

# A TENTATIVE ANALYTICAL FRAMEWORK TO ANALYSE THE TRADE-LABOUR LINKAGE IN THE UNITED STATES AND EUROPEAN UNION

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## **ABSTRACT**

In the last decade, the promotion of labor standards has emerged as a key negotiation objective in the trade strategies of both the US and EU. These actors, by not being able to bring labor standards to the framework of WTO because of the opposition of the developing countries, engaged on the promotion of labor standards via preferential trade agreements (PTAs). When it comes to negotiating these agreements, however, in spite of the similar rhetoric and similar results in the implementation of PTAs' labor clauses, United States and European Union have different approaches to enforcement – legal-based enforcement in the US, contrasting with a non-vigorous approach focusing on cooperation in the EU. This seems contradictory, given that EU countries' in average have stronger trade unions and more labor rights protection than in comparison with the US. While some works attribute this to the low politicization of European institutions in relation to US institutions – which supposedly grants more access of labor preferences in the voting stage – it does not solve this puzzle, given that there are works reinforcing that political cleavages may exert substantive influence in the EU policymaking process. Thus, what is the explanation for these different approaches? I assume that an answer can be found in the domestic politics of each actor. The aim of this paper is to provide initial elements to respond to that question by focusing on a theoretical possibility of such an inward looking perspective. Such an endeavor is challenging given the multitude of actors participating in the policy process. Given that, this work will focus on the relationship among distinct policy actors in the form of policy networks. It offers a matrix from which it is possible to extract four hypotheses as to the nature of the policy network and their impact in the policy process, according to the policy influence of the policy network supporting the trade-labor linkage vis-a-vis the influence of adversary coalitions.

## **INTRODUCTION**

In the last decade, the promotion of labour standards has emerged as a key negotiation objective in the trade strategies of both the US and EU. These actors, by not being able to bring labour standards to the framework of WTO because of the opposition of the developing countries, engaged on the promotion of labour standards via preferential trade agreements (PTAs). When it comes to negotiating these agreements, however, in spite of the similar rhetoric and similar results in the implementation of PTAs' labour clauses (Oehri, 2013), United States and European Union have different approaches to enforcement – legal-based enforcement in the US, contrasting with a non-vigorous approach focusing on cooperation in the EU (ILO, 2015). This seems contradictory, given that EU countries' in average have stronger trade unions and more labour rights protection than in comparison with the US. This can be seen in terms of the union density and strictness of employment protection in countries such as Belgium, Finland, France, Germany, Netherlands and UK when in comparison to the United States (Table 1).

**Table 1.** Trade union density<sup>25</sup> and employment protection<sup>26</sup> in Belgium, Finland, France, Germany, Netherlands, UK and US (2012)

	Trade union density	Strictness of employment protection
<b>Belgium</b>	55,0	1,89
<b>Finland</b>	68,6	2,17
<b>France</b>	7,7	2,38
<b>Germany</b>	17,9	2,68
<b>Netherlands</b>	17,7	2,82
<b>United Kingdom</b>	25,8	1,26
<b>United States</b>	11,1	0,26

Source: OECD, 2016.

While some works attribute this to the low politicisation of European institutions in relation to US institutions (Kerremans; Gistelincq, 2008) – which supposedly grants more access of labour preferences in the voting stage – it does not solve this puzzle, given that there are works reinforcing that political cleavages and societal preferences may exert substantive influence in the EU policymaking process (Beyer; Kerremans, 2004). Thus, *what is the explanation for these different approaches* ? This paper aims to provide a partial response to that question by focusing on its theoretical implications. As such, it aims to provide some initial theoretical elements that can serve as guide for the empirical research.

#### Brief Literature Review

The literature on trade and labour in the US and EU is particularly interested in analysing three sets of variables: domestic preferences, ideas and institutions. However, most of times, the literature approaches these variables in an isolated way, not focusing on the necessary relation between actors of distinct levels or giving too much attention to institutions instead of preferences. Grounded on the study of interests groups in the decision making process, one of the most used trade models is based on the Stolper-Samuelson (SS) and Ricardo-Viner (RV) frameworks, which provide explanations as to how exposure to trade affect domestic alignments. These alignments occur according to class divisions and factors (capital, labour) or according to divisions between sectors (exporting and importing). (Rogowski, 1989; Alt, Giligan, 2000). The frameworks do not take into consideration the important role played by political parties and by the Executive.

