

Challenging Expectations:

A study of European Union performance in multilateral negotiations

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Abstract

Expectations of how well the European Union (EU) performs in multilateral negotiations have often been premised upon the EU's capabilities as a global actor and its ambition to 'lead'. Considerable attention has subsequently been paid to the EU as an actor, and leader, within multilateral negotiations; with focus particularly given to multilateral trade and environmental negotiations where expectations of EU performance are highest. Within this discourse, highly disparate understandings of how well the EU performs have however emerged, with the EU lauded on the one hand for its improving actorness and leadership, yet lamented for its ineffectiveness and lack of influence on the other. Few efforts have however sought to move beyond questions of what the EU is, and what it wants as a negotiator, to engage instead with what the EU says, what it does, and what it achieves in a negotiation environment. Addressing these issues, the aim of this study is to evaluate EU performance in multilateral negotiations as a measure of both its negotiation behaviour and effectiveness. Conducting analysis over-time (from 1995 to 2011) and across policy-fields, including case studies covering the World Trade Organisation (WTO), the UN Framework Convention on Climate Change (UNFCCC), and the Nuclear Non-Proliferation Treaty (NPT); this study tests expectations of EU performance and offers explanation for why it varies.

Challenging expectations in several ways, the study finds that EU performance in multilateral negotiations does not follow a pattern of being good in those fora where it is most 'state-like' and poor in those forum where it is least integrated, but is instead highly variable, not only between negotiation environments, but also within them. It thus finds that the EU performs neither as well as the leadership discourse suggests, nor as poorly as the effectiveness literature implies. Explanation for variation in the EU's performance is moreover found not only in the EU's institutional complexities and changes in structural conditions, but in how these conditions intersect to shape the EU's level of ambition. Where the EU has high ambition, pursuing progressive goals with the EU as a distinctive preference outlier compared to its negotiation partners, the EU's ability to persuade others to raise their ambition in support of EU preferences is limited. Instead, it is where the EU moderates its ambition; pursuing progressive objectives but maintaining some zone of agreement with negotiation partners that it performs well. The case is thus made that EU negotiation performance may be aided less by the normative distinctiveness of EU preferences and its endeavour to 'lead' the way, and much more by the EU's pragmatism in finding commonality with the preference structures of its negotiation partners.

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Author's Declaration

I declare that, except where explicit reference is made to the contribution of others, that this dissertation is the result of my own work and has not been submitted for any other degree at the University of Glasgow or any other institutions.

Signature:  _____

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Abbreviations and acronyms

ACP	African, Caribbean & Pacific Countries
AOSIS	Alliance of Small Island States
BASIC	Brazil, South Africa, India and China
BRICs	Brazil, Russia, India and China
CAP	Common Agricultural Policy
CCP	Common Commercial Policy
CD	Conference on Disarmament
CDM	Clean Development Mechanism
CFSP	Common Foreign and Security Policy
CMP	Conference of the Meeting of the Parties to the Kyoto Protocol
CODUN	Council Working Group on Global Arms Control and Disarmament
CONOP	Council Working group on Non-Proliferation
COP	Conference of the Parties
COREPER	Committee of Permanent Representatives
CTBT	Comprehensive Test-Ban Treaty
DC	Developing Country
DDA	Doha Development Agenda
DFQF	Duty-Free Quota-Free
DG	Directorate General
DG CLIMA	Directorate General for Climate Action
DPRK	Democratic People's Republic of Korea
EBA	Everything But Arms
EC	European Community
EEC	European Economic Community
ECFR	European Council on Foreign Relations
ECJ	European Court of Justice
EEAS	European External Action Service
EIG	Environmental Integrity Group
ETS	European Emissions Trading System
EU	European Union
EUGA	European Union as a Global Actor
FAC	Foreign Affairs Council
FIPs	Four/Five Interested Parties (US, EU, India, Brazil, Australia/Japan)

FMCT	Fissile-Material Cut-Off Treaty
G4	Group of 4 (EU, United States, Brazil and India)
G5	Group of 5 (EU, United States, Brazil, China and India)
G7	Group of 7 (G5 plus Australia and Japan)
G-10	The 'Vienna' Group of Ten (Group of ten middle powers concerned with 'Vienna' issues in the NPT)
G20	Group of 20 (developing countries concerned with agricultural issues in the WTO)
G77	Group of 77 (developing countries in the UNFCCC)
G90	Group of 90 (LDCs, ACP and African Group countries in the WTO)
GAERC	General Affairs and External Relations Council
GATS	General Agreement on Trade in Services
GATT	General Agreement on Trade and Tariffs
GDP	Gross Domestic Product
GHG	Greenhouse Gas(es)
IAEA	International Atomic Energy Agency
IC	Industrialised Country
ILO	International Labour Organisation
JI	Joint Implementation
JUSSCANNZ	Japan, United States, Switzerland, Canada, Australia, New Zealand & Norway
LDC	Least Developed Country
LULUCF	Land-Use, Land-Use Change and Forestry
MEA	Multilateral Environmental Agreement
MTN	Multilateral Trade Negotiations
MTS	Multilateral Trading System
NAC	New Agenda Coalition
NAM	Non-Aligned Movement
NAMA	Non-Agricultural Market Access
NNWS	Non-Nuclear Weapon State(s)
NPE	Normative Power Europe
NPT	Treaty on the non-Proliferation of Nuclear Weapons
NWFZ	Nuclear Weapon Free Zone
NWS	Nuclear Weapon State(s)
OECD	Organisation for Economic Cooperation and Development

OPEC	Organisation of Petroleum Exporting Countries
P-5	Permanent Five members of the United Nations Security Council
REIO	Regional Economic Integration Organisation
RevCon	Review Conference
SEA	Single European Act
SEM	Single European Market
SSM	Special Safeguard Mechanism
START	Strategic Arms Reduction Treaty
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
TNC	Trade Negotiations Committee
TPC	Trade Policy Committee
TRIMs	Trade-Related Investment Measures
TRIPs	Trade-Related Aspects of Intellectual Property
UNFCCC	United Nations Framework Convention on Climate Change
UNSC	United Nations Security Council
UR	Uruguay Round
US	United States (of America)
USTR	United States Trade Representative
WPIEI-CC	Working Party on International Environment Issues: Climate Change
WMD	Weapons of Mass Destruction
WTO	World Trade Organisation

“Commit thy works unto the Lord and He shall establish your thoughts”

Proverbs 16: 3

Chapter 1: Introduction

“In the eyes of domestic political actors as well as negotiating opponents, performance is likely to be measured not only by the product you come up with at the end, but also to some extent by the way you play the game.”
(Arild Underdal: 1983: 190)

Since the late 1990s considerable attention has been paid to the European Union (EU) as a negotiator, actor, and indeed ‘leader’ in multilateral negotiations. A burgeoning body of debate has concentrated on the EU’s (in)abilities to act, lead, and ultimately to attain its goals in multilateral negotiations, with extensive focus particularly given to the EU’s leading role in global environmental governance and, specifically, in multilateral climate negotiations. The 2003 European Security Strategy further emphasised this debate, as the EU’s strategic objective of ‘effective multilateralism’ narrowed focus onto the EU’s abilities not only to build an effective rules-based multilateral system to tackle today’s global challenges but importantly, upon the EU’s own effectiveness within it. Understanding of the EU’s *performance* in such fora has therefore been a topic of keen interest for EU scholars as the academic community has sought to explain how this unique polity functions and achieves its ever more ambitious goals in an international system still dominated by the nation-state. Central to this has been debate of the EU’s capabilities-expectations gap (Hill: 1993) with the EU seen to be ambitious to take on a greater role but often falling short of those aspirations; resorting instead to building its international presence if not always its effectiveness. However, despite being a critical issue of debate and a term frequently utilised in EU discourse, ‘performance’ as a concept of analysis has rarely been elucidated or explicitly evaluated in the study of the EU. With a considerable volume of literature focusing upon EU leadership and actorness in multilateral negotiations, scholars have until very recently tended instead to offer an appraisal of the EU’s capacity to act or lead within such forum but with relatively little attention then given to the EU’s performance as a measure of its actual negotiation behaviour and overall effectiveness.

Increasingly divergent perspectives of EU performance both within, and across, policy fields have also developed with the EU seen as a leader, or ‘leading actor’ on the one hand and yet inconsistent and often lacking in influence on the other. This divergence is reinforced by a growing disparity between expectations of what the EU *ought* to do, and

what it actually *does do* in multilateral negotiations. Understandings of EU performance in multilateral negotiations have therefore developed along disparate lines, assessed either on the EU's capacity to 'act' or 'lead' and thus in part on the "way it plays the game" , or on its ability to influence outcome and thus on the "product it comes up with" (Underdal: 1983: 190), but with limited connectivity between the two. This study seeks to tackle these differences and to test those expectations by explicitly evaluating how well the EU has performed – as a measure of both its negotiation behaviour and effectiveness - in multilateral negotiations spanning time and across policy fields, in order to generate a fuller picture of EU performance in multilateral negotiations and to offer some explanation for why that performance may vary.

The purpose of this chapter is to introduce the wider study and is broken down into five main sections. In the first section the concept of performance is introduced with a brief overview of how the study of performance has evolved within EU studies and why it matters. In section two discussion is then given to alternative concepts of analysis through a review of the existing literature. Specifically this section considers the discourse on the EU as an actor, a leader, and its effectiveness within multilateral negotiations and how these debates contribute to expectations of the EU's performance. In section three the aims of the study are detailed, including its main research questions and the contribution it seeks to make, along with an overview and justification of the case studies selected for the following empirical analysis. In section four attention is given to the research and data collection methods utilised in the remainder of the study. The fifth and final section of the chapter then offers a breakdown of the thesis structure along with an introduction of the main findings from each of the subsequent chapters.

1.1 The evolution of a research agenda

The performance of the EU in international affairs has, albeit implicitly, drawn the attention of scholars since the early 1970s when the first studies into the European Communities' power (Duchêne: 1972) and 'actorness' (Sjöstedt: 1977) were introduced. As studies sought to describe *what the EU was*, they further developed to try to explain *what it did*. Evolving over the 1980s and 1990s as the EU undertook greater widening and deepening, a new focus was given to the EU's 'presence' in the world – a concept aimed at evaluating the EU's international role but which moved beyond more state-centric approaches to take into consideration the EU's unique polity (Allen & Smith: 1990: 47). The passing of the Treaty on European Union (TEU) in 1992 and the resultant creation of a

new Common Foreign and Security Policy (CFSP) further developed interest in the EU's performance, particularly in international institutions, as Member States committed to “coordinate their action in international organizations and at international conferences” and to “uphold [EU] common positions in such fora” (Treaty on European Union: 1992: Art. J.2(3)). Coinciding with increasing public awareness of the need to tackle global problems multilaterally, and of the work being conducted in international institutions, debate over the late 1990s and early 2000s increasingly re-focused upon the EU's capacity to ‘act’ within such institutions. The EU's ambition to take on a greater global role, especially evident within global environmental governance, further focused the attention of scholars, with case studies aimed at analysing EU *actorness* and *leadership* in global climate negotiations in particular (e.g. Jupille & Caporaso: 1998, Jupille: 1999, Gupta & Grubb: 2000, Vogler: 2005, Bretherton & Vogler: 2006).

With this focus on EU leadership in multilateral negotiations – a concept that particularly emphasised the EU's ‘positive influence’ (Underdal: 1994) and its ability to attract followers - renewed attention was also given to the *type* of power that the EU was, with the EU's uniqueness as an international actor ensuing debate of its distinctiveness as a ‘normative’ (Manners: 2002, 2006), ‘transformative’ (Börzel & Risse: 2009), and even ‘ethical’ (Aggestam: 2008) power: one who chose to act multilaterally, and who sought to be a ‘force for good’; furthering its normative and ethical values, and strengthening a rules-based multilateral system. Within this discourse the EU's ‘normative’ power has particularly been popularised as a means of assessing not only the EU's distinctive international identity courtesy of ‘what it is’, but also its methods of wielding influence in international affairs (Manners: 2002: 242). Stressing the EU's, “different existence, the different norms, and the different policies that the EU pursues”, the Normative Power Europe (NPE) debate has been notable in stressing the distinctive performance of the EU in “redefining what *can* be ‘normal’ in international relations.” (Manners & Whitman: 2003: 389-390); especially identified in what is seen as the EU's ‘ideational impact’ and ‘power over opinion’ within the international system (Manners: 2002: 238-9).

Focus on the EU as a ‘type’ of power has invariably led, over the course of the 2000s, to scholars becoming ever more interested in the EU's “power over outcomes” (A.R Young: 2010: 4), and the debate has further evolved to address the EU's *effectiveness* within international organisations, in particular within the United Nations (Ortega: 2005, Laaitakinen & Smith: 2006), but with case studies concentrating on a growing array of

international organisations (Kissack: 2010, Jørgensen: 2009a, 2009b). The EU's *influence* within multilateral negotiations has also started to draw attention (Van Schaik & Schunz: 2012, Schunz: 2010a, 2010b), again reflecting a growing interest towards the EU as more than just an international presence but on its ability to shape international outcome and achieve its desired results.

Throughout this evolving research agenda, attention has notably shifted across several different concepts of analysis aimed at addressing questions of *what the EU is and says* (as a presence, actor, leader, or a distinctive type of power?), *what it does* (what capacity does the EU have to act, what instruments does it use?), and *what it achieves* (is the EU effective and does it exert influence?) in its external relations. Until very recently however, very few attempts have been given to addressing the connectivity between these questions on what the EU is, says and does and how they relate to each other (see also Damro: 2012: 697). Since the start of the 2010s a new research agenda has however started to emerge which addresses these linkages by focusing explicitly on EU *performance* in its external relations. Within this new field of study EU performance in foreign policy (ECFR: 2010) and international institutions (JEI Special Issue 2011) have become of increasing interest with the emergence also of a new academic network - *EUPERFORM*¹ - being established for the dedicated study of EU performance in international institutions. Within those performance studies, performance is conceptualised and “unpacked” (Jørgensen et al. 2011: 599) into a number of criteria or indicators to evaluate not only the EU's capabilities as an actor, but its behaviour within its foreign policy relations and in other institutions and its effectiveness or ‘goal achievement’. Policy-makers have also increasingly started to focus upon performance, not least since the global recession in 2008 where on-going concerns over the EU's economic performance have raised the need for more accurate means of assessing what the EU is doing to achieve its goals and how successful it is in achieving them. Several studies have been conducted by the European Commission (2008, 2011) and the European Commission Joint Research Initiative (2010) into EU and Member State performance in areas of trade, innovation and enterprise. Moreover, within international institutions such as the World Trade Organisation (WTO), and the United Nations (UN) the EU and its Member States are themselves subject to performance assessments as institutions seek to generate a picture of progress made towards specific international goals (i.e. WTO: 2011).

¹ For more information see <http://www.ies.be/euperform>

Performance studies are thus increasingly providing the means by which EU behaviour and success in its external relations are being assessed and quantified. As a comparative concept, performance studies are highly adept at providing comparison of what the EU does, and how successful it has been, either over-time, across products/policies or relative to other actors. Performance studies contribute therefore, to the growing competitiveness debate within the EU which, since the launch of the Lisbon Agenda in 2000, although being primarily concerned with the EU's economic performance, has nevertheless showcased the competitiveness of the EU and its ability to perform well across external policy fields. Performance, as a concept of analysis, offers therefore a highly useful analytical tool to further the research agenda, begun in the 1970s, in better understanding not only what the EU is doing in its external relations but also, importantly, *how well* it then does. It is to this small, yet growing field of research that this study thus seeks to contribute. By evaluating EU performance within the specific context of multilateral negotiations – a context, it is argued, that is the very crux of global governance and fundamental to modern international relations – it aims to generate a fuller understanding of EU performance, as a measure of its negotiation behaviour and effectiveness, in order to address both consistency and change in EU performance: whether it has improved or diminished, and what this can reveal about the EU as an international actor and negotiator.

1.2 Divergent understandings and disparate expectations - EU 'performance' in multilateral negotiations

In order to set the scene for the study and to begin to conceptualise performance, a review of the existing literature focusing upon the EU within international institutions, and multilateral negotiations, is now given. Focus in this review is particularly given to the discourse of what might be seen as competing concepts of analysis, including the EU's actorness, leadership and effectiveness within multilateral negotiations. Specifically, this review addresses how the existing literature has generated divergent understandings of what constitutes performance as well as how the EU's capabilities as an actor have shaped expectations of its performance in multilateral negotiations. By way of clarification, a multilateral negotiation is here understood as a process of interaction between three or more States (Ruggie: 1992: 571, Keohane: 1999: 731) in order to reach agreement or find common interest where conflicting interests are present (Iklé: 1964: 3-4). More specifically, multilateral negotiations addressed in this study may be understood as a process of 'Global Conference Diplomacy' involving, "meetings of governmental representatives serviced by a secretariat and, in some cases, attended by non-governmental

observers” (Rittberger: 1983: 170). Multilateral negotiations focused upon therefore include those conducted under the auspices of the United Nations (UN) and World Trade Organisation (WTO).

The ‘Capability-Expectations Gap’

Before turning to other concepts of analysis and how they relate to understandings of EU performance in multilateral negotiations, it is first necessary to consider the EU’s capabilities as an international actor and the expectations that these create in understanding how well the EU might perform in any given negotiation environment. As a polity the EU is widely recognised as *sui generis*. Increasingly active in the international community the EU has evolved since its creation in 1957 to develop capabilities beyond that of a regional economic community to also include a wide variety of competences in its external relations. In its efforts towards ‘ever closer union’², on-going integration between EU Member States in policy fields such as trade, the environment, and security, has meant that the EU now frequently ‘acts’ alongside other State Parties within multilateral negotiations. However, as a complex polity with varying degrees of authority delegated to it by its still sovereign Member States, the EU is widely acknowledged for inconsistencies in its capability to act internationally; often referenced using the popularised phrase of being an, ‘*economic giant, political dwarf but military worm*’ (New York Times: 1991). Thus, despite its considerable size, population, and economic, military and diplomatic capabilities, the EU does not always have the internal decision-making infrastructure that would allow it to use them (Whitman: 2010: 26). Expectations of how well the EU can subsequently perform in multilateral negotiations are thus highly disparate depending upon the policy field under negotiation and the EU’s capabilities within that field.

As one of the world’s economic superpowers (McCormick: 2007) and with a supranational Common Commercial Policy (CCP) directing the collective decisions of EU economic and trading interests, the EU is generally expected to have a greater international influence in its external trade and commercial relations than it would in policy areas where its institutional capabilities are less integrated (i.e. Meunier & Nicolaïdis: 2011). With trade policy under the exclusive competence of the European Community, the European Commission is responsible for initiating and implementing EU trade policy and also

² Under the preamble of the Treaty of Rome establishing the European Economic Community signatories, “determined to lay the foundations of an *ever closer union* among the peoples of Europe” (Treaty of Rome: 1957 emphasis added)

formally speaks for the EU in all of its external trade relations. The EU subsequently ‘speaks with one voice’ when it comes to multilateral trade negotiations (MTN) and is, in this forum, seen to be at its most ‘state-like’ (Whitman: 2010: 27, Bretherton & Vogler: 2006: 88); raising expectations of the EU being better able to monopolise on its not inconsiderable market size and economic resources to gain bargaining power and influence within the multilateral trading system (MTS) (Meunier: 2000).

On the other side of the spectrum, despite the creation of the CFSP intended to create capability for the EU to take on a greater international role in areas of foreign and security policy, scholars have been at pains to comment on the EU’s continued limitations in this field (see Ginsberg & Smith: 2007: 273). Christopher Hill’s (1993) seminal paper lamenting the EU’s ‘Capabilities-Expectations Gap’ particularly highlighted this disconnect between what had been ‘talked up’ about the EU’s foreign and security policy capabilities and what the reality of its situation as a global actor in fact was. Hill (2004: 154) later argued that despite the EU’s will to act collectively in international security negotiations it still lacked the capacity to be considered a “serious player”. Comparative to the high expectations of EU performance in its external trade relations, expectations of EU performance in the security field - where EU Member States maintain national authority and where the EU is subsequently less integrated – thus continue to lag behind (Jørgensen: 2009b: 196). Low expectations of the EU’s performance in multilateral negotiations have moreover been further corroborated by the conventional wisdom that it is only when the EU stands together and united that it can perform well in multilateral negotiations (Wessel: 2011, Jørgensen & Wessel: 2011). Where the EU has more limited capability to maintain its unity, particularly where there are internal divisions amongst its Member States, criticisms have followed that EU performance has been weakened by its lowest common denominator positioning (Müller: 2010, Elgström & Stromvik: 2005: 117, House of Lords: 2004: 56), inflexibility (Meunier: 2000: 106, Paeman & Bensch: 1995: 94), or due to ‘navel gazing’ (Van Schaik & Egenhofer: 2003) and ‘bunker mentality’ (Oberthür & Pallemarts: 2010), whereby the EU spends more time negotiating with itself and presenting ambiguous statements than negotiating with others and shaping negotiation outcomes.

Interestingly however, expectations have also been high (at least until the later 2000s³) of the EU performing particularly well in multilateral environmental negotiations: this despite the fact that the EU has a more limited capability in its common environmental policy relative to its CCP. On environmental issues such as climate policy the EU in fact shares competence with its Member States. The EU must therefore go through a careful process of internal negotiation between often divergent policy preferences of the EU's 27 Member States (Van Schaik: 2010) in order to derive its external policy and negotiation objectives. Unlike the field of trade however, within multilateral environmental negotiations the Commission and the Council Presidency may speak for the EU whilst Member States also retain their right to speak in a national capacity; creating potential sources of division for the EU as well as confusion for its negotiation partners (Yamin: 2000). Despite this, the EU's own ambitions in tackling global environmental issues since as early as 1990 (Council: 1990), and the forging of its international identity as a 'green' leader (Kilian & Elgström: 2010, Elgström: 2007, Chaban et al.: 2006), have also significantly raised expectations of EU performance within multilateral environmental negotiations (see Vogler: 2011).

Consequently, scholarly interest has tended to focus much more on those negotiations where expectations of the EU's role are higher and, over the course of the 1990s and 2000s volumes of literature have been produced focusing specifically on EU leadership, actorness and effectiveness within multilateral trade and environmental negotiations. What is still more interesting is that whilst expectations of the EU's negotiation performance vary in accordance with the EU's capabilities across its different external relations, analyses of EU performance within those negotiations where it has been expected to perform well have nevertheless diverged considerably. Within this literature the EU has thus been seen as both a 'leading' and highly significant player (i.e. Vogler: 2011, Groenleer & Van Schaik: 2007, Falkner: 2007, Van Den Hoven: 2004, Woolcock & Smith: 1999), but one that also lacks influence and is ineffective (Van Schaik & Schunz: 2012, Lacasta et al.: 2007, Hovi et al.: 2003, Paeman & Bensch: 1995). Much of this discrepancy may however be explained in the concepts used to make those assessments. It is to these concepts that this review now turns.

³ The EU was widely criticised for its failures at the UNFCCC's Copenhagen Summit in 2009 which has raised questions amongst academics and policy-makers of the EU's continued prominence in global environmental governance (see Afionis: 2011, Roberts: 2010, Santarius et al. 2009). This is developed upon in Chapter Three.

Raising expectations: An improved EU 'leadership' within multilateral negotiations?

Leadership, as a concept of analysis, has grown in particular prominence in EU studies since the late 1990s. Seminal works by O. Young (1991), Underdal (1994), and Malnes (1995) in re-conceptualising leadership as a necessary form of behaviour to ensure the effectiveness of international regimes have increasingly been drawn upon to identify and specify the actions and behaviour of the EU as a 'leader' within multilateral negotiations (see Wurzel & Connelly: 2011, Parker & Karlsson: 2010, Schreurs & Tiberghien: 2007, Zito: 2005, Andresen & Agrawala: 2002, Oberthür: 2000). Understood as a form of negotiation behaviour in which an actor could exert "positive influence" over others in the pursuit of common and shared objectives (Underdal: 1994); from as early as 1990 the EU was itself using leadership rhetoric in statements regarding multilateral environmental negotiations whereby the EU, "as one of the foremost regional groupings in the world, [would] play *a leading role* in promoting concerted and effective action at a global level" (European Council: 1990, emphasis added). Much has subsequently been written which focuses upon the evaluation, and explanation, of EU 'green' leadership (i.e. Wurzel & Connelly: 2011, Oberthür: 2011b, Kilian & Elgström: 2010, Parker & Karlsson: 2010, Oberthür & Roche Kelly: 2008, Schreurs & Tiberghien: 2007, Vogler & Stephan: 2007, Zito: 2005), with the case study of the UN Framework Convention on Climate Change (UNFCCC) negotiations and the Kyoto Protocol to cut global greenhouse gas (GHG) emissions popularly employed as providing, "the EU's most paramount claim to leadership" (Bretherton & Vogler: 2006: 105).

Early works into EU leadership in the 1990s were however, highly sceptical of the EU's self-proclaimed leadership in multilateral negotiations; especially evident in the UN climate change negotiations (e.g. Oberthür: 1999, Gupta & Grubb: 2000, Gupta & Ringius: 2001, Hovi et al. 2003), as well as to some extent within the Uruguay Round of multilateral trade negotiations (Paeman & Bensch: 1995, Smith & Woolcock: 1999, Devyust: 1995, Woolcock & Hodges: 1996). Within that discourse the EU was particularly criticised for its 'high ambition but low performance' (Hovi et al. 2003) due to its internal conflicts and divisions (Gupta & Ringius: 2001), for spending too much time having to negotiate with itself (Andresen & Agrawala: 2002: 48) and of lacking the capacity to lead (Hovi et al.: 2003: 16). In the 2000s however academic attention shifted away from critiquing the EU's leadership role, to engage instead with the question of *why* the EU was a leader (Zito: 2005, Harris: 2007, Oberthür & Pallemmaerts: 2010, Wurzel & Connelly: 2011) and the forms of leadership the EU exhibited (Parker & Karlsson: 2010,

Oberthür & Roche Kelly: 2008, Vogler & Stephan: 2007). Within that discourse, studies have widely acknowledged what is believed to be the EU's "improved" leadership record, in which the EU has been argued to have "traded places" with the United States as the leading actor on global environmental governance (Keleman & Vogel: 2010, Keleman: 2010, Oberthür & Roche Kelly: 2008, Groenleer & Van Schaik: 2007, Schreurs & Tiberghien: 2007). Drawing close synergies with the Normative Power Europe debate (i.e. Van Schaik & Schunz: 2012, Falkner: 2007, Schiepers & Sicurelli: 2007), arguments followed that the EU particularly demonstrates "directional leadership" (Oberthür & Roche Kelly: 2008: 36, Skodvin & Andresen: 2006: 21, Andresen & Agrawala: 2002: 49) that is, one who, "demonstrates through domestic implementation that a goal is achievable" (Gupta & Ringius: 2001: 82) and by the, "setting of a good example or showing the way on how to deal with an issue" (Andresen & Agrawala: 2002: 41). In the multilateral trading system similar assessments have also been made of EU leadership within the WTO, with the EU's role in the creation of the WTO and acting as *demandeur* for a new round of trade negotiations, reflecting its improved performance within the MTS (Paeman & Bensch: 1995, Woolcock & Smith: 1999, Van Den Hoven: 2004).

Such assessments have particularly emphasised the EU's willingness and ambition to 'lead the way' for others to follow as reason for its improved leadership record (Parker & Karlsson: 2010, Oberthür & Pallemarts: 2010, Groenleer & Van Schaik: 2007, Van Den Hoven: 2004), along with its distinctively 'normative' position within negotiations (Van Schaik & Schunz: 2012, Van Den Hoven: 2004). The EU's ambitions are further seen to be reinforced by developments in the EU's institution with flagship policy developments such as the creation of the Single European Market (SEM), reforms of the Common Agricultural Policy (CAP) (A.R Young: 2011, Jørgensen: 2009a, M. Baldwin: 2006), the establishment of the European Emissions Trading System (ETS) and the evolution of the EU's ambitious climate and energy package (Oberthür: 2011a, Keleman & Vogel: 2009, Oberthür & Roche Kelly: 2008: 44, Oberthür: 2000: 649) believed to have encouraged the EU to develop more progressive policy objectives at the international level. The EU's own high ambitions as a domestic actor in tackling climate change, i.e. by taking autonomous action to set high unilateral targets for the cutting of greenhouse gas emissions have thus been frequently cited as reason for the EU's improved leadership record (Parker & Karlsson: 2010: 930, Gowan & Brantner: 2008: 45, Oberthür & Roche Kelly: 2008: 36, Schreurs & Tiberghien: 2007: 19, Gupta & Ringius: 2001: 288).

However, in what may be described as, “decadal variation” (Oberthür: 2011a), discourse in the later 2000s and early 2010s has increasingly started to question the EU’s leadership of multilateral negotiations; identifying the rise of the emerging economies (Brazil, China and India) as possible explanation for the EU’s ‘fall’ or diminishing performance (Oberthür: 2011a, A.R Young: 2011, Roberts: 2010, M. Baldwin: 2006). Within the leadership discourse therefore there is some broad agreement that the EU has demonstrated an “improved” (Oberthür & Roche Kelly: 2008, Schreurs & Tiberghien: 2004, Van Den Hoven: 2004) leadership record within multilateral environmental and trade negotiations over the 2000s but that this may now be diminishing due to competition from new actors within the international system. From a performance perspective however these assessments are problematic. For one thing, whilst there is a general consensus of an improving EU leadership over the 2000s, this has been premised primarily on “directional leadership” and thus can reveal little of the EU’s actual negotiation performance during this time. The EU has thus been defined as a ‘leader’ premised on its ‘setting an example’ for others to follow (Vogler: 2011: 30-31, Oberthür & Pallemarts: 2010: 28, Schreurs & Tiberghien: 2007), or in pushing for ambitious objectives or targets (Parker & Karlsson: 2010, Oberthür & Roche Kelly: 2008, Van Den Hoven: 2004), but with very little attention then paid to the EU’s relationship with those it has supposedly ‘led’, or of its actions in persuading them to follow.

Others further argue that the EU is also less successful in exerting more ‘structural’ forms of leadership – defined as the use of ‘carrots over sticks’ (O. Young: 1991) and the utilisation of power resources to influence and exert a pull on followers (A.R. Young: 2011, Wurzel & Connelly: 2011: 272, Torney: 2011, Hovi et al.: 2003: 17). Moreover, it has been suggested that despite setting an example in its own domestic policies, and pushing for ambitious objectives within multilateral climate negotiations, the EU has had, “comparatively limited impact” (Oberthür & Roche Kelly: 2008: 36, see also Van Schaik & Schunz: 2012). In the EU trade policy literature a similar picture has also started to emerge, with the EU frequently identified as one of the MTS’s leading and most powerful actors, but then one whose ability to influence the course and outcome of multilateral trade negotiations and to attain its goals has shown increasing limitations (see A.R. Young: 2011: 727).

EU ‘leadership’ analyses thus shed only limited light onto how well the EU has actually performed in multilateral negotiations. Rather than addressing the EU’s negotiation

behaviour and its outreach to negotiation partners, the leadership discourse over the 2000s has instead significantly raised expectations of EU performance in multilateral negotiations whilst setting the bar relatively low for its actual assessment. By premising assessment on the EU's "directional leadership" - a concept which emphasises the EU's setting an example through its domestic policies and showing the way for others to follow - expectations have followed that the EU can be a *leader* in multilateral negotiations courtesy of the distinctiveness of its policy preferences, its domestic performance and because it has the ambition to 'lead the way'. Arguments of an 'improved' EU leadership record have thus been an appraisal of the EU's internal capabilities and ambitions to lead rather than offering explicit analysis of its negotiation behaviour, particularly towards those whom it is seeking to 'lead', and its subsequent effectiveness.

An approach is therefore required which readdresses this imbalance between the rhetoric of EU leadership and its actual performance in multilateral negotiations. By focusing more specifically on what the EU does in its negotiation behaviour - particularly addressing its outreach to negotiation partners - and its effectiveness in attaining its negotiation objectives, it is possible to better address the relationship between EU ambitions within multilateral negotiations, and its performance in actually achieving them. In so doing it is possible to move beyond the leadership rhetoric to engage instead with what the EU wants within multilateral negotiations relative to its negotiation partners, how it behaves in order to secure their support, and whether it is able to attain its goals.

EU 'actorness' within multilateral negotiations: establishing EU 'capacity to act'

Another interrelated approach in understanding the EU in multilateral negotiations has been to focus upon the EU's capacities and behaviour as an 'actor' (Kilian & Elgström: 2010: 257, Groenleer & Van Schaik: 2007: 991, Bretherton & Vogler: 2006: 89, Damro: 2006: 175). Within this EU as a Global Actor (EUGA) literature, the concept of analysis commonly utilised is that of 'actorness' - defined as "the capacity to behave actively and deliberately in relation to other actors in the international system" (Sjöstedt: 1977: 16). Sjöstedt (1977: 15) in his founding work on EU actorness argued that, at its most basic level, the EU was an actor when it had *autonomy to act* (thus demonstrating internal cohesion and separateness); where it showed basic indicators of actor *capability* (the structural prerequisites for the EU to perform actions) and demonstrated some actor *behaviour* (i.e. where Member States conformed with the EU position, or more external behavioural activities such as diplomatic interaction). Jupille & Caporaso (1998: 214-220)

developed on this by detailing four components of actor capacity including *recognition* (the acceptance of and interaction with the EU by others), *authority* (relating particularly to the EU's legal competence to act), *autonomy* (the distinctiveness and independence of the EU from other actors), and *cohesion* (the degree to which the EU is able to formulate and articulate internally consistent policy preferences). Bretherton & Vogler (2006) further posited three interrelated conditions required for the EU to act internationally, including: *opportunity* (in the structural context), *presence* (the ability of the EU, by virtue of its existence, to exert influence beyond its own borders) and *capability* (concerning the availability of policy instruments and their use).

Studies assessing EU 'actorness' in multilateral negotiations have developed exponentially since the early works of Sjöstedt (1977, 1998) and Jupille & Caporaso (1998) with several comparative studies (Bretherton & Vogler: 2006, Ginsberg: 2001) as well as numerous individual case studies demonstrating a similar tendency to that found in the EU leadership discourse; that of focusing upon multilateral environmental negotiations (Vogler: 1999, 2005, 2011, Vogler & Stephan: 2007, Groenleer & Van Schaik: 2007). Typically employing a diagnostician approach (Sjöstedt: 1977: 11), these studies have been aimed at assessing the extent to which the EU demonstrates 'actorness' and thus has the 'capacity to act deliberately and actively' within multilateral negotiations. Related to this, increasing volumes of literature have also focused on specific aspects of EU actorness including in reference to the EU's delegation authority and autonomy (Laatikainen: 2010, Da Conceição: 2010, Delreux & Kerremans: 2010, Delreux: 2006) or on its modes of representation within multilateral negotiations (Gstöhl: 2009, Pisani-Ferry: 2009, Van Schaik & Egenhofer: 2005, 2003).

Within this discourse several important assessments are to be identified. First, and most prominently, EU actorness is widely understood within the existing literature to be at its highest in the field of trade policy where the EU's capabilities as an actor are most advanced. Bretherton & Vogler (2006: 87) in their analysis of the EU as a Global Actor for example, argue that, because the EU can negotiate as "one bloc" within multilateral trade negotiations it can be "effective, coherent and frequently innovative". They go on to suggest that the EU's trade policy thus "provides a *yardstick* for the assessment of actorness in other domains" (Bretherton & Vogler: 2006: 88). Jupille & Caporaso (1998: 216-218) moreover highlight the EU's CCP in their breakdown of actorness conditions, emphasising the EU's exclusive competence in trade as, "the greatest external authority"

granted to the European Community under the Treaty of Rome. Second, broadly analogous with the EU's leadership discourse, actorness studies have also assessed the EU's, "high degree of actorness" within multilateral climate negotiations (Groenleer & Van Schaik: 2007: 989, Vogler: 2011, 2005, Bretherton & Vogler: 2006: 89). Interestingly, in these assessments emphasis is particularly given to the EU's improved cohesion as an actor within the UNFCCC and Kyoto Protocol negotiations despite its mixed competence in this field (see Oberthur & Pallemmaerts: 2010: 47, Groenleer & Van Schaik: 2007, Bretherton & Vogler: 2006: 107, 110). Thus, despite the challenges of capacity and coordination the EU has nevertheless been found to 'act' and even 'lead' within multilateral climate negotiations (Vogler: 2011, Oberthür & Roche Kelly: 2008).

Drawing similar comparisons with the EU leadership discourse, explanation of the EU's "high degree of actorness" as well as its "improved" leadership within multilateral environmental negotiations place particular emphasis on the EU's ambitions to lead and its, "global policy aspirations" (Groenleer & Van Schaik: 2007: 990, Bretherton & Vogler: 2006: 110). Focus therefore has been given to the convergence of Member States interests and their willingness for the EU to take on a greater international role (Van Schaik: 2010, Van Den Hoven: 2004), its growing capacity to lead as a result of institutional developments (Van Schaik: 2010, Parker & Karlsson: 2010, Oberthur & Pallemmaerts; 2010, Schreurs & Tiberghien: 2007, Falkner: 2007, Zito: 2005, Van Schaik & Egenhofer: 2005), or its domestic policies as explanation for the EU proposing ever more ambitious international objectives (Keleman: 2010, Keleman & Vogel: 2009). Another common argument has been to claim that EU leadership and actorness within multilateral negotiations has come as a result of 'opportunity' within the structural conditions of the negotiation environment; particularly evident where the United States has itself failed to provide such a leadership role (Vogler: 2011: 31-34, Vogler & Stephan: 2007, Hovi et. al.: 2003:14).

From a performance perspective this discourse does therefore offer some interesting insights. As a concept aimed at establishing the EU's 'capacity to act', actorness provides a helpful starting block for the evaluation of EU performance. The EU's uniqueness as a polity within the international system and its variable capability to 'act' within multilateral negotiations makes it essential to first establish that the EU – as opposed to its individual Member States – is an 'actor' and thus a subject capable of performance analysis. However, from an evaluation perspective, actorness studies have only been able to reveal

so much of the EU's actual performance in multilateral negotiations. As a process-oriented concept of analysis, actorness studies have been limited to an EU *qua* the EU focus which dwells much on the EU's cohesion, modes of representation, recognition and presence within multilateral negotiations, but which then overlooks its negotiation behaviour relative to negotiation partners and its effectiveness. Instead, causality is often implied within the literature that where the EU demonstrates high degrees of actorness it will more likely demonstrate effectiveness (see Bretherton & Vogler: 2006: 87). This same link is also found in discussion of the EU 'speaking with one voice'; with expectations following that where the EU demonstrates cohesion and unity as an actor it will be more effective within multilateral negotiations (i.e. Jørgensen & Wessel: 2011, Van Schaik: 2010, Gstöhl: 2009, Elgström & Jönsson: 2005). This assumed link has however, rarely been developed upon or tested (see Thomas: 2012). Important for consideration therefore, is not only whether the EU has the 'capacity to act' within multilateral negotiations and how this might vary across policy fields, but also how the EU subsequently performs. In this way focus can move beyond expectations of how the EU ought to act, and diagnosing that the EU is an actor, to start to engage with how the EU then behaves and the results it comes up with.

Performance as goal-attainment?: EU 'effectiveness' in multilateral negotiations

In addition to the process-oriented concepts of leadership and actorness which have been concerned with the assessment of EU capabilities and its 'leading' role within multilateral negotiations, another concept increasingly used in evaluating the EU's performance in multilateral negotiations has been its 'effectiveness'. Early studies by Jupille (1999) and Meunier (2000) instigated this more outcome-oriented focus by addressing how the EU's institutional complexities enable the EU to strengthen its bargaining power and subsequently achieve international outcomes. Since 2003, when the EU introduced its first European Security Strategy stating its strategic objective to pursue 'effective multilateralism' through the, "development of a stronger international society, well-functioning international institutions and a rule-based international order" (Council: 2003c: 9), a number of studies have been generated which centre upon the EU's effectiveness within international institutions (Laatikainen & Smith: 2006, Jørgensen: 2009a, Kissack: 2010).

Within existing EU performance studies, effectiveness – defined as 'goal achievement' (Jørgensen et al. 2011: 603), or associated with 'outcome' (ECFR: 2010: 140) - are

particularly prioritised when ‘unpacking’ the concept into specific performance indicators. A.R Young (2011: 720) for example associates the analysis of EU ‘performance’ within the multilateral trading system with EU ‘external effectiveness’. Within other case studies conducted in the JEI Special Issue on EU performance in international institutions, it is the EU’s effectiveness that is of primary interest to the authors, followed by its ‘relevance’ to EU Member States where focus turns to EU representation, cohesion and capability (i.e. Oberthur: 2011a, Kissack: 2011, Van Schaik: 2011). The EUPERFORM academic network further equates performance with ‘impact on decision-making’⁴. Similarly performance studies conducted by the European Commission are also predominantly outcome-driven. The performance study ‘*Global Europe: EU performance in the global economy*’ (Commission: 2008), for example, assesses EU trade performance through the measurement of indicators ranging from EU market share, imports, exports and areas of trade specialism. In its report the Commission judges the EU’s trading performance as ‘good’ or ‘disappointing’ where the EU’s statistics are higher or lower than those of other major economies. The tendency therefore has been to associate how well the EU performs with the extent to which it can attain its goals and demonstrate competitiveness with its partners in the international system.

Within the effectiveness discourse however there is also some ambiguity over how ‘effectiveness’ itself should be defined. Jørgensen et al. (2011: 604) for example identify effectiveness as ‘goal achievement’ and add the caveat that assessment may also need to take into account, “how easy or difficult the achievement of the goals has been, given their level of ambition, the characteristics of the problem and the preferences of other actors”. The ECFR (2010: 140) focuses on assessment of ‘outcome’ as the EU ‘getting what it wants’ in its foreign policy. It goes on to state however, that the EU getting what it wants may be assessed regardless of whether other actors were in fact responsible for that objective being obtained. Others associate effectiveness with both effective ‘behaviour’ and effective ‘goal-attainment’. The regime effectiveness discourse for example draws symmetries between regime ‘effectiveness’ and ‘performance’ (i.e. O. Young: 2001, Miles et al. 2002). Interestingly in this body of literature the effectiveness of a regime is virtually synonymous to the regime’s ‘performance’; which is assessed in terms of regime *behaviour* and *function*. Miles et al. (2002) for example, measure regime performance as an assessment of both the regime’s behavioural effectiveness and its functional effectiveness. Laatikainen & Smith (2006: 16-19), in their study of the EU in the UN,

⁴ <http://www.ies.be/euperform>

emphasise a similar relationship between the EU's *internal effectiveness* (as an international actor demonstrating collective action, cohesion and output) and *external effectiveness* (whether the EU then achieves its objectives); suggesting that the EU has been externally effective in the UN insofar as it has been able to overcome the challenges of its own multilateral system and become internally effective.

Assessments of the EU's effectiveness within multilateral negotiations have moreover been highly variable. Laatikainen and Smith (2006: 20) for example argue that EU effectiveness has varied considerably across issue-area within the UN, with the EU often found to have, "punched below its weight" when it comes to influence over outcome. Jørgensen et al. (2011) suggests a similar picture of fluctuating effectiveness in their longitudinal overview of EU performance in international institutions. In individual case studies EU effectiveness within the multilateral trading system (A.R Young: 2011), and in the climate negotiations (Oberthür: 2011a) reflect similar findings: of the EU demonstrating improved effectiveness over the late 1990s and 2000s but that, with the rise of new players in the international system in the late 2000s, that effectiveness has started to fall. Others have stressed the EU's lack of influence in shaping the outcome of UNFCCC negotiations (Van Schaik & Schunz: 2012, Schunz: 2010b) whilst having greater effectiveness in shaping the agenda of discussions (Vogler & Stephan: 2007).

