

Normative or Market Power Europe? Elevating Global Labour Standards Through Trade in EU–ROK Relations (2011–2020)

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By applying the normative power Europe (NPE) and market power Europe (MPE) lenses, this thesis examines the European Union (EU)'s diplomatic strategy concerning the global labour agenda of the EU–Republic of Korea (ROK) relations from the provisional implementation of the bilateral free trade agreement (FTA) in 2011 to recent developments following the initiation of the dispute settlement procedure in 2020. The ROK has taken more decisive measures after the EU's initiation of the dispute settlement, which altered the diplomatic method from cooperation to coercion, and shifted the power nature from NPE to MPE. Despite the innovative institutional instruments in the EU's trade and sustainable development chapters, this research identifies factors that can marginalise the EU's effective exercise of power.

Keywords: EU–ROK Relations, ILO Core Conventions, Trade and Sustainable Development Chapters, EU–ROK FTA, Normative Power Europe, Market Power Europe, Norm Diffusion Theory, Global Governance, Trade–Labour Nexus

INTRODUCTION

The EU–ROK FTA is the EU's first second-generation FTA that includes a trade and sustainable development chapter (hereafter 'trade and sustainable development chapters'), which concerns the social and environmental effects of trade. This case study sheds light on the nine years of the norm diffusion phenomenon between the EU and the ROK regarding the International Labour Organisation (ILO) fundamental conventions (hereafter 'the Conventions') in the landscape of the EU's second-generation FTA's trade and sustainable development chapters. The EU was known for its reluctance to impose sanctions on countries for labour rights issues, even those in severe violation of labour rights, which are of lesser economic interest to the EU (Orbie & Putte, 2015, p.277). However, the EU has filed a request of consultation to the ROK for the first time since the development of the trade and sustainable development chapters, arguing that the ROK has shown non-compliance with sustained and continued efforts for global labour standards (EU, 2018). Despite the lack of a sanctioning mechanism in the trade and sustainable development chapters, the filed request is encouraging the ROK government to demonstrate more decisive measures towards ratification. Against this brief background, the EU–ROK relations are significant for three reasons: first, the EU's unique foreign policy development in multidimensional, multifaceted and multilevel characteristic is illustrated; second, this case study can depict all stages of the EU's power from NPE to MPE; lastly, these relations are particularly crucial in highlighting the existing caveats of exerting market power on non-trade objectives that involve global labour rights and the principles of the Conventions.

The Conventions are at the heart of this debate and can suggest the extent to which the EU's bilateral approach has strength over the current multilateral trade regime. The Conventions are relatively well-endorsed by the international community, and the four fundamental principles derived from the Conventions are considered the main establishment of the social floor in the world of work (ILO, 2002). However, a disparity in the degree of compliance with the global labour standards exists based on the country's ratification of the Conventions. The ILO Declaration on Fundamental Principles and Rights at Work in 1998 (hereafter 'the 1998 ILO Declaration') establishes the political commitment of all member states of the ILO, but ratification to each Convention is necessary to establish a legally binding responsibility (ILO, 1998). This diverging level of acceptance of the Conventions leads each country to perceive them as 'norms' or 'foreign norms' on the basis of the country of origin and its ratification status. Moreover, severe contestation has been occurring since attempts were made to include an obligation to labour protection in part of the multilateral trading system, which was rejected in 1996 WTO Ministerial Conference in Singapore, mainly because the Global North's intent was perceived as 'disguised protectionism' (Bhagwati, 2007, p.57). Additionally, the EU's attempt to include labour provisions in the bilateral FTA faced opposition from the Association of Southeast Asian Nations (ASEAN) and India during negotiations (Gupwell & Gupta, 2008).

Therefore, the EU's diplomatic strategy to include labour and environment in trade via the trade and sustainable development chapters has been an ambitious project from its birth, considering the multilateral contestation. This suggests that the EU enabled this inclusion in the bilateral FTA and Generalised Scheme of Preferences (GSP), but what kind of power is the EU to realise this? The Conventions can be examined from the NPE lens (as 'diffusion of norms') or the MPE lens ('externalisation of market-related measures') (Damro, 2012, p.696-697). The literature shows the compatibility of NPE and MPE; NPE has a limitation in explaining material factors and power dynamics (Keukeleire & Delreux, 2014, p.139; Hyde-Price, 2006; Pollack, 2012), whereas MPE cannot fully explain the normative justification of the EU's actions and why the EU does certain things without NPE bases (Damro, 2012). Hence, by combining these two approaches, this thesis depicts the bilateral relations in the EU's normative and market powers. This study determines whether they are compatible and identifies the extent to which these two powers are jointly effective in diplomatic strategy in practice.

Since the introduction of the social dimension of trade policy, the EU has had specific references to multilateral conventions and has actively promoted the concerned issues via political dialogues and civil society forums, which are established within the institutional mechanisms in the trade and sustainable development chapters. While this achievement of the EU is generally considered a success and an innovation that goes beyond the current multilateral trade system in the World Trade Organization (WTO), as this attempt was frustratingly held up in the 1990s (Marin Duran, 2013, p.126-130), scholars have noticed wide-ranging caveats of the trade and sustainable development chapters: limited legal obligations (Gruni, 2017), problems in the civil society fora of the Domestic Advisory Group (DAG) (Putte, 2015), the institutional mechanism in a broader scope (Orbie, Putte, & Martens, 2016), and limitations of the dispute settlement mechanism in empowering stakeholders to enforce the rules in the FTA agreements and practice (Marx et al., 2017). Therefore, in the process of shedding light on the nature of the EU's diplomacy and its power source it inevitably pays to examine the caveats in the current Trade and Sustainable Development Chapter mechanisms. This finding can provide valuable policy implications to the future FTAs of the EU with its trade partners concerning its diplomatic strategy and the effectiveness of the current strategy.

Against this contentious backdrop, this research asks how does the EU exert its influence over the ROK in the matters concerning the unratified Conventions under the Trade and Sustainable Development chapters? This case analysis examines the EU-ROK relations from 2011 to recent developments in May 2020 to provide a holistic view via two main research methods. First, document analysis is conducted by examining the EU and the ROK to characterize the EU's diplomacy and the ROK's continued efforts. Second, in-depth interviews at the diplomatic level are conducted to illustrate both parties' intent and to shed light on the current diplomatic attempts by the EU to promote global labour standards and how it has been perceived by its trade partner state of norm-taker which do not appear on documents. The intensification of the EU's pressure was used to divide the timeline into two. The first period from 2011 to

December 2018 (before the EU requests formal consultation) and the second period start from then until May 2020.

This research is structured as follows: the next chapter provides the general research design of the case study, and the three chapters explain the institutional and dispute settlement procedures in the Trade and Sustainable Development Chapter and the bilaterally established commitment to the ILO fundamental conventions. And in the following chapter, by applying both NPE and MPE it synthesizes the EU's power transformation in its nature from cooperation to coercion. And finally, the last chapter concludes the main findings with implications and suggests future research topics.

METHODOLOGY

Research Question

This research aims to answer, *how does the EU exert its influence over the ROK in matters concerning the remaining ILO fundamental conventions under the Trade and Sustainable Development chapters?* This question is answered by focusing on institutional and dispute settlement mechanisms established in the bilateral FTA, and the processes which the EU has employed to diffuse these global labour standards to the ROK government by exerting both NPE and MPE. The two mechanisms are integral parts of the thesis as they allow the EU to engage with the ROK and provide a regular meeting venue for the EU to exert its power. The institutional mechanisms establish two binding meetings: an annual social dialogue between the two parties at the Committee of Trade and Sustainable Development (CTSD) meetings and the Civil Society Forum (CSF). Similarly, the dispute settlement mechanism also pressurizes the trade partner but with added pressure as this involves a panel of experts which is composed of independent experts of both parties to publish the final report that the negligent or liable party should comply with but this mechanism cannot be used for enforcing sanctions against the concerned party.

