



Department of *International relations*

Chair in *International Public Policies*

EU-ASEAN trade relationship: Prospects and possibilities

SUPERVISOR: *Mattia Guidi*

CANDIDATE: *Olimpia Serafini*

Student Reg. No: *631642*

CO-SUPERVISOR: *Raffaele Marchetti*

Academic year: *2017/2018*

Table of Contents

List of Figures	5
List of tables	5
List of Abbreviations	6
Preface	9
Methodology	11
PART I Multilateralism and preferentialism in international trade	14
1. Chapter one. The winding road towards trade liberalization	16
1.1. <i>Introduction</i>	16
1.2. <i>Trends and theories in Economic Globalization</i>	16
1.3. <i>The historical development of international trade</i>	18
1.4. <i>Economic cooperation: The GATT and WTO</i>	23
1.5. <i>The diffusion of preferential Trade Agreements</i>	24
1.6. <i>Conclusion</i>	32
2. Chapter two. The debate over PTA's	33
2.1. <i>Introduction</i>	33
2.2. <i>Setting the overall picture: Viner's trade creation and diversion argument</i>	33
2.3. <i>The "Stumbling block" argument</i>	37
2.3.1. <i>The spaghetti bowl effect</i>	38
2.4. <i>The "Building bloc" argument</i>	39
2.4.1. <i>Domino theory</i>	39
2.4.2. <i>The Juggernaut logic</i>	40
2.4.3. <i>Dominos and Juggernaut at work: Historical examples</i>	43
2.5. <i>Reconciling the views: Dür's bargaining power argument</i>	44
2.6. <i>Conclusion</i>	46

Part II The EU and ASEAN	48
3.Chapter three. EU-ASEAN Relations	49
3.1. <i>Introduction</i>	49
3.2. <i>Where it all begun: a story of Colonization/ Decolonization</i>	50
3.2.1. <i>Winds of change: Europe towards unification</i>	52
3.3. <i>EU and ASEAN: Composition and scope</i>	53
3.3.1. <i>The European Union</i>	53
3.3.2. <i>The Association of Southeast Asian Nations</i>	55
3.4. <i>Integration process: differences and similarities</i>	59
3.5. <i>Reevaluating the EU as a model power for regionalism: A mere reference point? 62</i>	
3.6. <i>From informal dialogue to an institutionalized relationship (1972-2018)</i>	64
3.7. <i>Conclusion</i>	68
4.Chapter four. EU-ASEAN Free Trade Agreement: A critical Analysis	69
4.1. <i>Introduction</i>	69
4.2. <i>The rationale behind EU-ASEAN FTA</i>	70
4.3. <i>The negotiation process</i>	73
4.4. <i>Content of the agreement</i>	78
4.5. <i>Issues in the negotiation process</i>	82
4.6. <i>Conclusion</i>	87
5.Chapter five. The alternative path: Bilateral agreements	89
5.1. <i>Introduction</i>	89
5.2. <i>The EUSFTA</i>	90
5.2.1. <i>EUSFTA: detailed content</i>	95
5.2.2. <i>EUSFTA assessment's impact</i>	101
5.3. <i>The EVFTA</i>	102
5.3.1. <i>The EVFTA: detailed content</i>	105
5.3.2. <i>EVFTA assessment's impact</i>	116

5.4. <i>Conclusion</i>	117
PART III Prospects for the EU ASEAN relationship	119
6.Chapter six. The future of the EU-ASEAN relationship: Testing the PTA’s domino effect and other challenges	121
6.1. <i>Introduction</i>	121
6.2. <i>Ongoing negotiations</i>	122
6.3. <i>EUSFTA and EVFTA and the domino theory</i>	127
6.4. <i>The noodle bowl threat</i>	130
6.5. <i>Choosing a path: Europe and ASEAN in need for a coherent strategy</i>	134
6.5.1. <i>The EU’s incoherent foreign trade policy with ASEAN</i>	135
6.5.2. <i>The ASEAN’s incoherent foreign policy with the EU</i>	137
6.6. <i>Conclusion: challenges and opportunities in EU-ASEAN future trade strategy</i>	138
Final remarks	141
Bibliography	143

List of Figures

Figure 1-1 Evolution of the share of export goods in total Gross National Domestic Product (GNP) 1820-1992	17
Figure 1-2 Classification of Preferential Trade Agreements based on type.....	28
Figure 2-1 The juggernaut effect	42
Figure 6-1 EU-ASEAN Noodle bowl Effect (Author's own elaboration)	131
Figure 6-3: EU-ASEAN and AFTA noodle bowl effect (Author's own elaboration)	133

List of tables

Table 2-1 Eight possible scenarios for a preferential trade agreement.....	46
--	----

List of Abbreviations

ACIA	ASEAN Comprehensive Investments Area
AEC	ASEAN Economic Community
AEM	ASEAN Economic Ministers
AFTA	ASEAN Free Trade Agreement
APRIS & APRIS (II)	ASEAN Program for Regional Integration Support
ARISE	ASEAN Regional Integration Support from the EU
ASA	Association of Southeast Asia
ASEM	Asia-Europe Meeting
ASEAN	Association of Southeast Asian Nations
BIT	Bilateral Investment Treaty
CAP	Common Agricultural Policy
CEPII	Centre d'Etudes Prospectives et d'Informations Internationales
CEPT	Common Effective Preferential Tariff
CET	Common External Tariff
CFSP	Common Foreign and Security Policy
CJEU	Court of Justice of the European Union
CUFTA	Canada-US Free Trade Agreement
EBA	Everything But Arms
EC	European Commission
ECSC	European Coal and Steel Community
EEC	European Economic Community
EFTA	European Free Trade Agreement
EU	European Union
EUSFTA	EU-Singapore Trade Agreement
EVFTA	EU-Vietnam Free Trade Agreement
FDI	Foreign Direct Investment
FE	Free Entry

FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariff and Trade
GDP	Gross Domestic product
GFOC	Government's first order condition
GI	Geographical Indications
GNP	Gross National Product
GSP	Generalized System of Preferences
HPAE	High Performing Asian Economies
IDPAS	Institutional Development Program for the ASEAN Secretariat
ISDS	investor-state Dispute Settlement
IL	Inclusion List
JC	Joint Committee
LAFTA	Latin America Free Trade Agreement
MFN	Most Favored Nation
MRA	Mutual Recognition Agreement
MTN	Multilateral Trade Negotiations
NAFTA	North America Free Trade Agreement
NTB	Non-Tariff Barriers
NIC	Newly Industrialized Countries
NIE	Newly Industrialized Economies
PAP	People's Action Party
PJCC	Police and Judicial Co-operation in Criminal Matters
PTA	Preferential Trade Agreements
S&D	Special and Differential treatment
SEA	Single European Act
SEATO	Southeast Asia Treaty Organization
SIA	Sustainability Impact Assessment

TBT	Technical Barriers to Trade
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
TSD	Trade and Sustainable Development
WTO	World Trade Organization

Preface

This thesis was partly conceived during my exchange semester in Singapore; then partly written during my internship at the Embassy of Italy in Hanoi, Vietnam; and finally completed back at home, in Rome. It is the result of hard work and my passion for Asia and my inexplicable drive towards South East Asian countries. What stroke me the most during my permanence in Singapore, and then Vietnam, was the life-style of the people there, dictated by the Economic situation of a country that appears its full economic blossom. Notwithstanding the huge economic gap that exist between Singapore and Vietnam, both nations are now experiencing an incredible economic expansion. For example, in 2016, while the growth rate of Italy stopped at 1.5%, that of Singapore reached 3.62% and that of Vietnam boosted to 6.81%¹. This general trend is also valid at the regional level. Although compared to Europe most ASEAN countries are still considered as developing and fall within the lower or middle-lower income threshold, the GDP growth rate of the ASEAN region doubles that of the EU making it subject to greater economic liveliness and dynamism. Of course, such dynamism often comes at a price, see for instance the enormous amount of environmental damages that many of those countries are inflicting upon their territories. This is the underlying reason that drove me to explore the nature of the economic relations between the two regions; I wanted to understand and analyze the differences and similarities among ASEAN and the EU in order to see to what extent economic globalization has brought together two completely different sides of the world

¹ Data on the GDP growth rate of ASEAN, Europe and their respective member-states is available on the World Bank website at: <https://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG> Accessed:30-1-2019 and the Statista- the portal for statistics at: <https://www.statista.com/> Accessed: 30-1-2019

The fact that the topic discussed in this thesis is vastly recent, and indeed as recent as the signature of the EUSFTA last September, is what gives this thesis an innovative character. Thanks to my work with the Italian embassy I had the chance to experience firsthand many of the issues related to diplomacy and international relations, not only between Italy and Vietnam but between the whole European Union and ASEAN countries. Indeed, I took part to many conferences, workshops and meetings; of every single one of them I made use and they somehow all contributed to this work. Of course, much more could be said on this topic than what is written here. Given the vastity of the theme, this thesis was able to only scratch the surface of the complicated nature of ASEAN and EU economic and trade relations, but it is hopefully a start and one that finally gives more attention to a part of the world that is becoming increasingly central in the future well-being of the world economy.

Methodology

The EU and ASEAN have embarked, since 2007, on a journey to strengthen their trade relations by mean of an interregional free trade agreement. Negotiations, however, came to a stall and were paused in 2009. Since then, the EU has continued to negotiate with ASEAN states bilaterally with the hope of resuming the interregional agreement at some point in the future. Currently, negotiations have been concluded with two countries and are still undergoing with other. The specific aim of this thesis is to analyze the current status of trade relations among the two regions in order to shed some light on the future of the EU-ASEAN interregional agreement. The overall aim, instead, is to analyze EU-ASEAN trade relations in the broader framework of world trade. This is required because it allows to see interregional relations not just as the result of interaction among two different regions of the world, but as the consequence of the recent proliferation of Preferential Trade Agreements in the world.

More specifically, this work is divided into three parts. They analyze respectively: the development of the current world trade system; the European Union and ASEAN and their trade and economic relations with each other's; and the prospects, as well as the challenges, for their future economic relation.

The first part of the thesis is preliminary to the following and more crucial ones. It aims to set the basis for the analysis of the trade relationships between the EU and ASEAN by giving a general picture of the development of international trade in the world and the debate surrounding it. The first chapter unfolds the history of world trade, from

mercantilism and protectionism to multilateralism, the WTO and the proliferation of Preferential Trade Agreements. The second chapter focuses on Preferential Trade Agreements and provides the arguments in favor and against them. All this preliminary information will be necessary for the understanding of the trade dynamics between the EU and ASEAN. Indeed, it will clarify why and how decisions concerning free trade agreements in the two regions have been and will be made, as well as setting the basis for explanations on future prospects.

The second part of the thesis is the core of my study and it focuses specifically on the relationship between the European Union and the Association of Southeast Asian Nations. Part two applies the theory presented in part one through a specific case study: the EU and ASEAN. In doing so it unfolds inter-regionalism in three distinguished chapters: Chapter three describes the composition and scope of the two organizations, their differences and similarities and the history of the establishment of mutual relations, from mere informal meetings in 1972, to ministerial meetings, and the signing of several cooperation agreements. The chapter also mentions the Asia-Europe Meeting, ASEM, as a forum for interaction. Chapter four, then, deepens the analysis of the Economic relations and ties among the two regions. It unfolds the events around the attempted, but never successfully concluded until now, EU-ASEAN Free Trade Agreement. Given the current stall of the EU-ASEAN FTA, Chapter five focuses on two alternative Trade Agreements between the EU and two countries that are members to ASEAN: Singapore and Vietnam. While the EU-Singapore agreement has just recently been signed, the EU-Vietnam agreement will hopefully soon enjoy the same fate, making them the first region-to-country alternative to the failed region-to-region FTA. Thus, the

agreements with Singapore and Vietnam can be seen as portraying the most accurate picture of the current status of trade relations among the two regions.

The third, and final, part of this thesis focuses on the implications of current trade relations among the EU and ASEAN for the future. By using current trends, analyzed in the previous chapters, it unfolds the challenges as well as the opportunities in the future of the EU-ASEAN economic relation, with the aim of drawing some conclusions on the feasibility of resuming negotiations for the much-longed interregional agreement.

PART I

Multilateralism and preferentialism in international trade

“Not since the Great Depression of the 1930 have trade wars erupted with the intensity that they have today. But rest assured, I and my fellow Avengers stand ready to prevent Thanos from wiping out half the world’s population²”

(Indonesian president Joko Widodo, September 12, 2018)

²N.B Thanos is the villain from the 2018 Marvel’s inspired movie “*Avengers: infinity war*” who, in order to solve the problem of limited resources in the fictious universe where the movie is set, wiped out half of all life.

The world economic forum on ASEAN is probably the last place where you would expect to hear a citation directly taken from the Marvel universe, especially coming from such a high and prominent figure such as Indonesian's current president. That, however, is exactly what happened last September in Hanoi, where the forum was taking place. The clearly provocative, yet powerful, metaphor used by Joko Widodo suggests the complicated nature of Economic relations at the international level. Widodo used the Avengers' metaphor to reinforce his support for the fight against trade war, arguing in favor of a world where countries trade and prosper together, without the need to resort to protectionism.

1. Chapter one. The winding road towards trade liberalization

1.1. Introduction

The first chapter unfolds the history of economic globalization and how international trade came about, from the Mercantilist period, to the diffusion of preferential trade agreements in the 1950's. In particular, the second and third paragraphs analyze the trends in economic globalization and the various alternating phases of protectionism and increased economic liberalization since the 1800. The fourth paragraph explores the first attempts at multilateral cooperation with the GATT and WTO after the second world war. The last paragraph analyzes the diffusion of preferential trade agreements (PTA's) in the late 1950's, and their relation in the WTO framework.

1.2. Trends and theories in Economic Globalization

Debating economic globalization is very demanding as the definition, scope and extent of the phenomena is very controversial. Much time could be spent on this topic. As globalization is not the issue that this thesis wishes to investigate, for the sake of simplicity, I will use a commonly accepted definition without dwelling on the controversies that exist around this topic. A very famous explanation describes globalization as the 'Expanding scale, growing magnitude, speeding up and deepening impact of inter-regional flows and patterns of social interaction' (Held e McGrew 2002). With globalization national economies become integrated and increasingly interconnected (Wilson 2011). Therefore, international trade agreements can be said to

affect the degree of economic globalization by facilitating or hindering this integration. The economic policies that nation states decide to pursue at the international level will determine the faith of globalization. But these policies not always favor integration: Historically, the road towards trade liberalization and increased globalization has never been smooth. Indeed, Baldwin and Martin identify two waves in globalization. The First wave was the result of the industrial revolution in the 19th century and lasted until the beginning of the first world war; The second wave begun with the end of world war two. The following graph is useful to identify the ups and downs of economic globalization through the share of export goods in GNP.

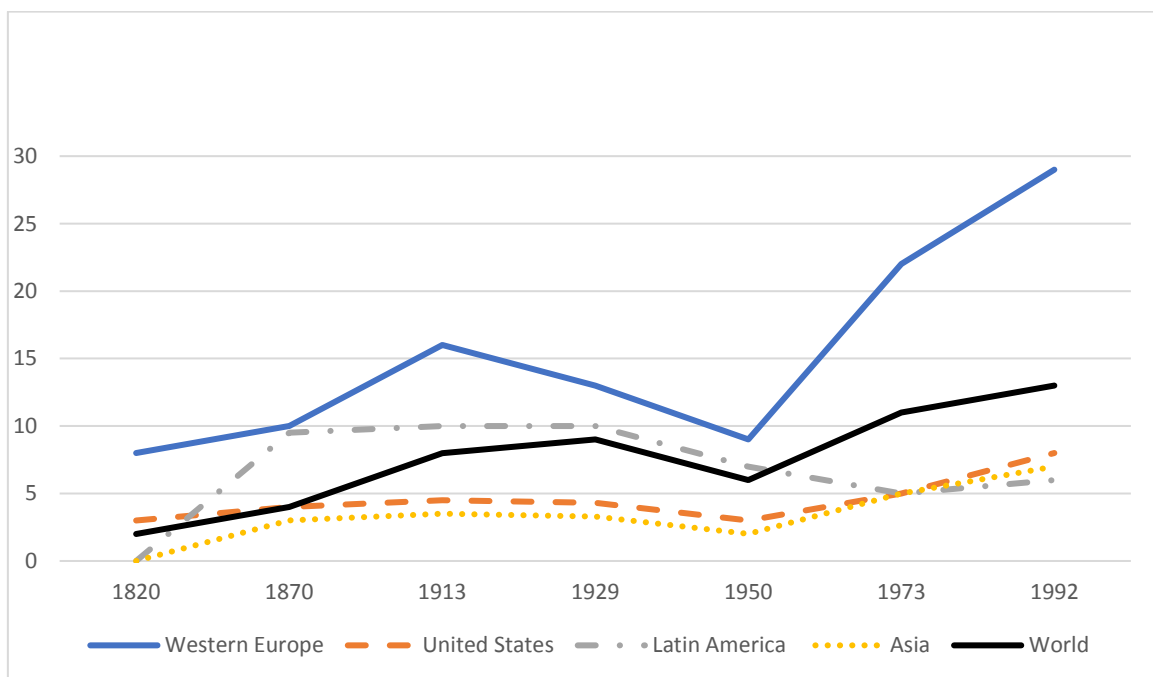


Figure 1-1 Evolution of the share of export goods in total Gross National Domestic Product (GNP) 1820-1992 ³

³ Source : O'Rourke, K. (2002) 200 ans de mondialisation, courrier de la planète, No. 69. Graph taken from Jean-Yves Huwart and Loïc Verdier (2013) Economic Globalization : Origins and consequences, OECD Insights

The first wave of globalization, represented in the graph as a gradual increase in the share of export goods in GNP during the 1800's, was characterized by more trade openness and a reduction in trade barriers by many countries around the world. Analogously, the second wave was also characterized by this openness, whereas the period of decline between 1915 and 1950, showed in the graph as a gradual decline in the share of exports goods in GNP, was characterized by trade restrictiveness and increase in trade barriers.

Although many factors influence the decision of states to pursue economic liberalization, the reason for these irregularities in the growth of globalization lie in the uncertainty of the benefits of economic integration; not everyone agrees on the extent and length of the advantages of economic integration. During the course of history this has pushed countries to adopt contrasting policies. For example, In the last couple of years, the tendency has been a withdrawal from trade liberalization (Fredrik and Razeen 2010). Protectionism has been particularly reinforced by Trump's presidency in the US and his isolationist policies (Stokes 2018). Recent free trade agreements have, indeed, encountered high level of opposition and criticism by a fraction of the population supported by populist parties around the world (Rodrik 2018).

1.3. The historical development of international trade

Up until the second half of the 18th century, Mercantilism was the economic theory that prevailed in the international order. The main idea behind the mercantilist state was to protect its own market from foreign intrusion by mean of raising tariffs and taxes. Indeed, mercantilism sought to promote a favorable trade balance in which the value of

domestic goods exported exceeded the value of foreign goods imported (Sobel 2012). Needless to say, the support for high interventionism and protectionism that this doctrine encouraged, often led to trade wars among countries attempting to protect their domestic products, for there obviously cannot be a world in which all countries have a balance of trade surplus and all countries enjoy the benefit of exporting domestic products while, at the same time, not importing anything from outside. As Heckscher puts it:

“Mercantilists believed in their almost unlimited ability to develop the economic resources of their own country, but they only hoped to do so at the expense of their neighbors. That the wealth of the world as a whole could increase was an idea wholly alien to them, and in this they were “static” to a degree. The commercial wars were the natural outcome of this combination”

(Heckscher 1936, 48)

Mercantilism began to crumble after the publication of Adam Smith’s famous book, *Wealth of Nations*, in 1776. Smit’s work ‘Revolutionized the theoretical discourse on international trade’ (Schutze 2017). His popular economic theories, based on the equally famous metaphor of the *invisible hand*, soon paved the way for more liberal economic policies and a *laissez-faire* approach to be soon adopted by many countries around the world.

In 1817 David Ricardo’s *On the Principles of Political Economy of Taxation* came to reinforce the international support for a market economy through the development of the principle of *comparative advantage*. Indeed, by suggesting that a country should

export goods in which it has a comparative advantage in producing, the principle justifies why countries should engage in international trade even if they do not have an absolute advantage in the production of a certain good.

This theoretical support for economic liberalism advanced by classical economists of the late 18th and early 19th century, such as Smith and Ricardo, created a favorable context for the actual development of global economic integration and the lowering of trade barriers throughout the period of the Industrial Revolution. It was during this time that Great Britain consolidated its role as a global hegemon and pushed for the establishment of a global free trade regime. Particularly, British abolishment of the Corn Laws in 1846 marked the shift away from Mercantilist policies and towards a more liberal international economy. Although multilateralism as we know it was still far away, international economic integration grew substantially during the 19th century (Huwart e Verdier 2013, 28). For instance, just to give some numbers, the volume of global trade grew sevenfold between 1840 and 1913 and the share of international trade in global GDP rose from 1% to 8% (Huwart e Verdier 2013).

The advent of the first world war reversed this trend and caused a major drawback in international trade. This was also the period in which hegemonic power shifted from Great Britain to the US, which then became the main point of reference for the international Economy and global trade. During the inter-war period countries reestablished protectionist policies in an attempt to protect their industries already damaged by the first world war. After a brief period in which the situation seemed to return towards stability the 1920's, the situation escalated in 1929 with the great crash

that came to be known as *Black Tuesday*, causing the beginning of the Great Depression, one of the greatest economic downturns in history to last roughly ten years. The percentage of Trade expressed in US Dollars fell by 60% between 1929 and 1932 (Huwart e Verdier 2013, 29), countries began to impose tariffs and taxes on many goods.

In many ways the Smoot-Hawley tariff of 1930 passed by the US, can be seen as the exemplification of this peak in protectionism during that period. The tariff was designed to raise import duties on many foreign products in order to protect US businesses. Not all scholars agree on the extent of the damage caused by the tariff. While it is commonly believed that that the tariff worsened the depression, some scholars argue that it did not decrease economic activity as much as it is often assumed and that other factors also played an important role (Irwin 1998; Crucini & Kahn, 2003). However significant the impact was on world trade, we can confidently say that the protectionism did not advance economic cooperation among countries. What it did in fact, was to promote the proliferation of beggar-thy-neighbor policies and retaliation, by pushing other countries to adopt and implement tariffs and trade barriers as well. Indeed, The US protectionism 'shattered the limited trust remaining in the trading system and wrought havoc on global trade flows' (World Trade Organization 2007).

Once again, it will be a war to change state's approach to international relations and shape the attitude on global trade and international trade's policies. Indeed, World war two led many countries to believe in the necessity for formal institutions to regulate international relations. Supported by the US, this new trend led to the establishment of many international organizations, the United Nations *in primis*, which represented not

only this new desire of states to cooperate, but a completely new world order based on the principles of the Atlantic Charter signed in 1941 by the US and Great Britain.

The Charter's eight points, which can be considered as precursors for the UN, reinforce the principles of sovereignty, democracy, self-determination, equal access to trade, economic collaboration between nations and peace. It was indeed with these principles in mind that the representatives from 50 countries met in San Francisco, at the United Nations Conference on International Organization, to draw up the UN Charter, which will designate the coming into existence of the UN. From that moment on international relations, and Global Trade with it, started to be shaped in the spirit of cooperation and multilateralism.

The end of the Bretton Woods system in 1971 and subsequent decisions of the USA have been a decisive factor in the shaping of further economic globalization. Under the Bretton Woods system created in 1944, the value of foreign currencies was pegged to that of the US Dollar, in turn pegged to gold at a fixed price. This meant that the Dollar became a substitute for gold that countries could hold as reserve currency to increase the money supply in the system, because of this demand increased. After an initial successful phase, the system became increasingly unstable because of the difficulty for the US to ensure gold convertibility. In the 1960's the US begun to experience inflation, subsequently worsened by the Vietnam war, which spread to the rest of the world (Bordo 1993). This series of events led to the decision by President Nixon to suspend convertibility and announce in 1971 a new economic policy system, that came to be known as *Nixon shock*. In 1973 the major industrialized countries decided to adopt a

flexible exchange rate system (Dornbusch e Frankel 1998). After that globalization burst, the world as we know it was about to develop.

1.4. Economic cooperation: The GATT and WTO

The second half of the 19th century was therefore characterized by the effort of countries to put into place their new desire for economic cooperation and collaboration through the creation of several institutions. For this reason, the General Agreement on Tariffs and Trade (GATT) was signed in 1947, to strengthen trade relationships among the initial twenty-three signatories. The GATT was not a proper organization, but rather a forum for discussion divided into several round of negotiations aimed at eliminating or reducing trade barriers among countries. The main goal was to prevent states from adopting unilateral protectionist policies that might lead to retaliation by others as it had been the case in the post World War One scenario. The initial intent was rather more ambitious as the parties wanted to create a proper permanent institution, the International Trade Organization (ITO). The GATT was initially only designed to be a 'Temporary vehicle that would quickly obtain results and achieve the provisional application of the tariff negotiations' (Santana 2017, 6). Instead, the failure of the US to ratify the agreement for the ITO led to the full reliance upon the GATT for maintaining international peace and stability in trade relations.

The structure of the GATT, and World Trade Organization (WTO) after it, is based on a number of principles. Among the most important, the famous Most Favored Nation (MFN) principle, according to which every country must give the same terms of trade (or concessions) to the other members so as to favor every other country equally.

Up to today, eight rounds have been completed. All of them led to the lowering of several trade barriers. The role of the GATT and topics discussed evolved with each subsequent round. While at the beginning the main concern revolved around tariff barriers, later rounds uncovered the importance of focusing on non-trade barriers, as countries became slyer and subtler in the way they implemented policies to protect their national economies and raise barriers to trade.

The Uruguay Round of 1994 became particularly relevant as it led to the creation of the WTO. The agreements negotiated, signed and regulated by the WTO represent the basis for international commerce. They are legally binding and can be enforced through the WTO's own Dispute Settlement Mechanism so as to ensure full compliance (or at least as much compliance as it can be imposed on sovereign independent states).

After the first successful rounds just mentioned, that managed to lower trade barriers multilaterally, the talks came to a stall. In the Doha round, initiated in 2001 and never fully completed, competing interests of the many countries involved finally surfaced. Attempts to reconcile opposing views, especially in the agricultural sector, failed and countries had to abandon any hope for multilateral liberalization of trade.

1.5. The diffusion of preferential Trade Agreements

Given the failure of multilateral liberalization of trade during the beginning of the 21st century, countries started to enter into Preferential Trade Agreements more and more often even though it must be noted that the formation of different trading blocs, created though the conclusion of PTA's, has always existed in the global trading system. (World Trade Organization 2011).

The term PTA is used to identify different types of trade agreements among various parties which include a wide array of characteristics. Free Trade agreements (FTA's), Regional Trade Agreements, and Economic Integration agreements all fall within this category. Preferential Trade agreements also include non-reciprocal agreements, those agreements with unilateral concessions made by one party to the other. The latter type, however, is not the subject of this work. Therefore, it is important to note that Non-reciprocal Trade Agreements will not be considered in this study and the term PTA will mainly only refer to reciprocal trade agreements.

The term Preferential Trade Agreement identifies any treaty with restrictive membership aimed at securing or increasing the respective market access of the parties involved (Limão 2016, 283). Given their definition, PTA's appear to go against the principles of the GATT and also should most definitely not be allowed under the WTO as they go against the principle of non-discrimination.

However, the GATT already before the WTO came to substitute it in 1995, provided for an exception to this principle under the 'Decision on Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing countries' also known as *Enabling clause*. With the Enabling Clause, adopted under the GATT as part of the Tokyo Round in 1979, developing countries can be exempted from the Most Favored Nation Principle when entering into trade agreements. The clause is the legal basis for the Generalized System of Preferences (GSP) which allows developed countries to lower tariffs for developing countries in a non-reciprocal agreement. The clause also allows for the formation of regional agreements among developing countries. The necessity to

translate the enabling clause from the GATT into the Generalized System of Preferences of the WTO was aimed at encouraging the economic development of poorer countries that were not otherwise able to compete with more developed nations.