Some actors, such as Kimberly Elliot (2000), in turn, draw upon Milner's (1997) and Lohman and O'Halloran's (1994) argument that divided governments makes international cooperation less likely. Elliot used this explanation to analyse the difficulties of the US Executive in bargaining with fair trade groups for the inclusion of certain social aspects in PTAs. This argument, however, is not absent of criticisms, as pointed out by Karol (2000), since a divided government does not have that much of an influence if taken into consideration the constituency-based preferences of the parties and the liberal presidency thesis<sup>27</sup>. Besides the works that analyse the relation between trade and labour, there are very relevant publications investigating the role of bureaucracies (Destler, 1980;

<sup>25</sup>Trade union density corresponds to the ratio of wage and salary earners that are trade union members, divided by the total number of wage and salary earners (OECD Labour Force Statistics). Density is calculated using survey data, wherever possible, and administrative data adjusted for non-active and self-employed members otherwise.

<sup>26</sup>The OECD indicators of employment protection are synthetic indicators of the strictness of regulation on dismissals and the use of temporary contracts. For each year, indicators refer to regulation in force on the 1st of January.

<sup>27</sup>If we take into consideration that the party preferences are influenced by the preferences of its constituency (Rogowski, 1989) and if we consider that there are sector divisions between importing and exporting sectors, as predicted by the Ricardo-Viner model, there maybe a coalition of moderate Democrats and internationalist Republicans, both representing the exporting sector, in favor of trade liberalisation. Considering the liberal presidency thesis, which defends that Presidents are pro-free-trade independently of their party affiliation, a divided government may not have that much of an impact on the prospects of trade liberalisation. This explanation is called in question by the rising left-right divide in the US politics.

Dryden, 1994), particularly in the US. These works fail, however, to effectively take into account the relevance of bureaucratic divisions in the US trade policymaking process<sup>28</sup>. Studies focused on bureaucracy also exist in the EU, although not to same extent that in the US (Elsig; Dupont, 2012; Van den Hoven, 2007).

In general, the US trade policy literature and the American IPE have followed a much more rationalist path than it is the case for the EU, in which trade policy gets much attention from critical (Bailey; Bossuyt, 2013) and constructivist scholars (Siles-Brugge, 2014). Works on EU trade focused on normative aspects (Manners, 2002), which consider the EU a “normative power” have been widely criticised for not answering questions such as: what interests are involved and which preferences conflict? The analysis of domestic politics is one way to overcome these criticisms. In Europe, these studies tend, however, to focus on institutional arguments with questions such as: what is the role played by domestic institutions in the way European Union deal with social aspects in its trade policy? (Dur, 2007a; Kerremans; Gistelinck, 2008; Gonzalez-Garibay, Adriaensen, 2011). Works focused on institutional aspects as independent variable miss the relevance of strong domestic preferences, which may actually bypass institutional constraints (Milner, 1997). Recently, in the European Union, a growing number of works focusing on preferences of interests groups has surfaced (Dur, 2007b; Dur, De Bièvre, 2007; Woll, 2012; Beyers, Poletti and Hanegraaf, 2016). In separate, however, works focused on institutions, interests and ideas end up not taking into account the big picture, even though such a stance would reduce the type generalizations that can be made.

### Basic Elements of a Framework

Faced with these shortcomings, one of the main potential contributions of this framework to the current literature is to focus on the *relationship among distinct actors* in order to understand more effectively their impact in the policy process. The presence of a growing focus on parsimony, disaggregated variables and generalisation in the current IPE scholarship may hinder its ability of understanding complex policymaking contexts. Given that, this research is a way to address this limitation, which is underscored by renowned scholars (Cohen, 2008). The research is also relevant because one would expect that, because of the fragmentation of the decision-making process and the growing number of actors willing to participate in the decision-making process, emphasis should be given to domestic coalitions or networks of multilevel actors.

In order to group different actors, I use the definition of policy networks: “sets of formal institutional and informal linkages between governmental and other actors structured around shared if endlessly negotiated beliefs and interests in public policymaking and implementation” (Rhodes, 2006: 2). As such, policy networks are transversal to social and governmental preferences and may include members of the US Congress, European Parliament, the member states’ representatives within the EU Council of Ministers, or of the European Commission, the US Executive branch, etc. In spite of this broader definition, the access of policy networks to the decision-making processes changes from place to place (in some occasions, civil society may have more influence than in others, for instance). Indeed, many policy network studies attempt to make a categorisation of the types of policy networks existent in each of the countries studied (Jarman, 2008). There are also studies interested in knowing the type of policy network existent within a single country or region (Jordan, 1981; Page, 1997; Coen, 2004). This includes the few policy network studies focused on trade policy and negotiations (Ulrich, 2002).

