

The European Union's inclusion of Non-Trade Issues in Preferential Trade Agreements

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In the following, I present a dataset on non-trade issues (NTIs), such as civil and political rights (CPR), economic and social rights (ESR), environmental protection (EP), and security issues, in 665 preferential trade agreements (PTAs) signed between 1945 and 2018.¹ In 90 of these 665 PTAs, the European Union (EU) is one of the signatory parties. This report aims at identifying the underlying logic behind different EU trade agreements. Hence, I assess two variances in the data: For one, I compare EU and non-EU agreements. The second variation studied represents differences across EU agreements.

The data offers an analysis of these differences along the following dimensions: First, I discuss the location of NTIs in PTAs (preamble or main text). Second, the paper presents the variety of issue areas (f.i. rule of law, prohibition of human trafficking, right to equal pay at work, social protection, reduction of air pollution, waste management, anti-drug, and anti-corruption) that exists across PTAs. Third, the dataset allows to evaluate the mechanisms countries use to improve NTIs in their territories. These mechanisms cover dialogue, cooperation, the involvement of third actors, monitoring mechanisms, financial assistance, dispute settlement mechanisms, and sanctioning.

Location of NTIs in PTAs: Preamble or/and Main Text

Member states can refer to NTIs in the preamble or the main text of the agreement. Everything else being equal, the reference in the main text signals stronger commitment than the reference in the preamble.

¹Each document has been coded twice and checked against third datasets for its reliability (average Kohen Kappa Index is 0.72).

The coding scheme covers 39 issues in the main text, which are the following:

anti air-pollution, anti soil-contamination, anti water-pollution, anti-corruption, anti-drug, anti-terrorism, children rights, democracy, economic development, environmental protection, equal opportunity at work, fight against human-trafficking, fight against pollution by chemicals, fish stock protection, food-security, forest protection, good governance, health and safety at work, human rights, mineral protection, minimum wage, minority rights, national security, prohibition of child labor, prohibition of forced labor, protection of migrant workers, regional integration, right to education, right to free belief, right to health, right to limited working hours, right to unionize and collective bargaining, right to work, rights at work, rule of law, social protection, waste management, wildlife protection, women rights

The data includes 22 issues in the preamble that are the following:

anti-corruption, anti-drug, anti-terrorism, children rights, democracy, economic development, environmental protection, fight against human-trafficking, good governance, human rights, minority rights, national security, protection of migrant workers, regional integration, right at work, right to education, right to free belief, right to health, right to work, rule of law, social protection, women rights

Figure 1 shows the variation in the location of issues between EU and non-EU PTAs. The figure reports the percent of issue areas in a respective agreement of the maximum number of issue areas possible. In other words, I divide the number of references in the preamble by 22 and the number of references in the main text by 39. Then, I multiply these numbers by 100. On average, the EU covers significantly more issues in the main text than non-EU PTAs with developing countries. Also, the coverage in the preamble is higher for EU PTAs than for non-EU PTAs with developing countries. Unsurprisingly, the difference to non-EU PTAs with industrialized countries is lower than the difference to non-EU PTAs with developing countries. Event though the EU has slightly more issues in its main texts than non-EU PTAs with industrialized countries², this difference is not significant. In terms of preamble references, the EU and non-EU PTAs with industrialized countries do not differ substantially. In fact, the mean of EU PTAs is even 0.73 percent smaller than the mean of non-EU PTAs with industrialized countries. This stands in contrast to the references in the main text, where the EU leads by 9.1 percent over non-EU PTAs with industrialized countries and even 22.7 percent over non-EU PTAs with developing countries. As the reference in the main text weights more than the reference in the preamble, the EU seems to be a leading actor with regard to NTIs in PTAs.

²We classify Australia, Canada, EFTA-states, Japan, New Zealand, and the US as industrialized countries.