With the advent of the WTO in 1995 deviation from the principle of non-discrimination was reinforced with the update of article XXIV of the GATT. This means that the WTO now allows its members to establish PTA's provided, of course, that they respect certain requirements, through article XXIV. Indeed, paragraph 4 and 5 of the article read as follows:

“The contracting parties recognize the desirability of increasing freedom of trade by the development, through voluntary agreements, of closer integration between the economies of the countries parties to such agreements. They also recognize that the purpose of a customs union or of a free-trade area should be to facilitate trade between the constituent territories and not to raise barriers to the trade of other contracting parties with such territories. Accordingly, the provisions of this Agreement shall not prevent, as between the territories of contracting parties, the formation of a customs union or of a free-trade area or the adoption of an interim agreement necessary for the formation of a customs union or of a free-trade area”⁴

According to GATT article XXIV Preferential Trade Agreements, in order to be allowed, must respect the following three requirements. First of all, the PTA must remove substantially all barriers among its members, meaning that the exclusion of major sectors from the PTA is should not be allowed. Secondly, the PTA should not increase

⁴ The articles of the GATT are available on the website of the WTO at the following link: <https://www.wto.org/english/docs_e/legal_e/gatt47_02_e.htm#articleXXIV>

trade barriers against non-members. Lastly, any PTA must be carried out within a reasonable length of time, normally not exceeding the 10 years (Frankel 1997). These requirements however have been, until now, loosely interpreted by the WTO which has not yet rejected any preferential agreement.

Preferential trade agreements cover two different policy areas: WTO plus (WTO+) agreements have the scope of deepening integration in areas already dealt by at the WTO level; WTO Extra (WTO-X) agreements instead cover areas outside the scope of the WTO (Horn, Mavroidis e Sapir 2010). In both cases we can identify four different forms of preferential trade cooperation (according to an increasing degree of integration): *Preferential Trading Agreements; Free Trade Areas; Custom Unions; And Common Markets* (Gandolfo 2014, 265-266).

Another useful differentiation given by the WTO itself distinguishes between: Partial scope agreements, Free Trade agreements, Custom Unions and Economic Integration. The following pie chart illustrates the number of Agreements in force based on this typology⁵:

⁵ Statistic is not based on the physical number of agreements but on notification requirements, therefore for agreements that include both goods and services the data accounts for two notification even though the Agreement is single. Percentage of treaties in place refers to data lastly updated on 16-10-2018

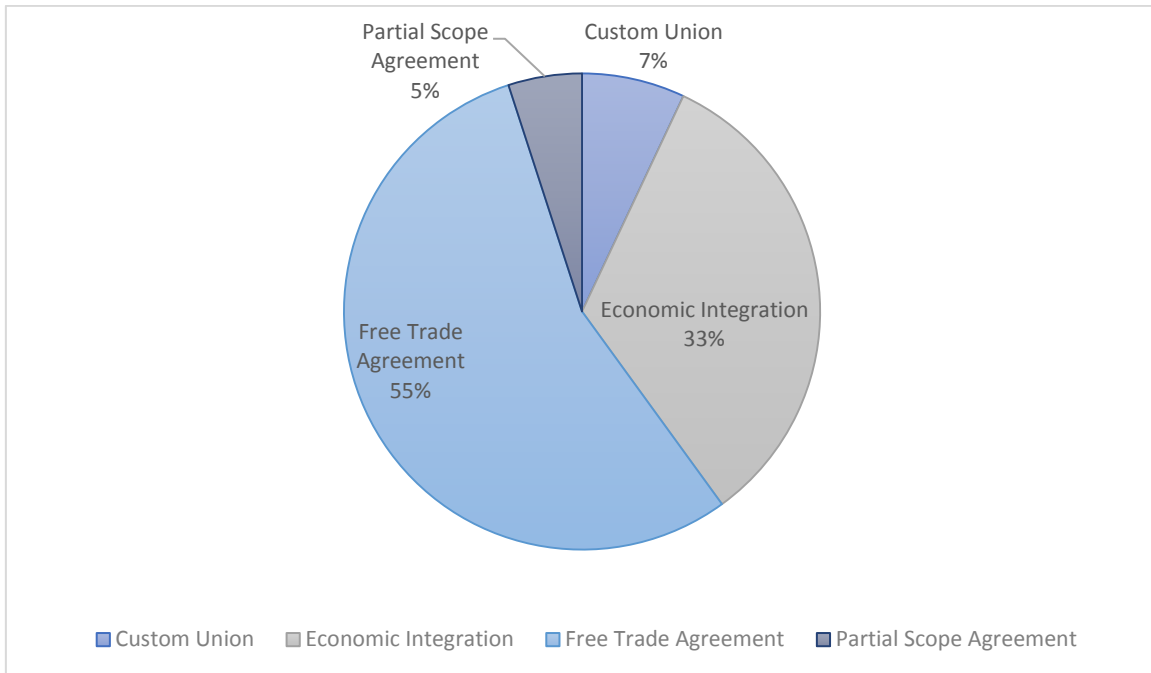


Figure 1-2 Classification of Preferential Trade Agreements based on type⁶

The pie chart suggests that Free Trade Agreement are the majority of the agreements in place, followed by Economic Integration agreements. Partial Scope agreements, covering only certain products, only amount to 5% of the total agreements in place while Custom Union are the least common.

Preferential Trade agreement are varied and differentiated. The extent and scope of the issues involved varies each time and with them the number and type of countries involved. Most importantly, the depth of the Treaties, and consequently the impact they have on trade and trade flows, varies across different agreements⁷.

⁶ Source: Regional Trade Agreements Information System (RTA-IS) database, available at : <https://rtais.wto.org/UI/PublicMaintainRTAHome.aspx>, Accessed 25-10-2018.

⁷ For a detailed analysis on the depth of PTA's and their impact on trade flow see: Dür, A., Baccini, L. & Elsig, M. Rev Int Organ (2014) 9: 353. Available at: <<https://doi.org/10.1007/s11558-013-9179-8>> Accessed: 23-10-2018

Beside a classification based on the level of integration, we can also distinguish PTA's based on their membership (Dür, Baccini e Elsig 2014). Preferential Trade Agreements can be: Bilateral agreements carried out between two countries; Plurilateral agreements, involving more than two countries; Interregional agreements, carried out between two or more regions of the world and finally Region to country agreements which are those carried out between a region of the world and a single country. This particular classification is interesting for the purpose of this thesis as the types of agreements that will be analyzed later on in this work are of two kind: The EU-ASEAN failed agreement, analyzed in the third chapter, belongs to the category of Region-to-region agreements; whereas the other two agreements analyzed in the fourth chapter, the EVFTA and EUSETA, fall in the latter category of Region-to-Country agreements. The following pie chart is useful to have an idea of what kind of PTA are more common based on membership⁸:

⁸ The classification refers to 733 PTA's signed between 1945 and 2009

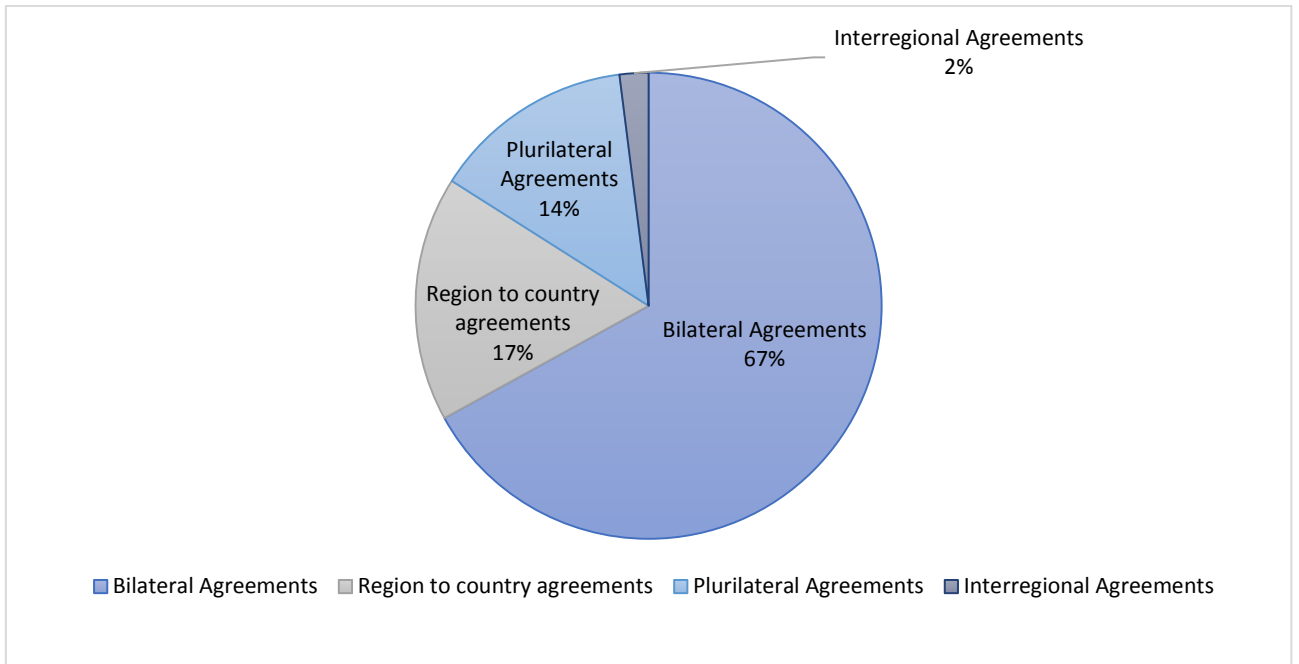


Figure 1.3 Classification of Preferential Trade Agreements based on membership⁹

While from the pie chart it is clear that the majority of agreements are bilateral, it is also interesting to note that the failed EU-ASEAN agreement would have belonged to the category that makes up only the 2% of the total PTA's whereas the EVFTA and EUSETA fall within a more consistent category that constitute 17% of the total treaties. Indeed, as the pie chart anticipates, the analysis carried out in this thesis will show that concluding region to region agreements is far more complicated because of the amount of stakeholders and the number of competing interests involved. Carrying out Bilateral Agreements, on the other hand, is easier as it involves the interests of “only” two countries.

⁹ Source: Dür, A., Baccini, L. & Elsig, The Design of International Agreements: Introducing a New Dataset (2014). *The review of International Organizations*, 9(3), 353. Available at: <<https://doi.org/10.1007/s11558-013-9179-8>> Accessed: 23-10-2018

The relationship between multilateralism and regionalism is complex. The 'Post-war multilateral trading system did not diminish the attraction of bilateral or regional approaches to trade arrangements and led instead to a period of creative interaction and sometimes tension between multilateralism and regionalism' (World Trade Organization 2011, 5). The first wave of regionalism in the 1950s resulted from West Europe's desire for continental integration. The most representative example of this period of regionalism was the creation of The European Economic Community (EEC) in 1957 and the European Free Trade Agreement (EFTA) in 1960. From then on, later waves of regionalism gradually increased the number of preferential trade agreements in place (World Trade Organization 2011). During the GATT period (1948-1994) 124 agreements were notified; in the 1995-2006 period over 130 new notifications were filed to the WTO; In 2009 alone 20 new agreements were notified while 2010 saw a further increase with 13 new notifications (Wrobel 2015). At present the WTO counts 306 agreements in force among different countries and regions of the world¹⁰. Even Mongolia, WTO's last member to be outside any reciprocal trade agreement, recently signed a bilateral treaty with Japan. The treaty entered into force in 2016, so that now every single WTO member is party to at least one other reciprocal trade agreement. In order to understand the complicated relationship between multilateralism and regionalism it is necessary to explore the debate surrounding Preferential Trade Agreements.

¹⁰Source: WTO Website. Further details on the number and type of agreement are available on the WTO website at: <<https://rtais.wto.org/UI/PublicMaintainRTAHome.aspx>> Accessed: 24-10-2018

1.6. Conclusion

Chapter 1 has clarified the turbulent history of international trade relations from the mercantilism of the early 1800's to the multilateral liberalization of trade of the 20th century. Since the development of the GATT and the WTO, economic cooperation has particularly spurred around the world. Given the stall in 2001 of the WTO based-system, however, the tendency has been to opt for Free Trade Agreements, not multilaterally, but among smaller groups of countries. These agreements are also known as Preferential Trade Agreements for the reciprocal preferential access that they give to the markets of the parties involved. They differ in size, degree of liberalization and type of partners involved but have become increasingly common throughout the world. As such they have gathered support, but also many critics from those that do not believe in their ability to protect the world economy. The next chapter unfolds the debate around PTA and clarifies both the positions in favor and against them.

2. Chapter two: The debate over PTA's

2.1. Introduction

The second chapter reconstructs the debate surrounding PTA's and the two conflicting views concerning their relation to multilateralism and world welfare. The first part presents the argument against PTA's which pictures them as "messy" agreements or stumbling blocks against multilateralism. According to this view PTA's create too many rules of origins and are dangerous for world welfare and multilateralism. The second part presents the argument in favor of PTA's, that pictures them as building blocks toward multilateral liberalization of trade. Particularly, the building block argument will be demonstrated by the Domino and Juggernaut theories. Finally, the last part is dedicated to an alternative view that reconciles the two arguments by recognizing that PTA's can be both building blocks or stumbling stones towards multilateral liberalization of trade and that the difference only lies in the reaction of the actors involved in the process and their bargaining power.

2.2. Setting the overall picture: Viner's trade creation and diversion argument

Preferential trade agreements are not always positively looked upon. Public debate is divided between those that support PTA's and believe that they can have a positive impact on the world welfare or that they can foster multilateralism and those that oppose PTA's, believing that they undermine multilateralism or create welfare losses. The intensity of the debate is vibrantly illustrated by the recounting of the events at a world

bank conference in 1992 between two eminent economists, Larry Summers and Jagdish Bhagwati (R. E. Baldwin 2004).

“Summers, who was head of the Bank’s research department at the time, was supposed to welcome Bhagwati as the keynote speaker with the customary “Few kind words”. Instead, Summers launched into a half hour discourse on what a good thing regional integration was [...] Feeling quite upstaged, Bhagwati quietly fumed until it was his turn. Taking the floor, Bhagwati launched into an energetic attack on the Panglossian embrace of regionalism. Among his many dire predictions, he argued that regionalism would undermine the GATT- based world trading system, place small nations under the thrall of hegemonic powers, and even foster wars among trade blocs”

(R. E. Baldwin 2004, 1)

The debate on the impact of PTA’s, however, is not new. It originated in the 1950’s from the work of Jacob Viner on the appropriate design of the world trading system, commissioned by the Carnegie Endowment (Bhagwati, Greenaway e Panagariya 1998). In order to evaluate the impact of PTA’s on the world welfare, Viner elaborated on the concept of trade creation and trade diversion. The two concepts have been interpreted in different ways, as a general definition however we can give the following description: Trade diversion refers to a shift of imports from an efficient to an inefficient source whereas trade creation refers to a shift of imports from an inefficient source to an efficient one (Bhagwati 1996). By removing trade barriers for some countries but not for others, PTA’s redirect trade flows towards one partner or another, influencing the initial comparative advantage of countries in trade. To put it in a simple way a PTA might be

trade diverting when it lowers trade barrier for a product with a country that is the higher-cost source for that product and not with the country that's the lower cost-source of the same product (Bhagwati 1996). Without the agreement, the higher-cost country (Let's call it country B) would not export its products (To a country A) and all imports would come from the low-cost source (Country C) (Bhagwati 1996). With the agreement however, country A will switch some of its import supply from C to B, therefore diverting trade from the efficient source C, to the inefficient source B (Bhagwati 1996). Viner used his work on the welfare effects of preferential trading agreements to warn us of the dangers of custom unions. his argument, indeed, was that such agreements might create welfare losses and therefore not be as beneficial for the world economy.

The debate initially took off in light of what Bhagwati has defined, in 1991, as the first wave of regionalism, initiated by the creation of the European Community in 1957 with the Treaty of Rome (Bhagwati 1996). The 1950's and 60's saw an increase in preferential trade agreements that, however, slowed down in the following two decades (Dur 2007). The second wave of regionalism instead, originated after the United States decided to finally open to PTA's and concluded the Canada-US Free trade agreement (CUFTA) in 1987, which later extended to Mexico under the North America Free Trade Agreement (NAFTA) (Bhagwati 1996). The main motivation behind US decision was that 'The US could not get multilateral trade talks started at Geneva and, hence, turned to ever-expanding PTA's as an alternative way of getting eventually to worldwide free trade' (Bhagwati 1996, 4). The US motivation for opening to Preferential Trade agreements

shows very clearly how intertwined preferentialism and multilateralism are, and consequently how important their relation is.

The second wave of regionalism differs greatly from the first one in many aspects. First of all, for a shift of focus towards Asian countries, that have become increasingly active in concluding PTA's (Dur 2007). Secondly for an extension beyond continental borders of the agreements, which makes the word regionalism a less appropriate definition of the phenomena (Dur 2007). Finally, the fact that the agreements are increasingly bilateral (Dur 2007). These characteristics are all very well evident in the kind of agreements and relationships that will be analyzed in this thesis. First of all because this work focusses, indeed, on a number of Asian countries. Finally, because the agreement under scrutiny concerns precisely two different continents rather than a single region. As a matter of fact, the analysis in this work is aimed precisely at exploring the relationship between two different regions of the world that become increasingly interconnected as a result of the globalization process.

The new regionalism caused a revival of the debate on the impact of PTA's, the topic remained the same, but authors switched their focus to slightly different questions. The first regionalism was characterized by a "Static" analysis on the welfare impact of PTA's in general (Bhagwati 1996). Therefore, questions were concentrated on whether PTA's create welfare gains or losses and their impact on the world economy. The second regionalism was characterized by a "Dynamic" analysis on the relationship between regionalism and multilateralism (Bhagwati 1996). The question became whether PTA's help or hinder the multilateral liberalization of trade and the answers did not lack in

their variety. In 1991 Bhagwati coined the terms “Building blocks” versus “Stumbling blocks” which can be used to symbolize the two different sides in the debate. On one side we find the “Stumbling block” supporters, arguing that PTA’s hinder multilateral liberalization of trade therefore damaging the world economy (Bhagwati 1996); On the other side we find the “Building block” supporters that advance the opposite view, suggesting that PTA’s pave the way to multilateral liberalization of trade (Bhagwati 1996). The following two sections will be dedicated to the analysis of both stands.

2.3. The “Stumbling block” argument

A rather intuitive argument against preferential trade agreements contends that they come to substitute multilateral liberalization instead of boosting it. When a country devotes its attention to PTA’s negotiations, it diverts policy makers’ attention away from WTO rounds besides also decreasing nations’ enthusiasm for further multilateral liberalization of trade (R. E. Baldwin 2004, 2). Indeed, the negotiation process for this kind of international agreements is often time consuming and requires a high number of state’s resources, when these are devoted to PTA’s there is not going to be any time (or money) left for multilateral trade negotiation.

A second argument, advanced by Noble Prize laureate for economics Paul Krugman, criticizes PTA’s for their risk of creating rival trading blocs. To carry out his analysis Krugman develops a simple model of the effects of regional trading blocs. He starts with the assumption that ‘Any movement toward freer trade must be a good thing’ (Krugman 1989, 3) only to reject the argument and to suggest that ‘Half a loaf may be worse than none’ (Krugman 1989, 4). In his analysis of the reason why PTA’s might indeed be bad,

Krugman discards Kemp and Wan's argument that by adjusting external trade (through tariffs) at its pre-union level, members of a PTA will avoid trade diversion. As a matter of fact, according to Krugman, because a custom union will want to take advantage of its size to improve its terms of trade, it will have an optimal external tariff higher than pre-union level (Krugman 1989). Hence, because of that, members of PTA's will choose policies that, while beneficial for the members, will be harmful for the rest of the world and lead to trade diversion. In his work Krugman also tries to identify the optimal number of trading blocs. Through the model he develops he shows that, while one single bloc (And therefore multilateral liberalization of trade) is the optimal outcome, three trading blocs is the worst possible outcome for world welfare (Krugman 1989, 18).

2.3.1. The spaghetti bowl effect

A further problem of Preferential Trade Agreements consists in the notorious "Spaghetti bowl" phenomenon. The term was first used by Bhagwati to describe the mess created by the multiplying of different rules, emerging by the many different PTA's regulating inter-country trade. As he puts it: 'Trade barriers, including duties, will vary depending on origin, and complex and protection-accommodating rules of origin will find their way into practice' (Bhagwati 1996, 30). The proliferation of PTA's will favor discrimination based on the nationality of a good (Bhagwati 1995). Under PTA's countries establish many different rules of origin that try to distinguish between a product that should be subjected to free trade because coming from a country party to a free-trade agreement and products that can be subjected to trade barriers because originating in non-member states. This creates a "who is whose" problem, leading to arbitrariness in trying to identify the origin of a product (Bhagwati, Greenaway e Panagariya 1998). The

“Spaghetti bowl” therefore identifies a situation in which there are many and overlapping PTAs, with many and overlapping rules of origin that create a world of preferences and ultimately increase protectionism (Bhagwati, Greenaway e Panagariya 1998). It comes as a consequence that by creating a messy “spaghetti bowl”, PTAs hinder multilateral liberalization of trade by complicating the process.

2.4. The “Building bloc” argument

On the opposite side of the stumbling block theory we find the building block one. Advocates of this theory suggest that the signing of regional or preferential trade agreements triggers further and expanded liberalization, so that PTA’s are the initial basis for multilateral liberalization of trade. At the core of this argument we find two main mechanisms in place: The domino theory and the Juggernaut logic. The following two subsections will be dedicated to explaining them and their mutual interaction in the world economic system.

2.4.1. Domino theory

The domino theory of Regionalism was first developed by Professor Richard E. Baldwin as an attempt to defend the building bloc argument for multilateralism. The theory starts with an initial idiosyncratic shock precisely such as an expanded membership of an FTA or a utterly new FTA altogether; according to Baldwin this will trigger new membership requests from countries that were previously outside of any agreement (R. E. Baldwin 2004). This is because the decision of a country to become part of an agreement depends on the equilibrium of the various political forces at play inside the country. Among the pro-membership forces we find the export-oriented firms that will

benefit from preferential access to a foreign market if the country joins the agreement; the anti-membership forces instead are made up of import-oriented firms that will loose from the increased foreign competition if foreign firms are granted easier access to the national market through a free trade agreement (R. Baldwin 2006). It is important to note that in this analysis consumers and tax-payers are taken as interest groups of second-order importance (R. Baldwin 2006). The new (Or enlarged) PTA will affect the interaction among the political forces in non-members because exporters will now face more discrimination in market access if their country does not join the agreement. Consequently, they will be willing to fight harder and lobby for access to the agreement. This will 'tilt the balance' (R. Baldwin 2006) and shift the political equilibrium in a country in favor of pro-membership forces. As soon as membership enlargement is granted to a country this triggers a domino effect: the cost for non-members increases as they now have even lower access to foreign market compared to other countries; this pushes for new pro-membership forces to fight even stronger for integration and so on, until, eventually, this gradual increase in membership could hypothetically turn into global multilateral liberalization of trade.

2.4.2. The Juggernaut logic

The Juggernaut logic is used by Baldwin, together with the domino theory, to justify why non-multilateral trade agreements might nonetheless trigger multilateralism. The theory starts with the announcement of multilateral tariff-cutting talks based on reciprocity, this alters the political equilibrium in countries as exporters go from being passive witnesses, not interested in the free-trade debate, to being active proponents of tariff-cuts and the lowering of trade barriers; Reciprocity is the key to this change (R.

E. Baldwin 2004). Without it, exporters would not be interested in lowering trade barriers in their country because it would not grant them better access to foreign markets (Which, since they are exporters, is their main scope). With reciprocity, however, the lowering of home barriers means the lowering of foreign barriers, hence a reason to lobby against the former (R. Baldwin 2006). Because Multilateral Trade Negotiations (MTN) rearrange the political forces inside a nation, and therefore its political equilibrium (Which, as already mentioned in the previous section, is the one that determines membership requests in a free-trade bloc), all governments now 'find it politically optimal to choose tariff levels that are lower than the unilaterally optimal tariff' (E. R. Baldwin 2008). This is the first step in the juggernaut theory; In this sense reciprocity can be seen as solving the "Political economy externality" according to which although governments know that free trade is the best option, they often find it hard to master political support for it (R. Baldwin 2006) because, as we know, economic choices are not always fully rational.

The second step concerns the effect of MTN on the industry size and further liberalization. As trade barriers are lowered, export industries that now have better access to foreign markets strengthen and expand their output, while import industries that now have to face higher competition, weaken and decrease production; because of that, some import-oriented industries will not be able to face increased competition and will have to exit the market. This process will further impact on the political equilibrium of nations, once again tilting the balance in favor of the now stronger exporters. The outcome will be, once again, the lowering of trade barriers (R. E. Baldwin 2004). A cycle

is triggered that will continue until world free trade is reached. The following graph is useful to understand the rolling of the juggernaut effect in place

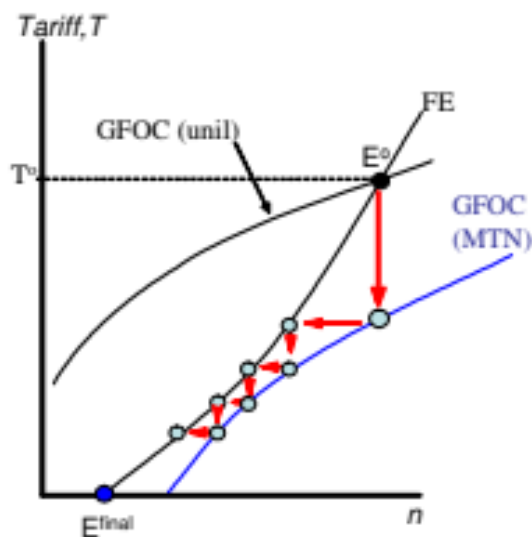


Figure 2-1 The juggernaut effect ¹¹

The two curves show how the size of the import- competing sector and the tariff size mutually influence each other. The Free Entry curve (FE) is the curve that determine how many firms enter or exit the market depending on the tariff level. The curve shows that the higher a tariff, the higher the size of the import competing sector. The Government's First Order Condition, without MTN, ($GFOC_{Unil}$) is the curve that plots which tariff, in this case, is politically optimal for a government, given the size of the import-industry. It shows that, the bigger the import -competing sector, the higher the optimal tariff will be (R. Baldwin 2006).

¹¹ Source: Baldwin, R. (2006). *Multilateralising Regionalism: Spaghetti bowl as building blocs on the path to global free trade*. Cambridge, MA: National Bureau Of Economic Research Working Paper No.12545. Pag. 10. The graph captures only the force of anti-trade advocates (Import-oriented industries) because pro-trade forces depend on foreign tariffs no home-tariffs.

Point E^0 is the equilibrium, where $GFOC_{Unil}$ and FE intersect. It gives us the equilibrium combination of N , the number of import-industries in a country, and T , the tariff level. This is the point where the government chooses the politically optimal tariff taking the size of the import industry as given, and firms enter up to the point of zero pure profits taking the tariff as given (R. Baldwin 2006).

The announcement of multilateral trade talks shifts the GFOC curve to $GFOC_{MTN}$. The shift downward is due to reciprocity: For any given level of N (import-industries) the government finds it politically optimal to set a lower tariff, because now exporters are lobbying in favor of liberalization and there is more pressure for the government to liberalize trade (R. Baldwin 2006).

The long-run equilibrium is given by E^{final} . As it is clear by the graph this equilibrium is reached gradually, through a series of consecutive decreases in both the tariff level (vertical drop showed by the blue arrow) and in the size of the import-oriented industry (horizontal shift to the left also showed by the blue arrow) (R. Baldwin 2006).

2.4.3. [Dominos and Juggernaut at work: Historical examples](#)

The point made by Baldwin is that, as long as the free trade agreement does not somehow raise protection for the import-competing industry, the interaction between the Domino effect and the Juggernaut theory begets multilateral trade liberalization. This means that regional or preferential trade agreements can be building blocks towards free trade (R. E. Baldwin 2004). In defending his point Baldwin gave several historical examples, the EU agricultural sector is one of them. Until the 1980's the Common Agricultural Policy of the EU had been a stumbling block for liberalization as it

protected the fairly similar agricultural products produced by the member states; Indeed, Given the high level of external protection that the CAP gave to farmers there was no intention to liberalize trade as it would have meant losing subsidies and agricultural aids. However, with the enlargement of the EU in the 1980's southern countries, that were producing different products than the ones protected before, tilted the balance. The CAP budget was capped, the necessity to keep it under control lead to the MacSharry reforms, which reduced protection by decreasing the aids and lead to the closing of the Uruguay Round, the agricultural sector became the stepping stone for further liberalization (R. E. Baldwin 2004).