Before the EU initiated the dispute settlement procedure to the ROK, growing scepticism emerged over the credibility of the Trade and Sustainable Development chapters' enforcement mechanism on whether they can fully address non-compliance with the Trade and Sustainable Development chapters agenda. (Marx et al., 2017, p.15). Scholars have suggested recommendations to improve effectiveness in diverse scopes from legal obligations (Grüni, 2017); to involving ways to improve the operations of the civil society fora (Putte, 2015); or the general institutional mechanism (Orbie, Putte, & Martens, 2016); or enhanced dispute settlement mechanism for the empowerment of stakeholders to enforce the rules (Marx et al., 2017, p.10).

By considering these previous findings' scepticism, it examines the EU's power exertion in the mechanism of both institutional and dispute settlement process and finally examines to what extent these mechanisms were effective in pressuring the government and shed light on the current caveats within the system for the EU's future diplomatic strategy in the labour and trade nexus of the Trade and Sustainable Development chapter of the EU's FTA.

Theoretical Framework

NPE and MPE are the main lenses to analyse the nine years of bilateral relations since 2011 when the FTA entered into place and will be applied in two timespans before and after the EU's request for consultation which indicates the EU's pressure. (See [Table 1]). NPE and MPE theories are complementary in their strength and weakness in explanatory values and this section examines the complementarity of the two theoretical foundations by examining the existing scholarly literature.

Norm's diffusion is at the centre of the bilateral interactions and special attention is paid to these theoretical disciplines. First, norms are "shared understanding that makes a behavioural claim" (Checkel, 1999, p.88) or "standards or appropriate behaviour" (Finnemore and Sikkink, 1998, p.891). Combining these two definitions, norms in this research is a set of standards that are perceived as an appropriate behaviour shared within a certain community and the global labour standard is at the centre of discussion.

TABLE 1
TWO THEORETICAL FRAMEWORKS IN COMPARISON:
NORMATIVE POWER EUROPE AND MARKET POWER EUROPE

	Normative Power Europe (NPE)	Market Power Europe (MPE)
Methods	NPE methods (Manners, 2002) <ul style="list-style-type: none"> • Persuasion • Argumentation • Conferral of shame and prestige 	MPE Characteristics (Damro, 2012) which generates coercion from its trade partners <ul style="list-style-type: none"> • Material existence • Institutional features • Contested interests
Strength	EU's identity explains why it does and says certain things based on values (socialization of norm diffusion)	Material based externalization of market-related policies (coercion and material conditionality)
Weakness	Power dynamics and material factors	EU's strives for a global regulator role
Unit of analysis	Socialization in cooperation period in the institutional mechanism in political dialogue, and technical assistance	Externalization attempt in the dispute settlement procedure which has generated coercion

Norm diffusion of the EU has been conducted and analysed in many issues, including the death penalty (Manners, 2002); children' rights (Manners, 2008b); regionalism (Lenz, 2013); Labour Standards (2009, Orbie); democracy and human rights (Szymanski & Smith, 2005), this shows how effective the EU's influence is by the impact it has on "what is considered appropriate behaviour by others" (Diez and Manners, 2007, p.175). These ideational values are enshrined in the EU's identity, what the EU is, and shapes the EU's activities and the EU diffuses these values via increasing the perception of the appropriateness (Manners, 2002 p. 252). The EU's success in exerting its international influence "by virtue of attractiveness" is enlarged via a specific discursive representation and symbolic practices (Diez and Manners, 2007). And active forms of "socialization" are held in cooperation, political dialogues, and other technical assistants (Lenz, 2013) which demonstrates the EU's ability in shaping the perception of norms via socialization and other norm diffusions is the central idea of NPE (Manners, 2002).

The ILO fundamental principles are the values that correspond with the EU's identity enshrined in the Treaty of European Union concerning its minor norms of social solidarity and non-discrimination and also are valued in human rights and fundamental freedom aspects (Manners, 2008a, p.28-30). Social solidarity and non-discrimination, in particular, are diffused through trade policies in GSP Schemes in integrating the principles (Orbie, 2009). Thus, the EU's activities as expected are in line with the EU's normative basis that can be linked with the international law treaties of the ILO (Orbie, 2009, p.163). Several soft-law nature binding commitments have been established for the ILO fundamental labour principles and are included in the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, Economic, Social and Cultural Rights, the Organization for Economic Cooperation Development's Guidelines for multilateral enterprises, as well as the UN Global Compact (Alston, 2005, p.3). This suggests that the fundamental labour standards are not just the ideas of rights, but has been growing at the heart of international human rights law in the realm of global governance.

The NPE lenses can explain the legitimate background of its actions based on its identity (Manners, 2002) but have limitations in fully explaining "norm-taker's" (Checkel, 1999) motivation to internalization or localization of such norms, as they are often too embedded with the ideational factors which lead to overlooking power dynamics and material motivational factors (Hyde-Prince, 2006; Pollack, 2012). To compliment such limitations, MPE shows advantages in explaining the norm-taker's motivation when normative justification interacts with material incentives and the EU's capability in using both persuasive and coercive means to influence, using its large single market with institutional features and competing for interest groups (Damro, 2012; 2015). Damro agrees on NPE being the prominent contribution and that it is the basis of the EU as a power to explain the relationship between what the EU is and its power. However,

MPE is "an alternative explanation" which has explanatory values of how the power of the EU is different and differently exerted (Damro, 2012, p.684-686), and analyses more specific market-related policy or regulatory measures including labour agenda unlike its main focus lies in the "fuzzy norms" of the NPE (Damro, 2015, p.34-35).

MPE scholars argue that the market size of the EU has significant importance in the externalization of international regulations as incentives lead norm-taker governments to coordinate their regulatory and affects their perceptions over outcomes that work as an "attractor," causing convergences of their preferences (Drezner, 2007, p.32-33). The MPE exerts in "persuasion" entails cooperation from third-party countries to induce a desired internal and external policy change; while "coercion" involves threatening or inflicting punishment (Smith, 2014, p.22-25). Coercion is a major MPE's regulatory capacity, which acts as a sanctioning authority and an integral part of affecting externalization (Bach & Newman, 2007, p.832). While there is no sanction available in the second agreement FTA which includes the Trade and Sustainable Development Chapter, the EU could create fear of its trading partner states by expressing its concerns over the non-compliance of the labour agenda which is in its trade agreement and exert coercion intentionally or unintentionally.

The EU's power use in both NPE and MPE and its main methods utilized will be further discussed in the analyses to depict the nature of the EU's diplomacy. In the first phase, the EU has engaged with the ROK in a cooperative environment of "socialization" in the NPE aspect in convincing the government to learn the value of implementing the ILO Fundamental Conventions. In the second phase, the EU has exerted MPE which has developed a fear of coercion that would potentially lead to trade tension with the largest Foreign Direct Investor and the third largest destination of goods from the ROK.

Hypothesis

This research confirms whether and how the EU's diplomacy towards the ROK did has changed its nature from cooperation to coercion after the EU requested government consultation in December 2018. The intensification of the EU's pressure from the institutional mechanism to the dispute settlement procedure under the Trade and Sustainable Development chapters serves as an important incident that has changed the EU-ROK relations surrounding the Conventions, which has prompted the ROK to take more decisive measures. This research argues that the EU transformed its nature of power from NPE to MPE with the initiation of dispute settlement mechanism, meaning that the nature of the EU's diplomacy changed from persuasion to coercion, which prompted more decisive measures from the ROK government. Three main procedures show the escalation of this pressure in the FTA: cooperation, government consultation, and a panel of experts (EU ROK FTA Article 13.11 to 13.16; Gruni, 2017). Cooperation is based on bilateral institutional mechanisms that establish binding bilateral annual meetings to discuss the Trade and Sustainable Development chapters agenda and are held in two formats, CTSD and CSF. The government consultation and panel of experts are part of the dispute settlement procedure of the Trade and Sustainable Development chapters (EU ROK FTA Article 13.16) which represents the EU's escalated push in diplomatic means.