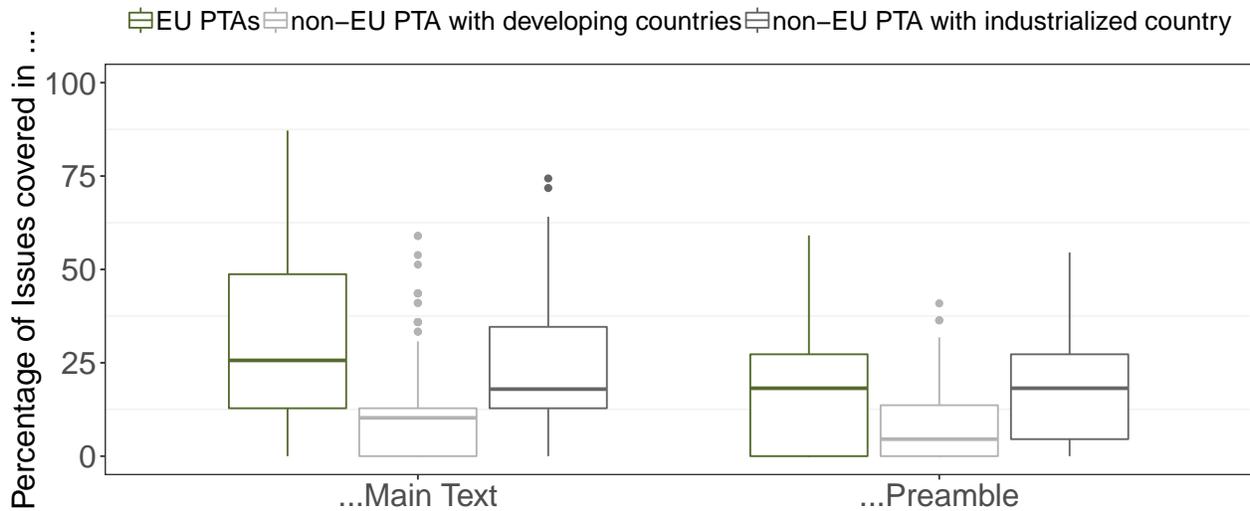


Figure 1: Issues in Preamble versus Main Text

The EU agreement with most references in the preamble is the Armenia EU PTA signed in 2013. The Armenia EU PTA covers 13 out of 22 issues in its preamble. The Central America EU PTA signed in 2012 leads with 19 out of 39 issues in the main text. Andorra EC, Cyprus EC, EU Mexico, EU Turkey, EU Faroe Islands, EC San Marino, EC Turkey Additional Protocol, EC Turkey Supplementary Protocol, EC Lebanon, EC Israel, EC Israel, EC Tunisia, EC Tunisia Association Agreement, EC Yugoslavia, EC Syria, EC Morocco, EC Morocco Association Agreement, EC Egypt Agreement, EC Malta, EC Faroe Islands, Croatia EU, EC Finland, EC Greece Additional Protocol, EC Iceland, EC Norway, EC Portugal, EC Spain, EC Sweden have no reference to NTIs in the preamble and EC Turkey Association Agreement (Ankara Agreement) and EC Turkey Supplementary Protocol and EC Iceland miss any reference to NTIs in the main text. These are all especially older agreements.

In general, there is a trend towards more issues in the main text as well as in the preamble. Figure 2 shows this pattern. After 2000, an average EU-PTA covers 21 issues in the main text and 7 in the preamble. This was much lower before, where an agreement included on average 9 issues in the main text and 2 in the preamble.

Issue areas covered

Beyond the variance in the location of reference, the variation of issue areas is interesting. The following section discusses the variation in terms of who refers to which of the following topics:

anti air-pollution, anti soil-contamination, anti water-pollution, anti-corruption, anti-drug, anti-

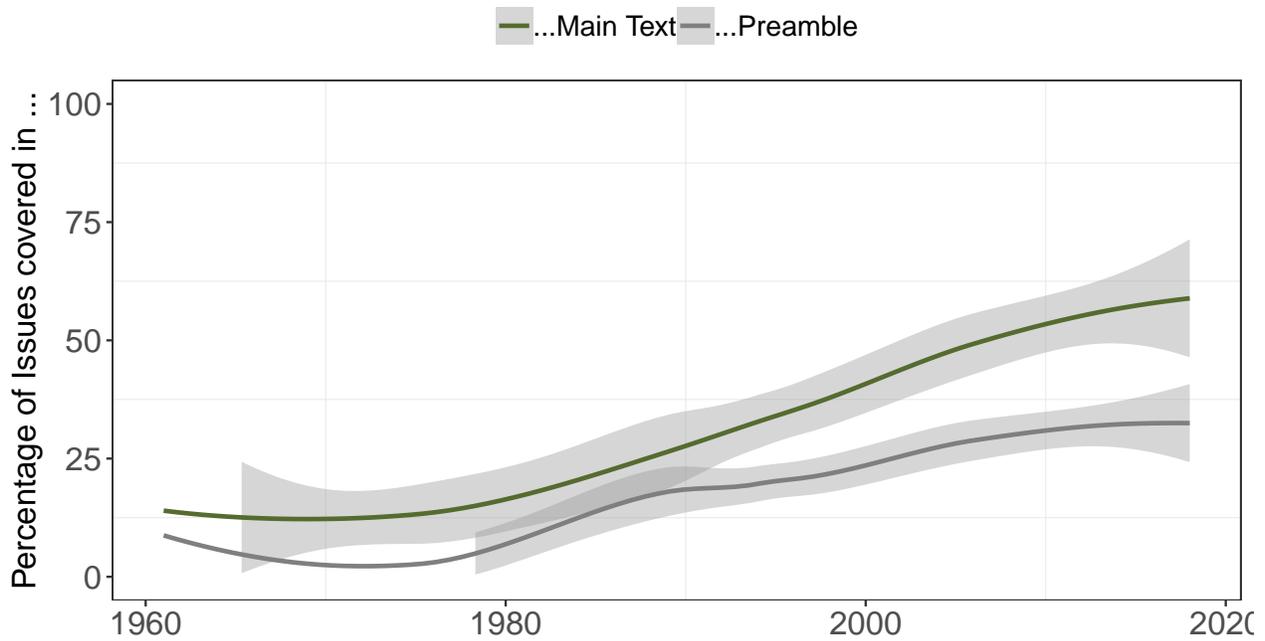


Figure 2: References to Issues in Main Text and Preamble in EU PTAs over Time

terrorism, children rights, democracy, economic development, environmental protection, equal opportunity at work, fight against human-trafficking, fight against pollution by chemicals, fish stock protection, food-security, forest protection, good governance, health and safety at work, human rights, mineral protection, minimum wage, minority rights, national security, prohibition of child labor, prohibition of forced labor, protection of migrant workers, regional integration, right to education, right to free belief, right to health, right to limited working hours, right to unionize and collective bargaining, right to work, rights at work, rule of law, social protection, waste management, wildlife protection, women rights

Figure 3 and 4 present the issue areas in PTAs. The first shows issues, where the EU is a leading actor, and the latter displays issues, where the EU is a lagging actor. The most frequent issues in EU trade agreements are national security, environmental protection, human rights, labor rights, economic development and the right to health. Those aspects are in more than 75 percent of EU PTAs. On the other hand, the right to free belief, mineral protection, minimum wage, the right to limited working hours, food security, and good governance are in less than 10 percent of EU agreements.