2.5. Reconciling the views: Dür's bargaining power argument

Andreas Dur, in his analysis of the building vs stumbling block debate, proposed an alternative argument that does not necessarily see the two perspectives as mutually exclusive. He presented his view in his paper *Regionalism in the world economy: Building block or stumbling stone for globalization?* where he claimed that both sides have good arguments and valid examples. The reality is that Preferential Trade Agreements can be both a stepping stone or a stumbling block towards multilateral liberalization depending on the bargaining power of the excluded state and reaction of member states. Once a group of countries enter into an agreement that leaves out other countries, the excluded states can have four different reactions: (1) Apply for membership into the agreement; (2) Call for non-discriminatory trade liberalization; (3) Create a rival trade block; (4) Threat of using retaliatory measures against members. While in the former two cases the agreement would be a stepping stone to liberalization, in the latter two cases it becomes a stumbling block. But indeed, an agreement or

regional organization can be both. The creation of the European Economic Community for instance it has: It was a stepping stone that pushed multilateral negotiations at the GATT and a stumbling block that led to the creation of a rival trading block in Latin America (The LAFTA in 1960) (Dur 2007, 9). The amount of bargaining power of a state will determine which of the four options the country will adopt. The bargaining power of a country in turn is determined by three factors: (1) The Importer-Exporter relation; (2) The degree of regional concentration of a country's exports; and (3) the importance of trade relative to the economic size¹². When importers are strong¹³, exports are dispersed across markets and general trade dependence is low a country will have strong bargaining power. This will lean the country towards using the threat of retaliation in order to influence decisions, because it can attempt to impose its views without giving anything in exchange.

The reaction of member states will also affect the final outcome. Dur pictured eight possible scenarios depending on the interaction between member-states and excluded states and put them in the following table:

¹² Here Dur refers to the contribution of trade into a country's GDP: If trade contributes little to GDP then a country will have higher bargaining power

¹³ Dur uses the Balance of trade to assess the strength of the two sides without taking into account other factors such as political institutions. In Dur's analysis the higher the Trade Surplus, the stronger the exporters will be in relation to the import-oriented firms

Table 2-1 eight possible scenarios for a preferential trade agreement¹⁴

Excluded countries	Member countries	
	<i>React as expected</i>	<i>Do not react as expected</i>
<i>Threat</i>	Agreement	Trade war
<i>Rival agreement</i>	Overarching agreement	Rival blocks
<i>MFN negotiations</i>	MFN liberalisation	Status quo
<i>Accession</i>	Enlargement	Status quo

As it becomes clear from Dur’s analysis, preferential trade agreements are not either a building block or a stumbling one altogether but can actually be one or the other depending on the interaction of the various actors and factors involved. What is important therefore, is to stop asking which side they are on and start asking what factors can cause them to increase or decrease protectionism (Dur 2007). Now that we have unfolded the history of trade liberalization, the development of preferential trade agreements and clarified the debate surrounding them, it is possible to turn the analysis towards our two regions of interest: The EU and ASEAN.

2.6. Conclusion

Chapter 2 Focused on PTA’s. Given the recent proliferation of this type of agreements the aim was to present the arguments in favor and against them. Initially the question surrounding PTA’s was more of a “static” kind. It was aimed at answering the question of whether PTA’s create or divert trade and the general argument, sustained among the other by Viner and Krugman, was that they diverted it. Subsequently the question became more “Dynamic” and focused on whether PTA’s help or hinder multilateral

¹⁴ Source: Dur, A. (2007). Regionalism: stepping stone or stumbling block for Globalisation? In S. Schirm, *Globalisation: State of the Art and Perspectives*. Routledge. Pag 13.

liberalization of trade. Among the supporters of the hindering argument, Bhagwati advanced the argument that PTA's create a *spaghetti bowl* of messy and overlapping norms. Among the helping argument Baldwin presented the domino theory and Juggernaut logic which together, starting from a PTA, beget further and multilateral trade liberalization. Finally the chapter, aiming at reconciling the views, presents Dür's argument: PTA's can both help and hinder multilateral liberalization of trade, the difference only lies in the process and the response of the parties involved. In order to see what effect a EU-ASEAN agreement could have we must therefore analyze the two regions, their economic relations, trade ties and current status of trade negotiations. This is exactly what the second part of this thesis is about.

Part II

The EU and ASEAN

"The European Union and ASEAN are very distant geographically, but we could not be closer when it comes to our approach to international affairs. We stand on the same side. We stand on the side of cooperative solutions, based on international rules and on multilateralism [...] We stand on the side of a free and fair trade that benefits all, instead of damaging trade wars. We stand on the side of peace and security, because we know that conflicts in our times have a global fallout [...] If our two regions join forces, we could set a new standard for global trade with more growth [...] We do it for Europe, for South-East Asia and for the rest of our troubled world that really needs a positive point of reference in these difficult times¹⁵."

(Federica Mogherini, EU-ASEAN PMC in Singapore, August 3, 2018)

¹⁵¹⁵ Available at: < <https://www.youtube.com/watch?v=2392T0ds0hc&t=58s>> Accessed: 10-12-2018

3. Chapter three: EU-ASEAN Relations

3.1. Introduction

The first two chapters have focused on the theoretical approach around international economic relations and policies, free trade agreements and preferential trade agreements. They have explored their historical development and the various phases that led to the creation of the WTO and our current situation. In doing so, the first two chapters have looked at the rationale for multilateral trade liberalization and analyzed the arguments both in favor and against it as well as analyzing the arguments in favor and against preferential trade agreements and regionalization. Now that the general picture of economic globalization is set, the remaining part of the thesis will focus on a specific case study: The European Union and the Association of Southeast Asian Nations. The second part of this thesis will thus be dedicated to exploring regionalism and interregional EU-ASEAN economic relations from their development to the recent negotiations for free trade agreements among the two regions. This chapter unfolds the story and nature of EU-ASEAN relations in the following way; the next section describes the beginning of relations, from the colonization period until the advent of decolonization, at the end of world war two, and describes it as the typical colonial relation of exploitation and dominance. Section 3.3 then, focuses on the composition and structure of the two organizations. It describes how and why they came about, specifies their membership and characterizes their main institutions. Section 3.4 compares the two integration processes and reveals the differences and similarities that the two organizations share in their structures with a specific focus on the differences

in the level of economic integration. Section 3.5 reevaluates the EU-ASEAN relation by analyzing the influence that the EU, as an older institution, has had on the development of ASEAN and how much of a model is was for ASEAN's own institutional structure. The final section focuses on the development of the EU-ASEAN relations from informal dialogue to an institutionalized relationship with proper ministerial meetings and the ASEM forum of dialogue. This last part will not focus exclusively on one side of the relations but rather will cover the different ways and general institutions that contributed on the EU-ASEAN dialogue in the political, social and economic areas.

3.2. Where it all begun: a story of Colonization/ Decolonization

Throughout all the period that the first chapter deals with, from the industrial revolution until after the end of the second World War, the relationship between European countries and Asia was mainly of an exploitative kind. Most Asian countries were colonies, mandates or protectorates under the control of European Countries; they were exploited for their resources to fuel European Industrialization. In this respect, Asian countries were a fundamental element of the globalization process without being able to enjoy its benefits. Indeed, parts of Asia were drawn in the process of European Globalization without being able to independently develop their economies. Although colonization allowed for the development of a basic system of infrastructures in many countries, independent economic expansion started later on, when those countries finally gained their sovereignty.

Colonization of Southeast Asia started in the 1820's when Britain, The Netherlands and France begun to establish empires over the region. During the nineteenth century

Britain established control over the Malayan peninsula, the northern coast of Borneo and Burma; while the Dutch took over the rest of the East Indian archipelago. The French instead gained control of Vietnam, Laos and Cambodia. In these areas, the colonial powers introduced different administrative structures and consolidated their empires towards the end of the nineteenth century (Clive 1996, 6). It was during the period of World War One and the following inter-war period that anti-colonialism, coupled with a sense of nationalism, began to spring, although unevenly, in the Southeast Asia region. While the Malayan region and East Indian archipelago controlled by the Dutch remained outside, Java and Vietnam became centers of political turmoil (Clive 1996, 10-11). Later on, World War Two became the key to the decolonization process in Southeast Asia, as Japan took control over Indochina in 1940 and subsequently over the rest of the region, removing the colonial administrations. At the end of the war, colonial powers attempting to hold together their imperial unit, found a completely changed scenario and for a variety of reasons they were forced in the following years to abandon the region (Clive 1996, 16). During the cold war Asia became the main stage for enacting conflict between the United States and the Soviet Union. The two super-powers attempted to secure a network in the region, and in so doing they influenced its future. The most iconic example being that of Vietnam and its partition in 1954 between a non-communist south and a communist north, which escalated into the infamous Vietnam war (Clive 1996, 21).

Although at different times, nations in Southeast Asia gradually gained their sovereignty after the end of World War Two and begun their path towards economic independence and development. Already by the end of the Cold War, decades of economic

development gave the Southeast Asian region a global prominence. Thanks to their high performing economic development, many nation-states in the region came to be known as Newly Industrializing Countries (NICs), Newly Industrializing Economies (NIEs), High Performing Asian Economies (HPAEs) or more simply as Asian Dragons or Asian Tigers. Their economic growth rate was so fast that many came to define it the “East Asian Miracle” (Berger 2004). If this was the situation in Southeast Asia, what was happening in Europe right around this time? The next subsection describes the afterwar period that led to the creation of the European Union.

3.2.1. Winds of change: Europe towards unification

In 1949, after four years of difficult peace, Europeans began to see some signs of recovery from the devastating war that had lasted for over six years. Industrial production had finally reached prewar levels and politics had somewhat settled from the crisis of 1947 (Hitchcock 2004, 131). Europe’s recovery proceeded at an incredible speed, ‘The 1950’s forever changed Western Europe [...] within a decade the first wave of postwar modernization crashed over Europe, sweeping away many old, no doubt vulnerable, but antiquated habits’ (Hitchcock 2004, 131). The greatest impact was felt in the industrial sectors of the economy, where in some countries, such as Italy and Germany, production almost tripled (Hitchcock 2004, 131). Agricultural productivity began to improve as well, but more generally every sector of production did. European External trade increased as a consequence of this economic expansion and Europeans began to enjoy luxuries on a scale greater than ever. The miracle of postwar European economic expansion occurred simultaneously with a restructuring of the European international order. Indeed, European’s leaders realized that their nations could prosper

only as a whole and agreed to pursue joint goals in the spirit of compromise and sacrifice (Hitchcock 2004, 147), hence the birth of what would later become the European Union. It was against this backdrop that the EU and ASEAN came about.

3.3. EU and ASEAN: Composition and scope

This section is divided into two subsections: The first one is dedicated to the story of regional cooperation among European countries; the second unfolds regional cooperation among ASEAN countries.

3.3.1. The European Union

The story of regional cooperation among European countries is surely rather more known to Europeans than that of ASEAN, it is however worth spending a little while to recap the most crucial events that led to its formation and to summarize its structure. Regional cooperation in Europe is characterized by five “critical junctures” (Fabbrini 2015). The first stage of cooperation dates back to the end of the Second World War, the European Union is, indeed, the result of an attempt of European states to overcome the tensions and ideological divisions that had characterized the European Continent in the two halves of the twentieth century and in this sense it is “a pact for promoting peace through prosperity among warring states traditionally jealous of their own identity” (Fabbrini 2015, 5). The First ever agreement was in 1951 with the Paris treaty which established the European Coal and Steel Community among the Benelux countries (Belgium, Netherlands and Luxembourg) plus Italy, France and West Germany. The treaty was aimed at the shared management of those two primary resources which had been a source of tensions in the past, especially between France and Germany

(Fabbrini 2015, 5). A second step towards cooperation was taken in 1957 with the Rome treaty which established the European Economic Community (EEC) and the European Atomic and Energy Community (EAEC). The aim was to bring about Economic integration of the countries involved so as to ensure peace, to do that the treaty established the Common Market. With the 1986 Single European Act (SEA) the common market evolved into a Single market as defined by the four freedoms of movement: of goods, services, capital and people (Fabbrini 2015, 12). The 1992 Maastricht Treaty reorganized the institutional equilibrium of the Union with the formation of different decision-making regimes through the three pillars: (1) The Single Market Policy, concerning economic matters; (2) The Common Foreign and Security Policy (CFSP); And (3) the Police and Judicial Co-operation in Criminal Matters (Fabbrini 2015, 16). The last stage of cooperation occurred with the 2007 Lisbon Treaty, which amended the Maastricht Treaty by formally abolishing the pillars although still recognizing two different decision-making regimes, a supranational one and an intergovernmental one (Fabbrini 2015, 33). From the original six founders the EU has gradually expanded over the years and it now counts 28 member-states. This still includes the United Kingdom which, however, after the Brexit referendum of 23 June 2016 and the triggering of article 50 of the Treaty on European Union (TEU), is soon bound to leave the Union.

The EU has five main institutions:

1. The European Council which is composed of the head of state or governments of the various member-states, and it is entrusted with the task of setting the guidelines of the Union;

2. the Council of the European Union, composed of the ministries of the various countries, in different formations depending on the issues discussed, it represents the legislative power of the Union;
3. the European Parliament (EP), composed of 750 members plus the president, directly elected by the citizens of the members-states of the union whose seats are allocated through the system of degressive proportionality. The EP is the legislative body of the Union together with the council of the European Union.
4. The European Commission (EC). It is composed of one representative for each member-states. Members, however, do not represent the interests of their states but that of the Union and are required to be independent. The EC is the executive body of the Union.
5. the European Court of Justice. It is the judicial body of the Union that oversees the work of the other institutions.

All of these institutions are entrusted with different powers and tasks and balance the interests of the Union with that of the single member states through their vertical and horizontal separation of power and supranational and intergovernmental decision-making structure (Fabbrini 2015, 62). Now that the basics of the EU have been clarified it is time to focus on the structure of ASEAN.

3.3.2. The Association of Southeast Asian Nations

Since 1945 regional cooperation among ASEAN countries went through three turbulent stages (ASEAN secretariat 1997): the first phase lasted from the end of World War two until the mid-1950's and was characterized by the dominion of British and US ideologies

over the region and attachment to the traditional colonial ties of the various countries. Indeed, Malaya, Borneo and Singapore were still British colonies, while Laos and Cambodia remained under French control; Thailand and the Philippines were leaning onto USA's support and Indonesia was simply uninvolved. In this context the Southeast Asia Treaty Organization (SEATO) was launched in 1954 which included Britain, France, Australia, New Zealand, Pakistan, The Philippines and Thailand. Formally with the scope of protecting Southeast Asian countries from external armed attack but then practically turning into an anti-communist military alliance (ASEAN secretariat 1997). The second phase begun with the launching of the Association of Southeast Asia (ASA) in 1961 by The Federation of Malaya, The Philippines and Thailand which shortly after had to face the dispute over Sabah territory, controlled by Malaya but also claimed by the Philippines (Pollard 1970). The foundation of the Association of Southeast Asian Nations (ASEAN) in 1967 marked the third phase of regional cooperation (ASEAN secretariat 1997). ASEAN has five founding members: Indonesia, Malaysia (formerly known as the federation of Malaya¹⁶), The Philippines, Singapore and Thailand. Brunei Darussalam joined in 1984, Vietnam in 1995, Lao People's Democratic Republic and Myanmar in 1997 and Cambodia in 1999, so that now ASEAN is composed of 10 members in total. The ASEAN Declaration of 1967, which is the founding document of ASEAN, also known as Bangkok Declaration, sets out the goal of:

¹⁶ Malaya was renamed the Federation of Malaya in 1948. After it achieved its independence in 1957, it reunited with North Borneo, Sarawak and Singapore in 1963 and was renamed Malaysia. Singapore subsequently exited the group in 1965.

'Accelerate economic growth, social progress and cultural development in the region through joint endeavors in the spirit of equality and partnership in order to strengthen the foundations for a prosperous and peaceful community of South-East Asian Nations'¹⁷

This means that, just like the EU, the organization is not purely political or economic but rather it includes a combination of social, political and economic interests and actions. Indeed, ASEAN has three different communities: The political-security one, aimed at political development and conflict resolution; the Economic one, aimed at creating a competitive region through trade liberalization; and finally, the socio-cultural one, aimed at creating a common regional identity.

The first 30 years of ASEAN were marked by many accomplishments. The Gross Domestic Products (GDP) of members grew at average annual rates of more than 5% in the 1980-95 period thanks to the implementations of measures related to economic integration, international trade and investments (ILO 2018). Especially relevant in this respect was the conclusion of the ASEAN Free Trade area agreement in 1992 which succeeded in creating a strong and competitive trade block in the region; and the conclusion of the ASEAN Framework agreement on services in 1995 which successfully reduced restriction to trade in services (ILO 2018). Following the Asian financial crisis of the 1997-98 that hit hard many southeast Asian countries and especially Thailand, member states further committed to the 'ASEAN vision 2020' (1997) to create a stable

¹⁷ The ASEAN Declaration, 8th August 1967. Available on the ASEAN Website at: <https://asean.org/the-asean-declaration-bangkok-declaration-bangkok-8-august-1967/> Accessed: 1-12-2018.

and prosperous region; and the 'Declaration of ASEAN Concord II (2003) whose main goal was the creation of an ASEAN Economic Community (AEC). In 2008 the ASEAN Charter was signed, with the aim of strengthening the ASEAN community and to provide a legal framework for the organization. Finally, the AEC eventually came into being in 2015, since then it has made many progresses in the liberalization of trade within the region (ILO 2018).

The main bodies of the organization are the following:

1. The ASEAN Summit provided for by article 7 of the ASEAN Charter. It is composed of the various leaders of ASEAN Countries and it is the supreme policy-making body of the organization and it sets the guidelines for actions;
2. The ASEAN Coordinating council, provided by article 8, made up of ASEAN foreign ministers and meeting twice a year. It coordinates the implementation of the Summit's decisions;

Then, there are ASEAN sectoral ministerial bodies, such as the ministerial meeting on agriculture, that on transport or that on technology. These bodies implement the summit's decision based on their sector. Finally, there is the secretary general appointed by the Summit on a non-renewable term of 5 year.

3.4. Integration process: differences and similarities

The EU and ASEAN are two regional organizations¹⁸ that have undergone a long integration process. They share certain similarities but have nonetheless reached different stages of integration at the political, institutional and economic level. This is because they have different institutional settings, membership norms, and ultimately, different ideological backgrounds. Moreover, the historical path that has led to their creation originates from different reasonings. Due to their colonial experience, one of the main concerns for ASEAN countries was maintaining national sovereignty. In this respect, membership into the organization is perceived as a complement to nation-building and as way of enhancing national sovereignty rather than weakening it. For European Countries, on the other hand, the EU was a way to promote peace and stability and mitigate the power of sovereign states in order to put an end to the rivalry and tensions that had characterized the region until then (Camroux 2009). These different reasons for promoting cooperation in the two regions surely had an impact on the type of organization developed to promote this end and its level of integration.

As a matter of fact, while the EU is almost fully integrated, ASEAN still remains behind. Although ASEAN has recently started to increase its level of EU-style institutionalizations (Jetschke 2011), the EU has gone through a deeper institutionalization process, building

¹⁸ Many scholars actually argue on the extent to which the EU is to be considered a simple regional organization because of its deep level of integration. I will use the term regional organization to describe the EU but it is useful to keep in mind that it is a rather simplistic definition. For a detailed analysis of the issue see: Fabbrini, S., 2010. *Compound democracies. Why the United States and Europe are becoming similar*. New York : Oxford University Press and Fabbrini, S., 2015. *Which European Union ?Europe after the Euro Crisis*. 1 ed. Cambridge : Cambridge University Press.

stronger institutions and legally binding rules. ASEAN, on the other hand, acts according to a principle of non-interference in internal affairs of its members, provided for by the ASEAN Charter and ensuring a lower level of integration with respect to European Countries (Berkofsky 2005). For this reason, most scholars often distinguish between a “Formal” or “Legal” EU and an “Informal” “Consensus-based” or “Consultative” ASEAN (Wong 2012). The “ASEAN way”, that is how ASEAN approach is often described as, is based on much looser institutions, with lower attention to formal norms and greater emphasis on legally non-binding norms (Mattheis and Wunderlich 2017).

For what concerns the level of economic integration, the two are dissimilar. First, because the starting economic situation in the two region is profoundly different. The level of economic interdependence for ASEAN states is still low enough so that is not able to provide enough pressure for deeper integration, indeed, the share of intra-ASEAN trade is still lower than that of extra-ASEAN trade. This is in clear contrast with EU situation where the share of intra-EU trade is over 64%. Major trading partners of ASEAN states are external powers, while European countries mainly trade with each other (Kim 2014). Because of this dependence of ASEAN countries on external trade, its type of regionalism has often been described as “Open” with respect to the “Closed” or “Fortressed” European Regionalism, less attuned to economic partner countries outside of it (Chen, Cuyvers and De Lombaerde 2016).

Another major economic difference lays in the income differentials which among EU member states are smaller while among ASEAN countries are greater (Chen, Cuyvers and De Lombaerde 2016). Although the differences in economic development and

income among EU members has increased with each subsequent enlargement and especially after the Easter enlargement of 2004/2007, disparity is still relatively low compared to that of ASEAN which includes membership from countries among the richest in the world (Such as Singapore) and poorest (Such as Myanmar).

Differences in the degree of integration are especially evident at the economic level so that the ASEAN experience is often used as a counter-model for the European Union. Indeed, while the EU implements the highest level of integration with the economic and monetary union, ASEAN still remains simply a Free Trade Area. Since the establishment of the AFTA in 1992, free trade has gradually been implemented. Almost the totality of goods can be traded custom-free among ASEAN-6¹⁹ (Brunei, Indonesia, Malaysia, the Philippines, Singapore and Thailand). However, special provisions still apply for protection of the remaining less developed economies of the organization. Indeed, through the Common Effective Preferential Tariff (CEPT) scheme for AFTA more than 99% of products in the CEPT inclusion list (IL) have been brought down to the 0-5% tariff range²⁰. The ASEAN Comprehensive Investment Area (ACIA) was formally completed in 2012 but impediments still exist because of reservation lists that rule out certain measure as non-compliant with national standards for the treatment of foreign investors (Witkowska 2016). A customs union was never introduced and considering that Singapore already opts for a zero-tariff regime, the options would be either a close-to-zero common external tariff (CET) or a positive CET with the exclusion of Singapore

¹⁹ According to the German-Philippine Chamber of Commerce and Industry, available at: <http://philippinen.ahk.de/> Accessed: 4-12-2018.

²⁰ According to the Information available on the ASEAN website, available at: <https://asean.org/asean-economic-community/asean-free-trade-area-afta-council/> Accessed: 4-12-2018

(Witkowska 2016). Finally, the monetary union stage was never even considered an aim given that its feasibility would be low: ASEAN members do not have enough convergence of inflation, interest rates or currency management (Witkowska 2016).

The EU, on the other hand, since the Rome Treaty and the formation of the European Economic Community in (EEC) 1957, has fully integrated, although with a two-speed integration process. Indeed, only 19 members have joined the euro area since the introduction of the common currency in 2002, while the rest have stopped at the Common Market stage of integration (Witkowska 2016). Though the four freedom of movements of goods, services, people and capital EU members states have now eliminated all barriers to trade and as a consequence of the customs union, the EU now has a common external tariff on goods entering the Union. We can therefore conclude that, although the EU has always been a promoter of the ASEAN integration process, often used as a model for the latter, the two organizations reflect different needs in the regions and display fundamental differences that cannot overcome their superficial similarities.

3.5. Reevaluating the EU as a model power for regionalism: A mere reference point?

it has often been argued that the European Union impacted both directly and indirectly on ASEAN's institutional structure. It did so directly by offering declaratory and material support through capacity-building measures such as the Institutional Development Program for the ASEAN Secretariat (IDPAS), the ASEAN Program for Regional Integration Support (APRIS and APRIS II) and the ASEAN Regional Integration Support from the EU

(ARISE). It impacted indirectly by being a model for integration that ASEAN looked upon when developing its own institutional structure (Mattheis and Wunderlich 2017). Even the EU perceives itself as a model for regional integration which it seeks to diffuse around the world through regional and economic cooperation by establishing dialogues with other regions and promoting regional institution-building in different areas of the world. Exporting its system of governance is seen as a way to promote regional peace, security, prosperity and stability inside EU borders and beyond (Börzel and Risse 2009). In order to be able to promote regional integration, the EU must exert some form of power²¹ over other regions. According to Börzel and Risse (2009), the EU has four different mechanisms and instruments to diffuse its model of regional governance: (1) Coercion, through military intervention, which it has not yet used; (2) Manipulation and utility calculations, through conditionality, meaning the imposition of conditions on certain decisions in order to manipulate the cost-benefit analysis of the other region and create positive or negative incentives for a decision; (3) Social learning and persuasion, through political dialogue; and (4) Emulation, through, again, political dialogue. Inter-regionalism is therefore the tool it uses to promote regional integration in ASEAN countries, for which it is a model (Börzel and Risse 2009). The argument of the EU as a “model power”, however, is not so strongly shared by every scholar. The reality is that EU influence over the development and the structure of other regional organizations is much more limited and that interaction through inter-regionalism merely represents a minor part of the countless types of relations that come into play in the international

²¹ Power here is intended in Dahl’s sense as the ability of A to influence B decision is such a way so as to get B to do something that it would not otherwise do. For more details see: Robert A. Dahl, *“The concept of power”* (1957).

arena (Camroux 2009). The EU exerts some power over ASEAN but merely as a “Reference point”, its influence is not an active one. This means that It was taken as an example or “reference” when ASEAN was first conceived. The EU was, in fact, the first regional organization of its kind and as such it inspired ASEAN cohesion. ASEAN took the European model but then molded it to its needs by creating completely different structures and institutions. In this sense, the type of power that the EU used to inspire ASEAN and still use nowadays is “Soft-power”, that through its own model influenced the political institutions of ASEAN. Of course, we must accept that there is a development relationship between ASEAN and the EU. This, however, is much weaker in Southeast Asia than it is in its neighboring countries, because it faces competitive influence by the US, Japan and China (Wong 2012). Reuben Wong defends this point by taking the ASEAN Charter as an example. Although now formally codified, ASEAN norms remain based on informality and that differs greatly from the European formal perspective (Wong 2012). We can conclude that the claim that ASEAN institutions were created to mimic European ones is far too simplistic in that it does not take into account the differences that were precisely mentioned also in the previous sections of this chapter.

3.6. From informal dialogue to an institutionalized relationship (1972-2018)

Regardless of the level of influence that the European Union exerts over the Association of Southeast Asian Nations, the two have been longstanding dialogue partners. Informal dialogue dates back as far as 1972 when the two organizations started to have informal meetings for the first time (Hwee 2013). In 1975 formal dialogue was established with a joint Commission-ASEAN Study group. The first ministerial meeting occurred in 1978, in

that occasion the two groups reinstated their mutual desire to strengthen relations through a formal cooperation agreement (McMahon 1998). Such agreement was signed in 1980 and it included commitment to commercial, economic and development cooperation. Moreover, under article one of the ASEAN-EC cooperation agreement the parties agreed to accord to each other the MFN principle²². At least initially, the main reason behind the establishment of relations among the two regions was economical, then towards the 1990's it acquired a political dimension (Mattheis and Wunderlich 2017). This was due, on one side to increasing political tensions at the end of the 80's, and on the other side to a decrease in the economic attraction of the region due to the Asian financial crisis of the 1997-98. Indeed, the second ASEAN-EC ministerial meeting produced a joint statement on political issues that revolved around the Soviet invasion of Afghanistan, the Vietnamese invasion of Cambodia and the consequences of this event in the region (McMahon 1998) Another major political event that caused tensions in EU-ASEAN relations was the 1975 Indonesian annexation of East Timor, a territory that was until then considered Portuguese colony. Until its independence in 1999 the issue was a major source of tension, with Portugal pressing the EU for support on one side and Indonesia pressing ASEAN for support on the opposite (Camroux 2009). At a short bilateral meeting at the 1992 ASEAN post-ministerial conference, the situation in East Timor was raised, with a particular focus on Human Rights. Myanmar accession to

²² The articles of the ASEAN-EU Cooperation agreement are available on the ASEAN website: <https://asean.org/?static_post=external-relations-european-union-nuremberg-declaration-on-an-eu-asean-enhanced-partnership-nuremberg-germany-15-march-2007> Accessed: 6-12-2018.