Variables and Indicators

The EU's diplomacy is employed as an independent variable and the ROK's continued efforts to ratification are used as a dependent variable, and the escalation of the EU's pressure is the initial point that the EU's diplomacy has been transformed from cooperation to coercion and changed the nature of power from NPE to MPE. This part provides the operationalization of the variables.

The EU's foreign policy is complex. It comes both the internal dimensions of the institution as a regional organization that develops policies by considering its member states while playing a global regulator's role externally. The Commission is the sole negotiator to act towards non-EU third party states but the internal dynamics within the EU affect the EU's external actions. This is reflected in the existing literature which perceives that the EU has three main characteristics: multichannel (embedded in an international context and comprising of the national policies of the member states), multi-method (a combination of intergovernmental and a community method), and multi-faceted (CFSP, CSDP, external action and external

dimension of the internal policy) (Keukeleire & Delreux, 2014, p.33-35). This complex nature of the EU's internal decision-making process affects the Commission to act encompassing both horizontal and vertical axis. Among the internal EU actors, the European Parliament's increasing role and voices in trade are noticeable which actively urges the Commission to take actions on labour rights aspect in the Trade and Sustainable Development chapters (European Parliament, 2017, p.10) or the human rights situation in Vietnam (European Parliament, 2018; Thu & Schweisshelm, 2020, p.16-19), it requires each Member State's compliance as a regional organization.

TABLE 2
VARIABLES AND INDICATORS OF RESEARCH

		IV: EU's diplomacy		DV: ROK's efforts	
Theoretical Foundation	2011-2018 NPE	2018-2020 MPE	ROK's decision to take decisive measures in 2018		
		Persuasion, cooperation	Coercion		
Indicators	<ul style="list-style-type: none"> • Context of the labour agenda in bilateral annual meetings (Committee of Trade and Sustainable Development Chapter and Civil Society Forum) • EU's internal mechanism and diplomatic activities (European Commission, European Parliament, European External Action Service) 	<ul style="list-style-type: none"> • Dynamics after the dispute settlement procedure 	<ul style="list-style-type: none"> • Presidential speech • Ministry of Employment and Labour press release • Legislative bills 		
Research Method	Document analysis	In-depth interviews (EU Delegation to ROK)		Document analysis and in-depth Interview (Korean Embassy to EU)	

By taking this contextual background, the EU's diplomacy is defined here as all diplomatic activities by the EU to influence the ROK concerning the ILO fundamental conventions, and three main actors are examined: the European Commission, the European Parliament, and the European External Action Services (or the EU delegation to the ROK specifically). Additionally, the Domestic Advisory Group's activities are analysed as they are the main norm diffusion actor at the civil society level and making fruitful changes possible by advising who advises the CTSD and monitors the implementation of the Trade and Sustainable Development chapters at the Civil Society Forum, which is held back-to-back with the CTSD as an integral part of the institutional mechanism established in the FTA.

The norm-taker in the analysis, the ROK, has ratified trade agreements with major economies including both the US and the EU and they include extensive labour provisions. However, the non-compliance of the ROK was noticeable even after the EU-ROK FTA entered into place and this brought scepticism over effectively addressing the non-compliance of its trade partners (Harrison et al., 2018; Thu & Schweisshelm, 2020).

Some legislative attempts for the ratification of the remaining conventions were made by the ROK and President Moon Jae-in has enlisted the full ratification of the Conventions as one of his hundred presidential agenda (Cheong Wa Dae, 2017), these actions did not result in ratification due to the strong employers' associations and the lack of legislative or administrative support. Based on this contextual background, the dependent variable is the ROK's continued and sustained efforts towards ratifying the ILO fundamental conventions (EU-ROK FTA Art 13.4(3)) and this includes all legislative, administrative, and relevant ministry' actions to examine the responsibilities of the enforcement, legislative efforts to ratify the

Conventions and ratchet clause in preventing reverse progress Conventions (Namgung, 2019, p.45-47; European Council, 2007).

Research Methods and Data Collection

This case study examines recent bilateral relations between the EU and the ROK in pressuring labour agenda using the EU's trade strategies and explains how the EU's diplomacy unfolded in the institutional process under the Trade and Sustainable Development chapters case study and illustrates the decision why a certain case study is taken, how it is implemented, and with what results are prompted, and these are the main focus of the research.

TABLE 3
DATA COLLECTION

	Document Analysis	In-depth interviews
EU's Diplomacy	European Commission <ul style="list-style-type: none"> • EU-ROK FTA implementation report (2013-2019) • Annual joint statements of Committee of Trade and Sustainable Development (2011-2019) • EU Trade Commissioner's statement • EU-ROK Summit press releases European Parliament <ul style="list-style-type: none"> • Resolution (2017) urging Commission to act Domestic Advisory Group <ul style="list-style-type: none"> • DAG Letters to Commissioner (2014) • Conclusion of CSF (2011-2018) 	European Delegation 1 (ED1): Interview with EU delegation to the ROK Trade Department European Delegation 2 (ED2): Interview with EU delegation to the ROK Political Department
	ROK's Effort	Administrative Institution <ul style="list-style-type: none"> • ROK president's statements • Ministry of Employment and Labour press release Legislative Institution <ul style="list-style-type: none"> • National Assembly's legislative bills

Two research methods are employed: document analysis to identify the underlying information and in-depth interviews to provide clear interpretation in the norm diffusion process (see [Table 3]). After identifying the essential factors via document analysis, three in-depth interviews are carried out with the EU delegation to the ROK, and the ROK embassy to Belgium. An interview is an essential method to collect information involving peoples' activities (Silverman, 2014) and provide details by interviewers trying to elicit information, belief, and opinion (Burns, 2000; Silverman, 2014).

The two parties' first-hand experience working as the main diplomatic channel of communication was revealed and filled the gap which did not appear on official documents concerning the EU's first power raised against its strategic partner and its diplomacy and the partners' perception confirmed whether it was effective enough in elevating the global labour standards.

EU'S DIPLOMACY IN TRADE AND LABOUR NEXUS

Birth of EU's Diplomatic Strategy to Elevate Global Labour Standards

The EU's diplomatic strategy to protecting labour through trade in a promotional approach from its birth has an important implication to the current EU's trade and labour policy, but the concerns over protectionism have persisted. Since 2006, the EU began to negotiate with its partners using the new generation of the FTA, and the ROK was the first country to sign while the ASEAN countries and India showed more opposition to the labour clause (Gupwell & Gupta, 2009). This is one aspect of the EU's

power affecting the environment, labour, and human rights in exchange for the market access to shape global governance through trade (Meunier and Nicolaïdis, 2006, p.907).

When the EU's ambition to enhance the social dimension agenda of trade was announced in 2005 via then-Trade Commissioner Peter Mandelson in his speech declaring the plan to include protection of labour in its bilateral trade agreements, he stressed the EU's close cooperation with the ILO to strengthen the social dimension of trade policies during trade negotiations but stressed that this is not intended as "covert protectionism" (Madelson, 2005). His remark was followed by the EU's rejecting the idea of sanction-based approaches in trade policy in preparation for the WTO Ministerial Conference and opposing protectionist purposes (Blanpain & Auer, 2005, 64-67).

In that social ambiance, the EU's attempts to expand its regulatory practices and values were still perceived as another form of protectionism (Bretherton and Vogler, 2006, p.86). As it was only a few years after soaring opposition from the developing countries resulted in the rejection of the global North's attempt to include the labour agenda in the multilateral trading system in the 1996 WTO Ministerial Conference, the global North's attempt was inevitably seen as "disguised protectionism" (Bhagwati, 2007, p.57) as trade enforcing labour protection can lead to challenges in the industrial sector and result in job losses (Stern & Terrell, 2003, p.7). All in all, the EU's social dimension of trade continues today and affects the EU's promotion based model.