The EU holds a unique and dominant position in the following areas: anti water-pollution, democracy, right to education, protection of migrant workers and anti-drug. In contrast, the EU lags strongest with regard to minimum wage, right to work, right to limited working hours, prohibition of child labor and prohibition of

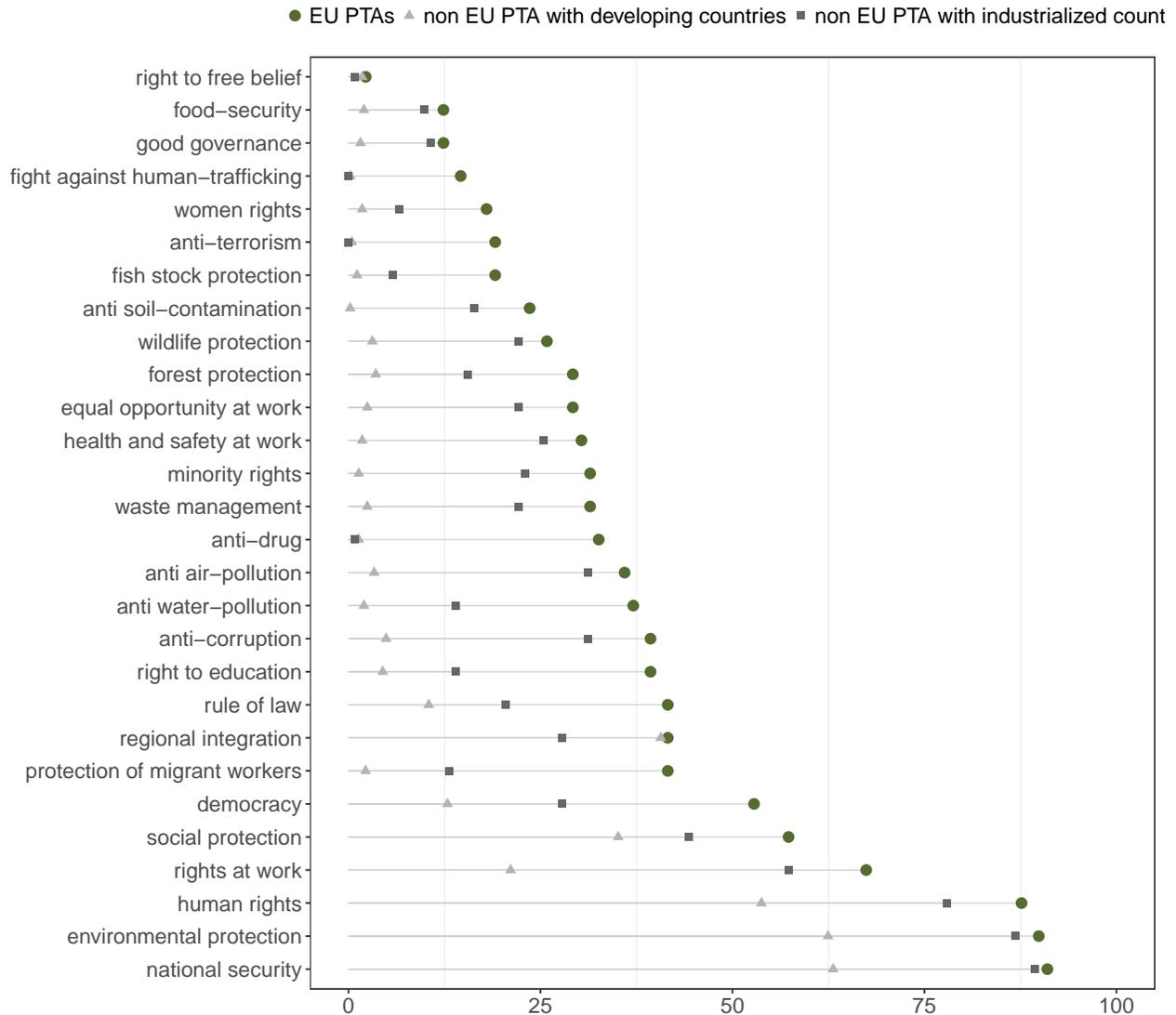


Figure 3: Issue areas covered (EU as leading actor)

forced labor. However, 3 and 4 demonstrate that the EU leads in more issue areas than it lags.