ASEAN in 1997 then exacerbated these tensions on Human Rights. The country's alleged abuses, indeed, caused it to lose its GSP's benefits at the WTO level.

Against this backdrop however, EU's attempt to maintain its relations with ASEAN never completely faded. In 1994 the Commission published *Towards a new Asia strategy*, where it recommended to give Asia, and therefore ASEAN Countries too, a greater priority than it had in the past 20 years, by building on the already existing relationships (McMahon 1998). The paper focused on a number of key issues such as: sustainable development, the development of the information society, forest preservation and AIDS research (Gilson 2006). The paper was updated 2001 with the publication of *Europe and Asia: A strategic Framework for Enhanced Partnership* by the EU commission with a focus on peace and security, promotion of Human Rights and democracy and promotion of trade (Gilson 2006). The most recent publication by the Commission dates back to last September 2018, and its titled *Connecting Europe and Asia- Building blocks for an EU Strategy*. The strategy is aimed at improving the connection among the two regions through transport, energy and digital networks.

The EU-ASEAN relationship today is composed of regular region-to-region ministerial meetings as part of the EU-ASEAN dialogue, and individual EC-ASEAN Cooperation Agreements. There is then a further forum for dialogue between the two regions, which however is not limited to them. That is the Asia-Europe meeting (ASEM) composed of the members of the EU and its Commission, members of ASEAN and its Secretariat, plus China, Japan and South Korea. The proposal for ASEM came in 1995 from the then Singaporean Prime Minister. For ASEAN countries it was a way of expanding their links

to Europe as well as fostering the decision-making power of Southeast Asia vis a vis the EU, through the support of its dominant neighbors. ASEM was also a way to balance the potential rivalry between Japan and China and moderate the effects of any future change of strategy by the US in the region (Gilson 2006). For the EU, ASEM was a way to strengthen relations in the region, as well as mitigate the rising tensions with ASEAN concerning Human Rights issues. Due to Myanmar's unsatisfactory record on Human Rights violations, EU-ASEAN relations had reached an impasse at the end of the 90's. In a demonstration against Myanmar's accession to ASEAN, the EU refused to participate in many initiatives. By broadening the framework for discussion, the launching of ASEM rebalanced the situation and kick-started the relations once again (Gilson 2006). The first summit of ASEM was held in Bangkok in 1996 and encompassed subjects such as trade, science, technology and security measures. The second summit took place in London in 1998 and due to the Asian currency crises, it became focused on economic issues and how to solve the potential failure of East Asia. ASEM 3, held in Seoul in 2000, was also overtaken by events, particularly the encounter of the South Korean president with his counterpart in North Korea. The result in ASEM was the production of the *Seoul declaration for Peace on the Korean Peninsula*. ASEM 4, in Copenhagen in 2002, was more focused on cultures, civilization and the fight against terrorism. A declaration on cooperation against terrorism was issued that resembled the general statements made by governments after 9/11. ASEM 5, held in Hanoi in 2004, saw the participation for the first time of new members from both the EU and ASEAN. The most recent summit²³ took place last October. ASEM 12 focused on the promotion of trade, enhancing security,

²³ As of November 2018.

protecting the environment and bridging society. It was at this summit that the EU and Singapore officially signed the EU-Singapore Free Trade Agreement.

3.7. Conclusion

Since 1972 a dialogue between the two regions has always existed, bridging the European and Asian societies across all subjects ranging from society, to technology, to science, to the environment, to transportation, to security, to Human Rights and surely enough, the economy and free trade. This chapter has made evident that the history of EU-ASEAN relations is longstanding; it dates back to the colonization period and continues to current times on many levels. In particular, economic relations among the two regions have recently strengthened at the point that both sides have decided to institutionalize this partnership into a free trade agreement. In 2007 negotiations were started for a region to region agreement. Given certain difficulties in the process the EU later opted for bilateral agreements with single ASEAN countries. At the time of the writing two agreements have been concluded and are pending final ratification: one with Vietnam and one with Singapore. The next two chapters thus focus on the economic partnership of the two regions in the form of the three mentioned agreements: a failed interregional EU-ASEAN agreement, and two successful bilateral agreements with Singapore and Vietnam.

4. Chapter four. EU-ASEAN Free Trade Agreement: A critical

Analysis

4.1. Introduction

The following chapter aims to uncover the details of EU-ASEAN economic relations by analyzing the recent negotiations carried out to conclude an EU-ASEAN FTA. It critically analyzes the failed EU-ASEAN agreement by exploring why and how it was first conceived, its content and the main reasons that led to the interruption of talks. The next section uncovers the rationale behind the agreement and in doing so it points at the existing economic ties among the two regions and increasing ASEAN economic potential coupled with its desire to penetrate the European market. The section also explores the non-economic reasons for the agreement, namely linked to EU's desire to increase its power in the region. Once the basis is set so as to explain why the two regions wanted the agreement. Section 4.3 covers the starting of the negotiation process, from the establishment of the study group to explore the feasibility of the agreement in 2005, to the council granting the EC the mandate to start negotiations in 2007. Section 4.4 then covers the substance of the agreement from removal of trade and non-trade barriers to investments and services. Already in this section several sources of tensions will be mentioned, as they appeared during the negotiation process. The last section will uncover those sources in detail, by analyzing the causes that led to the failure of interregionalism and the shift to bilateralism. As it will be clear, EU's desire for a comprehensive agreement clashed with ASEAN actual heterogeneity of interests, thus impairing a hypothetical region-to-region agreement.

4.2. The rationale behind EU-ASEAN FTA

The economic dimension of relations between the EU and ASEAN constitutes a fundamental aspect of interaction among the two regions. Indeed, with its 640 million people and high economic growth rates, ASEAN represents one of the most promising market and a key player in global trade for the next future (Mazur 2017, 142). Therefore, it should not come as a surprise, that this most important and fast-developing Asian-market is a magnet for economic partnerships, not only for the EU but for the rest of the world as well. As a matter of fact, in 2016 the total export for ASEAN countries amounted to \$1141 billion dollars which made the group the fourth largest exporter in the world after China, the EU and USA (Mazur 2017, 142).

More specifically, the economic ties between the EU and ASEAN have grown over the years. In 2005, two years before the beginning of negotiations, ASEAN was EU's 6th largest trading partner, supplying the EU with many fundamental products that the EU itself did not produce, such as palm oil; It was also buying equally diverse products and services (ASEAN-EU vision group 2006). In 2006, a year before the beginning of negotiations, the EU was ASEAN's second largest export partner. As of 2018, the EU is ASEAN's second largest trading partner after China, accounting for around 13% of ASEAN trade, while ASEAN is EU's third largest trading partner after the US and China. Since 2001 trade flows between the two regions have almost doubled (Mazur 2017, 143); In 2017 ASEAN exported almost €135 billion to the EU and the EU €9 billion to ASEAN. With EU imports growing faster than export the result was a trade deficit of €43.9 billion for the EU. Concerning foreign direct investments (FDI) the EU is by far the largest investor in the ASEAN region and, although rather more recently and to a lower

extent, ASEAN investments in Europe have been growing steadily and impressively to a total stock of over €116 billion in 2016²⁴.

Regardless of the general macroeconomic picture, one important factor to keep in mind is the disparity in the level of trade that persist within ASEAN states. This disparity is reflected in the fact that trade with the wealthier states is considerably greater than with the poorest (Camroux 2009, 66). In 2006 the level of trade with Singapore compared to the other ASEAN countries was considerably high; the city-state alone absorbed 40% of EU exports and provided a quarter of ASEAN imports to the EU (Camroux 2009, 66). Just to give an example, in 2015, while trade in goods with Myanmar, a considerably poor country, amounted to 0.7€Billion of EU imports and 0.5€Billion of EU exports; in the same year trade in goods with Singapore amounted to 19€Billion of EU imports and 29.9€Billion of EU exports²⁵.

All these data provide the background for negotiations to establish an EU-ASEAN FTA. The establishment of such agreement, however, was not purely dictated by economic reasons. For several years, in fact, the EU was reluctant to enter into an FTA with ASEAN countries because of the latter's ability to penetrate the EU market and diversify its exports to the EU (Robles 2008). Indeed, in the 15 years period before the Asian financial crisis in 1997, the EU enjoyed a trade surplus with ASEAN only in 1985 and 1995. In other words, the EU feared that an FTA would exacerbate its trade deficit. Moreover, the EU had always preferred multilateral trade liberalization at the global level and, indeed, in

²⁴ Data retrieved from the EU Commission website, available at: <http://ec.europa.eu/trade/policy/countries-and-regions/regions/asean/>. Accessed: 14-12-2018

²⁵ Data available in the European Commission's website

1994 it had stressed in its “New Asian Strategy” that the privileged forum for EU action would be the WTO (Robles 2008). Circumstances changed when ASEAN countries began to establish a web of bilateral and regional trade agreements with Japan, China and the US. The New-age Economic Partnership Agreement between Japan and Singapore was signed in 2002; In the same year ASEAN concluded further agreements with China and started bilateral talks with the US in the framework of Enterprise for ASEAN Initiative. US agreement with Singapore was the first comprehensive, American agreement with an Asian country, perceived as a potential prototype for others. China went as far as establishing a free-trade area with ASEAN, the CAFTA, which has, since the early 2000’s, demonstrated China’s active involvement in the formation of a mutually beneficial relationship With the ASEAN region (Men 2007). This meant that EU power in the region was threatened by other countries. As a matter of fact, the EU has to compete with other powers for regulatory and economic powers in the region and seeing other countries concluding agreements was an incentive to do the same in order not to lose its strategic interests (Meissner 2016, 326). In this sense the agreement signed in 2002 between Japan and Singapore signed a watershed in global trade strategy (Astuto 2010, 1) and finally triggered EU’s decision to consider interregional negotiations with AEAN. Competition for regulatory and economic power was also the reason why the EU preferred a comprehensive format of negotiations that included ASEAN as a whole rather than negotiating bilateral agreements with each ASEAN country: a region to region agreement would have ensured deep and broad liberalization, which was not only the EU’s main goal but would have also granted it a competitive advantage over third countries such as the US, Japan or China (Meissner 2016, 327).Certainly, the EU’s

desire to become globally more powerful met ASEAN's wish to diversify and enlarge its relations in order to gain greater market access in third countries and increase its economic development.

Finally, one last incentive to initiate trade talks among the two regions was given by the stall of negotiations at the WTO level during the Doha Development Round of negotiations (Astuto 2010, 1). As already mentioned in paragraph 1.5, since solutions seemed unachievable at the global level, countries began to opt for bilateral or interregional preferential trade agreements and that was also the case for the EU-ASEAN FTA. These agreements were, at times, considered complementary to WTO trade talks; Other times they were altogether substitutes of such talks. In summary, decision to begin trade negotiations was the result of a mixture of already existent economic ties, the stall in WTO multilateral trade negotiations at the global level and finally the struggle for power in the ASEAN region among the EU and third countries, coupled with ASEAN's desire to expand its market access in Europe.

4.3. The negotiation process

On 27th April 2005 the ASEAN Economic Ministers (AEM) and the EU Trade Commissioner established a Vision Group on ASEAN-EU Economic partnership. The decision to establish such a group, with the purpose of examining the feasibility of a Free Trade Agreement among the two regions, took place in HaLong Bay, one of the most spectacular locations in Northern Vietnam and UNESCO world heritage site since 1994. The group, chaired by Vietnam and the European Commission (EC), held a total of 5 meetings and presented its results in the following AEM-EU consultation, in May 2006.

The Vision group's conclusions were the following: Economic relations between the two regions offer lucrative opportunities for expansion and improvement; the new transregional partnership should be ambitious and comprehensive in its scope, and include all economic aspects from trade to investments; the partnership should also be simple and user-friendly for traders and investors involved; the more developed economies in the two regions should liberalize trade in goods and services faster than less developed economies so as to keep the distribution of benefits acceptable for all; and finally, the partnership should promote economic growth but also narrow the gap between the rich and the poor (ASEAN-EU vision group 2006, 14).

The Vision Group commissioned a quantitative study to assess the potential benefits of an FTA. The study, carried out by the Centre d'Etudes Prospectives et d'Informations Internationales (CEPII), provides an in-depth analysis of the welfare, production and trade effects of an ASEAN-EU agreement. It was done using a multi-country, multi-sector computable general equilibrium model. The study tested several scenarios, including the dismantlement of tariffs on goods with or without the exclusion of sensitive products, liberalization of the services sector and a situation which takes into account other agreements negotiated with third countries by the two regions (ASEAN-EU vision group 2006, 7). The results of the study were that a potential agreement would constitute a welfare gain for both ASEAN and the EU. For ASEAN they could amount to up to 2% of GDP, albeit with a difference among members and advantaging less the least developed members. For the EU instead, although positive, the gains would be smaller compared to that of ASEAN (Only one quarter of the total gains). Finally, when considering agreement with third countries, the study showed that gains would be greater in a

situation in which the two regions were also carrying out other agreements (ASEAN-EU vision group 2006, 7).

The Vision Group also commissioned a qualitative study, carried out by the University of Limerick, Ireland, and the French institute of international relations, to assess the potential impact of an FTA. The study analyzed the effect of trade liberalization in goods, services and investments, as well as the needs of the least developed countries in case of an FTA (ASEAN-EU vision group 2006, 8). The conclusion of the study was that a hypothetical FTA would imply both positive and negative effects, but also that the positive impact would be sufficient so as to overlook the negative effects (ASEAN-EU vision group 2006, 5). One important aspect that the study uncovered was that traditional tariff barriers among the two regions were already quite low, with few exceptions such as agriculture and the automotive sector. Liberalization of trade through the lowering of those type of barriers would therefore bring about lower benefits. In order to increase the gains from an FTA it was therefore important to liberalize trade through the lowering of nontraditional trade barriers. For ASEAN countries the type of non-traditional barriers that constitute greater problems were identified as those imposed in the form of safety, health or environmental standards, while for Europe the problem was identified in the service sector, mainly concerning foreign ownership (ASEAN-EU vision group 2006, 8). The study also analyzed the complementarity of the two economies and concluded that complementarity existed in a number of industries, with ASEAN being more involved in manufacturing and Europe having comparative advantage in knowledge-based services. Complementarity is an important aspect of economies when considering the possibility of an FTA. The

complementarity index analyzes the trade patterns of two countries and measures the extent to which the exports of one match the imports of the other. A high degree of complementarity implies greater benefits out of an FTA. The degree of complementarity of the EU and ASEAN was also analyzed by Bernadette Andreosso-O'Callaghan and Françoise Nicolas in a paper published in the ASEAN economic bulletin. Their findings, similarly to that of the study group, suggested a manufacturing-services complementarity, with ASEAN comparative advantage in automatic data processing machines, identified as one of the EU's structural weaknesses (Andreosso-O'Callaghan and Nicolas 2007, 218). Telecommunication equipment, electrical machinery, photographic apparatus, optical good and watches were among the industries where ASEAN countries were found in complementarity with the EU. All the evidence gathered by the study suggested the desirability of an EU-ASEAN FTA (Andreosso-O'Callaghan and Nicolas 2007, 222).

The presentation of the report of the study group coincided with the European Commission's communication of its new trade strategy *Global Europe: Competing in the world*. The aim was setting new guidelines for the commercial strategy that the EU would follow both at the multilateral and bilateral level. The strategy reinforced EU's commitment to the multilateral trading system while at the same time acknowledging the role of FTA in building such a system (EU Commission 2006, 10). At the core of the strategy, to guide the Commission's action, lied the support for Global trade and rejection of protectionism. The Commission's paper stated that in pursuing international trade, the WTO remained the most effective tool, with the main priority being the Doha Development Agenda and restarting of its negotiations after their suspension in 2006.

In this framework FTAs were pictured as potentially aiding or eroding the WTO system. In order to support the WTO system, the commission called for any future FTA to be broad and comprehensive in scope and to liberalize all trade (EU Commission 2006, 11). A hypothetical agreement with ASEAN, therefore, would have to respect such standards. The paper also stated the criteria for choosing FTA partners. These criteria were: (1) Market potential, referring to economic size and growth; and (2) The level of protection against EU exporters, referring to the presence of tariff and non-tariff barriers. Based on these criteria the preferred partners identified were ASEAN together with Korea and Mercosur (EU Commission 2006). The New trade strategy therefore followed the decision taken at the ministerial meeting in 2005 and signaled EU's decision to pursue a trade agreement with ASEAN.

In April 2007 the Council approved negotiating directives and authorized the Commission to start negotiation for the regional agreement with ASEAN, formal negotiations were then launched a month later, during the ASEAN-EU Economic Ministers consultation held in Brunei Darussalam on 4 May 2007 (Mazur 2017, 146). It must be noted that the Commission's mandate was granted to negotiate with only seven of the ten ASEAN member-states. Cambodia, Lao DPR and Myanmar were left out. The former two because, since they belong to the category of least developed countries, they already benefit from the Everything But Arms (EBA) scheme which allows them to import all products (except for arms) duty free to the EU. Myanmar however, was excluded because of its poor democracy and human rights record and in fact, at that time, also its EBA preferential access to the EU was suspended for the same reason.

A Joint Committee (JC) comprising senior officials was established to work on the modalities, work-programme and time-frame of the agreement (Astuto 2010, 2). The JC met seven times to develop the details of the negotiations and six Expert Groups were set up, each dealing with a different aspect of the agreement : (1)Trade in services/Investments; (2)Rules of origins; (3) Sanitary and phytosanitary measures; (4)Technical barriers to trade (TBT); (5) Custom and Trade facilitation; and (6) Dispute Settlement (Astuto 2010, 2). The Next section deals more in detail with the areas of trade that the agreement was meant to tackle.

4.4. Content of the agreement

Once the negotiation process was kick-started, the expert-groups had to negotiate the substance of the agreement. This was to include several issues. First of all, and quite obviously, the agreement was to include a reduction of trade barriers. As already mentioned, these were not really a problem for the two regions, as tariffs applied among the two partners were already quite low. The crucial sector in this area remained the agricultural one and during negotiations EU's stance on agricultural trade has consistently been defensive, trying to limit any negative consequences for domestic producers to the point that it was advised by informed observers to replicate the choice of Japan in its FTA with Singapore and exclude agriculture from negotiations (Astuto 2010, 3).

Greater benefits were instead expected from reduction of non-tariff barriers (NTB's). In this area negotiations are usually complex and sensitive because they directly concern domestic regulations. For non-tariff barriers, WTO guidelines are based on the principle

of harmonization and equivalence. Harmonization occurs when national standards are compatible with those agreed at the international level, whereas equivalence refers to a mutual acceptance of national standards that are comparable but not necessarily identical insofar as they provide the necessary level of sanitary and phytosanitary level of protection. When harmonization cannot be achieved countries usually resort to equivalence in the form of mutual recognition agreements (MRA) (Astuto 2010, 3). MRA's could not be agreed with ASEAN countries as their standards are not comparable with European ones: They are usually lower and lack enough protection to be accepted by European countries. During the negotiations the EC proposed to forbid any ban, restrictions or other non-tariff barriers that could not be justified by the General exceptions of GATT Art. XXI²⁶ (Astuto 2010, 3). Moreover, it also suggested 'discussing both product specific and sector specific NTBs, and to agree on preventive measures – based on consultation – to avoid new NTBs' (Astuto 2010, 3). Finally, in tackling this issue, it also requested to include restrictions on access to resources, such as natural rubber, where many ASEAN countries still apply export taxes (Astuto 2010, 4).

For what concerns services and investments rules, the EC expressed its desire to negotiate their liberalization. The EU had prepared a negotiating framework for 'services, establishment and e-commerce'; it was using this template in its negotiations with Mercosur and intended to apply it to its new FTAs too including that with ASEAN (Astuto 2010, 4). In this area it proposed a sectoral approach consistent with the

²⁶ Art. XXI of GATT refers to security exceptions, necessary to protect a nation's security interests in times of war or in case of any other emergencies in international relations.

General Agreement on Trade in Services²⁷ (GATS), with a special attention to national treatment and market access (Astuto 2010, 4). In doing so, it sought to negotiate agreements that would fill the gap and cover pre-establishment rights for European companies (Astuto 2010, 4). The EU also wanted to ensure parity with its competitors that had signed or were in the process of signing FTA's with ASEAN. ASEAN desired liberalization of services and investments as well, mainly to attract European FDI, and was therefore prepared to negotiate to achieve this goal. The main problem rested in European states that did not want to give the EC their power to negotiate Bilateral Investment Treaties (BITs) or change those already in force (Astuto 2010, 4).

As regards Intellectual Property Rights (IPRs) the EC did not want to include new requirements in the agreement because it noted that the biggest issue was the enforcement of already existing commitments. It therefore requested ASEAN countries to simply comply with existing IPRs agreements such as the Patent Cooperation Treaty.

On public procurement, the EC lamented excessive discrimination from the ASEAN side and demanded greater liberalization in the agreement. The problem was that many ASEAN countries use public procurement as an industrial policy tool to facilitate the development of domestic firms and did not want liberalization (Astuto 2010, 4).

Finally, for what concerns competition, the EU asked ASEAN governments to 'adopt a competition policy based on the principles of transparency, non-discrimination, and procedural fairness along the lines of the EU legislation. When the FTA negotiations

²⁷ The GATS allows members to eliminate only those trade barriers that they are ready to abolish. Member-states can therefore set their individual pace for trade liberalization in services

started, most ASEAN countries did not have a competition law. Statutory boards were in charge of the competition policy and had regulatory and monitoring responsibilities' (Astuto 2010, 5).

As it appears quite clearly, the EU-ASEAN FTA was to be quite broad and extensive so as to include tariff and non-tariff barriers, investments, services, IPR, public procurement and competition law. Initial negotiations were characterized by enthusiasm and ambition which, however, did not last long. In November 2007, during the EU-ASEAN Summit, the Commission expressed its concerns over the slow advancement of negotiations (Mazur 2017, 146). The European Parliament expressed similar concerns in a report on trade and economic relations with ASEAN presented in April 2008. The report stated that: 'The prospects for an early and ambitious agreement with ASEAN may be undermined by a lack of negotiating capacity, difficulties in developing a common position that reflects the collective interests of the region and a lack of political will' (European Parliament 2008). The EP also expressed its concerns over Myanmar's inclusion in the agreement, in light of its issues with national reconciliation and democracy. Moreover, the EP concluded that it supported the concept of an FTA with ASEAN provided that the agreement met certain key conditions. Specifically, it stated that a Partnership and Cooperation Agreement (PCA), containing enforceable human rights clauses, should be a precondition for concluding a trade agreement with any country, and that it should be possible to suspend preferential tariffs granted under the FTA were there to be persistent breaches of core elements of the PCA, in particular, the human rights clauses (European Parliament 2008, 11). In March 2009, at 7th meeting of the JC, the parties agreed to temporarily interrupt negotiations and in December of the

same year, the Council authorized the Commission to continue negotiations, this time, however, with single countries of the ASEAN. Interregional negotiations have never passed the stage of a scoping exercise and never truly entered the phase of exchanging market offers (Meissner 2016, 329). What exactly caused regional trade-talks to be paused? Several factors contributed to the stalling in negotiations. The next section will explore them in detail.

4.5. Issues in the negotiation process

The complexity and wide range of issues up for negotiation in the agreement coupled with a configuration issue that since the beginning was not addressed clearly, became crucial factors in the stalling of trade talks. Surely, several issues came up in the negotiation process that eventually led to its failure.

First of all, the European Commission received the mandate to negotiate with only seven of the ASEAN members, when in fact, it should have included all of them. As already mentioned, the mandate left out the three least developed countries in the region: Laos, Cambodia and Myanmar, although it left the door open for Laos and Cambodia to join later. On one side, Cambodia and Laos were left out of the negotiations because already benefiting from the EBA scheme. On the other side, the EU decided not to negotiate with Myanmar at all due to its poor democracy records and human rights infringements. As a matter of fact, the EU already had an embargo on the country, and in 2006, 1 month before agreeing on the interregional approach, it renewed its sanctions on Myanmar for another 2 years (Robles 2008, 553). Thus, the EU was aware of Myanmar's situation when it chose interregionalism but decided nonetheless to embark on that road only to

leave Myanmar out afterwards. The lack of inclusion of all ASEAN members clearly shows the doubts about the choice of a regional agreement that existed since the beginning of negotiations (Astuto 2010, 2).

A second issue concerned the dismantling of non-trade barriers, which became a major source of friction due to different standards of the two regions concerning many aspects of trade. As already mentioned in the previous section ASEAN standards are often lower and lack enough standards of protection compared to European ones. As a matter of fact, the mandate of the EU Commission contained many contentious issues which ASEAN countries were not willing to discuss, such as references to sustainable development, and, in particular, to labor and environmental standards (Astuto 2010).

Growing dissatisfaction with the bloc-to-bloc talks also emerged due to the growing divergence among ASEAN's member states on foreign trade. While some states decreased commercial exchanges with European countries, others increased economic ties (Meissner 2016, 330). This meant that the composition of trade concentrated on few member states rather than the whole block, which in turn implied that some member-states were more interested in an FTA than others (Meissner 2016, 330). This divergence led to different priorities among ASEAN members regarding negotiation issues (Meissner 2016, 330). In particular, while Singapore, Thailand and Vietnam increased trade between 2008 and 2009, Philippine and Malaysia decreased it. Overall, economic exchanges between ASEAN's members and the EU were less stable between 2007 and 2010 than before 2007 and this clearly impacted on negotiations (Meissner 2016, 330).

Another factor that contributed to the failure of interregionalism was linked to the “Special and differential treatment” (S&D) privileges of the WTO. This refers to special provisions that help developing countries vis a vis more developed economies by giving them certain rights, such as longer implementing periods for their commitments, support in capacity building, and safeguarding of their trade interests with less strict requirements of trade liberalization. Even though the three least developed nations of ASEAN had not been included in the FTA negotiations, not South East Asian countries are still entitled to the special and differential treatment recognized by the WTO because they are still officially considered developing economies (Astuto 2010). However, S&D was ignored in relation to rules of origin. Moreover, no official document of the negotiation process mentions the concept of asymmetry, one of the fundamental principles of the special and differential treatment. Asymmetry would have meant that ‘The EU would have had to remove 95% of its tariffs, allowing in turn its developing partner countries to eliminate tariffs only of 85%’ (Astuto 2010, 5). The EU was willing to grant S&D only in relation to longer implementing period for developing countries and this worried ASEAN members that feared losing their GSP preferences without getting enough in return (Astuto 2010, 5).

But the main cause of the collapse of the negotiation process was the contraposition of EU inflexibility and desire for an ambitious agreement, with ASEAN need for flexibility and looser policies. (Meissner 2016). The EU had an ambitious and comprehensive agreement in mind, it wanted a broad treaty with a large scope, dealing with every aspect of trade. ASEAN on the other hand, could not convey its heterogeneity into a single position that could have concluded such agreement. While it is true that both

within ASEAN and the EU interests in trade differ from member-state to member-state, for the EU only the EC negotiate agreements, allowing greater homogeneity and clarity in the process. On ASEAN side instead, agreements are negotiated with every single country, making it more difficult to present a single “ASEAN position”. Because of that the commission announced that ASEAN was not ready to communicate as a bloc (Meissner 2016). In the end the real issue was that:

“At t the time when the EU started talks with ASEAN, it did not know the bloc well enough. The EU was not aware that ASEAN had a very different working mode than the EU and that the members ‘positions were diverse on issues such as services, investments, and nontariff trade barriers. The EU found out only during the scoping exercise that ASEAN had no common position in areas that were decisive for the EU. The lack of a common position is the result of ASEAN’s economic heterogeneity, which led to different ambitions in the negotiations”.

(Meissner 2016, 331)

Interregionalism, what was going to be the distinct feature of the agreement, would have led to a less ambitious agreement than the EU wished to have, thus the shift towards bilateralism. In conclusion the failure of an interregional FTA was the result of EU’s desire for strong economic presence and the actual heterogeneity of ASEAN.

