Routledge Handbook on the European Union and International Institutions
Performance, policy, power
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The European Union and international regimes

Publication details
https://www.routledgehandbooks.com/doi/10.4324/9780203083642.ch21
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Published online on: 19 Nov 2012

Accessed on: 27 Dec 2023
https://www.routledgehandbooks.com/doi/10.4324/9780203083642.ch21

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Part V

International regimes
The European Union and international regimes

Michael Smith and Ole Elgström

Introduction

During the past ten years, the European Union (EU) has developed as a central part of its international role conception, the concept of ‘effective multilateralism’. EU external policies have embodied an awareness of multilateral engagements and commitments since the Treaty of Rome at least, and the increasing engagement of EU external activities with multilateral organisations and structures has been a prominent feature of the Union’s international existence ever since. One way in which the EU’s multilateral commitment can be subjected to more searching analysis and conceptualisation is through the exploration of the EU’s responses to, engagement in and use of international regimes. The EU plays a major role (often alongside its member states) in regimes dealing with international economic governance (such as those clustered around the World Trade Organization (WTO), or around the G20, the International Monetary Fund and their attempts to regulate global finance), global environmental governance (for example the Kyoto regime on climate change and regimes dealing with biodiversity such as those under the Cartagena convention), global human rights (through the United Nations and regional bodies such as the Council for Europe) and international security (especially the non-proliferation regime centred on the Nuclear Non-Proliferation Treaty and other international agreements dealing with weapons of mass destruction). This is only a sample of the full picture, which is diverse and dynamic.

In this chapter, we first undertake a review of existing literature on the EU and international regimes, highlighting prominent approaches and debates within the field, based on this review, and second, develop an analytical framework for the study of the EU’s role in international regimes and set out parameters for a future research agenda. To structure our analysis, we concentrate on three dimensions of regimes – institutions, norms and negotiation – and ask the following questions:

• how does the EU’s engagement with international regimes lend itself to analysis through institutional approaches?
• how has the notion of the EU as a ‘normative’ or ‘civilian’ entity been expressed in the EU’s approach to international regimes in general or to particular regimes?
• how does the EU’s engagement with international regimes lend itself to analysis in terms of negotiation and the commitment to or development of a ‘negotiated order’ either in general or in specific issue areas?

• what does the EU’s engagement with international regimes tell us about the nature and practices of ‘effective multilateralism’?

These four sets of questions thus broadly frame the purposes of this chapter and the types of discussion we would wish to encourage. The aim is to undertake a stock-taking of where we are with the pursuit of ‘effective multilateralism’, to relate this in outline to the EU’s activities in a variety of regimes, and to try to identify an agenda for further research and conceptual development. The chapter goes on to present three perspectives on the EU’s relationship to and engagement with international regimes. First, it presents institutionalist approaches; second, norm-centred approaches; third, negotiation-centred approaches. Whilst the first two of these are more concerned with tracing the broad links between the EU and international regimes, the third focuses more directly on the dynamics of the EU’s engagement with specific regimes and on the roles it plays within them. In the concluding part of the chapter, we attempt to express the results of our investigation in a set of propositions for further exploration.

The EU, multilateralism and international regimes

The EU’s role as a promoter of ‘effective multilateralism’ is not a new phenomenon. Although the concept has been primarily applied recently to the area of security and defence policy, this development has come on the back of a long established and enduring EU commitment to multilateralism in the broader sense. This engagement with and use of multilateral structures has been examined in the broad sense by a number of recent commentators (e.g. Bretherton and Vogler, 2006; Ginsberg, 2001; Jørgensen, 2006; Laatikainen and Smith, 2006). It also relates strongly to analytical frameworks that have been developed in the exploration of the European integration process more generally, such as those focused on multilevel governance (Hooghe and Marks, 2001; Jachtenfuchs and Kohler-Koch, 2004; Sandholtz and Stone Sweet, 1998), new institutionalism (Armstrong and Bulmer, 1998; Pollack, 2004; Stone Sweet, Sandholtz and Fligstein, 2001; Schneider and Aspinwall, 2001) and normative approaches (Manners, 2002, 2006; Richardson, 2002; Sjursen, 2006). Finally, it has been inscribed prominently in many EU policy declarations such as the ‘European Security Strategy’ and related documents (European Union Institute for Security Studies, 2003, 2005).