Figure 5 shows the issue areas' cumulative coverage over time. All aspects are increasingly covered in PTAs, yet, some issue areas grow less rapidly than others. Such slow growing aspects are anti-drug, right to health, human rights, environmental protection, national security and protection of migrant workers. In contrast are prohibition of forced labor, good governance, prohibition of child labor, fish stock protection, children rights, food-security, right to unionize and collective bargaining and anti-terrorism growing fast. anti-drug, right to health, human rights, environmental protection, national security and protection of migrant workers

EU PTAs with most issues covered are Central America EU, EU Georgia, EU Ukraine, Armenia EU, EU Moldova, EU South Africa, Canada EU (CETA) and EC Overseas Countries and Territories (OCT). Only

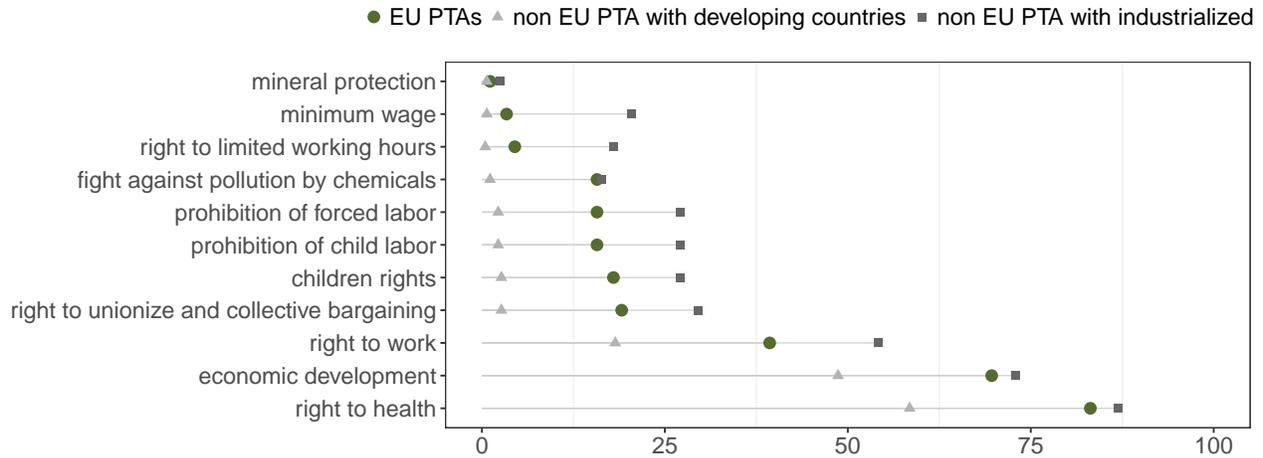


Figure 4: Issue areas covered (EU as lagging actor)

minimum wage, right to free belief, mineral protection, regional integration and food-security are rare in these agreements, where Canada EU (CETA) is the only PTA covering minimum wage, merely EC Overseas Countries and Territories (OCT) includes right to free belief, and only Armenia EU refers to mineral protection. All of these eight above mentioned agreements, however, mention anti water-pollution, anti-corruption, children rights, democracy, economic development, environmental protection, equal opportunity at work, fish stock protection, forest protection, human rights, national security, prohibition of child labor, prohibition of forced labor, right to health, right to unionize and collective bargaining, rights at work, waste management and wildlife protection.

Mechanisms used

Even though PTAs might cover the same issue area, they could still differ in how they regulate NTIs. Whereas some agreements call for dialogue and cooperation, others involve dispute settlement mechanisms and call for sanctioning in case of NTIs violation. In this section, I discuss nine different mechanisms, which are the following:

1. **Cooperation:** Parties announce their intention to cooperate on NTIs.
2. **Dialogue:** Parties hold regular dialogue to discuss NTIs.
3. **Assistance:** Capacity building and monetary support to improve NTIs.
4. **Measure:** Measures are any activities that aim to improve the protection level of NTIs (f.i. the introduction of education programs on women rights, regular exchange of best practice).
5. **Assessment/Monitoring:** Monitoring on compliance of rules and regulations on NTIs.