In the end, ASEAN’s heterogeneity was not only the main cause of friction, but also the most influential one. ASEAN’s heterogeneity is what explains the Commission’s mandate to negotiate with only seven ASEAN’s members. It is also what explains the different degree of interest that ASEAN’s countries had, and still have, in concluding an agreement with the EU due to their different commercial ties and exchanges. Finally, it is also what drives ASEAN’s countries to have different positions on trade issues and

make different requests accordingly. As it will be clearer by reading the following chapters, for all the other sources of tensions, the agreements with Singapore and Vietnam seem to have found a solution. If they have, it is likely that bilateral agreements with other ASEAN countries would do the same. As a matter of fact, different standards reinforcing non-trade barriers were surpassed in both deals, where the parties managed to find a common ground. If NTB were to really be an obstacle for the conclusion of an agreement, this would have been true especially for the agreement with Vietnam, which notoriously has lower environmental, social, safety and sanitary standards. The issue on S&D was also surpassed: Vietnam was happy enough to be simply granted longer implementation periods. The real problem was not the presence of irreconcilable issue. The real problem was, on one side, that single ASEAN's countries had different and personal ways of solving those issues; and on the other side that the EU did not want personalize solutions, but asked ASEAN to come up with a single stand (Which ASEAN obviously did not have).

The question remains on why other countries such as South Korea or China managed to conclude a deal with ASEAN that was both interregional and comprehensive while the EU did not. The answer is, once again, that those agreements do, indeed, take into account ASEAN's heterogeneity. Certainly, ASEAN's agreements in those other stances had a different design (Meissner 2016, 333). First of all, they were more limited in scope and secondly, they were more flexible (Meissner 2016, 333). Indeed, China, India, and Japan applied a differentiated approach which led to a de jure region-to-country agreement, but de facto bilateral deals, in which every ASEAN member had its individual exclusion list of products (Meissner 2016, 333). In the Chinese's case in particular the

difference laid in the timing, the political dimension, and the design of the FTA (Meissner 2016, 332). China proposed the FTA right after ASEAN countries suffered from the financial crisis and offered certain incentives that, besides making the deal more appealing, presented China as an international ally.

All these factors together contributed to rising tensions which resulted in no common position until 2009 when the two regions finally decided to interrupt negotiations and explore the possibility of having region-to-country FTAs with single ASEAN members.

4.6. Conclusion

Chapter four has analyzed the EU-ASEAN uncompleted FTA in all its aspects. Given the increasing economic ties among the two partners, the agreement was attractive for both sides. In the specific, four main reasons laid behind the deal: (1) EU presence in ASEAN and ASEAN presence in the EU has made the two partners among the largest partners for each other for what concerns both trade and investments; (2) Both ASEAN and the EU wanted to expand their market access towards each other so as to exploit their economic ties to their full potential; (3) the EU wanted to reassert its influence in the ASEAN region after this had concluded a number of agreement with other powers, namely US, China and Japan, which threatened EU's dominance in the region; (4) the Doha round of multilateral trade negotiations had come to a stall so that the only way to ensure all of the above and increase trade liberalization was to enter into a comprehensive and broad interregional agreement. These factors triggered the beginning of negotiations. In 2007, after a vision group was commissioned to explore the feasibility of the agreement and a qualitative and quantitative study were carried

out on the same matter, the Council granted the Commission the approval to start negotiations. The agreement was to be broad and comprehensive, however, after seven rounds of negotiations the parties agreed to pause negotiations. Several factors contributed to the stalling in the negotiation process which, in the end, can all be summarized in one reason: EU's desire for a deep and far-reaching agreement was in contrast with ASEAN's actual heterogeneity of interest. After the failure of the interregional agreement the EU decided to temporarily abandon the region-to-region approach and moved towards a region-to-country approach, thus initiating several negotiation processes with single ASEAN member-states. As already mentioned, two agreements have so far been successful, in that they have been concluded (but not fully ratified yet): one agreement with Singapore and one with Vietnam. The next chapter is dedicated to unfolding the facts and the content of these two agreements.

5. Chapter five. The alternative path: Bilateral agreements

5.1. Introduction

The following chapter analyzes the two alternative agreements that have successfully been concluded by the EU with two ASEAN countries: Singapore and Vietnam. Soon after the stall in the EU-ASEAN FTA, the EU turned to single ASEAN countries for trade negotiations and, due to their economic potential as well as their strong ties with the EU, Vietnam and Singapore appeared to be the obvious solution. This chapter analyzes the detailed content of the EU-Singapore Free Trade Agreement (EUSFTA) and EU-Vietnam Free trade Agreement (EVFTA) and their various chapters by focusing on trade in goods, services, government procurement, IPR and GI's, competition policy, trade and sustainable development, labor standards and dispute settlement mechanism. For each of these areas the analysis tries to make comparisons among the two deals as well as to draw some conclusions on the overall impact of such agreements on the parties involved. In doing this, chapter five gives an insight on EU- Singapore and EU-Vietnam economic relations which could, and probably will, shape future EU-ASEAN relations by providing a framework for a future revival of interregional negotiations. The following section 5.2, with its subsections on detailed content an assessment impact, focuses on the agreement with Singapore; Section 5.3, also with its subsections on detail content and assessment impact, focuses on the Vietnam's agreement.

5.2. The EUSFTA

Once the possibility of an interregional agreement faded away, Europe naturally turned towards Singapore as the first alternative for a bilateral agreement. Since the beginning of negotiations for an EU-ASEAN agreement, and probably due to its higher level of development compared to other ASEAN countries, Singapore appeared as having more common ground with the EU on trade rules. Moreover, the country had growing interest and experience in negotiating FTA's since much of what the country had granted to the Americans in a 2005 bilateral agreement could potentially be replicated in a negotiation with the EU (Elms 2017, 40). This would represent a very high-quality, ambitious FTA for Europe (Elms 2017, 40). Thus, concluding an agreement with Singapore, appeared easier. Already in 2004 Pascal Lamy, former EU trade commissioner, pointed at the importance of Singapore in unlocking the potential of the ASEAN-EU partnership. Lamy argued that Singapore acts as a bridge between the EU and the Asia-Pacific region by being a leading player in ASEAN, a key partner in the WTO and an anchor for the ASEM process as well as a the engine of EU-ASEAN relations (Lamy 2004). Moreover, the ASEAN country has the strongest EU business presence in the region, with the European Chamber in Singapore being a testimony to this (Lamy 2004, 485).

Although at the time Europe was not ready to commit to a region-to-country agreement because it was still aiming at region-to-region partnership, the paper demonstrate the tendency of Europe to lean towards Singapore for collaboration and the rationale for concluding a EU-Singapore FTA is evident on both sides: 'For the EU, Singapore is the most significant trading partner in the region, accounting for about one third of EU-ASEAN trade in goods and services' (Kutlina-Dimitrova and Lakatos 2014). As for

Singapore, the EU was the second largest trading partner after Malaysia in 2012 (Kutlina-Dimitrova and Lakatos 2014, 278). Of equal interest is the substantial stock of foreign direct investment (FDI). According to Eurostat, in 2011 Singapore was the largest ASEAN investor in the EU; it accounted for 94 % of the ASEAN inward investment stocks in the EU (Kutlina-Dimitrova and Lakatos 2014, 278). In 2012, the EU had more money invested in Singapore (€126 billion) than in the United States of America (€65 billion) by more than double (Elms 2017). This is still true now a days, Singapore is, indeed, the EU's 14th largest trading partner for trade in goods and the EU's largest trading partner in the Association of South-East Nations (ASEAN) (European Commission 2018). As we have seen Singapore is a major destination for European investments in Asia, as well as Asia's third largest investor in the EU after China and Japan (European Commission 2018). In 2016 the existing bilateral foreign direct investment stock between the EU and Singapore was roughly €256 billion, having expanded rapidly over the past years (European Commission 2018). Singapore is, indeed, the recipient of more than 60 % of all EU outward investment stocks to ASEAN countries (Kutlina-Dimitrova and Lakatos 2014, 278). Moreover, over 8800 EU companies have established affiliates in Singapore and many of them are serving the entire region out of Singapore (Kutlina-Dimitrova and Lakatos 2014, 278). Hence, Singapore represented on its own an attractive market and trade partner for Europe. A successful EUSFTA was seen since the beginning as possibly paving the way for a future agreement with ASEAN by being a template for bilateral negotiations with other ASEAN countries that could later be assembled into a single agreement (Elms 2017, 40). In this framework Singaporeans would go first and likely finish the fastest.

Negotiations were launched in 2010, the basic framework was finished by 2012 with some issues remaining. The negotiations of deal, with the exception of investments, were concluded by October 2014 and in May 2015 the two sides finally concluded the chapter on investments (Elms 2017, 40). Negotiations were launched on the basis of the ASEAN negotiating directives of 2007 (those adopted for the interregional agreement) since they already envisaged the possibility on negotiating at bilateral level. However, since the commission's negotiation mandate was approved by the council before the Treaty of Lisbon²⁸ came into being, the negotiating directives were modified in 2011 to include negotiations on investment protection provisions (European Parliament 2017).

Since the EUSFTA is the first comprehensive FTA negotiated and finalized by the EU after the Lisbon Treaty came into being (European Parliament 2017), a number of questions on the allocation of competences came up. Indeed, the Lisbon Treaty modified both the EU competences in trade and the procedure for concluding trade agreements, giving among the others, a stronger role to the European Parliament (European Parliament 2016). Indeed, the EU has now a legal personality, meaning that is able to negotiate and conclude agreements on its behalf in the areas where it is granted powers to do so. More specifically, the EU can negotiate and conclude trade agreements in the areas where it has exclusive competences without the need of member-states to also sign these agreements. Exclusive competences are listed in Article 3 of the Lisbon treaty and include, among the others, the Common Commercial Policy (CCP). Shared competences are listed in Article 4 and require member-states to also sign the agreements. In the

²⁸ As it will be also mentioned later this is relevant since the Treaty of Lisbon modified the EU's competences in carrying out trade agreements

latter case trade agreements are defined as “Mixed Agreements” concluded concurrently by the EU and its Member-states. With the coming into force of the Lisbon Treaty a number of changes were introduced in the external trade policy of the Union, also known as Common Commercial Policy (CCP). First of all, the treaty clarified the allocation of competences between the EU and member-states. Before Lisbon allocation of competences was complex and difficult to comprehend (Pollet-Fort 2010). For example, trade in goods was an exclusive competence but FDIs were not, so that member-states could carry out their own Bilateral Investments Treaties (BITs). With the Lisbon Treaty, trade in goods and services, commercial aspects of intellectual property and foreign direct investment now fall under the exclusive competence of the European Union. The Lisbon Treaty also give enhanced powers to the EP, which now has to be informed on the progress of trade negotiations by the Commission and has to give its consent to any trade agreement before it can be adopted. The Lisbon treaty does not clarify all aspect of decision-making in the area of trade agreements so that present and future practice is used and will be used to answer the remaining questions (Woolcock 2010).

As a matter of fact, when the EUSFTA came about no previous practice existed. The Court of Justice of the EU (CJEU) was therefore asked by the Commission to deliver its opinion on the allocation of competences between the EU and its members states concerning trade agreements negotiations. As the European Parliament argued (2007) ‘the EUSFTA is considered a model for successive new generation EU FTAs, the CJEU’s opinion is extremely relevant for all ongoing FTA negotiations and pending agreements’ (European Parliament 2017); it can set the basis for future reference and shape future

decisions on trade negotiation competences for the EU. On May 16th 2017 the CJEU finally delivered its opinion arguing that the EUSFTA trade agreement is a “mixed” agreement that can only be concluded by the EU together with its member states (Van der Loo 2017). In particular, the Court argued that the agreement’s provisions related to portfolio investment and the Investor-State Dispute Settlement (ISDS) mechanism fall under the shared competences between the EU and the member states and therefore the agreement must be ratified by all 28 member-states (Van der Loo 2017, 1). Although this might appear as a defeat for the “supranational” EU, it is actually a victory in that the court’s opinion ruled that majority of competences are in the hands of the EU exclusively (Van der Loo 2017, 1). Trade in goods, services, public procurement, competition, FDI, sustainable development, intellectual property rights and state-to-state dispute settlement were ruled as falling within EU’s exclusive competences.

As already mentioned only portfolio investments and ISDS were ruled as shared competences. the argument for this decision was the following: for ISDS, they cannot be established without a state’s consent because it would take away the decision-making power of the state to be subjected to such settlement. For portfolio investments, the use of the wording “Foreign direct investment” in Article 207 paragraph 1 of the Treaty on the Functioning of the European Union (TFEU) it’s a sign of the intention of not including other foreign investments in the common commercial policy (Van der Loo 2017, 3). Accordingly, non-direct investments, such as portfolio investments, which are made without any intention to influence the management and control of an undertaking, do not fall under exclusive competences of the EU (Van der Loo 2017, 3). With only this two exceptions, the court’s opinion has therefore paved the way for

ambitious, EU-only, FTA's to be carried out exclusively by the EU, without the risk to be jeopardized by 28 additional ratification procedures (Van der Loo 2017, 10).

5.2.1. EUSFTA: detailed content

So, what does the EUSFTA cover? How does it regulate trade among the EU and Singapore? European and Singaporean leaders alike have described it as an ambitious high-quality agreement as well as the symbol of their commitment to free trade. The negotiations were mainly based on services and particularly on knowledge-intensive business services; great emphasis was placed on non-tariff barriers and TBT's since Singapore's applied tariff rate for all goods is already quite low. Other relevant issues were public procurement, investment, geographical indications, rules of origin and IPR. Let us look at all of the areas of the EUSFTA in detail.

Trade in goods, rules of origins and other goods provisions

Since Singapore already applies a zero-tariff scheme, not many problems were encountered concerning tariff reduction for goods. The bulk of the negotiations focused on reduction on the European side, eliminating virtually all tariffs over a 5 years transition period from the date of the entry into force of the FTA (European Parliament 2017). The EU agreed to reduce its tariffs to match the levels found in the EU-Korea 2011 FTA, dropping tariffs to 0 for around 75% of tariff lines right after the entry into force of the agreement and within a 3 to 5 years period for the remaining lines, with reductions taking place in annual instalments (Elms 2017, 42). The EU was allowed some exemptions for some fisheries and processed agricultural products (European Parliament 2017) but since EU-Singapore trade is generally widely dispersed across

several industries²⁹, these exemptions will not likely affect the tariff cuts granted by the FTA so as to make it meaningless.

Tariff-levels alone cannot tell the level of market-openness and achievements of an FTA, rules of origins are also important in this respect so as to determine which products are granted preferential access. In the EUSFTA case the main problem was that ‘although the EU did not consider exports from Singapore a risk to its sensitive sectors, it was concerned that third countries, such as China, may seek to export their goods to the EU duty free via Singapore’ (European Parliament 2017, 4). Consequently, Protocol one of the agreements is dedicated to rules of origin. It contains a list of products which are considered as “wholly obtained in a party” such as products from live animals born and raised there or products obtained by hunting or fishing conducted there³⁰. The protocol also includes a list of “Sufficiently worked or processed products” in annex B or B(a). those are products not wholly obtained in a party but nonetheless entitled to the benefits of the FTA because they have enough content added by one of the parties to the agreement (EU-Singapore Trade and investment agreements 2018).

The agreement also contains a chapter on technical barriers to trade³¹ aiming at preventing unnecessary barriers to trade within the scope of the TBT agreement and facilitating and increasing trade in goods among the parties. The chapter sets out a basic structure for joint cooperation in the field of technical standards and regulations (EU-

²⁹ As it is evident from this detailed image of EU-Singapore trade in goods available at: https://webgate.ec.europa.eu/isdb_results/factsheets/country/details_singapore_en.pdf Accessed: 3-1-2019

³⁰The full text of the agreement including Protocol 1 is available at: <http://trade.ec.europa.eu/doclib/press/index.cfm?id=961> Accessed: 3-1-2019

³¹ Chapter four on TBT is available at: http://trade.ec.europa.eu/doclib/docs/2013/september/tradoc_151733.pdf Accessed: 4-1-2019

Singapore Trade and investment agreements 2018). Accordingly, the parties agreed to exchange information and avoid unnecessary divergence in their technical standards and conformity procedures. Finally, they agreed to work towards aligning their standards with international ones (EU-Singapore Trade and investment agreements 2018).

The chapter on sanitary and phytosanitary measures³² aimed at protecting human, animal and plant life allow parties to have import requirements and carryout verifications in this regard (EU-Singapore Trade and investment agreements 2018).

Trade in services

Since Singaporean goods were already pretty accessible for the EU, the primary objective was to improve access to Singapore's services market (Alvstam, Kettunen and Ström 2016) . For most developed economies the service sector represent the bulk of the economy, including financial services, banking, insurance, account, design, architecture, food, travel, tourism and so forth; greater access was thus fundamental for both sides (Elms 2017, 46). The EU has committed to the liberalization of a wide range of services beyond the WTO and equalizing, if not surpassing in certain areas such as postal services, the commitments granted under the FTA with South Korea (European Parliament 2017, 6). Singapore as well granted broad commitments in many sectors, as it is evident by Annex 8B-2 of the EUSFTA. However, the EU was not so successful in getting access to Singapore's financial services sector (Elms 2017, 47). Negotiations were carried out with EU's negotiating style by compiling a "Positive list", to record what is

³² Chapter five on sanitary and phytosanitary measures is available at: http://trade.ec.europa.eu/doclib/docs/2013/september/tradoc_151738.pdf Accessed: 4-1-2019

included, rather than a “negative” one, more typical of the US (Alvstam, Kettunen and Ström 2016, 92). Not all services are included: Carved out of the deal are audio-visual services; national maritime cabotage; air transport; and mining, manufacturing and processing of nuclear materials (Elms 2017, 47).

Government procurement

Singapore and the EU are among the 19 signatories to the Agreement on Government Procurement (GPA) at the WTO, under which members ‘agree to allow certain government contracts for goods and services to be opened to firms from member states under competitive bidding’ (Elms 2017, 48). The EUSFTA improved the access opportunities for government procurement (European Parliament 2017). Accordingly, The EU agreed to ‘include EU central government entities, public works concessions such as railways, and some additional utilities. In addition, the EU dropped the threshold levels for bidding by Singaporean firms’ (Elms 2017, 48).

IPR and Geographical indications

Chapter 10 of the agreement is dedicated to the protection of intellectual property rights. IPR’s in the EUSFTA cover seven different sub-sections: (1) Copyright and related rights; (2) Trademarks; (3) Geographical indications; (4) Designs; (5) Patents; (6) Test data; and (7) plant varieties. Greatest attention, however, has been given to geographical indications (GI) which are of primary concern for the EU (On EU’s recent attention towards GIs in trade agreements see Engelhardt 2015) but do not represent a crucial element for Singapore. As a matter of fact, the issue of GIs delayed negotiations by holding up the conclusion of the agreement for almost two years (Elms 2017, 49). The main problem was that Singapore had no list of GI protections and no products that it

wanted to include in the list (Elms 2017, 50). The stance of the Singapore's government was that it had to determine whether product names were viewed in Singapore as a 'generic' name before it could add them to the list of GI because, if the product name was viewed as a generic name, it could not be added to the list (Elms 2017, 50). When the two parties finally agreed, on the side of Singapore the list of GIs had also to be confirmed by its Parliament, and the bill was passed in 2014.

Competition policy

Chapter 11 deals with competition. The parties commit to reinforce their own legislation to prevent unfair competition with the exception of public undertakings and State monopolies. The chapter also allows for certain subsidies for things such as serious disturbances to the economy; the coal industry; or natural disasters (EU-Singapore Trade and investment agreements 2018).

Trade and sustainable development

The EUSFTA contains a chapter on trade and sustainable development (Chapter 12), as well as a chapter on renewable energy. EU's commitment for the environment is not new, the union has always attempted to limit environmental damages by adding to its trade agreements some forms of environmental considerations and liabilities. Sustainable development is an important part of EU trade policy; thus, all EU FTA's include a Trade and Sustainable Development (TSD) chapter, with which the EU wants to ensure that its partners follow international standards on sustainable economic, social, and environmental development (Directorate General for the External Policies of the Union July 2018). It is important to note that sustainable development was also one of the contentious issues in the EU-ASEAN FTA, in that a number of ASEAN countries

were not ready to commit to the level of environmental protection demanded by the EU. When the Union turned to bilateral agreements it became easier to reach an agreement on environmental matters. The deal has provisions for incorporating social responsibility activities, conservation efforts and consultation with civil society (Elms 2017, 51). Finally, the chapter on TSD sets up a Monitoring Mechanism providing that ‘each party shall designate an office within its administration that shall serve as contact point with the other Party for purposes of implementing this Chapter’ (EU-Singapore Trade and investment agreements 2018). Moreover, the agreement provides for the establishment of a board to oversee the implementation of the chapter on TSD.

Labor standards

The agreement gives each party the right to establish their own levels of labour protection by adopting or modifying relevant laws or policies in that area (Elms 2017, 51). Both sides committed to upholding the 1998 International Labor Organization (ILO) Declaration and agreed to the freedom of association, and effective recognition of the right to collective bargaining; elimination of all forms of forced or compulsory labour; effective abolition of child labour; and elimination of discrimination in respect of employment and occupation (Elms 2017, 51).

Dispute settlement mechanism

The EUSFTA contains a chapter on dispute settlement mechanism, concerning the interpretation and implementation of the agreement in order to avoid differences in the interpretation of its provisions (EU-Singapore Trade and investment agreements 2018). It sets up a consultation procedure as well as an arbitration procedure in case of the

former's failure in reconciling the parties with a panel, whose ruling needs to be complied with in "good faith" (EU-Singapore Trade and investment agreements 2018)

5.2.2. EUSFTA assessment's impact

Kutlina-Dimitrova and Lakatos (2014) carried out a research to assess the economic impacts of the EUSFTA using a dynamic computable general equilibrium model (CGE). According to the authors: 'Models of this type are built to answer what-if questions by simulating the response of macroeconomic variables such as income, prices, production, etc. given certain changes in trade policy measures' (Kutlina-Dimitrova and Lakatos 2014, 279). The model uses a baseline scenario, which reproduces the status quo, and a simulated scenario with different options resulting from the EUSFTA. The study analyses the effect of the agreement in two possible scenarios. The first scenario covers the consequences of a fully-fledged FTA and the removal of tariffs on goods. The second scenario, instead, is a worst-case scenario, analyzing the consequences of an increase in Singapore's tariffs against which the FTA would be an insurance. The results of the study were the following: Singapore GDP is expected to increase by €2.7 billion whereas the EU gains are assessed at €550 million. In addition, EU exports to Singapore would rise by some €1.4 billion and Singapore's exports to the EU by some €3.5 billion (Kutlina-Dimitrova and Lakatos 2014). In the second scenario, the "worst case" scenario, the EU-Singapore FTA will protect EU GDP from a decrease of €350 million and prevents a loss of €3.7 billion EU exports to Singapore (Kutlina-Dimitrova and Lakatos 2014). As it is evident, the gains for Singapore would be higher and this is due to the economic size of the EU and the fact that before the agreement the EU was imposing higher tariffs than Singapore. Notwithstanding Singapore's higher gains, the deal appears beneficial for

both sides. However, since the economic impact of an international agreement depends on so many variables and so many actors influencing each other with their reciprocal decisions, the model cannot be taken as the indisputable truth. In conclusion, although economic models are not always and fully reliable, the study offers nonetheless a useful insight into the future of the EUSFTA if taken as a reference point on its possible future consequences.

In April 2018 the Commission proposed the Council's signature which, as already mentioned, occurred at the ASEM meeting in Brussel on 19th October, 2018. Once the Council will receive the EU Parliament's consent, it will be able to proceed with the conclusion of the agreements that make up the EUSFTA. The Commission's aim is for the free trade agreement to enter into force before the end of its mandate in 2019.

5.3. The EVFTA

Just like Singapore, Vietnam represented a promising market for Europe. Since the launch of *Đổi Mới*³³ in 1986, Vietnam has built an impressive record of fast, stable, and inclusive economic growth, with a GDP growth per capita averaged 5.5 percent a year since 1990, yielding a three-and-a-half-fold increase in average income (Eurocham 2018). Growth has been remarkably stable and inclusive, thereby allowing higher education and life expectancy, as well as improvement in infrastructures (Eurocham 2018, 22). Both sides saw a trade deal as an opportunity to access each other's market

³³ *Đổi Mới* were the economic reforms initiated in 1986 by the government with the aim of creating a socialist-oriented market economy in an attempt to fight the economic crisis that had hit the country. The reforms introduced the concepts of private enterprises as well as rights to private use of land.

as well as an opportunity to attract FDI. As Bruno Angelet, head of delegation at the delegation of the European Union to Vietnam, pointed out:

“Vietnam is a strategic partner for the European Union (EU). For decades, the EU’s Member States and EU Institutions have contributed to Vietnam’s development in almost all sectors of governance and in the vast majority of regions and provinces of the country. Strong economic growth and poverty reduction have made Vietnam an increasingly attractive partner for Europe, both within ASEAN as well as in wider Asia, allowing us to look forward to a broader, comprehensive partnership for the future.”

(Delegation of the European Union to Vietnam 2016)

Bilateral trade and investments links among the two partners have steadily strengthened over the years. For many years the EU has been the second largest overseas market for Vietnamese products and Vietnam’s second most important two-way trading partner after China (Delegation of the European Union to Vietnam 2016). In 2015 EU imports amounted to 30 €Billion, while exports amounted to 8.4 € billion; In 2016 quantity grew to 33.1 and 9.5 € billion respectively; In 2017 it further grew to 37€ billion and 10.6 € billion³⁴.

Concerning investments, the EU has been an important source for Vietnam since the country opened its economy to the world (Delegation of the European Union to Vietnam 2016). Indeed, The Union is one of the largest foreign investors in Vietnam. In 2017, EU investors committed €1.6 billion in FDI, arriving at a total investment stock of €19.2 billion³⁵.

³⁴ The data is available on the European Commission’s website at: <http://ec.europa.eu/trade/policy/countries-and-regions/countries/vietnam/> Accessed 5-1-2019

³⁵ This data is also available on the European commission’s website

With this amount of trade in goods and investments it was only reasonable that both the EU and Vietnam had an interest in pursuing a free trade agreement even though, for trade in goods, Vietnam already enjoys preferential access to European markets under the EU's Generalised Scheme of Preferences. Under these arrangements, the country is exempt from duty on 53 % of its exports to the EU (Russel 2018, 4). This arrangement is however, non-reciprocal so the EU does not benefit from the same exemption. Moreover, In the absence of a free trade agreement with the EU, Vietnam is bound to lose this preferential access three years after its per capita gross national income (GNI) exceeds the World Bank threshold for upper-middle-income countries³⁶ (Russel 2018, 4). This gives both parties a reason to join the FTA.

Negotiations were opened in June 2012 and concluded in 2015. The agreement, however, has not yet been signed by the Council and approved by the Parliament so that is still pending ratification. Thus, just like the Singapore's agreement it has yet to enter into force and become legally binding in international law. The ratification procedure was firstly delayed in 2017 as the Union was waiting for the CJEU opinion on EU's competences for the Singapore agreement which, as mentioned in the previous section, would have determined also future decisions and therefore the faith of the EVFTA as well. Ratification has also been delayed due to a number of concerns linked to Vietnam's poor democracy and human rights records. As already mentioned, these are fundamental aspects for the EU when concluding trade deal with third countries.

³⁶ Upper-middle-income countries are defined within the threshold of 3,896 \$ and 12,055\$ GNI per capita. Vietnam is currently at 6,450 \$ thus qualifying as a upper-middle-income country. The world bank classification is available at: <https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups> Accessed: 10-1-2019

Indeed, in December 2015 the EP welcomed the conclusion of negotiations but expressed serious concerns about the Human Rights situation in Vietnam as a way of suggesting using the agreement to pressure the country and export EU's normative model. In the end, if HR concerns prevail and no Improvement on Vietnam's part occurs, the EP might delay or even withhold its consent.

5.3.1. The EVFTA: detailed content

There are great expectations on this agreement; Mauro Petriccione, EU Chief negotiator and deputy director-general for trade at the EC describes them well by defining the deal as 'the most ambitious and comprehensive FTA that the EU has ever concluded with a middle-income country. As such, it sets a new benchmark for Europe's engagement with emerging economies' (Delegation of the European Union to Vietnam 2016, 4). The EVFTA covers the same issues as the EUSFTA; it does so, however, taking into account Vietnam's different needs and positions, with the consequence of carving out different solutions. The agreement covers a wide range of sectors and is expected to boost bilateral trade and economic growth in both parties over the next year and especially after the transitional period (Foreign Trade Association 2016). Let us look at the content of the EVFTA in detail.