As a result of such approaches, a number of enduring issues and tensions have been uncovered: the tension between the EU’s commitment to multilateralism and its development of ‘European interests’ or a ‘European identity’; the variations in the salience of and the effectiveness of multilateral commitments in different issue areas; the potential for tensions and contradictions between the EU’s activities in a range of different multilateral, minilateral and bilateral arenas; and the extent to which the EU can sustain a commitment to ‘effective multilateralism’ in times of rapid change, challenge and crisis.

In this chapter, we set out to explore this set of tensions and issues through an investigation into the EU’s responses to, engagement in and use of international regimes. International regimes are symptomatic of the commitment to multilateralism in a wide range of issue areas, and the establishment, evolution and impact of regimes has been a long standing feature of work in core areas of international political economy, diplomacy and security studies (Haggard and Simmons, 1987; Hansenclever, Mayer and Rittberger, 1996, 2000; Rittberger and Mayer, 1993). As a result, a number of central concerns have come to characterise the study (and the critique)
of international regimes: these can be summarised in terms of three key elements: institutions, norms and negotiation. In turn, these central concerns can be related to a number of key research questions: How are regimes established? How do regimes evolve? How do regimes work? What are the key principles and norms of different regimes? How do regimes coexist and interact? What is the impact of prominent actors on regimes, and of regimes on those actors? How is the framing of actor policies affected by institutional arrangements, norms and negotiation within regimes?

The second core component of the chapter is the EU, here seen in terms of its entanglement within a wide variety of international regimes. The intensification and extension of international regimes has in many respects gone alongside the EU’s search for channels through which to exploit its commitment to multilateralism, and as noted earlier the EU has made much of its engagement with major international regimes in trade (Young, 2002), the environment (Bretherton and Vogler, 2006; Vogler and Bretherton, 2006), security (Biscop and Renard, 2010; Hänggi and Tanner, 2005; Schmitt, 2005; Stewart, 2006), communications (Sandholtz, 1998), human rights (K. Smith, 2004, 2006; Manners, 2002, 2006) and other areas. But as noted above, this engagement carries with it a series of potential contradictions, which go to the core of the EU’s international roles and influence. These issues can be expressed in terms of the three dimensions of regimes outlined above: institutions, norms and negotiation.

The EU and regimes (1): institutions

There are several distinct strands to an institutionalist understanding of the EU’s relationship to international regimes. Each of them has a distinctive take on the problems and raises a specific set of questions relating to the EU, and in this section we will briefly outline some of these concerns. We will then look at some of the questions they imply about the status of the EU, which in itself is a particularly dense regional set of institutions, and which has at times been presented as a set of multiple and overlapping regimes (Breckinridge, 1997; Pollack, 2004).

Rational choice institutionalism can be seen as relating to international regimes in two ways. First, it can lead to an interpretation of institutions as reflecting the preferences of those engaged in them, and therefore as the dependent variable in an actor-centred version of the world. Here, regimes can be viewed as a reflection of actors’ needs for information, for uncertainty reduction and for a channel through which to mediate their competing preferences; in consequence, regimes establish standards to which members are expected to conform (Keohane, 1984). Important questions arise about how actors extract and deploy resources in the regime setting, and thus about (broadly defined) the power that they bring to the regime and the power that they derive from it (Barnett and Duvall, 2005; Barnett and Finnemore, 1999; Keohane and Nye, 2001). But there is always the possibility of defection if the calculus shifts, or if conditions in the broader global arena make this apparently profitable. The second version of rational choice regime analysis relates much more directly to the actors engaged in the regime(s), and in particular to the ways in which tasks are delegated to agents acting on behalf of the ‘principals’ to whom they are responsible. Such principal-agent analysis can throw considerable light on what happens to preferences once they are projected into the regime itself, and the ways in which such phenomena as ‘agency drift’ can take place (Kerremans, 2006; Elgström and Larsén, 2010).