Such assessments thus raise a challenging dynamic in understanding EU performance within multilateral negotiations. As has been discussed previously the EU has been widely lauded for its improved leadership and high degree of actorness within multilateral climate and trade negotiations. However, when analysed from a more outcome-oriented perspective, effectiveness studies have lamented the EU's far more variable ability to achieve its goals and its lack of influence within those same negotiations. A further challenge is that whilst the 'external effectiveness' of the EU has become of increasing importance to academics and policy-makers – not least in moving beyond the rhetoric of what is 'talked up' about the EU's international role in order to establish what the EU actually achieves – there is some danger in focusing only on goal achievement as a measure of EU performance. For one thing, focusing solely on effectiveness can considerably over- or under-estimate how well the EU in fact performed. In particular, without recourse to the EU's behaviour during negotiations it is impossible to ascertain the extent to which the EU's goal-attainment signifies a good performance for the EU or not. This is especially relevant in the case of multilateral negotiations which tend to be

premised on ‘positive sum games’ (Zartman & Berman: 1982: 13), and where compromise and consensus decision-making between a large number of negotiation partners is increasingly the norm (Kissack: 2010). The EU’s preferences and objectives and whether it has achieved them cannot therefore realistically be treated in a vacuum but must take into account the preference structures of its negotiation partners and the EU’s activities in negotiating with them. By neglecting to take into consideration the preferences of other actors, the roles that they play, their significance within the negotiation process, and how this relates to the EU’s own behaviour in dealing with them, effectiveness on its own offers an incomplete picture of how well the EU has actually performed in multilateral negotiations.

Important for a performance analysis therefore is to address the EU’s effectiveness in multilateral negotiations as an essential, but insufficient, indicator of how well the EU performs. By focusing on both how the EU’s negotiation objectives relate to the preference structures of its negotiation partners, and to the EU’s negotiation behaviour relative to its goal-attainment, it is possible to evaluate how well the EU performs in multilateral negotiations in a way which not only accounts for what the EU achieves, but importantly, to how this relates to what it has said and done.

1.3. Aims of the study and case study selection

In addressing these challenges identified within the existing literature the aims of this study are twofold. First and foremost this study is an investigation into EU performance in multilateral negotiations. Conducted over-time and across policy fields, it seeks to generate a fuller understanding of EU performance, as a measure of both the EU’s negotiation behaviour and overall effectiveness, in fora which are the very crux of global governance and fundamental to modern international relations. Specifically this study addresses consistency and change in EU performance, whether it has improved or diminished, and what this can reveal about the EU as an international actor and negotiator. Second, the study endeavours to offer explanation for variation in EU performance within multilateral negotiations, with particular consideration to the relationship between the EU’s ambitions entering negotiations and its subsequent performance. In particular, the research questions this study aims to address include:

Research Questions

(1) *How well has the EU performed in multilateral negotiations over-time and across-policy fields?*

(2) *What explains variation in EU performance in multilateral negotiations?*

Addressing these questions is important for several reasons. Firstly, whilst studies thus far have provided some account of how the EU performs in multilateral negotiations, within these studies have been highly divergent understandings of how such assessment is made and with conflicting conclusions of how well the EU in fact performs. Assessments thus far focused on process or outcome-oriented aspects of EU negotiation performance have therefore risked over- or under-estimating how well the EU in fact performs in multilateral negotiations. Focus in particular has been towards particular aspects of the EU's performance – such as what the EU says and what it seeks to achieve, its unity, cohesion and methods of coordination, or on its effectiveness more broadly - but with little reference to how this relates to the preferences and behaviour of the EU's negotiation partners, or what the EU then *does* as a negotiator. How well the EU performs in multilateral negotiations – especially in the eyes of its negotiation partners - is however, as Underdal (1983) expresses, both an assessment of “how [the EU] plays the game” and “the product [it] comes up with”. It is necessary therefore to address the existing disconnect within EU studies to assess how well the EU performs in multilateral negotiations as a measure of both its negotiation behaviour – taking into consideration not only its unity as an actor, but also its actions towards negotiation partners in tackling the issues under negotiation - *and* its effectiveness in achieving its objectives. This is important, not only in providing a more comprehensive conceptualisation of performance in order to generate a fuller and more accurate picture of EU performance in multilateral negotiations, but also to begin to address the links between what the EU says, what it does, and what it actually achieves as an international actor and negotiator.

Secondly, addressing these research questions is important to begin to broach the question of *why* EU performance in multilateral negotiations varies. Explanation for variation in the EU's leadership, actorness and effectiveness within multilateral negotiations has been a topic of considerable interest within the existing literature. In the most part however, explanation for the successes, failures or general variability of EU behaviour or its effectiveness in multilateral negotiations have been premised on expectations of its

capabilities as an actor, its ambition to take on a greater international role, or on structural conditions seen to shape its capabilities to act. Within this discourse however very little effort has been given to addressing how these variables intersect or how they explicitly shape EU negotiation performance. Focus therefore is given far more to the EU's own capabilities and ambitions but with little reference to how this relates to the preferences and role played by other negotiation partners. More than this, efforts in explaining variation in the EU's actorness, leadership or effectiveness have been limited by the paucity of data specifically geared towards the specification and measurement of EU performance as an assessment of both its negotiation behaviour and effectiveness in multilateral negotiations. Important for this study therefore is first to identify how well the EU performs as a dependent variable (DV) in order to generate the empirical data necessary to then attempt its explanation.

This study further addresses the question of how well the EU performs both *over-time* and *across policy fields* in order to evaluate how EU performance has evolved, how it varies across negotiation environments and why. Whilst some performance studies (JEI Special Issue: 2011) have provided a longitudinal perspective of EU performance and how it has evolved over-time, this has been more the exception than the rule with the majority of attention being given within the existing literature to 'current' negotiations or single policy issues. This can particularly be seen in light of Jørgensen's (2007: 510) criticism of '*presentism bias*' with scholars focusing far more on individual negotiations often leading to a neglect of more longitudinal analyses which better enable variation in the EU's performance to be identified. This is further exaggerated by the vast quantity of data and analysis that has focused upon the EU in the case study of the UNFCCC and the Kyoto Protocol and which has also arguably created a '*selection bias*' (see Moravcsik: 1999: 273) within the performance debate. This is especially noteworthy because, as Vogler (2011: 32) argues: "In a mundane, but important, sense the EU is constructed as an actor in day-to-day accounts of international climate policies..." The EU's international identity, presence, and distinctiveness as an actor are thus often intertwined with accounts of its 'leadership' within the global climate regime. As discussed above however such claims are often far more relevant to the EU's high ambitions and domestic activities than to its actual negotiation performance. With extensive focus on the issue of climate change and, to some extent trade negotiations, understanding how the EU performs across other external-policy fields is fairly limited. Analysis has also consequently been fairly well skewed to addressing those negotiations where expectations of EU performance are high,

whilst ‘hard’ cases – such as multilateral security negotiations where EU competence is limited and the EU Member States more dominant – have been broadly overlooked.

This study thus adopts three case studies each focused upon one multilateral negotiation – covering trade, the environment, and security – where the EU’s performance is then evaluated over a period of time from 1995 to 2011. These policy-fields have been selected as areas of prominence for the EU’s external relations but which also represent considerable variability in the EU’s capabilities and subsequent expectations of how well it should perform. Specifically, the case studies selected for this study include: in trade, the multilateral trade negotiations of the World Trade Organisation (WTO) including the Doha Round (1996-2011); on environment, the multilateral climate negotiations of the UN Framework Convention on Climate Change (UNFCCC) (1995-2011); and in security, the multilateral arms control negotiations of the Nuclear non-Proliferation Treaty (NPT) review negotiations (1995-2010). Each of these cases have been selected as high-profile, highly politicised, and globally-scaled multilateral negotiations each of which tackle an issue of fundamental significance to the national interests of all States. EU performance is thus evaluated in negotiations concerned with the rules dictating trade within the Multilateral Trading System, with efforts to tackle the global common of climate change, and with the effort to police the non-proliferation of nuclear weapons and their disarmament – all negotiations of high politics and vested interests which matter to States of all regions and level of development.

By selecting these specific negotiations this study will test expectations already generated within the existing literature and, in so doing, contribute to that discourse by offering new knowledge of EU performance in each of those policy fields. This is important in each case for different reasons. In the case of the WTO, despite the quantity of literature focused upon EU trade policy-making and the EU as a trade actor, very little attention has been given explicitly to its performance within the WTO multilateral trade negotiations (see also A.R Young: 2011, Dür: 2006). More than this, divergent perspectives have been generated within the existing trade and EUGA literature with regards to expectations of EU performance in the WTO, with the EUGA discourse stressing the EU’s impressive trade capabilities and subsequent potential to shape outcome in the multilateral trading system (i.e. Meunier & Nicolaïdis: 2011, Bretherton & Vogler: 2006) but with the EU trade policy literature lamenting the EU’s ineffectiveness and underachievement (i.e. Paeman & Bensch: 1995, Woolcock & Hodges: 1996). In the case of the UNFCCC the focus of this

study is not to offer another perspective of the EU's 'leadership' – a debate already highly popular within the academic community – but rather to test those high expectations by offering an explicit analysis of the EU's performance in this negotiation since its first conference in 1995 up to the most recent negotiation held in Durban in December 2011. In the case of the NPT conversely the opposite is the case; with this study aiming to contribute towards what is currently a very under-analysed policy-field.

The time frame under analysis (1995-2011) in each of these cases has also purposefully been selected in order to compare EU performance over-time and thus to identify variation in how well it performs. Firstly, 1995 has been chosen as the starting point for this study as that was the year that the WTO was created, the UNFCCC's 1st Conference of the Parties was held, and it was the year that the EU first entered the NPT review negotiations with a Joint Action. 2011 has also been selected as the concluding point for this longitudinal study for the simple reason that, at time of writing, the most recent negotiations had taken place in December 2011. By focusing on these more recent negotiations in each case study moreover, it is hoped to offer new empirical insight into those negotiations that have thus far been given less attention within the literature. The time frame offered in this study therefore covers a period of sixteen years of negotiations across three negotiation environments. This was considered a long enough period to enable variation in the EU's performance to be identified both within and between case study as well as to identify if any pertinent trends in the EU's institutional development or the wider structural conditions could be seen as shaping that performance. Whilst a longer timeframe would have allowed further variation to be identified, it was however reasoned that a historical perspective earlier than 1995 would not in fact contribute considerably more to the analysis beyond what secondary sources have already provided. With the inevitable methodological challenges that would come from trying to generate new empirical data prior to 1995 - such as the availability of older negotiation documents, and being able to locate and interview officials directly involved in negotiations from that period – it was considered that 1995 provided an appropriate cut-off and starting point for analysis.

Assessing the EU's performance in each of these cases is moreover important in order to capture variance and pertinent trends evident within several independent variables, identified from within the existing literature as influencing factors upon how well the EU performs, across different policy-fields and over-time. As the previous section revealed,

expectations and subsequent judgements of how well the EU performs in its external relations have often been premised upon understandings of the EU's variable capabilities as an international actor across its external policy-fields (Hill & Smith: 2011a, Ginsberg & Smith: 2007, Bretherton & Vogler: 2006, Jupille & Caporaso: 1998). Explanation for the EU's 'improved' actorness, leadership or effectiveness within multilateral negotiations have also been commonly premised on the EU's own improved ambition to 'lead' and the internal conditions which enable it to adopt a more ambitious negotiation position (Parker & Karlsson: 2010, Oberthür & Pallemmaerts: 2010: 53, Van Schaik: 2010, Oberthür & Roche Kelly: 2008: 36). Others have focused upon the EU's 'opportunity' to lead as a result of the structural conditions shaping the negotiation environment (Vogler: 2011: 31-34, Vogler & Stephan: 2007, Bretherton & Vogler: 2006: 24-27, Hovi et. al.: 2003:140). Within this discourse three core explanations for variation in the EU's performance in multilateral negotiations can particularly be identified. These include:

- i. The EU performs well where it is at its most 'state-like' and thus where it has exclusive legal competence, is most integrated, and where it subsequently is able to 'speak with one voice' within multilateral negotiations (Commission: 2006, see also Wessel: 2011, Jørgensen & Wessel: 2011, Gebhard: 2011, Kissack: 2010, Gstöhl: 2009, Falkner: 2007: 509, Bretherton & Vogler: 2006: 107, Meunier: 2000, Allen & Smith: 1998: 46).
- ii. Taking into consideration the structural conditions of the negotiation environment, the EU has demonstrated an 'improved' leadership as well as a 'high degree of actorness' within multilateral negotiations where it has had the *opportunity* to act – thus where the position of other players – most notably the US – creates space for the EU to take on a greater international role (Vogler: 2011: 31-34, Vogler & Stephan: 2007, Bretherton & Vogler: 2006: 24-27, Hovi et. al.: 2003:14). The rise of the emerging economies over the course of the 2000s has however limited that opportunity and created a more complex negotiating environment in which the EU must perform (Van Schaik & Schunz: 2012, Torney: 2011, Obethür: 2011a, A.R. Young: 2011, Roberts: 2010, Kilian & Elgström: 2010: 268).
- iii. The EU will be better able to make ambitious demands within multilateral negotiations where its own domestic policy, and/or the policy preferences of its Member States, support progressive international policy initiatives (A.R Young:

2011, Vogler: 2011: 31, Oberthür: 2011a: 673, Oberthür & Pallemarts: 2010: 53, Van Schaik: 2010, Oberthür & Roche Kelly: 2008: 36, M. Baldwin: 2006: 934, Falkner: 2007, 512, Groenleer & Van Schaik: 2007, Lamy: 2004, Meunier: 2000).

The case studies here selected, and the time-period chosen from 1995 to 2011, are thus important because they reflect policy fields and time in which several critical changes have taken place both within the EU and within international structural conditions which may be expected to influence how well the EU subsequently performs. Addressing first the EU's competence and level of integration, case studies have been selected in which the EU's legal competence is variable between exclusive (WTO), shared (UNFCCC) and no competence (NPT). Assessed over-time case studies moreover encompass changes which, since the mid-1990s, has also seen the EU undergo numerous institutional developments through the Amsterdam (1997), Nice (2001) and Lisbon (2007) Treaties, with each treaty reform aimed at stream-lining the EU's internal decision-making processes, improving EU legal competence and enhancing coherence in order to boost external effectiveness (Commission: 2006, Thomas: 2012, Portela & Raube: 2012: 7-10, Gebhard: 2011: 103-105, Woolcock: 2010). An important aim for this study therefore is to test the impact that the EU's level of legal competence and its steps towards 'ever closer union' have had upon its performance in multilateral negotiations. It addresses therefore questions of whether competence matters in explaining variation in EU performance across policy-fields, and how EU performance has varied, if at all, as a consequence of its institutional development.

Another justification for analysing EU performance within each case selected and over the time period 1995 to 2011 is to address how changes within the international system and the structural conditions of each negotiation environment can be seen to shape EU performance. Cases have thus been selected which capture changes in the rising influence of the emerging economies since the mid-1990s, but also variation in the role that the United States has played within each of these negotiation environments over this time period. Within the WTO the rise of the BRICs within the Multilateral Trading System and the growing role of India, Brazil and China as major power brokers within the Doha Round of trade negotiations has particularly been identified as a structural change influencing how well the EU can perform (i.e. A.R. Young: 2011). The role of the United States within the WTO over this period has also witnessed several changes with the US moving from what was a position of relative reticence in the formative years of the WTO (Bridges Weekly:

1998), to a more proactive role in the early years of the Doha Round (New York Times: 2001, Blustein: 2009), again returning to a more reticent position in the mid to late 2000s where it has since been roundly blamed as one of the main culprits stalling the Round (Bridges Weekly: 2012, Bridges Daily Update: 2009, EurActiv: 2006, Financial Times: 2006).

Within the UNFCCC these same major players have also been identified as shaping the EU's role and effectiveness within the climate regime over the period 1995 to 2011, not least since the rise of the emerging economies and the EU's diminishing share of global greenhouse gases over the 2000s (see Roberts: 2010, Van Schaik & Schunz: 2012). The role of the United States is also particularly noteworthy in this case, with the time-period from 1995 to 2011 reflecting important changes in US foreign policy preferences towards multilateral climate policy; moving from initial support for a Kyoto Protocol in the mid-1990s, to reticence in the 2000s, to a re-engagement with the regime under the Obama Administration since the early 2010s. Selecting this case study therefore allows variance within the structural conditions at play within the UNFCCC negotiations to be compared to variance in the EU's own performance during this time period. This is also relevant to the NPT negotiations which, dominated by the balance of nuclear power and by the nuclear-weapon states particularly, has also seen some significant shifts in US foreign policy towards the negotiations over this time-period (Johnson: 2005, 2010), with the US moving from a position of reticence in 2005 to re-engagement in 2010. Assessed over-time these structural changes thus present important dynamics for testing the explanatory power that the condition of 'opportunity' and the presence or absence of competition has upon the EU's performance within multilateral negotiations.

Finally, justification for selecting these cases over this time-period is in order to capture changes within the EU's own internal policy development and its impact upon the EU's ambition within multilateral negotiations. This is important because, as EU policy-makers themselves stress, there is an 'inextricable link' between the EU's internal policy and its external projection (Commission: 2006: 4). The cases and time-frame thus captured in this study encompass several key policy developments which may be expected to have shaped the ambition of the EU's negotiation position and which may, in turn, be seen to affect its subsequent performance. Within the UNFCCC, the EU's burden-sharing agreement on greenhouse gas emission reductions by EU Member States (Vogler: 2005: 848, Andresen & Agrawala: 2002: 47), the introduction of the European Emissions Trading System (ETS)

in 2004 (Vogler: 2011: 31) and the EU's 2007 climate and energy package (Van Schaik & Schunz: 2012: 169), have all been identified as policies which have raised the EU's level of ambition within the climate negotiations. Within the WTO changes to the EU's Common Agricultural Policy (CAP) have also been identified as shaping the EU's ambition within the Doha Round negotiations (A.R. Young: 2011, Baldwin: 2006), whilst agreement on the 2003 European Strategy Against the Proliferation of Weapons of Mass Destruction has also been expected to impact upon the EU's negotiation position and the role that it plays within the NPT negotiations (Portela: 2003, 2004). Important therefore for this study is to identify how changes to the EU's internal policy within each of these policy-fields can be seen to shape its external projection and overall performance within multilateral negotiations.

Making that assessment is moreover important for two reasons. First, it explicitly addresses how the ambition of the EU's negotiation position can explain changes in the EU's negotiation performance – an issue that has been largely implicit within the performance and effectiveness discourse thus far (i.e. Jørgensen et.al.: 2011). And secondly, it is important in addressing the Normative Power Europe (NPE) discourse which has stressed the EU's distinctiveness as an international actor and its 'different' approach to international relations as a source of power and influence (see Schiepers & Sicurelli: 2007). By assessing EU performance within each of these case studies and over-time it is therefore possible to address how changes in the EU's internal policy and its level of ambition relative to its negotiation partners has impacted upon its subsequent performance. In particular it allows the question of whether the pursuit of a highly ambitious, normative and distinctive negotiation agenda helps or hinders the EU's negotiation performance. By selecting cases across policy-fields and spanning time this study thus not only contributes new knowledge in evaluating the dependent variable of how well the EU performs, but will also importantly tests those independent variables commonly believed to offer explanation for why EU performance varies.

1.4. Research methods and data collection

In order to assess EU performance within those multilateral negotiations selected some research tools are required that enable the relevant data to be collected and used. This study conducts empirical case studies across three multilateral negotiations – the UNFCCC, the WTO, and the NPT - spanning time from 1995 to 2011. These are extensive negotiations to research, covering highly detailed and technical issues and which

cover a data-range of sixteen years. It is necessary therefore to narrow in the research to key negotiations periods within these studies in order to assess EU performance at specific moments of the negotiation process and which enables a general understanding of how it has evolved over-time to be generated. This is particularly the case in the climate change and trade cases where negotiations take place at on-going intervals throughout the year and which thus require narrowing in to key periods to make analysis more manageable. Whilst this does risk missing data from less high-profile periods of the negotiations, the cases do attempt to reference this in order to give as broad a picture of EU performance over-time as possible. Focus in the case studies is therefore paid specifically to the most prominent and significant periods of negotiations and which might be considered, in hindsight, as 'milestones' in the process of negotiations. These most especially concern those periods where effort was exerted by negotiators with major pushes to launch negotiations, agree their operationalization, or finalise their agreement

In total, twenty individual negotiations are researched in assessing EU performance covering eight 'milestone' negotiations for both the trade and climate cases and four conferences for the NPT case study. Research methods used in making performance evaluations for each negotiation are grounded in analysis of primary documentation, triangulated with analytical commentary from third parties participant in the negotiations, and with data collected from semi-structured elite interviews conducted by the author with officials directly involved in the negotiations. Primary documentation used in this study includes EU council conclusions, common positions, joint actions and statements, as well as position papers and statements by other major players and groups within the negotiations assessed in order to compare the EU's negotiation position to others. EU and other major players proposals, offers and working papers submitted to negotiations are also analysed as an evaluation of outreach and activity. Analysis is also made of negotiation outcome documents in order to assess EU effectiveness in achieving the objectives of its negotiation position within the negotiation outcome. Supporting this documentary analysis, analytical and media commentary provided during and after negotiations are also analysed, including EU and non-EU based press reports and affiliated NGOs reports on negotiation events and processes, for example, the *Earth Negotiations Bulletin* in the case of climate change, the *Bridges Trade Digest* in the case of trade, and the *NPT NGO News in Review bulletin* in the case of the NPT. These accounts are particularly useful in providing detailed overviews of the issues being negotiated, the positions of the players, the negotiation activities by key players and the processes leading up to the negotiation

outcome. They are also neutral commentaries and give account of the EU as one party amongst many, rather than the main focus of analysis. In this way a more objective overview of EU performance is gained.

In addition to documentary research and the commentaries provided by NGO analysts, 41 semi-structured elite interviews have also been conducted by the author with officials from the EU and third countries involved in negotiations over this period of analysis (see Appendix I for list of interviews conducted)⁵. Fieldwork for this study took place between March and May 2011 with interviews being conducted in New York, London, Brussels and Geneva with officials from the EU institutions, EU Member States, third countries and observer Non-Governmental Organisations (NGOs). In order to obtain as comprehensive an over-view of the EU's performance within those multilateral negotiations analysed, the author approached interviewees from a variety of economic and development backgrounds and whose political views ranged across the main dividing issues within each negotiation environment. In approaching third countries the author sought to gather data from interviewees from both the global north and south, and from developed and developing nations, in order to gather a wider knowledge base of third country interactions with the EU and thus a balanced overview of how others perceived its performance. In addition, where possible, the author sought to interview officials involved within other major negotiation groups in order to generate an understanding of how the EU dealt with other blocs within the negotiations. Within the WTO this included for example States Parties from the G90 and LDC groups, the NAMA-11 group, and the Cairns Group (see also Appendix III). Within the NPT negotiations interviews were moreover conducted with States Parties involved in the Non-Aligned Movement, New Agenda Coalition, Vienna Group of Ten, and the P-5 (see also Appendix V).

Furthermore, in order to gather a comprehensive range of data from within the EU, interviews were sought by the author with officials from within the EU institutions (Commission, EEAS and Council) as well as from a broad geographical range of EU Member States. Where possible interviews were sought with Member States whose political views spanned the political spectrum of positions within the negotiations analysed. In the case of the WTO this included Member States whose economic preferences covered both more 'liberal' and 'protectionist' approaches to trade liberalisation (see M. Baldwin: 2006). In the NPT this also included those Member States

⁵ The author would like to thank UACES for financial support of that fieldwork

whose political views spanned either side of the political divide on core issues of nuclear disarmament and the use of nuclear energy. In this way data collected from those interviews conducted spans a range of political and economic perspectives of the EU's performance in multilateral negotiations.

Of the 41 interviews conducted for this study fifteen were with officials from EU Member States, eight from the EU institutions (Commission and EEAS), eleven with officials from third countries, and six from affiliated NGO/IOs. Of the interviews conducted with the EU institutions, EU Member States and third countries all participants were at the level of First Counsellor, Ambassador or other senior level official and had been directly involved in the negotiations under analysis. Consequently, interviewees were able to provide first-hand experience of negotiations that had taken place behind closed doors enabling insight into less well documented processes of the negotiations that would otherwise be unavailable. All interviewees were asked a number of structured questions relating to the negotiations with which they were involved. Interviews were aimed at fact-finding and to garner a better understanding of the perceptions of officials both within and without the EU, as to the EU's performance and role. Core questions focused upon: who officials perceived the main players to be in the negotiations; what the key issues under debate were; and what roles the EU and other participants played. More specific questions were asked of EU officials about the processes of EU coordination, unity and outreach during negotiations whilst questions with third country officials concentrated more on the interactions they had had with the EU delegation and how well they perceived the EU to have performed. Questions were semi-structured to allow flexibility in the interview and to enable elaboration on points and issues as they arose. All interviewees were given the option of whether a voice recorder could be used. The majority of interviewees allowed this with interviews being transcribed afterwards, others chose not to be recorded and notes were taken by the author instead. Due to the diplomatic sensitivity of the subject interviewees were all given the option of anonymity in the use of any material gained from discussion with the author. Where anonymity was requested those interviews are identified in this study by the title of the interviewee i.e. Ambassador, First Counsellor or senior official and, to ensure no traceability, by general reference to their State's geographical location and development status i.e. EU Member State A, or northern developed State, southern developing State etc.

It should be noted that interviews were conducted with diplomats and observers participant in the majority, but not all negotiations under analysis in this study. In particular, interviews were not conducted with officials involved in the UNFCCC negotiations. This decision was taken for several reasons. First and foremost, analysis into the UNFCCC negotiations was initially intended as a ‘shadow’ case study – aimed at identifying the challenges of what has been a predominant ‘leadership’ focus in assessing EU performance within this forum. With the evolution of the study however it became clear that despite the quantity of literature on the EU’s role in the UNFCCC, gaps still existed which would require empirical research to fill. Unfortunately, time and financial constraints prevented interview data from being collected and thus this gap in data collection must be accounted for. In addition however, the decision was further helped by the fact that, due to the volume of literature already available on the EU’s role within the climate negotiations; many including interview data, the need for new empirical data from interview sources was also less of a necessity than in the trade and NPT cases where interview data is scarcer. Nevertheless, a more detailed analysis of newspapers, reports, and primary documentation revealing actor positions within the UNFCCC was conducted in order to address identified gaps in the empirical data and maintain the evidentiary balance.

A further point of note is with regard to the challenge of conducting interviews for negotiations that date back to the mid-1990s, particularly in terms of officials retiring, moving on to other posts, or otherwise being unavailable. Subsequently fewer interviews have been conducted with officials involved in these earlier negotiations and secondary sources are thus used to supplement this. Moreover, a large portion of the interview data for this study is considered most relevant to current negotiations due to the simple fact that officials that are in post are easier to identify and contact than those who have moved onto new roles. Another challenge in conducting interviews, particularly with officials who were involved in negotiations dating back some years, is that information gathered must be recognised as being fallible to human error, human perception and ‘sugar coating’. The events of a negotiation may seem clearer in hindsight but it is equally possible for negotiators to put a certain spin on the events and to remember things differently having had time for contemplation. It is for this reason that interview data is triangulated against the perceptions of other interviewees, the analytical commentary provided by the media and analysts, and the assessment of primary documents submitted by the EU and other parties to the negotiation in question. In this way a full overview of how well the EU

performed has been sought with evidence gathered providing as thorough and accurate an account of each negotiation as possible.

1.5. Thesis outline and main findings

In order to address this study's research questions and to evaluate and subsequently explain variation in EU performance over-time and across policy fields, the study is broken down into six further chapters. In Chapter Two the analytical framework is detailed. Focus in this chapter is given to 'unpacking' performance as a concept of analysis and how it can be used as a practical and testable analytical tool. Specifically the framework outlines three phases of analysis. First, what is the EU's negotiation position and how ambitious are its objectives? Second, how does the EU perform in terms of the performance indicators: (i) *Unity*, (ii) *Outreach*, (iii) *Significance*, and (iv) *Effectiveness*? Third, how well has the EU performed, on a scale of very good, good, fair, poor, or very poor taking into account both its negotiation behaviour and effectiveness? Applying that analytical framework empirically, Chapters Three, Four and Five then provide the main performance analysis to the study.

In Chapter Three the first case study of the EU's performance in the UN Framework Convention on Climate Change negotiation is assessed from the 1st Conference of the Parties (CoP) in 1995 up to CoP-17 held in Durban in December 2011. Understood to be the EU's "paramount claim to leadership" (Bretherton & Vogler: 2006: 105), this case centres on EU performance in the negotiations focusing upon the launch and agreement of the Kyoto Protocol, and the negotiations since 2005 on a post-Kyoto Protocol agreement. It finds that, despite claims of an "improving" EU leadership record and of its "high degree of actorness" within this negotiation environment the EU's performance within the UNFCCC has in fact been highly variable. Demonstrating no clear trend of improvement in its negotiation behaviour or effectiveness over the time-period scrutinised, analysis shows that the EU has instead shown a mixed record of performances ranging between very good, good, fair and poor. Further challenging expectations, this chapter finds that the EU has performed well in this negotiation environment not because of its high ambitions and distinctiveness as a 'leading actor', but rather where its negotiation position has been both progressive and in keeping with the preference structures of its negotiation partners.

In Chapter Four the case study of the EU's performance in the WTO's multilateral trade negotiations is assessed from the WTO's 1st Ministerial Conference in Singapore in 1996 up to the 8th Ministerial Conference held in Geneva in December 2011. Offering what is arguably an 'easy' test for EU performance due to the EU's market size and 'state-like' qualities in this forum, this study focuses on those negotiations in which a new round of multilateral trade negotiations were first attempted, through to the launch of the Doha Round, and the Doha Round's decade-long efforts to find an outcome agreement. It finds that, whilst the EU has not performed poorly in these negotiations, neither has it had the extent of very good performances typically expected of an actor of its size and importance within the multilateral trading system. Varying in fact between primarily fair and good levels of overall performance, this chapter shows that whilst the EU has demonstrated a consistently high degree of negotiation behaviour within the WTO, its effectiveness has been far less impressive. It subsequently argues that despite the EU being an economic superpower, its performance within the MTS has been challenged by an inability to always translate its ambitions into actual goal-attainment. Thus, whilst the EU has been a principle, and often ambitious, *demandeur* within the WTO, it has had only limited success in persuading its negotiation partners to support its objectives. As a result the EU has had to significantly lower its ambitions over the course of the Doha Round to more closely reflect the preference structures of its negotiation partners.

In Chapter Five the case study of the EU's performance in the NPT review negotiations from 1995 to 2010 is assessed. In comparison to Chapters Three and Four, this chapter deals with the EU's performance in what is arguably a 'hard' test for EU performance. Findings suggest that, despite the EU's institutional limitations as an actor in this forum, its performance over this period has to some extent exceeded the low expectations typically afforded it in such a high politics security environment. Demonstrating the same variability of performances as is found in the UNFCCC and WTO negotiations, it finds that the EU has given good performances on several occasions within the NPT and with evidence found of an improving performance over the later 2000s both in terms of negotiation behaviour and effectiveness. This chapter thus challenges expectations of the EU's performance premised on its capacity to act alone. Whilst the EU does have limitations in this negotiation environment due to the more prominent role of its Member States, it has nevertheless shown evidence of performing well through harnessing the diplomacy of its Member States, working closely with other negotiation groups, and achieving its objectives through consensus-building.

In Chapter Six focus then turns to explanation of the variation found in EU performances over-time and across each of these case studies. Concerned, therefore, with causal inferences between how well the EU performs, and those factors seen to have shaped it, it tests those acknowledged explanatory variables identified from the existing literature as shaping EU performance, including the EU's capabilities and opportunity to act, and the EU's level of ambition. It argues that the EU's competence and 'state-like' qualities, as well as the opportunity to act can help explain variation in EU performance, but only to an extent. Rather, the EU's negotiation position and its level of ambition – both in terms of what the EU is trying to achieve and what it wants relative to other major players within the international system – has been a major influencing factor on EU's performance within the negotiations analysed. It suggests that where the EU makes highly ambitious demands and acts as a preference outlier within multilateral negotiations, its ability to persuade others to support its goals and to achieve its objectives has been significantly limited. Instead the EU performs at its best in multilateral negotiations where it has sought progressive objectives but where it has also shared some 'zone of agreement' with its negotiation partners. The thesis is then concluded in Chapter Seven where a summary of key findings is offered. In this chapter the threads from the previous chapters are pulled together in order to directly respond to the studies' two research questions. In so doing, it shows that EU performance in multilateral negotiations has challenged expectations in several ways. Further offering a stepping stone for the furtherance of the performance research agenda, this concluding chapter also provides some suggestions for the potential development of the EU performance research agenda.

Conclusion

In this chapter the concept of performance was introduced. Focusing on the evolution of performance studies within the EU and how the EU's performance in multilateral negotiations has been assessed within the existing literature; the chapter has detailed a number of challenges within the literature which this study seeks to overcome. In particular, the challenge of divergent approaches to how EU performance has been understood within the literature to date was identified along with the need to bridge these gaps by evaluating performance as a concept of both negotiation behaviour *and* effectiveness. Introducing the aims of this study, including the core research questions it seeks to address, an outline of the thesis was offered including discussion of the case studies selected for empirical analysis and the research methods and data collection tools

utilised in making a performance assessment. In the following chapter the concept of performance will be developed further through the introduction of an analytical framework for evaluating how well the EU performs in multilateral negotiations.

Chapter 2: Evaluating EU performance in multilateral negotiations: An analytical framework

In the previous chapter the EU's performance in multilateral negotiations was discussed in light of the existing literature focusing upon the EU as a leader, and actor and its effectiveness within multilateral negotiations. Rarely evaluated explicitly, it has only been since the turn of the 2010s that 'performance' has itself been developed as a distinctive research agenda, and conceptualised as a tool for the analysis of the EU's activities and effectiveness in its foreign policy or in the context of international institutions. In this chapter, in contributing to and developing upon this initial research agenda, an analytical framework for the evaluation of EU performance in multilateral negotiations is introduced; this will then be applied empirically within the following chapters. Drawing upon both process- and outcome-oriented methods of assessing the EU's international role, it assesses performance as a concept of both EU negotiation behaviour and effectiveness. In order to present the framework the chapter is broken down into five main sections. In section one, focus is paid first to the question of 'who is EU' within the context of multilateral negotiations; detailing the importance of first establishing the EU's capacity to act and to represent itself 'as EU' within the negotiation environment prior to evaluating its performance. In section two a brief introduction is given to the analytical framework with particular focus to the question of measurability of how well the EU performs and the values subsequently utilised in making that assessment. In section three attention then turns to the EU's position entering negotiations and how its ambition is to be assessed. In section four focus turns to the elucidation of performance indicators – including the EU's unity, outreach, significance and effectiveness – and how they are evaluated. In the fifth and final section the analytical framework is developed to address how, when taking each performance indicator into account, an overall value of how well the EU performed in a multilateral negotiation may be assessed. We turn first therefore to the important question of 'who is EU' when making a performance evaluation.

2.1. Who is EU?

“Empirically, the EU can be seen as one of the world's two economic ‘superpowers’, and increasingly a significant influence in the realms of international diplomacy... Analytically, the Union poses major challenges by virtue of its status as something more than an intergovernmental organisation but less than a fully-fledged European ‘state’”

(Hill & Smith: 2011a: 4)

For the EU to be the subject of a performance analysis an initial assessment must first be made about *who is EU* and the EU's capacity to act in multilateral negotiations. A multilateral negotiation comprises particular processes of interaction between multiple parties in order to reach agreement or find common interest (Iklé: 1964: 3-4). Such negotiations involve the submission of formal proposals and the interaction of the majority of States within the international system under the auspices of an international institution (Rittberger: 1983: 170, Barston: 1983: 131). The following case studies thus focus on formal negotiations occurring at regular intervals, attended by over 100 States Parties, in the format of a diplomatic conference, including plenary and committee sessions, and where Parties seek an outcome agreement in an effort to find common interest or solve a common problem. Assessing 'who is EU' within this context is therefore necessary because, as Hill and Smith (2011a) suggest, the EU suffers several analytical challenges courtesy of the fact that it is neither like any other State Party nor simply an intergovernmental organisation. Rather, as was shown in Chapter One, whilst the EU has the size and resources to be considered a major power in the international system its ability to always utilise them varies considerably across policy fields. The EU therefore draws significant debate over its capabilities to act within international diplomacy; with its variable level of competence, institutional integration and subsequent ability to 'speak with one voice' across its numerous external relations often the grounds on which expectations of its likely performance are premised.

In order to ensure that it is therefore the *EU* that is the subject of the following performance analysis – as opposed to its individual Member States - cases selected for this study are chosen where the EU meets several essential 'actor' conditions (Sjöstedt: 1977: 16) as developed upon from the EU actorness discourse. Firstly, the EU is considered an actor within a multilateral negotiation where an EU goal or goals is, "articulated in a document so that its formulation, if not its interpretation, is beyond dispute" (Sjöstedt: 1977: 24), and shared by all Member State governments. This may be in the form of a common position, joint action, strategy, or council conclusions formulating a negotiation mandate. Secondly, the EU is considered an actor where it also has some degree of autonomy from its Member States with negotiations thus conducted by an EU representative i.e. the European Commission, Council Presidency, High Representative, European External Action Service (EEAS), or lead Member State(s) appointed to speak on behalf of the EU as a whole. The third essential condition in establishing EU capacity to act within a multilateral negotiation is that the EU is also recognised by the institution

within which it is negotiating such that the EU representative is permitted to participate in the negotiations on behalf of its Member States including in all plenary and committee sessions⁶.

2.2. Evaluation and measurability: EU performance in multilateral negotiations

Having established that the EU is an ‘actor’, an evaluation of its performance may then be conducted. In this study three steps in its analytical framework are adopted, addressing: (1) the ambition of the EU’s negotiation position, (2) the EU’s performance as an assessment of its negotiation process and outcome, and (3), making an assessment of the EU’s overall performance. It is noted that this study adopts a measurement focus in its performance evaluation in order to reinforce its comparative analysis and enable findings to be more clearly reflected. The measurability of performance is useful in demonstrating progress or change in particular aspects of an actor’s behaviour and effectiveness and can be especially useful in cross-policy and longitudinal studies. However, analysing performance through more quantitative means can prove challenging where indicators are more difficult to measure, as may be expected in behavioural analyses. How, for example, is good negotiation performance to be measured relative to poor performance? Conceptualisations of EU performance in international institutions and foreign policy analysis draw different conclusions in this respect. Jørgensen et al.’s (2011: 607) conceptualisation of EU performance in international institutions resolutely avoids drawing any such measurability of its performance criteria, despite proffering an historical perspective to better account for “identifying changes over time and pertinent trends”. Subsequently, their overall conclusions draw more normative and impressionistic judgements of the EU’s ‘increasing’ (Jørgensen et al.: 2011: 607) performance in certain performance indicators but which otherwise refrain from trying to grapple with the problem of how indications of EU ‘relevance’ or ‘effectiveness’ should be measured.

Conversely, measurability is a primary focus for the European Council on Foreign Relation’s EU performance scorecard on foreign policy (ECFR: 2010). The ECFR’s methodology - premised on a scorecard marked out of 20 - measures EU performance

⁶ See also Delreux (2006: 233) who argues that the EU must meet three conditions before it can act in multilateral environmental negotiations including: (i) it must have international legal personality, (ii) it must have external recognition, and (iii) it must hold competences in the policy field of the negotiated issue. It is here argued that the issue of competence is not specifically necessary for the EU to ‘act’ and thus to ‘perform’ in multilateral negotiations where it has none. Rather that it is an ‘actor’ as long as it has a common position to pursue within the negotiations with representation by an EU representative.

across each of its three performance criteria (with ‘unity’ and ‘resources’ each marked out of 5 and ‘outcome’ marked out of 10) and correlates that measurement to an A-F grading, where an A+ reflects ‘outstanding’ performance and F a ‘failed’ performance. In so doing the ECFR’s assessments of EU performance across policy fields and from year to year are easily comparable by scoring. A difficulty with the ECFR approach however, is that it requires a highly generalised, and generic, system of measurement in order to be applicable across all foreign policy fields. In the endeavour to index EU performance as an easily quantifiable variable much of the more qualitative detail that also shapes judgement on how well the EU has performed is at risk of being lost. This is also a challenge identified by O. Young (2001) in the regime effectiveness literature whereby efforts to index ‘actual performance’ of a regime using quantifiable – and thus easily tractable – indexes, may also, “undervalue the overall effectiveness of regimes” (O. Young: 2001: 112).

There is a balance to be wrought therefore in performance analysis that encapsulates the benefits of measurability but does not neglect important information and shaping factors that come from a more qualitative assessment. In his analysis of the EU in multilateral diplomacy Jørgensen (2009b) offers one such balance by detailing a low-medium-high scale in assessing particular aspects of EU diplomatic activity – for example identifying variation in the EU’s domestic dimension, outreach and impact. Whilst Jørgensen does not specify how these terms are explicitly assessed - and thus how a low rating differs from medium or high - there is some benefit in taking such an approach: enabling consistency and change in aspects of performance to be clearly identified (and thus compared) but maintaining the flexibility of a more qualitative judgement.

This framework thus adopts a simple three point scale, developed from Jørgensen (2009b) in making a general qualitative assessment of the EU’s negotiation performance and in each performance indicator, ranging from **low, moderate to high**⁷. It should be noted that a nil assessment is not made in this framework due to the stipulations of assessing ‘EU’ performance as meeting the basic criteria of an actor. Where a common position exists, with representation by an EU representative, and with the EU permitted to speak within the negotiations, it is assumed that the EU has already demonstrated some basic level of negotiation behaviour which rules out the possibility of nil assessments in these indicators. A nil assessment of effectiveness – whereby the EU achieves none of its objectives – is also ruled out on the basis that each negotiation focused upon in the following case studies

⁷ The term ‘moderate’ is here used in place of ‘medium’.

are premised on consensus decision-making (see also Kissack: 2010). Any outcome agreement should therefore have something within which all parties can agree otherwise any party could block consensus. More than this, whilst a nil assessment might be expected in cases where no formal agreement is decided by negotiators this does not necessarily relate to nil effectiveness. For example, where the EU blocks an outcome agreement that it cannot support this is itself an indication of EU effectiveness. In addition, where no formal agreement is adopted the negotiation process does still continue suggesting that some level of goal-attainment is still present. It is also noted that a nil assessment of EU ambition in its negotiation position is not made in this framework on the grounds that, where the EU has derived a negotiation mandate – necessary for establishing the EU as an actor – it has already demonstrated a basic level of ambition. It is to this negotiation position that we now turn.