Rhodes (2006) criticises such a categorisation, considering it a ‘modernist–empiricist’ approach, which treats networks “as discrete objects to be measured, classified and compared”, and not as *sui generis* organisations. I partially agree with his criticism. Jarman (2008), for instance, considers that the United States policymaking process is iron-triangle like, while the EU is more policy network-like. The author implicitly commits two mistakes by making this distinction. Firstly, he implies that the policymaking process in the United States is characterised by a closed subsystem of actors, since the iron triangle model considers that relevant interest aggregation will occur between Congress, bureaucracies and interest groups. This automatically excludes other participants, such as NGOs, think tanks, etc. and goes against the evidence that these actors matter, as well as does the kind of relationships taking place outside the ‘triangle’ (Coen, 2004; Jordan, 1981). Secondly, he implicitly considers that policy networks do not have that much of an influence in the decision-making process.

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<sup>28</sup>See Art (1973) and also Goldstein (1993). Both authors point out that the divisions within the bureaucracy cannot be exaggerated either because the Executive has a “liberal bias”, which makes it a pro-trade actor in spite of differences in terms of tactics, or because there may be external actors that can take place in order to suppress bureaucratic conflict.

Thus, Rhodes (2006) has a point in cautioning against categorisation. It solidifies otherwise fluid organisations. However, flexible categorisations may be useful to build knowledge and to facilitate understanding. Then, one must acknowledge that the study of the different *impacts* policy networks have on the policy process does matter. This work considers that *neither* the US *nor* the UE trade policymaking process can effectively be analysed as a closed shop of actors. As said by Peterson (2003: 129), ‘policy network analysis is never more powerful as an analytical tool than when it is deployed at the EU level’ and ‘few ... would deny that governance by networks is an essential feature of the EU’.

The impact of actors in the decision-making process depends upon the resources available to them. These resources also matter when compared with the resources of opposing networks, as proposed by the Advocacy Coalition Framework (Sabatier, 1989). Differently, however, from the ACF, where institutional aspects are not taken into consideration, here I consider that institutions are important as a non-deterministic context for action, constraining constelations of actors (policy networks) and reducing empirical variance (Scharpf, 1997).

I will make a simple classification not about whether one kind of policy networks is more or less effective than another and not also about the number of actors to be analysed, but rather on their access to the decision-making process based on their resources and on the interaction with other networks. This framework finds some precedents in European IR studies. Beyers and Kerremans (2004), for instance, find two major political networks in the European Union, a pro-growth and a sustainability coalition, analysing these networks taking into consideration institutional constraints. A preliminary attempt to illustrate the analytical framework of this research is presented by Figure 1, bellow. The classification should not be seen as a rigid one. There may be different combinations of variables within each possibility set out by the model.

I consider that policy networks with *harder* access to the policymaking process have a more direct influence, mainly through bargaining, which requires solid concessions, while the ones with *softer* access have a more indirect influence on the decision-making process, based on consultation rather than on bargaining influence. As the kind of analysis proposed by this research involves adversary coalitions seeking for influence in the policy process, the relation between them may be understood from a game-theoretic standpoint (Scharpf, 1997), a possibility to be explored as the research advances. As to what brings actors together in the form of coalitions or policy networks, I take into consideration a context of bounded-rationality in which actors within networks come together to fulfil their interests based on cost-benefit analysis but are also constrained by beliefs, perceptions and limited access to information (Scharpf, 1997). The technique for analysing these policy networks can adapted from the literature on the subject (i.e. Haas, 1992):

- 1) Map and analyse members of the coalition according to shared beliefs and preferences;
- 2) Trace and map the activities of the policy network, determining its objectives and resources;
- 3) Trace its influence in the decision-making process in comparison to opposing networks, and compare results;
- 4) Look for possible alternative explanations to the results;