Institutional and Dispute Mechanism of EU's Trade and Sustainable Development Chapter

The core part of the second agreement of FTA is at the solid provisions of Trade and Sustainable Development chapters that have created the Parties' binding commitment to meetings via institutional mechanisms for regular socialization to change the trader partners' perception and enforce shame via dispute settlement procedure that involves experts, stakeholders, and civil society organizations over the Party's non-compliance to the Trade and Sustainable Development chapters agenda. It is one exemplar of NPE that the EU utilizes in forms of persuasion, argumentation rather than coercion and is embedded with the material motivations to bring about changes from third-party states (Manners, 2009, p.793).

Two mechanisms are designed for the EU's norm diffusion in the bilateral Trade and Sustainable Development chapters which are institutional mechanism and dispute settlement mechanism. This reflects the value-based trade agenda, the EU's ambition for trade's social dimension agenda that non-trade objectives shall be discussed via social dialogue (European Commission, 2015a). The institutional mechanism allows for social dialogues between labour unions, employers association, NGO, academia, and other civil society actors with the CTSD, a subcommittee of the FTA under the Trade Commissioner and composed of Director General of the labour and environment ministers, and other government officials (European Commission, 2018; European Commission, 2017).

Despite the EU's promotional nature and seemingly innovative tool of institutional mechanisms via regularly held bilateral meetings to convince its trader partners to learn the value of ratification of the Conventions and for the EU to lead them to see it as a benefit rather than a cost, scepticism appears mainly concerning the institutional mechanism's effectiveness to bring actual enforcement. Five main limitations have been addressed by scholars: first, limited functions of DAG; second, lack delivery and focused action and limited room to manoeuvre along with the differences in focus; third, insufficient use of existing monitoring and enforcement mechanisms; and fourth, insufficient response to the concerns raised at the CSF by the CTSD, and lastly, these shortcomings leading to more credible means to enhance effectiveness such as sanctions (Harrison et al., 2018; European Commission, 2017b).

Above all, the heart of the problem lies at the lack of legal and political prioritization of the Trade and Sustainable Development chapters in the implementation of the key provisions, which hinders the impact of the FTA on labour standards (Harrison et al., 2018), which in turn brings ambiguity and confusion on the fundamental purpose of the trade and labour linkage to the trade partners.

The dispute mechanism involves experts in the investigation of compliance of the Trade and Sustainable Development chapters. This means the shaming and naming are applied through the publication of a party's non-compliance and a requirement of a binding commitment is issued to the concerned party to improve. Dispute settlement procedures of the Trade and Sustainable Development chapters are separately

operationalized and cannot be used to impose sanctions. One party requesting a consultation over a disputed Trade and Sustainable Development agenda initiates the procedure and a panel of experts can be established when that party is not satisfied with the consultation result. The panel of experts then identifies the complaints and makes recommendations to improve on the concerned agenda. While they prepare for the final report, they can consult with the parties, ILO, and DAGs, and each party can comment before the publication. The further procedure is monitored by the DAG after the final report is published. The EU has never initiated this process and this reluctance was criticized for valuing trade objectives over non-trade objectives before its first initiation against the ROK in December 2018.

Sanction Versus Promotion Based Approach

The shortcomings in the existing institutional mechanisms often lead to discussions of introducing sanctions in the EU's Trade and Sustainable Development chapters and the sanctioning power of the US can serve as a comparison. While both the EU and the US include labour protection clause in bilateral trades and the ROK has ratified FTAs with both, the US's approach is sanction based to prevent states' unfair practices from happening and the EU's approach is based on values (European Commission, 2015a) to promote an idea that enhancement of labour rights can increase worker productivity (Sengenberger, 2003, p.10), which aim for long term systematic changes by also portraying arguments that improving labour standards do not have disadvantages in international investments (Kucera, 2001, p. 24-34).

The major objectives of the EU's Trade and Sustainable Development chapters in the second agreement of FTAs were to introduce a mechanism based on social dialogue that involves government and civil society actors monitoring, and cooperating with the ILO on the Conventions and improving the global labour conditions (European Commission, 2015a).

The sanction supporters, on the other hand, argue that a state alone cannot protect labour rights in the globalized economy due to "collective action problems" in the absence of sanctions. This is because the developing countries continue to compete to lower the labour costs to attract more multinational corporations, which leads to the "race to the bottom" and conversely, generates detrimental working conditions. Thus, the global society shall develop labour laws and set the rules of universal working conditions and specific regulations in cases of breach of global labour conditions to overcome this collective action problem with sanctions (Hyde, 2006, p.149).

EU-ROK RELATIONS IN TRADE AND SUSTAINABLE DEVELOPMENT CHAPTERS

Contextual Background of the EU-ROK Relations

The EU-ROK enjoys vibrant bilateral cooperation that is established from three pillars of agreements which have created well-operational institutional mechanisms: Free Trade Agreement in 2011, Framework Agreement in 2014, and Crisis Management Partnership Agreement in 2016 (Pacheco Pardo et al., 2018, p.3-4). Based on the three pillars of agreement that enhance cooperation, the EU and the ROK mutually see each other as "like-minded partners" that share common values of democracy, human rights, and common views on the global challenges (Pacheco Pardo et al., 2018, p.6-7). After the FTA entered into force, the bilateral trade has increased since, and now the EU is the ROK's largest foreign investment investor and third largest export destination, and the ROK is the EU's eighth-largest export destination (European External Action Service, 2020).

The Framework Agreement which entered into place three years after the FTA is an important agreement that enhances bilateral partnerships in matters requiring collective efforts and this includes the ILO fundamental Conventions. The agreement entails three main provisions to strengthen bilateral cooperation in this regard: the Parties' cooperation with the ILO (Art 8); respect multilateral labour and social standards namely the ILO Declaration on Fundamental Rights and Principles at Work (Art 22(3)), and political dialogues (Art 3) for collective efforts.

TABLE 4
SUMMARY OF INSTITUTIONAL MECHANISM AND DISPUTE MECHANISM

Institutional Mechanism	
CTSD (Art 13.12)	Bilateral annual meetings to oversee the implementation of the Trade and Sustainable Development chapters Attended by labour and environment ministers and commissioners, relevant departments, and governmental officials. Reports to trade committees and the DAG at CSF
DAG (Art 13.12, 13)	Monitors implementation of the Trade and Sustainable Development chapters and advises recommendations on the Trade and Sustainable Development chapters issues Composed of independent representatives from Civil Society Actors with tripartite nature (trade unions, employers, NGOs, and sometimes academia)
CSF (Art 13.13)	Meetings of the two parties' DAG and CTSD meetings held back-to-back with the CTSD Annual summary of progress concerning problems and reports to trade committee Observations of non-compliances, and signals to trade committee. During CSF, CTSD reports to DAG on the implementation of the Trade and Sustainable Development chapters agenda.
Dispute Settlement Mechanism	
Government Consultation (Art 13.14)	When there is a dispute on the Trade and Sustainable Development chapters agenda on labour or the environment, a party can request for a governmental consultation.
Panel of experts (Art 13.15)	If not improved and resolved 90 days after the consultation, a party can request to investigate complaints and make recommendations on the agenda of the concerned party. Fifteen experts are selected from each party within 30 days after the request. They prepare the final report 90 days after the final expert is selected.
Interim Report	The panel can consult the Parties, ILO, and DAGs during the preparation
Final Report	Recommendations to address the concerned issues of the Trade and Sustainable Development chapters. Parties can comment before the publishing of the final report. The concerned party can inform the Trade and Sustainable Development chapters DAG of measures to address recommendations. After release, it is public and binding. Further monitored by DAG

Source: EU-FOK FTA Article 13 Trade and Sustainable Development Chapter

The exchanges between the European Parliament and the National Assembly have generated positive outcomes, for example, few days after the European Parliament's resolution expressing concerns over the ROK's non-compliance and therefore, urging the European Commission's action to take formal steps was adopted (European Parliament, 2017). This in fact believed to be effective as Korean legislative members adopted a resolution to urge for the then government's action for ratification of the Convention in which explaining the European Parliament's looming pressure (Korean National Assembly, 2017).