2.3. The negotiation position

“A good negotiator should be realistic... flexible... patient... Above all he must maintain the will to win”
Iklé (1964: 254-5)

Evaluating EU performance in the context of a multilateral negotiation first requires an assessment of its negotiation position and the extent to which it is ambitious. This is important as its performance will depend in large part upon the EU’s initial objectives and the extent to which it has a ‘will to win’ (Iklé: 1964) in achieving something within the negotiation⁸. To what extent is EU performance therefore driven by its ambition to actually achieve something? An EU negotiation position will vary in format across policy fields but is typically detailed in the form of a Joint Action, Common Position and/or Council Conclusions with which a negotiation mandate is stipulated. A negotiation position, usually derived prior to a negotiation and fine-tuned to the specifics of that negotiation context, includes the EU’s key objectives as well as guidelines for how they will be pursued. It offers therefore, the blueprint by which the EU’s negotiation behaviour and effectiveness will be judged. Assessing the ambition of that position must then take into account several important factors relating to the negotiation environment itself, as well as the extent to which the EU is progressive – that is, change-seeking - in its objectives. Two questions are of particular note when making that assessment:

⁸ See also Jørgensen et al. (2011) who argue that the ambitiousness of the EU’s objectives in an international institution should be taken into consideration when assessing EU goal attainment

- i. Does the EU pursue a progressive or conservative agenda – that is, does the EU seek progress or change in the current situation under negotiation – or is it seeking the maintenance of the status quo?⁹
- ii. Do the EU's objectives meet some zone of agreement with the preference structures of its negotiation partners? Is the EU therefore acting as a preference outlier or *demandeur* or does it share some common ground with the preferences of others?

The level of EU ambition may then be understood on a scale of high, moderate and low. *High ambition* is here assessed where the EU's negotiation objectives are mostly progressive and which go much further than the preference structures of its negotiation partners. Highly ambitious negotiation positions are change-seeking and position the EU as a preference outlier relative to its negotiation partner. *Moderate ambition* is assessed where the EU's negotiation objectives are mostly progressive but which meet, in part, with the preference structures of its negotiation partners. A moderately ambitious position seeks change but meets some zone of agreement with negotiation partners. *Low ambition* conversely is assessed where the EU has mostly conservative objectives and/or its objectives are ambiguous. A low ambition negotiation position seeks the preservation of the status quo and/or has no clearly defined objectives.

The ambition of the EU's negotiation position is important for several reasons. First, according to the Normative Power Europe (NPE) discourse the more progressive and different the EU is as an actor in international relations, the more influential an actor it is (Manners: 2002, Manners & Whitman: 2003, Schiepers & Sicurelli: 2007). In order therefore to test those expectations it is necessary to explicitly assess the level of EU ambition entering a negotiation relative to its subsequent performance. Secondly, it can also be expected that the EU would have to work harder where its ambitions are higher, as any EU gain would be at the expense of its more conservative negotiation partners (see also Keohane & Nye: 1977: 10). The EU would be required therefore to utilise all of its

⁹ See also Meunier (2000) who distinguishes between reformist and conservative contexts in bilateral negotiations whereby a reformist context sees the EU trying to make demands on its opponent who prefers the status quo, and a conservative context is where the EU seeks to preserve the status quo and is resistant to its opponents demands for reform. Meunier further makes the case that the EU has greater bargaining capability where its agenda is conservative as it can effectively resist the demands of its negotiation opponent. It is further noted that, as is commonly found in the trade literature, 'offensive' interests are here related to a progressive agenda – namely, that the EU must pursue reform, in the form of change by others, if it is to achieve its offensive objectives – and 'defensive' interests relate to a conservative agenda – as the EU would be expected to seek the maintenance of the status quo if it does not want to give anymore away.

diplomatic skill where its objectives are highly ambitious and which would thus influence analysis of its negotiation behaviour and effectiveness. How realistic the EU's objectives are, relative to the preference structures of other negotiation partners, is also important in ascertaining whether the EU has over- or under-estimated the 'anticipated minimum' (Iklé: 1964: 192) or red-lines of its negotiation partners, and thus whether some 'zone of agreement' is possible (see also Afionis: 2011, Underdal: 1983). As Iklé (1964: 2) states:

“Two elements must normally be present for negotiation to take place: there must be both common interests and issues of conflict. Without common interest there is nothing to negotiate for, without conflict nothing to negotiate about”.

Having some zone of agreement between the EU's negotiation position and the preference structures of its negotiation partners may therefore be expected to help the EU negotiate and achieve its goals. Highly ambitious preferences that go much further than the preference structures of less ambitious negotiation partners may thus create difficulties for the EU's performance by placing greater impetus on the EU's ability to persuade others to raise their ambition to meet its objectives. The ambition of the EU's negotiation position may therefore be expected to have some influence upon the EU's performance; shaping not only its negotiation behaviour but also its overall effectiveness. It is in evaluating this performance that we now turn.

2.4. Assessing individual performance indicators

Performance in this study is conceptualised as an evaluation of both the EU's behaviour and its overall effectiveness within multilateral negotiations. Taking into account the performance studies developed by Jørgensen et al. (2011) and the ECFR (2010) it unpacks performance into specific performance indicators inspired by conceptualisations currently found in the literature on EU actorness, leadership, and effectiveness, thus including both process- and outcome-oriented concepts. The indicators selected further draw upon the discourse of actor behaviour and negotiation process within the broader negotiations and regime effectiveness literatures. This has been important in order to accurately evaluate EU performance within the specific context of multilateral negotiations which is the central forum of consideration in this study. It is necessary therefore for performance indicators to be relevant to that context. More than this, by utilising these different strands of debate the indicators here included offer not only a more comprehensive method of analysing EU performance, but importantly address the connectivity between what the EU *says*, what it

does, and what it *achieves* in multilateral negotiations further stipulated in Chapter One. The performance indicators therefore analysed in this study include:

Process-oriented indicators:

- (i) Unity (Is the EU represented by ‘one voice’ and how well does it maintain its cohesion?)
- (ii) Outreach (Is the EU utilising a particular negotiation style or employing tactics in order to outreach to its negotiation partners?)
- (iii) Significance (Is the EU significant to the decisions being made such that it is participant in processes of endgame bargaining?)

Outcome-oriented indicator:

- (iv) Effectiveness (Does the EU attain its goals?)

A point to raise prior to discussion of each of these indicators in turn is that there is an inevitable leaning in this indicator selection in favour of process-oriented concepts with unity, outreach and significance each concerned with the EU’s negotiation behaviour, comparative to effectiveness which is the only outcome-oriented indicator. Treated individually each performance indicator is important to understanding EU performance. However, when it comes to making an overall assessment (discussed in the following section), what the EU does in a negotiation is treated as of equal importance to what it then achieves. As the only indicator concerned with outcome, effectiveness is therefore to be understood as an essential (but insufficient) indicator in making an overall performance assessment.

Unity

The EU’s unity as an actor has been of fundamental importance to scholars of EU external relations (Sjöstedt, 1977; Jupille and Caporaso, 1998; Jupille, 1999; Meunier, 2000; Bretherton and Vogler, 2006). Often taken as an indicator of how ‘state-like’ the EU can be; the EU’s (in)ability to ‘speak with one voice’ has been commonly cited as reason for its success or failure in multilateral negotiations (Jørgensen & Wessel: 2011, Parker & Karlsson: 2010, Gstöhl: 2009, Schreurs & Tiberghien: 2007, Falkner: 2007). Assessing the EU’s unity in multilateral negotiation is thus an important indicator of any performance analysis. For one thing the EU’s unique institutional structure, specifically in terms of its ‘functional fragmentation’ (Gebhard: 2011: 102), makes the EU’s unity of action a distinct

challenge. Unlike States Parties which can present a unitary appearance within multilateral negotiations, the EU's appearance within multilateral negotiations much more closely reflects a 'network' (Manners & Whitman: 2003: 384) thanks to its numerous constituent parts. Assessing its unity is thus central to assessment of the EU's capacity to manage its institutional complexities and still negotiate with others. There is also a common assumption that, where the EU is united, it will be more effective (i.e. Gebhard: 2011: 110, Van Schaik: 2010: 255). It is important, therefore, for performance analyses concerned with the connection between behaviour and effectiveness, to test this assumed link between EU unity and effectiveness. Third, the concept of unity is often used synonymously with concepts such as coherence (De Jong & Schunz: 2012, Gebhard: 2011, Nuttall: 2005, Missiroli: 2001), cohesion (Thomas: 2012) and the frequently cited phrase 'speaking with one voice' which creates some ambiguity around the concept. This ambiguity is evident also in performance studies where unity has been defined both as the extent to which the Member States and EU institutions agree (ECFR: 2010: 136), and whether the EU speaks with 'one official voice' (Jørgensen et al. 2011: 605). Assessing unity as a performance indicator does therefore require some important clarification. It is here argued that unity, as an indicator of performance in the context of multilateral negotiations, is explicitly concerned with matters of EU *representation* and *cohesion*.

Representation is of particular importance because the EU, as a multifaceted polity, may present itself within multilateral negotiations fronted by any number of figureheads, institutions, or indeed Member States which may affect its unity as an actor. Representation initially raises questions of the EU's legal competence and thus to its authority to act within different policy fields. Does the EU therefore have exclusive competence (as is found typically in commercial policy), mixed competence (i.e. environmental policy) or no legal competence (i.e. security)? Pisani-Ferry (2009) takes up this point in identifying three modes of governance that the EU may utilise in its representation in multilateral negotiations. The EU may, for example, have an unconditional delegation model whereby the Member States give delegation authority to the EU institutions. This is found in the case of competition policy which is delegated unconditionally to the European Commission (Jørgensen: 2009b: 197). Alternatively the EU member states may delegate conditionally their authority to the EU institutions to negotiate on their behalf; retaining their own formal representation and providing the institutions with on-going guidelines and negotiation mandates. This mode of governance may be seen particularly in the case of multilateral trade negotiations where the European

Commission represents the EU Member States within the WTO and acts as the EU's formal voice. A third, and most widely used, mode of governance (Jørgensen: 2009b: 198) – is the coordination model whereby the EU member states agree to act in coordination and in a concerted manner, typically represented by the rotating Council Presidency but where the Member States themselves may also act in a national capacity. The unity of the EU in this latter model of representation is challenging as the EU has many voices interjecting on its formal representation and where coordination between the Member States must be frequent in maintaining that unity.

Interrelated to this, assessment of unity as a performance indicator in multilateral negotiations must also take into consideration the EU's political cohesion, defined by Thomas (2012) as, “reflect[ing] how fully EU actors support whatever common policy has been agreed”. This may also be described as the demonstration of vertical coherence (De Jong & Schunz: 2012, Nuttall: 2005), concerned with, “the concertation of Member State positions and policies with and in respect of the overall consensus or common position at the Community or Union level...It thus concerns issues of solidarity...and a readiness to comply with the *acquis*” (Gebhard: 2011: 107). A common tendency in assessing EU unity however has been to focus predominantly on the degree of convergence or divergence in the Member States and EU institutions interests and thus on their ability to agree (i.e. Van Schaik: 2010). Whilst recognising that this may shape the EU's common negotiation positioning- as the ECFR (2010) particularly distinguishes in its definition – what this analysis is concerned with, is the extent to which the EU maintains its unity within negotiations, and thus to the cohesiveness of the Member States in maintaining that position within the negotiation environment.

This is important because a divided EU is an easy target for negotiation partners seeking to ‘divide and conquer’. As Zartman & Berman (1982: 213-214) identify, “A delegation with a number of components can use them for flexibility but it is also vulnerable to their being used to the same end by...[an]other party.” A cohesive EU may be expected to be a much stronger negotiator – using its combined weight and expertise to pursue its objectives and capable of using divergent interests within its membership as a tactic rather than being subject to its divisions (Zartman & Berman: 1982: 213). For one thing, a cohesive and united EU enhances the value of the EU common position, much aided by the fact that an EU common position is respected as one that has already undergone significant negotiation, as being thoughtfully conceived, and with its objectives approved by 27

Member States. It is as such more likely to be accepted by other parties due to the internal process and debate that it has undergone (Kissack: 2010: 61). Measuring EU unity within multilateral negotiations therefore takes these factors into account by identifying three levels of unity:

- High unity = The EU has a common position entering the negotiation with one official EU voice representing the interests of the EU in negotiations with third countries.
- Moderate unity = The EU has a common position entering the negotiation with representation by an EU figurehead but with Member States also speaking in a national capacity in a way which does not challenge the EU common position.
- Low unity = The EU has a common position entering the negotiations with representation by an EU figurehead but with Member States also speaking in a national capacity in a way that challenges the common position.

From this approach however some challenges must be addressed. In particular there is the question of to what extent the EU is measured as united where its Member States are themselves divided in their interests and where this may, for example, impact on the EU's negotiation mandate. A common criticism facing the EU in multilateral negotiations is the EU's 'lowest common denominator' position and behind-the-scenes differences between Member States preventing the EU from being a more proactive player in the negotiations. Here a line must however be drawn between divergences in Member States interests and the EU's actual negotiation performance. Interests are here considered as a variable to be taken into account but which cannot, of themselves, be used to assess EU unity within the negotiation environment. Instead, where the EU has a lowest common denominator position this is addressed in assessing the ambition of the EU's negotiation position. Where the Member States are divided this only affects assessment where it affects the representation and cohesion of the EU within the negotiation itself. Public or private statements of discontent by Member States against the EU representation in negotiations may for example weaken the EU's position and provide a challenge to the EU delegation, but a mark of good performance is where those issues do not affect the EU's representation and cohesion within the negotiation. Unity becomes, therefore, an assessment of the EU's

capability to overcome its internal difficulties and to present itself as a united front during negotiations.

Outreach

The next process-oriented indicator is outreach which focuses explicitly on the EU's negotiation activities, encompassing elements of what the ECFR (2010) identifies as the criterion 'resources' and *how hard the EU tries* in its pursuit of its objectives. More explicitly it is concerned with what Jørgensen (2009b: 203) defines as, "interaction with third-party diplomats – that is, non-EU diplomats". Outreach importantly refers therefore to the activity or behaviour of the EU towards others in the pursuit of its negotiation objectives; and thus to what the leadership discourse specifies as the 'leader-follower relationship' (Schirm: 2010, Underdal: 1994). Due to the nature of multilateral negotiations where consensus is often a requirement for agreeing an outcome, this implies a necessity for EU performance to demonstrate outreach to others in order to find a 'zone of agreement' (Underdal: 1983, Afionis: 2011). In order to assess EU outreach this analysis is thus specifically concerned with three considerations. First, how active is the EU in pursuit of its objectives – does the EU have a proactive or reactive negotiation style?¹⁰ Second, is there evidence of the EU utilising formal mechanisms or tactics to reach out to negotiation partners? Finally, how successful is the EU in the employment of particular negotiation tactics in its efforts to find agreement?

How the EU pursues its negotiation objectives depends to a great extent on its negotiation style and, subsequently, on the ambition of the EU's negotiation objectives. The EU's negotiation style may be, as Jørgensen (2009b) highlights, proactive or reactive. Although offering no explicit definition of these different styles, his empirical overview implies that the EU has a proactive negotiation style where it purposely pushes for its negotiation objectives, often going first or making particular demands which can set the tone for negotiations. In terms of negotiation behaviour a proactive negotiation style might be

¹⁰ In his framework for the assessment of the EU in multilateral diplomacy Jørgensen (2009b: 195) distinguishes between 'outreach' and 'negotiation style' as two different dimensions of analysis arguing that negotiation style relates to "issues such as reactive or proactive, general performance, communicative action or hard-nosed approaches" whilst outreach relates to "diplomacy vis-à-vis third parties during negotiation processes". He argues that the reason for including outreach as its own dimension is due to the criticism that EU diplomats often spend more time on EU internal coordination than on outreach to third parties "in terms of persuasion, coercion or communicative action". Whilst making a valid point that analysing outreach is important I suggest that these dimensions are in fact synonymous with each other and should be treated as one performance indicator rather than separately and with the EU's negotiation style treated as a sub-indicator of its overall outreach.

associated with the role of ‘leader’ or ‘pusher’¹¹. Conversely a reactive negotiation style is recognised where the EU’s outreach tends to be in reaction to the activities of other negotiation partners. Where the EU is reactive this may be for a number of reasons. It may be a specific negotiation tactic – purposely dragging its feet in order to prevent agreement on an issue it disagrees with (commonly associated with the role of ‘blocker’ or ‘laggard’¹²). It may however also have to do with difficulties with capacity and, as Jørgensen (2009b) highlights, the EU’s challenge of maintaining internal unity and coordination whilst proactively pursuing its objectives with third parties.

How the EU then undertakes outreach to negotiation partners may depend on a number of formalised methods including the submission of proposals and working papers, making an offer or concession, hosting side-events at international conferences, and conducting demarchés to third countries i.e. *tour des mondes* (interview, Lord Brittan of Spennithorne, former EU Trade Commissioner, London, 19th April 2011), all with the intention of ensuring EU objectives are publicised with third countries. In negotiations, a party’s ability to come up with proposals that overcome differences is often an important method by which agreement is reached - “More than repetition or rebuttal, new arguments have been shown to be the key to persuasion, and new proposals will be seen as crucial in forging parts of an agreement” (Zartman & Berman: 1982: 20). Returning again to Iklé (1964: 193), the submission of proposals is considered a, “key role in the process through which the parties come to terms. Indeed, the confrontation, revisions, and final acceptance of proposals at the conference table is sometimes all that is meant by ‘negotiation’...If there is to be an explicit agreement, there must first be at least one explicit proposal”. The EU may therefore demonstrate outreach in a negotiation through the submission of proposals that seek to overcome differences or propose solutions to problems. Proposals are a form of outreach aimed at influencing negotiation partners, to serve as path-breakers, or to encourage favourable terms (Iklé: 1964: 193-194). Another similar form of outreach is the submission of working papers which are intended to provide information, technical detail, and broadly outline your position to help inform discussions. Another related formal tactic

¹¹ A distinction should be highlighted between these two roles as whilst a pusher actively pushes for its own particular goals, a leader actively leads others towards a common or shared objective (see Andresen & Agrawala: 2002). It should be noted that it goes beyond the scope of this study to make any explicit assessment of the EU’s negotiation ‘role’ only to take into consideration the forms of negotiation behaviour which the EU might follow in the pursuit of its objectives.

¹² A blocker is one who purposely blocks agreement by failing to join the consensus whilst a laggard is one who drags its feet and causes delay in a more passive method of blocking agreement. See also Levy et al. (2001: 399) for discussion on laggards as those states who show low concern for the effectiveness of the institution itself

that the EU might employ is that of making an offer or concession and which will typically be required in negotiations where, “the stakes can be considered as increments of the same item” (Zartman & Berman: 2982: 166). How much the EU will itself concede in a negotiation in order to achieve agreement, when it makes that concession, and the extent to which that concession is conditional on others making similar commitments, are important considerations in assessing EU outreach. The success of such a concession is moreover highly dependent on its acceptability to negotiation partners and thus to their reciprocating with similar or better offers.

The EU may also demonstrate outreach by using methods prior to the negotiations themselves including hosting side-events or meetings at international conferences in an effort to draw parties together to discuss particular EU-driven policies which may lead to the persuasion of negotiation partners to support EU preferences (interview, Former Disarmament Ambassador Miguel Aguirre de Carcer, Spanish Permanent Mission to the EU, Brussels, 5th May 2011). These side-events are also useful socialisation methods enabling negotiators to meet in less formalised conditions away from the bargaining table. The EU may also seek to persuade third countries of its preferences by conducting diplomatic meetings through demarchés direct to capitals. Demarchés may be conducted through regularly scheduled meetings or summits with third countries with the negotiation included as a particular agenda item (interview, senior official, Department of Non-Proliferation and Disarmament Affairs, EEAS, Brussels, 10th May 2011), or they may be conducted with the specific aim of drumming up support in anticipation of an upcoming negotiation.

Assessing outreach may further be identified where the EU employs certain negotiation and diplomatic tactics in its dealings with its negotiation partners. Specific tactics that may be employed as part of the EU’s outreach include for example, framing, argument, issue-linkage, and coalition-building. The way the EU frames its negotiation objectives can aid its outreach. For example it may aim to depoliticise its preferences, focusing more on technical details to avoid political challenge, or it may frame more controversial preferences in wording that will make it more acceptable to opponents¹³. The EU may also employ particular tactics of argumentation whereby it frames its statements and choice of language in negotiations to make its preferences more attractive to negotiation partners

¹³ Carbone (2007:24-29) identifies framing as a particular tactic used by the European Commission in dealing with the Member States when seeking to initiate and formulate policy. It is argued here that a similar tactic may also be employed by the EU in its external relations.

or to emphasise the firmness of the EU's stance. Iklé (1964: 197-203) argues that a negotiator may employ particular types of argument to make its preferences more agreeable to negotiation partners, such as stressing that objectives are motivated by friendly intentions or binding amplifications that spell out particularly positive details of an offer. The EU may also use argument to stress the firmness of its stance by impressing upon its negotiation partners that no further concessions will be forthcoming, or that domestic constraints prevent it from going any further in its offer. Iklé (1964: 202) also suggests that firmness of position may further be argued by linking objectives with legal or scientific principles. Such a tactic is also identified within the regime effectiveness literature as useful to raising the level of concern by more conservative negotiation partners in support of more progressive objectives (Levy et al.: 2001: 399)

Another tactic indicating outreach may be seen in the use of issue-linkage. Issue-linkage refers to the tactic of linking agreement on one issue to concessions or sanctions in another. Thus the EU might use its economic weight to persuade or coerce others to support its negotiation preferences in exchange for economic concessions or the threat of withdrawing economic benefits. As Keohane & Nye (1977: 31) identify: "Dominant states may try to secure much the same result by using overall economic power to affect results on other issues...Linkage of unrelated issues is often a means of extracting concessions or side payments from rich and powerful states.". Similarly Iklé (1964: 69) identifies tie-ins and package deals in negotiations as relating to *promises of compensation* whereby a negotiator might promise a package of concessions across a broader range of issues in return for agreement on its negotiation preferences.

Another outreach tactic that the EU might employ is coalition-building in an effort to gather support from a larger number of negotiation partners to more effectively push forward shared objectives. In multilateral negotiations coalitions are an important means by which to bring the number of actors down to a more manageable number so that consensus can be achieved (Elgström & Jönsson: 2005: 2, Rittberger: 1983: 177). Coalition-building may involve the building of like-minded coalitions which seek to pool their resources and knowledge in the common pursuit of shared goals. It may also involve coalition with highly divergent States or groups of States in an alliance to overcome a common opponent. Coalition-building, particularly in this latter example, can be time-consuming as efforts must be spent on building up areas of agreement and liaising with partners with whom you may have little else in common. Coalition-building may also

require that a Party relinquish some of its objectives deemed unsatisfactory to its coalition partners in order to pursue a wider shared objective. Coalition-building, where achieved, is however seen to move the negotiation forward or bring it to a successful end (Sjöstedt: 1999: 242) and is therefore a highly useful tactic to employ.

Making an assessment of EU outreach must therefore take into consideration the EU's negotiation strategy, but also the extent to which it successfully employs negotiation tactics. A low outreach might therefore be expected where the EU has a reactive negotiation style and where it employs little to no tactics in its relations with third countries to persuade them to support its goals. Where the EU is proactive, as may be expected where its negotiation position is more progressive, it must employ some outreach to persuade negotiation partners that its objectives should be supported. Tactics employed that directly bring about that effect indicate a successful, and thus a high, outreach. Tactics attempted but which ultimately fail i.e. through a failed effort at coalition-building or where potential allies move their support to an opponent would be reflected in a more moderate level of outreach. These outreach measurements are thus summarised as follows:

High outreach = The EU institutions and Member States are proactive in the concerted pursuit of the EU's objectives with evidence also of the successful employment of negotiation tactics to persuade negotiation partners to support EU objectives.

Moderate outreach = The EU institutions and Member States demonstrate concerted pursuit of the EU's objectives with evidence also of attempting to employ negotiation tactics in an effort to persuade others but failing to do so.

Low outreach = The EU institutions and Member States are reactive in their negotiation style with little to no evidence of negotiation tactics being employed to pursue EU objectives.

Some challenges should be addressed in assessing outreach as a performance indicator. Firstly there is the challenge of assessing when certain negotiation tactics are deemed successful or not. This is especially relevant when comparing tactics which require greater effort than others – a successful *demarché* to one country may, for example, take less effort on the part of the EU than successful coalition-building with a variety of different States. To some extent therefore, the efficiency of EU performance (see also Jørgensen et al.

2011) and the cost/benefit ratio of its negotiation outreach must be taken into consideration. Whilst a loaded term (S. Baldwin: 2000), the ‘success’ of EU negotiating tactics is ultimately focused upon whether the EU was capable of utilising its diplomatic skill enough to be able to work alongside other partners and persuade them of its objectives. Whilst this may be difficult to assess (the sheer scale of EU diplomatic activity would make it impossible to know how much effort it has given to persuading negotiation partners to support its objectives; in much the same way as is it may be difficult to pinpoint when changes in other actor’s positions may be linked to persuasion by the EU), understanding where the EU has tried – and succeeded – in persuading others is an important consideration in any performance assessment. It is noted therefore, that success is not in this case related explicitly to the negotiation outcome. Instead, success relates to whether the EU has been able to utilise tactics which then result in some shift in positioning by the negotiation partners it is targeting. In this way, this assessment is concerned with “the transition of other actors to different values” (Vogler & Stephan: 2007: 412) or, at the very least, to an acceptance by other actors that working with the EU may be a necessity in order to achieve an outcome that is acceptable to them both.

Related to this, a challenge in measuring outreach is that some tactics may not always be easily identifiable. Who the EU is trying to persuade or coerce, as well as the methods that it uses in terms of argumentation and framing may not always be publicised and, without first-hand knowledge of what the EU’s real intentions are for the negotiations, its outreach may be difficult to pinpoint. Additionally, many of these tactics may be expected to be conducted behind closed doors, unadvertised by officials. Officials may not publicise the fact that the EU has sought to persuade or coerce third countries. However, formal methods of outreach – for example where the EU has submitted proposals or made concessions - are more easily identified, utilising the extensive document tools available through negotiation websites and the EU itself. Interview data and analysis of negotiation commentary by analysts and the media further enables a general understanding of the EU’s negotiation style; whilst comparison of EU activities compared to other negotiation partners also contributes towards understanding whether the EU was a first-mover or more reactive in its approach.

Significance

Another important indicator of the EU’s performance in multilateral negotiations concerns its significance as a player and importance at the negotiating table. This indicator relates in

part therefore to discourse on the EU as a ‘power’ and ‘presence’. In EU studies there is an, often implicit, expectation that the EU will be most effective in multilateral negotiations where it is judged to be a significant player and thus essential to decision-making processes. This assessment is often based on an assumption that because the EU has power – typically identified in its material resources i.e. as a trading power (Dür & Zimmerman: 2007), its global share of greenhouse gas emissions (Oberthür: 2011a, Vogler: 2011) or in its ‘normative’ distinctiveness (Schiepers & Sicurelli: 2007, Manners: 2002, 2006) – it will better influence the negotiations, shape the views of others, and thus be more capable of attaining its goals. Dür & Zimmerman (2007: 772) for example, make the case that the EU’s market size, “makes it unthinkable that a multilateral trade agreement could be concluded in the WTO without EU participation”. Building upon this, this analytical framework focuses on more direct evidence of EU significance, by focusing on the EU’s actual participation (or exclusion) from key negotiation processes, and particularly its participation in decision-making and endgame bargaining.

According to Sjöstedt (1999: 233) there are three main processes of multilateral negotiation including: (i) agenda-setting (ii) negotiation for formula and (iii) endgame bargaining. Interestingly it is the EU’s involvement in the first-phase ‘agenda-setting’ that has generated the most interest in the literature thus far, particularly in relation to the EU environmental leadership literature (Parker & Karlsson: 2010, Vogler & Stephan: 2007: 407, Schreurs & Tiberghien: 2007: 19, Zito: 2005: 370, Gupta & van der Grijp: 2000: 79). The same is also seen in the trade literature where the EU’s role as *demandeur* is a commonly cited example of the EU’s influence, leadership, and ‘driving force’ in the Multilateral Trading System (Jørgensen: 2009: 204, Dür & Zimmerman: 2007: 771, Meunier & Nicolaidis: 2006: 916, M. Baldwin: 2006: 913, De Bièvre: 2006: 852, Van den Hoven: 2004: 258). Whilst the EU’s participation in agenda-setting processes, as well as in the negotiation of formulae, provides useful insights into the EU’s performance, methodological challenges prevent any accurate assessment due to the difficulty of trying to identify every single negotiating encounter that the EU may or may not have been participant in. With negotiations in the UNFCCC typically lasting up to a fortnight, up to a month in the NPT, and, in the case of the WTO’s Doha Round, running continuously for a period of over 10 years, coupled with the challenges of accessing often undisclosed information of ‘who met whom’ due to the diplomatic sensitivities of a negotiation environment, such a task is far beyond the scope of this study.

Instead, it is the EU's participation in the final process 'endgame bargaining' - focused explicitly on the details of any outcome agreement, involving brokering between the major interests, and where decisions are ultimately made (Zartman & Berman: 1982) – that is the primary focus of this assessment. Moving beyond the methodological challenges of assessing all three negotiation stages, there is also a more logical rationale for focusing on EU participation in endgame bargaining as an indicator of its significance. In multilateral negotiations it is common practice to manage complexity by condensing negotiations down to a select group of key players who are influential in terms of their strategic importance, positioning, or status. Multilateral negotiations conducted under the auspices of the UN for example, commonly resort to what have become termed 'Friends of the Chair' (interview: Ambassador to the UN, southern developing country, New York, 10th March 2011, interview, UNODA official, New York, 10th March 2011), whereby a selected group of key players are invited by the negotiation chair to discuss areas of agreement and disagreement with an effort to finding consensus for an outcome agreement. A similar arrangement takes place within the WTO where a system of concentric circles is employed in an effort to find agreement on formula and endgame bargaining and which typically starts with a core circle of the major trading powers (Interview, WTO spokesperson, Geneva, 19th May 2011). It is then within these groups that endgame bargaining takes place and where core decisions affecting the negotiation outcome are typically taken. The EU's participation or exclusion from these core negotiations thus provides a plausible indication of EU significance as an actor in that process.

Where the EU is then participant in all processes of endgame bargaining it may be seen to have a voice at a very important table and may, subsequently, be expected to have some influence over the final outcome agreement. Measuring significance may then be assessed as follows:

High significance =	EU representative/lead negotiator(s) participates in all processes of endgame bargaining.
Moderate significance =	EU representative/lead negotiator(s) participates in some but not all processes of endgame bargaining.
Low significance =	EU representative/lead negotiator(s) excluded from processes of endgame bargaining.

Effectiveness

The final performance indicator assessed in this framework is effectiveness. As was demonstrated in Chapter One, the concept of effectiveness is a burgeoning area of analysis in EU external relations. EU performance studies have also increasingly drawn upon the concept in, “using goals and objectives as a central performance standard” (Jørgensen et al.: 2011: 603). As was discussed in Chapter One, effectiveness has however, often been an ambiguous concept, and commonly used synonymously with ‘performance’ itself. It requires therefore some clarification as a specific and important performance indicator. Specifically, effectiveness in this context is concerned with EU goal-attainment. It therefore draws upon definitions of effectiveness as the ‘deliverance of concrete results’ (A.R Young: 2006), on the EU’s “(in)ability to achieve desired effects” (Elgström & Smith: 2006), or as, “the degree to which the EU has achieved its goals and objectives in the decision-making process within that institution (not their implementation).” (Jørgensen et al.: 2011: 603). As a performance indicator, effectiveness – or goal-attainment – is therefore fundamentally a concept of outcome concerned with whether or not the EU achieved what it set out to achieve within multilateral negotiations.

Evaluating the EU’s effectiveness in multilateral negotiations is premised therefore on a comparison between the EU’s negotiation objectives and preferences relative to the negotiation outcome. In order to make that assessment a simple quantitative exercise is therefore conducted as follows:

High effectiveness =	Most EU objectives, as specified in its negotiation position, have been met within the negotiation outcome
Moderate effectiveness =	Some EU objectives, as specified in its negotiation position, have been met within the negotiation outcome
Low effectiveness =	Few EU objectives, as specified in its negotiation position, have been met within the negotiation outcome

This approach does however raise several challenges which must be taken into account. First, taken by itself, assessing EU effectiveness by focusing on similarities between what the EU wanted to achieve and the negotiation outcome does raise questions of causality. In other words, did the EU do anything to achieve these objectives or were other negotiators responsible? According to the ECFR methodology the EU performs well in a foreign policy if it achieves the outcome it wanted. This is however regardless of whether other

actors helped to make that outcome possible (ECFR: 2010: 131) and which raises questions or whether others may then have been more responsible. Others have tried to overcome the issue of causality by associating EU 'external effectiveness' with its 'internal' effectiveness (Laatikainen & Smith: 2006) and subsequently drawing causal links between what the EU does and what it then achieves. The problem with this approach however, is that it concentrates more on the EU's own internal functioning rather than it does on its actual negotiation behaviour, particularly in relation to its negotiation partners. Thus whilst its unity is widely discussed, its significance and outreach are neglected. It is for this reason that this framework focuses upon EU performance as a measure of both its effectiveness and negotiation behaviour; adopting performance indicators to assess EU unity, outreach and significance. These may, in turn, shed greater light upon the relationship between EU negotiation activity and its goal-attainment, better enabling claims of EU 'effectiveness' to be credited (or not) to its actual negotiation behaviour.

Second, there is a question of how assessment can be made where the EU's goals are themselves vague or difficult to identify. Goals may not for example be clearly defined or can be so broad as to be meaningless (see Jørgensen et al. 2011: 604). They may also coincide with the goals of the institution within which negotiations are being conducted, or with the goals of other negotiation partners, which makes assessment of EU effectiveness challenging as these same goals may be shared by many others. In such a scenario, whilst these factors may shape assessment of the EU's ambition, they do not alter the assessment of EU effectiveness. The utility of performance as a concept of analysis is that it encompasses analysis of the EU's negotiation position (level of ambition); its functioning as a negotiator (unity, outreach, significance) and its effectiveness. Assessing effectiveness is therefore concerned solely with EU goal-attainment. Where the EU's objectives are ambiguous and there is little or no evidence of their inclusion in a negotiation outcome then this would be assessed as low effectiveness by the EU. Equally, if the EU shares many of the same negotiation objectives as its negotiation partners and which are then reflected in the outcome, the EU will have demonstrated moderate or high effectiveness. In such cases however, assessment of the EU's own negotiation behaviour is all the more important when making an overall performance assessment, in order to draw conclusions as to the EU's involvement in contributing towards that outcome.

Another challenge when assessing EU effectiveness is how to make a measurement where there is no outcome agreement. Having no agreement can be a common occurrence in multilateral negotiations as the attempt to find settlement between so many different interests ends in failure and which may result in the EU, and others, being branded ineffective. However, as discussed earlier in this chapter, having no outcome agreement does not necessarily correspond to nil effectiveness. Instead, a return to the EU's negotiation position is necessary in order to make a judgement as to goal-attainment regardless of their being no formal outcome. For example, if the EU had a conservative agenda and was seeking to block agreement on a matter it was unhappy with, no agreement would qualify as high effectiveness by the EU. Equally the EU might have sought a successful outcome but, despite their being no formal agreement, progress may still have been made with negotiations still moving in the direction the EU wants. In cases where the EU sought a successful outcome for the negotiation as a whole, but no formal outcome was agreed, an assessment of low effectiveness would therefore be made as it must be assumed that, with no agreement, few of the EU's objectives would have been attained. This example further demonstrates the benefit of a longitudinal study as goals which may not be attained in the short-term may still be assessed over a longer period of time.

A final challenge relates to whether the importance or priority of an EU objective being attained affects assessment of low, moderate or high effectiveness. Due to the quantitative nature of this effectiveness assessment, this analysis does not make a priority of EU objectives; concentrating instead on the quantity of goals attained over the quality. However, it is noted that choice of language distinguishing values of effectiveness as 'most', 'some' and 'few' goals attained, has been intended to allow a more qualitative assessment which takes into consideration both the number and importance of goals attained. 'Most' for example, suggests that the EU's key objectives may have been obtained as well as the majority of its smaller objectives. 'Some' indicates that the EU has been unable to attain the majority of its key objectives but that it has nevertheless managed to attain a number of key objectives and some lower priority objectives also. 'Few' then indicates low effectiveness with the EU attaining little of its key or lower priority objectives.

2.5 Making an overall performance assessment

Having unpacked performance into these measurable indicators how do they then contribute to a broader assessment of the EU's performance within multilateral

negotiations? More specifically, *how well* did the EU perform? Previous attempts to address this question have focused primarily on the EU's negotiation behaviour to make an assessment; with the EU as a global actor and leadership literatures particularly emphasising what the EU says or does within a negotiations (process) over what it then gets (outcome). The difficulty with this approach however is that it sets the bar for measuring how well the EU performed rather low - with the EU's performance judged to be good where it either meets or exceeds expectations of how it 'should' perform relative to its capabilities.

A smaller, but burgeoning, field of debate has conversely concentrated on the EU's 'external effectiveness' and 'influence' within multilateral negotiations, focusing therefore on the EU's ability to shape the negotiation outcome and attain its goals. More recent performance studies have also, whether implicitly (Jørgensen et al. 2011) or explicitly (ECFR: 2010), placed greater emphasis on outcome as a measure of how well the EU has performed; with *how* the EU went about attaining its goals being less significant than the fact that it has actually achieved them. It is here argued however that focusing on process or outcome-orientated concepts to analyse EU performance can risk over- or under-estimating how well the EU in fact performed. Necessary therefore to making that judgement is consideration of process and outcome thus, "*not only the product you come up with*" but also, "*the way you play the game*" (Underdal: 1983: 190). Subsequently, how well the EU performs in multilateral negotiations is assessed on the following equation:

Behaviour (B) + Effectiveness (E) = Performance (P)

This equation does however require some clarification. Firstly, there is the question of why each of the four performance indicators outlined above are not treated separately within this equation. Justification for this is that, with four performance indicators - each measured on a scale of low, moderate or high - to assess the EU's overall performance based on the equal aggregation of all indicators would place too much emphasis on the EU's negotiation behaviour. With three process-oriented indicators (unity, outreach and significance) and only one outcome-oriented indicator (effectiveness), this would defeat the purpose of trying to readdress the balance between predominantly process and outcome-oriented approaches. In order to evaluate EU performance as an equal measure of both its negotiation behaviour and its effectiveness requires an aggregate value for the EU's unity, outreach and significance. Deriving that aggregate value is achieved using a

simple average equation. Where each process indicator is assessed on a scale of low, moderate or high this is associated with the quantitative measurement where 1 = low, 2 = moderate and 3 = high. The value associated to the EU's negotiation behaviour is therefore premised on the equation:

$$\text{Behaviour (B)} = \frac{\mathbf{u} + \mathbf{\sigma} + \mathbf{z}}{3}$$

Where:

\mathbf{u} = unity

$\mathbf{\sigma}$ = outreach

\mathbf{z} = significance

For example, where the EU has high unity (3), moderate outreach (2) but low significance (1) this is aggregated into an overall *moderate* level of negotiation behaviour¹⁴. Similarly, where the EU has high unity (3), moderate outreach (2) and high significance (3) this is aggregated into an overall *high* level of negotiation behaviour¹⁵.

This approach does however raise a methodological challenge that must be addressed. Specifically, it raises the question of whether all process indicators should be given equal weight in deriving an overall value for negotiation behaviour – should the EU's level of unity, for example, be given greater weight than its level of significance or outreach? The EU's unity as an actor is an issue that has continued to fascinate scholars and has subsequently been flagged as an issue of some importance when assessing its performance in multilateral negotiations. This is addressed through its inclusion in this analytical framework; however, it is not judged to be a more important indicator than the EU's level of outreach or significance as these indicators are also essential in making an overall performance assessment. Similarly, the EU's level of outreach might be considered to be more important to its overall performance than its level of significance. How the EU negotiates with others must, after all, matter more than whether or not it is a participant in endgame bargaining? In fact this is not the case. The EU's significance, as a measure of its participation in key bargaining processes and decision-making, is an essential indicator for its performance to be assessed. The EU may have high unity, a high level of outreach with a proactive negotiation strategy and a highly successful raft of demarchés, coalition-

¹⁴ Where $3+2+1 / 3 = 2$ and where 2= moderate.

¹⁵ Where $3+2+3 / 3 = 2.66$, rounded up = 3 and where 3 = high

building, and other tactics but, if it is not then in the room to push those shared objectives so that they are included in the negotiation outcome, its ability to push its objectives forward into the negotiation outcome will be affected. Each process-indicator is therefore essential to understanding how well the EU has performed in its negotiation behaviour, and are accordingly treated with equal weight in deriving an aggregate value for the EU's behaviour as a whole.

Values for the EU's overall performance are then assessed using a simple scale of: **(i) very good, (ii) good, (iii) fair, (iv) poor, and (v) very poor.** This scale has been adapted from the often-used scale used in behavioural science and market research and which typically ranges from excellent – very good – good – fair – poor (i.e. Reynolds: 1966). An 'excellent' assessment is not made in this study for the primary reason that an 'excellent' performance did not add much beyond what 'very good' already provided in making an overall performance assessment. A 'very poor' category has also been added in order to reflect balance across the scale in contrast to a 'very good' performance. These values have furthermore been chosen as they allow the question of *how well* the EU performs to be clearly answered. They are also clearly distinguishable according to the low, moderate and high values assessed in the EU's negotiation behaviour and effectiveness. Overall performance assessments are therefore made as follows:

(i) Very good performance

A 'very good' performance would be expected where an actor not only achieves most of their objectives within the negotiation outcome, but can claim credit for this by having behaved very well within the negotiations themselves. In such cases the actor has presented a high level of negotiation behaviour, showing itself a united force, engaged in all processes of the negotiations, and been proactive in pushing forward their preferences and which coincides further with a high level of effectiveness. In this case the EU has shown that it has both performed well in terms of its unity, outreach and significance, and translated this into most of its goals being attained. A very good performance may therefore be assessed where the EU achieves high levels in both its negotiation behaviour and effectiveness.

(ii) Good performance

A 'good' performance in contrast may be expected in two different scenarios. Firstly it is assessed where an actor has performed well in terms of its negotiation behaviour; maintaining its united front, being proactive in pushing forward its objectives and engaged

in endgame bargaining, but which may then be less successful in attaining all of its objectives in the negotiation outcome. Secondly, a good performance may also be expected where the actor has managed to achieve most of its objectives in the negotiation outcome but has perhaps performed less well in terms of its negotiation behaviour. For example, where it has had some challenges in terms of its unity, its participation in endgame bargaining, or in its ability to persuade others to support its objectives. A good performance may be valued therefore where the EU has shown either a high level of negotiation behaviour and moderate effectiveness or vice versa.

(iii) Fair performance

An actor may then be expected to have had a ‘fair’ performance where it faces particular challenges to its negotiation behaviour, effectiveness, or both. Such a performance is better than poor as the actor has performed well in some aspect, but it has not performed well in all factors thus preventing it from being assessed as good. A fair performance may therefore be assessed in a number of different scenarios. For example, where the actor has faced challenges in its negotiation behaviour in addition to only some of its goals being attained this would equate to a fair performance. A fair performance may also be assessed however where the actor has behaved very well in its negotiation behaviour, doing all that it could to achieve its goals within the negotiation environment, but then achieved very few of its objectives within the negotiation outcome. A further scenario where a fair assessment may be made is where the actor performs poorly with regards its negotiation behaviour but also managed to attain most of its objectives within the negotiation outcome. A fair performance for the EU may therefore be assessed where it has had moderate levels in both its negotiation behaviour and effectiveness, or either a low level of negotiation behaviour but high effectiveness or vice versa.

(iv) Poor performance

A ‘poor’ performance may be understood in those cases where an actor has had a low level of either its negotiation behaviour or effectiveness and no more than a moderate level in the other. It is thus assessed where an actor either behaves poorly - whether as a result of internal divisions, or of under-estimating the preferences of negotiation partners and failing to attract their support – and achieves some of its objectives; or where it behaves relatively well but achieves few of its negotiation objectives, most particularly where the outcome reflects the opposite of pursued preference structures. For the EU therefore a poor performance may be assessed in two scenarios. First, a poor performance may be assessed where the EU’s negotiation behaviour has been low but where its effectiveness is

moderate. Second, a poor performance may be assessed where the EU's negotiation behaviour has been more moderate but where its effectiveness has then been low. A poor performance is distinguished therefore from a 'fair' performance in that the most that is achieved is a moderate level of either negotiation behaviour or effectiveness.