Key issues in rational choice institutionalism are those of preference formation, power and commitment: does the EU’s engagement in international regimes reflect the aggregation of national positions in the EU to such an extent that we can point to a collective ‘European’ position even where the questions that arise are contentious at the EU level? How does the EU derive resources both from its own members and from the regime itself, and how effectively
does it deploy them? Does defection take place, how often and under what conditions? Another question arising from rational choice approaches is that of delegation and agency: does the EU’s engagement in international regimes create problems of ‘agency drift’ in which the control of principals over agents becomes complicated and efficiency or effectiveness suffers? Recent work in the area of commercial policy seems to indicate that this is possible (Kerremans, 2006), but the implications remain fully to be explored.

Historical institutionalism takes an evolutionary perspective on the establishment and development of regimes. Its key underlying propositions are (1) that it focuses on the evolution of institutions as a result of interactions and bargains over time; and (2) that the contemporary implications of these processes are embedded in institutions that reflect those evolving bargains (Pierson, 1998). In a broader sense, historical institutionalism focuses on patterns of exchange, organisation and rules (Sandholtz and Stone Sweet, 1998, Introduction) that themselves become part of the baseline from which further development takes place. Thus, phenomena such as ‘path dependency’ and ‘lock-in’ can occur and become social facts within which actors have to operate. Some of the most important studies in historical institutionalism have taken place in respect of the EU itself (e.g. Pierson, 1998), using the complex interactions between a range of actors and the possibility of legalised institutional resultants as key dimensions of the analysis; but in principle, these can be applied to any continuous process of regime development at the international level, providing powerful insights into the ways in which developments can escape the control of state actors.

Historical institutionalism emphasises the importance of sequential bargains at the EU level; but what happens when the bargaining process at the EU level and that within an international regime or regimes overlap and create tensions? What about the situation where an ‘internal’ EU bargain then has important resonances at the broader international level? Equally, to what extent does the evolution of cooperation at the international level feed back into the process of what might be termed regime formation within the EU itself? The interaction of EU environmental policies with the developing global environmental regime seems on the face of it to raise significant questions here (Sbragia, 1998; Vogler and Bretherton, 2006; Damro, 2006a), as do EU interactions with international frameworks for the framing of competition policy (Damro, 2006b).

Sociological institutionalism provides a further dimension to the study of international regimes, since it focuses on the problem of social action within specific institutional contexts. In doing so, it challenges the assumption of rational choice institutionalism that preferences are exogenous and fixed; rather, it focuses on the ways in which preferences become shaped by the process of interaction within a regime itself, and thus the ways in which a ‘logic of appropriateness’ rather than a ‘logic of consequences’ operates to shape actor behaviour (March and Olsen, 1989). Preferences thus become endogenous and plastic, and not only can but will evolve in a given institutional context, as the result of processes of social exchange and learning. As a result, factors that can be broadly described as ‘cultural’ or even ‘ideological’ can be central to the performance of actors with the institutional setting, making it impossible to deduce outcomes from statements about the intensity of preferences or the distribution of power. Likewise, the positions and actions of ‘agents’ within institutions both reflect and raise considerations of legitimacy and appropriateness, as opposed to rather mechanical considerations of delegation and ‘contracting’.

Sociological institutionalism focuses on social processes, since many of the participants in specific regimes are fulfilling roles both in the EU social context and within the broader international context. What happens when the ‘logics of appropriateness’ at these different levels come into collision and roles are subject to conflict? The question of legitimacy is also central here: do EU representatives in international regimes gain legitimacy through that status that can then affect internal debates in the EU itself over contentious areas of policy? This coexistence of
arenas, and often their intersection, creates potential issues that a sociological institutionalist approach should be well suited to exploring.