The EU's use of such diverse channels of the EU institutions clearly indicates the EU's diplomatic capability is exerted beyond the sole action by the European Commission and in particular, the increasing role of the European Parliament in trade agenda was noticeable which further has potential to promote labour agenda through trade more actively in the near future with the growing voice internally featuring multilevel pressure outside of the European Commission.

This multi-channel diplomacy of the EU in trade and labour nexus is clearly reflected in the institutional and dispute settlement mechanism of the EU-ROK FTA (See [Table 4]).

Promised Mutual Commitments and the Continued Non-Compliance of the ROK

The Conventions (see [Table 5]) are the core labour standards that guarantee four fundamental rights that are seen as preconditions to all which provides "a necessary framework from which to strive freely for the improvement of individual and collective conditions of work" (ILO, 2002, p.7). The ILO standards are created to develop "universal" standards to be applied in all member states of the ILO, but "flexible" to be adopted by diverse countries (ILO, 2001, p.2-3). ILO has established four fundamental principles (ILO, 2002): freedom of association and the effective recognition of the rights to collective bargaining; elimination of all forms of forced or compulsory labour; the effective abolition of child labour; elimination of discrimination in respect of employment and occupation.

The gap in compliance exists depending on the country's ratification status as this establishes a legal commitment (ILO, 1998). The EU ratified all eight fundamental conventions in 2007, while the ROK has not ratified forced labour (C105, C29) and freedom of association (C87, C98). While there have been three attempts in the legislative body at the National Assembly to ratify the full eight Conventions, with limited interests on the agenda, it started with a proposal that of less than 10% of the legislative members, or less than 30 out of 300 members. It did not pass the legislation and the main reason was the domestic labour law that required a systematic change for ratification.

The EU and ROK have agreed to three main commitments under the Trade and Sustainable Development chapters concerning global labour standards in the Trade and Sustainable Development chapters (Art 13.4(3)): first, both parties' obligation to commit to respect, promote, and realize in their laws and practice the fundamental rights adopted at the 1998 ILO Declaration which refers to the four fundamental principles; second, commitment to full implementation of the Conventions that both have ratified, which means the four already ratified Conventions for the ROK and the eight Conventions for the EU; last, but the most important is the "continued and sustained efforts" towards ratifying the Conventions and the ILO's up-to-date Conventions. As discussed previously, the ROK's efforts shall cover all legislative, administrative, and relevant ministries for the three commitments. Thus, the EU has requested a Consultation with the ROK based on this article in December 2018 and argued that the ROK's Trade Union Act is inconsistent with its obligations on the multilateral labour standards and agreements under the EU-ROK FTA and pointed out the inadequate effort towards ratifying the remaining four Conventions.

TABLE 5
THE INTERNATIONAL LABOUR ORGANIZATION FUNDAMENTAL CONVENTION
RATIFICATION RATES AND THE ROK'S RATIFICATION STATUS

ILO Fundamental Conventions	Ratification Rate	ROK's Status
(C87) Freedom of association and protection of the right to organize 1948	82%	N
(C98) Right to organize and collective bargaining convention 1949	89%	N
(C29) Forced labour convention 1930	95%	N
(C105) Abolition of forced labour convention 1958	94%	N
(C138) Minimum age convention 1973	92%	Y
(C182) Worst forms of child labour convention 1999	99%	Y
(C100) Equal remuneration convention 1951	93%	Y
(C111) Discrimination (Employment and Occupation) Convention 1958	94%	Y

Source: ILO NORMLEX 'Ratifications of fundamental conventions' (accessed on: 2020-05-20)

ANALYSIS I: NORMATIVE POWER EUROPE (2011 – 2018)

In the first seven years, the EU has employed diverse methods to exert NPE but it did not generate a fruitful outcome and the ROK showed very limited efforts and lacked political willingness for ratification of the Convention. This part identified three main findings: first, the EU's diverse channels put pressure on the ROK ranging from the EU delegation to the ROK, ILO, European Parliament and the DAG in the Trade and Sustainable Development chapters, but also pressured the Commission to act which led to the discussions about the ROK's commitment during the EU-ROK Summit meeting in 2018; second, priority was not clear and time and energy were dispersed in the annual binding meetings that could have been devoted to actual unratified conventions; third, some EU member states' non-effective implementation were revealed during the bilateral meetings, which could have led to the questions of the EU's credibility and legitimacy to promote labour agenda as a global actor; lastly, the confusing role of the DAG and its limitation in the given mechanism under the Trade and Sustainable Development chapters.

The EU has used diverse channels and actors to convince the ROK to ratification via inviting ILO experts to the binding bilateral annual meetings since the third CTSD meeting in 2014 (European Commission, 2014) to provide technical support. For example, the ILO's role was technical support and ED1 assured that the purpose of inviting ILO experts was to have the ILO informed and receive technical assistance from experts on the concerned conventions of the ILO. ED1 mentioned further "ratification as such is pure bilateral discussion and we are not involving the ILO expert in our discussion in this regard" (Appendix 1.1, ED11:06:40) and has discussed the Conventions consistently at the annual intergovernmental meeting of the CTSD; and at the CSF to discuss implementation progress. The CSF was held back-to-back with the CTSD meetings from 2012 to 2018. The CSF has created a joint statement of bilateral DAG based on the monitoring mission on the implementation of the Trade and Sustainable Development chapters by both the EU and the ROK. The CTSD has also produced joint statements at the ministry-commission level after the annual meetings. Except for the year 2017, the meetings were held back-to-back and this research used the two documents and implementation report published by the EU. It is important to note that the 6th CSF meeting held on April 11, 2018, could not agree on a common conclusion between the two DAG co-chairs on the promotion of freedom of association and ways to guarantee.

On the contrary, the pressure was targeting the ROK to make continued efforts to ratification, the pressure was also on the Commission as the EU DAG has pressured it to take formal steps since 2014, and European Parliament has also pressured the Commission to act in 2017 (European Parliament, 2017). The letter included serious violation of the ROK's practice in particular on right to freedom of association and included key cases (Korean Government Employee's Union, Korean Teachers and Educators Union, Korean Railway Worker Union, Illegal raid of Korean Confederation of Trade Unions) violating Art 13.4(3) of the FTA, and urged the European Commission to initiate consultations with the government. (EU DAG, 2014)

In this regard, the increasing role of the European Parliament and the importance of the multilateral nature of the EU institutions in trade policies were recognized. "The push from every corner of the EU institutions is always welcome, as the European Parliament was not the only entity pressuring the Korean National Assembly but also the Commission. We are very closely monitored by the European Parliament in our implementation of the FTA, implementation of our TSD policy and it was one of the rules of the parliament" (Appendix 1.1, ED1, 46:00).

The Commission as the main negotiator has exerted NPE via persuasion, argumentation, and conferral of shame and prestige (Manners, 2009, p.793). This was mainly via bilaterally established institutional mechanisms under the FTA; the European Parliament and Civil Society Organizations were involved in the European Commission's actions internally, which simultaneously reported to the joint Minister of Employment and Labour of the ROK via the CTSD. After several debates on the non-compliance of the ROK government appeared from 2011 to 2016 CSF and CTSD meetings, the Trade Commissioner Malmström had expressed concerns over the limited efforts in ratification to MOTIE in 2016 and 2018 separately. Moreover, while delivering a speech at the EU-ROK Business Forum, Trade Commissioner

Malmström urged for the ROK government's action and "measures to ensure trade does not come at costs of people's rights... and trade must be based on values, not undercutting them" (2017) This indicated naming and shaming to bring improvement by exerting NPE.