(v) Very poor performance

Finally, a 'very poor' performance is assessed where an actor has performed poorly in every aspect of its negotiation behaviour and effectiveness. A very poor performance is distinguished from a poor or fair performance as the actor achieves low levels across all indicators. It has thus not only shown divisions amongst its delegation, a reactive negotiation strategy with limited to no outreach to negotiation partners, but has also been essentially ignored within the negotiation process and which further results in few of its objectives being obtained. For the EU therefore a 'very poor' performance is a worst case scenario whereby it achieves low values in both its negotiation behaviour and effectiveness. These values are summarised in Table 2.1 below:

Table 2.1: Values of overall performance equation

<i>Behaviour</i>	<i>Effectiveness</i>		
	High	Moderate	Low
High	Very Good	Good	Fair
Moderate	Good	Fair	Poor
Low	Fair	Poor	Very Poor

Where Behaviour = (Unity + Outreach + Significance)/3

Source: Author's own compilation

In this way, EU performance within each negotiation analysed may be assessed as a measure of both its negotiation behaviour and effectiveness, and valued in a way as to clearly demonstrate how well it has performed. In the following chapters this framework will be employed across a range of multilateral negotiations to generate a fuller picture of how well the EU performs both over-time and across policy fields.

Conclusion

In this chapter an analytical framework for evaluating EU performance across multilateral negotiations and over-time was introduced. Positioning performance as a bridging concept that encompasses elements of both process- and outcome-oriented analysis, this framework assesses both EU negotiation behaviour and its effectiveness in making a performance evaluation. Considering first the ambition of the EU's negotiation position, assessment then focuses upon four performance indicators including the EU's unity, its outreach, significance, and effectiveness. Measuring each indicator on a low, moderate and high scale these assessments are then combined into an overall performance assessment ranging from very poor, poor, fair, good to very good. In the following case studies this framework will be utilised in evaluating EU performance within climate change (UNFCCC), trade (WTO) and security (NPT) multilateral negotiations.

Chapter 3: EU performance in the UN Framework Convention on Climate Change negotiations (1995-2011)

In no other case study is the disparity in assessing EU negotiation performance best identified than in the case of the United Nations Framework Convention on Climate Change (UNFCCC). Recognised as a ‘critical study’ (Schunz: 2010a: 15) in understanding the EU’s influence in the world, the UNFCCC negotiations and the EU’s involvement in the making of the Kyoto Protocol is perhaps the most widely cited case study employed in evaluating EU behaviour in multilateral negotiations. Since the 1990s, a burgeoning body of literature has concentrated its efforts on seeking to assess and explain the EU’s presence, actorness, leadership and overall effectiveness in this forum, which has produced a plethora of divergent perspectives. Of those that offer a longitudinal viewpoint, scholars have been seen to lament the EU’s ‘suboptimal’ (Van Schaik & Schunz: 2012: 170) ‘(under)’performance (Afionis: 2011: 347) on the one hand, to praise its ‘significantly improved’ (Oberthür: 2011a, Oberthür & Roche Kelly: 2008: 35)) and ‘sustained’ (Schreurs & Tiberghien: 2007: 21) leadership on the other, or to reflect upon its ‘mixed’ and ‘uneven’ negotiation behaviour (Van Schaik & Egenhofer: 2005, 2003). With extensive focus given to analysis of the EU’s ‘green leadership’, debate has further been coloured by high ambitions, and even higher expectations; with the EU itself contributing to that rhetoric by proclaiming from as early as 1990, that it would take on, “a leading role in promoting concerted and effective action at the global level” in tackling the global common of climate change (Council: 1990).

One particular source of confusion in assessing EU performance in this forum has been the cocktail of, often implicit, criteria used in making those judgements. Assessments are, for example, made courtesy of the EU’s ‘pushing for action’ during the negotiations (Parker & Karlsson: 2010: 924, Oberthür & Roche Kelly: 2008: 36), of acting as an ‘agenda-setter’ (Schreurs & Tiberghien: 2007: 24, Vogler & Stephan: 2007: 398) or of its ability to act as ‘one bloc’ (Kilian & Elgström: 2010: 262). Others focus on the EU’s representation and coordination during negotiations (Van Schaik & Egenhofer: 2003, 2005). Another method has been to focus on the EU’s own internal performance on climate issues in ‘setting an example’ for others to then follow (Vogler: 2011: 30-31, Oberthür & Pallemarts: 2010: 28, Sjöstedt: 1998). Others base their assessments on the EU’s (in)ability to export its normative preferences and domestic policies to the global level (Van Schaik & Schunz:

2012, Afionis: 2011), or on an effectiveness gap between EU ambition and actual goal-attainment (Lacasta et al. 2007, Hovi et al. 2003). Since the failed UNFCCC Copenhagen Summit in 2009, a further approach has been to focus upon the EU's ability to achieve its goals relative to other rising powers (Oberthür: 2011a, Vogler: 2011), and on its diminishing influence in shaping others climate policy (Van Schaik & Schunz: 2012, Torney: 2011). Very few efforts have however, been made towards explicitly assessing EU *performance* within the UNFCCC negotiations, and even fewer that take into account that performance as a measure of both its negotiation behaviour and effectiveness¹⁶. As such, an incomplete picture of the EU's negotiation performance within the UNFCCC has developed with assessments either over- or under-estimating how well the EU has performed dependent upon primarily process- or outcome-oriented approaches. The picture that has started to emerge within the EU environmental literature therefore is of an EU, perceived by some to have performed well if it demonstrates some semblance of 'leadership' behaviour, but, by others, to have performed poorly if it then fails in achieving ambitious objectives.

The aim of this chapter is to make a clarifying contribution to this debate on EU performance within the UNFCCC negotiations. Specifically it evaluates EU performance, premised on the framework developed in the previous chapter, as a measure of both its negotiation behaviour and effectiveness, within the UNFCCC negotiations from 1995 to 2011. Focusing its assessment on periods of negotiation within the UNFCCC Conferences of the Parties (CoP) where major efforts were made towards either launching or operationalizing an international climate agreement, it seeks to address the question of how well the EU has performed in this negotiation when it has mattered most. Endeavouring to fill in some of the blanks in the picture described above, it finds that EU performance in the UNFCCC negotiations from 1995 to 2011 has been highly variable, neither meeting the high expectations associated with a 'leader', nor the low expectations associated with critiques of the EU's limited effectiveness and influence. Rather, it finds that the EU has had a mixed record, performing particularly well during negotiations aimed at initiating negotiations towards a Kyoto and post-Kyoto Protocol agreement, but with more limited

¹⁶ Exceptions to this may be seen by Damro (2006) who, whilst focusing upon the EU's external effectiveness within the UNFCCC, does also address its internal effectiveness which draws some comparisons with its negotiation behaviour. Oberthür (2011a) moreover, by focusing on the EU's relevance to its Member States and its effectiveness does give some consideration to both process and outcome-oriented indicators. In both of these cases however, whilst attention is given to the EU's unity within the UNFCCC, no attention is given explicitly to the EU's negotiation actions in terms of its outreach and significance.

success at times of operationalizing and finalising their details. In addition, it finds that despite its widely lamented failure to ‘lead’ and its overall poor performance at Copenhagen in 2009 there is no clear sign of a diminution in the EU’s performance within the UNFCCC as indicated within the existing literature. Rather it will show that, having moderated its ambitions following the Copenhagen failure, the EU bounced-backed to give a good performance at the Durban CoP in December 2011. It suggests moreover that, despite the EU’s ambitious leadership rhetoric in this forum, its negotiation objectives do not always place it as a preference outlier within the UNFCCC. It can therefore often achieve its goals in this forum through successfully outreaching to its negotiation partners with whom it shares some zone of agreement.

In order to present itself the chapter is broken down into the following four main sections. In the first section discussion is given to the EU as an actor within the UNFCCC. Setting the scene for the following performance evaluation this section focuses on the evolution of the EU’s institutional framework on climate action; how its external policy is derived and on developments in its competence and negotiating capabilities. In section two discussion moves onto the UNFCCC negotiations themselves, with a brief overview of the major players and key negotiation issues at play. Sections three and four then provide the main performance evaluation, assessing the EU’s performance within the UNFCCC over two key periods of negotiations. Section three focuses first on EU performance over the course of the Kyoto Protocol negotiations and ratification (1995-2004); concentrating on four specific conferences in which the Kyoto Protocol negotiations were first launched (CoP-1), agreed (CoP-3), and operationalized (CoP-6-CoP-6bis-CoP-7). Section four then turns to more recent developments, evaluating EU performance in negotiations focused upon a successor agreement to the Kyoto Protocol (2005-2011), and concentrating on four specific conferences in which the post-2012 negotiations were first intended to be discussed (CoP-11), where negotiations were launched (CoP-13), where an agreement was meant to be reached (CoP-15) and subsequently where negotiations were again re-launched (CoP-17). The chapter is then summarised in a concluding section.

3.1. The EU as an actor in the UNFCCC

An important consideration in making a performance evaluation is first to address the question of ‘who is EU’. This is especially necessary in the case of the UNFCCC where the EU’s institutional arrangements on climate issues make it a particularly complex actor. As a multi-faceted issue in which the EU and Member States share competence,

understanding the EU's capacity to act, and negotiate, in multilateral climate negotiations has generated some consternation, not least for the EU's negotiation partners (Damro: 2006: 175). Whilst the Union has the legal authority to act for its Member States on matters pertaining to 'environmental protection' and particularly on issues including air pollution and waste treatment (TFEU: 2007: Art. 191-192), Member States nevertheless retain exclusive competence when it comes to issues of taxation and energy policy. Although changes under the Lisbon Treaty raised the profile of climate change as a more explicit strategic concern for the EU (TFEU: 2007: Art. 4(2)), this has not translated into any changes in the existing distribution of competences (Vogler: 2011: 23). Within multilateral climate negotiations, and the UNFCCC more specifically, both the European Community (EC) and Member States therefore have legal competence to act. Within the UNFCCC moreover, the European Community (EC) is also recognised as a Regional Economic Integration Organisation (REIO). Subsequently the European Commission, on behalf of the EC (and now the EU¹⁷), can formally participate and sign agreements alongside State Parties to the Convention on condition that it does not acquire additional voting rights. Within the UNFCCC the Commission thus has the formal status to negotiate for its Member States and vote on their behalf, but it cannot vote in addition to its Member States. Although changes from the Lisbon Treaty have raised debate within the EU regarding the Commission formally representing the Member States within the UNFCCC (see Oberthür: 2011a, Afionis: 2009), in practice this is not used. Instead, it is the Council Presidency, not the Commission, who typically takes the lead in negotiating on behalf of the Member States within the UNFCCC negotiations.

Upon entering UNFCCC negotiations the Council Presidency represents the position of all Member States with the Commission providing support¹⁸. However, with the EU Council Presidency rotating to a different Member State every six months and the UNFCCC Conference of the Parties (CoP) negotiations taking place annually, the EU has been criticised for inconsistencies in its approach towards the negotiations and for not generating enough of a long-term perspective (Van Schaik & Egenhofer: 2005). It has also been open to criticism over the level of negotiating skill and capacity each of the Member States can provide as the EU's lead negotiator, with the smaller Member States particularly put under pressure during their terms of office (Lacasta et al. 2007: 217).

¹⁷ Under the Lisbon Treaty the legal personality of the European Community formally became the European Union. In these discussion EU is therefore most widely used.

¹⁸ Prior to the Amsterdam Treaty EU representation in the UNFCCC was led by the 'Troika' including the current, previous and incoming Council Presidencies. The Amsterdam Treaty amended this so that the Troika was formed of the current Council Presidency, incoming Presidency and the Commission.

Subsequently, in 2004 the Irish Council Presidency initiated a reform of the EU's representation within the UNFCCC negotiations (Oberthür & Pallemmaerts: 2010, Oberthür & Roche Kelly: 2008, Damro: 2006, Van Schaik & Egenhofer: 2005). These reforms focused on moving delegation authority from the Council to the expert level and creating a flexible system of coordination and representation (Oberthür & Roche Kelly: 2008: 38). This has created a system of 'lead negotiators' and 'issue leaders' whereby Member States – other than the Presidency – can represent the EU within specified negotiation groups. This reform is seen to have resulted in, “a significant increase in the negotiating capacity of the EU in the 2000s” (Oberthür & Pallemmaerts: 2010: 41). Further changes in February 2010 within the European Commission have also generated a shift in the EU's representation within the UNFCCC negotiations, notably with the creation of a new dedicated Directorate General for Climate Action (DG CLIMA)¹⁹. Whilst this change has not altered the key role played by the Council Presidency within climate negotiations, the creation of DG CLIMA was seen to establish the Director General for Climate Action as a lead negotiator for the EU during the Durban CoP in 2011. As the following analysis will suggest, this participation by DG CLIMA was highly contributory to the EU's good performance at Durban and may, along with changes under the Lisbon Treaty, indicate a general shift in EU representation within the UNFCCC for future negotiations.

The process of deriving the EU's negotiation position, upon which the Presidency and other issue leaders are then delegated to act (Lacasta et al. 2007: 214), must go through numerous stages. Whilst officially falling under the purview of the Environment Council – and thus national environmental ministers – in reality, due to the high political salience and popular awareness of the issue, the final decision on the EU's negotiation position is given to the European Council and agreed by unanimity vote²⁰ (Van Schaik: 2010). Early preparation on building a common position begins within expert groups including the Working Party on International Environment Issues: Climate Change (WPIEI-CC)²¹, before moving to the Committee of Permanent Representatives (COREPER-I). The Commission also feeds in to this preparatory stage with strategy documents or advice before it goes first, to the Environment Council, and then the full European Council. The

¹⁹ Formed out of the previous DG Environment

²⁰ It should be noted that subsequent Treaty Reforms have extended the right of qualified majority voting within the Council, including on issues of environmental policy. However, in practice the Council maintains a unanimity rule in deciding its negotiation position entering the UNFCCC negotiations

²¹ Prior to 2000 named the Ad Hoc Working Group on Climate Change. With the 2004 reform greater authority was given to the Council working group to develop negotiating positions

process can be laborious as efforts to find consensus between often divergent national energy policies and preferences can be difficult.

As a result, the EU has often been criticised for having too much of a ‘lowest common denominator’ position upon entering multilateral climate negotiations (Yamin: 2000: 65, Gupta & Ringius: 2001: 286, Lacasta et al.: 2007: 214-5), which in turn can prevent the Council Presidency from acting with flexibility, from having any clear fall-back positions (Grubb & Yamin: 2001: 271, 288, Gupta & van der Grijp: 2000b: 267, Lacasta et al. 2007: 227) or an efficient negotiation strategy (Afionis: 2011). Due to the need for on-going coordination during the negotiations themselves, with the Council Presidency requiring frequent in-put and, at times, approval by the other Member states, the EU has also been criticised for being too slow to react (Yamin: 2000) and of being beset by problems of ‘bunker mentality’ and ‘navel gazing’ (Van Schaik & Egenhofer: 2003: 1, see also Oberthür & Pallemarts: 2010: 41, Lacasta et al. 2007, Yamin: 2000) whereby the EU must spend much of its time during negotiations, “in coordination meetings [rather] than actually negotiating with and listening to their negotiating partners” (Van Schaik & Egenhofer: 2005: 4, Andresen & Agrawala: 2002: 48). Running in tangent to this, a further perceived difficulty for the EU as an actor in this environment is that of ‘speaking with one voice’; with any obvious divergences amongst the Member States seen to create challenges for its cohesiveness and overall unity (i.e. Tangen: 1999, Oberthür: 2011a: 671, Lancasta et al. 2007, Vogler & Stephan: 2007: 408).

Despite these challenges for the EU’s actorness within multilateral climate negotiations, the EU continues to be recognised as a major, and oftentimes influential, player by its negotiation partners within the UNFCCC (Kilian & Elgström: 2010, Torney: 2011). The EU’s own policy development on climate issues has established it as a world leader on climate action. With the EU’s negotiation objectives within the climate change negotiations developing in tandem with its internal climate policy there is a clear relationship between both its internal and external approaches towards tackling the issue of climate change²². In particular, the EU is often seen to be attempting to ‘export’ EU policy solutions for tackling climate change to the global level (Van Schaik & Schunz: 2012), often in an effort to prevent free-riding by other less-ambitious States (Lacasta et al.

²² The EU’s June 1990 Council conclusions also outlined that its credibility and effectiveness as a leader at the global level would be premised on its own adoption of, “progressive environmental measures for implementation and enforcement by Member States” (Council: 1990) and thus to the “inextricably linked” internal and external dimensions of its environmental policy (see also Oberthür & Pallemarts: 2010)

2007), but also in embodying its rhetoric of ‘leadership’ through setting an example which others might follow. The EU’s make-up as a polity of industrialised nations, and with a global share in CO² emissions of 15% at 1990 levels²³; does also ensure that the EU is an important actor to have at the table within UNFCCC negotiations. The EU is also seen to have a considerable influence over the negotiation preferences of nations in its own neighbourhood, looking to the EU to guide their external policies – not least for those who hold EU association and accession agreement – but also over other regions including for example the African, Caribbean, and Pacific (ACP) countries (Vogler & Stephan: 2007, Groenleer & Van Schaik: 2007: 991). The EU is therefore widely recognised as an actor of some note within multilateral climate negotiations. Turning to the negotiations themselves, in the next section an overview of the UNFCCC’s history, its key negotiating issues and the major players is provided.

3.2. The UNFCCC negotiations: Major players and key issues

The UNFCCC was launched with 165 signatory parties at the Rio Earth Summit in 1992. Now with 194 states parties plus the EU, the UNFCCC is the foremost international multilateral negotiation for tackling the ‘global common’ of climate change. Intended as a framework to build international cooperation towards the goal of stabilising greenhouse gas (GHG) concentrations, “at a level that would prevent dangerous anthropogenic interference with the climate system” (UNFCCC: 1992: Art.2), UNFCCC negotiations are both highly politicised and technical proceedings. Guided by the scientific findings of the Intergovernmental Panel on Climate Change (IPCC: 1990), the UNFCCC’s primary objective has been the prevention of a global temperature rise of 2° Celsius with efforts towards the stabilisation, and subsequent reduction, of GHG emissions beyond 1990 levels.

Negotiations within the UNFCCC take place across numerous fora including Subsidiary Bodies and Ad hoc Working Groups which meet at regular intervals to negotiate more technical aspects of the Convention including on implementation (SBI), scientific and technological advice (SBSTA) and differing tracks focusing on long-term cooperation²⁴.

²³ Figure from the World Resources Institute, <http://cait.wri.org>

²⁴ Over the life-span of the UNFCCC numerous Ad hoc Working Groups have been established to concentrate specifically on the next steps for negotiations. These include the Ad hoc Working Group on the Berlin Mandate (AGBM – 1995-1997), the Ad hoc Working Group on Article 13 (AG13 1995-1998), the Ad Hoc Working Group on Further Commitments for Annex-I Parties under the Kyoto Protocol (AWG-KP 2006-), the Ad Hoc Working Group on Long-term Cooperative Action under the Convention (AWG-LCA 2008-) and the Ad hoc Working Group on the Durban Platform for Enhanced Action (ADP 2012-).

However, the most high-profile and politicised negotiations of the UNFCCC take place during an annual Conference of the Parties (CoP), intended to review the implementation of the Convention and make formal decisions of the Convention as a whole. CoPs take place over a period of a fortnight in the format of a global diplomatic conference, supported by a dedicated Secretariat, with formal plenary sessions, ministerial segments and committees as well as the submission of proposals and working papers by Parties to the Convention upon which negotiations are based. Despite an early effort at CoP-2 in Geneva in 1996, the UNFCCC has however, never agreed its rules of procedure for CoP negotiations (Vhima: 2011). Instead negotiations are conducted under UN General Assembly rules and with all agreements requiring a consensus of all Parties to the Convention. Thus voting does not typically take place in the UNFCCC, although the option is included under the draft rules of procedure outlined at Geneva (UNFCCC: 1996).

Detailing the timeline of UNFCCC negotiations, Table 3.1 below summarises negotiations undertaken by Parties to the Convention since the first meeting in Berlin in 1995 and which have been focused specifically upon strengthening the global response to climate change through legally binding emissions reduction targets by industrialised, or ‘Annex-I’, countries²⁵. In 1997 the Kyoto Protocol for the legally binding reduction of GHG emissions by Annex-I countries of up to 5% by 1990 levels for the period 2008-2012 was agreed (UNFCCC: 1997), with the years up to its eventual ratification in 2004 focused on negotiating the Protocol’s operation and implementation. Since then negotiations have focused more specifically on a post-2012 successor agreement to be introduced following the conclusion of Kyoto’s first commitment period at the end of 2012. The post-2012 agreement has been intended to push targets further and include new commitments by all Parties to the Convention to reduce their GHG emissions – thus, for the first time, including obligations for developing countries (DCs) as well, particularly the more advanced emerging economies. With negotiations still on-going and, at time of writing, with the Kyoto Protocol’s first commitment period coming to a conclusion, it is noted that concerns continue to be voiced, most especially amongst the most vulnerable states affected by climate change²⁶ that not enough has been done by Parties to the Convention to

²⁵ Annex 1 countries include all original OECD countries, members of the EU, and the Economies in Transition (many of which originally included central and east European states but who have now joined the EU). Non-Annex 1 countries include all developing countries including the major developing countries such as China, India, Brazil and South Africa. Under the UNFCCC and the Kyoto Protocol only Annex-I countries have to make legally binding commitments to reduce the level of GHG emissions

²⁶ On signing the Kyoto Protocol a number of small island States in fact added additional remarks that the Protocol was inadequate (UNFCCC: 2006)

adequately address the problem of climate change, specifically criticising industrialised countries (ICs) for a lack of ambition and political will to address the problem (Navoti²⁷: 2012). These concerns are further reiterated within the academic community as comparisons continue to be drawn between the relative effectiveness of environmental regimes such as the Montreal Protocol in tackling ozone depletion and the relative ineffectiveness of the UNFCCC to tackle global warming (i.e. Sunstein: 2007, O. Young: 2001: 99-100, Oberthür: 2000).

²⁷ Sai Navoti is the lead negotiator for the Alliance of Small Island States (AOSIS)

Table 3.1: Timeline of UNFCCC negotiations (1995-2011)

<i>Year</i>	<i>CoP</i>	<i>Decision Adopted</i>	<i>Negotiation Focus</i>
1995	CoP-1	Berlin Mandate	Launching negotiations for a climate agreement to be in place by CoP-3
1996	CoP-2	<i>Geneva Declaration</i>	Mid-point in the Berlin Mandate schedule, focusing on scientific findings of the IPCC Second Assessment Report and the legally binding nature of future commitments
1997	CoP-3	Kyoto Protocol	Agreement of a Protocol for the legally binding emissions reductions by Annex I countries for the period 2008-2012 and the mechanisms by which reductions should be met
1998	CoP-4	<i>Buenos Aires Action Plan</i>	Agreement of a two-year plan of action for the implementation of the Kyoto Protocol
1999	CoP-5	n/a	Mid-point of the Buenos Aires Action Plan. Technical meeting focusing mainly on guidelines for national communications
2000	CoP-6	Failure to find consensus	Intended to agree the implementation of the Kyoto Protocol but focus primarily on disagreement over land-use, land-use change and forestry (LULUCF) and carbon 'sinks'
2001	CoP-6bis CoP-7	Bonn Agreement Marrakesh Accords	Negotiations geared towards finding political agreement for the implementation of the Kyoto Protocol. Bonn negotiations facilitated agreement at Marrakesh with a focus on operational details of the Protocol including on flexibility mechanisms, compliance, and reviewing the adequacy of commitments
2002	CoP-8	<i>New Delhi Declaration on Climate Change and Sustainability</i>	Focus upon developing world issues in relation to climate change. Negotiations address transfer technology and sustainable development. Some discontention over efforts to initiate dialogue over new commitments
2003	CoP-9	n/a	Negotiations focus upon LULUCF definitions and modalities in particular with regards afforestation and reforestation activities and good practice guidelines
2004	CoP-10	<i>Buenos Aires Programme of Work on Adaptation and Response Measures</i>	Focus upon agreement of an Adaptation Package to facilitate the implementation of adaptation measures. Negotiations also concentrate on future commitments with seminars agreed to for discussions on a post-2012 agreement
2005	CoP-11	Kyoto Protocol launched	Entry into force of the Kyoto Protocol with the first Meeting of the Parties to the Kyoto Protocol. Negotiations focused upon further commitments by Annex I parties for the post-2012 period with a dialogue for future negotiations
2006	CoP-12	<i>Nairobi Work Programme on Impacts, Vulnerability, and Adaptation to Climate Change</i>	Little movement on post-2012 discussions with negotiations instead focusing on developing country issues including the Adaptation Fund and Clean Development Mechanism (CDM)
2007	CoP-13	Bali Road-Map	Launching negotiations for a post-2012 agreement to be in place by CoP-15
2008	CoP-14	<i>Poznan Strategic Programme on Technology Transfer</i>	Mid-point of the Bali Road-Map but limited progress on the post-2012 agreement. Negotiations focus on issues including technology transfer, national communications, financial and other administrative matters
2009	CoP-15	Copenhagen Accord	Negotiations intended to finalise agreement for a post-2012 commitment period but with negotiations focusing instead on the legal bindingness of national commitments and the drafting of a weaker accord continuing the dialogue. Negotiators also agree the launch of the Green Climate Fund
2010	CoP-16	<i>Cancún Agreements</i>	Negotiations focus upon adaptation, mitigation and finance, emissions reductions through deforestation and forestry degradation in developing countries but little progress towards a post-2012 agreement
2011	CoP-17	Durban Platform for Enhanced Action	Launch of negotiations for a new climate agreement to be concluded by 2015 to be ratified by 2020. Negotiations focus also on a second commitment period for the Kyoto Protocol to bridge the gap between 2012 and 2020

Source: Author's own compilation

As the timeline in Table 3.1 attests, a major difficulty in bringing about effective and lasting action to tackle climate change within the UNFCCC has been a number of fundamental differences polarising opinions amongst key negotiations groups – particularly the ‘major alliances’ (Tangen: 1999: 176) within the UNFCCC, of which the EU may be counted. Whilst the number of negotiation groups within the UNFCCC has risen since the 1st CoP in 1995 (Roberts: 2011) the major players remain much the same²⁸. Of the Annex-I countries the EU is one prominent player, acting as one bloc and regularly with the support of its own neighbourhood states (Vogler & Stephan: 2007). The EU has consistently sought to position itself as an advocate for ambitious reductions targets, and has been a leading voice for maintaining the environmental integrity of any international agreement to ensure the prevention of a global temperature rise of 2°C. In particular, the EU has called for the highest emissions cuts as well as broadening the scope of the UNFCCC to include GHG emitted by aviation and maritime transportation (Council: 2011a, 2009, 2007). Supporting the EU’s calls for environmental integrity of any international agreement are Switzerland, Korea and Mexico who, as the Environmental Integrity Group (EIG) have also been vocal on the need for more ambitious reduction targets (Lethuard: 2010). The United States is another key player in the negotiations but, unlike the EU, the US is typically reticent towards ambitious reductions, and allies itself with other low ambition Annex-I countries including Japan, New Zealand, Australia, Canada, Russia, and Norway (prior to 1997 called the JUSCANNZ group, since 1997 the group has evolved to become the Umbrella Group²⁹) to ensure that national interests are served. The Umbrella Group as an alliance is generally supportive of an international agreement to tackle climate change but favours nationally set and flexible targets over internationally-set reductions (Umbrella Group: 2011, Schunz: 2010a:189, Ott: 2001b: 470).

Another prominent alliance within the UNFCCC is the G77 who, along with China, has been a vocal advocate of developing world issues within the negotiations since their inception. The G77, as a grouping of over 100 DCs, has been vocal in its opposition to any imposition of new commitments by the developing world to reduce GHG emissions and has pushed stringently for financial support by ICs to enable sustainable development through adaptation to new green energies and technology transfers (G77: 2010). Within their grouping however, are a number of highly divergent interests with the Alliance of

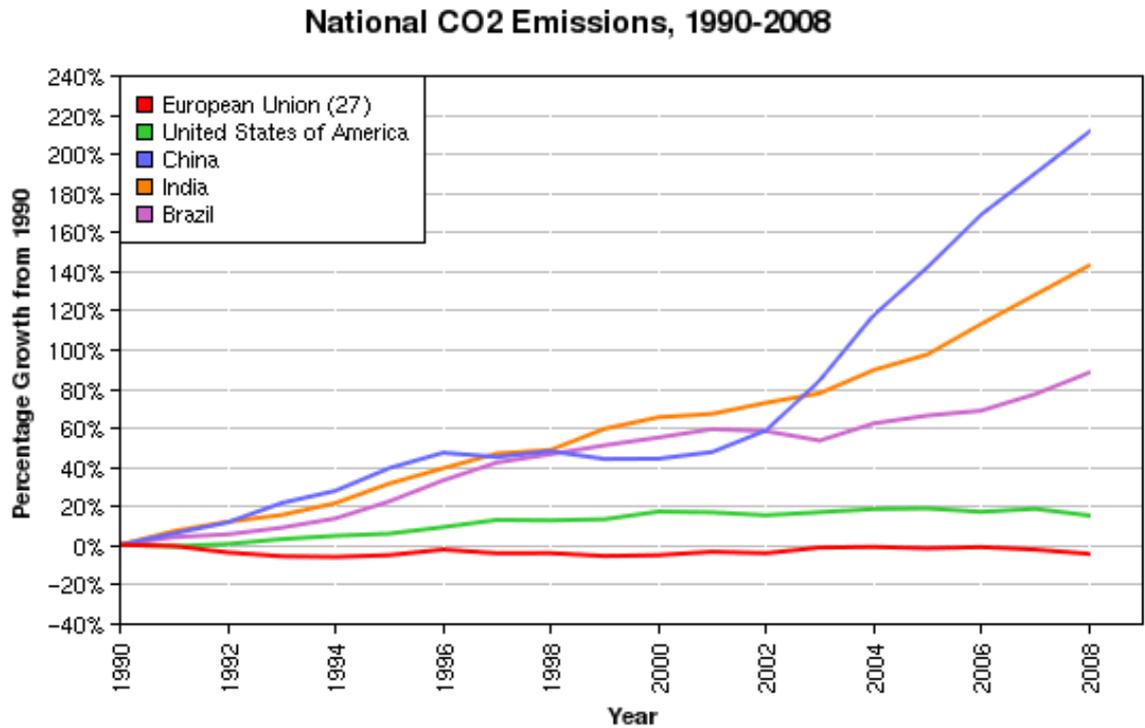
²⁸ See Appendix II for overview of all major negotiation groups in the UNFCCC

²⁹ At the UNFCCC’s Kyoto Summit the US, Japan, New Zealand, Australia, and Canada joined forces with Russia, Ukraine, Khazakstan, Norway and Iceland to forge the Umbrella Group (Ott: 2001a: 278)

Small Island States (AOSIS), and other vulnerable LDCs most affected by adverse climate change, notable especially for raising the level of ambition in calling for immediate and direct action in tackling climate change (AOSIS: 2011). The Organisation of Petroleum Exporting Countries (OPEC) are also members of the G77 but diverge considerably from AOSIS, due to their vested interest in the supply and demand of petroleum and other fossil fuels which are key targets for lowering GHG emissions. In particular OPEC's key demand in the negotiations has been for compensation by Annex-I countries should an international agreement result in a drop in petroleum demand (Wittneben et al.: 2006: 96). Since the latter half of the 2000s moreover the emerging economies, including Brazil, India, China, and South Africa (BASIC) have formed a loose alliance in the pursuit of shared interests. BASIC have been particularly prominent within the UNFCCC since 2009 and whose key concerns lie in the level of new commitments expected of DCs in a post-2012 agreement (ENB: 2009, see also Appendix II).

Within this network of interests a fundamental negotiating division exists between developed and developing countries; typically summarising the north vs. south dichotomy of many international multilateral negotiations. Within the UNFCCC, Parties to the Convention are categorised by level of development as a necessary measurement of their commitments to reduce GHG. Due to their industrialisation, ICs have a greater responsibility to make emissions cuts than developing countries whose production of GHG is far more limited. Annex-I countries are therefore the sole bearers of reduction targets under the Kyoto Protocol and also provide financial support to DCs to enable their adaptation to greener sources of energy in order that they might develop without damaging the climate. A key issue for the EU and Umbrella Group, representing core interests of the developed world, has therefore been the need for the more advanced DCs to also make binding commitments to reduce their GHG emissions. The G77, representing the developing world, however have consistently emphasised the historic responsibility of ICs to make emissions reductions and have resisted efforts to make any binding cuts themselves. This division has been further compounded over the 2000s as the rise of the emerging economies, and China particularly who has become the world's largest emitter, has dramatically altered global shares of GHG emissions, demonstrated in Figure 3.1 below.

Figure 3.1: Percentage growth in National CO² emissions (1990-2008)



Source: World Resources Institute, Climate Analysis Indicators Tool (CAIT) <http://wri.cait.org>

As Figure 3.1 represents, the percentage growth of GHG emissions of China, India and Brazil (reflected respectively along the top three lines) has dramatically increased since 1990. Comparatively the US' percentage growth has increased only marginally whilst the EU (represented in the bottom line) has in fact reduced its emissions. In 1990 the US and EU were however the world's largest GHG emitters with shares of 16% and 15% of global CO² emissions respectively. Upon the creation of the UNFCCC industrialised Annex-I countries produced the vast majority share of CO² emissions (67.35% of global CO² emissions compared to 31.53% for non-Annex-I countries)³⁰. However, latest figures produced in 2008 demonstrate that the share in global emissions has shifted with Annex-I countries now accounting for less than half of global CO² emissions, at 47.40% compared to non-Annex-I countries who now account for 51.08%. Most notable in these statistics is the increase in China's share of emissions; leaping from 10% in 1990 to 24% in 2008 (the US' global share has also increased but is now second to China, accounting for 19%)³¹. Consequently a key issue underlying UNFCCC negotiations has been the need to find compromise between the defensive interests of the G77/BASIC over new commitments,

³⁰ Figures from the World Resources Institute, <http://cait.wri.org>

³¹ Figures from the World Resources Institute, <http://cait.wri.org>

and the offensive interests of the Umbrella Group and EU over the need for equity in commitments to legally binding reduction targets.

In addition to this north/south division in the UNFCCC negotiations, a second division is also apparent between economic and environmental concerns. Notably this is seen between those groups whose defensive interests are to protect their economic growth and development with minimal interference (the Umbrella Group, OPEC, BASIC and, to some extent, the G77) and those who pursue more offensive interests in pursuit of the environmental integrity of the international agreement (the EU, EIG, AOSIS). This division is most evident when comparing the levels of emissions reduction targets and timetables proposed by these groups as reflected in Table 3.2 below:

Table 3.2: Proposed emission reductions by UNFCCC negotiation group

Negotiation Group	Emissions Reductions proposed
<i>Kyoto Protocol Proposals</i>	
EU	-7.5% at 1990 levels by 2005
	-15% at 1990 levels by 2010
	(No binding commitments by DCs)
JUSSCANNZ	-3% to +10% of 1990 levels by 2012
	(Binding commitments by DCs)
G77/China	No binding commitments on DCs
AOSIS	-20% by 2005
<i>Post-Kyoto Protocol Proposals</i>	
EU	Global GHG to fall to 50% compared to 1990 levels by 2050 with collective reduction by developed countries of 25-40% by 2020 and 80-95% by 2050
	Own commitment to reduce -20% (going up to -30% if others make concrete commitments) at 1990 levels by 2020
	Developing countries should commit to reduction targets of 15-30% from 'business as usual' by 2020
Umbrella Group	Support a 50% reduction in global emissions by 2050 with all Umbrella Group members prepared to propose individual reduction targets that will substantially reduce their emissions by 2020 - but no specified commitments given
BASIC	Commitment under the Copenhagen Accord to 'implement mitigation actions' – but no specified commitments given
G77	Commitment under the Copenhagen Accord to 'implement mitigation actions' – no specified commitments
AOSIS	Big emitters to agree to produce enough clean energy to attain the targets of limiting temperature rise to 1.5 degree Celsius and 350 parts per million of atmospheric greenhouse gas concentrations.
EIG	Individual commitments to reduce GHG emissions. Switzerland, in line with the EU, has committed to -20% by 2020 and up to -30% with other commitments by industrialised countries

Source: Author's own compilation. Documents pertaining to proposals available at <http://unfccc.int>

A careful balance has therefore been required in the UNFCCC negotiation process to find an acceptable level of progress in emissions targets that finds compromise between the economic and environmental interests of its Parties. As Table 3.2 also demonstrates however, calls for more ambitious emissions reduction targets have progressed considerably since the Kyoto Protocol with the EU, amongst others, particularly prominent in pushing for the deepest emission cuts. Having set the bar high in its progressive objectives for the UNFCCC, expectations for the EU's performance during negotiations has subsequently also risen. With this in mind we therefore turn to evaluate the EU's performance within the UNFCCC negotiations.

3.3. EU performance in the Kyoto Protocol negotiations

EU performance in this and the following section is evaluated during what are identified as eight milestone conferences of the UNFCCC's negotiation history, included in bold type in Table 3.1 above. In this section EU performance in the Kyoto Protocol negotiations is assessed during four specific CoPs. These include the first Conference of the Parties to the UNFCCC, CoP-1 in Berlin 1995 where negotiations for an international agreement were first launched, CoP-3 in Kyoto 1997 where the Kyoto Protocol was formally agreed; CoP-6 in 2000 at The Hague where the implementation of the Kyoto Protocol was to be agreed but failed, and CoP-6*bis* and CoP-7, both in 2001 in Bonn and Marrakesh, where the Kyoto Protocol's operational rules and procedures were finally adopted. Whilst this focus does result in other moments of negotiation being overlooked³², it is considered that due to space constraints requiring some selectivity, only those CoPs which have made a significant impact on the progress of the UNFCCC's negotiations may be focused upon in these discussions. For this reason also the 2004 ratification of the Kyoto Protocol is also not explicitly assessed as this was not centred upon a specific CoP.

The performance evaluations in these sections are premised on the analytical framework developed in Chapter Two. In the following discussions the EU's overall performance assessment is thus detailed, as shown in each section header, and elaborated upon with focus on its negotiation positioning relative to others and its performance across each of the four performance indicators.

³² For example CoP-8 in New Delhi in 2002 where the EU's performance has in fact been criticised for internal divisions and disunity (Van Schaik: 2003, Vogler: 2005)

A very good performance and a mandate for negotiations (Berlin CoP-1)

The first Conference of the Parties to the newly established UNFCCC took place in Berlin from 28th March to the 7th April 1995 and chaired by then German Federal Minister for the Environment, Angela Merkel. Within the existing literature relatively little has been written on the EU's performance in this negotiation. Yamin (2000: 50) has suggested that the EU used, "structural and instrumental leadership....to forge consensus at COP-1" whilst Andresen & Agrawala (2002: 47) intimate that the EU "played a key role" during the negotiations, but analysis of its actual performance is otherwise limited. As the first CoP a core aim at Berlin was to address the adequacy of commitments made under the Convention's original text agreed at the Rio Earth Summit in 1992 (ENB: 1995). Addressing this issue, EU Council conclusions agreed on 9th March 1995 (Council: 1995), detailing the EU's negotiation position for Berlin, were notably progressive. Outlining its belief that the Convention's stipulation that ICs should implement national policies (see UNFCCC: 1992: Art. 4(a)&(b)) for the reduction of greenhouse gases (GHG) was "inadequate" (Council: 1995), the EU set its objective for Berlin to establish a mandate for negotiations towards creating, "a protocol on policies and measures as well as targets and timetables in order to limit and progressively reduce greenhouse gas emissions" (Council: 1995 (4)). In particular the EU sought a mandate for negotiations on a Protocol, to be agreed by 1997 and implemented by 2000, that would establish coordinated, internationally-set policies and measures with which ICs would be bound to reduce their CO² and other GHG emissions within set time-frames – the first of which it sought for 2005. The EU further stated its position that ICs should take the lead in committing to emission reductions through the principle of common and differentiated responsibility (Council: 1995: 6(e)(i)).

Comparative to the EU however, the JUSCANNZ states entering the Berlin negotiations were highly reluctant to take on responsibility for emissions reductions, particularly where the science of climate change was uncertain and where DCs were then exempt (Yamin: 2000: 50, Hovi et al.: 2003: 15). Instead, they preferred the goal of stabilising CO² emissions at 1990 levels and through the use of national – as opposed to international – policies and measures (Oberthür & Pallemmaerts: 2010: 33, Van Schaik & Schunz: 2012: 179). With little zone of agreement at Berlin, the EU's negotiation position was thus highly ambitious (see also Gupta & van der Grijp: 2000b: 264, Oberthür: 2011a: 669, Oberthür & Roche Kelly: 2008: 36) leaving the EU with much to do to bring about the necessary support for a progressive negotiation mandate. In rising to this challenge, the

EU gave a very good performance at Berlin – demonstrating not only high effectiveness, but, with moderate unity, high outreach and a high level of significance, overall high negotiation behaviour also.

Entering the negotiations, the EU delegation was led by the French Council Presidency who spoke formally for the EU during the negotiations. Supplementing this, Member States were also active during negotiations with regular contributions made, both orally and through the submission of national proposals, with Germany especially evident as the host country and next Council Presidency (ENB: 1995). During Ministerial Segments all Member States plus the European Commission also spoke in a national capacity although, with statements all broadly adherent with the EU common position portrayed by France (ENB: 1995), the EU's unity at Berlin was moderate.

Complementing its high ambitions for Berlin, the EU's outreach to its negotiation partners was also high. Adopting a proactive strategy which sought the pursuit of followers to its ambitious objective of securing a negotiation mandate for the Kyoto Protocol, the EU's strategy was geared towards securing support particularly from the G77. In particular the EU was successful in its efforts of coalition-building, forming – alongside the G77 (minus the OPEC states) – what became known as the 'Green Group' (ENB: 1995, Yamin: 2000: 50, Lacasta et al.: 2007: 222). The formation of this new coalition, allied in their support for a negotiation mandate for a Kyoto Protocol in which the developing countries would be exempt from emissions reductions, enabled the EU to challenge JUSCANNZ reticence and, in so doing, "outnumbered and outmanoeuvred those who had come to be perceived as 'regime laggards'" (Yamin: 2000: 50). Further submitting a joint working paper the Green Group were also active in shaping the agenda and direction of a new negotiation mandate (ENB: 1995). As a prominent and proactive player within the negotiations, the EU, alongside members of the G77 and JUSCANNZ, was also participant in all core negotiation sessions at Berlin, including the final week 'Group of Friends' negotiations which focused solely on the core issue of adequacy of commitments (ENB: 1995).

Reinforcing a very good performance in terms of its negotiation behaviour, with moderate unity and high levels of outreach and significance, the EU was also highly effective at Berlin. Ending on 7th April 1995 the Berlin CoP brought about a consensual decision by all Parties to the Convention to adopt the *Berlin Mandate* – a mandate setting out the negotiation process for the Kyoto Protocol to be in place by CoP-3 two years later.