The EU and regimes (2): norms

A second area to be addressed in discussion of the EU’s relationship to international regimes is that of norms. As can be seen from the discussion above, there are areas in which institutionalist and norm-centred approaches to both the European Union and international regimes overlap, and that is one of the key areas for exploration here. But there are also other areas in which norm-centred perspectives can make a distinctive contribution and generate distinctive questions for discussion and investigation. Although the main focus here is on norms as viewed by political scientists, it is important to note that the role of norms in international regime construction and maintenance has been studied by those using legal and sociological approaches within the international context (see for example Goldstein et al., 2001; Raustiala and Slaughter, 2002; Slaughter, 2004; Hurrell, 2002; Linklater, 2011).

One of the key relationships identified by investigations of international regimes is about the ways in which institutions, material forces and norms interact to produce patterns of development and of strength and weakness. The distinction between regimes as material sets of rules, injunctions and standards and as less tangible but powerful sets of understandings, conventions and ‘cultures’ is clearly important (Ruggie, 1998: Ch. 3). As Ruggie (1998: 85) points out, ‘[r]egimes … are constituted by convergent expectations, shared principles and norms – that is, they are inherently intersubjective in nature’. He goes on to point out that this ontological position is at odds with much of the scholarship about regimes, which was at the time of his writing mainly based on what he describes as a ‘soft version of logical positivism’ (Ruggie, 1998: 85). As a result, such scholarship missed out on key areas of the establishment and functioning of regimes, which are centred on the understandings that those involved have of them, on their ‘learning’ of appropriate behaviour within them and on their generation of norms that identify acceptable and unacceptable behaviours within them.

This means that norms are central to any international regime, alongside the positive forms of regulation that are drawn to our attention by more materialist approaches. And because of the centrality of norms, there is a need to study the kinds of communicative and constitutive processes that take place within regimes, so that we can get a handle on the ways in which they are interpreted – and re-interpreted – by those acting within them. The focus is thus not only on the efficiency of regimes in providing means for the management of concrete issues, but also on their effects in terms of social learning, expectations and understandings.

One of the key areas that has been subjected to analysis in terms of norms and ‘social principles’, and which is key to the existence and development of international regimes, is that of multilateralism. Conceived of not only as a specific organisational form, but also as a set of principles to which actors subscribe but also which are modified by their mutual entanglement, multilateralism engages with such norms as reciprocity and with underpinning ideas of trust, legitimacy and ‘appropriateness’ (which means that sociological institutionalist approaches have a lot to say about this area) (Ruggie, 1998). Not only this, but approaches that deal more broadly with issues of agency and structure, specifically social constructivism, come into play because of this focus on the normative underpinnings of regimes. To coin a phrase, regimes are what the participants make of them. This in turn creates a wide range of lines of enquiry about the terms on which actors enter into regimes, the ways in which they ‘construct them’ or construct themselves within them, and the ways in which regimes may lose their strength because of an erosion of underlying principles such as trust, legitimacy and shared expectations among their
members. There is also a parallel set of questions about the transformative effects on actors of their participation in international regimes, and about effects on their behaviour (Checkel, 2001a).

Seen in this way, regimes cease to be (only) sets of injunctions and regulations judged in terms of their concordance with material preferences or their instrumental utility. Rather than being management devices, they become arenas within which ‘voice’ and advocacy become as important as material resources and status (Keck and Sikkink, 1998). Rather than being passive channels for the knowledge and preferences of their members, they can themselves achieve status that in turn creates ‘social knowledge’ and defines norms (Barnett and Finnemore, 1999). And these effects can be created not only through formal institutions but also through the communicative processes and exchange of ideas that surround participants in any given regime. Having been generated by participation in a regime, norms in turn can be different kinds of rules, not only among regime members but also through the global arena in general; whilst there may be a ‘hard’ edge to the ways in which this process of diffusion may take place, it can also be the result of adoption and emulation of established norms on the part of those outside formal regime arrangements. In this way, normative power and associated legitimacy can come to function as major resources for those involved in regimes.