The level of talk about the non-compliance was escalated in the following year in 2018 during the EU-ROK Summit talk. The President of the Commission Jean-Claude Juncker urged the ROK President Moon Jae-in for full compliance with the binding labour commitment during the 9th EU-ROK Summit held in 2018 October. For the first time, this targeted the head of the ROK (European Commission, 2018d). This signalled that the EU's patience was running low and the EU required the full attention of the ROK to demonstrate an improved effort using all its' means. However, due to social cleavages between the labour union and the employers' associations and the diverging views between the two parties at the legislative level, the ROK could not reach a consensus in time for a legislative amendment.

Despite the EU's use of its all means and channels to convince the ROK for ratification, NPE was not effective enough in the first period. This thesis argues that it was mainly due to not having a clear priority and non-effective compliance on labour provision from the EU's member states, which had potentially led to the marginalization of NPE. The energy and time that could have been devoted to the ratification of the Conventions were dispersed in the first seven years at the intergovernmental CTSD meetings and the CSF.

The first two annual meetings were about the ROK's labour conditions and the importance of the Conventions (European Commission, 2012, 2013b) but the agenda was expanded into other two other responsibilities in the labour provision Article 13.4(3) Trade and Sustainable Development chapters, which are ratifying efforts to up-to-date conventions and effective implementation of the already ratified Conventions. In 2015, the EU-ROK launched a two-year joint project on non-discrimination convention (C111) for effective implementation; and for corporate social responsibility in the EU-East Asia (European Commission, 2015b, 2015c). The CSF's dismay was expressed over this joint project as it did not stand up to the international standards set by the ILO (CSF, 2018). Moreover, both Parties had different views over these projects. The EU saw it as a good stepping stone to deal with more contested labour issues; while the ROK representatives were less convinced as there were more politicized issues that had to be covered which were namely freedom of association (Harrison et al, 2018; p.267). At the same time, the ROK committed to ratifying other up-to-date conventions (C95, C118) (European Commission, 2015c, 2016), which did not lead to actual ratification, which in turn implies that nothing substantial was achieved through launching these projects.

Additionally, the EU-ROK binding meetings lacked a meaningful engagement at the civil society level and the relevant Ministry's officers. Existing literature suggests that it lacked an engagement from the EU interlocutors in the civil society forum to the ROK's side from the Korean stakeholders (in Harrison et al 2019 p.269) and the EU delegation to the ROK also expressed similar feelings. In this regard, ED2 mentioned "the strong reluctance on part of the employer's side and no interest that the government (Ministry of Employment and Labour) should be playing... they did not play the role of a facilitator" (Appendix 1.3, ED2, 29:22) referring to hosting CSF where she witnessed indifference from the ROK representatives. This suggests while the bilateral cooperative interaction may have opened a channel for discussions, this did not lead to effective ratification by the ROK. Without a clear priority in the Trade and Sustainable Development chapters' labour provision along with dispersed energy and time at the annual bilateral meetings, the EU did not exert NPE effectively.

Moreover, NPE could have been marginalized with the non-effective implementation by the EU Member States as this could have brought scepticism from the ROK on the EU's credibility. The CSF addressed issues concerning both parties and discussions in 2017 where they urged for the EU member states' full compliance. At the 5th CSF, the joint DAG called for "immediate action" from the EU member states concerning the freedom of association principles (C87 and C98) by referring to the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR). The C87 targeted Hungary, Poland, Romania, Spain, Sweden, and the UK; and C98 targeted Germany, Poland, Romania, Slovenia, and Sweden, and the general problems concerning the freedom of association in Romania and Spain (CSF, 2017). At the CTSD, the ROK asked about the forced labour of the North Korean workers in Poland in 2017 and 2018. The ROK representatives asked about the forced labour cases of the North Korean workers

in Poland in 2017 (European Commission, 2017a) and 2018 (European Commission, 2018a). The CEACR recommendations addressed eight EU member states' violations of the two ILO fundamental Conventions that the ROK has not ratified. This EU's non-effective compliance from its' Member States can lead to questioning the credibility of the EU and undermine the EU's role as a global core labour standards promoter and bring scepticism over its capability and inconsistency of the EU's action.

Inconsistency between the internal and the external EU policies can be a caveat against the EU in their role in promoting the core labour standards. While its ability to guarantee Member States' compliance attempts is witnessed, it can look hypocritical (Orbie, 2009, p.163). For example, the Commission had introduced GSP with conditionality to the developing countries before the EU Member States ratified the Convention to the developing countries (Novitz 2002, p.261; Clapham and Martignoni, 2006, p.235). The consistency of the EU's activities to diffuse certain norms is an important factor in NPE and an inconsistency can lead to the failure in foreign policy and an inability to attain fundamental objectives in reaching the effectiveness of the EU in global trade governance (da Conceicao-Heldt, 2014). While the European Commission has admitted some member states' challenges in full implementation by suggesting the case, highlighting the importance of mutual efforts to overcome shortcomings and tried to convince the ROK arguing that the EU's situation suggests the importance of having objective monitoring from ILO supervisory mechanism as an added value (European Commission, 2018a). This will lead to scepticism and legitimacy questions over NPE when the EU underperforms in the agenda but plays the regulatory role of the global labour standards.

The ROK's efforts during the first seven years to ratify the Conventions were limited in the administrative, legislative and relevant ministry, while some non-fundamental conventions were ratified. During the Lee Myung-bak administration (2008-2013), which has ratified the EU-ROK FTA in 2011, they signed four non-fundamental conventions, including C2, C47, C115, C139 in 2011 (Kim, 2018, p.24) but made pro-business administrative decisions (Eun & Lee, 2009); and the Park Geun-Hye administration (2013-2017) ratified Maritime Labour Convention in 2014 (Kim, 2018, p.24) but was heavily criticized for pushing legislative programs that largely undermined the labour law project in 2016 (Harrison, 2019, p.266); the Moon Jae-in administration (2017-2022) pledged to implement the Conventions and promised the ILO Director-General Guy Ryder of his willingness to ratify the fundamental conventions in 2017 September (Hankyoreh, 2017). The administration presented its presidential proposal for domestic labour law reform to the National Assembly in March 2018, including the recognition of the three basic labour rights of government employees (European Commission, 2018a, 2018b) and created a social dialogue named as "Economic, Social and Labour Council," which composed of labour unions and employer's associations. Although systematic changes have not been made overnight, steady efforts have been demonstrated, which are seen as definite progress from the Commission (European Commission, 2018).

In the legislative body, there were three attempts by pro-labour party members at the National Assembly to urge either the administration for implementations of the ILO fundamental conventions (2012 and 2017) or the legislative members to cooperate with the administration for effective implementation (2018) but none of this has led to actual ratification. These were adopted by the Korean National Assembly's resolutions in Bill Number 1901218 (2012-08-20) which urged the implementation of the ILO core convention and Bill Number 2007024 (2017-05-24) which aimed to ratify C87 and C98 first and mentioned the EU's push in the background to meet the standards, and finally, Bill Number 16541 (2018-11-13) which aimed to urge for prompt cooperation from National Assembly members to the administration to celebrate ILO's 100 anniversary.

Sub-Conclusion

The first period confirmed the previous literature's findings that the ROK has shown limited improvements in the labour standards and institutionalization of opportunities for learning and socialization between the parties for a long-term perspective (Harrison et al., 2018, p.9). In particular, the civil society's role was not clearly defined and was not able to affect the functioning of the mechanism (Harrison et al., 2018, p.9; Thu & Schweissheim, 2020; Orbie & Putte & Martens, 2016, p.25-37), which is reflected in the limited roles that the EU and the ROK's DAG could do during the seven years. The Commission has taken

four years to respond to a request of the EU DAG Chair to take formal actions against the ROK. Notwithstanding, this analysis provides potentially marginalizing NPE factors from the CSF as a watchdog, which revealed both the EU and the ROK's non-effective compliance and could lead to the inconsistent acts of the EU and bring scepticism over the EU's role in promoting the global core labour standards. Against these findings, this analysis has argued the main reasons that the NPE did not have a clear impact as it envisioned as NPE lacked a clear priority of commitment concerning the labour articles in the bilateral FTA and dispersed its energy and time in intergovernmental meetings.