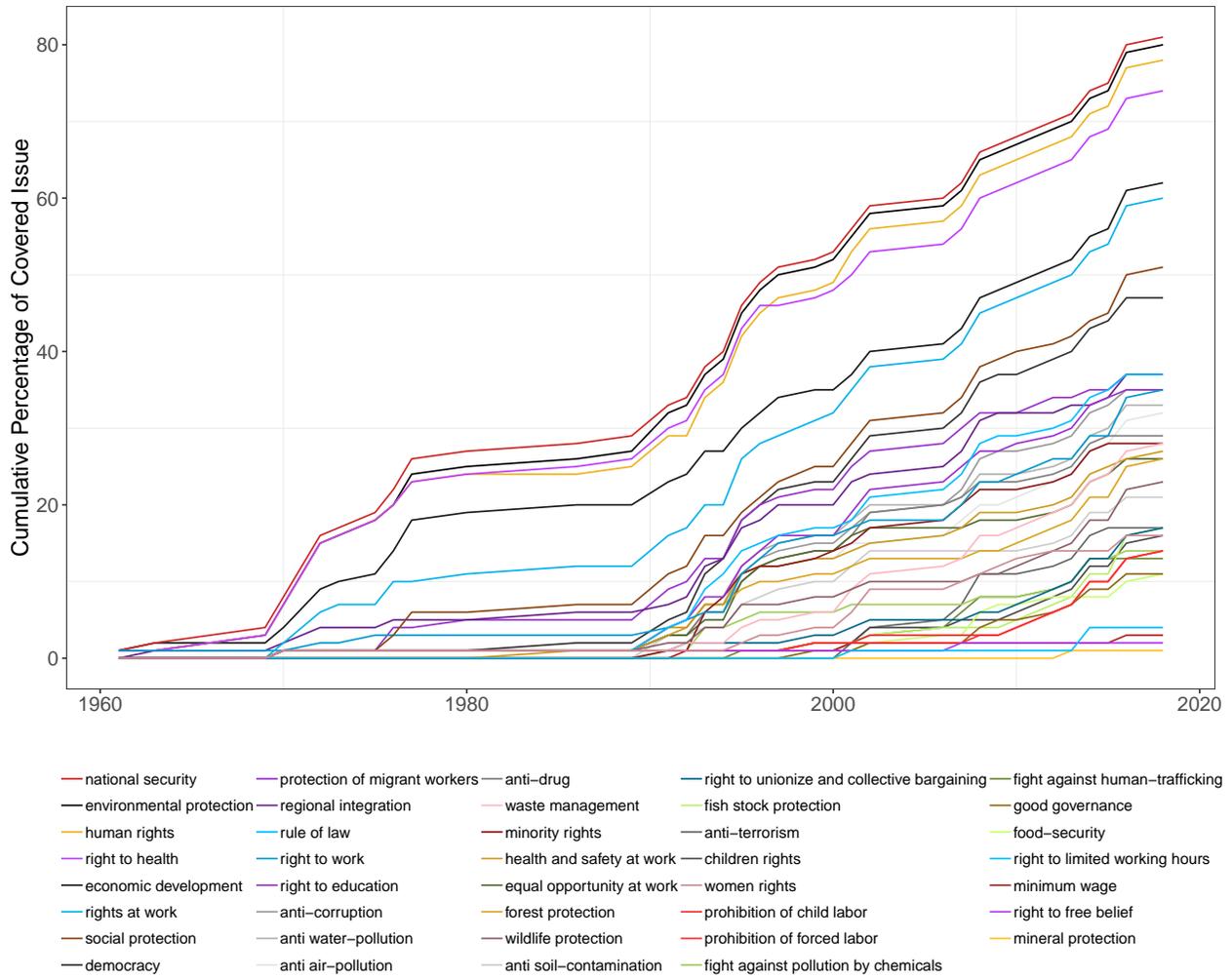


Figure 5: Issue areas covered in EU PTAs over time

6. **Outreach to International Treaties:** Involvement of third actors by making a reference to international treaties on NTIs.
7. **Outreach to Third Parties:** Involvement of third actors by announcing the intention to consult business, the public, NGO, IOs, trade unions, or/and experts on NTIs.
8. **Dispute Settlement Mechanism:** Establishment of a dispute settlement mechanism, which allows for the creation of an ad-hoc panel to solve disputes over NTIs.
9. **Conditionality:** Pre or post conditionality of NTIs. Pre-conditionality involves the postponement of trade or/and investment liberalization in case of NTIs violation. Post-conditionality involves the monetary sanctioning in case of NTIs violation.

Obviously one agreement can cover several mechanisms. Yet, certain mechanisms are more likely to appear together than others. Figure 6 shows the correlation across mechanisms that help regulate NTIs. Monitoring, for instance, correlates highly with the involvement of third actors, the reference to international treaties, assistance, and conditionality. Dispute settlement mechanisms and conditionality also relate on each other. Contrarily, PTAs that cover sanctioning and dispute settlement mechanisms less frequently also include a call for regular dialogue on NTIs. The subsample of EU PTAs shows a slightly different pattern. Figure 7 reports these results. Dialogue is much more central in EU agreements and links to various other mechanisms, such as assistance, monitoring, outreach to third parties, measures and cooperation. Dispute settlement mechanisms, however, are less prominently linked to other mechanisms in EU PTAs.

Figure 8 shows that the EU is dominant with regard to most mechanisms. In fact, 58 percent of EU agreements use cooperation, 50 percent of EU trade agreements suggest concrete measures, 47 percent of EU PTAs call for regular dialogue, 50 percent of EU agreements establish a monitoring process, 42 percent of the EU's treaties promise assistance, and even 22 percent of EU PTAs allow for sanctioning as a mechanism to regulate NTIs. Contrarily, the EU refers less frequently to international treaties than other industrialized countries do. Also, the consultation of third actors, such as business, NGOs, trade unions, experts, etc., seems to be slightly more prominent in non-EU PTAs. Finally, the EU lags in terms of dispute settlement mechanisms for NTIs.