Such norm-centred insights are important not only to a full understanding of the origins and impact of international regimes, but also to the involvement of the European Union in them. Crucially, much recent scholarship on the EU has taken a norm-centred approach, attempting to understand the Union itself as a normative entity, and thus engaging with issues such as identity and culture both within the Union and between the Union and the global arena (Lucarelli and Manners, 2006). There has been much attention to the role of norms in shaping negotiations and political practices within the EU (Checkel, 1999, 2001b; Risse, 2004), to the ways in which they shape the EU’s practices in the global arena, both in the context of ‘neighbourhood policies’ and in the context of global negotiations (O’Brennan, 2006). Not only this, but the work of Manners and others has drawn attention to the notion of ‘normative power Europe’ in which the nature of the EU as a ‘community of norms’ becomes central to the ways in which the Union approaches the outside world and is received by it (Manners, 2002, 2006; Lucarelli and Manners, 2006; Mayer and Vogt, 2006; Sjursen, 2006; Whitman, 2011).

Such studies have clear relevance to the ways in which the EU enters, participates in and attempts to shape international regimes. They raise key questions about the ways in which normative factors shape the EU’s approach to international regimes, and in turn about how the EU both affects and is affected by participation in those regimes. Is the EU more likely to accept international regimes because they embody principles such as multilateralism on which the EU itself has been formed? On the other hand, are regimes seen by key actors in the EU as ways in which to further a European identity, to establish the EU’s legitimacy and its ‘voice’ and to project a specific normative ‘model’ onto particular areas of international policy formation? What happens on the other hand when the EU as a ‘normative power’ is confronted in regimes with demands that run counter to this self-understanding and that require the modification or the sacrifice of key normative positions? These questions all arise from the self-understanding of the EU as a community shaped strongly by normative considerations, and thus from what might be described as a form of ‘European exceptionalism’ (Smith, 2011).

In this and the preceding section, the focus has been on the ways in which we might conceptualise not only international regimes but also the EU’s involvement in them. To the questions raised so far, we can now add some more specific questions about how the EU participates and with what effects, through the conceptual lens of negotiation. As we shall see, this raises a different set of implications about how and with what effects the EU is involved in international regimes.
The European Union and regimes (3): negotiation and ‘negotiated orders’

The EU’s engagement with international regimes lends itself to analysis in terms of negotiation and the development of ‘negotiated orders’ (Smith, 2000) in various issue areas. Regimes are the result of continuous negotiations between actors. They are also major arenas for multilateral negotiation games. As indicated in the discussion on regimes and institutions, negotiations may be analysed both from a rational and from a sociological or constructivist perspective. Regime negotiations can thus be interpreted as exchanges of strategic moves by calculating actors, but also as processes of persuasion and framing where actors try to construct their ideas and solutions as appropriate in the given context.

Two different analytical themes come to mind. The first focuses squarely on the negotiation mode of the Union, and raises, *inter alia*, the question whether the EU’s engagement in various regime negotiations is best understood as bargaining (and thus linked to hard power and a logic of consequences) or problem-solving (and thus linked to soft power and a logic of appropriateness). The second concerns what roles the EU plays, and is perceived to enact, in different regime contexts, and is connected to an analysis of leadership, but also to aspects of EU negotiation behaviour that create obstacles to coherent and consistent role performance.

The EU: bargainer or problem-solver?

A traditional message of negotiation theory is its emphasis on the existence of two different main modes of negotiation: bargaining and problem-solving (Hopmann, 1996, chapter 6; Walton and McKersie, 1991). In bargaining negotiations, actors follow a logic of consequences (March and Olsen, 1989), and try to maximise their self-interests through the use of threats, warnings, promises and manipulation (for a list of ‘hard bargaining tactics’, see Dür and Matteo, 2008). Traditional power resources are an essential basis for influence. Negotiations are approached as a win-lose situation and are seen as competitions. In problem-solving negotiations, actors follow a logic of appropriateness, focus on reaching solutions that are ‘good for everyone’ by identifying, enlarging and acting upon the parties’ common interests (Walton and McKersie, 1991). Negotiations are treated as win-win situations, and power is situated in information, expertise and good ideas. While bargaining is associated with a concern about relative advantages, problem solving is linked to the priority of absolute advantages (Elgström and Jönsson, 2000: 685).