Comparison of the EU's negotiation position – as outlined in its council conclusions of 9th March – and the language of the Berlin Mandate (UNFCCC: 1995) reveals striking similarities, with the EU effective in securing most, if not all, of its objectives for the body of the negotiation mandate. In fact, of the EU's seven specified elements for a negotiation mandate, and incorporating areas of priority focus (Council: 1995 (6)), all are included within the text of the Berlin Mandate. This does moreover reflect findings by others who have cited the EU's "key role" in bringing about and shaping the Berlin Mandate (Andresen & Agrawala: 2002: 47, Yamin: 2000: 50) and particularly, of the important part played by EU coalition-building efforts in persuading ICs to commit to negotiations for legally-binding emissions reductions (Gupta & Ringius: 2001: 287).

'Principle' player and a fair performance (Kyoto CoP-3)

Two years later on 1st December 1997 Parties to the Convention met at Kyoto to agree the Protocol detailed in the Berlin Mandate. Entering those negotiations the EU's negotiation position demonstrated the same progressiveness evident at Berlin, calling for the adoption of a Protocol to include legally binding targets and timetables covering three GHGs and to include legally binding policies and measures (Council: 1997). On the issue of setting international policies and measures however, the EU was to be "fairly isolated" (Gupta & Ringius: 2001: 288) with the majority of Parties not yet ready to discuss how they would implement any reduction targets, and the US in fact refusing to submit any proposals at all on the premise that it should be up to each individual State to decide their own policies and measures (Yamin: 2000: 52). However, the previous year at CoP-2 in Geneva, the United States had switched its stance from reticence to support for a Protocol with internationally set emissions targets (ENB: 1996) and, in so doing, had created a closer zone of agreement between negotiation partners. Despite claims of the EU's high ambition at Kyoto (i.e. Hovi et al. 2003), by acting as less of a preference outlier entering the Kyoto negotiations, and with some consensus between Parties that a Protocol was needed, the EU's negotiation position was moderately ambitious comparative to Berlin. It is further argued that the EU's performance at CoP-3 was fair, demonstrating a moderate level of both negotiation behaviour and effectiveness.

Similarly to its performance at Berlin, the EU's unity at Kyoto remained moderate, with its official voice, represented by the Luxembourg Council Presidency, further supplemented by other Member States voices. The UK was particularly evident in negotiation discussions, particularly on the issue of emissions trading – utilising market-based

mechanisms to off-set emissions reductions (ENB: 1997) although, with the EU's position being fairly ambiguous on this issue at Kyoto, this activity did not challenge the EU's stance and maintained its cohesion. Unlike at Berlin however, the EU's outreach to negotiation partners at Kyoto was more moderate. Particularly notable in the EU's negotiation strategy at Kyoto was the proactive pursuit of an ambitious proposal (Van Schaik & Schunz: 2012: 179) calling for a 15% reduction of GHG by ICs by the year 2010, with commitment to do so itself with similar commitments by others (see Table 3.2 above, Council: 1997, Oberthür & Pallemarts: 2010: 33), particularly underpinned by its own internal burden-sharing³³ agreement (Wettestad: 2000: 36). This strategy was in part successful; seen to have put other ICs on the defensive and enabling the EU to push them further than they were initially willing to go on targets (Schreurs & Tiberghien: 2007: 20). However, on the issue of policies and measures, despite submitting nearly thirty pages of proposals (Yamin: 2000: 52), the EU was criticised for not articulating its position or defending the ambitiousness of its proposal adequately in the face of opposition (Gupta & Ringius: 2001: 288, Yamin: 2000: 52).

In addition, due to the level of attention given by the EU to the matter of targets and timetables – specifically aimed at persuading the US and other JUSCANNZ members – it then neglected other important negotiation issues. This was evident in its lack of preparedness over negotiations on flexible mechanisms (Yamin: 2000: 56-58) where its common position remained ambiguous and focused instead on matters of domestic policies and measures only. For the JUSCANNZ members however, flexible mechanisms to meet their emissions reduction targets were a favoured option; seen to be more cost-effective, and including emissions trading, joint implementation (JI)³⁴, and supporting green energy projects in developing countries³⁵; and with the promotion of carbon 'sinks', off-setting emissions reductions through land-use, land change and forestry (LULUCF)³⁶. With no concrete proposals on flexible mechanisms, and further struggling to justify its stance in

³³ This agreement particularly benefitted from the Member States having already stabilised their emissions due to unrelated factors including the modernisation of the energy sector in East Germany after German reunification as well as the privatization of the energy sector in the UK (Gupta & Ringius: 2001: 283)

³⁴ Joint Implementation allows industrialised countries (Annex B Parties under the Kyoto Protocol) to earn emission reduction units (ERUs) from an emission-reduction or emission removal project in another Annex B Party which can be counted towards meeting its Kyoto target.

³⁵ Known as the Clean Development Mechanism or CDM. The CDM allows Annex B Parties to the Kyoto Protocol to implement an emission-reduction project in developing countries. Such projects can earn saleable certified emission reduction (CER) credits which can be counted towards meeting Kyoto targets.

³⁶ LULUCF activities are seen to provide a cost-effective way of offsetting emissions, either by increasing the removals of GHG from the atmosphere (e.g. by planting trees or managing forests), or by reducing emissions (e.g. by limiting deforestation). The drawback of this approach however is that it is difficult to accurately measure GHG emission reductions this way

favour of domestic policies and measures (Yamin: 2000: 52), the EU failed to persuade its negotiation partners of the benefits to its approach and thus to garner their support.

The EU's significance was also more moderate at Kyoto with it playing a role in most, but not all, key processes of the negotiations. Notably, it was not participant in the negotiations on the Joint Implementation and CDM which were dominated instead by the JUSCANNZ members. In particular, on the fast moving CDM negotiations it was the US and Brazil who undertook mostly bilateral endgame bargaining to the exclusion of the EU (ENB: 1997). The EU was also reportedly still in internal coordination meetings on the final night of the Kyoto negotiations and missed the gavel closing the negotiations (Yamin: 2000: 61, Afionis: 2011: 346), thus preventing the EU from influencing the final decision over flexible mechanisms which it continued to resist. With moderate levels across all three process-oriented indicators therefore, the EU's negotiation behaviour as a whole may be judged as moderate.

The EU's more moderate effectiveness at Kyoto has been particularly well-documented within the literature (Van Schaik & Schunz: 2012: 179, Oberthür & Roche Kelly: 2008: 36, Harris: 2007: 12, Lacasta et al.: 2007: 223-4, Hovi et al.: 2003: 17, Andresen & Agrawala: 2002: 47, Grubb & Yamin: 2001: 274, Gupta & Ringius: 2001: 288, Yamin: 2000, Gupta & van der Grijp: 2000a: 80). Prominent in these accounts has been a focus on the EU's failure at Kyoto to obtain its legally binding policies and measures, failing to persuade the JUSCANNZ states of their necessity and subsequently being required to accept a Protocol that placed considerable emphasis on flexible mechanisms at US and JUSCANNZ insistence. Compared to the US – who has been widely accredited with the overall structure of the Kyoto Protocol (Oberthür & Roche Kelly: 2008: 36, Grubb & Yamin: 2001: 274, Lacasta et al. 2007: 224, Hovi et al.: 2003: 1) – the EU's effectiveness has been seen to be far more limited. However, the EU in fact achieved some of its objectives at Kyoto – successfully pushing other Annex-I countries, and notably the US, to set legally-binding, emissions reduction targets with a timetable (e.g. Afionis: 2011: 342, Gupta & Ringius: 2001: 288). This principle was a core element of the Kyoto Protocol – and all the more of an achievement for the EU in light of the resistance by the JUSCANNZ states to its inclusion. Consequently, the EU gave a fair performance at Kyoto and was a key player in shaping the principle of the Kyoto Protocol to come.

A poor performance and a stalled conference (The Hague CoP-6)

Following the agreement of the Kyoto Protocol in 1997 the UNFCCC negotiations moved into a new phase focusing on the operational details of the agreement. At CoP-4 in Buenos Aires in 1998 a two year action plan had been approved for agreeing the operationalisation of the Kyoto Protocol by 2000 at The Hague (CoP-6) (UNFCCC: 1998). Despite this, little development had been made in 1998 and 1999 and The Hague Summit began “politically charged” and with disagreements between countries over what the Kyoto Protocol’s rules and operational details should look like (ENB: 2000). Particularly controversial at The Hague was the issue of whether carbon ‘sinks’ projects – known also as Land-Use, Land Use Change, and Forestry (LULUCF) - should be allowed to count against emissions reductions or not. For the EU its common position approaching The Hague was firm that carbon sinks be excluded from the Kyoto Protocol’s first commitment period (Council: 2000c: (7)) and further calling for a ceiling on the use of other flexible mechanisms in order to focus on, “significant, real, domestic emissions abatements” and thus maintain the environmental integrity of the Protocol (Council: 2000b: (2)). Still favouring domestic policies and measures to tackle the reduction of GHG emissions, the EU’s position on the flexible mechanisms agreed at Kyoto was for a necessary ceiling to be put in place, using a principle of ‘supplementarity’³⁷ (Council: 2000c: (5)), that would prevent their over-use in off-setting emissions reductions at the expense of real domestic abatement.

Comparative to the US and its allies in the re-named ‘Umbrella Group’³⁸ however, the EU’s stance on this issue was not only progressive but highly ambitious. By 2000 the US had become increasingly reticent towards the UNFCCC negotiations, expressing concerns that emerging economies, such as China, would be exempt from making any GHG reduction commitments and would thus be able to free-ride at the expense of the ICs. Opposing the EU’s stance on the exclusion of sinks, the Umbrella Group – with backing from many DCs – strongly pushed for ‘sinks’ to be included at The Hague (ENB: 2000). The EU was thus positioned as a preference outlier approaching CoP-6 (Afionis: 2011: 353-4) which, as at Berlin, would require an impressive performance in order to bring about its preferred objectives.

³⁷ The supplementarity principle would require that the use of flexible mechanisms, including LULUCF, to reduce emissions would be used supplementary to other domestic policies and measures in order to ensure that the environmental integrity of the Protocol would remain intact.

³⁸ Previously JUSCANNZ

Unlike Berlin, the EU's performance at The Hague was however, far from impressive. Widely criticised in the literature, it has been argued that the EU gave a "flawed" (Afionis: 2011: 326) and "weak" performance at CoP-6 with assessment focusing particularly on challenges to its negotiation behaviour including its, "crippling shortcomings in EU internal processes for such negotiations" (Grubb & Yamin: 2001: 274), the "Herculean task" of trying to coordinate its diverse Member States (Ott: 2001a: 285) and by its lack of flexibility in responding to United States' demands (Vogler: 2005: 840). Corroborating these findings, this analysis argues that the EU gave a poor performance at The Hague, courtesy not only of its moderate negotiation behaviour but also due to its low level of effectiveness.

Again represented formally by the French Council Presidency, the EU's official voice during CoP-6 was this time not only supplemented, but also openly contradicted by other Member States (ENB: 2000). This was perhaps most notable on the core issue of 'sinks' where the EU's unity was not only challenged by Finland going against the EU common line by presenting a paper demanding that forest management be eligible for credit (Jung et al. 2007: 247), but with the UK bypassing the French Presidency by attempting to broker a deal with the US that would allow sinks to be included (ENB: 2000, Grubb & Yamin: 2000: 275, Van Schaik: 2010: 226-7, Afionis: 2011: 353-4). The EU's low unity during the negotiations was further emphasised in its more moderate outreach, its proactive strategy largely hindered by Member States working at cross-purposes (Vogler: 2011: 27, Jung et al.: 2007: 251). Whilst the EU had a high level of significance at The Hague (ENB: 2000), it was then widely criticised for being inflexible to Umbrella Group demands (Van Schaik: 2003: 1, Vogler: 2005: 27) due, in large part, to the EU's inability to consider, and then counter, US compromise proposals (Ott: 2001a: 285, Grubb & Yamin: 2001: 275). The EU's moderate outreach thus weakened the EU and, by the conference's conclusion consensus between the Parties had still failed to be reached. The Hague CoP thus ended with no agreement and with negotiations stalled until the Bonn conference in June 2001. With no outcome agreement the EU's effectiveness was low - achieving few of its objectives, not least its primary goal of finalising the operational details of the Kyoto Protocol. However, it is noted that in failing to find consensus the EU did succeed in blocking, at least temporarily, US demands for 'sinks' to be included under the Protocol's operational guidelines (see also Ott: 2001a: 285-6). The Hague had however, ended in failure both for the UNFCCC and, by and large, for the EU as well.

Saving the day and a good performance (Bonn CoP-6bis – Marrakesh CoP-7)

Six months later UNFCCC negotiations recommenced at the re-kindled CoP-6bis in June 2001 at Bonn, and followed on six months later in Marrakesh for CoP-7. Negotiations in 2001 remained focused on finalising the operational details of the Kyoto Protocol and on promoting its overall ratification. In March of that year however, the Bush Administration had formally withdrawn from the Kyoto Protocol negotiations when the US Senate refused its ratification. The Kyoto Protocol faced imminent failure with the agreement requiring ratification by at least 55 countries including Annex-I countries responsible for 55% of global CO² emissions at 1990 levels (UNFCCC: 1997: Art.25). With the US accounting for 36% of global CO² emissions its withdrawal from the process was a significant blow; repositioning the burden on other Annex-I countries to ratify including the ‘Gang of Four’ - encompassing Russia (accounting for 17%), Japan (8%), Canada (3%) and Australia (2%) - alongside the EU’s 24% share. The EU’s decision in June 2001³⁹ to continue to push forward with the ratification of the Kyoto Protocol was therefore highly ambitious and marked out the EU as the one to ‘save’ the Kyoto Protocol (Hovi et al. 2003: 2).

Approaching the Bonn negotiations the EU’s common position continued to demonstrate progressiveness in its objectives to maintain the environmental integrity of the Protocol and to secure its ratification by 2002 (European Council: 2001). More particularly the EU was firm on its commitment to ensure rules on compliance to the Kyoto Protocol were agreed (Ott: 2001b: 470). With the United States now removed from the process the EU’s continued push to secure the Protocol and its environmental integrity was significant. With the Gang of Four also reluctant to make costly commitments to reduce emissions reductions, and preferring compliance issues to remain off the table (Council: 2001a, Ott: 2001b: 470) the EU would require an impressive performance to secure their support and secure its objectives, not least in light of its failures at The Hague. Accounts within the existing literature of EU performance in rising to meet this challenge have been limited; concentrating instead on the EU’s ‘opportunity to lead’ rather than on its actual negotiation performance (i.e. Ott: 2001b). As an example, this period has been particularly pinpointed as the time in which the EU first took on a leadership role in the UNFCCC (Ott: 2001a: 476, Oberthür & Roche Kelly: 2008: 47, Oberthür: 2011a: 676). In terms of its negotiation performance, it is argued that the EU did demonstrate improvements in both its negotiation behaviour and effectiveness, and thus gave a good performance at CoP-6bis and CoP-7.

³⁹ Presidency Conclusions from the 2001 Council stated that the EU would, “work to ensure the widest possible participation of industrialised countries in an effort to ensure the entry into force of the Protocol by 2002” (Council: 2001a)

Re-establishing its cohesion following its failures at The Hague, EU representation within the UNFCCC during 2001 was formally led by the Belgian Council Presidency with support also from Troika member Sweden and the Commission (ENB: 2001a). EU unity during both CoP-6*bis* and CoP-7 was therefore moderate. During the previous Swedish Council Presidency the EU had also adapted its negotiation strategy (Christiansen: 2004: 31), moving away from trying to find its own internal agreement, and instead focusing on a major diplomatic campaign to persuade the Gang of Four to ratify (Oberthür & Pallemaerts: 2010: 35, Oberthür: 2011a: 669, Groenleer & Van Schaik: 2007: 985 footnote 43). This the EU pursued “relentlessly and successfully” (Vogler: 2011: 26).

Particularly noteworthy in this campaign was the use of issue-linkage by the EU, linking its considerable weight as a global trading power and influence within the WTO, to its diplomatic effort to persuade Russia to ratify the Kyoto Protocol (Damro: 2006, Bretherton & Vogler: 2006); promising support for Russia’s application to the WTO. Coinciding with the EU’s diplomatic efforts outside of the conference room, the EU was also more proactive in its tactics in the negotiations. This included a much more flexible approach to the inclusion of flexible mechanisms to the Kyoto Protocol, consequently coinciding with the EU’s own switch in favour of emissions trading within the Community (Christiansen: 2004). The EU’s outreach, again utilising its diplomatic ties within the ‘Green Group’, was also successfully employed with the EU and G77, again working in coalition to persuade the remaining Umbrella Group members to ratify the Kyoto Protocol⁴⁰; outreach which has been judged as making a major contribution to moving the negotiations forward (Gupta & Ringius: 2001: 281). In addition, with the United States now out of the picture, the EU’s significance as a negotiator was to further increase, with the EU being recognised as, “the only actor that could be expected to have the will and the ability [to save the Kyoto Protocol]” (Hovi et al.: 2003: 23). From 2001 therefore, the EU was seen to become the, “most important player in the climate negotiations” (Ott: 2001a: 290) and an essential participant in all processes of the negotiations (ENB: 2001a, 2001b).

With a markedly improved performance in terms of its negotiation behaviour, the EU was however thwarted in attaining all of its high ambition objectives at Bonn and Marrakesh. Whilst the EU is accredited with playing a pivotal role in securing a finalised agreement

⁴⁰ As Afionis & Chatzopoulos (2010: 48-49) highlight, the G77 stood to lose out on sustainable development funds under the Kyoto Protocol if ratification was not achieved. Consequently aligning with the EU was in both their interests.

for the Kyoto Protocol's operational and implementation rules – detailed in the 2001 *Marrakesh Accords* (Oberthür: 2011a: 669, Oberthür & Pallemmaerts: 2010: 36, Oberthür & Roche Kelly: 2008: 36), it was less effective in maintaining its environmental integrity. EU attempts to 'save' the Kyoto Protocol by persuading the Gang of Four to ratify in fact required considerable lowering of ambition by the EU, resulting in the environmental integrity of the agreement being diminished – an objective the EU had initially sought to avoid (Oberthür & Pallemmaerts: 2010: 36, Oberthür: 2011a: 669). This was seen by some as the EU essentially “giving in to the requirements of the Gang of Four” (Hovi et al. 2003: 19), especially notable in its concession over the inclusion of 'sinks' (Hovi et al. 2003: 19). In other elements the EU's effectiveness was also limited - particularly with regards to the EU's preferences for a legally binding compliance system under the Kyoto Protocol (Hovi et al. 2003: 1). Prior to 2001 the US had supported the EU in a legally-binding system but its silence on Kyoto issues after 2001 resulted in the remaining Umbrella Group members using the opportunity to push their preference for a softer legal option. At Bonn the EU had to concede by pushing the decision to a later date (Ott: 2001b: 474). With the US out of the picture the EU also had to concede to the Umbrella Group in removing any cap on the use of flexible mechanisms; although it is noted that the text of agreement reached at Bonn still emphasises the supplementarity of the flexible mechanisms to domestic action. The Bonn Agreement does also stipulate that nuclear energy is to be excluded from CDM and JI activities – a policy objective particularly pushed by the EU (UNFCCC: 2001, Ott: 2001b: 471). Subsequently, whilst this good performance did enable the EU to 'save the day' in 2001, it did so at the expense of its own high ambitions and the environmental integrity of the Kyoto Protocol.

3.4. EU performance in the Post-Kyoto Agreement negotiations

In September 2004 the EU's diplomatic effort to persuade Russia to ratify the Kyoto Protocol and bring it into force was finally successful (BBC News: 2004, Parker & Karlsson: 2010: 930, Damro: 2006: 189). On the 16th of February 2005 the Kyoto Protocol entered into effect – three years later than initially intended - and, on 28th November 2005 Parties met for the first Conference of the Meeting of the Parties to the Kyoto Protocol (CMP-1) alongside CoP-11 at Montreal in Canada. Montreal was a milestone conference for several reasons. As the first major summit following the launch of the Kyoto Protocol it was highly symbolic. In addition however, Montreal was significant as the year where negotiations for a post-2012 agreement were to be initiated, as stipulated under the Kyoto Protocol (UNFCCC: 1997). Under the Kyoto Protocol, emissions reduction targets had

been set for participating Annex-I countries for a first commitment period from 2008 to 2012. With the Kyoto Protocol now formally launched, negotiations turned to the unenviable task of deciding what would come next. Subsequently, negotiations since 2005 have been dominated by the issue of what a post-2012 successor agreement will look like, with particular attention to the participation of the emerging economies and other developing countries whose global share of GHG had risen considerably since 2002 (see Figure 3.1).

In this section focus thus turns to these more recent developments in the UNFCCC negotiations, again concentrating on what are identified as four key conferences in relation to a post-2012 agreement. These include CoP-11 at Montreal in 2005, where the issue of future commitments was first initiated, CoP-13 at Bali in 2007, where the Bali Road-Map, launching a mandate for new negotiations towards agreement, was then agreed, CoP-15 at Copenhagen in 2009 where negotiators failed to agree an outcome, and finally CoP-17 at Durban in 2011 where negotiations were re-launched under the Durban Platform for Enhanced Action. We turn now to the EU's performance in the Montreal CoP-11.

Lowered ambition but a good performance (Montreal CoP-11)

Prior to CoP-11/CMP-1, held in Montreal in December 2005, the topic of long-term action and a potential post-2012 successor agreement to the Kyoto Protocol had been considered something of a “taboo” issue within the UNFCCC (Depledge: 2006: 16). Early soundings by the EU – first at CoP-8 in New Delhi in 2002 (Ott: 2002: 2), and again at CoP-10 in Buenos Aires in 2004 (Ott et al. 2005: 85) – to initiate discussions on a post-2012 agreement had been met with considerable reluctance by both the Umbrella Group and G77. It was not therefore until 2005, with the successful implementation of the Kyoto Protocol, that the EU's progressive strategy of pursuing a post-2012 agreement was to begin to meet with the preference structures of the other major alliances (C2ES: 2005). Despite this, the EU's negotiation position entering the Montreal CoP was more ambiguous than in previous years. Stipulating its determination to, “reinvigorate the international negotiations” it then employed vague terminology looking to, “*explore options* for a post-2012 arrangement”, stressing that the CoP should “*initiate considerations*” towards future commitments, and looking forward to initiating a, “process among all Parties...to explore how further to implement the Convention to achieve its ultimate objective by developing a post-2012 arrangement” (Council: 2005b, emphasis

added). As a result the EU's negotiation position entering Montreal was low in ambition due to the vagueness of its outlook and lack of any clearly-stated objectives.

Accounts within the existing literature as to the EU's performance at Montreal have, as with previous negotiations, also been limited. The EU has, for example, been criticised for being too reactive in the Montreal CoP (Vogler: 2011: 26) and of not offering concrete proposals to help push forward negotiations (Wittneben: 2006: 91). Little however has been said on its performance overall. It is here argued however that EU performance at Montreal was good with the EU demonstrating moderate negotiation behaviour – reflective of high unity and significance but also low outreach – and a high level of effectiveness. Particularly noteworthy at Montreal was the EU's reformed method of representation following reforms initiated by the Irish Presidency in 2004. The EU's representation was thus formally led in the negotiations by the UK Council Presidency and with representation also by several 'lead' negotiations – including officials from the Commission who also spoke for the EU (ENB: 2005). Whilst spreading its voice, the EU did also maintain its cohesion at Montreal, with the EU delegation supported by Member States' own national statements given during a high-level ministerial segment and which were widely adherent to the EU Common Position (ENB: 2005). That the EU managed to maintain cohesion (see also Parker & Karlsson: 2010: 936) was all the more notable in light of the divergences and disputes emerging amongst the Member States over the EU's new '20-20-20 targets'⁴¹ at this time, as well as the influx of ten new Member States following the latest round of enlargements in 2004 (Vogler: 2011: 24, Santarius et al. 2009: 77, Van Schaik: 2010: 266).

In contrast to its previously proactive efforts, at Montreal the EU's outreach was notably low. Criticised for being too 'reactive' in the run up to CoP-11 (Vogler: 2011: 26) and of offering very little in the way of real solutions for what a post-2012 agreement should look like (Wittneben et al. 2006: 91)⁴², the EU was not ready to offer a more ambitious negotiation position at Montreal. Thus the extent of EU outreach during the CMP-1 negotiations was simply to invite parties to make submissions for further consideration to a later subsidiary body meeting (ENB: 2005, Wittneben et al. 2006: 91). To all other intents and purposes the EU was participant in, but not an active pursuant, of negotiations for a

⁴¹ The term for the EU's planned Climate and Energy Package due to the commitment to reduce emissions by 20%, for 20% of EU energy consumption to come from renewable sources, and for a 20% reduction in primary energy use to be achieved through improved energy efficiency

⁴² Although interestingly others have also claimed that the EU was "very active", particularly in pushing for new commitments (Van Schaik & Schunz: 2012: 181)

post-2012 successor agreement. Despite its continued high significance at Montreal (ENB: 2005) therefore, the EU's negotiation behaviour was moderated by its low level of outreach. Despite this the EU was able to attain most of its goals – as set out in its council conclusions (Council: 2005b) in the decisions adopted at CoP-11. Concluding on 9th December 2005, the Montreal conference ended with the formal adoption of the *Marrakesh Accords* – fully operationalizing the Kyoto Protocol, the launch of a Dialogue on Future Cooperative Action supported by consensus from all Parties, and with decisions taken on non-compliance, streamlining the CDM, and with further commitments made by the ICs towards making future reduction cuts in GHG emissions (UNFCCC: 2005, Harris: 2007: 15). Subsequently the EU can claim to have had a good performance at Montreal. Most notable is that this good performance was fundamentally a result of the EU's low ambition at Montreal. By detailing ambiguous objectives of support for a post-2012 successor agreement but providing little direction as to what form it should take or how negotiations should proceed, the EU was able to achieve agreement on the vague principle of new negotiations without exerting much effort. It would not be until 2007 that any real progress towards such an agreement would be achieved.

A very good performance plus a Road-Map (Bali CoP-13)

The UNFCCC negotiations again reached a milestone in 2007 at the Bali CoP-13 where Parties to the Convention and Kyoto Protocol formally agreed to launch negotiations for a post-2012 successor agreement. Two core issues were prominent at Bali. The first was a core issue for DCs with the launch of the Adaptation Fund in helping the developing world adapt to the negative effects of climate change. The second – of core interest to the EU - was the implementation of a framework for negotiations on long-term cooperative action, specifically aimed at putting in place an international agreement for the period following 2012 (ENB: 2007, Müller: 2008: 1). Approaching Bali the EU's negotiation position had made some steps forward; detailing, this time in clear and decisive language, the EU's renewed concerns over rising global temperatures and the, “*urgent need* for a global and comprehensive post-2012 agreement to bring the necessary emissions reductions” (Council: 2007: (5) emphasis added).

Specifically, the EU detailed its intent, premised on the scientific findings of the IPCC, that an agreement would require a global emissions reduction of 30 per cent by 2020 and 60-80 per cent by 2050 compared to 1990 levels (Council: 2007: (8), see also Table 3.2 above), requiring the facilitation of a framework that would entail, “deeper absolute emission

reduction targets” by the developed world, and including “further fair and effective contributions *by other countries*” (Council: 2007: (7) emphasis added); further stressing that any unilateral EU commitments to reduce GHG should be accompanied by similar commitments by other developed and, “more advanced developed countries” (Council: 2007: (9)). The EU’s position would therefore directly challenge one of the fundamental dividing issues within the UNFCCC by tackling commitments to reduce GHG emissions by the developing world.

On more detailed objectives the EU’s position entering Bali was also progressive, calling for the extension of the carbon market (in a role reversal to its stance in the early Kyoto Protocol negotiations where it opposed market-based mechanisms, aided further by the introduction of the EU’s own Emissions Trading System in 2004); addressing emissions from aviation and shipping; promoting sustainable development policies and measures, and calling for all Parties to support an ambitious and comprehensive agreement to be in place by no later than 2009. With increasing evidence provided by the IPCC in its fourth assessment report (IPCC: 2007) of climate change being man-made, there was further incentive for all Parties to the Convention to take decisive action (Ott et al. 2008: 92). With the G77 particularly indicating their commitment for action in tackling climate change (G77: 2007) the EU’s progressive position did moreover meet in part with the preference structures of other major players in support for a post-2012 agreement, reflecting therefore a moderate level of ambition. It has been the EU’s reported ambitious proposals approaching the Bali negotiations that have been cited within the existing literature as contributing to the EU’s ‘major driving role’ during CoP-13 (i.e. Oberthür & Roche Kelly: 2008: 36). This is in part corroborated in this analysis, although it is argued that in fact the EU had a very good performance at Bali courtesy not only of its high level of negotiation behaviour but also of its effectiveness.

Entering the Bali negotiations EU representation was led by the Portuguese Council Presidency with support from the Commission. Continuing to demonstrate cohesion with its Member States stepping back to allow the Presidency to take the lead, the EU again reflected a moderate level of unity during the negotiations. Its outreach was then high at CoP-13, reflected particularly in the successful employment of several negotiation tactics to persuade others to support its objectives for a Road-Map for negotiations. Firstly, the EU’s major playing card entering Bali was a proposal, agreed by the Council in March 2007 (Council: 2007) for a post-2012 agreement to encompass ambitious reduction targets

of up to 80% by developed countries by the year 2050, further reinforced by its own unilateral commitment to lower EU emissions by 20% by the year 2020, and going up to 30% if other developed countries committed to similar targets; positioning the EU as a “major driving force” (Oberthür & Roche Kelly: 2008: 36). Secondly, having brokered with the G77 a deal of support for the Adaptation Fund (Müller: 2008: 2) thus successfully using the tactic of issue-linkage, the EU and G77 (minus OPEC) again re-forged the former ‘Green Group’ in pushing forward a Road-Map for negotiations (Bals: 2008: 9, Watanabe et al. 2008: 156, Ott et al. 2008: 94). With wider support for a Road-Map from the G77, the EU was also active in trying to re-engage the United States who, after its withdrawal from the Kyoto negotiations in 2001 remained on the outskirts of discussions on a future agreement (Ott et al. 2008: 93).

Again demonstrating its high significance as a player at Bali, the EU was further participant in all decision-making processes at CoP-13 (ENB: 2007). The outcome of the negotiations, agreeing the *Bali Road-Map* as well as a decision on the finalisation of the Adaptation Fund also reflected the EU’s high effectiveness. Under the Road-Map the EU was seen to attain most of its goals, most evident in formation of a post-2012 negotiation mandate being launched under a newly formed Ad hoc Working Group on Long-Term Cooperative Action (AWG-LCA) (UNFCCC: 2007). More than this, the EU’s objectives were largely adopted under the Road-Map’s agenda with negotiations set for a deadline of 2009, encompassing mitigation commitments by both developed and developing countries, focusing on sectoral-approaches (as a particular nod to EU demands to include aviation and shipping sectors within a post-2012 successor agreement), and stipulating policy approaches to reduce emissions from deforestation – all objectives detailed by the EU in its Council Conclusions entering the negotiations.

It is noted however, that despite these successes for the EU, the Bali Road-Map was also notably ambiguous in its wording. The EU did not, for example, attain its objective of stipulating that Parties to the post-2012 agreement would be legally-bound to emissions reductions which was instead papered over in the Road-Map document (UNFCCC: 2007, Oberthür: 2011a: 669). As a negotiation mandate, rather than an outcome agreement itself, the Road-Map therefore left out this more contentious point to be picked up at a later date. More than this, unlike the 1995 Berlin Mandate which was highly detailed over the direction for negotiations on the Kyoto Protocol, the Bali Road-Map did not include any clear guidance or direction on what the negotiations for a post-2012 agreement should

explicitly entail beyond the basic principles supported by the EU (UNFCCC: 2007, Bals: 2008: 22-23). Whilst the EU gave a very good performance at Bali, the outcome of the CoP was to create significant challenges for the EU and other negotiators in the negotiations to come.

A poor performance and another stalled conference (Copenhagen CoP-15)

The ambiguity of the Bali Road-Map was most notably manifested two years later at the Copenhagen CoP-15 in 2009. Intended to be the conference in which a post-2012 successor agreement to the Kyoto Protocol would be agreed, the Conference has instead been widely criticised for its failure to do so (ENB: 2009, BBC News: 2010, EUobserver: 2009). For the EU, the Copenhagen CoP was to prove a major backlash. Continuing to demonstrate the same progressiveness of position as was evident in Bali, the EU's ambitions at Copenhagen were however much increased in calling for developed countries to reduce their emissions now by upwards of 40% by 2020 and up to 95% by 2050 (Council: 2009: (8)). Relative to the United States and increasingly prominent BASIC countries however, the EU's position was a considerable outlier (see Table 3.2 above), with the US and BASIC countries showing increasing reticence towards any agreement that was legally binding. With the EU doggedly pursuing a legally-binding agreement that would set even higher emissions targets, its position was notably higher in ambition relative to Bali that would require a considerable performance to persuade its negotiation partners to change their preferences.

Much attention has been given within the literature to the EU's failures at Copenhagen; being widely lamented for its 'unconvincing' performance (Afionis: 2011: 342) and lack of influence (Wurzel & Connelly: 2011: 8) with a particular emphasis being given to the EU showing a, "sobering demonstration of disarray" (Vogler: 2011: 27), and of being an "incoherent, internally divided, actor without a strong spokesperson" (Kilian & Elgström: 2010: 267). In part this analysis corroborates these findings. It is argued that the EU's performance at Copenhagen was poor, however, findings do also challenge the more calamitous accounts offered of the EU's performance at Copenhagen, suggesting that whilst it had low effectiveness and was divided, its outreach was moderate, and its significance was not as low as has been suggested.

A major challenge to the EU's performance at Copenhagen was its unity. Represented within the negotiations by the Swedish Council Presidency, the EU's official voice was not

only supplemented but also at times challenged by its Member States. This has been most widely reported in the remarks by Connie Hedegaard, President and then Special Representative of the Copenhagen Summit⁴³, who commented that the EU “spoke with many different voices” during the final hours of the Conference (EUobserver: 2010). Less focused upon within the literature, but nevertheless important in a performance assessment, was the EU’s then failure in its, previously successful, coalition-building efforts at Copenhagen (Van Schaik & Schunz: 2012: 182, Oberthür: 2011a: 678-9). Despite stipulating its intention to, “strengthen its alliances and partnerships with developing countries” (Council: 2009: (3)), it then failed to build on this within the negotiations. Efforts at issue-linkage, with the EU offering €7.2bn in financial support to developing countries, were also unsuccessful in then persuading the G77 to support EU objectives of launching a new agreement (Vogler: 2011: 29, Van Schaik & Schunz: 2012: 182), with developing countries instead countering that the EU’s funding was “insignificant” (Curtin: 2010: 4). Being seemingly caught by surprise by the new prominence of the BASIC countries within the negotiations, the EU’s outreach at Copenhagen was thus an unusual mixture of being highly proactive in its calls for raising emissions targets and launching an agreement, yet reactive and on the back-foot in trying to deal with the more reticent preferences of the major players. Failing moreover to judge the extent to which the US and emerging economies wanted to go in establishing a post-2012 agreement, the EU’s highly ambitious proposals were then essentially ignored (Afionis: 2011: 351).

More prominent critiques offered within the literature was the EU’s apparent insignificance at Copenhagen (Van Schaik & Schunz: 2012: 182, Oberthür: 2011a: 670, Vogler: 2011: 29, Kilian & Elgström: 2010: 256, Spencer et al. 2010, Curtin: 2010: 7). With proceedings dominated by the US and BASIC countries’ preferences for a significantly watered-down agreement, focusing upon national pledges rather than the EU’s favoured approach of internationally imposed emissions reduction targets (Curtin: 2010), the EU was then partially excluded from endgame bargaining on this core issue. With the US and BASIC as the key players formulating the decisions on what was essentially to become the *Copenhagen Accord*, the EU was “side-lined” (Van Schaik & Schunz: 2012: 182, Oberthür: 2011a: 670, Spencer et al. 2010). The EU was thus obliged to accept the Copenhagen Accord despite having little participation in the decisions which created it (Kilian & Elgström: 2010: 256). Despite this, it is also noted that the EU’s

⁴³ Connie Hedegaard stepped down as Conference President in order that the Danish Premier could take on the role. She remained involved in all negotiations however as a Special Representative for the President (Guardian: 2009)

significance at Copenhagen was not as irrelevant as some have indicated. The EU was in fact participant in some endgame bargaining negotiations –reflecting moderate significance – including the group of 30 key players who met to discuss the draft of *the Copenhagen Accord* prior to it going to the full Convention (ENB: 2009). It was therefore presented with the opportunity to shape – and even block – the decision had it chosen to adopt that approach. However, with its low unity the EU’s capacity to present a cohesive line was significantly reduced which hindered it from making the most of its participation in this group.

The EU’s subsequent failure to attain its goals during Copenhagen has also been widely reported (Curtin: 2010, Spencer et al. 2010, Afionis: 2011: 342, Parker & Karlsson: 2010: 940, Oberthür: 2011a: 670) with the most prominent failure evident in the mostly voluntary nature of the *Copenhagen Accord* (UNFCCC: 2009); an agreement which in no way reflected the EU’s preference for legally binding commitments by all countries (Council: 2009, see also Van Schaik & Schunz: 2012: 181). Instead the *Copenhagen Accord*, “merely recited existing offers” rather than extending commitments (Vogler: 2011: 26), removing any mention to mitigation targets (Curtin: 2010: 4). The EU’s effectiveness was consequently also low. Taken altogether, this analysis does therefore support those critiques of EU performance at Copenhagen.

It is emphasised however, that this evaluation does not corroborate the more calamitous accounts stating that the EU’s failings at Copenhagen indicates the EU’s demise within the UNFCCC. Whilst the EU performed poorly at Copenhagen, not least in the eyes of those expecting it to take on a particular ‘leadership’ role (Parker & Karlsson: 2010, Wurzel & Connelly: 2011: 8), much of the hype surrounding this has likely stemmed from the dramatic variation between the results of Copenhagen compared to the EU’s good or very good performances throughout much of the 2000s. That this has coincided with the rise of the emerging economies within the UNFCCC has further dramatized claims of the EU “abdicating its leadership role” (Santarius et al. 2009: 95), and of diminishing in importance under a new “multi-polar world order where large developing countries and the US dominate any future post-Kyoto negotiations” (Kilian & Elgström: 2010: 268). As the following final evaluation of EU performance in the Durban CoP-17 in 2011 shall reflect however, such claims may be premature.

The Bounce-back: A good performance but still no agreement (Durban CoP-17)

Following the failure at Copenhagen, negotiations in the UNFCCC have moved forward only gradually. At the Cancún CoP-16 in 2010 the *Cancún Agreements* were established which vaguely detailed the international community's intent to address the challenge of climate change through steps towards long-term cooperative action (UNFCCC: 2010). At Durban some momentum towards resuscitating the negotiation process for a post-2012 agreement had begun (ENB: 2011). For the EU, coming back from its seeming fall from grace in Copenhagen, the Cancún conference in 2010 had seen it “downsize” its objectives (Oberthür: 2011b: 10) in an effort to adapt to the changing negotiation environment, and positioning itself as a broker or ‘bridge-builder’⁴⁴ between the US and emerging powers in an effort to shift the discussions towards a more ambitious post-2012 agreement. At Cancún moreover, the EU had been seen to have performed better following Copenhagen (Oberthür: 2011b: 10). By the time of Durban, the EU had regained its more progressive stance and was again decisively pushing for a ‘road-map’ (Council: 2011a: (6)) for a new legally binding agreement with commitments by all Parties.

Nevertheless moderating its ambitions after Copenhagen – thus showing a more realistic perspective of the preference structures of its negotiation partners – the EU also indicated in its negotiation position approaching Durban a willingness to accept a second commitment period under the Kyoto Protocol, on the proviso that the environmental integrity of the Protocol was preserved and its architecture enhanced (Council: 2011a: (6)). Thus, the EU made a second commitment period for the Kyoto Protocol conditional on others having to commit to negotiate a new agreement by the year 2015 (Economist: 2011). The EU's performance in then taking those objectives forward at Durban further showed a considerable bounce-back following the dramatic events of Copenhagen. Giving a good performance the EU demonstrated both a high level of overall negotiation behaviour and a moderate level of effectiveness.

Continuing the practice of representation conducted in previous CoPs the EU's representation was formally led at CoP-11 by the Polish Council Presidency. However, the creation of DG CLIMA in 2010 had also resulted in the DG Climate Commissioner – previous Conference President at Copenhagen - Connie Hedegaard acting as one of the EU's lead negotiators. Throughout the two weeks of negotiations from 28th November to

⁴⁴ The Council's conclusions entering Cancun emphasised the EU's “willingness to strengthen bilateral and regional alliances with a view to building bridges between Parties which reinvigorate and feed into the UNFCCC” (Council: 2010c: (28))

9th December 2011 it was the DG Climate Commissioner who was to grab the headlines for the EU (Guardian: 2011a) and who, by the final week of negotiations was the EU's leading negotiator. Reports from Durban further suggest a marked improvement for the EU's unity following the Copenhagen failure (ENB: 2011), with the EU seen to be maintaining its cohesion and with Member States remaining mostly silent to allow their lead negotiators to represent their views. One further small, if symbolic, boost for the EU's unity at Durban, courtesy of changes from the Lisbon Treaty, was that the EU's negotiators spoke from behind the EU flag rather than the previous practice of speaking from behind the flag of whichever Member State was holding the Council Presidency at that time (Oberthür: 2011a: 672).

In terms of its outreach following Copenhagen, the EU's strategy in Durban was also much improved with a high outreach reflecting not only a proactive strategy but also successful efforts at coalition-building with the EU forging a coalition with other 'high ambition' countries (Guardian: 2011b) including AOSIS and the LDCs (ENB: 2011, Harmeling: 2011). With the G77 divided between the interests of BASIC, AOSIS and OPEC, the EU instead focused on the G77's more ambitious factions and successfully established an alliance of Parties who each sought concrete and comprehensive action from the negotiations. In addition to this, the EU has also been praised at Durban for the 'brinkmanship' strategy adopted by the EU Climate Commissioner over the legality of a new agreement in the face of Indian and Chinese objections to mandatory cuts (ENB: 2011, Guardian: 2011c, New York Times: 2011). With India and China continuing to show reticence towards a new agreement in which they would be legally-bound to make emissions cuts, the EU was successful in standing against demands for what the EU perceived as the weakening of any future agreement.

Similarly, in an improvement to Copenhagen, the EU again demonstrated a high level of significance at Durban by being participant in all end-game negotiation sessions, and notably within the "huddle" initiated by the Conference Chair to reach agreement on the Durban Platform for Enhanced Action (Guardian: 2011a). With the EU a core player in standing up to Indian and Chinese demands, it was moreover the EU (rather than the US) that was involved in final day endgame bargaining negotiations with these emerging economies over the wording of a post-Kyoto agreement and its 'legal force' (ENB: 2011).