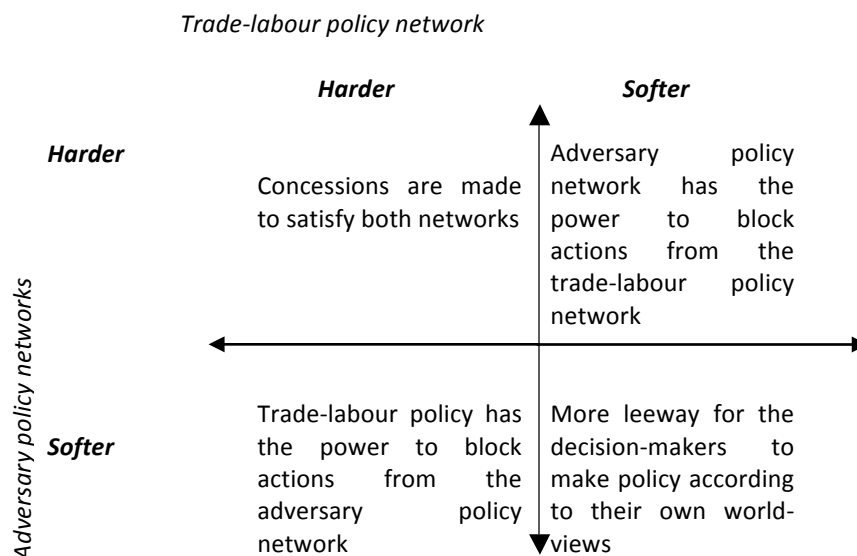


Table 1. Access of policy networks to the decision-making process in the US and EU

**Initial Theoretical Expectations**

In terms of theoretical expectations, I consider that US, trade-labour policy networks have bargaining power in the decision-making process, thus requiring specific concessions in order not to possibly impose a legislative loss. This reflects the importance of states such as Ohio and Michigan, where most steel and automobile industries are concentrated; the connections between labour and environmental groups to defend issues related to human rights; and the connections between trade unions and officials of the Department of Commerce and also the United States Trade Representative (USTR), the most important trade policy institution in the United States. This influence is higher during the voting stage, given the distribution of pecuniary contributions to congressional representatives and the size of the electoral districts in the US, which facilitates interest aggregation (Kerremans; Gistelinck, 2008).

In the United States, moreover labour unions are explicitly against trade liberalisation in its own terms and considerably more wary of economic openness than their European counterparts (GLU, 2008). American Labor Federation – Congress of Industrial Organizations (AFL-CIO) has opposed the Trade Promotion Authority (formerly *fast-track*<sup>29</sup>) in different occasions, and raised very solid opposition against the Central America and Dominican Republic Free Trade Agreement (CAFTA-DR). Moreover, trade matters seem to be a very relevant subject in the agenda of AFL-CIO. In spite of that, there are other policy networks that oppose the trade-labour linkage. In the US, these networks, constituted mainly of business groups and advocates of free-trade, have a large amount of resources to block the policies defended by the trade-labour policy network. These groups consider that linking trade and labour may affect the US competitiveness abroad and they have a much more aggressive lobbying than is the case for the European Union (Woll, 2009).

Still, while works defend that there is a privileged relationship between US institutions and business groups and that labour unions are underrepresented (Velut, 2008), in comparative terms it becomes clear that trade-labour policy networks in the US exert influence in the policymaking process despite their relative weakness. It may be that this influence is also a reflection of the characteristics of the adversary coalition, which is resolute about not giving in to the preferences of labour unions. During the negotiation of *fast-track*, in 1997, for instance, business groups made it clear that if there were any provision related to labour and environmental issues they would not give their full support to the authority (Destler; Balint, 1999). In this context, a more aggressive lobbying tactic by labour unions is expected as the costs of non-participation may be high.

In the EU, in turn, I expect that policy networks favourable to the trade-labour linkage have softer influence in the decision-making process in comparison to the US. First of all, in some EU countries, labour unions do not seem to consider that trade liberalisation will necessarily have negative impact on their workers. In fact, the Swedish Confederation of Professional Associations (SACO), the Swedish Trade Union Confederation (LO) and the Swedish Confederation of Professional Workers (TCO), for instance, stressed, in a memorandum, that “Trade Unions in Sweden are in favour of free trade” (LO, 2014). The immediate result is that trade is not always considered a substantive issue in the labour unions’ agenda. As stressed in a working paper by the Global Labour University (GLU, 2008: 23), “[t]he danger of new bilateral free trade agreements beyond the WTO raises new questions for NGOs, trade unions and other social movements, as these have mainly focused upon the multilateral level up to now. In particular, the role and awareness of free trade agreements in European civil society is crucially lacking”.

It also seems that in the European Union, labour and business groups have a less conflictive relation than in the United States. They both also have less aggressive lobbying tactics in a context in which the trade policymaking

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<sup>29</sup>TPA or *fast-track* is an instrument delegated to the Executive by the US Congress which allows a negotiated agreement to be voted without the possibility of amendments. The instrument gives credibility to the US position during the negotiations because it guarantees that after an agreement is reached, the voting process will be concluded under a given time period, instead of possibly becoming never-ending discussion and voting of amendments.

process is centralised in the Council of the EU and in the European Commission, what makes protest, consultation and exchanging of information the tool at hand for trying to shape the trade policy debate in the EU. The centralisation of the trade policymaking process, however, should not be seen from a deterministic standpoint. In spite of the strategy of the strategies for reassuring the autonomy of the agent (Elsig, 2010; Dur; De Bièvre, 2010), works have underlined the importance of thinking in terms of policy networks within the European Union decision-making process (Beyer; Kerremans, 2004), and the possibility of exchanging information for access as a way of influencing the policy process (Bowen, 2004). The point, however, is that in the trade EU trade decision-making process, labour-trade policy networks seem to lack the necessary impulse to overcome their collective action dilemmas and actually exert a harder impact in the policy-process. In this context, the European Commission may have more leeway to make trade policy.