The EU Georgia and the EU Georgia PTA cover all nine above mentioned mechanisms. Bulgaria EU, CARIFORUM EU EPA, EU Lisbon, Central America EU, Albania EU SAA, Colombia Peru EU and EU Vietnam use eight out of nine mechanisms to deal with NTIs. Most of the latter seven agreements miss dispute settlement mechanisms or conditionality. Interesting agreements are Central America EU and Colombia Peru EU that look very similar in terms of mechanisms than PTAs by the United States or Canada. This design however is not yet implemented in EU PTAs that came after the agreements with South America. However, there are 26 PTAs that do not explicitly mention any mechanism to deal with NTIs. Examples of such PTAs

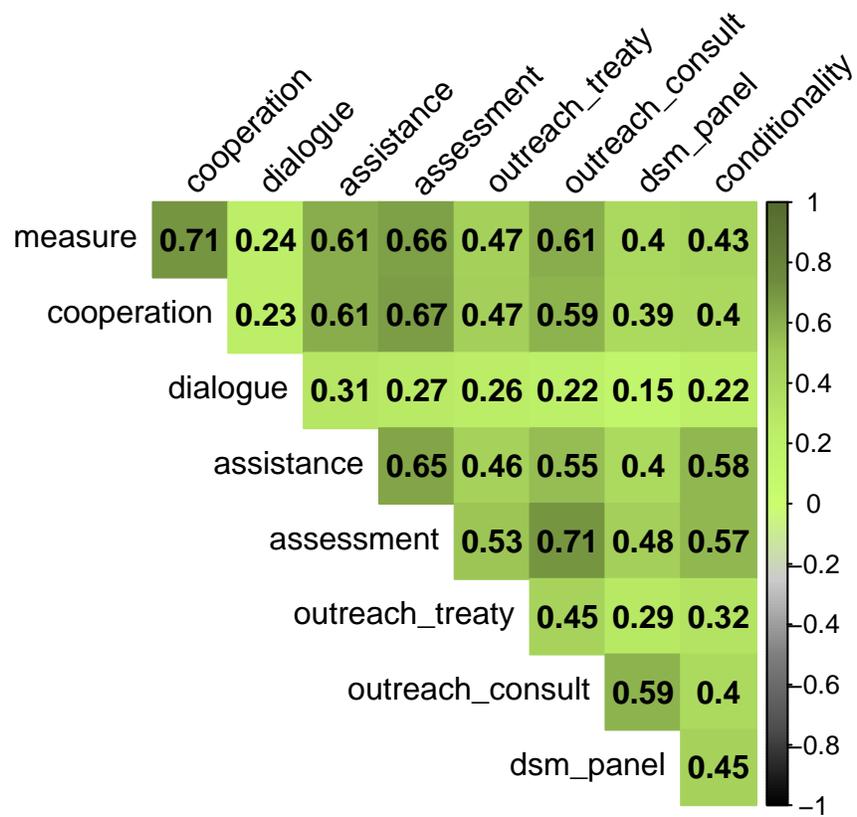


Figure 6: Correlation across Mechanims to regulate NTIs

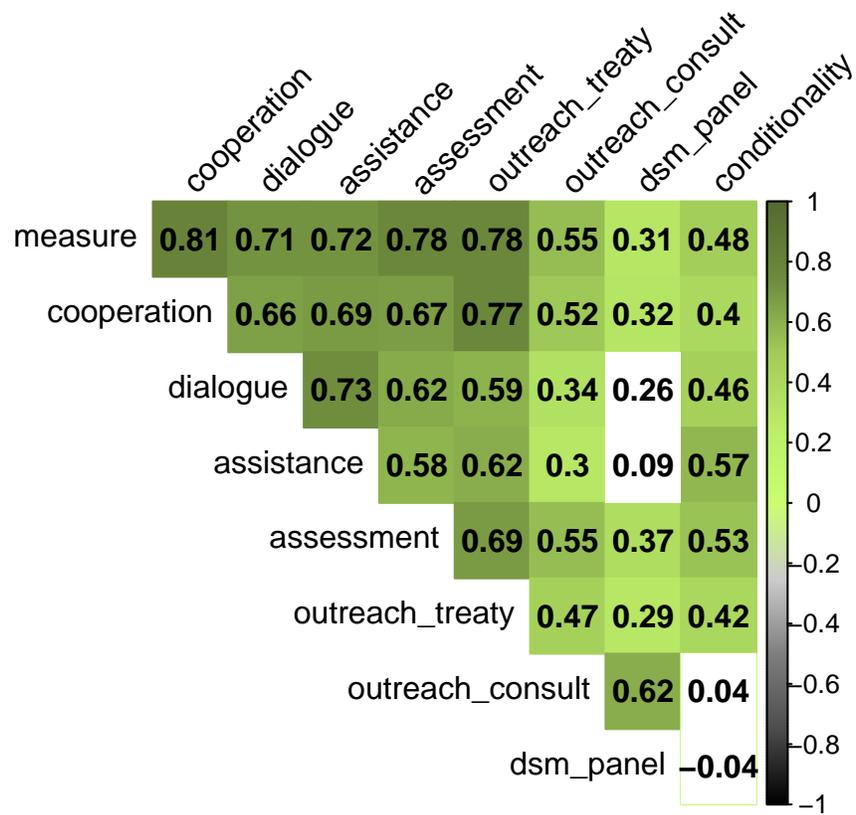


Figure 7: Correlation across Mechanims to regulate NTIs in EU PTAs

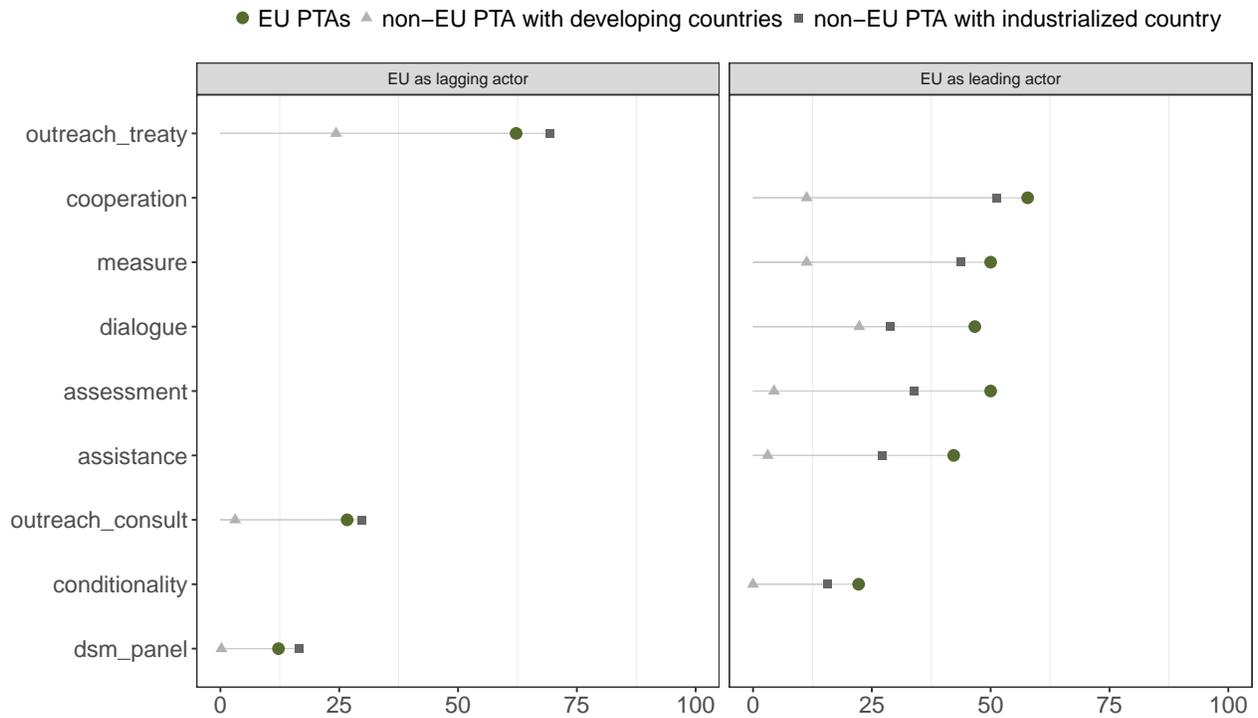


Figure 8: Mechanims to regulate NTIs

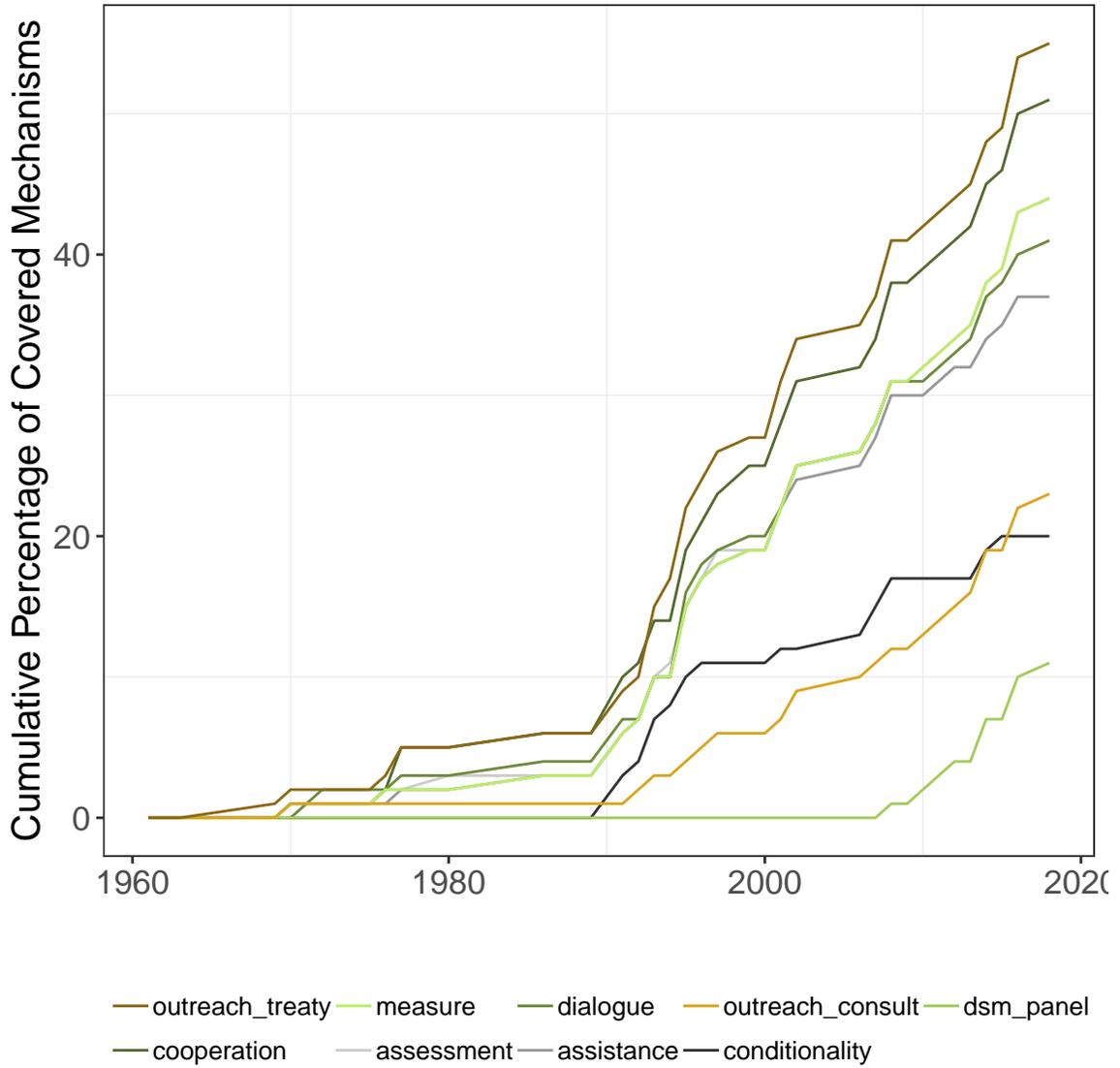


Figure 9: Mechanisms to regulate NTIs in EU PTAs over time

are EC Portugal, EC Sweden, EC Portugal Additional Protocol, EC Tunisia, EC Malta.

In general and as Figure 9 shows, mechanisms are increasingly incorporated by the EU in its trade agreements. The EU especially catches up in terms of references to international treaties that deal with NTIs. Also, it involves more and more third actors, such as business, NGOs, trade unions, the public, and experts. In contrast, conditionality does not increase as strongly as other mechanisms.

Conclusion