Arguments may be used in both types of negotiation, but while actors engaged in bargaining mainly refer to the consequences of the other party’s actions and use norms only as strategic rhetoric, problem-solving actors refer to what is the appropriate action in the given situation and believe in the persuasive force of normative appeals (Kotzian, 2007: 81). Problem-solving actors thus engage in something like what Habermas called ‘communicative action’, where the ‘best argument’ carries the way and actors may be persuaded by convincing and logical argumentation by the other party (cf. Risse, 2000, ‘the logic of arguing’; Lewis, 2008, 2010; Müller, 2004; Niemann, 2008).

On a general level, problem solving may be associated with the images of the EU as a ‘soft’ (Nye, 2004) or ‘civilian’ (Duchene, 1972; cf. Orbie, 2006) power, while bargaining would be closely associated with traditional great power behaviour. The use of normative appeals is certainly a corner stone in efforts to portray the Union as a ‘normative’ power (Manners, 2002, 2006). The willingness of the EU to act as a norm entrepreneur (Finnemore and Sikkink, 1998), with the aim to ‘extend its norms into the international system’ (Manners, 2002), is highlighted both in the enlargement process and in EU relations with less developed countries.
Most attention has been given to its efforts to spread democracy norms and its fight for human rights (Panebianco, 2006; Sedelmeier, 2006), but its contribution to the campaign against the death penalty (Manners, 2002) and its attempts to promote peaceful conflict resolution (Björkdahl, 2005) have also been noted.

Images of the US, the current prototype of a traditional great power, tend to include the use of coercive diplomacy and material power as well as a confrontational approach, i.e. to refer to bargaining. If the EU is to be perceived as a ‘different’ great power, it should certainly engage in genuine persuasion and in joint problem-solving exercises, that is, in problem solving. But it seems yet to be an empirically unanswered question if the EU actually behaves systematically in a way that is different from the US (cf. Sjursen, 2006). Neither do we know if the EU’s mode of negotiation differs across issue areas. A comparative investigation of EU and US strategies in different regimes would have theoretical purchase in these respects.

The most effective way of exerting influence in regime negotiations is probably if you can induce other actors to consider your ideas and your preferred solutions as being ‘normal’, that is, if they come to see these ideas as a natural part of the regime’s principles and norms. The efforts by the EU to promote itself as a role model are interesting in this respect. The attractiveness of the EU may result in other actors taking the EU as a model, imitating its policies and standards. Imitation may thus take place without the EU playing any active role whatsoever. However, the EU itself, often led by the Commission (cf. Guigner, 2006; Panebianco, 2006), also acts to push other actors to adopt policies chosen by the Union (cf. Orbie, 2006; Princen and Knodt, 2003). The EU has, for example, tried to spread its model of how to prevent and fight organised crime (Longo, 2003) and its policies of conflict prevention (Björkdahl, 2002). Equally important is the tendency of other actors, states or regions, to look to the EU to find good examples and guidance in how to handle peaceful integration processes or on how to solve conflicts peacefully. Chris Hill (Hill, 1990) speaks about the ‘intellectual impact’ the EU has had by acting as a ‘civilian model’, excluding violent means of conflict resolution, while Ginsberg (Ginsberg, 2001: 50) asserts that the history of the EU offers a ‘model of integration and reconciliation’.

The EU's roles in regime negotiations

Without here going into a discussion about the strengths and weaknesses of role theory (Aggestam, 2006; Elgström and Smith, 2006), it is clear that efforts to characterise EU behaviour in different issue areas frequently refer to what we may call roles and role performance. In sociological role theory, roles – defined as patterns of expected or appropriate behaviour – are often associated with specified issue areas or certain organisational forums. Roles are thus to a certain extent contextually determined: actors behave in the way they think is appropriate in the particular context at hand. On the other hand, it might be posited that an increasingly stronger European identity will be reflected in homogeneous role performance across issue areas. It is therefore interesting to investigate whether or not the roles the EU plays differ across regimes.