This is reinforced by the fact that institutional characteristics are considerably different from those of the United States. The isolation of the European Commission, ultimately responsible for the trade policy decisions, seems to play an important role in limiting the access power of both the policy networks favourable of the trade-labour linkage, and the ones against it. It is yet to be studied in depth how changes brought to the fore by the Lisbon Treaty will affect the degree in which the European Commission is accountable and takes into consideration the pressures from the European Parliament.

### **Challenges and Alternative Hypotheses**

Based on the analytical framework presented here and based on the modifications brought to fore by the Lisbon Agreement, it is possible to find some alternative hypotheses as to the differences of EU and US in terms of approaches to labour standards in international trade agreements. It may be, for instance, that in the European Union groups pro-trade-labour linkage in the civil society and in the government have a set of beliefs that goes against the application of sanctions in terms of labour standards. As such, it will be necessary to capture, in the empirical research, the beliefs that unite distinct groups in regard to the best shape of trade agreements. In addition, it may not be the case that more leeway is allowed to the European Commission in case coalitions are soft, but that the Commission and the interests of the pro and anti-labour-trade linkage actually converge. Some would argue this is the result, as stated by Woll (2012), of different institutional arrangements that invite groups to have a more collegial approach in the European Union and a all-or-nothing approach game approach in the United States.

However, while institutional explanations do offer a very compelling idea as to the lobbying practices in the United States and European Union (Woll, 2012; Beyers, Poletti and Hanegraaf, 2016), the backlash against free-trade in the 90's and beginning of the 2000's indicates that maybe institutional aspects are too rigid (no institutional aspects could justify the growing rejection of free trade in that period). Moreover, the institutional debate does not seem to have settled some contradictions that arose regarding the insulation of the European Commission, and corresponding ideas of "collusive delegation" and the possibility of independent policy-making or regulatory capture (Dur 2007b). The main element of the "collusive delegation" argument is that the creation of a European communitarian level isolated the policymakers from the influence of sector demands, thus allowing a more independent policymaking, devoid of large lobbying pressures. Such an argument seems to have been fallen to ground particularly after the Lisbon Treaty.

Such alternative hypotheses would also address some of the concerns of the literature, which considers that actually "economic interests enjoy excellent access to decision-makers in this policy field [trade policy]" (Dur 2007b: 2). In other words, it may be that the access of business coalitions is not that soft as pointed out above. Thus, if we consider the possibility that labour-trade policy networks have only soft access to the policymaking process and that anti-trade-labour policy networks would have hard access to it, then, according to the framework, the adversary policy network would have the power to block actions from the trade-labour policy network. In that case, would the blockage of such actions mean that the more collegial approach of the European Union towards the promotion of labour standards should be seen as a defeat by the pro-trade-labour policy network? If so, interviews with members of this coalition will be able to offer some clues as to the validity of that hypothesis.

One element that may be of particular interest for this research is the different strategies that interest groups use in order to be "heard". Dur and Mateo (2013; 2014) find a correlation between group type and political (voice or access, for instance) and point out to the connection between public salience and interest groups activities. This means that while not always will civil society groups (arguably some of the most relevant integrants of the trade-labour coalition) have access and influence in the decision making process (Dur and Bièvre 2007) but will still have

considerable impact, particularly after the Lisbon Treaty. As such, ideally, in the process of developing the research, mediation between voice and access (Beyers 2004) of groups in the civil society will be due.

## CONCLUSION

The objective of this paper was to present some basic elements of a framework to analyse the trade-labour linkage in the United States and European Union. Using a policy networks approach, it developed hypotheses that allow some common ground for comparison between the research subjects, establishing a graduation according to the access of pro and anti-linkage policy networks in the policy process of United States and European Union. While the validity of these elements will be put to test as the empirical part of the research develops, they provide parameters according to which it will be possible to keep the focus of the research. It is clear that an analysis of the decision-making process both in the European Union and the United States can profit from an analytical framework that is able to take into consideration many different actors, while still taking into consideration the importance of the institutions in both side of the Atlantic.

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