Trade in goods, rules of origins and other goods provisions

Contrary to the Singapore case, tariffs reductions on goods, constituted a more fundamental part of the trade agreement in that the applied tariff level on many goods for both parties was not zero. The agreement covers many sectors and has an equal elimination of tariffs from both sides; in total the agreement will remove over 99% of tariffs on industrial and agricultural products (Foreign Trade Association 2016, 4) . The

only exception is for a limited number of products for which the sides have agreed a partial liberalization through zero-duty Tariff Rate Quotas (TRQs)³⁷ (Foreign Trade Association 2016, 4). 65% of EU exports to Vietnam and 71% of Vietnam's export to the EU will be duty-free from day, ensuring a widespread coverage right from the entry into force of the agreement (Delegation of the European Union to Vietnam 2016, 25); The remaining trade, in sensitive sectors, will be liberalized after 10 years (For EU's exports) and around 7 years (For Vietnamese's exports) (Delegation of the European Union to Vietnam 2016, 25). Longer implementation periods were allowed for the EU in the leather footwear sector and for some agricultural products such as rice, sweetcorn and sugar, in that those sectors are deemed more sensitive (Foreign Trade Association 2016, 4). Longer implementation periods for Vietnam, instead, were granted for food products, both primary and processed (Foreign Trade Association 2016, 5).

Of course the EVFTA also contains specific Rules of Origin to ensure that only products originating in one of the two parties enjoy the benefits of the agreement. Just like the Singapore agreement, not only products that are "Wholly obtained" in a country are allowed tariff exemptions but also products which have undergone sufficient transformation in one of the countries that is party to the agreement (EU-Vietnam Trade and Investment agreements 2018). The rules of origins present in the EVFTA are the same as those present in the Singapore agreement albeit with greater flexibilities for

³⁷ Tariff Rate Quotas are measures that apply Quotas, so limit the number of imports, but also restrict tariffs. The measure applies a threshold amount of imports under which tariffs are very low, once the threshold is surpassed, however, tariffs increase.

some products containing sugar and dairy; products of steel, mechanical machinery and electrical machinery (Delegation of the European Union to Vietnam 2016).

The chapter on TBT with the same scope as the Singapore's agreement, resembles to a great extent the EUSFTA in its wording and in the standards that it sets out for cooperation among the parties and compliance with international standards. Ultimately demanding that each party make best use of good regulatory practices (EU-Vietnam Trade and Investment agreements 2018)

The chapter on sanitary and phytosanitary measures also resembles that of Singapore. Competent authorities carry out the necessary checks for both parties. The agreement includes a list with category of products that Vietnam will automatically allow to import because it is confident that they have undergone the necessary checks by the EU's authorities (EU-Vietnam Trade and Investment agreements 2018). Both parties can carry out verifications.

Trade in services

Chapter 8 of the agreement is dedicated to the liberalization of investments, trade in services and electronic commerce. The section on services cover all services with the same exceptions as the Singapore's agreement: audio-visual services; national maritime cabotage; and domestic and international air transport services, whether scheduled or non-scheduled, and services directly related to the exercise of traffic rights, other than: aircraft repair and maintenance services during which an aircraft is withdrawn from service; the selling and marketing of air transport services; and computer reservation system services. However, this last category of services related to the exercise of traffic

rights for Vietnam has a further exception which is ground handling services³⁸. (EU-Vietnam Trade and Investment agreements 2018). Both agreements contain an article for market access of the other party no less favorable than that provided for in its schedule of specific commitments. The agreement also specifies the measure that a party cannot undertake if it has granted market access and those are: limitation on number of service suppliers (In form of quotas or others); Limitation on total value of service transactions; limitation on total value of service operations. The specific sectors liberalized are listed in appendix 8-A-1 of annex 8-A for the Union; and appendix 8-B-1 of Annex 8-B for Vietnam. Among the innovations brought by the deal, Vietnam abolished limitations in number of business services such as architectural and urban planning and offered new market access to a number of services sectors such as in building and cleaning services; trade fairs and exhibitions services (Delegation of the European Union to Vietnam 2016)

Government procurement

Chapter 9 is dedicated to government procurement. Thanks to the EVFTA EU companies will be able to bid for public procurement contracts with the same condition as Vietnamese companies for a number of entities such as: Vietnamese ministries (Including infrastructures); power distribution companies and the nationwide railway operator; 34 public hospitals; entities in the two biggest Vietnamese cities which are Hanoi and Ho Chi Minh city (Foreign Trade Association 2016, 6). Interestingly, EU

³⁸ Chapter 8 on services is available at: http://trade.ec.europa.eu/doclib/docs/2018/september/tradoc_157355.pdf Accessed: 8-1-2019

companies will be the first foreign businesses to obtain such a level of access to the procurement markets in Vietnam (Foreign Trade Association 2016, 6).

IPR and geographical indications

In regards of IPR and geographical indication, chapter 12 of the EVFTA was designed to ensure the adequate level of protection for property rights while at the same time not overstepping liberalization. Geographical indications are recognized in annex 12-A. Unlike the EUSFTA, the agreement with Vietnam also include a list of geographical indications for EU's counterpart. Indeed, while Singapore does not produce any product whose quality and characteristics can be directly linked to its territory and therefore did not seek its protection, Vietnam does. The list of GIs includes 169 products for the EU (While they were 196 recognized by Singapore³⁹) and 39 for Vietnam. Among the list of GI's for Vietnam we can see products like Mộc Châu, a type of tea produced in the Mộc Châu region and the fish's extract from Phú Quốc island (EU-Vietnam Trade and Investment agreements 2018).

Competition policy

The chapter on competition policy resembles pretty much that in the EUSFTA. It allows parties to adopt or maintain their own legislation designed to avoid anti-competitive behavior and implement it autonomously (EU-Vietnam Trade and Investment agreements 2018).

³⁹ It is interesting to note how Singapore's list of recognized GIs products is more detailed. For example, for Italian products, besides the "Pecorino Romano", typical of the Lazio region, it also includes the ones from Sardinia and Tuscany.

Trade and sustainable development

Chapter 13 is dedicated to environmental protection and sustainable development as well as labor protection. Concerning environmental protection and sustainable growth, the Parties recognize their respective right to: determine their own sustainable development objectives, strategies, policies and priorities; and establish their own levels of domestic protection in the environmental and social areas. (EU-Vietnam Trade and Investment agreements 2018); throughout the chapter the two sides recalled their international obligations stemming from, for example, agenda 21 and the UNFCCC. They reinforced their support for mutual cooperation and agreed not to use environmental requirements in an arbitrary or unjustified way, to support protectionism. They did so without setting specific common standards or obligations, relying only on their own domestic legislation as they deem appropriate. They established a contact point in their own administration to implement the chapter as well as a committee on trade and sustainable development. They also recalled the possibility to consult advisory groups and agreed to establish a panel of experts to deal with issues arising from disagreement in the interpretation of the chapter, which indeed, is not subject to the dispute-settlement chapter of the EVFTA.

The content of the Chapter 13 much like resembles that of chapter 12 of the USFTA (Also on trade and sustainable development). Indeed, all of the aforementioned measures are also present, albeit with a different tone and language, in the agreement with Singapore. This is not to undermine the importance of the language and of the wording used in international agreements. It must be recalled that a different wording can often lead to

a completely different interpretation, especially in case of a dispute and it is also probably true in this case. The wording of the Vietnam's agreement stresses more certain aspects while the wording of the Singapore one appears to be clearer on other. This is true for all the areas covered by the two agreements and all the chapters. In the chapter on Trade and Sustainable development, for example, the right to regulate and levels of protection for the Singapore agreement it reads:

"1. The Parties recognise the right of each Party to establish its own levels of environmental and labour protection, and to adopt or modify accordingly its relevant laws and policies, consistent with the principles of internationally recognised standards or agreements, to which it is a party, referred to in Articles 12.3 (Multilateral Labour Standards and Agreements) and 12.6 (Multilateral Environmental Standards and Agreements).

2. The Parties shall continue to improve those laws and policies, and shall strive towards providing and encouraging high levels of environmental and labour protection"

(EU-Singapore Trade and investment agreements 2018, chap 12, p.1)

For the Vietnam agreement the same right reads as follows:

“ 1. The parties recognize their respective right to:

(a) determine its sustainable development objectives, strategies, policies and priorities;

(b) establish its own levels of domestic protection in the environmental and social areas as it deems appropriate; and

(c) adopt or modify accordingly its relevant laws and policies in a manner consistent with the internationally recognised standards, and the agreements, to which a Party is party, referred to in Articles 13.4 (Multilateral Labour Standards and Agreements) and 13.5 (Multilateral Environmental Agreements).

2. Each Party shall endeavor to ensure that its laws and policies provide for and encourage high levels of domestic protection in the environmental and social areas and shall continuously endeavour to improve those laws and policies”

(EU-Vietnam Trade and Investment agreements 2018, chap 12, p. 2-3)

As it is evident, the content of the articles is pretty much the same. The wording however is not, and this might have an impact on the way the two agreements will be interpreted in the future. In the aforementioned article for example, besides being much shorter and concise, the wording of the Singapore agreement makes no explicit reference to the idea of “sustainable development”. It simply allows the parties to adopt and modify their “laws and policies” for the purpose of the article. The Vietnam agreement instead makes an explicit statement on the right of the parties to determine their own sustainable development objectives, strategies, policies and priorities. The concept of sustainable development has, especially since the Rio Conference of 1992, constituted a fundamental part of Environmental International Law. It is often used by developing countries to justify higher level of environmental exploitation due to developmental

needs that the already developed economies do not need to face. This means that, the presence of such a concept, in a trade agreement with Vietnam, which is a developing country, might be used in the future to justify lower environmental standards by Vietnam. Another example of how different wording might lead to different interpretation is given by the use of “Environmental and social areas” as opposed to “environmental and labor protection” when establishing the right to determine one’s own level of protection. The former definition, used in the Vietnam agreement, refers to a general and vague “social Areas” whereas the definition used in the Singapore agreement more clearly refers to “labor protection” thus leaving less space for interpretation.

Unlike the EUSFTA, the EVFTA has been criticized by human rights and environmental supporter for lacking the necessary commitments in these two areas. Many stakeholders, including the EP, have expressed their concerns with the agreement, but why was the preoccupation not the same with the Singapore’s agreement? Answer is that, unlike Singapore, which has been more attentive to environmental issues, in Vietnam economic development has put the environment under pressure. Events such as the 2016 toxic discharge from a steel plant or the failure to put an end to illegal trade in rare animals worry many stakeholders about the ability of Vietnam to independently develop adequate levels of environmental protection (Russel 2018).

Labor standards

The EVFTA deals with the issue of labor standards. In doing so it reaffirms the obligations under ILO and the *ILO declaration on fundamental principles and rights at work and its follow-up* and particularly to implement the principles of: (1) Freedom of association; (2)

elimination of forced labor; (3) abolition of child labor; and (4) abolition of discrimination in employment. The fundamental difference with the EUSFTA however, lies in the fact that Vietnam is yet to ratify three of the fundamental conventions of the ILO: On the freedom of association and protection of the right to organize (1948); on the right to organize and collective bargain (1949); and on abolition of forced labor (1957)⁴⁰ and although it has committed through the EVFTA to do so many are still skeptic. This coupled with the fact that the country remains a one-party state where no dissent is tolerated (Russel 2018, 3) creates doubts on Vietnam's ability to uphold human rights. The country has, indeed, one of the least free media in the world, ranking 175 out of 180 countries in 2018 for freedom of the press⁴¹. Freedom house classifies it as "Not free", scoring a 20 out of 100 (where 100 is most free) for its overall freedom in political rights and civil liberties⁴². The communist party still completely controls the press by jailing any journalist, blogger or activists that challenges its power (Russel 2018, 3). Independent trade unions are not allowed and there are few laws to protect labour rights (Russel 2018, 3). The situation is slightly different in Singapore where, although the Singapore's parliamentary system has been dominated by the ruling party, the People's action party (PAP), which has constrained the growth of opposition parties, its legal framework has allowed for some political pluralism, giving the country the status

⁴⁰ Information available on the ILO website at:

https://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210_COUNTRY_ID:103004

Accessed 9-1-2019

⁴¹ According to Reporters without borders for freedom of information, available at: <https://rsf.org/en/ranking#> Accessed: 10-1-2019

⁴² The country report of the Freedom House is available at: <https://freedomhouse.org/report/freedom-world/2018/vietnam> Accessed: 10-1-2019

of “Partly free” and an overall score of 52 out of 100 by Freedom House⁴³. It is probably because of this that concerns about Vietnam are greater than those about Singapore. It must be said however, that in 2012 Vietnam signed a Partnership and Cooperation Agreement (PCA) with the EU, which came into force in October 2016. This envisages closer cooperation on a wide range of areas including energy, migration and human rights and its linked to the FTA in that if Vietnam fails to meet its obligations under the PCA , the FTA can be suspended (Articles X.17(2) FTA, 57 PCA) (Russel 2018, 4). Nonetheless, the EP has expressed human rights concerns in 2015 when, in a resolution, it welcomed the end of negotiations for the PCA and the EVFTA but it also pointed at serious human rights concerns (European Parliament non-legislative resolution on Comprehensive Partnership and Cooperation 2015). It remains to be seen whether the EP’s concerns are serious enough so as to withhold its consent for the entering into force of the EVFTA.

Dispute settlement mechanism

Just like the EUSFTA, the EVFTA contains a chapter on dispute settlement for dealing with and avoiding any dispute arising from the interpretation of the agreement. It sets a consultation and mediation procedure as well as the establishment of an arbitration panel if those fail. The panel can issue a preliminary ruling and an interim report as well as the final report which the parties shall take any necessary measure to comply with. Finally, the agreement envisages temporary remedies in case of non-compliance such

⁴³ The country report of the Freedom House is available at: <https://freedomhouse.org/report/freedom-world/2018/singapore> Accessed: 10-1-2019

as compensation and suspension of obligations. In this respect, the two agreements, EUSFTA and EVFTA share resemblance by providing for the same mechanism.

5.3.2. EVFTA assessment's impact

No detailed, two-way CGE model was found to assess the economic impact of the EVFTA like the Singapore's one done by Kutlina-Dimitrova and Lakatos. The EC has however, published an annex to the Sustainability Impact Assessment (SIA) delivered for the EU-ASEAN FTA that focuses on Vietnam alone. According to the study, under the most ambitious scenario, cutting 97% of tariffs lines for goods, liberalizing 75% of services and; 3) and reducing 2% NTBs, Vietnamese's national income could rise by € 7.6 billion, GDP could increase by 15.27%, skilled real wages could increase by 12.61%, unskilled wages by 13.30% and the value of exports could increase by 34.86% (European Commission 2013). Unlike the CGE model, the SIA focuses also on the social and environmental impact of the agreement. In the former area the SIA predicts a major shift to the clothing industry with mass produced lower value added products and to the leather industry which will require increased and particular attention to labor standards (European Commission 2013, 7). In the environmental area the assessed impact is contradictory, suggesting that the agreement could worsen certain negative trends as well as improving others, depending on how countries will react (European Commission 2013, 8).

5.4. Conclusion

As already mentioned, the two agreements have not yet entered into force. The EVFTA is waiting the Council's signature as well as EP consent before it will be able to be legally binding among the parties, but the EC hopes that it can be ratified by 2019. The EUSFTA while recently signed by the Council, will need the EP's approval and final ratification before entering into force. Nonetheless, the two agreements represent the current status of economic relations between the regions; as Federica Mogherini, EU High Representative for Foreign Affairs and Security Policy and also Vice-President of the European Commission, pointed out:

"The European Union partners with Singapore not only for our growing economic links, but as a key player in the region and beyond. This Partnership and Cooperation Agreement will enable us to strengthen the joint work we are already doing, from countering climate change to tackling organized crime. Today's significant step forward in our bilateral relations will have a positive impact on our citizens and on the regions beyond our borders 44"

As the statement suggests, the agreement with Singapore, and the one with Vietnam as well, are considered a first step towards closer economic ties with the whole ASEAN region rather than autonomous and separated agreement. The possibility of translating these bilateral agreements into an interregional agreement was never abandoned and the conclusion of negotiations for the EUSFTA and EVFTA have brought a revival of talks for an EU-ASEAN agreement. In this sense the two bilateral agreements could be a

⁴⁴ Mogherini's statement on EU and Singapore forging closer economic ties is available at: <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1926> Accessed: 11-1-2019

stepping stone towards this goal, by setting certain standards for the whole region. The next conclusive chapter will explore this possibility as well as setting the general framework for the future of EU and ASEAN relationship.

PART III

Prospects for the EU-ASEAN relationship

Today, we agreed in principle to upgrade our relation to a strategic partnership. It is a recognition of the strategic partnership we already have in many fields. It is an important signal showing that the two most advanced and most successful integration processes in the world stand firmly behind multilateralism and a rule-based global order.

(Federica Mogherini, Brussels, 21 January 2019)

We represent two of the most successful regional organizations in the world. We share values and common goals. As we take our partnership to a greater height, we will continue to explore new areas in which we can cooperate and learn from each other, such as cybersecurity, maritime security, connectivity and climate change

(Vivian Balakrishnan, Brussels, 21 January 2019)

The two statements were released at the 22nd EU-ASEAN ministerial meeting, the latest one to be held among the two organizations at the time of the writing of this thesis. The main aim of the meeting is to provide the guidelines for the future of EU-ASEAN relations and uncover challenges and possibilities on which the two organizations intend to work together. Although the meeting was overall successful in identifying several areas of cooperation such as security, terrorism, environment and technology; no specific reference appears to have been made in regard to free trade and the ongoing free trade negotiations among the partners⁴⁵. Besides reaffirming their mutual commitment to multilateralism and to a future EU-ASEAN FTA, not much was added on the merits of such a goal. So, the questions remains: in what direction is EU-ASEAN economic relation really going? What are the prospects as well as the challenges and possibilities that the two partners face at the moment? Is the prospect of resuming the interregional agreement really feasible? This third, and last, part of the thesis is dedicated to these questions in an attempt to shed some light on the future of EU-ASEAN trade relations.

⁴⁵ This conclusion is made based on the joint statement issued by the parties available on the website of the European Council and Council of the European Union at: <https://www.consilium.europa.eu/en/press/press-releases/2019/01/21/joint-statement-of-the-22nd-eu-asean-ministerial-meeting/> Accessed: 22-1-2019

6. Chapter six: The future of the EU-ASEAN relationship: Testing the PTA's domino effect and other challenges

6.1. Introduction

This last chapter focuses on the current status of trade negotiations among the EU and ASEAN, the challenges as well as the prospects and possibilities for future trade talks. The following section focuses on the current status of bilateral negotiations with the remaining ASEAN countries, that are yet to be concluded. It also highlights the challenges that emerged bilaterally which, if not addressed properly, might undermine the conclusion of the agreements. Section 6.3 unfolds how the EUSFTA and EVFTA might trigger the domino theory and beget further trade liberalization, be it at the bilateral or interregional level. Section 6.4 builds on the previous one and focuses on the noodle bowl problem that this further liberalization might bring about. Whether bilaterally or regionally (but in this latter case still necessarily with many country-specific rules) an agreement with ASEAN will multiply the array of existing rules surrounding free trade, thus complicating the current scenario and creating a noodle bowl of many norms and requirements. Finally, Section 6.5 focuses on the general fallacies in the foreign trade strategies of both regions that need to be rendered more coherent if the two sides are to conclude any agreement at all. Given the ongoing problems that exist both bilaterally and regionally, in the trade strategies of the two organizations, it is unlikely that any EU-ASEAN FTA will be concluded soon. Several issues remain for what concerns the conclusion of bilateral agreements with the remaining ASEAN countries as well and solving them will require patience and flexibility on both sides.

6.2. Ongoing negotiations

Besides the so far mentioned negotiations with Singapore and Vietnam, finalized in 2014 and 2015 respectively, the Union is carrying out negotiations with Malaysia; Thailand; the Philippines; and Indonesia.

Malaysia was the second country of the region that launched negotiations for a comprehensive agreement with the EU in 2010. Negotiations with Malaysia have a rather turbulent history, with a first pause in 2012, after seven rounds of negotiations⁴⁶. There was an attempt to resume the talks in 2016-2017 but in the aftermath of the 2018 general elections the government has yet to take an official position on the matter⁴⁷. Several issues contributed to the stalling of the agreement. First of all, there was a problem concerning Malaysia's government procurement policy. Most contracts in the country are in fact awarded favoring ethnic Malays, also known as *Bumiputera*, and since the Malaysian government has managed to maintain this practice in the TTP (Grier 2016) it is likely to demand the same concession in the agreement with the EU (Mazur 2017, 149); concession which the EU is not going to grant easily. Secondly, Malaysia wanted some strict *halal* requirements in the agreement, while simultaneously it was refusing to reciprocate EU' approach recognizing and using international standards for animal products, and this was unacceptable for the Union (Mazur 2017, 149). Finally, while negotiations were paused in 2017, the EP issued a resolution demanding the Commission to take action against the use of environmentally unsustainable palm oil

⁴⁶ This and more detailed information is available on the European Commission's website at: <http://ec.europa.eu/trade/policy/countries-and-regions/countries/malaysia/> Accessed: 15-1-2019

⁴⁷ As of January 2019.

(European Parliament 2017). Malaysia, being one of the main producers and suppliers of palm oil in the world, together with Indonesia, strongly criticized the resolution, opposing any possible translation of the EP's requests in the EU-Malaysia agreement (Mazur 2017, 149). Since March 2017 the two partners have talked about resuming negotiations. The fact that since January 2014 Malaysia was excluded from the EU's system of generalized preferences, because finally listed by the world bank as an upper-middle income country (European Commission 2012) might have incentivized Malaysia to resume the talks. Success in concluding negotiations with Singapore and Vietnam might have also impacted on Malaysia's change of mind.

Negotiations with Thailand started in 2013 but were paused after the 2014 coup. When in 2015 the EU withdrew the country from its GSP⁴⁸, Thailand lost its preferential access to the European market as well as its competitiveness vis a vis other countries in SEA that still benefit from such system (Yamabhai, Santatiwongchai and Akaleephan 2017, 1). While Malaysia, Singapore and Brunei (and, as we have just seen, Thailand as well) do not benefit from the GSP because they have been classified as upper-middle income countries from the World Bank, Vietnam and Indonesia still do; the Philippines benefits from GSP+⁴⁹, and Myanmar, Cambodia and LAO DPR from the Everything But Arms scheme (EBA)⁵⁰. Thailand's competitive edge will be lost to those partners as well as to

⁴⁸ This occurred because a country that does not classify as a lower-middle income country for three consecutive years, according to World Bank statistics, cannot benefit from such system. Thailand has classified as a upper-middle country in 2011, 2012, 2013 thus disqualifying for the GSP.

⁴⁹ The GSP+ is an extension of the GSP for vulnerable and lower-middle income countries that qualify for the GSP and also fulfill the additional requirements of vulnerability and environmental sustainability. Details on the GSP+ are available on the European Commission's website at: <http://trade.ec.europa.eu/tradehelp/gsp> Accessed:17-1-2019

⁵⁰ EBA is the system designed for least developed countries, granting preferential access to every product except for arms. Details on the EBA are available on the European Commission's website at : <http://trade.ec.europa.eu/tradehelp/everything-arms> Accessed 17-1-2019

the partners that have already signed an FTA with the EU (meaning Singapore and Vietnam). This is a new situation for Thai exporters, which now face higher tariffs (Mazur 2017, 150). The direct monetary impact of the withdrawal from the GSP for Thailand was estimated at 142 million USD while the total impact including indirect effects from decreased competitiveness to 1,080 million USD (Yamabhai, Santatiwongchai and Akalephan 2017, 1). This might well be an incentive to resume negotiations for an FTA with the EU, to compensate for the loss in competitiveness. As a matter of fact, there is a 'growing pressure from Thailand's private sector for negotiating the FTA that could offset the damage from the unfavorable position of Thailand after the withdrawal of GSP privileges' (Mazur 2017, 151)

Negotiations with the Philippines were launched in 2015 and are still ongoing. The aim for the EU is to conclude an agreement similar to that with Singapore and Vietnam, which would thus work as a template. Two rounds of negotiations have been concluded so far. The report from the second round of negotiations has an overall positive tone, describing the discussions as 'open and constructive' and taking place in a 'friendly atmosphere' (European Commission 2017). A number of areas, however, were not discussed, particularly those referring to: annexes on non-tariff barriers, trade remedies, technical barriers to trade, investment dispute resolution, competition and State-Owned Enterprises, transparency and Small and medium enterprises. No text proposal was presented for the chapter on dispute settlement and further discussion need to be carried out in the remaining areas. Moreover, the political situation in the Philippines might become a challenge for future negotiations as the EC expressed its concerns about human rights in context of the President R. Duterte's "war on drugs" (Mazur 2017, 151).

It remains to be seen whether subsequent rounds will be able to address those issues left out of the negotiations probably due to their sensibility and whether Human rights will become an issue or not. So far, no explicit reference has been made by the EC and negotiations remain open.

Talks with Indonesia begun in 2016. From the words used by president J. Widodo at the world economic forum on ASEAN last September, cited in the first chapter of this thesis, Indonesia clearly adopts an open attitude towards free trade. Six rounds of negotiations have been held so far; although no report is yet available on the last round, since it took place rather recently (15-19 October 2018), the report on the fifth round registered good progress in most areas of the agreement (European Commission 2018). Tariff offers were exchanged and discussed for the first time. On service, investments and government procurement no offers were exchanged yet; some issues still remained uncertain, namely on sanitary and phytosanitary measures, and hopefully the sixth round has shed some light on them. As already mentioned in the analysis of negotiations with Malaysia, the issue with palm oil also affects Indonesia, and it might influence the future of negotiations.

Turning to Myanmar, the country was originally excluded from any trade talk with the EU due to its poor Human Rights record. The EU has always been reluctant to establish any kind of relation with Myanmar because Human Rights and Democracy protection are considered top priority of its foreign policy strategy (Pettersson 2006). Indeed, Myanmar's accession to ASEAN was perceived as an obstacle for the organization's foreign relations as well as a challenge to European norms and values (Boisseau du

Rocher 2012). In order to preserve its relationship with ASEAN, the Union has accepted to engage with Myanmar more than it would have otherwise done, this however, does not mean that it has fully accepted the country has a legitimate actor. Slight improvements on Myanmar's side have changed the situation and since 2011 the EU had progressively reengaged with the country. The EU has lifted sanctions with the exception of the arms embargo; granted preferential access to the EU market (under the EBA scheme); and launched negotiations for an investment protection agreement (In 2013). In 2016 the Council adopted conclusions on EU strategy with Myanmar, welcoming the country's peaceful transfer of power in 2015 and stating the desire of the Union to more actively cooperate with the country in the framework of ASEAN relations (Council of the European Union 2016). Whether these slight improvements on Myanmar's side will be enough to initiate negotiations with Europe for a PTA's is yet to be seen.

Brunei never really engaged deeply with the Union. It is currently negotiating a Partnership and Cooperation Agreement (PCA) but no trade talk has been suggested so far.

No trade talks have been initiated for Cambodia either. The country already benefits from the EBA scheme and thus already has preferential access to the European market. However, last October the Commission warned the country that it could lose this preferential access due to recent Human Rights violations (Emmott and Blenkinsop 2018). In this situation and given the great importance that the EU gives to its values and

norms built around the protection of Human Rights, it is unlikely that any discussion on a PTA will be opened anytime soon.

Links with LAO PDR are also feeble and although the Union engages with it through the ASEAN framework, no negotiation has been started for a PTA. It must also be kept in mind that the country already benefits from the EBA scheme and it is probably not interested in risking to lose this advantage in a deal that would need time and effort to develop and that might turn out not as beneficial as the existing one under EBA.