The role that has attracted most attention in the literature on the EU in multilateral negotiations is undoubtedly its potential leadership role. This is probably both because the EU has itself declared, and proudly emphasised, that it performs a leadership role in many issue areas. ‘It is now the EU that self-consciously claims the mantle of environmental leadership’ (Bretherton and Vogler, 2006: 2; on climate change, see Kilian and Elgström, 2010; Oberthür and Kelly, 2008; Vanden
Brande, 2008; on trade, see Elgström, 2007) and because the topic of leadership connects to current debates about ‘the EU as a superpower’ (McCormick, 2006; Reid, 2004). Some interesting questions are if a leadership role is part of the EU’s self-image also in other regimes than environment and trade; if ‘outsiders’ – non-EU members that participate in multilateral negotiations – share such perceptions and expectations; and what factors may serve as obstacles to leadership in various arenas? Furthermore, the gradual emergence of a ‘new world order’ warrants a comparative investigation into leadership role perceptions and performance of not only the EU and the US but also of, e.g. China and India, in various international regimes.

According to one influential writer on multilateral negotiations, leadership may be defined as ‘an asymmetrical relationship of influence in which one actor guides or directs the behaviour of others towards a certain goal over a certain period of time’ (Underdal, 1994: 178). This definition signifies that a leader must have a vision, and that it needs followers. It also assumes that leaders must try to push negotiations forward, to take initiatives and drive negotiations towards their vision. Are these signifying traits – or perhaps only some of them – present in EU behaviour across regimes?

Some existing research suggests, perhaps not very surprisingly, that the EU is far from being a leader in all multilateral contexts. In a volume on the European Union at the United Nations (Laatikainen and Smith, 2006), which explicitly addresses whether the EU is a ‘leader or “frontrunner” at the UN’ (Laatikainen and Smith, 2006: 10), Karen Smith (Smith, 2006: 167), for example, finds that the EU has not assumed a leadership position on human rights issues, and Paul Taylor (2006: 152) concludes that it has been reactive and responding to others’ agendas rather than being a frontrunner in the UN economic and social arrangements in Geneva. Ole Elgström (2006), in an interview study of outsiders’ perceptions of EU negotiation behaviour in three multilateral contexts (the World Trade Organization, the UN Forum on Forests and the Convention on International Trade in Endangered Species), discovered that the EU in all these cases was considered a great power, but not necessarily a leader. The reasons given were twofold: first, the EU’s actions were seen as incoherent (across issues) and/or inconsistent (comparing words with deeds); second, the Union in all areas was claimed to devote too much time to internal co-ordination, instead of external compromise-making, resulting in slow decision-making and in inflexible joint positions. Incoherence (Nuttall, 2005) may be the result of the EU having conflicting interests in different issue-areas, reflecting the outcomes of negotiations among member states and their domestic pressure groups (according to rational institutionalism), of institutional fragmentation due to the historical evolution of the Union (historical institutionalism) (Elgström and Pilegaard, 2008), or of a diffuse and incoherent European identity (sociological institutionalism).

An approach based on negotiation and ‘negotiated order’ gives us a different set of questions about the EU’s engagement with international regimes. These questions include: What roles has the EU set out to play in international regimes, and to what extent has it been capable of performing these roles, both within specific regimes and across regimes? In particular, has the EU established itself as a leader in international regime negotiations and how does it compare with other, competing leaders? How has the EU presented itself in regime negotiations: as a bargainer or a problem-solver? To what extent has the EU succeeded in reconciling the different demands of these negotiating modes? Finally, to what extent has EU engagement in regime negotiations promoted the kind of ‘effective multilateralism’ that the EU has committed itself to, at least rhetorically?