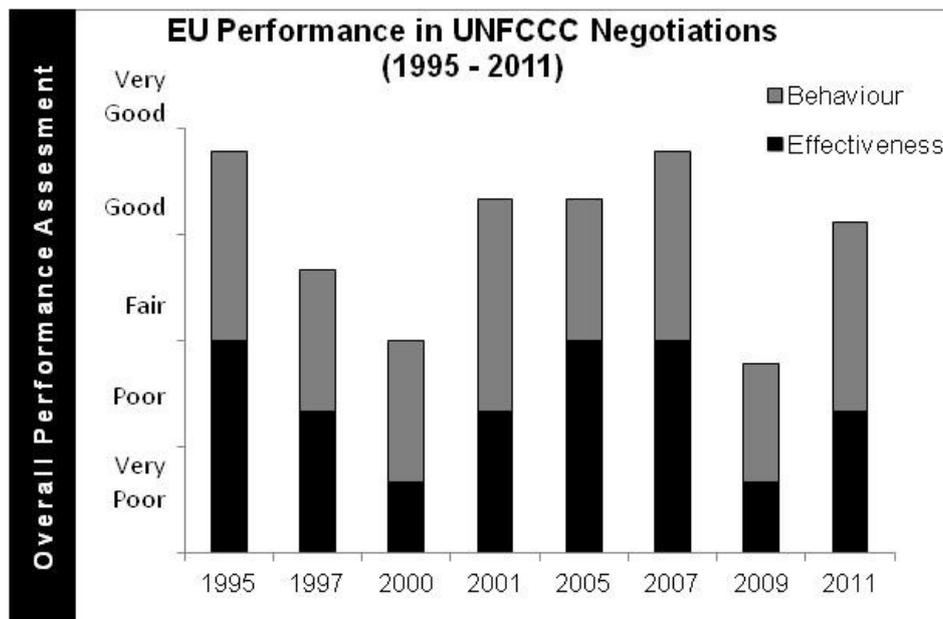
The outcome of the Durban CoP could moreover be counted a success for the EU with a moderate level of effectiveness evident in agreement on the *Durban Platform for Enhanced Action*. This agreement, much like the Bali Road-Map agreed in 2007, draws a number of similarities with the EU's proposal for a further 'Road-Map' towards negotiations on a future legally-binding agreement for all Parties. In particular, the Durban Platform stipulates that negotiations are to be concluded by 2015 and put in place by 2020 (UNFCCC: 2011). The EU was also effective in ensuring language that made reference to the legally binding agreement for all emitters – something that had been all too elusive in the *Copenhagen Accord* – with the decision stating that the Parties to the Convention, “decide to launch a process to develop a protocol, another legal instrument or an agreed outcome with *legal force* under the Convention *applicable to all Parties*, through a subsidiary body under the Convention hereby established and to be known as the Ad Hoc Working Group on the Durban Platform for Enhanced Action” (UNFCCC: 2011: 2 emphasis added). As an agreement therefore, the Durban Platform sets out the goal of initiating negotiations for an agreement to be in place, and enforceable, by 2020 with participation from all Parties. Implicit in the agreement was a further goal-attainment for the EU – that of the emerging economies also being required to participate under legally binding commitments.

It is noted however, that the Durban outcome did also require the EU to give an assurance to a second commitment period, under the Kyoto Protocol to commence from 2012 thus ensuring continuity after the Protocol's first commitment ceases at the end of 2012 (Council: 2011a, UNFCCC: 2011, see also Guardian: 2011c, ENB: 2011). Whilst this was not the EU's first preference – preferring an outright agreement for a successor Protocol to Kyoto (Council: 2011a) – its offer to accept this as a condition for negotiations on a new agreement was then taken up by negotiation partners. In addition, the agreement made no mention of specific commitments to be made by negotiation partners, nor did it specify mitigation targets, or the inclusion of new sections (including aviation and shipping which the EU has continued to push for) under future negotiations, all of which the EU had specified in its negotiation position (Council: 2011a). Consequently, with moderate effectiveness, coupled with its high negotiation behaviour, the EU's overall performance at Durban was good, thus challenging those critiques of the EU's role post-Copenhagen.

Conclusion

As this analysis has revealed, the EU's performance within the UNFCCC negotiations over the period 1995 to 2011, whilst variable, has, with occasional exceptions, been good or very good – as demonstrated in Figure 3.2 below.

Figure 3.2: EU performance in the UNFCCC negotiations (1995-2011)



Source: Author's own compilation

As this figure reflects, EU performance within the negotiations selected for this study has ranged across the scale including very good, good, fair and poor performances. Starting off well with a very good performance at CoP-1 in Berlin, the EU's performance has subsequently gone through peaks and troughs, dropping away at Kyoto and again during The Hague negotiations in 2000, but rising after 2001 as the US withdrawal from the Kyoto process gave a renewed incentive for the EU to 'save the day'. Demonstrating good and very good performances over the early launch of negotiations for a post-Kyoto agreement after 2005 the EU did then suffer a decline at the Copenhagen CoP in 2009. Despite claims that this could lead to the demise of the EU's role within the UNFCCC, and of its 'abdicated leadership role' (Santarius et al.: 2009); this study has however shown that EU performance bounced-back following Copenhagen. Demonstrating a good performance at Durban in 2011, the EU has shown that claims of its demise in this forum are premature and that it continues to perform well both in terms of negotiation behaviour and goal-attainment.

In contributing to those more disparate accounts of EU performance detailed at the beginning of this chapter, the picture this analysis therefore reveals is of an EU performance that has challenged expectations in several ways. Firstly, its performance has been neither ‘suboptimal’ nor ‘significantly improved’ but of somewhere in the middle-ground. As such, this analysis corroborates findings that EU performance within the UNFCCC has been mixed, demonstrating as it has peaks and troughs over both the Kyoto and post-Kyoto negotiations. As such, by evaluating EU performance as a measure of both its negotiation behaviour and effectiveness, a more realistic, clarifying view of how the EU has performed in this forum can be seen – all the more essential to a case which is coloured by high ambitions and even higher expectations and thus to often unrealistic bench-marks for performance to be measured against.

Closer analysis of the EU’s performance across each indicator - as detailed in Table 3.3 below - moreover sheds some interesting findings which further challenge expectation.

Table 3.3: Breakdown of EU performance in the UNFCCC negotiations (1995-2011)

Negotiation	Ambition	Unity	Outreach	Significance	Behaviour	Effectiveness	Performance assessment
1995 CoP-1	High	Moderate	High	High	High	High	Very good
1997 CoP-3	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	Fair
2000 CoP-6	High	Low	Moderate	High	Moderate	Low	Poor
2001 CoP-6bis/CoP-7	High	Moderate	High	High	High	Moderate	Good
2005 CoP-11	Low	Moderate	Low	High	Moderate	High	Good
2007 CoP-13	Moderate	Moderate	High	High	High	High	Very good
2009 CoP-15	High	Low	Moderate	Moderate	Moderate	Low	Poor
2011 CoP-17	Moderate	Moderate	High	High	High	Moderate	Good

Source: Author’s own compilation

Of particular note, EU unity has remained broadly consistent within the UNFCCC especially in terms of maintained cohesion. This is despite the fact that the EU does not ‘speak with one voice’ in this forum but rather with numerous voices. Challenging expectations that with shared competence EU unity would be harder to maintain, this analysis has shown that, in practice, the EU Member States have – with the exceptions of The Hague and Copenhagen Summits in 2000 and 2009 – remained broadly adherent to EU positions and have increasingly allowed the EU’s ‘lead’ negotiators to speak for them. Findings do thus also challenge those claims that the EU has increasingly ‘spoken with one voice’ in the UNFCCC (see Oberthür: 2011a: 676), suggesting instead that it has performed well in this forum in part because it has spoken with several voices. Findings

further suggest that the EU has had some success in the pursuit of proactive strategies and negotiation tactics within this environment. This has been particularly evident in the use of coalition-building and issue-linkage, thus demonstrating that whilst its ambitions have generally been moderate to high in this forum, its ability to persuade others of those preferences has also been relatively successful.

The EU has also been seen to have maintained a high level of significance within the UNFCCC negotiations which, despite its exclusion from some processes of endgame bargaining at Copenhagen in 2009, has remained consistent despite concerns raised of diminutions in the EU's weight and significance at the negotiating table (i.e. Oberthür: 2011a: 676). In terms of the EU's goal-attainment in this forum, this analysis has also revealed that, whilst variable, the EU has on the whole attained some or most of its objectives within CoPs with moderate or high levels of effectiveness. This would seem to challenge those who, in focusing on EU effectiveness and influence within the UNFCCC, have broadly criticised the EU for often failing to live up to its high ambitions in this forum (i.e. Van Schaik & Schunz: 2012, Afionis: 2011, Lacasta et al. 2007, Hovi et al. 2003). Rather, it is argued that whilst the EU's rhetoric is often that of high ambition, its negotiation positioning does not in fact always reflect this. Instead, it has been shown that the EU's negotiation objectives in this case – whilst primarily progressive – have still also at times maintained some zone of agreement with its negotiations partners and thus enabled it to find some consensus with other Parties.

A final point of note from this analysis has been that the EU has been seen to perform very well in the UNFCCC negotiations where the negotiations are themselves at a stage of initiation rather than where it comes to finalising agreement. This was evident not only at Berlin in 1995, but again in Bali in 2007 and Durban in 2011 where the EU had good and very good performances. Where negotiations have been aimed at finalising operational details and making binding commitments the EU's performance has however, been more variable, particularly seen at Kyoto where its performance was fair and in The Hague and Copenhagen where its performances were poor. This would in turn support those who have argued that the EU's strengths in this negotiation are more in setting the direction for negotiations than in their agreement (i.e. Vogler & Stephan: 2007, Andresen & Agrawala: 2002). It would subsequently suggest the need to moderate expectations of EU performance in the UNFCCC negotiations leading up to 2015 where agreement for a post-Kyoto successor will need to be finalised. This in turn does imply that expectations of EU

‘leadership’ in this forum may also require some fine-tuning. Whilst findings from this analysis do indicate a relatively positive performance record for the EU in the UNFCCC, they in no way support claims of a ‘sustained’ and ‘significantly improved’ leadership record found within the wider leadership discourse (see also Chapter One). To such claims it is therefore recommended that focus move beyond the EU’s leadership rhetoric to instead engage with how the EU’s objectives meet with the preference structures of others, and hence on its actual negotiation performance in subsequently pursuing and meeting them.

Chapter 4: EU performance in the World Trade Organisation (WTO) multilateral trade negotiations (1996-2011)

Within the Multilateral Trading System (MTS) the EU is unquestionably a major player. The EU is both the world's largest trade importer and exporter and accounts for just under a fifth of world trade (Eurostat: 2011: 11). It has one of the world's largest internal markets with a population of 502 million people⁴⁵ and, with trade competence exclusively delegated to the European Community, the EU does formally speak with one voice in its external trade relations. Since 1995 and the establishment of the World Trade Organisation (WTO), the EU has moreover positioned itself as a leading advocate of the MTS (Smith & Woolcock: 1999, Van Den Hoven: 2007, Ahnild: 2005, M. Baldwin: 2006, Pisani-Ferry: 2009, Mortensen: 2009, Jørgensen: 2009b, A.R Young: 2011), prioritising the WTO as the regulatory forum for establishing multilateral trading rules and disciplines (De Bièvre: 2006), and being widely acclaimed both for its role in the WTO's creation and in pushing forward the creation of its new, and strengthened, dispute settlement mechanism (Mortensen: 2009: 87, Jørgensen: 2009b: 204, M. Baldwin: 2006: 933, Ahnild: 2005: 131). Assessing EU performance in the WTO's multilateral trade negotiations (MTN) could then be seen as something of an easy test. Comparative to other policy fields expectations of the EU's performance within this negotiation are high. The EU is widely understood as an economic superpower and subsequently an important voice in global trade governance (Schnabel: 2005, Bretherton & Vogler: 2006, McCormick: 2007). More than this the EU is expected to use its not inconsiderable market size as bargaining leverage or coercion over other smaller states in order to obtain its objectives within negotiations (Meunier: 2000, Steinberg: 2002: 347-9).

Unsurprisingly therefore, trade policy and the EU's ability to pursue its trading interests and attain its goals within the MTS, is of considerable interest to EU scholars. Interestingly however, very little has in fact been written about EU performance and how well it performs within multilateral trade negotiations (see also Dür: 2006: 363). Closer analysis of the literature not only highlights a lack of analytical rigor when discussing the

⁴⁵ Provisional statistics for 2011 provided by Eurostat, available online at <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&language=en&pcode=tps00001&tableSelection=1&footnotes=yes&labeling=labels&plugin=1> (last accessed 19 March 2012)

EU's performance within the WTO but also highly disparate perceptions of how well it either has performed, or is likely to perform within this forum. The EU is, for example, perceived as performing at its best within MTN by scholars focusing on the EU's actorness, but then challenged for its institutional weaknesses, internal divisions, and cumbersome negotiation behaviour by scholars of EU trade policy more specifically. Within the EUGA literature particularly the tendency is to highlight trade, and trade negotiations, as demonstrating the EU's "*raison d'être*" (Meunier & Nicolaïdis: 2011: 276) or, at the very least, as a best case scenario for EU performance and global influence thanks to the EU's exclusive competence, single voice, and 'presence' due to its market size and overall economic power (Whitman: 2010: 27, Bretherton & Vogler: 2006: 86-7, Smith: 2001: 798). The EU trade policy literature however, offers a far more critical picture; highlighting the EU's "underperformance" (A.R Young: 2011: 723, Paemen and Bensch: 1995: 45-46; Smith: 1994: 291-92) and especially emphasising challenges faced by the EU in terms of its actual effectiveness within the MTS. Within this debate divisions between the Member States and the Council and Commission, have been highlighted (Mortensen: 2009: 86, Pisani-Ferry: 2009: 26, Damro: 2007, Paeman & Bensch: 1995, 45-46), in addition to the EU's, at times, reactive and inflexible negotiating style (Ahnild: 2005: 131, Jørgensen: 2009b: 201) – most especially over the controversial issue of agricultural trade – as cause for what are seen as the EU's performance failings.

Similar to that seen in the previous chapter in the climate change literature, there is also a penchant within the EU trade policy literature of focusing, often implicitly, on individual performance indicators but which then overlooks the EU's overall performance taking into consideration both its negotiation behaviour and effectiveness. Much attention is given, for example, to the (in)ability of the EU to maintain its unity during MTN (Da Conceição: 2010, Grant: 2007, A.R Young: 2007: 131-2, Kerremans: 2004: 364) with divergent opinions over the impact that often publicised disputes between the Commission and Council have upon the EU's negotiation position and, implicitly, then upon its performance⁴⁶. Others focus instead on the EU's internal developments i.e. reform of the EU's Common Agricultural Policy (CAP) or the creation of the Single European Market (SEM) and the likely impact this might have on its negotiation position, but with little explicit reference then to its actual negotiation performance (M. Baldwin: 2006,

⁴⁶ This literature is predominantly concerned with the Principle-Agent (PA) relationship between the Council and Commission in MTN. For a useful overview see Dür & Zimmermann (2007)

Hofreither: 2008: 341). Relatively few (A.R Young: 2011, 2007) give consideration to the EU's outreach and subsequent effectiveness.

This inconsistent picture of EU performance within the WTO's MTN has been further contributed to by the selectivity of negotiations and periods of negotiation that are discussed within the literature. Typically, the EU's role and performance has been discussed at length with regard to its dealings with the WTO's predecessor, the General Agreement on Trade and Tariffs (GATT) and the Uruguay Round of trade negotiations from 1986 to 1994 (e.g. Devuyst: 1995, Paeman & Bensch: 1995, Hyett: 1996, Woollock & Hodges: 1996, Meunier: 2000). No such efforts have however yet been made in providing a similar overview of the EU's performance over the course of the WTO's negotiation history. Whilst individual WTO Ministerial meetings (e.g. Scholte: 2000, Schott: 2000, Kerremans: 2004, Cho: 2005, Lee & Wilkinson: 2007, Ismail: 2008, O'Sullivan: 2008), or specific aspects of the negotiations such as, for example, development (e.g. Van Ven Hoven: 2004, Duponteil: 2008) or agriculture (e.g. Hofreither: 2008) have been given attention, the broader case of how well the EU has performed within WTO MTN over-time has been much more neglected⁴⁷.

The aim of this chapter therefore is to contribute to this debate by evaluating the EU's performance; specifically over the course of the WTO's trade negotiations from its first Ministerial Conference in Singapore in 1996 up to the eighth Ministerial Conference held in Geneva in December 2011. This period has been chosen for several reasons. First, it encompasses the WTO's formative years where, following the successful conclusion of the Uruguay Round in which the EU's performance was seen to take a notable 'rise' (A.R Young: 2011, Paeman & Bensch: 1995), and where the EU has been widely accredited for the WTO's subsequent creation, expectations of its performance are invariably high. Testing those expectations therefore provides an important incentive for covering this early period. Second, it also addresses the EU's performance over the course of the Doha Round negotiations (2001-2011) which, despite the Round's significance to the MTS and to the EU's own role within it, few assessments have yet been made of the EU's performance and how it might have changed over its now decade long history⁴⁸. This is particularly notable in more recent negotiations where little to no academic attention has been given to EU

⁴⁷ Exception may however be found in A.R Young (forthcoming)

⁴⁸ The Doha Round has, at time of writing, still to be concluded which may offer some explanation for this lack of longitudinal perspective within the literature. Whilst a completed Round would help to build a better performance overview, particularly from an effectiveness perspective, much can still be learned of EU performance in MTN over the course of the Doha Round's history to date.

performance since the failed effort to bring the Doha Round to a conclusion in July 2008 – this despite developments that have taken place over 2011.

Utilising the performance framework developed in Chapter Two, the EU's performance – as a measure of both its negotiation behaviour and effectiveness - is assessed over this period. Focusing particularly on WTO Ministerial Conferences and General Council meetings during critical periods of both the launch and subsequent process of the Doha Round negotiations, it finds that whilst the EU has not performed poorly in these negotiations, neither has it had the extent of very good performances typically expected of an actor of its size and importance to the MTS. In so arguing, this chapter challenges some of the diverse expectations within the literature, whilst generating a clearer overview of how well the EU has actually performed in the WTO since its creation. To make its case, the chapter is broken down into five main sections. In the first section, the EU will be introduced as a trade actor within the WTO trade negotiations. In section two a brief overview of the WTO negotiations is provided with particular regard to the major players as well as the key negotiating issues within the current Doha Round. Sections three, four and five will then concentrate on the performance evaluation itself. The chapter is then summarised in a concluding section.

4.1 The EU as an actor in the WTO

As one of the world's trade 'superpowers' it might be considered counter-intuitive to ask if the EU is then also a trade 'actor'. The question of who is 'EU' within the context of the WTO does however remain an important one. For EU performance to be evaluated it is important to first establish the EU's ability to act, and negotiate, within this forum. In this section brief discussion is therefore given to the EU's competence, common position and representation within the WTO, as well as to some of its core challenges.

Under the EU's Common Commercial Policy (CCP) the European Community (EC) has exclusive competence over trade policy (Treaty of Rome: 1957 Art 113). On international trade matters the EU is therefore at its most 'state-like' with the Commission granted the authority to initiate the EU's negotiation position and to subsequently speak for its Member States in all MTN. Despite this, which trade issues fall under the EC's exclusive competence has nevertheless remained a cause of particular contention (A.R Young: 2002, 2011: 719), opening questions of EU authority in speaking for its Member States across all MTN issues. Since the formation of the GATT in 1948, the MTS has seen a significant

widening and ‘deepening’ of its agenda (Young & Peterson: 2006). New issues on the MTN agenda such as trade in services, intellectual property, investment, environmental and labour standards, and other ‘behind-the-border’ issues which fall under the purview of national governments, have subsequently resulted in the EC sharing competence with its Member States within the GATT, and later the WTO. Various efforts, both within the European Court of Justice (ECJ: 1994) and later EU treaty reforms (Treaty of Amsterdam: 1997, Treaty of Nice: 2001, TFEU: 2007), have sought to bring new trade-related issues under the exclusive competence of the EC and, under the Lisbon Treaty (TEFU: 2007) this was essentially solidified with the remaining issues of shared competence transferred to the EC (TFEU: 2007, A.R Young: 2011: 719, Meunier & Nicolaïdis: 2011, Woolcock: 2010: 385)

Within the GATT/WTO the EC has however, long acted ‘as if’ it had exclusive competence (A.R Young: 2002: Ch.2) during MTN. Represented by the European Commission, itself a formal Member of the WTO, neither the EU Member States nor Council Presidency negotiate in MTN but the Commission speaks on their behalf⁴⁹. During negotiations it is the Directorate General for Trade (DG Trade) that forms the mainstay of the EU delegation – led in political negotiations by the European Trade Commissioner⁵⁰, and in technical negotiations by the DG Trade Director-General. Member States nevertheless maintain their presence and oversee the Commission in all open negotiating sessions and through on-going coordination meetings (interview, senior official, EU delegation to the WTO, Geneva, 20th May 2012). This is important as, whilst the Commission has negotiation authority within the WTO, the Member States must still ratify any outcome agreement. It is thus in the Commission’s interests to ensure that Member States remain fully involved and will accept the outcome it negotiates within the WTO.

⁴⁹ It is noted that the EU Member States are members of the WTO but they do not negotiate in a national capacity except in rare circumstances – for example in WTO budgetary discussions (interview, Deputy Permanent Representative to the WTO, EU Member State B, Geneva, 20th May 2011). EU Member States do also give statements in their national capacity during plenary sessions of Ministerial Conferences whilst the Member State holding the rotating Council Presidency will give a statement on behalf of the Council. Otherwise all negotiating sessions are conducted by the Commission.

⁵⁰ Sir Leon Brittan (UK), 1995-1999, Pascal Lamy (France), 1999-2004, Peter Mandelson (UK), 2004-2008, Lady Catherine Ashton (UK), 2008-2009, Benita Ferrero-Waldner (Austria), 2009-2010, Karel de Gucht (Belgium), 2010-

Furthermore, the Commission's negotiation mandate within WTO MTN must be approved by the Foreign Affairs Council (FAC)⁵¹ with involvement also by the Agriculture & Fisheries Council (A.R Young: 2011: 720, Woolcock & Hodges: 1996: 303). Under the Treaty of Rome (Art 311(3)), "the Commission shall make recommendations to the Council, which shall authorise the Commission to open the necessary negotiations". Initiated therefore by the Commission, the EU's draft negotiation mandate then undergoes extensive deliberation before being adopted by the FAC. The main consultative and advisory body dealing with trade matters within the EU is the Trade Policy Committee (TPC)⁵² which meets every Friday, formed of senior trade policy officials from each Member State⁵³. The TPC then reports to COREPER-I who in turn reports to the FAC where the mandate is formally approved.

Much has been written on the complexities of the EU's decision-making processes in trade policy, and the, often fraught, relationship between the Commission and Council in deriving the EU's negotiation position entering trade negotiations (e.g. Meunier & Nicolaïdis: 2011, Da Conceição: 2010, Dür: 2008, Damro: 2007, Kerremans: 2004, A.R Young: 2002). The EU is not a homogeneous block when it comes to building its trade objectives in multilateral negotiations. Member States have different priorities in their trading interests as well as different general approaches to trading practices and rule-making. At its most fundamental this is seen as a north vs. south divide with Member States in the north of Europe, including for example the UK, and the Scandinavian countries, typically seen to be more free trade and liberal in their trade preferences, whilst Member States in the south, for example France, Greece and Italy, are widely understood to be more protectionist. Although this portrayal is simplistic (see M. Baldwin: 2006), the argument nevertheless holds that Member States do have differing approaches to international trade and must therefore find compromise in deriving a common negotiation directive in the Council.

One method which demonstrates how Member States work together to find compromise may be seen in the TPC where a 'like-minded group'⁵⁴ of liberal Member States meet for

⁵¹ Formally the General Affairs & External Relations Council. The Council's title was changed following the passing of the Lisbon Treaty in 2009.

⁵² Formally the '133 Committee' and '113 Committee'. These titles refer to the relevant articles under the Treaty of Nice and Treaty of Amsterdam respectively

⁵³ The TPC also meets once monthly at Ambassadorial level (interview, Deputy Permanent Representative to the WTO, EU Member State E, Geneva, 20th May 2011)

⁵⁴ The like-minded group consists of the UK, Sweden, Finland, Austria, Germany, Netherlands, Ireland, Czech Rep, Slovenia, Latvia, Estonia and Malta

coordination meetings prior to full member meetings in order to form consensus amongst themselves before negotiating with more protectionist members (interview, senior trade official, EU Member State E, Brussels, 17th May 2011). Other practices for finding consensus are also evident. Within the Council for example, whilst qualified majority voting (QMV) is the rule for the majority of decisions taken on international trade matters, decisions have typically been adopted by unanimity (Meunier: 2000: 108, A.R Young: 2011, 720). This has continued since the passing of the 2007 Lisbon Treaty where, despite introducing further extension of QMV rules in the Council, international trade decisions have been largely consensual and agreed by unanimity (VoteWatch: 2012: 9).

This same practice has however also opened the EU up to criticism for having a lowest common denominator position within MTN reflecting only what the most conservative of its Member States will agree to (Paeman & Bensch: 1995, Meunier: 2005). This is most clearly evident in the EU's stance on trade liberalisation in agriculture where the defensive interests of those Member States most supportive of the domestic support provided by the CAP has resulted in the EU having a highly defensive negotiation stance which has translated into perceptions of a "fortress Europe" (Hanson: 1998). Commission efforts to remain faithful to the mandate set by the Council in upholding this defensive stance has also often resulted in the EU being criticised for being too inflexible with its negotiation partners (Smith & Woolcock: 1999: 444, A.R Young: 2007), and, similarly to that found in the EU environmental discourse, of spending too much time negotiating with itself rather than with its negotiation partners (Paemen and Bensch, 1995; M. Baldwin, 2006). Although, with negotiating partners having to accept that the EU can only move so far and so quickly, this apparent inflexibility has also been seen by some as a bargaining asset for the EU, with others having to shift their position in order to accommodate the EU's demands (interview, senior trade official, northern developed third country, Geneva, 24th May 2011, Meunier: 2000, 2005, Meunier & Nicolaïdis: 2006, Elgström & Stromvik: 2005). Where the Commission has however sought to move beyond the red-lines set by the Council this has also resulted in criticism of weakening the EU's negotiating position in the eyes of its negotiation partners (Da Conceição: 2010: 1123, Meunier & Nicolaïdis: 1999). The EU's ability to negotiate within MTN is therefore highly dependent upon its negotiation mandate and the majority support of its Member States.

However, as the world's largest single market in purchasing power parity terms, the EU is doubtless a significant presence within the WTO, and widely recognised as an actor of

some importance with trading interests spanning across all major elements of trade negotiations (interview, First Secretary to the WTO, southern developing country, Geneva, 19th May 2011, interview, Commercial Secretary, southern developing country, Geneva, 19th May 2011, interview, Deputy Permanent Representative to the WTO, southern developing country, Geneva, 19th May 2011, Elgström: 2007). With both defensive and offensive interests spanning every sector within the WTO's extensive trade negotiation agenda the EU is also represented within all negotiation fora (interview, Deputy Permanent Representative to the WTO, EU Member State B, Geneva, 20th May 2011) and therefore has a voice at every negotiation table. The EU's not inconsiderable trading power – and subsequent presence within the WTO - has moreover enhanced since the 1990s with enlargement gradually increasing its size from six to twenty-seven member states, substantially enhancing the size of the EU's market and GDP (Smith & Woolcock: 1999: 444, A.R Young: 2011: 718-19) and broadening further the EU's trade interests. It is to the pursuit of these interests within the WTO that we now turn.

4.2 WTO trade round negotiations: Major players and key issues

The WTO was launched in 1995 following the conclusion of the GATT's Uruguay Round in December 1994. Born out of the GATT, the WTO was created to establish, and monitor, the rules of trade between nations at the global level. Above all, the WTO is a negotiation forum which, now with 157 members⁵⁵, is responsible for facilitating multilateral trade negotiations or trade 'rounds'. Negotiators within the former GATT had already seen a marked increase in the MTN agenda during the Uruguay Round, with a focus not only on traditional issues including agriculture, textiles and clothing but, for the first time, seeing negotiations extended to include trade in services, intellectual property, and investment measures. Negotiations also focused upon strengthening the MTS more broadly through the establishment of new rules, a mechanism for dispute settlement, and the creation of the WTO. The result of the Uruguay Round was, "the largest liberalisation of trade in the world" (interview, Lord Brittan of Spennithorne, former EU Trade Commissioner, London, 19th April 2011), cutting tariffs across the board with a commitment by contracting parties not to raise them again on 95% of world visible trade (Hyett: 1996: 91), and the establishment of the WTO, widely accredited to the role played

⁵⁵ Vanuatu joined the WTO as its 157th member on 24th August 2012. It joins recently acceded members Russia (acceded on 12th August 2012), Fiji, Papua New Guinea, Solomon Islands, Tonga and Samoa (acceded on 10 May 2012). Laos has also been accepted to join the WTO and is expected to become the organisations 158th member in early 2013.

by the EU (Mortensen: 2009: 87, Jørgensen: 2009b: 204, M. Baldwin: 2006: 933, Ahnild: 2005: 131).

Entering the WTO as a founding member and its “*de facto* leader – or at least, cheerleader” (M. Baldwin: 2006: 933) the EU was amongst those most prominent in calling for further broadening of the multilateral trade agenda within the new WTO (Bridges Weekly: 1998, Van Den Hoven: 2004: 259). From as early as the 1994 GATT Marrakesh Ministerial where the Uruguay Round Final Act was formally signed, EU Trade Commissioner, Sir Leon Brittan had called for a new trade agenda to include the interface between trade and the environment, labour standards, and competition law (GATT: 1994) and, by 1996, went on to promote a new ‘Millennium Round’ (De Bièvre: 2006: 585, interview, Lord Brittan of Spennithorne, London, 19th April 2011). Shaping that objective was the Uruguay Round’s Final Act itself; including a ‘built in agenda’ detailing negotiations and agreement to be reached on several different topics by set dates in the future, and which included amongst them the further liberalisation of trade in agriculture (Kerremans: 2005).

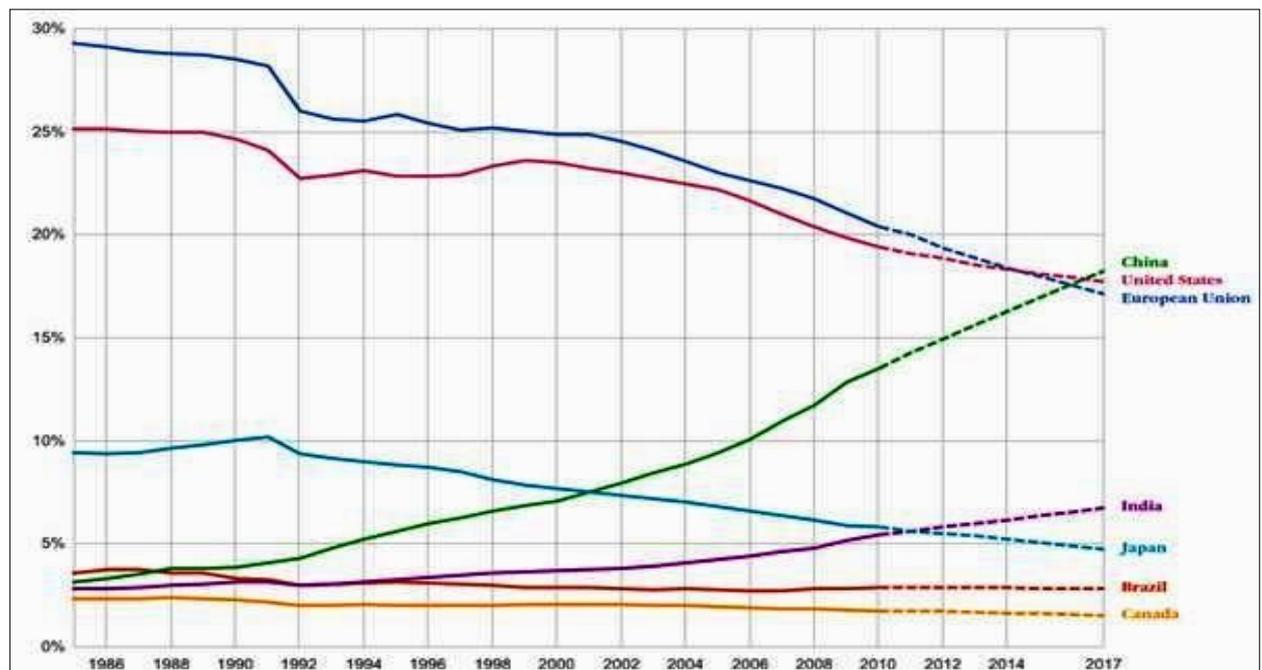
The WTO’s formative years were thus dominated by negotiations focused primarily on the WTO’s Work Programme and efforts to launch a new round of trade negotiations⁵⁶. With a failed first attempt at the WTO’s 3rd Ministerial Conference in Seattle in 1999, the *Doha Development Agenda* was launched in Doha in November 2001. Covering twenty-one subjects ranging from trade in agriculture, industrial goods, services, intellectual property, investment, procurement, competition, and addressing issues including the relationship between the WTO and Multilateral Environmental Agreements (MEAs) as well as the International Labour Organisation (ILO), the Doha Round is the largest Round of trade negotiations in history. What has followed has been over a decade of negotiations in what has also been the longest multilateral trade negotiation in history and which, at time of writing, still shows no clear end in sight.

A major challenge facing the Doha Round - and a principle challenge in bringing the Round to its subsequent conclusion - has been the shift in global balance of power – see Figure 4.1 below -within the MTS since the WTO was established and the Doha Round launched in 2001 (A.R Young: 2011, Pisani-Ferry: 2009: 26, M. Baldwin: 2006: 939).

⁵⁶ The period from 1996-2000 was also notable within the WTO for negotiations on basic telecommunications and financial services of which the EU was a key player. Space constraints prevent these negotiations from being addressed in this chapter however, for a detailed overview see A.R Young (2002).

Initially dominated by the ‘Quad’, formed of the EU, US, Canada and Japan as the core circle of negotiators, the Doha Round was launched when the emerging economies including India, Brazil and China, had still to establish themselves as major power brokers and were still considered, “essentially bit players” in the late 1990s-early 2000s (M. Baldwin: 2006: 939). Since the Round’s launch however, decision-making and core negotiations within the WTO have been undertaken through a plethora of ‘concentric circles’ (interview, WTO spokesperson, Geneva, 19th May 2011, Kissack: 2010: 71) with the ‘G4’ at their centre – including the EU, US, India and Brazil – but with other countries also heavily involved such as South Africa, China, Singapore, Japan, Mexico, Kenya, Costa Rica, Bangladesh, Mauritius, Canada, Chile, New Zealand and Australia (Lamy: 2004: 7). Since 2008 the core circle of negotiators has increased to a G5 to include China whose considerable growth over the 2000s has resulted in it becoming a major power broker within the WTO.

Figure 4.1: Shares of world GDP since 1985 (based on purchasing power parity)



Source: IMF, World Economic Outlook Data, April 2012, image from Google Public Data Explorer (estimated data for 2010-2017)

The Doha Round was however, also set up as a *development* agenda – aimed at integrating developing countries into the MTS through the reduction or elimination of trade barriers and lowering tariffs to enable them access to markets in the developed world. Specifically, the Doha Round was launched under the principles of ‘special and differential treatment’ and of ‘less than full reciprocity’ (LTFR) whereby developed countries would lower their

import duties and other trade barriers and allow special treatment to developing countries, but without the expectation of reciprocal concessions in return.

As Figure 4.1 above represents, shares of global GDP have seen a general decline by the EU, US, Canada and Japan since the 1980s, but an increase for the emerging economies and China especially, particularly since the early 2000s. This rise – and potential for further rise – by the emerging economies does therefore present the Doha Round negotiations with a major challenge with regard to its development dimension. This challenge is most clearly demonstrated in negotiations on industrial goods – or non-agricultural market access (NAMA). In these negotiations the EU and US have offensive interests in trying to gain access for their goods to other markets – not least in China, Brazil and India whose population growth and development creates considerable opportunities for American and European industries but where, at present, there is considerable ‘water’ between developing country’s bound tariff rates and the rates actually applied (HLTEG: 2011: 39)⁵⁷. In these negotiations the LTR principle requires that the EU and US lower their own tariffs for industrial goods but without the requirement of reciprocal access to others markets. For the emerging economies, and particularly those with large exporting interests, the LTR principle is an important means by which they gain access for their goods in the developed world. For the EU and US however it creates a potent avenue of increased competition to which there are few gains to be found through reciprocity, and which has led to increased demands for reciprocal concessions to be made by the emerging economies in order to give the EU and US, “something in return” (Mandelson: 2008a).

This same stalemate translates into other sectors of the Doha negotiations (see Appendix III for a summary overview of the positions of the major players across key negotiation issues). With the Doha Round premised on a single undertaking – whereby nothing is agreed until everything is agreed – negotiators use the concessions they must make in some sectors of the negotiations as leverage to gain ground in others. Thus, for the EU, its position in the Doha Round may be best understood as a dual strategy of aiming to

⁵⁷ Applied tariffs are the duties actually charged on imports. Bound tariffs are the commitment not to increase a rate of duty beyond an agreed level. Following the Uruguay Round agreement bound rates were applied to 100% of agricultural tariffs and 99% on NAMA tariffs for DCs. Due to liberalisation amongst many DCs since the Uruguay Round however they have voluntarily chosen to levy ‘applied tariffs’ at much lower rates. The scope – or ‘water’ – nevertheless remains for these countries to significantly increase their applied tariffs if they became more protectionist and which would still be legal under the WTO. Bound tariffs on industrial products in the EU are between 4-5% and are 30% for the emerging economies (House of Lords: 2008: pt.42)

concede as little as possible in the agricultural negotiations, where it is most defensive, whilst trying to gain as much as it can in market access for its industrial goods and services in other markets (see also A.R Young: 2007: 123, Paeman: 2000: 54-57). Offers made by the EU, as well as others, within the Doha Round tend therefore to be conditional on progress made in other areas of the negotiations and in gains it can make in the package as a whole.

In agriculture this is a cause of particular contention for the EU who, as the world's largest agricultural market, is the main focus of demands for 'fairer' trade. Thus across each of the three pillars of the agricultural negotiations – market access, export subsidies, and domestic support – it is the EU that sees itself as, "the major net loser in any deal" (Mandelson: 2008a). The EU's conservative stance and preferred objectives of maintaining the status quo by keeping the 'multi-functionality' of the agricultural sector intact – and thus of maintaining in some way its protected status from trade liberalising rules – has met considerable resistance by the US as well as the emerging economies. This has been most obvious in the emergence of the G20 – a negotiation group forged of all three emerging economies plus other developing nations in the common pursuit of agricultural liberalisation by the developed world. The agriculture negotiations during the Doha Round are therefore best understood as a tripartite of divergent interests between the EU, US and G20.

In balancing against the concessions it has been called on to make in agriculture, the EU has been the most ambitious amongst the G4/5 in demands for liberalisation across other sectors of the negotiations. On NAMA and in services the EU has, along with the US, been at the forefront of demands for more ambition by the emerging economies in opening up new sectors and of lowering applied tariffs. In these sectors however, the emerging economies have been highly resistant, preferring instead to cut bound rates in areas of existing liberalisation only. In addition, divisions are apparent in the level of progress sought by the EU and the emerging economies over 'new' trade issues tackled under the Doha Round. First debated at the WTO's 1st Ministerial Conference in 1996 at Singapore, the 'Singapore Issues' – including trade in investment, competition, procurement and trade facilitation – have been particularly pushed as an agenda item by the EU and were originally included under the Doha Declaration. For the EU, whose approach was a "global negotiation without limits" (Paeman: 2000: 53), these new issues represented sectors for economic gain. For the emerging economies however, these issues have been

less of a priority – preferring instead liberalisation of the ‘built-in agenda’ issues and, not least, in the crux issue of agriculture.

MTN within the WTO thus involve highly divergent positions between what are now the three major power blocks within the MTS – the EU, the US, and the emerging economies. Whilst this brief overview misses the more nuanced positions of each of the major players, it has highlighted the significant challenges at play within the WTO and the difficult task facing negotiators in bringing the Doha Round to a satisfactory conclusion. Over the course of the WTO’s negotiations – detailed in the timeline provided in Table 4.1 below - these divisions have been most notably manifest in delays focused less upon negotiating a consensus deal, and more on the framework, rules and formulae (known as ‘modalities’) by which such a deal might start to take shape. Initially intended under the Doha Declaration to be concluded by 2004, modalities have continued to elude negotiators throughout the Doha Round’s now decade-long history. For the EU, as the principle *demandeur* for a new Round of trade negotiations, this impasse has been a major cause of consternation and a significant challenge for its own performance. In the following sections that performance is evaluated over the period of WTO negotiations from 1996 to 2011.

Table 4.1: Timeline of WTO negotiations (1996-2011)

Year	Ministerial/ Council	Major decisions adopted (where applicable)	Negotiation Focus
1996	MinCon1: Singapore	Singapore Ministerial Declaration	Focus upon the WTO's Work Programme, the implementation of the Uruguay Round Agreement and broadening the agenda with the initiation of negotiations addressing new issues including core labour and environmental standards, trade in competition, investment, trade facilitation and government procurement. Focus also on the integration of the developing world, and LDCs particularly, into the MTS.
1998	MinCon2: Geneva	<i>Geneva Ministerial Declaration</i>	Symbolic Conference in honour of the 50th anniversary of the GATT. Negotiations focus on plans to launch a 'Millennium Round' of trade negotiations incorporating new issues on the trade agenda. No substantive developments or agreements made.
1999	MinCon3: Seattle	<i>n/a</i>	Intended to launch a new round of trade negotiations that would cover the 'built-in agenda' as well as the Singapore Issues and other new agenda items. Ends with failure to find consensus.
2001	MinCon 4: Doha	Doha Ministerial Declaration	Launching a new round of trade negotiations. Focus particularly on developing-world issues as well as new trade agenda items. Results in the launching of the Doha Round
2003	MinCon 5: Cancun	<i>n/a</i>	Intended as a stock-taking conference for the Doha Round's mid-term review. Focus particularly on the core issues of modalities for the Agriculture negotiations and the inclusion of the Singapore Issues on the agenda. Conference ends with no consensus
2004	Gen Council: Geneva	The 'July 2004 Package'	Negotiations aimed at the agreement of a package of framework agreements for negotiation modalities. Produces a framework of modalities on agriculture and industrial goods
2005	MinCon 6: Hong Kong	Hong Kong Ministerial Declaration	Conference aimed at breaking deadlock and narrowing consensus towards modalities. Focus particularly on agriculture and the elimination of export subsidies as well as LDC issues including Aid for Trade and Duty-Free Quota Free access. Some narrowing of positions but no major breakthroughs.
2006	Gen Council: Geneva	<i>n/a</i>	Meeting for the agreement on modalities for negotiations in agriculture and industrial goods to be agreed. Ends in the suspension of the Doha Round on 23rd July 2006
2008	Gen Council: Geneva	The 'July 2008 Package'	Aimed at agreeing modalities in agriculture and non-agricultural market access (NAMA) and to look at the next steps towards concluding the Doha Round. Negotiators come close to consensus for the Round's completion but are stalled at the last over disagreement on the Special Safeguard Mechanism (SSM). Some narrowing of positions leads to a further framework for negotiations agreed in December but no substantive breakthroughs.
2009	MinCon 7: Geneva	<i>n/a</i>	Negotiations concentrate on the theme of "The WTO, the Multilateral Trading System and the Current Global Economic Environment" in light of the global recession. No significant breakthroughs for the Doha Round
2011	MinCon 8: Geneva	'Elements for political guidance' Chairman's Summary	Negotiations on the Doha Round focus upon finding ways through impasse by considering alternatives to the single undertaking and recommit efforts to bring the Round to a conclusion. No substantive breakthroughs but agreement to explore 'early harvest' approach for some aspects of the Doha negotiations

Source: Author's own compilation

4.3. EU performance in the WTO's formative years: From a 'Millennium' to Doha Round (1996-2001)

EU performance in this, and the following two sections, is evaluated during three phases of the WTO's negotiating history, covering eight key negotiating events as highlighted in Table 4.1 above. In this section EU performance is evaluated during the WTO's formative years from 1996 to 2001 and covers three key Ministerial Conferences⁵⁸ including: the WTO's 1st Ministerial in Singapore (1996) at which time the WTO's Work Programme was first formally deliberated, the 3rd Ministerial in Seattle (1999) where a new 'Millennium Round' of trade negotiations was attempted but failed to be launched, and the 4th Ministerial in Doha (2001) where the Doha Round was formally launched. As with the performance evaluations conducted in Chapter Three, each negotiation focused upon in this chapter represents a period of significance to the progress of the WTO's MTN and may be considered 'milestone' conferences. Performance evaluations are premised on the analytical framework developed in Chapter Two. As such, in each negotiation the EU is discussed first in light of its negotiation positioning and its ambitions relative to what it is trying to achieve and to the preferences of the other major actors. An overall performance evaluation is then made based upon the EU's negotiation behaviour (assessed on the performance indicators unity, outreach and significance) and effectiveness, and assessed on a scale of very good, good, fair, poor or very poor performance.