6.3. EUSFTA and EVFTA and the domino theory

As it appears from the general picture set up so far, the EU is actively engaged in the Southeast Asian region – not only with Singapore and Vietnam, but also with the other countries, albeit to different extent. Recently, it appears as if the conclusion of the first two agreements has boosted-up negotiations with other countries and revived talks for an interregional agreement. Indeed, the first bilateral agreements concluded with two ASEAN countries are considered by many, especially from the EU's side, as a stepping stone towards a greater interregional agreement. Since March 2017, at the ministerial meeting in Manila, officials from both sides have agreed to examine the prospect of relaunching trade talks for a region-to-region accord (Bridges 2017). Commissioner Cecilia Malmström, in a press statement for the occasion said:

"There is still much to be done to unlock the full potential of the EU-ASEAN relationship, and the quickly changing international environment now makes us turn our eyes even more towards Asia. I am glad to see that both sides are now ready to seize the momentum and start preparations towards re-launching these negotiations. This is a significant and timely initiative, and it shows that the EU and ASEAN are committed to take the lead together on regional and global trade. The EU remains strongly committed to advancing a positive global trade agenda in which all sides are winners 51"

(Cecilia Malmström, press release, Manila, 10 March 2017)

In this picture bilateral deals with ASEAN, therefore, possibly serve this long-term objective towards interregionalism. It appears that the actions carried out by the EU and ASEAN countries lend support to Baldwin's theory of a domino effect originating from one PTA and spreading out to several other countries so as to eventually lead to increased liberalization. Since, as already mentioned at the beginning of the section, bilateral negotiations with Indonesia, Malaysia, Thailand and the Philippines are still continuing, it is still unclear whether, in this case, this interregional trade liberalization will occur by switching to a single overarching agreement for the whole region, or by keeping many region-to-country agreements.

Regardless of the way liberalization in the EUSFTA and EVFTA will beget further liberalization in the region, the events seem to have initiated the domino effect. Recalling from chapter two, this occurs because of a change in the political forces inside of an excluded country. Exporters, now disadvantaged by the new agreement that only

⁵¹ The Commissioner's full statement is available on the European Commission's website at: <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1631> Accessed: 13-1-2019

favors the parties involved, will have a greater interest in pushing for liberalization and accession to the PTA. Specifically, ASEAN exporters interested in the European market will not be granted the same conditions as Vietnamese and Singaporeans exporters of the same products. Consequently, European consumers will prefer Vietnamese and Singaporeans products, because since subjected to lower tariffs, will be cheaper. 89 pages (for the EUSFTA) and 156 pages (for the EVFTA) concerning rules of origins will make sure of this. As already mentioned in chapter 5, detailed rules of origin in the two agreements make sure that products subjected to tariff reduction wholly originate in one of the countries undertaking the agreement or have undergone sufficient transformation in a country party to the agreement. Both agreements allow for “Cumulation of origin” for certain materials originating in ASEAN countries which allows them to be considered as materials originating in one of the parties if further processed or incorporated in another material. The cumulation measure is allowed only when the ASEAN country ‘Is applying with the union a preferential agreement’ (EU-Singapore Trade and investment agreements 2018, p.5, protocol 1) (EU-Vietnam Trade and Investment agreements 2018, p.5, protocol1). The rest of the protocol, for both agreements, makes sure that no external product is granted preferential access to the European market with annexes that specify the amount of working or processing necessary to grant originating status on each product. Just to give an example, vehicles, with the exception of motorcycles which are granted a different limit, are posed a limit in which the value of all the materials used does not exceed 40% (for Singapore) and 45% (For Vietnam) of the ex-works price of the product. In other words, vehicles exceeding that limit of non-originating products will receive no benefits; put it even

more simply ASEAN car producers outside Singapore and Vietnam will not benefit from preferential access to the EU's market. The previous chapter already talked about rules of origin for the concluded agreement, so what is there to add? The point to add is that these factors might contribute to the "tilt in the balance" that Baldwin talks about in his domino theory. Rules of origin unfavorable to ASEAN (but non-Singaporeans or Vietnamese) exporters might just be what is necessary to make ASEAN exporters fight harder for conclusion of PTA's in their own countries, shifting the political equilibrium in favor of pro-membership forces. As proof to this we might use the revival of bilateral interregional trade talks expressed by EU and ASEAN leaders alike in the press statement following the ministerial meeting held in Brussel last October 19, 2018⁵². As soon as the domino effect will trigger further bilateral or a interregional trade agreement, the juggernaut logic might also be set off, especially due to countries such as Singapore already applying zero tariffs and therefore lowering the standards for all the others.

6.4. The noodle bowl threat

Talking about rules of origin brings up another issue, which has been dealt in the second chapter, the spaghetti, or noodle, bowl effect. This is caused by the overlapping of measures and rules of origin due to the multiplying of PTA's among countries, each providing different set of rules. East Asian regionalism (ASEAN plus Japan, China and South Korea) has, long before any deal with the EU, been marked by the "Noodle bowl syndrome" with several deals under discussion, under negotiation or already signed. (R. E. Baldwin 2008). The possibility of several bilateral trade agreements between the EU

⁵² The press statement is available at: <<https://asean.org/storage/2018/10/AELM-Press-Statement-ASEAN-final.pdf>> Accessed: 13-1-2019

and single ASEAN countries would surely contribute to the noodle bowl, thus worsening the “who is whose” problem. Many agreements will make more complicated determining the origin of a product. Figure 6.1 visually gives an idea of the complicated nature of establishing many agreements among the EU and ASEAN countries.

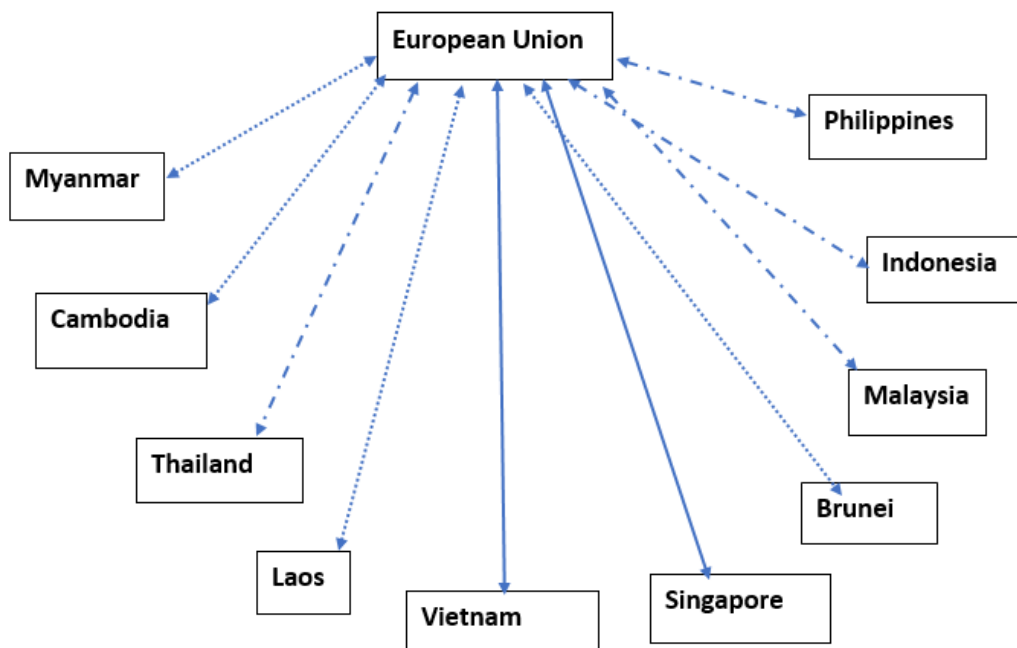


Figure 6-1 EU-ASEAN Noodle bowl Effect (Author’s own elaboration)

Legend:

- > Concluded agreements
-> Ongoing negotiations
-> Hypothetical future negotiations

The blue continuous arrows represent the concluded agreements, the thickly dotted arrows represent ongoing negotiations and the finely dotted arrows represent hypothetical, future negotiations. All together each arrow implies different agreements

with different rules and measures complicating the procedures to define which products coming from a country can be subjected to which tariffs and measures. This without even counting the bilateral links created inside the AFTA by the several “Sensitive lists” (R. E. Baldwin 2008, 451). The ASEAN free trade area, indeed, theoretically creates a single free trade area among ASEAN countries but then, through the sensitive lists of products that each member state can compile, effectively creates a fractured agreement with different degree of preferential access depending on the member-state involved in the transaction. Figure 6.2 graphically represents the noodle bowl effect among the EU and ASEAN taking into account the fractured nature of the AFTA and thus considering as if there were 45 bilateral trade relationships (R. E. Baldwin 2008, 451).

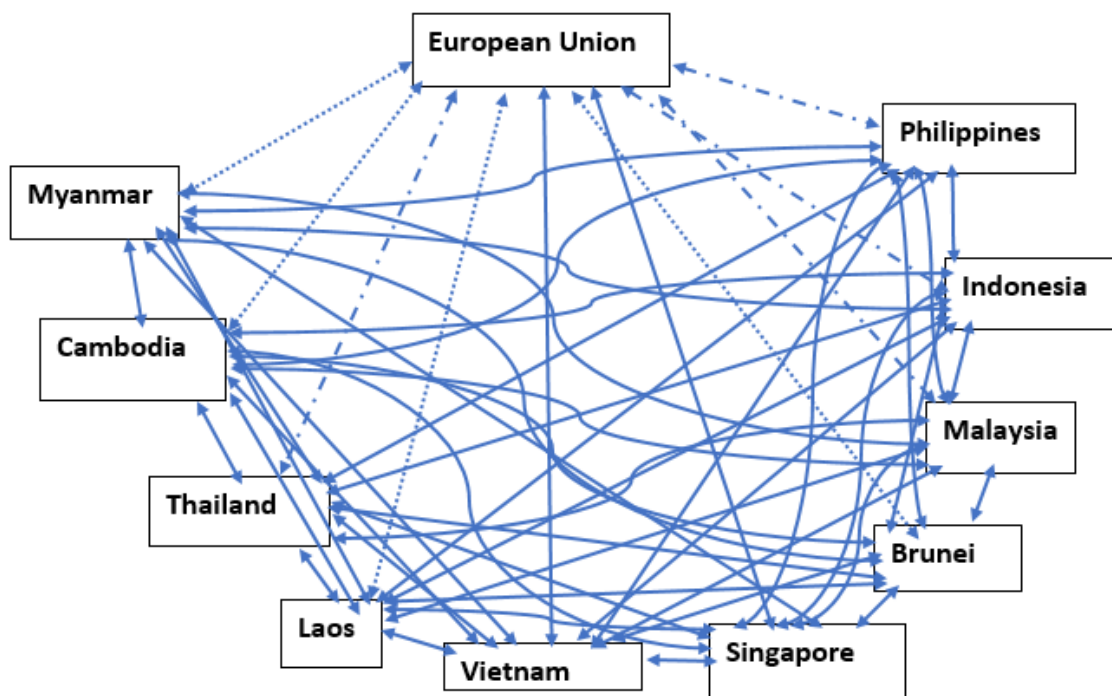


Figure 6-2: EU-ASEAN and AFTA noodle bow effect (Author's own elaboration)

Legend:

- > Concluded agreements
- - - - -> Ongoing negotiations
-> Hypothetical future negotiations

As it is clear from the amount of overlapping arrows, many bilateral agreements with the EU would only complicate ASEAN regionalism. This complicated condition increases the transaction costs for companies doing business in the region and many have stressed the need for an integrated overarching regional agreement (Okano-Heijmans 2014). However, a single interregional agreement probably would not help much either since, given the different nature of ASEAN member states economies, it would necessarily

contain “sensitive lists” fracturing the deal. Either way in the future of EU-ASEAN economic relations the noodle bowl threat cannot be avoided.

6.5. Choosing a path: Europe and ASEAN in need for a coherent strategy

So far, we have seen the current status of trade negotiations among the EU and the remaining ASEAN countries that were not analyzed previously. Given the current general picture, we also looked at how the EUSFTA and EVFTA might speed up the liberalization process by stimulating the conclusion of further trade agreements in ASEAN either bilaterally or regionally. Yet one problem remains: both ASEAN and EU actions are inconsistent with what they advocate in their trade strategies. Indeed, what strikes as emerging from the EU and ASEAN strategy towards each other so far is the lack of coherency in choosing a path for their trade relations. From the initial intent to design an interregional agreement the two sides have then opted for many bilateral, region-to-country agreements. They have designed and concluded these agreements while never backing down from the original idea to eventually have a single one. Every time a further step towards bilateralism was taken, negotiators from both sides, Europeans especially, refused to acknowledge it as such and rushed to label it as a step towards interregionalism. Meanwhile, it is unclear how these many agreements are going to be transformed into one, as no side has yet commented on the how. At the core of the incoherency issue lays the need to reconcile the different agendas of the two organizations. Each of the two regional system, indeed, has developed, and it still is developing, its own politico-ideological culture; these, in turn, have an important role in shaping ASEAN external policy and EU’s common foreign policy, also in regard to economic matters (Palmujoki 1997). The next two subsections point at the

incoherencies of the two partners' trade strategies that needs fixing before any agreement can be concluded at all.

6.5.1. The EU's incoherent foreign trade policy with ASEAN

The main problem in EU's foreign trade strategy is the way in which it always attempts to link economics and politics. This becomes a problem in that 'while Europe's trade interests in its relationship with Asian countries are fairly well defined, its broader geostrategic and political interests remain rather elusive' (Okano-Heijmans 2014, 19). The EU always includes political-ideological requirements in its trade agreements with third countries, which, as we have seen, is exactly what happened in the FTA's with Vietnam and Singapore. Linking politics and economics becomes problematic because it subjects economic goals to the achievement of certain values. This strategy is part of the "2009 common approach" but has been kept throughout the years in the several documents available and published by the EU concerning its trade strategy. The 2010 communication "Trade, growth and Development" contains explicit reference to the link between trade and EU's norms and values by stating that:

"One of the basic objectives of the EU is to ensure that economic growth and development go hand in hand with social justice, including core labour standards, and sustainable environmental practices including through external policies. Such efforts are particularly relevant in a development context, in which countries face significant challenges"

(European Commission 2012, 13)

The approach has been kept in the latest trade strategy "Trade for all" published in 2016 and reinforcing the idea, once again, that "One of the aims of the EU is to ensure that

economic growth goes hand in hand with social justice, respect for human rights, high labour and environmental standards, and health and safety protection” (European Commission 2015, 22). The problem in keeping up with these expectations when concluding agreements in Southeast Asia is that those expectations do not, at times, meet the standards and demands of the other countries involved. Nations at an earlier stage of economic development such as Myanmar, Cambodia or Vietnam are built upon fragile governments that do not want, or are not ready yet, to commit to such standards. So far ‘Asian governments have been powerful and buoyant enough to push back against what Europeans refer to as their values agenda’ (Youngs 2015, 20). The EU is thus trapped between its desire for economic development and the wish to export its norms. The risk is concluding an agreement that, later, might not be ratified by the EP (which is exactly the current problem with the EVFTA).

A second problem is that the EU finds itself on the brink between multilateralism and bilateralism and cannot seem to decide. It advocates the former but keeps pursuing the latter in a way that creates tensions in reconciling the two approaches. This is also clear in the latest “*Trade for all*” strategy which maintains the two approaches, stating the need to reinvigorate the multilateral trading system but also maintaining an open approach to bilateral and regional agreements (European Commission 2015). The way this is supposed to happen, with ASEAN in the specific, is unclear especially since “The EU needs to pursue bilateral and regional agreements in a manner that supports returning the WTO to the center of global trade negotiating activity” (European Commission 2015, 29). The situation is exacerbated by the fact that recently Europe-Asia relations unfold in ways that favor bilateralism and not interregionalism, thus

sharpening competition between powers within each region (Youngs 2015, 18). If the region-to-country approach is complicated, the region-to-region approach will be difficult to achieve, and multilateralism might just be impossible. Europe needs to take a decision and develop a more coherent and clear strategy to follow, be it acknowledging the infeasibility of an interregional agreement with ASEAN or clarify the steps that will lead to such agreement.

6.5.2. The ASEAN's incoherent foreign policy with the EU

The main problem in ASEAN external strategy is the lack of unity among its members and the lack of a single unified foreign policy. This is problematic in the trade relation with Europe in that it brings disagreements inside ASEAN's member-states which undermine the successful conclusion of any agreement. We speak of ASEAN foreign policy when in fact we should speak of ASEAN member states' foreign policies. As we have seen in the third chapter the organization was not designed as a supranational entity that was to bring peace and unity among its members like the EU. It was designed as an intergovernmental body that was to strengthen member-state sovereignty and self-determination vis a vis foreign power. As such it bears no supranational institution that coordinates member-states strategies into a single coherent external one. ASEAN can develop friendly relations and mutually beneficial dialogue, cooperation and partnerships with countries and sub-regional, regional and international organisations and institutions and when conducting ASEAN's external relations, the ASEAN Foreign Ministers Meeting may confer on an external party the formal status of Dialogue Partner, Sectoral Dialogue Partner, Development Partner, Special Observer, Guest, or other status. This means that ASEAN countries maintain their independence and

decision-making power in carrying out external relations; they decide on issues on a case-by-case and consensus-based strategy which therefore often risks incoherency and disaggregation. Each member-state can in fact veto decisions concerning external relations with third countries. So far, ASEAN has constituted a community of convenience, based on functional considerations, rather than a community based on shared visions (Ingo Nischalke 2000). Especially in the economic front, lack of a shared vision implies fragmentation which renders the idea of interregionalism challenging, and that of multilateralism improbable.

6.6. Conclusion: challenges and opportunities in EU-ASEAN future trade strategy

As it became clear throughout the thesis, EU's relations with countries of ASEAN faced several political complexities. At present the EU is hoping to revive negotiations for a region to region agreement but the prospects for the near future appear challenging on several fronts. First of all, the two organizations need to overcome the several issues that arose at the bilateral level, from the proposed ban on palm oil to the human rights and democracy issues present in several ASEAN countries. The Vietnam agreement with its labor rights issues is the striking example of how, if not properly addressed, such concerns might undermine the successful outcome of negotiations by stalling the ratification process. Once the two sides manage to find a solution to the several challenges that hinder trade talks among them, they will need to address their foreign trade strategy and develop a more coherent and clear approach.

The EU needs to clarify which side it stands on, whether that of bilateralism, interregionalism or multilateralism. Most importantly, it needs to coherently develop its

actions accordingly. The problem is not so much what to choose, but rather how to reach a certain goal. Indeed, it can appear clear enough that the Union is choosing multilateralism; what appears less clear is how many bilateral agreements are going to be transformed into a single interregional one first, and eventually merge globally into multilateral free trade.

Turning to ASEAN, the organization needs to clarify its intent, and whether it wants (and its able) to act as a single entity on the free trade agreement front. If the answer is yes, then its member states needs to be ready to give up some of their bargaining power for the sake of unity. At the moment, it seems unlikely that this will happen. ASEAN's member-states are too diversified and varied and ASEAN's power as a supranational organization is too weak if non-existent to bring about this change.

The only way out is to consider the bilateral and regional approaches as complementary. This would mean that, similarly to other regional agreements such as the TPP, the ASEAN-EU agreement would have a common umbrella of rules and disciplines, while negotiating bilaterally with each country market access schedules and the more delicate issues such as services or public procurement (Deringer and Lee-Makiyama 2018, 4). Still, the complementarity approach requires actions to be taken both bilaterally and regionally and as we have seen problems remain on both fronts. On one side because many human rights, environmental and democratic issues remain with single ASEAN's countries. On the other side because ASEAN is not able to, and does not want to, act as a single and unified entity to carry out a regional agreement. Whether the two entities will be able to overcome their differences bilaterally and regionally is yet to be seen.

Because of that, it is unlikely that a region-to-region agreement will be concluded soon. The two organization have embarked into a long and difficult journey that surely requires the exercise of their diplomatic patience in the years to come.

Final remarks

This thesis has focused on the nature of trade relations between the European Union and the Association of South East Asian Nations. It has analyzed the current status of trade negotiations, both interregionally and bilaterally, in the broader framework of international trade relations and the recent proliferation of preferential trade agreements. The main aim was to uncover the opportunities and challenges in the EU-ASEAN trade relationship, as well as testing the feasibility of a future interregional trade agreement.

The work was divided into three parts. The first part set the general picture on international trade relations and preferential trade agreements. The second and third part then focused specifically on the EU and ASEAN. The second part uncovered the current status of the EU-ASEAN relationship, with a specific focus on trade and the recent trade agreements among the two partners. It analyzed the failed EU-ASEAN FTA as well as the successful EUSFTA and EVFTA. The two organizations have indeed, since 2007, embarked on a journey to conclude an interregional agreement. Negotiations were paused in 2009 but the journey still endure as the EU has continued to negotiate with ASEAN member-states bilaterally. Two agreements were concluded so far, one with Singapore and one with Vietnam. Negotiations with the other countries are either still pending, have been suspended or have not been initiated at all. As the last chapter clarifies, several problems need to be solved before any bilateral agreement can be concluded with those remaining countries.

The third part focused on the future prospects for the relationship by uncovering the challenges that still need to be addressed and the opportunities that exist. After the conclusion of the free trade agreements with Singapore and Vietnam, officials from both sides have, indeed, talked about reviving negotiations for the interregional agreement. Even though ASEAN officials have been much more cautious in speculating on this possibility, EU officials have especially been enthusiastic about the idea. This is because the EU has never really abandoned its desire for a broad and comprehensive interregional agreement.

The pending issue, however, is how the two sides intend to bring about such agreement. First of all, because the problems that led to the failure of negotiations in 2009 have not been solved yet. ASEAN still remains an heterogeneous organization, with different trade interests, and that is not going to change any time soon. Thus, it is unlikely that it is going to develop a single “ASEAN position” that would allow for the conclusion of such agreement. Secondly, because many problems still exist bilaterally with single ASEAN countries and if the EU wants to have an interregional agreement, it first needs to solve its problems bilaterally. What emerges from ASEAN and EU foreign trade strategy towards each other is therefore an underlying incoherency in the way trade relations are carried out and whether they will be able to overcome this incoherency is yet to be seen. Because of this, it is unlikely that any interregional agreement will be concluded soon. The journey is still long, and the road ahead will not be without obstacles.

Bibliography

- Alvstam, Claes G, Erja Kettunen, and Patrik Ström. "The service sector in the free trade agreement between the EU and Singapore: Closing the gap between policy and business realities." *Asia Europe Journal*, December 1, 2016: 75-105.
- Andreosso-O'Callaghan, Bernadette, and Françoise Nicolas. "Are the Economies of ASEAN and the EU Complementary ?" *ASEAN Economic Bulletin*, August 2007: 205-224.
- ASEAN secretariat . *ASEAN economic co-operation: Transition & Transformation*. Singapore : Institute of South East Asian Studies , 1997.
- ASEAN-EU vision group. "Transregional partnership for shared and sustainable prosperity." 2006.
- Astuto, Michela. *EU-ASEAN free trade agreement negotiations. policy analysis*, Milano: Istituto per gli studi di politica internazionale, 2010.
- Baldwin, E. Richard. "Big-think regionalism:A critical survey." *Center For Economic Policy Research*, July 2008: 1-59.
- Baldwin, Richard E. *Stepping stones or building blocs? Regional and multilateral integration*. Geneva: Graduate Institute of International Studies , 2004.
- Baldwin, Richard E, and Philippe Martin. *Two waves of globalization: Superficial similarities, fundamental differences*. 1050 Massachusetts Avenue Cambridge, MA 02138: National Bureau of Economic Research, 1999.
- Baldwin, Richard E. "Managing the noodle bowl: The fragility of East Asian regionalism." *The Singapore Economic Review, World Scientific Publishing company, Vol. 53, No.3*, 2008: 449-478.
- Baldwin, Richard. *Multilateralising Regionalism: Spaghetti bowl as building blocs on the path to global free trade*. Cambridge, MA: National Bureau Of Economic Research Working Paper No.12545, 2006.
- Berger, Mark T. *The Battle for Asia: From decolonization to globalization*. London and New York: RoutledgeFalmer Taylor & Francis Group, 2004.
- Berkofsky, Axel. *Comparing EU and Asian Integration processes-The EU a role model for Asia?* Issue Paper , European Policy Center, 2005.

- Bhagwati, Jagdish. *Preferential Trading Areas and Multilateralism: Strangers, Friends or foes?* Washington, DC.: The economics Of preferential Trading Agreements AEI Press, 1996.
- . "US trade policy: The infatuation with FTA's." *American Economic Association meetings, Panel discussion on the Clinton administration's trade policy.* Washington D.C., 1995. 1-20.
- Bhagwati, Jagdish, and Arvind Panagariya. "The theory of preferential trade agreements: Historical evolution and current trends ." *American Economic Association*, May 1996: 82-87.
- Bhagwati, Jagdish, David Greenaway, and Arvind Panagariya. "Trading preferentially: Theory and policy." *The economic Journal*, July 1998: 1128-1148.
- Boisseau du Rocher, Sophie. "The European Union, Burma/Myanmar and ASEAN: A challenge to European norms and values or a new opportunity?" *Asia Europe Journal*, May 4, 2012: 165-180.
- Bordo, Michael D. "The Bretton Woods International Monetary System: A Historical overview." In *A Retrospective on the Bretton Woods System: Lessons for International Monetary Reform*, by Michael Bordo and Barry Eichengreen, 3-108. University of Chicago Press: Available at: <<http://www.nber.org/chapters/c6867>>, 1993.
- Bridges. "International Center for Trade and Sustainable Development." *ICTSD*. March 16, 2017. <https://www.ictsd.org/bridges-news/bridges/news/eu-asean-ministers-agree-to-consider-trade-talks-reboot> (accessed January 13, 2019).
- Börzel, Tanja A, and Thomas Risse. "the Rise of (Inter-) Regionalism: The EU as a Model of Regional Integration." *Annual Convention of the American Political Science Association*. Toronto, Canada: Research Center "Governance In Areas of Limited Statehood, 2009.
- Camroux, David. "Interregionalism or Merely s Fourth-Level Game? An examination of the EU-ASEAN Relationship." *Springer*, April 29, 2009: 57-77.
- Chen, Lurong, Ludo Cuyvers, and Philippe De Lombaerde. "ASEAN economic integration compared: What do the numbers tell us?" *The Singapore Economic Review*, August 26, 2016: 619-641.
- Clive, Cristine J. *A modern History of Southeast Asia: Decolonization, nationalism and separatism*. London: I.B. Tauris Publishers, 1996.
- Cook, Alistair D. B. "Positions of responsibility: A comparison of ASEAN and EU approaches towards Myanmar." *International Politics*, April 16, 2010: 433-449.

- Council of the European Union. "Council conclusions on EU strategy with Myanmar/Burma." Available at: <<http://data.consilium.europa.eu/doc/document/ST-10482-2016-INIT/en/pdf>> Accessed: 18-1-2019, 2016.
- Crucini, Mario J, and James Kahn. "Federal Reserve Bank Of New York." September 2003. https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr172.pdf (accessed 10 7, 2018).
- Delegation of the European Union to Vietnam. "Guide to the EU-Vietnam Free Trade Agreement." Available at: <http://trade.ec.europa.eu/doclib/docs/2016/june/tradoc_154622.pdf> Accessed: 6-1-2019; Hanoi, 2016.
- Dent, Christopher M. "Economic relations between the EU and East Asia: Past, present and future." *intereconomics*, 1997: 7-13.
- . "ASEM and the "Cinderella complex" of EU-East Asia Economic Relations." *Pacific Affairs*, 2001: 25-52.
- Deringer, Hanna, and Hosuk Lee-Makiyama. "Europe and South-East Asia: An Exercise in Diplomatic Patience." *European Centre for International Political Economy*, April 24, 2018: 1-16.
- Directorate General for the External Policies of the Union. *The future of sustainable development chapters in EU free trade agreements*. Available at: <[http://www.europarl.europa.eu/RegData/etudes/IDAN/2018/603877/EXPO_IDA\(2018\)603877_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2018/603877/EXPO_IDA(2018)603877_EN.pdf)> Accessed: 5-1-2019, Brussels: Policy department for External Relations, July 2018.
- Dornbusch, Rudiger, and Jeffrey Frankel. "The flexible Exchange Rate system: Experience and Alternatives." In *International Finance and Trade in a Polycentric World*, by S. Borner, 151-208. London: International Economic Association Series, Palgrave Macmillan, 1998.
- Dur, Andreas. "Regionalism: stepping stone or stumbling block for Globalisation?" In *Globalisation: State of the Art and Perspectives*, by Stefan Schirm. Routledge, 2007.
- Dür, Andreas, Leonardo Baccini, and Manfred Elsig. "The Design of International Trade Agreements: Introducing a New Dataset." *The review of international Organizations* 9, no. 3 (2014): 353-375.
- Elms, Deborah. "Understanding the EU-Singapore free trade agreement." In *Australia, the European Union and the new trade agenda*, by Annmarie Elijah, Donald Kenyon, Karen Hussey and Pierre Van der Eng, 35-54. Acton, Canberra: Australia National University PRESS, 2017.