Conclusions

Based on a critical review of existing literature, this chapter pursued two aims relating to the analysis of the relations between the EU and international regimes. Our first aim was to identify
questions arising from different approaches to the EU’s role in international regimes. These approaches are not, of course, mutually exclusive, as is shown by the intersection of approaches centred on institutions, norms and negotiation; many of the most important issues for investigation occur precisely where those intersections take place. The first such issue is the EU’s general orientation towards the formation, evolution and functioning of international regimes, including those framed by ideas of multilateralism and ‘negotiated order’. A second issue encompasses the EU’s position, roles and activities in specific international regimes, either single regimes or a number of regimes that can be subjected to comparative study. Linked to this as a third issue are the ways in which the EU’s policy-making towards and activities in international regimes are shaped by institutional factors, normative considerations, or negotiation strategies and processes. A fourth issue relates to the ways in which the EU’s activities in international regimes are shaped by interaction with other actors (for example, the USA, the G20, UN bodies) and the impact of these interactions.

Our second key aim was to evaluate the ways in which the pursuit of ‘effective multilateralism’ might be promoted or hindered by the EU’s engagement with international regimes. Central to the argument we have constructed is a framework for analysis that has three components: institutions, norms and negotiation. The first two of these, we would argue, condition the third, by providing the contexts within which the EU pursues certain negotiating roles and achieves certain outcomes. And it is this process of role performance in the negotiating contexts afforded by international regimes that we see as crucial to the pursuit and the achievement of ‘effective multilateralism’.

On the basis of our discussion, we can advance three propositions. The first concerns institutions. The EU’s activities in an international regime will be shaped by the complex relationships between the EU’s own ‘regime-ness’, the process of preference formation in the EU and the extent to which it can extract resources both from its own members and from the regime itself. There will also be a fluctuating balance between internal bargains and the need for external commitment, and between the ‘logics of appropriateness’ at EU and regime levels.

The second proposition concerns norms. The EU’s presence in a given regime will be shaped by a mixture of internal and external normative forces. On the one hand, the regime will be seen as an arena for projection of the EU ‘voice’ and consolidation of an EU identity, and as a vehicle for projection of EU norms. On the other hand, involvement in the regime may serve to accentuate normative tensions within the EU itself, and create frictions between discourses developed at the regime level and those within the EU.

The final proposition concerns negotiation. Involvement in international regimes will uncover tensions in the EU between its commitment to processes of bargaining and its self-description as a problem-solving actor. This in turn will link to ideas about what is ‘normal’ for the EU and for the regime, to the projection of EU norms and to the EU’s capacity to build relevant coalitions based on material or normative considerations. At the same time, and relatedly, involvement in regimes will raise questions about the EU’s conception of its international role and especially about its capacity to supply leadership within international regimes on a consistent and continuing basis.

These three propositions in turn carry important implications for the pursuit and the achievement of ‘effective multilateralism’. Consideration of the significance of institutions, norms and negotiation in the EU’s involvement in international regimes will provide a guide to (a) how far the EU pursues and has achieved ‘effective multilateralism’ through such involvement and (b) how far the EU itself can be conceptualised as an ‘effective multilateralist’ on the basis of its regime-related activities. This in turn is bound to raise issues about the concept of ‘effectiveness’ as viewed from a range of standpoints, and thus about regime effectiveness more generally.
Such a conclusion is particularly significant in light of the changes brought about by the implementation of the Lisbon Treaty. By creating a legal personality for the Union, the Treaty creates the potential for new forms of institutional engagement between the EU and a wide range of international regimes – but it also creates the potential for frictions with member states and uncertainties about the ways on which EU activities should be carried on. The Treaty also creates the basis for a new EU system of diplomacy which at least in principle promises to form the basis for a new and more coherent pursuit of ‘effective multilateralism’ through negotiation within regimes – but it also has resulted in at least an initial battle between member states and EU institutions in which each protagonist has attempted to secure its position vis-à-vis the others, especially in relation to control of the European External Action Service. Our contention is that the effects of such initial instability will be felt more widely in the EU’s engagement with international regimes, and that the Union’s capacity to develop stable international roles and negotiating positions will be placed into question. ‘Effective multilateralism’ in this context becomes less the guiding principle of EU engagement than a stake in the competition for influence.

References


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