A good performance and the makings of a Work Programme (Singapore, 1996)

For the EU, the launch of the WTO in 1995 came during what may be seen as a 'Golden Era' for EU trade politics (M. Baldwin: 2006: 932). In 1992 the EU had established the Single European Market, reformed the CAP and in 1995 gained three new members⁵⁹. The EU was not only a leading advocate of the MTS but, as the largest single market within the WTO, also brought a great deal to the negotiation table. This had not however, always been the case. During the early years of the Uruguay Round the EU has been widely criticised for its "underperformance" (A.R Young: 2011), with assessments focusing upon its lack of unity (Paeman & Bensch: 1995: 55-56), challenges over its negotiation mandate (A.R Young: 2002, 2011, Devuyt: 1995), its reactive strategy (Paeman & Bensch: 1995:

⁵⁸ Ministerial Conferences are the highest decision-making body of the WTO. Whilst it is recognised that many decisions take place within the WTO's on-going negotiation environment in the context of smaller committee and working party groups, the main decisions concerning the course and outcome of MTNs are nevertheless deliberated and adopted at the Ministerial level. WTO Ministerial Conferences typically take place biennially and only for two to four days in total.

⁵⁹ Austria, Finland and Sweden

94, Jørgensen: 2009b, A.R Young: 2011), lack of substantive proposals (Meunier: 2005: 106), and an overall reticence towards the GATT due to its defensive posture over the CAP (Paeman & Bensch: 1995: 98, Devuyt: 1995, Woolcock & Hodges: 1996, M. Baldwin: 2006: 932). Following two failed GATT Ministerial Conferences in Montreal in 1988 and Brussels in 1990 – for which the EU was itself roundly blamed (Woolcock & Hodges: 1996: 315, Paeman & Bensch: 1995: 187, Hofreither: 2008: 340) – the EU’s performance within the GATT was however then seen to have a marked ‘rise’ (A.R Young: 2011). Most notably the EU’s approach towards MTNs shifted, moving away from its stance as reluctant partner to instead taking the role of leading advocate through the proactive pursuit of a strengthened rules-based system, the creation of a ‘Multilateral Trade Organisation’ (GATT: 1990), and a strengthened dispute settlement mechanism (Paeman & Bensch: 1995, Devuyt; 1995, Woolcock & Hodges: 1996, A.R Young: 2011). The EU thus entered the WTO as its major driving force (interview, Hugo Paeman, former Uruguay Round lead negotiator for the EU, Brussels, 16th May 2011).

From the WTO’s inception the EU was foremost in pushing for further broadening of the MTN agenda. Entering the Singapore Ministerial Conference in 1996 the EU’s negotiating position was progressive in not only calling on the WTO’s future work programme to encompass and expand upon the built-in agenda set out in the Uruguay Round Final Text, but also to address new trade issues including the priority issues of trade in investment and competition, and calling for a renewed focus on the links between environmental and labour standards and trade. It was also progressive in calling for, “the definition of concrete actions in order to underpin the involvement in and commitment to the WTO system of developing countries, in particular the least developed countries” (Council: 1996: (3)). During his statement to the Singapore plenary session European Trade Commissioner, Leon Brittan, moreover emphasised his hope that it would be possible “to launch in due course the further broad-based round of talks, which could probably be called the Millennium Round’ (WTO: 1996a)⁶⁰. Relative to its negotiation partners the EU’s calls for a broader trade agenda for the WTO was to meet in some part with their own preference structures. Most importantly the US had shown openness to a broader range of topics being included under the WTO’s agenda, notably highlighting government procurement, trade and environment and examining the “nexus between trade and labour

⁶⁰ Although it is noted that calls for a new Round of MTN were not formally endorsed by the European Council until its meeting in Cologne in June 1999 (European Council: 1999). These early calls by Sir Leon Brittan were intended to launch the concept of a new Round as a starting off point (interview, Lord Brittan of Spennithorne, former EU Trade Commissioner, London, 19th April 2011)

standards with a modest work programme in the WTO” (WTO: 1996b). The US moreover indicated a willingness, “to go along with others who wish to begin a modest programme in the areas of investment and competition, as part of a balanced overall agenda for the WTO” (WTO: 1996b). Brazil also, of the newly emerging economies, was also open to negotiations on competition, investment and procurement (WTO: 1996c) although was resolutely opposed, along with India, to any new negotiations focusing upon labour standards (WTO: 1996c, 1996d). Whilst less progressive in their preferences for the WTO’s work programme comparative to the EU and with a general negotiation fatigue affecting negotiators following the Uruguay Round (interview, Hugo Paeman, Brussels, 16th May 2011, Euro politics: 1996), US and Brazilian openness to new issues being included nevertheless created some common ground for the EU to build upon.

In pursuing its moderately ambitious negotiation objectives at Singapore the EU was then to give what may be assessed as a good performance reflecting both a high level of negotiation behaviour and a moderate effectiveness. Focusing first on its negotiation behaviour, the EU entered the Singapore Ministerial united behind the Trade Commissioner. During the Ministerial the Commission was at the forefront of the negotiations representing the EU Member States with third countries and it was only during the plenary session that Member States spoke in their national capacity with many openly endorsing the statement already made by the EU Trade Commissioner (i.e. WTO: 1996e, 1996f). In addition to its high level of unity, as one of the Quad the EU was moreover highly significant in this period of negotiations, participant in all negotiation fora including over the drafting of the Singapore Declaration text. EU outreach during Singapore was moreover high – adopting a proactive strategy that sought to persuade third country officials that their lack of appetite for new negotiations for further liberalisation was unwarranted, the Commissioner was active in seeking to persuade negotiation partners of the need to at least open discussions for a future Work Programme and further in persuading others of the need for a Plan of Action in tackling LDC issues (Bridges Sustainable Development Update: 1996).

Concluding the Singapore Ministerial on 13th December 1996 with agreement on the Singapore Ministerial Declaration (WTO: 1996e) and the adoption of a Comprehensive and Integrated WTO Plan of Action for LDCs (WTO: 1996f) the EU could moreover, claim some goal-attainment from the WTO’s 1st Ministerial Conference. Comparison of the Ministerial outcome documents with the EU’s Council Conclusions reflects several

achieved objectives, including not only the adoption of a Plan of Action for LDCs (1996f) – a key priority for the EU – but also an agreement for work on future negotiations, on what were to become termed the ‘Singapore Issues’ (trade and investment, competition, public procurement and trade facilitation), to be taken forward through the establishment of new committees under the WTO’s framework (WTO: 1996e: pt. 16, 20-22). On other issues the EU also achieved recognition of the need for a swift conclusion of several of the outstanding services negotiations from the Uruguay Round, including on financial services and basic telecommunications (WTO: 1996e: pt.17). The EU was however unsuccessful in securing commitment for negotiations focusing upon trade and core labour standards. Here the objections of many developing countries (DCs) were prominent and the Declaration reflected instead a, “renewed commitment to the observance of internationally recognised core labour standards” (WTO: 1996e: pt. 4), but stressed that the ILO was the competent body to deal with this issue rather than the WTO itself. Whilst the outcome from Singapore did also create new committees for focusing attention onto the new trade issues sought by the EU, it was not as ambitious an achievement as the EU would have preferred, with no firm commitment for negotiations to actually take place, or any mention of a new trade round being launched at any future date. Consequently, the EU could claim only moderate effectiveness in the outcome of the Singapore meeting. Combined however with its high level of negotiation behaviour the EU demonstrated a good overall performance at Singapore with the makings of a new Work Programme for the WTO set in motion.

A fair performance amid a failed ‘Millennium Round’ launch (Seattle, 1999)

Progressing from its initial efforts in Singapore, in June 1999 the European Council formally endorsed the Commission’s mandate to pursue a comprehensive new Round of trade negotiations within the WTO (European Council: 1999). In October 1999 the Council further approved the full breadth of the Commission’s negotiating directives in which all of the EU’s objectives for new trade negotiations, covering topics from agriculture, services, trade and investment, competition, trade facilitation, NAMA, trade and environment, trade-related aspects of intellectual property (TRIPs), government procurement and technical barriers to trade were included in detail (Council: 1999). Continuing to be progressive for the launch of a ‘Millennium Round’, the EU entered the WTO’s third Ministerial Conference in Seattle with what was, relative to Singapore, a high ambition negotiation position. Following the WTO’s 1st Ministerial in 1996, efforts to energise WTO members to support further liberalisation had met with only limited success.

The US especially had shown increasing reluctance about a new trade Round following Singapore, with former USTR and Seattle Ministerial Conference Chairperson, Charlene Barshefsky notably sceptical (Blustein: 2009: 66) and the US instead supporting a ‘mini-round’ that was narrow in scope and focused solely on issues including agriculture, services, intellectual property, and a commitment to ban tariffs on e-commerce (Steinberg: 2002: 353). The developing world was also unhappy with the prospect of a new round, due in large part to what was seen as a failure by the developed world to so far implement their commitments under the Uruguay Round agreement (WTO: 1999a). Discontented with what was seen as “critical gaps” (WTO: 1999b) in the balance of benefits obtained by the developed compared to the developing world within the MTS thus far, developing countries firmly opposed negotiations on the Singapore Issues, and on the environment or labour standards as distracting from core issues including agricultural market access, capacity building for DCs and the definition of TRIPs during public health crises (Steinberg: 2002: 353). For the developing world therefore the EU position was of little interest and even in cases an “anathema” (A.R Young: 2007: 126).

Already therefore a preference outlier in pushing for a Millennium Round to be launched at Seattle, the EU’s performance has subsequently been criticised for its overly-ambitious objectives (Bhagwati: 2001: 23-24) and inability to adapt to the conditions presented by the Seattle negotiation environment (Smith: 2001). It is here argued that the EU gave a fair performance at Seattle, continuing to demonstrate a high level of negotiation behaviour, but with a low level of effectiveness. Continuing to represent itself as a highly united actor and maintaining its significance as one of the core circle of negotiators the EU had also, in the year leading up to the Seattle meeting, been highly active in trying to persuade third countries of its goals. From 1998 onwards the EU promoted heavily the concept of a Millennium Round (Bridges Weekly: 1998) and in April 1999 the European Trade Commissioner conducted a *tour des capitales* of those WTO members⁶¹ most reluctant to agree to a new Round to try to garner support (Bridges Weekly: 1999a, interview, Lord Brittan of Spennithorne, London, 19th April 2011). On agriculture the EU had also, in the week prior to the Seattle Conference begun to cut its budget supports for agricultural export subsidies in a move aimed at, “building good faith with its trading partners” (Bridges Weekly: 1999b). Such moves were however to prove of limited success as the developing countries, led predominantly by India, continued to resist pressure from the EU

⁶¹ Including Egypt, India, Malaysia and Indonesia amongst others

and who criticised the EU instead for its avoidance of making any real commitment to agricultural liberalisation (Bridges Weekly: 1999c).

The outcome and ultimate failure of the Seattle Ministerial to find agreement has been widely reported (Scholte: 2000, Schott: 2000). No consensus was reached, no Ministerial Declaration was adopted, and no new trade round launched. For the EU, the failure at Seattle was a major set-back, argued by some to have even challenged its power in international relations (Van Den Hoven: 2004: 258). Such claims are however highly exaggerated. Whilst the failure at Seattle resulted in the EU having low effectiveness, it nevertheless performed well in terms of its negotiation behaviour. The extent of its outreach particularly, although in many respects fighting a losing battle, was nevertheless impressive and emphasised the EU's proactive and determined strategy towards the WTO MTN. It also firmly sowed the seeds for launching a new round of MTN which continued to grow in the lead up to the next WTO Ministerial.

A good performance and the launch of the Doha Round (Doha, 2001)

Two years later delegates met again at the WTO's 4th Ministerial Conference hosted in Doha, Qatar in November 2001. Entering the negotiations the EU had maintained its same progressive positioning, with its mandate based on the October 1999 Council Conclusions agreed prior to Seattle (Council: 2001b)⁶². In a change from Seattle however the US stance, amongst others, was significantly altered approaching Doha. The events of the New York and Washington terrorist attacks two months previously had caused a significant shift in the US position (Blustein: 2009), moving it from a reticent partner to supporter for a new trade round. As Pascal Lamy (2004), then European Trade Commissioner, later commented, it was "the global shock of 9/11 [that] persuaded world leaders, including those sceptical of multilateralism, to look for an international governance success". With the EU shifting its focus following Seattle onto the development dimension of a new trade Round (Van Den Hoven: 2004), many other developing countries had also altered their stance approaching Doha (Steinberg: 2002: 353), further closing the gap in preference structures between the major interest groups. Thus for the EU, whose core goal remained the launch of a new comprehensive trade round, its positioning entering Doha was moderately ambitious compared to Seattle.

⁶² Efforts to modify the EU's position after Seattle to allow for greater flexibility failed to find agreement amongst EU Member States (Young: 2007: 126) and, from 2000 onwards the Council maintained its focus on the October 1999 conclusions as the premise for its negotiation mandate.

As the principle *demandeur* for a new trade round, the Doha Ministerial is a negotiation of special importance to the EU and has received some attention already by scholars. Focus particularly has been given, for example, to the EU's outreach and tactics in bringing about the launch of the Doha Round (Van Den Hoven: 2004, Kerremans: 2004) as well as upon its effectiveness in attaining its goals within the Doha agenda (A.R Young: 2007: 127, Kerremans: 2005). Within these accounts some disparity exists however, as to how well the EU was seen to perform at Doha. For those focusing on the EU's outreach and strategy the picture that emerges of the EU's performance at Doha are highly positive with the EU seen to show itself in a leading and pivotal role both to the course of negotiations and their outcome (see Van Den Hoven: 2004). More outcome-oriented studies however highlight a more balanced perspective with the EU securing some successes from Doha but failing to achieve all of its objectives for the Round (see A.R Young: 2007: 127). Contributing to that debate by assessing the EU's overall performance as a measure of both its negotiation behaviour (high) and effectiveness (moderate), it is here argued that the EU had a good overall performance at Doha.

Entering the negotiations represented by European Trade Commissioner Pascal Lamy the EU's unity at Doha was initially challenged by Irish and French public defences of the CAP as reflecting the EU's main priority (New York Times: 2001, Van Den Hoven: 2004: 273). Despite this, the Commission remained the EU's official voice during the Doha negotiations. Whilst Member States continued to detail national areas of priority during the plenary session, they nevertheless maintained EU cohesion with EU Council Conclusions and with many Member States endorsing the statement made by the Commissioner (WTO: 2001c) in their statements (see for example WTO: 2001a, 2001b). The EU's behaviour within the negotiations was further enhanced by the EU's continued significance in the Doha agenda's drafting exercises and as an important participant of the 'green room'⁶³ negotiations, including endgame bargaining on the final night (Bridges Weekly: 2001). As *demandeur* for a new Round it was moreover a key participant and essential to the decisions being taken during the Conference. Supplementing its high unity and significance, the EU also demonstrated a high level of outreach both in the run up to and during the Doha meeting. Continuing to pursue the same proactive strategy adopted by his predecessor, Pascal Lamy had conducted a further *tour des capitales* of developing countries prior to Doha in an effort to bring more countries on board and build up the

⁶³ The green room is a meeting room at the WTO in Geneva where the WTO President chairs meetings with a core of 20-25 Members. Closed room negotiations that take place during Ministerial Conferences amongst a similar size group are also typically referred as to 'green rooms'.

necessary support to launch a new Round (interview, Hugo Paeman, former EU lead negotiator in the WTO, Brussels, 16th May 2011). One *demarché* in particular was to Brazil four months prior to Doha where Pascal Lamy worked hard to gain the support of the Mercosur members (Van Den Hoven: 2004: 262-3). Recognising that its negotiation position was still at odds with the developing world the EU's strategy had further shifted to address the development issues of a new trade round. Altering its tactics to focus on what the MTS could do for the developing world the EU promoted its own internal policies such as the Everything But Arms Initiative, providing duty-free and quota-free (DFQF) access for LDC products to the EU (Kerremans: 2004: 373); fought for a WTO waiver for its preferential trade agreement with the African, Caribbean, and Pacific (ACP) countries, and further accepted implementation of the Uruguay Round commitments on textiles in exchange for DC support in other issues (Van Den Hoven: 2004: 264). Further demonstrating flexibility over DC demands for clarification of the TRIPs language relative to the Access of Medicines and also modifying its own language over core labour standards (WTO: 2001e), the EU was then successful in persuading many DCs to support a new Round.

The Doha Ministerial Statement and subsequent Declarations signed at Doha moreover reflected a number of symmetries with the EU's objectives set out in the Commissions' negotiation mandate. Most notably the EU attained its core goal of securing a broad-ranging and comprehensive new Round, encompassing not only trade in agriculture but also, importantly, in other issues including services, NAMA, TRIPS, the relationship between multilateral environmental agreements (MEA) and trade, and, significantly, in the Singapore Issues, all of which were to be achieved in a Round that would be agreed as a single undertaking (WTO: 2001f). Much aided by US support and by the supportive role played particularly by USTR Bob Zoellick (interview, WTO spokesperson, Geneva, 19th May 2011, New York Times: 2001, Blustein: 2009), the EU was able to secure the necessary support in launching the largest MTN in history.

In a further success for the EU's development approach for the Round (van den Hoven: 2004, Council: 2001b, pt. 4), negotiations were to be launched as a Doha *Development* Agenda, with principles aimed at providing DCs with special and differential treatment (WTO: 2001b: pt.44) and less than full reciprocity (WTO: 2001d: pt. 16), and with negotiations specifically geared towards trade facilitation through enhanced technical assistance and capacity building for DCs (WTO: 2001d: pt. 27). On top of this, in

response to the EU's high outreach in pushing development issues to secure developing world support for the Round, the EU attained its goals of receiving a waiver to its preferential trade agreement with the ACP countries (WTO: 2001e), recognition by others for duty-free quota-free market access for LDCs, as well as clarification over TRIPs access to medicine and public health crises (WTO: 2001f). Whilst the EU did have to 'accept the unacceptable' (Bridges Weekly: 2001) in agreeing to a comprehensive agriculture mandate which would include the phasing out of export subsidies, it did so with confirmation that 'non-trade concerns' would also be taken into account within the negotiation remit (WTO: 2001d: pt. 13) thus achieving its objective in recognising the 'multifunctional' role of agriculture (Council: 1999: pt. (a))

Despite this, the EU was only to achieve moderate effectiveness at Doha. Notably, on its more ambitious objectives the EU failed to achieve all that it sought from the new Round. This was clearly evident on many of the new issues included under the Doha Declaration, for example with EU efforts to secure negotiations recognising the environmental 'precautionary principle'⁶⁴ and clarification of the rules between WTO regulations and eco-labelling systems (Council: 1999: (g)), reduced to negotiations examining the link between WTO rules and trade measures taken under MEAs only. On core labour standards, which the EU maintained as a negotiation objective, the topic was entirely dropped from the negotiation agenda and included only in reference to the need for greater communication between the ILO and WTO (WTO: 2001d:pt. 8). Importantly, on the Singapore Issues moreover, whilst being their principle advocate and achieving recognition for negotiations to take place, the EU had to accept that they would not be negotiated formally until after the WTO's fifth Ministerial Conference at the end of 2003 and, even then, only with full consensus from all WTO members. As a major sticking point for many DCs still, especially India, this postponement was aimed as a concession between EU and DC interests. Subsequently the scope of the Doha Round was far less than the EU initially sought for it such that it was, "not ideal from a European perspective... But everyone made the concessions necessary to achieve a balanced result." (Lamy: 2004).

4.4. EU performance in the Doha Round (2003-2005)

Following the Doha Round's launch in November 2001 negotiations within the WTO were to move into a new phase focusing more explicitly on 'modalities' (the timeframes, rules

⁶⁴ The 'precautionary principle' is premised on the understanding that, in order to protect the environment, "where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation." (UNEP: 1992)

and formula) to be employed in negotiating the necessary trade liberalisation in order to bring the Round to a conclusion by the deadline, set in the Doha Declaration, of 2004. A deadline of the Fifth WTO Ministerial Conference in 2003 to be held in Cancún, Mexico was stipulated in finalising modalities in order to move the negotiations into their final determining phase. What was to follow however was a period of much consternation amongst WTO delegates, several missed deadlines, and the eventual suspension of the Round in July 2006. In this section, EU performance will be evaluated during this first half of the Doha Round negotiations, with particular attention to its performance during three key negotiating events including: the Cancún Ministerial in 2003 where efforts to finalising modalities faltered over agriculture and the Singapore Issues, the July 2004 General Council meeting where a framework for negotiation modalities was agreed, and the 2005 Hong Kong Ministerial where agriculture modalities persisted to cause discontent between the major players and resulted in an extension of the Round's conclusion to 2006.

A fair performance amid a changing negotiation environment (Cancún, 2003)

According to former European Trade Commissioner Pascal Lamy (2004: 6), “The 22 months between Doha and Cancún were a study in frustration”. Aiming to finalise negotiations on modalities and to launch negotiations on the Singapore Issues, the Cancún Ministerial was designed to act as the Doha Round's Mid-Term Review. Following the Doha launch however negotiations had made little head-way. Agriculture in particular had shown itself to be an early crux issue for the Round with the EU particularly targeted as the main defensive force preventing what was seen by much of the developing world, and to some extent the US, genuine liberalisation in agricultural trade. With disagreement within the Council over the EU's proposal to the agriculture negotiations in early 2003 (Bridges Weekly: 2003a), progress towards modalities was notably slow with the EU blamed by the US, Australia and many DCs for its failure to act flexibly in the spirit of the Doha Round and for preventing any real progress towards market opening (Bridges Weekly: 2003b). The Singapore Issues also presented a major issue for negotiators with the EU, along with Japan and South Korea, continuing to push for their inclusion on the Doha Round agenda but which continued to be resisted by the majority of DCs. Whilst the US remained open to negotiations on government procurement and trade facilitation (Blustein: 2009: 154) the EU was increasingly finding itself in a minority over broadening the Doha agenda to include all four Singapore Issues.

Entering Cancún the EU was thus presenting another high ambition negotiation stance. Whilst finding some zone of agreement with the US over agriculture following the EU's own CAP reform in 2003, and with backing from some countries⁶⁵ over the Singapore Issues, the EU nevertheless found itself as a preference outlier. With developing countries continuing to show resistance both to the extent of EU commitment towards market liberalisation in agriculture (Blustein: 2009: 139), and its preference for negotiations over the Singapore Issues, the EU would have a fight on its hands in achieving its primary objective of securing modalities for the comprehensive, balanced and ambitious MTN it was seeking (Council: 2003a).

Much attention has been given to the dissection and overview of the WTO's 'failed Ministerial' (Kerremans: 2005: 33) at Cancún and the EU's role within it (Jørgensen: 2009b, Mortensen: 2009, Hofreither: 2008, A.R Young: 2007, M. Baldwin: 2006, Kerremans: 2004). Within this literature a general perception is of a failed EU performance, with criticisms focusing particularly upon its outreach or unity. The EU has, for example, been criticised for failing to fully take into consideration the level of DC discontent towards its agricultural positioning at Cancún (Mortensen: 2009: 86, M. Baldwin: 2006: 939). Others suggest that on the Singapore Issues the EU was either not flexible soon enough in meeting the demands of the DCs (A.R Young: 2007: 129) or too flexible by giving into their demands prematurely (interview, senior official, WTO unit, DG Trade, 12th May 2011, see also Kerremans: 2004: 392). Furthermore, the EU has been accused for failing in terms of its unity, with divisions between its Members over the Commissions' offer in the agriculture negotiations perceived to have weakened its negotiation stance (Kerremans: 2004). In fact it is here argued that the EU's performance at Cancún was less of the failure than has thus far been portrayed but that it given a fair performance overall.

Entering the negotiations represented by the European Trade Commissioner the EU maintained its cohesion and united front during the whole of the Cancún negotiations with Member States and the Presidency maintaining the practice of allowing the Commission to speak on their behalf. This demonstration of high unity was all the more noteworthy in light of the internal disputes that had taken place within the EU in the run up to Cancún with several member states – notably France and Ireland – challenging the Commission's negotiation mandate (Kerremans: 2004: 374). Despite the increased representation of the

⁶⁵ Including Singapore and Japan

EU Agriculture Council within the EU delegation at Cancún (Council: 2003b), and the need for the Commission to maintain close communication with the 133 Committee during negotiations (Bridges Weekly: 2003c) the EU nevertheless managed to preserve its one official voice within the negotiations themselves. Continuing to be a key player within the negotiations the EU also maintained its high level of significance, remaining as a core player of the critical ‘green room’ negotiations that sought to find the necessary consensus between the major interest groups in bringing about a successful conclusion (Bridges Weekly: 2003c, Blustein: 2009: ch. 7)

The EU’s strategy towards Cancún was also proactive, even with regard to its more defensive stance on agriculture. In January 2003 the Commission had submitted its offer for agricultural concessions: cuts to EU trade-distorting domestic support by 55%, average tariffs by 36%, and a substantial cut in the volume of export subsidies (Hofreither: 2008: 351). In July 2003 at a mini-ministerial held prior to Cancún in Montreal, European Trade Commissioner Pascal Lamy further initiated an EC-US joint working paper that would seek to move negotiations forward through establishing broad proposals across all three pillars of the agriculture negotiations which would act as a compromise between EU and US agriculture stances (Blustein: 2009: 140). The text that was agreed was subsequently adopted as part of the Draft Declaration for discussion at Cancún (Hofreither: 2008: 356). In addition, in a call made by the EU’s Agriculture and Fisheries Council in July 2003 (Council: 2003b), the Commission had also conducted an information campaign with the EU’s trading partners to inform them of changes brought about through the CAP reform and thus of its renewed flexibility over the agriculture negotiations.

Despite its efforts, the EU’s outreach was moderated by its failure to generate sufficient support from DCs in favour of its proposed draft modalities. Many DCs, including the African Union and broader G90, found the proposal to be too short on specifics, with no clear timeframes or figures included and which was seen to be, “retreating from the Doha spirit insofar as domestic support is concerned” (WTO: 2003a). For the emerging economies moreover, the EC-US joint paper on agriculture was seen to antagonize DCs, being an indication of efforts by the ‘Big Two’ not only to dominate the agenda but also to retract on their commitment under the Doha Declaration to reduce export subsidies (House of Lords: 2003: pt. 39, Blustein: 2009). Responding swiftly and concertedly the emerging economies agreed to an alliance – the G20 – in which they would, together, seek market opening in agriculture from the developed world.

EU outreach in other areas, particularly on the Singapore Issues also failed to garner the necessary support and despite offering flexibility by unbundling the four Singapore Issues to be treated separately, many DCs, and particularly India, remained resolutely opposed to their inclusion on the agenda, threatening to block any deal that included them (Bridges Weekly: 2003, WTO: 2003b). The result at Cancún was a failure to find the necessary consensus with the meeting ending with no outcome document, no modalities agreed, and which subsequently resulted in the EU having low effectiveness.

The failure at Cancún has resulted in a blame game being played out in which the EU, as a major player, has invariably been highlighted. The EU has been blamed particularly for failing to take into account the force of feeling amongst DCs or of recognizing that a new topography had emerged within the MTS (Mortensen: 2009: 86). Certainly Cancún represented a major shock for the EU (Lamy: 2004: 7), with one DG Trade official present at the negotiations commenting that, “People were coming back from the conference trying to realize what happened. The G20 formation with India who is defensive and Brazil who is offensive in their interests finding common ground to oppose the EC-US joint paper was something we had never seen before and we were taken by surprise” (interview, senior official, WTO Unit, DG Trade, Brussels, 12th May 2011). Despite the challenges of Cancún the EU’s negotiation behaviour was nevertheless high; performing well in maintaining its unity and striving to find the necessary consensus to attain its objectives. Its low effectiveness however, resulted in an overall fair performance at Cancún.

A very good performance and a framework for negotiations (Geneva, 2004)

Following the failure at Cancún in September 2003 a renewed effort was made towards finding agreement on modalities. In December 2003 negotiators had re-launched negotiations with a view to making maximum progress in 2004 (Commission: 2004a). In July 2004 negotiators met again for a General Council⁶⁶ meeting at the WTO in Geneva to finalise a deal on the negotiations modalities. In November 2003 the European Commission had, in light of the Cancún failure, revisited the EU’s negotiation objectives and concluded that the EU should be ready, “to explore alternative approaches to

⁶⁶ The General Council is the WTO’s highest-level decision-making body. It has representatives (usually ambassadors or equivalent) from all member governments and has the authority to act on behalf of the ministerial conference

negotiating the Singapore Issues...possibly through removing them from the single undertaking of the negotiations.” (Commission: 2003). It further argued that, on agriculture the EU would show, “continued readiness to make significant commitments provided that our trading partners also show real movement.” (Commission: 2003). The Commission’s approach was formally endorsed by the Council in December 2003 and, approaching the General Council in July 2004 the EU’s position was solidified on its objective of securing a, “satisfactory agreement” that would cover negotiation frameworks across all four main pillars under negotiations including Agriculture, NAMA, development and the Singapore Issues (Council: 2004a).

Relative to the negative environment of Cancún, the effort to revitalise talks within the WTO during 2004 had met with increasing positivity amongst negotiators (Bridges Weekly: 2004, Commission: 2004b). With the EU softening its stance on the Singapore Issues it had also narrowed the gap between EU and DC positions on this issue. Subsequently the EU’s position entering the July meeting was of moderate ambition compared to Cancún. The EU’s subsequent performance can also be assessed as very good with high measures across all performance indicators. It is interesting therefore that attention paid to the EU’s role during this period of negotiations is mostly preoccupied with discussion of disputes within the EU itself (Da Conceição: 2010: 1118, Kerremans: 2005: 33, Grant: 173-4, A.R Young: 2007: 130). This in particular concerns divisions within the EU Agricultural Council over the Commission’s mandate to make further concessions on agriculture. Within this discourse, how divisions within the Council impacted upon the EU’s performance at Geneva have been overlooked. It is argued here however that internal disunity within the EU did not adversely affect EU performance in 2004 but that the EU’s negotiation behaviour was to remain high.

This was particularly evident in the EU’s unity at Geneva which was to remain at a high level with the EU represented, in his final year as Trade Commissioner, by Pascal Lamy. Whilst disputes were taking place behind closed doors - with France notably calling for the Commissioner’s mandate to be revisited over concessions on agriculture - these issues were kept behind closed doors by a qualified majority vote taken by the General Affairs and External Relations Council (GAERC) in support of the Commission’s negotiating mandate. Council Conclusions produced in a Special Council meeting on 30th July 2004 moreover expressed the Council’s, “trust in the Commission in the final effort during the WTO General Council [and] no Member State had expressed the wish to give further

negotiating directives” (Council: 2004b). Furthermore, with enlargement taking place earlier that year bringing the EU’s number from 15 to 25 Member States, rather than allowing the extra voices around the table to challenge its unity at Geneva, the EU was seen to “hold together well” (Lamy: 2004: 8). Continuing to also demonstrate its importance as a key player within the Doha Round, the EU was highly significant at Geneva in both the build up to and during the July meeting. In particular at this time the EU formed part of a group called the Five Interested Parties (FIPs) along with the US, Brazil, Australia and India as the core circle of negotiations and who effectively agreed and drafted the text on the agricultural negotiation framework (Grant: 2007: 174).

The EU’s outreach at Geneva was also seen to improve following Cancún with its continuing proactive strategy towards building the necessary consensus, this time meeting with more success. Core in this approach was a letter sent by Pascal Lamy and EU Agriculture Commissioner, Franz Fischler to all WTO Members in May 2004 (Commission: 2004b). The letter detailed the EU’s revised approach to the Round and which outlined, for the first time, the EU’s willingness to bind cuts in its domestic support of agriculture and eliminate export subsidies on the condition that others made cuts in their export promotion schemes. In addition the Commissioners called for further ambition to be shown by others on NAMA and services, but which detailed the EU’s willingness to join the majority consensus and to drop its calls for investment and competition to be included under the single undertaking. Importantly, the EU also specified its proposal that, on agriculture and NAMA, LDCs and the most vulnerable DCs, should not have to open their markets beyond their existing commitments – in effect offering the G90 a ‘Round for Free’ (Commission: 2004b: 3). This offer was a major motivator for reviving the negotiations (Grant: 2007: 173-4) and was importantly successful in convincing LDCs that the round did not represent a threat to them (Lamy: 2004: 7). On top of this, the EU, along with the US, conducted extensive diplomatic demarchés worldwide in an effort to generate the necessary momentum and secure a deal (New York Times: 2004).

On top of its high degree of negotiation behaviour the EU was also highly effective in Geneva. Seen as a pivotal motivator in bringing about the July meeting, the EU was then effective in securing the July 2004 Framework agreement (WTO: 2004) which reflected much of what the EU outlined in its letter to WTO Members in May (A.R Young: 2007: 130, Grant: 2007: 173-4). In particular, a deal was struck on agricultural modalities which, thanks to the EU’s own CAP reforms, required very little additional concession by the EU

beyond that which it had already achieved internally but which instead required others to make similar commitments. The EU had also succeeded in keeping the exact date by which the elimination of export subsidies should be made on the negotiating table (Kerremans: 2005: 33). The EU was also successful in defending a non-linear formula for the NAMA negotiations (Lamy: 2004: 8, WTO: 2004: Annex B)), securing negotiations on trade facilitation (Dür: 2008: 34), detailing a date for May 2005 for revised offers to be submitted for the services negotiations (WTO: 2004: (e)) and with a strong recommitment of the Round's development dimension included a reaffirmation of the principle of special and differential treatment and a special emphasis on LDCs (WTO: 2004: (d)). On the Singapore Issues investment and competition were however dropped from the single undertaking – as conceded by the EU – whilst government procurement would be taken forward in plurilateral negotiations within the WTO. The EU had nevertheless succeeded in getting the Doha negotiations back on track and, in so doing, had demonstrated a much improved performance following Cancún.

A fair performance but little progress (Hong Kong, 2005)

The WTO's 6th Ministerial Conference took place in Hong Kong in December 2005. Seen as a, "crucial opportunity for WTO members to reinvigorate the Doha Round" (House of Lords: 2005: 5), the Hong Kong Ministerial was intended to reach agreement on agriculture, NAMA and services modalities, and to set the stage for intensive negotiations that would bring the Round to a conclusion during 2006 (CRS: 2005). Following the Geneva Framework agreed in 2004 the G20 and US continued to put pressure on the EU to set a date for the elimination of agriculture export subsidies and to make further offers on the reduction of its agricultural tariffs. Continuing to take forward its strategy of conceding only as far as the 2003 CAP reform would allow; and whilst pursuing greater market opening in NAMA (particularly pushing for agreement on the formula for modalities that would include coefficients) and services, the EU's negotiation position entering Hong Kong retained the objective of achieving a, "comprehensive, balanced and ambitious agreement within and across all the main elements of the Doha Agenda" (Council: 2005c). In addition, the EU was prominent in calling for an ambitious development package on Aid for Trade as well as for all developed countries to commit to follow the EU example of providing Duty-Free, Quota-Free (DFQF) access to all products from LDCs (WTO: 2005a). Consecutive concessions made by the EU in the agriculture negotiations over the course of July and October 2005 had also gradually narrowed the gap in positions between the EU, G20 and US (more on this below) and, with some zone of

agreement over the necessity to find agreement in order to bring the Round to a conclusion in the pushed back deadline of 2006, the EU's negotiation position was again to reflect moderate ambition.

The EU's performance at Hong Kong was however, to see a decline following Geneva. Managing to maintain a high level of negotiation behaviour - although with more moderate outreach - EU performance was then to be diminished at Hong Kong by its low effectiveness. As with Geneva, the focus within the literature on the EU's performance at Hong Kong has however concentrated much more on the divisions going on internally within the EU (Da Conceição: 2010: 1123, Grant: 2007: 176) rather than on its negotiation behaviour or effectiveness⁶⁷. The EU's unity was certainly challenged in the run up to Hong Kong. Challenges by the French government, supported by 12 other protectionist Member States, to the Commission's offers in July and October over agriculture had been highly publicised (EU Observer: 2005, New York Times: 2005), with new European Trade Commissioner, Peter Mandelson, denouncing French obstructionism as, "creating room for big agricultural players such as Brazil, Australia, Canada and the US to intensify pressure on the EU ahead of the December Ministerial" (EUobserver: 2005). Convening an extraordinary meeting of the GAERC on 18 October France further attempted to water down the Commission's agricultural offer to the WTO with French President Chirac threatening to block any Doha deal (Grant: 2007: 176, Da Conceição: 2010: 1119). Following a vote however, the Commission maintained its negotiation mandate with a majority support in the Council. It thus entered negotiations at Hong Kong with business as usual with the EU represented by the single voice of the Trade Commissioner, and the Member States maintaining their silence.

Maintaining also its high level of significance at Hong Kong, the EU nevertheless demonstrated a more moderate outreach in the run up to and also during Conference negotiations. In the lead up to Hong Kong the EU demonstrated some progressiveness over agriculture, committing to several concessions in July and then again in October which, upon entering the Ministerial in December, had been raised to a commitment to cut its highest tariffs by 60%; its average tariffs by 46%; the reduction in the number of sensitive products to 8% of tariff lines; the reduction of overall trade-distorting domestic support, and the elimination of all agricultural export subsidies (CRS: 2005: 17). The offer, made on 27 October 2005, whilst conditional on agreement being reached at Hong

⁶⁷ Exception to this is found in Young (2007: 132)

Kong towards a progressive formula that cut applied tariffs on manufactured products in the NAMA negotiations; the establishment of mandatory country targets for services trade liberalisation; and the agreement of its development package including Aid for Trade and DFQF commitments for all LDCs (CRS: 2005: 18), was seen to be the most detailed offer the EU had put onto the table up till that point (Grant: 2007: 175). Despite this the EU continued to meet with pressure from negotiation partners. The G20 and US had each submitted proposals which called on the EU to reduce its highest tariffs further by up to 70% and 90% respectively (CRS: 2005), and at Hong Kong demanded that the EU eliminate all export subsidies by the year 2013. Responding to these demands the EU insisted that it would not eliminate export subsidies by 2013 unless the US accepted a ban on sending free American-grown food to poor countries⁶⁸ (New York Times: 2005). By the final few days of the Conference the US had accepted the EU's demands for a ban and, with the EU budget agreed the day before, the EU agreed to set 2013 as the deadline for its export subsidy elimination (New York Times: 2005, Wilkinson & Lee: 2007: 9). In making this concession the EU also framed its language to show its negotiation partners that its, "threshold of pain had been reached" (WTO: 2005b) and that it would concede no more on agriculture (Grant: 2007: 176).

Elsewhere in the negotiations the EU was considerably more proactive in pursuit of its offensive interests. This was most notable over the development package which the EU pushed hard with negotiation partners, using its own Everything But Arms (EBA) initiative as an example for others to follow (interview, Deputy Permanent Representative to the WTO, EU Member State B, 19th May 2011, Geneva). The EU also pursued efforts to persuade negotiation partners of the need for more ambition within the services negotiations, and in NAMA, although this was to meet with considerable resistance from the emerging economies (interview, senior official, WTO Unit, DG Trade, 12th May 2011). In pushing for a development package moreover the EU's outreach to DCs at Hong Kong, whilst aimed at building support from the developing world, was instead viewed with suspicion, seeing the EU's development rhetoric as a tactic to divert attention from its hesitancy towards agricultural concessions (Ismail: 2008: 101).

As a result, Hong Kong has been widely reported as a disappointing negotiation (i.e. Wilkinson & Lee: 2007). Intended as the meeting that would push the Doha negotiations

⁶⁸ Seen to push up food prices and prevent local producers from selling their product (New York Times: 2005)

into their final stage, the meeting ended instead with little progress (Interview, senior official, DG Trade, Brussels, 11th May 2011) and, for the EU at least, with few of its objectives attained. The main breakthrough came in the agriculture negotiations where the EU had, thanks to its deal with the US over a ban on sending free American-grown food to poor countries, agreed to eliminate its export subsidies by 2013. Agreement had also been reached on the adoption of the Swiss Formula⁶⁹ for the NAMA negotiations. Despite this the EU failed to get agreement on the Swiss Formula coefficients which were instead postponed till a later date (A.R Young: 2007: 132). Progress was also slow in services and, on the EU's other core objective, little substantive commitments had been made for a development package. DQFQ for LDCs, whilst seen by many DCs as the "big thing" to have come out of Hong Kong (interview, Commercial Secretary, southern developing country, Geneva, 19th May 2011) was only detailed as a voluntary measure which developed and emerging economies should be encouraged to offer (WTO: 2005c). An Aid for Trade agreement was also not reached (Ismail: 2008). Subsequently, with a high negotiation behaviour but low effectiveness, the EU's performance at Hong Kong dropped considerably from Geneva the year previously. With little progress in the Doha Round as a whole the scene was further set for a difficult year of negotiations ahead.

4.5. EU performance in the Doha Round (2006-2011)

After Hong Kong a new phase of negotiations was to begin as efforts focused upon bringing the Round to its conclusion. In July 2006, at a meeting of the WTO General Council the Doha Round was however suspended (WTO: 2006). Efforts by the US to push for larger cuts in agricultural tariffs met with considerable resistance from the EU, Japan and India (Financial Times: 2006) and, further resisting proposals to put a cap on the US's own agricultural subsidises, the US was then widely blamed for the Round's collapse (Economist: 2006, EurActiv: 2006). Negotiations began again in 2007 and, by 2008 progress had been made towards agreement on the modalities for agriculture and NAMA that would enable a deal to be reached. In this section EU performance is evaluated during two key events; namely the July 2008 meeting of the General Council where negotiators, believing themselves to be in the endgame, then failed to bring about a successful conclusion, and the WTO's 8th Ministerial Conference held in Geneva in December 2011

⁶⁹ A non-linear approach to tariff reduction, the Swiss Formula tends to cut higher duties more than lower ones and is favoured by the EU (and US) because it cuts tariffs proportionally to the initial tariff rate. It is referred to as the *Swiss* Formula because it was first proposed by Switzerland during the GATT Tokyo Round.

where, following three years of negotiation impasse, agreement was reached that negotiators should look for alternative approaches to conclude the Round.