- Emmott, Robin, and Philip Blenkinsop. "EU to hit Cambodia with trade sanctions, says Myanmar may follow." *Reuters*. October 5, 2018. <https://www.reuters.com/article/us-myanmar-rohingya-eu/eu-to-hit-cambodia-with-trade-sanctions-says-myanmar-may-follow-idUSKCN1MF1BP> (accessed January 18, 2019).
- Engelhardt, Tim. "Geographical Indications Under Recent EU Trade Agreements." *International Review of Intellectual Property and Competition Law*, October 27, 2015: 781-818.
- EU Commission. *Global Europe: Competing in the world*. European Commission External Trade, 2006.
- Eurocham. *EVFTA Report 2018*. Available at: https://www.eurochamvn.org/sites/default/files/uploads/180724_tax%20update/The%20EVFTA%202018%20Report.pdf Accessed 7-1-2019, Hanoi: European Chamber of Commerce in Vietnam, 2018.
- European Commission. "EU publishes revised preferential import scheme for developing countries ." *European Commission*. October 31, 2012. <<http://trade.ec.europa.eu/doclib/press/index.cfm?id=840>> (accessed 1 16, 2019).
- . *European Commission* . August 1, 2018. <http://ec.europa.eu/trade/policy/countries-and-regions/countries/singapore/> (accessed January 3, 2019).
- European Commission. "Report from the second round of negotiations for a free trade agreement between the European Union and the Philippines." Available online at: <http://trade.ec.europa.eu/doclib/docs/2017/march/tradoc_155435.pdf> Accessed: 17-1-2019, 2017, 1-3.
- European Commission. "Report of the 5th round of negotiations for a free trade agreement between the European Union and Indonesia." Available at: <http://trade.ec.europa.eu/doclib/docs/2018/july/tradoc_157137.pdf> Accessed:17-1-2019, 2018.
- European Commission. "Trade and Sustainability Impacy Assessment on EU-ASEAN FTA, annex on Vietnam." Available at: <http://trade.ec.europa.eu/doclib/docs/2013/may/tradoc_151230.pdf> Accessed: 10-1-2019, 2013.
- European Commission. *Trade for all: Towards a more responsible trade and investment policy*. Available at: <http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf> Accessed: 19-1-2019, Luxembourg: European Union, 2015.

European Commission. "Trade, growth and development: Tailoring trade and investment policy for those countries most in need." Available at: <http://trade.ec.europa.eu/doclib/docs/2012/january/tradoc_148992.EN.pdf> Accessed:19-1-2019, 2012.

European Parliament. *A guide to EU procedures for the conclusion of international trade agreements.* Available at: <[http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/593489/EPRS_BRI\(2016\)593489_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/593489/EPRS_BRI(2016)593489_EN.pdf)> Accessed 2-1-2019, European Union, 2016.

—. "European Parliament resolution of 4 April 2017 on palm oil and deforestation of rainforests." *European Parliament.* April 4, 2017. <<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bTA%2bP8-TA-2017-0098%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN>> (accessed January 16, 2019).

European Parliament. *EU-Singapore Free Trade Agreement stimulus for negotiations in the region.* Available at: <[http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/607255/EPRS_BRI\(2017\)607255_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/607255/EPRS_BRI(2017)607255_EN.pdf)> Accessed 2-1-2019, European Union, 2017.

European Parliament non-legislative resolution on Comprehensive Partnership and Cooperation. A8-0342/2015 (European Parliament, December 17, 2015).

European Parliament. *on trade and economic relations with the Association of South East Asian Nations (ASEAN).* Available at: <<http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A6-2008-0151&language=EN>> Accessed 23-12-2018: Committee on International Trade, 2008.

EU-Singapore Trade and investment agreements. "Signed at the ASEM summit in Brussels on Friday, October 19th." Available at: <<http://trade.ec.europa.eu/doclib/press/index.cfm?id=961>> (Authentic texts as of April 2018) Accessed: 1-1-2019, Brussels, 2018.

EU-Vietnam Trade and Investment agreements. Available at: <<http://trade.ec.europa.eu/doclib/press/index.cfm?id=1437>> Accessed: 8-1-2019, Authentic text as of August 2018, agreement still pending ratification , 2018.

Fabbrini, Sergio. *America and its critics: Virtues and Vices of the democratic Hyperpower.* Cambridge: Polity Press, 2008.

—. *Compound democracies. Why the United States and Europe are becoming similar .* New York : Oxford University Press , 2010.

- . *Which European Union ?Europe after the Euro Crisis*. I. Cambridge: Cambridge University Press, 2015.
- Foreign Trade Association. *EU-Vietnam Free Trade Agreement*. Available at: <<https://www.amfori.org/sites/default/files/FTA%20Insight%20-%20EU-Vietnam%20trade%20agreement%20-.pdf>> Accessed: 7-1-2019, FTA, 2016.
- Frankel, Jeffrey A. *Regional Trading Blocs in the world economic system*. Institute for International Economics, 1997.
- Fredrik, Erixon, and Sally Razeen. *Trade, globalisation and emerging protectionism since the crisis*. Working Paper, No.02/2010, Brussels: ECIPE, 2010.
- Gandolfo, Giancarlo. *International Trade Theory and Policy*. II. Springer, 2014.
- Gilson, Julie. "New Interregionalism? The EU and East Asia." *Journal of European Integration*, August 19, 2006: 307-326.
- Grier, Jean Heilman. *Djaghe LLC*. June 21, 2016. <<https://trade.djaghe.com/?p=2978>> (accessed January 16, 2019).
- Heckscher, Eli F. "Revisions in economic history: V Mercantilism." *The Economic History Review* 7, no. 1 (1936): 44-54.
- Held, David, and Anthony G McGrew. *Globalization/ anti Globalization*. Cambridge: Polity Press, 2002.
- Hitchcock, William I. *The Struggle for Europe: The turbulent history of a divided continent, 1945 to the present*. New York: Anchor Books, 2004.
- Horn, Henrik, Petros C. Mavroidis, and André Sapir. "Beyond the WTO? An Anatomy of EU and US Preferential Trade Agreements." *The World Economy* 33, no. 11 (2010): 1565-1588.
- Huwart, Jean-Yves, and Loic Verdier. *Economic Globalization: Origins and consequences*. Paris : OECD, 2013.
- Hwee, Yeo Lay. "EU-ASEAN Relations in the 21st century: Strategic partnership in the making by Daniel Novotny and Clara Portela." *Journal of contemporary Asia*, September 23, 2013: 370-372.
- ILO. *Labour Market Inventory ASEAN 2010-2015: Labour market policy in an age of increasing economic integration*. Report, Geneva: International Labour Office, 2018.
- Ingo Nischalke, Tobias. "Insights from ASEAN's Foreign Policy Co-operation: The "ASEAN Way", a Real Spirit or a Phantom?" *Contemporary Southeast Asia*, April 2000: 89-112.

- Irwin, Douglas A. "The Smoot-Hawley Tariff: A Quantitative Assessment." *The Review of Economics and Statistics* 80, no. 2 (1998): 326-334.
- Jetschke, Anja. "Diffusing regional integration: The EU and Southeast Asia." *West European politics*, Dec 9, 2011: Volume 35, Issue 1.
- Kim, Min-hyung. "Integration theory and ASEAN integration." *Pacific Focus Inha Journal of International Studies*, December 8, 2014: 374-394 Volume 29, Issue 3.
- Krugman, Paul. *Is bilateralism bad?* Cambridge, MA: National Bureau Of Economic Research , 1989.
- Kurlantzick, Joshua. *ASEAN's future and Asian Integration*. Available at: <https://www.cfr.org/sites/default/files/pdf/2012/10/IIGG_WorkingPaper10_Kurlantzick.pdf>, Council on foreign relations, international institutions and global governance program, 2012.
- Kutlina-Dimitrova, Zornitsa, and Csilla Lakatos. "Assessing the economic impacts of the EU-Singapore FTA with a dynamic general equilibrium model." *International Economics and Economic Policy* , November 24, 2014: 277-291.
- Lamy, Pascal. "Unlocking the potential of the ASEAN-Eu partnership. The role of Singapore." *Asia Europe Journal*, 2004: 485-487.
- Limão, N. "Preferential Trade Agreements." In *Handbook of Commercial Policy*, edited by Kyle Bagwell and Robert W. Staiger, 279-367. Holland: Elsevier, 2016.
- Mattheis, Frank, and Uwe Wunderlich. "Regional Actorness and Interregional relations: ASEAN, the EU and Mercosur." *Journal Of European Integration*, June 2, 2017: 723-738.
- Mazur, Grzegorz. "EU-ASEAN Free Trade Agreement(s)-Prospects and challenges for inter-regional FTA." *Research Gate*, November 2017: RESEARCH PAPERS OF WROCLAW UNIVERSITY OF ECONOMICS .
- McMahon, Joseph. "ASEAN and the Asia-Europe Meeting: Strengthening the European Union's Relationship with Southeast Asia?" *European Foreign Affairs Review*, 1998: 233-251.
- Meissner, Katharina Luise. "A case of failed interregionalism? analyzing the EU-ASEAN free trade agreement negotiations." *Springer-Verlag Berlin Heidelberg*, April 9, 2016: 319-336.
- Men, Jing. "The Construction of the China–ASEAN Free Trade Area: A Study of China's Active Involvement." *Global Society*, May 25, 2007: 249-268.
- Okano-Heijmans, Maaïke. *Trade diplomacy in EU-Asia Relations, time for a rethink*. Available at: <<https://www.clingendael.org/publication/trade-diplomacy-eu->

- asia-relations-time-rethink> Accessed:16-1-2019, Netherlands Institute of International Relations Clingendae, 2014.
- Palmujoki, Eero. "EU-ASEAN Relations: Reconciling Two Different Agendas." *Contemporary Southeast Asia*, December 1997: 269-285.
- Petersson, Magnus. "Myanmar in EU-ASEAN relations." *Asia Europe Journal*, September 30, 2006: 563-581.
- Pollard, Vincent K. "ASA and ASEAN, 1961-1967: Southeast Asian Regionalism." *Asian Survey Vol. 10, No.3*, March 1970: 244-255.
- Pollet-Fort, Anne. *Implications of the Lisbon Treaty on EU External Trade Policy*. Available at: <<http://aei.pitt.edu/33652/1/LisbonImpactonTrade-rev6Mar.pdf>> Accessed: 28-1-2019, Singapore: Dr Yeo Lay Hwee Director, EU Centre, 2010.
- Robles, Alfred C. Jr*. "An EU-ASEAN FTA: The EU's Failures as an international actor." *European Foreign Affairs Review*, 2008: 541-560.
- Rodrik, Dani. "Populism and the economics of globalization." *Journal of International Business Policy*, 2018: Available at: < <https://doi.org/10.1057/s42214-018-0001-4>>.
- Russel, Martin. *International agreements in process: EU-Vietnam Free Trade Agreement*. Available at: <[http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/628248/EPRS_BRI\(2018\)628248_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/628248/EPRS_BRI(2018)628248_EN.pdf)> Accessed: 9-1-2019, European Parliamentary Research Service, 2018.
- Santana, Roy. "70th Anniversary of the GATT: Stalin, the Marshall Plan, and the Provisional application of the GATT 1947." *Trade, Law and Development* 9, no. 2 (2017): 2-20.
- Schutze, Robert. "From the "Closed" to the "Open" Commercial State: A Very Brief History of International Economic Law." *Journal of the History of International Law / Revue d'histoire du droit internationa* 19, no. 4 (2017): 495-524.
- Sobel, Andrew C. *International political economy in context*. Los Angeles: SAGE/CQ Press, 2012.
- Stokes, Doug. "Trump, American hegemony and the future of the liberal international order." *International Affairs*, January 1, 2018: 133-150.
- Van der Geest, Willem. "Sharing the benefits of globalisation through an EU-ASEAN FTA?" *Asia Europe Journal*, 2004: 201-219.
- Van der Loo, Guillaume. *The Court's Opinion on the EU-Singapore FTA: Throwing off the shackles of mixity?* Available at: <[150](http://aei.pitt.edu/87754/1/PI2017-</p>
</div>
<div data-bbox=)

- 17Gvdl_SingaporeJudgement.pdf>Accessed 2-1-2019, Brussels: CEPS Policy Insights, 2017.
- Wilson, Maureen. "Globalization." In *Wilson, Handbook of International Social Work: Human Rights, Development, and the Global Profession*, edited by Lynne M Healy and Rosemary J Link, 16-23. Oxford: Oxford University press, 2011.
- Witkowska, Janina. "Integration Processes in the Global Economy: Current state and prospects. The case of the European Union, ASEAN Economic Community and NAFTA." *Comparative Economic Research*, December 18, 2016: 47-65.
- Wong, Reuben. "Model Power or reference point? The EU and the ASEAN Charter." *Cambridge Review of International Affairs*, Oct 16, 2012: 669-682.
- Woolcock, Stephen. "EU Trade and Investment Policymaking after the Lisbon Treaty." *Intereconomics/Review of European Economic Policy*, January-February, v. 45, iss. 1 2010: 22-25.
- World Trade Organization. *Six decades of multilateral trade cooperation: What have we learnt? B. The economics and political economy of International Trade Cooperation.* Available at: <https://www.wto.org/english/res_e/booksp_e/anrep_e/world_trade_report11_e.pdf>: Accessed: 20-10-2018, 2007.
- World Trade Organization. *The WTO and preferential trade agreements: From co-existence to coherence.* WTO, 2011.
- Wrobel, Anna. *Politics of Preferential Trade Agreements.* Warsaw: Institute of International Relations, 2015.
- Yamabhai, Inthira, Benjarin Santatiwongchai, and Chutima Akaleephan. *Assessing the impact of the Thailand-European Union free trade agreement on trade and investment in Thailand.* Available online at: <<https://www.omicsonline.org/open-access/assessing-the-impact-of-the-thailandeuropeanunionfree-trade-agreementon-trade-and-investment-in-thailand--2471-268X-1000-S1-106.pdf>>Accessed 17-1-2019, Health Economics & Outcome Research, 2017.
- Youngs, Richard. *Keeping EU-Asia Reengagement on track.* Available at: <https://carnegieendowment.org/files/eu_asia_reengagement.pdf> Accessed: 20-1-2019, Washington, D.C.: Carnegie Europe, 2015.

Summary

The European Union (EU) and the Association of Southeast Asian Nations (ASEAN) are two very different, yet close realities. Despite their geographical distance, they have always engaged in a broad political, social and economic relationship that has deepened throughout the years. Since 2007 the two have attempted to strengthen their economic relation by mean of an interregional free trade and investment agreement that would give them preferential access to each other's markets. Negotiations for such agreement (also known as EU-ASEAN FTA) came to a stall, and were subsequently paused, in 2009. Since then, the EU has continued to negotiate with ASEAN member-states bilaterally, with the hope of resuming the interregional agreement in the future. Two agreements were concluded so far, one with Singapore (known as EUSFTA) and one with Vietnam (known as EVFTA). They were concluded in 2014 and 2015 respectively, but they both still need to go through the full ratification procedure in order to become legally valid and enter into force.

The aim of this thesis is to evaluate the feasibility of resuming talks for an interregional trade agreement as well as identify the challenges and opportunities that the EU-ASEAN trade relation faces for the future. In order to do that, this work is divided into three parts: The first part is preliminary to the others; it sets EU-ASEAN economic relations in the more general framework of international economic relations. The second and third part then, focus specifically on the EU and ASEAN. The second part, after unfolding the structure of the EU and ASEAN and the history of their relations since the beginning, critically analyzes the EU-ASEAN FTA, EUSFTA and EVFTA. The third, and final, part is dedicated to the future of the EU-ASEAN trade relations. It builds on the first and second

part, and by using evidence from the previous chapters it draws some conclusions on the foreign trade strategy of the two partners towards each other in the future.

The first chapter unfolds the story economic globalization, intended as the increased integration of national economies around the world. This integration is, thus, favored by trade liberalization via free trade agreements or preferential trade agreements and opposed by protectionism and protectionist policies. Up until the second half of the 18th century, Mercantilism was the economic theory that prevailed in the international order. This theory sought to promote a favorable domestic trade balance in which the value of domestic goods exported exceeded the value of foreign goods imported. Needless to say, the concept advanced high protectionism and interventionism and left no space for any sort of free trade agreement among countries in the world. Later on, theoretical support for economic liberalism advanced by classical economists of the late 18th and early 19th century, such as Smith and Ricardo, created a favorable context for the actual development of global economic integration and the lowering of trade barriers throughout the period of the Industrial Revolution. After that, international trade went through periods of both liberalization and protectionism. With the end of the Second World War, countries began to long for economic cooperation and collaboration. It was in this spirit that the GATT first, and the WTO then, were designed; Their main scope was to manage and regulate international trade among world countries. Given the failure of the Doha round of negotiations in 2001, countries started to enter into Preferential Trade Agreements more and more often, even though it must be noted that the formation of different trading blocs created through the conclusion of PTA's has always existed in the global trading system. PTA's, intended as free trade

agreements among two or more partners that give preferential access to each other's market, are varied and differentiated. They include, among the others, regional trade agreements and economic integration agreements and differ in scope, membership and level of integration and liberalization. PTA's have with multilateral liberalization of trade a complicated relationship. While on the one side, they do increase free trade; on the other they do so just for a restricted number of countries. A debate has therefore emerged on the impact of PTA's on world welfare and multilateralism, with one side supporting them and the other condemning them.

The second chapter focuses on the debate surrounding PTA's. Indeed, many scholars have argued that, besides damaging world welfare, PTA's divert policy makers' attention away from WTO and decrease a nations' enthusiasm for further multilateral liberalization of trade. When the debate first started in the 1950's, the question focused on a "Static" analysis of the welfare's impact of PTA's in general. This was aimed at answering the question of whether PTA's create or divert trade. The general argument, sustained among others by Viner and Krugman, was that they diverted it. Those scholars argued that, by removing trade barriers for some countries but not for others, PTA's redirect trade flows towards one partner or another, thus influencing the initial comparative advantage of countries in trade. More specifically, when a PTA lowers trade barrier for a product with a country that is the higher-cost source for that product and not with the country that's the lower cost-source of the same product it diverts trade towards an inefficient source, thus decreasing world welfare. Subsequently, and with the advent of the second regionalism in the late 1980's, the question became more "Dynamic" and focused on whether PTA's help or hinder multilateral liberalization of

trade. Among the supporters of the hindering argument, Bhagwati advanced the argument that PTA's create a spaghetti bowl of messy and overlapping norms. Among the sustaining argument, Baldwin presented the domino theory and Juggernaut logic which together, starting from a PTA, beget further and multilateral trade liberalization. The Domino theory starts with an initial idiosyncratic shock such as an expanded membership of an FTA or an utterly new FTA altogether; According to Baldwin, this shock will trigger new membership requests from countries that were previously outside of any agreement. This because the decision of a country to become part of an agreement depends on the equilibrium of the various political forces at play inside the country. An expanded membership or a new FTA tilt the balance of the political forces inside a country in favor of the pro-membership side as this will now face higher discrimination if the country does not join the agreement⁵³. As soon as enlargement is granted, the domino effect is triggered, thus eventually and hypothetically expanding at the global level. The Juggernaut logic occurs in two steps. The first step starts with announcement of multilateral tariff-cutting talks based on reciprocity. This alters the political equilibrium in countries, as exporters go from being passive witnesses, not interested in the free-trade debate, to being active proponents of tariff-cuts and the lowering of trade barriers; In this case reciprocity is the key to this change in that it can hypothetically solve the political economy externality according to which, although free trade is the "best option" it is often hard to master political support for it . Thanks to reciprocity all governments now find it politically optimal to choose tariff levels that are

⁵³ It is important to note however that, in this analysis, Baldwin takes consumers and tax-payers as interest groups of second-order importance

lower than the unilaterally optimal tariff. The second step concerns the effect of Multilateral Trade Negotiations on the industry size and further liberalization. As trade barriers are lowered, import industries are weakened and decrease production, some of them will not be able to face the increased competition and will have to exit the market. Consequently, this will once again tilt the balance in favor of exporters, thus causing a further lowering of trade barriers. The juggernaut logic also triggers a cycle that eventually, and through several consecutive steps, leads to multilateral liberalization of trade. The argument put forwards by Baldwin is therefore that the Domino and Juggernaut theories together can beget trade liberalization and eventually lead to multilateral free trade. Finally, the chapter, aiming at reconciling the views, presents Dür's argument: PTA's can both help and hinder multilateral liberalization of trade, the difference only lies in the process and the response of the parties involved. Once a group of countries enter into an agreement that leaves out other countries, the excluded states can have four different reactions: (1) Apply for membership into the agreement; (2) Call for non-discriminatory trade liberalization; (3) Create a rival trade block; (4) Threat of using retaliatory measures against members. The amount of bargaining power of a state will determine which of the four options the country will adopt. The interaction of the excluding states and excluded states will determine whether a preferential agreement will become a stepping stone or a stumbling block towards multilateral liberalization of trade. The EU and ASEAN entail within them and among other things, agreements to ensure that their member-states have preferential access to the markets of the other member-states that make up their regional reality. Thus, they fall within the category of regional economic organizations that have

liberalized trade at a deeper level than the current global one by organizing into an economic and monetary union in one case, and a free trade area in the other. Moreover, with the attempt to establish a free trade agreement among them, the two partners have moved beyond their economic regionalism and towards interregionalism, thus expanding trade liberalization even further.

Chapter three finally focuses on the specific case study of the EU and ASEAN. The two have undergone a long integration process. They share certain similarities but have nonetheless reached different stages of integration at the political, institutional and economic level. This is because they have different institutional settings, membership, norms, and ultimately, different ideological backgrounds. Moreover, the historical path that has led to their creation originates from different reasonings. Due to their colonial experience, one of the main concerns for ASEAN countries was maintaining national sovereignty. In this respect, membership into the organization is perceived as a complement to nation-building and as way of enhancing national sovereignty rather than weakening it. For European Countries, on the other hand, the EU was a way to promote peace and stability and mitigate the power of sovereign states in order to put an end to the rivalry and tensions that had characterized the region until then. These different reasons for promoting cooperation in the two regions surely had an impact on the type of organization developed to promote this end and its level of integration. As a matter of fact, while the EU is almost fully integrated, ASEAN still remains behind. Regardless of their differences, the two have always had a strong relationship. Informal dialogue dates back as far as 1972. In 1975 formal dialogue was established with a joint Commission-ASEAN Study group. The first ministerial meeting occurred in 1978. At least

initially, the main reason behind the establishment of relations among the two regions was economical, then towards the 1990's it acquired a political dimension. The EU-ASEAN relationship today is composed of regular region-to-region ministerial meetings as part of the EU-ASEAN dialogue, and individual EC-ASEAN Cooperation Agreements. There is then a further forum for dialogue between the two regions, which however is not limited to them. That is the Asia-Europe meeting (ASEM) composed of the members of the EU and its Commission, members of ASEAN and its Secretariat, plus China, Japan and South Korea.

Chapter four moves on to the bulk of the economic relation at present time, by analyzing the EU-ASEAN free trade agreement. Given the increasing economic ties among the two partners, the agreement was attractive for both sides. In the specific, four main reasons laid behind the deal: (1) EU presence in ASEAN and ASEAN presence in the EU has made the two partners among the largest partners for each other for what concerns both trade and investments; (2) Both ASEAN and the EU wanted to expand their market access towards each other so as to exploit their economic ties to their full potential; (3) the EU wanted to reassert its influence in the ASEAN region after this had concluded a number of agreement with other powers, namely US, China and Japan, which threatened EU's dominance in the region; (4) the Doha round of multilateral trade negotiations had come to a stall so that the only way to ensure all of the above and increase trade liberalization was to enter into a comprehensive and broad interregional agreement. These factors triggered the beginning of negotiations. In 2007, after a vision group was commissioned to explore the feasibility of the agreement and a qualitative and quantitative study were carried out on the same matter, the Council granted the

Commission the approval to start negotiations. The agreement was to be broad and comprehensive, however, after seven rounds of negotiations the parties agreed to pause negotiations. Several factors contributed to the stalling in the negotiation process which, in the end, can all be summarized in one reason: EU's desire for a deep and far-reaching agreement was in contrast with ASEAN's actual heterogeneity of interests. After the failure of the interregional agreement, the EU decided to temporarily abandon the region-to-region approach and moved towards a region-to-country approach, thus initiating several negotiation processes with single ASEAN member-states.

Chapter five analyzes the alternative path that the two institutions have embarked into after the failure of the interregional agreement. It focuses specifically on the EUSFTA and EVFTA as successful examples of the EU-ASEAN enhanced trade relationship. The two agreements are broad and comprehensive; the chapters of both deals focus on trade in goods, services, government procurement, IPR and GI's, competition policy, trade and sustainable development, labor standards and dispute settlement mechanism. The approach, as well as structure, of the two agreements is similar; yet they differ, at times, in the language used and solutions adopted on a number of issues. This is a demonstration of how the two deals are carved out to fit the needs of two different partners which have different economic structures.

The last chapter, by building on the previous information and theories, speculates on the future of the EU-ASEAN trade relationship. First of all, it must be noted that there are other negotiations that have been started or are currently undergoing between the two regional partners. This final chapter, therefore, briefly focuses on the current status

of EU's bilateral negotiations with the remaining ASEAN countries, that are yet to be concluded. It also highlights the challenges that emerged bilaterally which, if not addressed properly, might undermine the conclusion of the agreements. The evidence put forward so far, throughout the thesis, suggests that the EUSFTA and EVFTA might trigger the domino theory and beget further trade liberalization, be it at the bilateral or interregional level. This further liberalization, however, might cause an additional problem, typical of PTA's and mentioned in the second chapter, the noodle bowl. Whether bilaterally or regionally, but in this latter case still necessarily with many country-specific rules, an agreement with ASEAN will multiply the array of existing rules surrounding free trade, thus complicating the current scenario and creating a noodle bowl of many norms and requirements. Even though further trade liberalization seems a possibility in the near future, one problem remains at the core of the EU-ASEAN trade relationship: The trade strategies that the two are adopting towards each other appear unclear and ambiguous. More specifically, the EU needs to clarify which side it stands on, whether that of bilateralism, interregionalism or multilateralism. Most importantly, it needs to coherently develop its actions accordingly. The problem is not so much what to choose, but rather how to reach a certain goal. Indeed, it can appear clear enough that the Union is choosing multilateralism; what appears less clear is how many bilateral agreements are going to be transformed into a single interregional one first, and eventually merge globally into multilateral free trade. Turning to ASEAN, the organization needs to clarify its intent, and whether it wants (and its able) to act as a single entity on the free trade agreement front. If the answer is yes, then its member states needs to be ready to give up some of their bargaining power for the sake of unity.

At the moment, it seems unlikely that this will happen. ASEAN's member-states are too diversified and varied and ASEAN's power as a supranational organization is too weak if non-existent to bring about this change. As already mentioned, at present the EU is hoping to revive negotiations for a region to region agreement, but the prospects for the near future appear challenging on several fronts. First of all, the two organizations need to overcome the several issues that arose at the bilateral level, from the proposed ban on palm oil to the human rights and democracy issues present in several ASEAN countries. The Vietnam agreement with its labor rights issues is the striking example of how, if not properly addressed, such concerns might undermine the successful outcome of negotiations by stalling the ratification process. Once the two sides manage to find a solution to the several challenges that hinder trade talks among them, they will need to address their foreign trade strategy and develop a more coherent and clear approach. At the moment, the only way out seems to consider the bilateral and regional approaches as complementary. This would mean that, similarly to other regional agreements such as the TPP (which now has become the CPTPP as consequence of the withdrawal of the United States), the ASEAN-EU agreement would have a common umbrella of rules and disciplines, while negotiating bilaterally with each country market access schedules and the more delicate issues such as services or public procurement. Still, the complementarity approach requires actions to be taken both bilaterally and regionally and as we have seen problems remain on both fronts. On one side because many human rights, environmental and democratic issues remain with single ASEAN's countries. On the other side because ASEAN is not able to, and does not want to, act as a single and unified entity to carry out a regional agreement. Given the ongoing

problems that exists both bilaterally and regionally, in the trade strategies of the two organizations, it is unlikely that any EU-ASEAN FTA will be concluded soon. As the final chapter clarifies, several issues remain, solving them will require patience and flexibility on both sides and whether the two entities will be able to overcome their differences bilaterally and regionally in the near future is yet to be seen; the journey towards a stronger economic and trade partnership for ASEAN and the EU is still long, and the road ahead will not be without obstacles.