This report presents original data on NTIs in EU and non-EU PTAs that have been signed after 1945. The data shows interesting variation in terms of where NTIs are listed (e.g. in the preamble or the main text), what issue areas PTAs cover (f.i. national security, anti-terrorism, right to education, right to health, right to vote, minority protection, wildlife protection, or fish stock protection), and with regard to the mechanisms countries use to regulate NTIs. Such mechanism might be a call to hold regular dialogue, to cooperate, to assist, to monitor, to conduct measures/activities, to refer to international treaties, to consult third parties, to hold dispute settlement mechanisms, or to sanction.

Above, I have shown that the EU is a distinct and leading actor in regulating NTIs in its trade agreements. It does not only cover most NTIs in the main text as well as the preamble (See Figure 1), it does also cover the widest range of NTIs (See Figure 3) and the most diverse palette of mechanisms to deal with NTIs (See Figure 8). As Figure 2, 5 and 9 show, all of these trends intensify over time. Overall, it seems that also in the future the EU remains a leading actor on NTIs in PTAs.

Appendix

Codingscheme

The dataset **pre_main** covers following variables:

- [number] DESTA ID³
- [name] Name of the agreement
- [year] Year of signature
- [pre] Number of NTIs referred to in the preamble
- [main] Number of NTIs referred to in the main text

The dataset **issue** covers the following variables:

- [number] DESTA ID⁴
- [name] Name of the agreement
- [year] Year of signature
- [air] anti air-pollution
- [chemical] fight against pollution by chemicals
- [child] children rights
- [contaminant] anti soil-contamination
- [corruption] anti-corruption
- [democracy] democracy
- [development] economic development
- [drug] anti-drug
- [education] right to education
- [EP] environmental protection
- [food_security] food-security
- [forest] forest protection
- [game] fish stock protection
- [governance] good governance
- [health] right to health