ANALYSIS II: MARKE POWER EUROPE (2018 – 2020)

The EU's market power which has transformed from NPE and changed diplomatic nature from cooperation to coercion has affected the ROK to take decisive measures. Via in-depth interviews, however, it has been identified that this potentially leading to trade tension appeared on the surface may not be the bilateral discussion underneath. The EU attempted to pressure the ROK government given the administration's willingness. The EU aimed to create a new political momentum via this external push to prompt cooperation between administrative and legislative bodies to the ratification of the Conventions before the end of the 20th National Assembly (2016 May to 2020 May) session ends. This part reveals the EU's exertion of market power using coercive means to prompt the desired outcome from its trader partners but suggests problems of potential inconsistency issues in exerting MPE in non-trade objectives. As the final report of the panel of experts is not available at the moment of writing this thesis, the last part has depended mainly on the interviews.

In the second period, the ROK government has provided specific plans for ratification and more decisive actions were taken as this also coincided with President Moon Jae-in's political willingness to "foster a fair society that respects labour" (Cheong Wa Dae, 2017, Strategy 4). The President has often mentioned his willingness to ratify the Conventions and improve labour rights in the ROK via diverse policies, which has included raising the minimum wage to help the working conditions. However, the administration did not hold a clear majority, which was an obstacle to passing a legislative amendment for ratification. The government after the EU's pressure was enhanced promised to ratify three (C87, C98, C29) out of four existing yet ratified Conventions; and promised the initiation of consultations on procedural matters with trade unions and employers' associations and to proceed with the domestic labour law amendment for ratification via collecting public stakeholders proposals. (Ministry of Employment and Labour, 2019).

First of all, how did the EU's dispute settlement mechanism lead to a decisive measure from the ROK government without sanction or material incentives? Unlike other conditional and incentive approaches of the EU in GSP and GSP+, the Trade and Sustainable Development chapters do not have an actual sanction power or the desired incentive (EU-ROK FTA Art 13.16). This thesis argues that the symbol is being placed as the first case of a dispute settlement mechanism that has created ideas of coercion in the ROK, which pressured both the legislation and the administration to cooperate. The ROK Ministry of Employment and Labour has mentioned: "concerns are rising on economic uncertainties as a result of the EU considering a panel of expert procedure" (MOEL, 2019) in explaining the ROK government's willingness to ratify the Conventions.

The EU's pressure has changed its nature from cooperation in institutional mechanisms to coercion after the dispute settlement mechanisms in December 2018 and further escalated by the request for the establishment of a panel in 2019 July. The EU's initiating dispute settlement mechanism happened for the first time since the EU's introduction of the Trade and Sustainable Development chapters in trade, which has augmented fear from the ROK for potentially leading trade tension with the largest economic bloc EU on the surface.

The EU has the capability to exert its market power characterized by the material existence, institutional features, and contested interests (Damro, 2012, 2015) and used this power to pressure the ROK to ratify the Conventions in both "persuasive and coercive means" (Damro, 2012). The EU's power in trade or its market size, in particular, can lead to trade partners' adjustment of their economic policies (Nicolaidis & Egan,

2001) and affect actors' perception over the outcomes or material incentives as the market works as an attractor to its trade partners to change their policies to enter into the market (Drezner, 2007, p.32). And the EU has the capability to support and change via strong institutions which it has developed from playing a regulatory state that pursues governance through rules (Majone 1997). Also, its staff expertise is known for being well trained to identify areas of concern and make policy demands on third countries (Damro, 2012, p.687-688). The market existence and institutional features were clearly exhibited in the second period.

During the in-depth interviews, both parties held diverging views on the commitment to the labour provision of the Trade and Sustainable Development chapters. Both parties valued bilateral economic cooperation is bringing prosperity and agreed on the importance of the EU-ROK FTA as the most important pillar. The ROK side saw the European Commission's initiation of the dispute settlement procedure as "an attempt to produce a symbolic result of actual ratification" but suggested the EU's dispute settlement has begun due to internal pressure in the EU and the ROK has carried out continued efforts for ratification. The Korean side has mentioned that "the European Parliament's resolution (in 2017) was against that backdrop which has insisted on adding a sanctioning mechanism in the Trade and Sustainable Development chapters" (Appendix 1.2, KE, No.5 Answer).

On the contrary, the EU side has argued that they have seen a possibility in the ROK for ratification and believed that external push via dispute settlement could bring in positive change in the ROK and that decision was not related to the internal pressure of the European Parliament despite noting growing importance and voices of the European Parliament. "Luckily for the timing, it has a government with probably the most pro-labour side over the years and President Moon has promised the ratification. In our discussion with the government, we have seen a change since President Moon's inauguration. There is a real commitment from the ROK government to change the labour law framework in Korea, domestic labour framework, and also to ILO fundamental conventions" (Appendix 1.1, ED1, 27:18). The interviewee also mentioned that "it was a good combination between the new government and the pressure under the EU had on the Korean side by enacting these proceedings" (Appendix 1.1, ED1, 47:55). This suggests that both sides are aware of the ROK administration's effort to ratify, but the reason for the EU's push was to pressure the ROK administration and the legislation to cooperate.

Monitoring thoroughly the political willingness from the administration, the EU side argued that the blockage was aiming at the National Assembly. ED1 emphasized the pressure was to bring the new momentum to the legislative, "we tried to push more end of last year, beginning of this year (the request of government consultation and the panel of expert establishment) to have this bill passed at the National Assembly (bill 16541 proposed in 2018-11-13) before the new assembly (session)" (Appendix 1.1, ED1, 52:16). While the ROK administration was not successful in using the EU's pressure to change the opposing party's position (Thu & Schweisshelm, 2020, p.14) due to limited legislative support, the Moon administration will hold an absolute majority at the 21st National Assembly, which for the EU, "no excuse" (Appendix 1.3, ED2, 32:15) for procrastination.

Additionally, this has confirmed the strong advantage of exerting MPE in institutional features with well-trained experts, who are both human rights (ED2) and trade experts (ED1) and also have closely monitored situations with their areas of expertise in examining the ROK's political willingness as the "ears and eyes on the ground." The ED1 also has mentioned the two main roles of the office, which are to "mitigate the tension and inform and report back to Brussels, because Brussels can understand and accept mitigation if they understand the context" (Appendix 1.1, ED1, 20:04).

While the in-depth interviews have identified MPE in the EU-ROK relations was another NPE that had intended to pressure the ROK for norm diffusion after identifying a clear opportunity; however, other literature suggests that the EU did not intend to commence a formal complaint procedure against the ROK, to begin with, as the EU wants to add investment protection in the FTA and such confrontation cause a backlash from the ROK and that member of expert panels were not well briefed nor clearly informed about the dispute settlement procedure, which has resulted in scepticism over the efficacy of the mechanism (Harrison et al, 2018, p.269-270). This suggests that the EU may be capable of using MPE and NPE when it desires to externalize its internal policy, or realize norm diffusion from its trade partners but exerting MPE on a non-trade agenda has higher chances of exhibiting inconsistency in actions as valuing economic

cooperation over non-trade agenda, an example like in which the EU-ROK case can be easily detected and can lead to the questioning of NPE's legitimacy.

