed, far from suggesting the EU abandon normative goals to mirror the Chinese focus on mere strategic and economic considerations, we recommend the EU become more creative in its pursuit of normative foreign policy, including mirroring strategies of negotiating FTAs used by an authoritarian state where those elements (a) seem more effective and (b) are themselves not contrary to the EU's normative commitments.

Conclusion

We have argued that adopting a more extensive gradualist approach to negotiating FTAs can strengthen the EU's normative power. More gradualism in the negotiation of FTAs would allow the EU to capitalize on the increasing economic dependency of some partner countries over time to improve its bargaining position. This improved bargaining position could be used to secure many different kinds of concessions from trading partners, including normative reforms in the areas of human rights, the rule of law, and democratic government.

More gradualism would also resolve problems regarding the normative incoherence of the EU's current approach. The current, more comprehensive approach, requires autocratic partners to adopt large portions of the *acquis communautaire* to achieve the regulatory convergence necessary for free(r) trade. Yet in autocratic states, by definition, there are no or only very flawed democratic processes to legitimate such wide scale changes to their economies. Furthermore, while there exist *de jure* mechanisms for the EU to scale back its trade cooperation with partner countries in the case of severe breaches of EU fundamental values (for instance serious human rights violations), in practice these are rarely and inconsistently used. More gradualism would allow the EU to scale up trade cooperation and the concurrent demands for regulatory convergence as autocratic partner countries make democratic reforms, and would enlarge the scope of more consistent positive conditionality over the inconsistently used negative conditionality mechanisms.

There are some important limits to the scope of our argument. The normative case against the democratic legitimacy of current more comprehensive free trade deals only applies straightforwardly to agreements with proximate autocratic states. Our argument also reveals a more general normative tension between the EU's commitment to a democratic *ethos* and the idea that the EU can use its considerable economic power to incentivize partner states to make fundamental reforms to their government models; this ought to be further explored. Empirically, while positive conditionality mechanisms are applied more consistently than negative conditionality mechanisms, questions of the efficacy of the former remain. Furthermore, particular bilateral trade relationships may have their own unique dynamics which impact both the extent that an authoritarian partner is sensitive to the EU's normative agenda, and the effect increased leverage might be expected to have on trade negotiations. Future research is needed to bring a more granular perspective on the expected returns of the EU adopting more gradualism in particular bilateral relationships with autocratic partners. Finally, while we have shown the plausibility of the idea that the EU's bargaining position improves over time with some Euro-Med countries, demonstrating this robustly and examining the extent to which this applies to other trading partnerships requires more sustained empirical analysis.

To be clear, the bulk of China's approach and the ends to which China puts its economic strength contrast starkly with EU fundamental values. We are suggesting not that the EU adopt China's ends with regard to free trade negotiations, but that the EU look creatively at whether adopting a more gradualist strategy can further its normative agenda. Where gradualism can enhance the promotion of EU fundamental values abroad by improving the EU's strategic bargaining position and reducing normative

incoherencies of the EU's current, more comprehensive approach, these opportunities should be taken. It is precisely because of the importance of those fundamental values that the EU should be creative in their pursuit, and careful that the tools it uses to these ends are consistent with those values. In that spirit, we are convinced the EU should sometimes adopt gradualism in free trade negotiations with authoritarian partners to strengthen its normative power.

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Notes

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83. For instance, Delcour and Kostanyan show that in the case of the EU's DCFTA with Georgia both the decision to negotiate the DCFTA, and the content of the agreement was set by the EU with little concern for Georgian concerns and interests: Laure Delcour, 'Meandering Europeanisation. EU Policy Instruments and Policy Convergence in Georgia Under the Eastern Partnership', *East European Politics*, 29(3), 2013, pp. 347–50; Hrant Kostanyan, 'Neither Integrated nor Comprehensive in Substance: Armenia and Georgia', in Anne Wetzel and Jan Orbie (eds), *The Substance of EU Democracy Promotion* (Houndmills: Palgrave Macmillan, 2015), p. 347.
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96. Wardhaugh, 'GSP+ and Human Rights', p. 836.
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98. Our claim is not that the EU never uses its improved bargaining position over time with certain partners to extract concessions in subsequent larger trade deals. Rather, we have shown that there is little evidence the EU does so effectively, whereas we have seen China does so systematically and effectively.
99. It is important not to overstate our view. As we discuss in Sections 2 and 5, the EU's approach in the Euro-Med region shares some characteristics with China's approach in that it is sequential – the EU typically makes smaller trade deals with partners prior to making more extensive trade deals. However, both in terms of issue coverage and in terms of initial liberalization the EU's approach is comparatively *broader* and *deeper*. What we suggest therefore is that the EU adopts a *more* gradualist approach.
100. Pace, 'Paradoxes and Contradictions in EU Democracy Promotion in the Mediterranean'; Börzel and van Hüllen, 'One Voice, One Message, but Conflicting Goals'.
101. On Morocco and Tunisia see for example Vera Van Hüllen, 'Europeanisation Through Cooperation? EU Democracy Promotion in Morocco and Tunisia', *West European Politics*, 35(1), 2012, pp. 117–34. On worries about how the EU benchmarks progress on political reforms in the context of Tunisia see: Del Sarto and Schumacher, 'From Brussels With Love'.
102. Solveig Richter and Natasha Wunsch, 'Money, Power, Glory: The Linkages Between EU Conditionality and State Capture in the Western Balkans', *Journal of European Public Policy*, 27(1), 2020, pp. 41–62.
103. Prasad et al., 'Effects of Financial Globalization on Developing Countries'.

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