- [human_trafficking] fight against human-trafficking
- [humanrights] human rights
- [labour_at] rights at work
- [labour_at_child_lab] prohibition of child labor
- [minority] minority rights
- [region] regional integration
- [religion] right to free belief
- [security] national security
- [social] social protection
- [terrorism] anti-terrorism
- [waste] equal opportunity at work
- [water] anti water-pollution
- [wildlife] wildlife protection
- [women] women rights

The dataset **mechanism** covers the following variables:

- [number] DESTA ID⁵
- [name] Name of the agreement
- [year] Year of signature

³www.designoftradeagreements.org

⁴www.designoftradeagreements.org

⁵www.designoftradeagreements.org

- [measure] Measures are any activities that aim to improve the protection level of NTIs (f.i. the introduction of education programs on women rights, regular exchange of best practice).
- [cooperation] Parties announce their intention to cooperate on NTIs.
- [dialogue] Parties hold regular dialogue to discuss NTIs.
- [assistance] Capacity building and monetary support to improve NTIs.
- [assessment] Monitoring on compliance of rules and regulations on NTIs.
- [outreach_treaty] Involvement of third actors by making a reference to international treaties on NTIs.
- [outreach_consult] Involvement of third actors by announcing the intention to consult business, the public, NGO, IOs, trade unions, or/and experts on NTIs.
- [dsm_panel] Establishment of a dispute settlement mechanism, which allows for the creation of an ad-hoc panel to solve disputes over NTIs.
- [conditionality] Pre or post conditionality of NTIs. Pre-conditionality involves the postponment of trade or/and investment liberalization in case of NTIs violation. Post-conditionality involves the monetary sanctioning in case of NTIs violation.