Sub-Conclusion

To summarize, the inconsistency of the EU's action can undermine NPE and bring scepticism over the EU's intent. In the first period, it has examined how the non-effective compliance of the Conventions from the EU Member States can affect the EU's legitimacy in promoting global labour standards. In this second period, if the purpose of the Commission that avoided confrontation previously using dispute settlement for bigger economic motivation was to include investment clause, then such inconsistency of putting trade objectives over non-trade objectives but exerting MPE can undermine and bring in scepticism over the EU's intent. This inconsistent action can bring confusing signals and can fail to bring in the desired effect. Unlike the MPE theorists who believe that pitfall of inconsistency does not affect the EU's power as the MPE is aiming a specific market-related policy or regulatory measure rather than exporting civilian end or norms (Damro, 2015, p.34), this thesis would like to draw attention to the fundamental argument that inconsistency in foreign policy between internal and external aspects can result in an inability to attain the desired objective (da Conceicao-Heldt, 2014) and that the EU is required to consider the internal and external aspects of certain policies for effective power use.

CONCLUSION

Research Implications

The EU-ROK FTA is important not only featuring the EU's unique diplomatic features but also has significant research implications as the EU's first case to initiate a dispute settlement procedure which shifted the EU's diplomacy from persuasion to coercion. After the dispute settlement procedure began, the ROK responded with a more political will for the ratification of the unratified conventions employing the EU's diplomatic pressure domestically to bring social consensus. This confirms the existing literature's finding that the EU's TSD is an innovative and flexible instrument that can go beyond the current multilateral trade system to push its trade partners to institutional reforms; however, there have been three noticeable caveats surrounding the EU's effective use of NPE and MPE: three factors that potentially marginalize NPE, the important non-controllable variable of the norm-taker state in reality and inconsistencies between NPE and MPE.

This research has significant research implications. First, it has identified the EU's multidimensional, multichannel, and multi-faceted use of diplomacy to pressure the ROK government to enhance its efforts to ratify the Conventions in compliance with the Trade and Sustainable Development chapters. Second, it has analysed the extent to which the EU's pressure has been effective to the ROK in the lenses of NPE and MPE. Examining the Trade and Sustainable Development chapters' entire timespan from the EU-ROK FTA going into force in 2011 to recent developments in 2020 May, one finds that EU-ROK has discussed the ratification of the Conventions consistently. However, the ROK's decisive and progressive measures did not begin until the EU's pressure intensified with the request for a formal consultation. The intensification of the EU's pressure since the EU's request for formal consultation on December 15, 2018 has shifted the nature of power to coercion but exhibited limitations in its diplomatic strategy in both NPE and MPE.

First, NPE was not sufficient enough, and thus brought the EU's legitimacy into question mainly due to its member states' non-effective compliance, limited capabilities of the institutional mechanisms, and lack of clear priority in mutual commitment with the Trade and Sustainable Development chapters. While this period was not an ideal time to witness the political willingness of the ROK as neither the administration nor the legislature was ambitious enough to make such changes, NPE was incoherent and not strong enough due to its three factors. During the binding annual meetings involving the CTSD and the DAG, non-effective compliance of the EU Member States were revealed on the comments of the ILO CLEAR recommendations regarding C87 and C98. Additionally, the limited means and resources of the DAG to affect the concerned Party, for example, its inability to initiate a complaint against the concerned party for improvement, also restrained the DAG to play its designed role of monitoring and advising role in the institutional mechanisms.

Moreover, the ILO fundamental convention due to lack of clear priority in mutually working to comply with Article 13.4(3) has dispersed energy and time. In turn, these three factors marginalize the NPE and the EU could not convince the ROK government to transform their perception and to take the norm or ratify the ILO fundamental convention.

Second, the MPE in the second phase was well-timed to apply pressure or coercion to the ROK, as the administration change and associated politics created a situation with a higher political willingness that was likely to bring higher chances of ratification. While the intent of initiating a dispute settlement procedure is seen differently by the EU and the ROK, this is likely to lead to fruitful results. The EU has argued that it aimed to nudge the ROK side to cooperate between the National Assembly and the administration for effective ratification. The ROK has considered the EU's act as a result of the internal push by the European Parliament, which urged it to take formal steps against the ROK since 2017. However, this period also examined important institutional features of the EU characterized by strong monitoring with skilled staff, which led to the collection of much-needed information as the "ears and eyes on the ground" via EU delegation to the ROK. Given the identification of the ILO implementation as one of the Moon Jae-in administration's presidential agenda, there is a higher political willingness at this time for ratification. This timing may have been identified by the EU delegation to the ROK, as it has closely monitored the ROK's situation. Besides, the ROK Ministry of Labour and Employment used the discourse of the situation potentially leading to a trade war with the largest economic bloc as the prime motivation to bring in social consensus. The ROK is well aware of the lack of a sanctioning mechanism in the Trade and Sustainable Development chapters and believing it has done all the required continued and sustained efforts via participation in the CTSD and CSF, but coercion was constructed due to being a symbol of the first case of dispute settlement concerning labour agenda by the EU, and uncertain consequential impact to which extent the procedure would generate. This may have brought coercion and led the government to demonstrate more decisive measures.

Lastly, this thesis research draws to a conclusion with problems in exerting MPE in non-trade objectives. As examined in the second period, the EU has been reluctant to initiate the dispute settlement procedure as such confrontation may result in contestation from the ROK and lead to economic loss for the EU in the larger economic context. The in-depth interviews with the EU side have identified that the EU has openly discussed with the ROK government about its intent to initiate a dispute settlement procedure but this may also suggest that the EU cannot exert MPE when it wants to for the desired externalization of market-related regulations from its trade partners. This may suggest that the EU itself does not feel at ease to exert MPE when it wants, contrary to the existing MPE. In the ROK's context, not the actual economic sanction but the idea of coercion has affected the government for more decisive measures. It has been argued that the EU can actually use this leverage to gain more bargaining power for renegotiating FTA or the EU could employ constructed coercion to raise the ROK awareness of potential trade tensions with the largest economic bloc. However, exerting MPE in a non-trade agenda itself can exhibit higher inconsistency and can demonstrate the EU values economic interest more than the ideational values and bring scepticism to the EU's claimed promotional approach to the social dimension of trade. Unlike the MPE scholars' argument that inconsistency would not be important, exerting MPE to coerce trade partners in non-trade objectives has higher chances to result in failing to create the desired outcome.

Discussions

The Moon administration has now its legislative backup after the legislative election in April 2020, thus allowing for higher possibilities that the ROK government could utilize all its' means in administrative, legislative, and relevant ministries to bring in labour reform. However, whether it is likely to have implications on the EU's FTA is less certain. First, the dispute settlement procedure would not be strong enough to generate the desired outcome as the experience from the EU-ROK case partially revealed limitations of the mechanism in practice that involves stakeholders to create a final report, which will be continuously monitored in a social dialogue mechanism. The current operating system does not entail suspension of the preferential treatment of a trade or material incentives in the promise of the ratification, but solely dependent on the final report, which will be published and monitored within the boundaries as

NPE. Therefore, it is questionable whether this can fully pressure the partners. Additionally, the profiles of the trade partners that are in the position of norm-takers are diverse and may not have the same effect the EU desires. The ROK is a middle power country that is not concerned with the international community's opinion of itself and thus, greatly dedicated to avoiding potential tensions with its trade partners and the new political momentum has a great potential to lead to the desired outcome.

This thesis has had limitations in analysing the full aspects of the EU's diplomacy accurately as it is still an on-going issue and the final report of the panel of experts is not available due to bilaterally agreed postponement caused by COVID-19. However, this thesis contributed to the examination of the overall bilateral interactions for the nine years in the document analysis and in-depth interviews by analysing not only the European Commission as the main negotiator but also European External Action Service, European Parliament, and the DAG as relevant factors that affect the European Commission's decisions. During the research, the growing role of the European Parliament in the social dimension of trade was noticeable. The European Parliament has been actively voicing a diverse agenda encompassing general human rights, labour rights, and environmental issues via policy briefs and its resolutions and monitoring the European Commission's activities thoroughly. The European Parliament may have affected the ROK's legislative body to propose a resolution to urge ratification of the Conventions as well. Therefore, a future study can be done examining the bilateral relations between the European Parliament and the ROK's legislative body in the Framework Agreement concerning the Trade and Sustainable Development chapters on environment or labour multilateral conventions.

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