Tears as the gavel falls: another fair performance and still no conclusion (Geneva, 2008)

The July 2008 meeting of the WTO General Council was a further milestone in the Doha Round negotiations. Intended to finalise agreement on the crux issues of agriculture and NAMA which had so far eluded negotiators in 2006, the ‘mini-ministerial’ was seen as a “window of opportunity” for bringing the Round to its successful conclusion (Ahnild: 2012: 68). For the EU, its negotiation position entering the meeting remained consistent with its striving for progress within the negotiations with more ambition in areas of NAMA and services and with modalities to be agreed in agriculture based only on what the reform of the CAP would already allow. More ambitious relative to Hong Kong however, the EU was much more of the preference outlier in 2008; pushing hard for the Round’s conclusion at a time when many of its negotiation partners thought this was premature. With elections to take place in the US and EU later in the year, many delegates were reported to have seen the prospect of concluding Doha at the July General Council as highly unlikely (interview, Deputy Permanent Representative to the WTO, EU Member State D, Geneva, 20th May 2011, EurActiv: 2008). For EU Trade Commissioner, Peter Mandelson however, the chance of concluding the Round before his term ended was a major incentive for raising ambitions (Blustein: 2009). In Council Conclusions prior to Geneva the EU’s negotiating position was also explicit in calling on its negotiation partners to make, “meaningful contributions commensurate with their level of development. For emerging economies, in industrial tariffs in particular, this requires granting additional market access” (Council: 2008a: (2)). This was highly ambitious in light of the emerging economies reluctance to make reciprocal commitments in NAMA and, in a repeat of its performance at Hong Kong, and despite consistency in its high level of negotiation behaviour EU performance was again challenged by another period of low effectiveness, attaining few of its objectives and with the Geneva meeting closing in ‘tears’⁷⁰.

As in Hong Kong the EU again experienced unity challenges in the lead up to the Geneva mini-ministerial. Proposals submitted by the European Commission in May 2008 to revitalise talks had been met by public criticism by the French Government particularly

⁷⁰ It is reported that as the gavel fell at Geneva in 2008 EU Trade Commissioner, Peter Mandelson, who was distraught that no agreement had been reached, was close to tears (interview, Deputy Permanent Representative to the WTO, EU Member State E, Geneva, 20th May 2011)

(EurActiv: 2008, EUobserver: 2008, New York Times: 2008). Nevertheless Commissioner Mandelson maintained that he had the support of an, “overwhelming majority” of EU nations (EurActiv 2008). At an extraordinary session of the GAERC in Brussels on 18th July 2008 the Council further affirmed its support to the Commission’s efforts to improving the Doha texts under negotiation and stated that, “for the sake of unity and cohesion” its negotiation position remained that of securing a ‘comprehensive, ambitious and balanced’ Round (Council: 2008b). Subsequently, the EU entered the Geneva mini-ministerial again demonstrating a high level of unity, represented by the Trade Commissioner and with the Member States maintaining their silence in support of the common EU negotiating position.

At Geneva moreover, despite the EU finding itself, “in the unusual position of being on the edge of a Doha argument rather than in the middle” (Mandelson: 2008b) in relation to what was to become the main sticking point preventing progress – the Special Safeguard Mechanism (SSM)⁷¹ - it nevertheless maintained its high level of significance during negotiations as a participant in all green room meetings and as part of what was now the ‘G5’ with China also part of the core circle of negotiators (Ahnild: 2012: 73, Mandelson: 2008b, Blustein: 2009). The EU’s outreach at Geneva was however to be moderate. Demonstrating a highly proactive strategy to persuade others to find the necessary consensus by offering to further concede a cut in average agricultural tariffs by 60%; cutting its tariff lines on industrial goods to 2% (House of Lords: 2008) and submitting an ambitious offer on services, the EU was nevertheless unsuccessful in generating enough support – particularly amongst the emerging economies – for its objectives. Further efforts by the EU in trying to unblock the negotiations over the SSM in chairing a group of technical experts to try to find a compromise solution between divergent Indian, Chinese and American interests, moreover failed to find any breakthrough (Mandelson: 2008b, interview, senior official, EU delegation to the WTO, Geneva, 20th May 2011). More than this, under the impression that the Round was now in its endgame and close to finding agreement across all sectors of the negotiations (interview, senior trade official, EU Member State A, Brussels, 18th May 2011, interview, senior official, DG Trade, Brussels, 16th May 2011) the EU was then one of the first to formally accept the total package then

⁷¹ The Special Safeguard Mechanism is based on the concept that countries threatened by a flood of imports could temporarily raise their tariff barriers to protect local industry. In the Doha Round India has called for a SSM for DCs to protect against an influx of agricultural goods from the developed world. At the 2008 meeting disagreement over the types of constraints that would limit the use of the SSM resulted in India blocking agreement (Blustein: 2009: 266)

on the table⁷² (Blustein: 2009). This tactic was a bold step in leading the way in the hope that others would follow suit. Such a tactic was however to prove premature. With divisions over the SSM proving ‘irreconcilable’ (Bridges Weekly: 2008) and with India threatening to walk out of discussions (Blustein: 2009) the meeting at Geneva was to close with no outcome agreement and with the Round left languishing in a state of impasse.

With no outcome agreement the EU subsequently achieved few of its ambitious objectives. Failing to achieve its primary goal of securing agreement on modalities for agriculture and NAMA, the EU had moreover played the last of its cards in offering a further concession on agriculture, as well as in NAMA and services, whilst receiving no reciprocal commitments from its negotiation partners. Subsequently the EU was to demonstrate another fair performance in 2008. More than this, by revealing its cards by showing willingness to accept the deal on the table at Geneva, the EU was to substantially change its role in the negotiations to follow.

A good performance through blame avoidance (Geneva, 2011)

Since 2008 the Doha Round has been in a situation of stalemate between the United States and emerging economies over NAMA and the formula to use for modalities (interview, First Secretary to the WTO, southern developing country, Geneva, 19th May 2011, interview, senior official, DG Trade, Brussels, 11th May 2011). For the EU, its acceptance of the package deal in July 2008 has essentially been seen as the EU ‘playing its hand’ (interview, Ambassador to the WTO, northern developed country, Geneva, 19th May 2011, interview, Deputy Permanent Representative to the WTO, EU Member State D, 19th May 2011, interview, Deputy Permanent Representative to the WTO, EU Member State B, 20th May 2011). Subsequently, since 2008 the EU has been removed from the crux issues of the negotiations which have been focused instead on the divergent interests of the US and China. Several attempts over 2009 and 2010 within the G20⁷³ - often initiated by the EU - to intensify negotiations and bring the Doha Round to a successful conclusion (i.e. Bridges Weekly: 2011b) have produced little progress and, by the time of the WTO’s 8th Ministerial Conference held in Geneva in December 2011, negotiators had begun to question the ability to conclude under a single undertaking (interview, Ambassador to the WTO, northern developed country, 19th August 2011).

⁷² Brazil also agreed that the package agreed across agriculture, NAMA and services was acceptable in 2008

⁷³ The Group of 20 Finance Ministers from the 20 major economies – not to be confused with the WTO G20 which is formed of approximately 20 developing countries who work together in the agriculture negotiations.

Approaching the Ministerial still demonstrating progressiveness in trying to see the Round successfully concluded, the EU had however, considerably lowered its ambitions in what it believed it could achieve from the Round (Council: 2011b). In particular it has dropped its insistence on the fact that the Round should be agreed under a single undertaking; supporting instead an ‘early harvest’ approach that would allow areas of negotiation where agreement had been reached to be finalised without recourse to other sectors (WTO: 2011a). Subsequently the EU’s strategy of tying concessions made in agriculture to gains made across other areas of negotiation will prove far more difficult to achieve in the longer term. More than this, the EU’s position towards the Doha Round was much less geared towards finding an ambitious outcome, and much more about avoiding being asked to concede any more on market access itself (interview, senior official, DG Trade, Brussels, 16th May 2012, interview, Deputy Permanent Representative to the WTO, EU Member State D, Geneva, 19th May 2011). As one DG Trade official claimed, “we were frightened that if we followed the path of more ambition we would be asked to pay more on market access” (interview, senior official, DG Trade, Brussels, 16th May 2011). Comparative therefore to the US who had considerably raised its level of ambition for the Round by calling for more significant market access by the emerging economies⁷⁴, the EU’s position in 2011 was much more low ambition than it had previously been within the Doha negotiations.

The EU’s performance at the 2011 Ministerial was then good; with the EU performing well in terms of its negotiation behaviour, but also achieving a moderate level of effectiveness. Entering the 2011 Ministerial with representation by new Trade Commissioner Karel de Gucht, the EU continued to reflect a high level of unity and a cohesive front within the MTNs. Moreover, despite concerns that EU significance within the Doha Round had diminished following its early acceptance of the 2008 deal, and with the EU less involved over the core blocking issue of NAMA (Interview, senior trade official, EU Member State C, Brussels, 16th May 2011, Interview, senior trade official, EU Member State A, Brussels, 18th May 2011, Interview, Ambassador to the WTO, northern developed country, Geneva, 19th May 2011), the EU’s significance within the Doha negotiations has nevertheless remained high. This has been seen not only in the EU’s continued participation in all meetings of the G5 (interview, Deputy Permanent Representative to the WTO, EU

⁷⁴ Some officials see the US stance as being deliberately over-ambitious as a tactic to stop them from having to compromise and thus accept a deal it would find difficult to get through Congress (interview, senior official, DG Trade, Brussels, 16th May 2011).

Member State E, Geneva, 29th May 2011) and other negotiation processes of the WTO, but also in the recognition that no agreement shall be reached within the Doha Round without the involvement of the EU at the top table (interview, Deputy Permanent Representative, EU Member State B, Geneva, 20th May 2011, interview, WTO spokesperson, Geneva, 19th May 2011).

EU outreach in the run up to and during the 2011 Ministerial was however moderate. Maintaining its proactive strategy toward negotiation partners, the EU's approach to the negotiations since 2008 have nevertheless primarily been geared towards facilitating agreement between the US and emerging economies over the NAMA impasse in an effort to break deadlock but, critically, to also avoid being blamed should the Round then fail (interview, senior trade official, EU Member State A, 18th May 2011, interview, Deputy Permanent Representative to the WTO, EU Member State B, 20th May 2011, interview, senior trade official, EU Member State E, Brussels, 17th May 2011). One prominent example of this was seen in April 2011 where the EU agreed to issue a proposal on the critical issue of NAMA-sectorals⁷⁵ (interview, senior official, DG Trade, 16th May 2011). In May 2011 this technical proposal was issued informally to WTO members. Pitched by the EU as offering a middle-ground or 'compromise deal' between the US and emerging economies' positions on a sector by sector formula to tariff reductions in NAMA, this proposal was judged from within the EU as being an important step to kick-starting negotiations (interview, senior official, DG Trade, Brussels, 11th May 2011) as well as a necessary effort by the EU to show it, "still has something it could throw into the mix" (interview, Deputy Permanent Representative to the WTO, EU Member State D, Geneva, 19th May 2011). With limited movement elsewhere in the Doha negotiations and with continued reticence shown on the part of the US and emerging economies in early 2011, the EU compromise proposal on NAMA was however, timed to be, "the only show in town" (interview, senior official, DG Trade, Brussels, 11th May 2011) which was to contribute to its impact.

⁷⁵ The US (and to some extent also the EU) have called for the emerging economies to agree to sectoral initiatives in market access under the NAMA negotiations. The US has particularly promoted a sectoral approach to the negotiations with tariff cuts across entire sectors of industry. i.e. chemicals, electronics and machinery rather than focusing wholly on the overall tariff-cutting formula. Currently sectoral initiatives are voluntary and the emerging economies have made the case that without further agricultural liberalisation by the developed world they have no incentive to sign up to sectoral initiatives under the NAMA negotiations. The EU compromise solution proposes that developed countries eliminate tariffs in specific sectors in return for the developing world eliminating tariffs on some products covered by sectoral initiatives. For others, they would have to establish future tariff ceilings using the Swiss Formula plus x reductions (Bridges Weekly: 2011a)

Despite its efforts, the EU's NAMA proposal has nevertheless received very mixed reviews. Judged by some to be a helpful proposal for moving negotiations forward (interview, senior trade official, northern developed third country, Geneva, May 2011) and an intelligent attempt to build bridges between the US and China particularly (interview, WTO spokesperson, Geneva, 19th May 2011), others have criticised the EU for contributing nothing more than 'business as usual' (interview, Deputy Permanent Representative, EU Member State C, Geneva, 23rd May 2011), of only helping the US meet its sectoral objectives (interview, senior trade official, southern developing third country, Geneva, May 2011, Interview, Ambassador to the WTO, northern developed third country, Geneva, May 2011), and of ultimately failing to bridge the gap (Bridges Weekly: 2011a). However, the EU's NAMA proposal did also reinforce the view amongst its negotiation partners that the EU has proactively sought a solution (Interview, senior trade official, northern developed third country, Geneva, May 2011, Interview, senior trade official, southern developing country, Geneva, May 2011). Consequently, whilst its outreach in facilitating a deal over NAMA has thus far proven unsuccessful in bridging the gap, it was successful as a reminder to negotiation partners that the EU was still an active and important participant within the negotiations.

Maintaining therefore a high degree of negotiation behaviour in 2011, the EU was also to achieve a more moderate level of effectiveness in Geneva. The 2011 Ministerial ended with several Declarations adopted⁷⁶ and a Chairman's paper including 'Elements for Political Guidance' (WTO: 2011b). Most notably the EU was successful in attaining a Declaration agreeing the waiver of preferential treatment to services for LDCs (WTO: 2011c). Within the political guidance paper the EU also achieved its goal of securing recognition by WTO Members of their commitment to resist protectionist measures, as well as for the strengthening and improvement of the WTO's bodies in order to oversee the implementation of WTO agreements, to manage disputes, and importantly to ensure transparency through monitoring and reporting (WTO: 2011b: 1). The paper further reaffirmed the link between trade and development as supported by the EU including an agreement to maintain Aid for Trade beyond 2011 (in a further nod to the EU's objective notably pushed at Hong Kong) (WTO: 2011b: 2). Finally the paper did also include the

⁷⁶ Not all declarations adopted at the 2011 Ministerial were directly relevant to the Doha MTNs. For example a declaration was adopted approving Russia's membership of the WTO – a long held EU objective, as well as an Agreement in the plurilateral Government Procurement negotiations which the EU could also claim as goal attainment in light of its original push for negotiations on procurement as a Singapore Issue

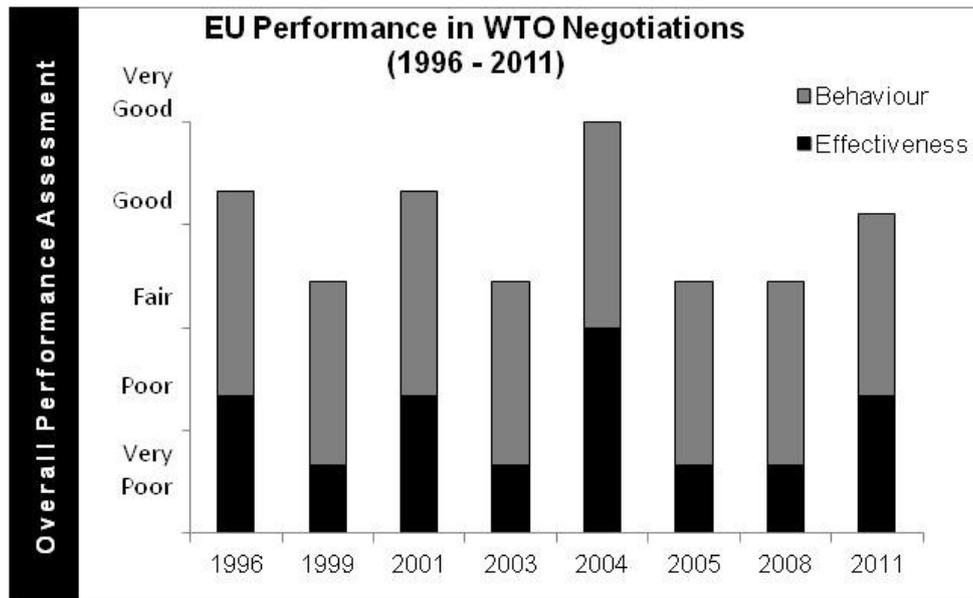
consensus that Ministers would remain active and explore new ways of bringing the Doha Round to its successful conclusion (WTO: 2011c: 3).

However, the ambiguity of the 2011 Ministerial outcome did also mean that the EU failed to achieve any recognition of the need to prioritise negotiations on trade facilitation and non-trade barriers as areas for possible early-harvest. It did moreover neglect to provide any clear direction by which the deadlock in the NAMA negotiations could be moved forward instead, citing the need for Ministers to “intensify efforts...to overcome the most critical and fundamental stalemates” (WTO: 2011b: 3). Subsequently, whilst there was some symmetry between the 2011 outcome and the EU’s objectives, this moderate effectiveness did not reveal any substantive breakthroughs for the Doha Round itself. This in turn highlights a much more significant challenge for EU performance within the WTO MTN. With EU efforts in achieving a, “comprehensive, balanced and ambitious agreement within and across all the main elements of the Doha Agenda” (Council: 2005c) now essentially deadlocked, and with claims being made that the Round is now dead (Economist: 2012), a longitudinal perspective of EU effectiveness in the Doha Round would appear less than impressive. Whilst achieving smaller victories over the course of the Doha negotiations through shaping the course, direction and modalities for the Round, the EU’s principle objective of securing a Round that would lead to greater trade liberalisation has remained all too elusive. Despite this, European Trade Commissioner de Gucht has stated that, “Doha will not be declared dead, because we are one of the physicians and we are not ready to do so” (Financial Times: 2011). The question nevertheless remains as to whether EU doctoring will be sufficient to resuscitate the Round.

Conclusion

In this chapter EU performance within the WTO multilateral trade negotiations has been evaluated across a number of major negotiating periods during the WTO’s formative years and the decade-long Doha Round negotiations. Evaluating EU performance as a measure of its negotiation behaviour and effectiveness it has shown that the EU has, on the whole, had predominantly fair to good performances within this forum. Summarised in Figure 4.2 below, it is further shown that the EU has consistently demonstrated high levels of negotiation behaviour within the WTO but low to moderate levels of overall effectiveness.

Figure 4.2: EU performance in the WTO multilateral trade negotiations (1996-2011)



Source: Author's own compilation

What these findings contribute is an assessment of how well the EU has performed within a negotiation environment in which expectations have been notably high. As a major player within the MTS and with the exclusive competence to 'speak with one voice', the EU is expected to perform well in this forum. As was demonstrated at the start of this chapter however, disparate views have then been seen within the existing literatures which have either assumed these expectations to be accurate, or critiqued them by focusing solely on individual performance indicators such as its unity or effectiveness, whilst shedding little light on the broader performance picture. What this analysis has revealed is that the EU's performances within the WTO multilateral trade negotiations since 1996 have in fact challenged those expectations by neither wholly meeting the high expectations typically afforded it within the EUGA literature, nor the low expectations suggested by the trade policy literature. Rather it has suggested that the EU's performance within this forum has occupied a relatively consistent middle-ground whereby it has demonstrated an impressive level of negotiation behaviour but a more limited effectiveness, reflected also in Table 4.2 below.

Table 4.2 Breakdown of EU performance in the WTO multilateral trade negotiations (1996-2011)

Negotiation	Ambition	Unity	Outreach	Significance	Behaviour	Effectiveness	Performance assessment
1996 Singapore	Moderate	High	High	High	High	Moderate	Good
1998 Seattle	High	High	Moderate	High	High	Low	Fair
2001 Doha	Moderate	High	High	High	High	Moderate	Good
2003 Cancun	High	High	Moderate	High	High	Low	Fair
2004 Geneva	Moderate	High	High	High	High	High	Very good
2005 Hong Kong	Moderate	High	Moderate	High	High	Low	Fair
2008 Geneva	High	High	Moderate	High	High	Low	Fair
2011 Geneva	Low	High	Moderate	High	High	Moderate	Good

Source: Author's own compilation

As Table 4.2 further suggests, the EU's impressive negotiation behaviour has been achieved thanks to the EU's consistently high levels of both unity and significance. Whilst these indicators might be assumed in light of the EU's exclusive competence and its trading power and importance within the MTS, what this study reveals is that the EU has managed to maintain these levels in spite of considerable internal challenges to its unity (especially seen over the period 2004 to 2008 where Commission's negotiation mandate was regularly called into question by discontented Member States) and, since 2008, despite challenges over its relevance at the negotiation table due to the increasing significance of the emerging economies. Where the EU has shown limitations in its performance within the MTN however, has been in its variable ability to persuade negotiation partners to support its preferences and subsequently to attain all of its ambitious objectives. Whilst consistently maintaining a proactive style towards the negotiations, its outreach to negotiation partners has not always been successful but has met with difficulties particularly in persuading the emerging economies to raise their own level of ambition towards further market liberalisation. Whilst the EU has consistently pushed for progress within the negotiations; demonstrating mostly moderate to high levels of ambition approaching each negotiation, its ability to then persuade others to match those ambitions (particularly with regards to services, NAMA and the Singapore issues), has been hindered by a growing reluctance by negotiation partners to concede to EU demands without reciprocal concessions by the EU over agriculture. This has in turn made it much harder for the EU to attain its goals within the WTO MTN, with the EU achieving mostly moderate or low levels of effectiveness in the launching, and subsequent course, of negotiations; but with no clear end in sight for the EU attaining its ultimate goal of the 'comprehensive, balanced and ambitious' round initially sought.

A further interesting finding from this study seen from a longitudinal perspective is that the EU has demonstrated some moderation of its ambitions approaching negotiations where, previously, it had met with failure. This was evident particularly in 2004 where, following the EU's high ambitions and correspondingly fair performance at the failed Cancún Ministerial in 2003, the EU approached the Geneva General Council with a moderately ambitious negotiation position and which resulted in a very good overall performance, further credited for helping make a real difference to moving the negotiations beyond a state of impasse. The moderation of EU ambition has also been evident in more recent negotiations with findings showing that, after the failed 2008 General Council meeting where the EU had high ambitions but which resulted in a major disappointment and another fair performance, the EU approached the 2011 Ministerial Conference with much lower ambitions. Its performance was subsequently much better, although it is noted that it still did not achieve its primary objective of concluding the Doha Round.

What these findings suggest is that, where the EU's ambitions have been too high within the WTO MTN, the EU has been unable to persuade its negotiation partners to concede to its demands, resulting in relatively unimpressive performances. Instead of others therefore raising their level of ambition to meet the preference structures of the EU, it has been the EU who has had to moderate its ambition to find a zone of agreement with its negotiation partners. Under current deadlocked conditions in which the preference structures of the US, India and China continue to be at odds, the EU's ability to bring the Doha Round to a successful conclusion – such that it achieves the ambitious objectives for trade liberalisation it initially set out as *demandeur* – has therefore become increasingly questionable.

Chapter 5: EU performance in the case of the Nuclear Non-Proliferation Treaty (NPT) review negotiations (1995-2010)

As was seen in the previous chapter, there is a widely held belief in academic and policy-making circles that when the EU stands together and united that it is at its most influential as an international actor (Laatiakainen & Smith: 2006, Elgström & Smith: 2006, Haseler: 2004, Allen: 1998, Taylor: 1979). Expectations follow that the EU performs at its best in multilateral negotiations where the EU Member States are most integrated, where that integration is reflected in the level of EU competence, and consequently where the Member States then ‘speak with one voice’ (Jørgensen & Wessel: 2011, Kissack: 2010, Meunier: 2000). As a security environ, the Review Conference of the Parties to the Treaty on the non-Proliferation of Nuclear Weapons (NPT RevCon) therefore presents what would appear to be a particularly hard test for EU performance. As an area of high politics where the security and energy interests of its Member States are highly prominent, the NPT is not an issue where the EU is particularly integrated, or where there is EU competence and, despite entering NPT negotiations with a common position since 1995, Member States continue to be active – and highly vocal – participants within the negotiations. As a negotiation where the nuclear-weapon states (NWS) are of critical importance, the EU is further at risk of being over-shadowed by its own Member States within the NPT; not least the UK and France as two of the five permanent members of the UN Security Council (UNSC). Subsequently when it comes to tackling nuclear issues, “few would expect the EU to be a serious player” (Hill: 2004: 154).

With such low expectations of any ‘EU’ performance within the NPT, attention to the NPT and its quinquennial review negotiations has been a much under-analysed field in the context of EU studies, with what little literature there is stemming from think-tanks and dedicated disarmament and non-proliferation analysts (see Fischer & Müller: 1995, Müller & van Dassen: 1997, Johnson: 1999, 2000, 2005, Portela: 2003, Meier & Quille: 2005). Journal coverage of the EU in the NPT remains far more limited (Müller: 2010, 2005), with greater attention given to the EU’s bilateral non-proliferation relations, particularly with Iran (Bergenäs: 2010, Denza: 2005, Leonard: 2005); the institutionalisation of the EU’s own 2003 strategy against the proliferation of Weapons of Mass Destruction (Zwolski: 2011, Tertrais: 2005), or to the EU’s role within other related institutions such as the International Atomic Energy Agency (IAEA) (Lundin: 2012). However, a more

explicit focus upon EU performance and its ‘impact’ in multilateral diplomacy utilising the case of the NPT, has started to develop within EU Studies (i.e. Dee: 2012a, 2012b, Jørgensen: 2009a, 2009b) reflecting a growing appreciation of the rich empirical findings that this case can contribute.

Despite its limited coverage, reflections of the EU’s role and performance within the NPT negotiations have nevertheless produced something of a puzzle. Whilst few would expect the EU to perform well in this forum, accounts and analysis thus far have in fact emphasised the EU’s “potential” leadership within the NPT (Müller: 2005: 43). Discussion of the EU during individual NPT RevCons further emphasise this dynamic with the EU seen to have played, “a crucial role” (Meier & Quille: 2005) in shaping the negotiation outcome on several occasions (Dee: 2012a, Portela: 2004, 2003, Van Dassen & Müller: 1997, Fischer & Müller: 1995). The EU’s unique make-up as a polity of both nuclear and non-nuclear weapon states (NNWS) is also seen to be a negotiation advantage; positioning the EU as a “microcosm” of the wider NPT community (Fischer & Müller: 1995: 46, Jørgensen: 2009b: 201) and where its own common position is believed to, “provide a useful benchmark for the international community as a whole” (Fischer & Müller: 1995: 46). The picture that has emerged from the existing literature therefore, is of an EU who, on the one hand, is expected to perform poorly due to its institutional weaknesses in this forum, but on the other, discussed as a ‘potential leader’ and one that has made a ‘crucial’ difference within the NPT negotiations.

The aim of this chapter is to address this puzzle by explicitly evaluating EU performance within the NPT’s quinquennial review negotiations. Evaluating EU performance over-time, from the 1995 NPT Review and Extension Conference – where the EU first entered the negotiations with a Joint Action – up to the most recent NPT RevCon held in New York in May 2010; it seeks to assess how well the EU has in fact performed in this forum. In so doing it finds that the EU’s performance, whilst variable, has in large part exceeded the low expectations typically afforded it. With the exception of the 2005 failed NPT Review Conference where EU performance was very poor, this chapter will show that the EU has in fact managed to show both improving negotiation behaviour and an ability to attain its goals within the NPT. It further suggests however, that much of the EU’s performance in this forum has been premised on moderate to low ambitions – greatly contributed to by divergences within the EU’s own membership over nuclear issues – and which has positioned the EU as an ‘NPT Champion’ and supporter of the system rather

than a driver of it. This has enabled the EU to play a role within the negotiations without challenging its Member States own sensitivities and which has allowed it to claim some effectiveness in the attainment of more generalised principles and objectives.

To present its case, the chapter is broken down into three main sections. First addressing the EU's capacity to act, section one discusses the EU as an actor in the NPT negotiations. This is of particular necessity in this case where, with the EU's institutional limitations on non-proliferation issues, and where the EU Member States are themselves heavily involved, has resulted in the NPT being considered by some as an, 'inappropriate situation' for the EU to attempt to unify and act together at all (Johnson: 1999: 9). Establishing 'who is EU' is thus important if we are to be able to evaluate the EU's negotiation performance. In section two the NPT review negotiations are briefly introduced with discussion given to the major issues under negotiation, as well as the key players' involved. In section three the EU's performance is then evaluated. Using the framework developed in Chapter Two, EU performance is evaluated during four negotiating events including the 1995, 2000, 2005 and 2010 NPT RevCons. The chapter is then summarised in a concluding section.

5.1. The EU as an actor in the NPT

In 1957 the European Atomic Energy Agency was established. Often overlooked by the more prominent success of the EEC, the Euratom Treaty was nevertheless ground-breaking for its time: establishing cooperation between EU Member States' research programmes for the peaceful use of nuclear energy. Despite this initial leap toward cooperation in nuclear energy, EU Member States have staunchly defended their sovereign rights in nuclear issues. Unlike the evolution of the EEC therefore, which has seen 'ever closer union' between the EU Member States and an increasing competence being afforded the European Community to act on their behalf, on nuclear matters the EU has no legal competence to act for its Member States. Within the NPT itself it has only been since 1995 that the EU has presented itself 'as EU' within review negotiations. Whilst early coordination efforts in the 1980s and early 1990s did meet with some success (Fischer & Müller: 1995: 7-12), such efforts were to have limited impact due to France's refusal to accede to the NPT. It was not until after the 1992 Treaty on European Union (TEU), establishing the EU's Common Foreign and Security Policy (CFSP), that the instruments to encourage cooperation and enable the EU to act in concert within the NPT were established, and

which further resulted in French accession to the NPT⁷⁷. Formulating its first Joint Action at a meeting of the European Council in July 1994 (Council: 1994) in preparation for the 1995 NPT RevCon and with statements then given on behalf of the EU by the French Council Presidency, the 1995 RevCon was the first time that the EU was formally to act within the NPT negotiations. Since that first Joint Action the EU has consistently acted in concert in NPT RevCons with a common position in place prior to negotiations and with representation by the rotating Council Presidency.

The process of deriving the EU common position for the NPT is a laborious process which begins the year before the RevCon itself, if not earlier, and which requires extensive coordination between the Member States, typically led by the rotating Council Presidency who will hold the position during the negotiation itself (interview, senior official, Department of Non-Proliferation and Disarmament Affairs, Brussels, 10th May 2011). Ongoing discussions take place with non-proliferation experts from each of the Member States within the CONOP⁷⁸ working group, who meet in Brussels once monthly, but EU and EU Member State delegations in Geneva⁷⁹ and the capitals are also heavily involved with proposed language for the common position considered, debated and fine-tuned. The Foreign Affairs Council⁸⁰ then has formal responsibility for adopting the position which is approved by unanimity. Whilst not an uncommon time-frame in producing a position under the CFSP, the NPT is a highly sensitive issue where Member States themselves have significantly divergent positions on both nuclear security and energy interests.

Within the EU fundamental differences exist between Member States over at least two of the NPT's three pillars. The NPT addresses three main pillars including: the principle of nuclear disarmament by the NWS (Pillar I), the principle of non-proliferation of nuclear weapons and weapons technology by NNWS (Pillar II), and the principle of cooperation in the peaceful uses of nuclear energy (Pillar III). Whilst there are broadly consistent interests between the Members over Pillar II and non-proliferation, on nuclear

⁷⁷ As a NWS France had refused to sign the NPT on the grounds that nuclear disarmament could not guarantee French security. It laid aside these objections at the same time as the TEU was established and acceded to the NPT as a NWS in 1992.

⁷⁸ CONOP is the Council working group on non-proliferation. There is some overlap between the role of CONOP and the CODUN Working Group that focuses more specifically on disarmament. CONOP however is responsible for the NPT whilst CODUN focuses more on the CTBT, the Chemical Weapons Convention and the Biological Weapons Convention.

⁷⁹ Geneva is home to the Conference on Disarmament. Many Member State officials working in the CD also work on NPT issues. Their input to drafting the EU's common position is therefore necessary

⁸⁰ Formally the General Affairs & External Relations Council (GAERC). The Council's name was amended following the Lisbon Treaty

disarmament and nuclear energy there are highly divergent positions. The most fundamental divergence is over nuclear disarmament. The EU is today comprised not only of eleven NATO-members, two of which are NWS and with four Member States hosting NATO strategic weapons, but it also has neutral Member States, several of which are strongly and consistently opposed to nuclear weapons. The EU is divided therefore between Member States that occupy two sides of a spectrum: the UK and France on the one hand – who as NWS are themselves committed to the principle of disarmament but seek gradual disarmament when it is practical to do so - and pro-disarmament states most notably including Ireland⁸¹, Sweden and Austria - who have been forthright in their opposition to nuclear weapons and seek immediate disarmament - on the other. On Pillar III and the issue of nuclear energy the EU is also highly divided. France is highly in favour of nuclear energy and has the second largest number of nuclear power plants in the world after the United States⁸². On the other side of the spectrum the EU also has several nuclear prohibition countries including Austria, Ireland and Denmark. In between these strongly pro and anti-nuclear energy positions are moreover a wealth of diverging and more moderate views. For example, Germany and Belgium are considered by the IAEA to be in condition of nuclear ‘phase-out’ whilst Finland, France and Bulgaria are ‘expansion’ countries that are constructing new nuclear power plants (IAEA: 2008).

In 2003 efforts to create a coherent EU Action Plan on non-proliferation led to the European Strategy Against the Proliferation of Weapons of Mass Destruction (Council: 2003d) which has gone some way to solidifying Member States more convergent interests over non-proliferation. It has however had limited impact upon the EU’s negotiation position entering the NPT (Dee: 2012b, Portela: 2004). The 2007 Lisbon Treaty has however, sought to further streamline the EU’s non-proliferation policy through the establishment of the post of High Representative of the Union for Foreign Affairs and Security Policy as well as the creation of the European External Action Service (EEAS). Whilst the effects of the Lisbon Treaty will not be fully realised under the next NPT RevCon in 2015, some changes have already been brought about. In particular the Lisbon Treaty has resulted in responsibility for the coordination of the EU’s non-proliferation and disarmament policy passing from the General Council Secretariat to the EEAS (Council: 2010b: (11)) along with the creation of a dedicated EEAS Non-Proliferation and

⁸¹ Ireland was in fact responsible for introducing the UN resolution that led to the introduction of the NPT in 1968.

⁸² IAEA statistics from March 2008 show that of the 439 nuclear power plants in the world, the US has 104 and France has 59. It further shows that 78% of all of France’s electricity comes from nuclear reactors (IAEA: 2008)

Disarmament office. Within the NPT negotiations moreover, EU representation has begun to move away from the rotating Council Presidency to the EEAS (interview, senior official, Department of Non-Proliferation and Disarmament Affairs, EEAS, Brussels, 10th May 2011) - a move further enabled by the passing of the UN General Assembly resolution on 3 May 2011 allowing EU representatives - and not just Member State officials - “the right to make interventions, as well as the right of reply and the ability to present oral proposals and amendments” (UN: 2011). In the NPT 2010 RevCon this change was most clearly evident in the EU being represented within negotiations by both the Spanish Council Presidency and the Director of the EEAS’s Department for Non-Proliferation and Disarmament Affairs.

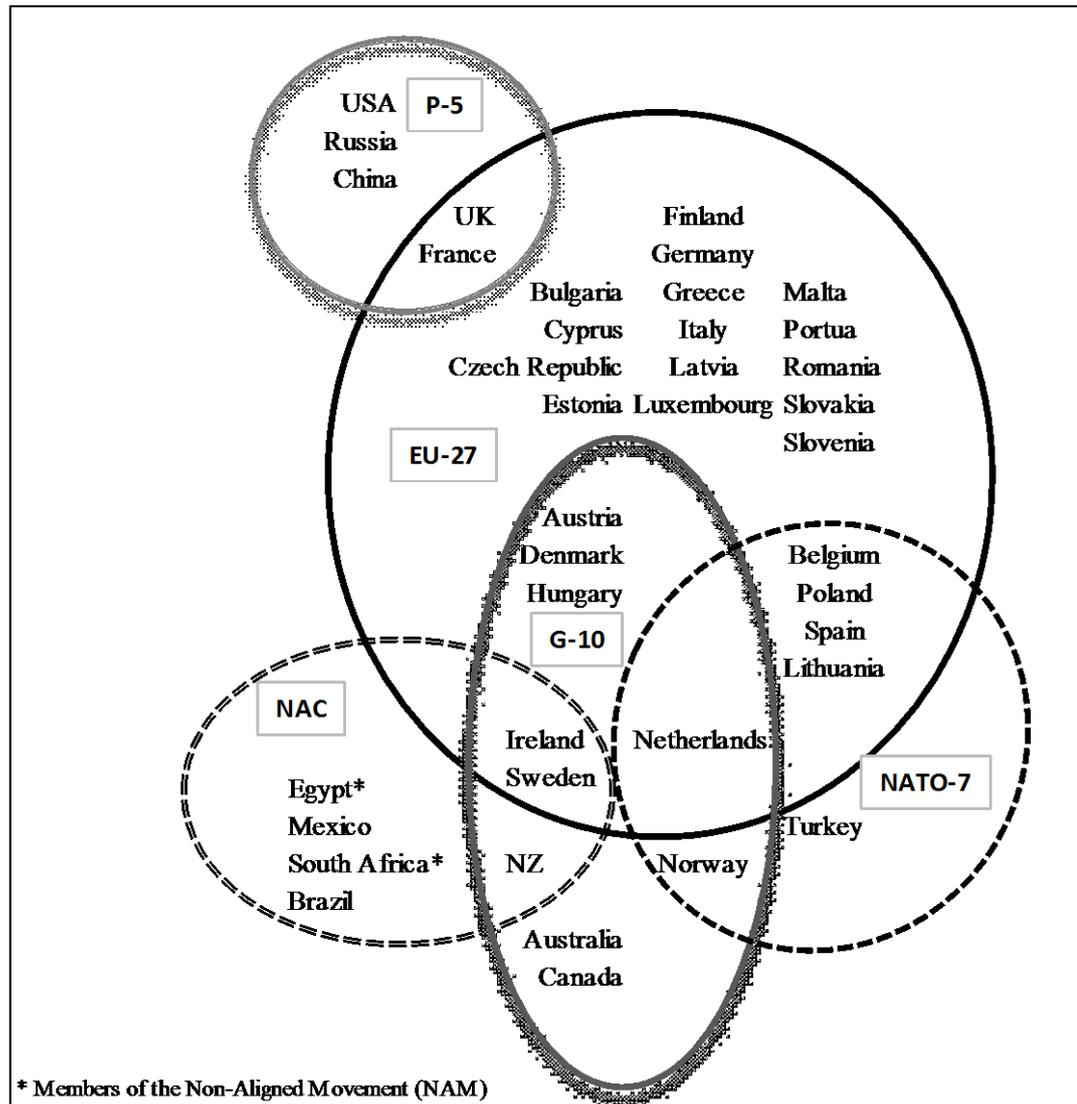
Despite the idiosyncrasies of EU nuclear policy and the considerable divergences that exist amongst its Member States over nuclear security and energy interests, the EU’s common position entering the NPT negotiations has been particularly highlighted as presenting a benchmark for the NPT community as a whole (Fischer & Müller: 1995: 46, Jørgensen: 2009b: 201). As a polity of both NWS and NNWS each with divergent positions on the security and energy concerns of the NPT negotiations, the EU has been viewed as a, “laboratory for consensus” (Anthony et al. 2010: 24, Grand: 2000) with the fact that the EU can find a common position at all generally seen to provide its *added value* within the NPT (interview, Ambassador to the Political & Security Council, EU Member State F, Brussels, 16th May 2011, interview, First Counsellor, EU Member State E, New York, 11th March 2011). As Kissack (2010: 61) has also argued, the EU’s own common position can in fact be an asset in negotiations of this kind because third countries are more likely to accept a position that has already undergone its own internal compromise and moderation. The EU is thus uniquely placed within the NPT by offering an important consensual middle-ground that third countries can more easily accept.

It is however, paradoxically for this reason that the EU is also commonly criticised for having too much of a lowest common denominator position within the NPT (Müller: 2010: 11, Interview, Minister Counsellor to the UN, northern developed country, 7th March 2011, Interview, Counsellor, southern developing country, 11th March 2011, Interview, Deputy Permanent Representative to the CD, EU Member State C, 19th May 2011) With a broad range of differing interests and strategic perspectives on the issue of nuclear weapons and energy the EU’s common position is inevitably one that reflects a watering down of stronger national views in order to appeal to all Member States. As a result, the EU’s

common position has further been criticised for being too universal in its policy objectives (interview, EU diplomatic source, New York, 7th March 2011), and, due to the interests of its more powerful Members, somewhat limp particularly on the matter of nuclear disarmament (Interview, Ray Acheson, Reaching Critical Will, March 2011, Interview, Senior Advisor, ICRC, 10th March 2011, Interview, Counsellor, southern developing country, 11th March 2011).

This in turn leads to a further peculiarity facing the EU as an actor within the NPT. With no EU competence, EU representation within the NPT has, since 1995, been premised on a coordination model whereby the Member States agree to coordinate their positions and act in concert as 'EU'. EU statements and proposals are then put forward by the rotating Council Presidency, but, unlike in the UNFCCC where Member States increasingly sit back to allow the EU representatives to speak for them (see Chapter Three), in the NPT, Member States continue to speak and negotiate on their own behalf. With the EU common position often based on a lowest common denominator appealing to all of its Members, several Member States do also chose to then pursue more specific national interests within other negotiation groupings, as reflected in Figure 5.1 below.

Figure 5.1: EU Member State negotiation partnerships in the NPT in 2010



Source: Author's own compilation

As this figure shows, the UK and France who, as NWS are highly prominent within the NPT in their own right, also work alongside the other Permanent Members of the UNSC including the US, Russia and China, to form part of the Permanent-Five or 'P-5' group within NPT negotiations. Ireland and Sweden, as pro-disarmament States, are also members of the group called the New Agenda Coalition (NAC)⁸³ – a coalition of seven middle powers who work towards the specific objective of nuclear disarmament. Ireland, Sweden, Austria, Hungary, Denmark, Finland and the Netherlands, also form part of the Vienna Group of Ten (G-10) along with Australia, New Zealand, Canada and Norway. This group pursue common objectives on the 'Vienna' issues such as strengthening the International Atomic Energy Agency (IAEA), export controls and nuclear safeguards.

⁸³ Formed in 2000 with members Ireland, Sweden, Egypt, Mexico, Brazil, New Zealand and South Africa

Forming the NATO-7, Belgium, the Netherlands, Poland, Spain and Lithuania also ally themselves with Turkey and Norway during the NPT negotiations, working together in their shared interests as NATO members.

This cross-alignment has been considered a major flaw of the EU's negotiation performance within the NPT, with the EU broadly criticised for its resultant failure to maintain a united front (Kile: 2006, Müller: 2005: 43, Fischer & Müller: 1995: 43-44, interview, EU diplomatic source, New York, 7th March 2011). Whilst cross-alignment presents a challenge for EU unity in this forum (discussed in the following performance evaluation), it is also noted that EU Member States are committed under the CFSP to, "refrain from any action which is contrary to the interests of the Union or likely to impair its effectiveness as a cohesive force in international relations" (TEU: 1992: J1(4)). Subsequently, working within other negotiation groups is deemed by many Member States to be "complementary" to the EU common position rather than contradictory to it (interview, Former Disarmament Ambassador Miguel Aguirre de Carcer, Spanish Permanent Mission to the EU, Brussels, 16th May 2011).

Interesting to note moreover, is that the EU is itself widely recognised to be a highly visible group within the NPT by its negotiation partners (interview, Counsellor, southern developing country, New York, 11th March 2011) as well as one whose position counts (interview, Minister Counsellor to the UN, northern developed country, New York, 10th March 2011, interview, Deputy Permanent Representative to the CD, northern developed country, Geneva, 23rd May 2011). Since 1995 the EU has increasingly attracted the support of its own neighbourhood within the NPT, with EU statements and working papers within the NPT frequently given on behalf not only of the EU Member States and EU candidate, potential candidate and stabilisation and association States, but also including States such as the Republic of Moldova, Iceland, Georgia, Armenia, Norway, Ukraine and Liechtenstein (i.e. European Union: 2010). A further more implicit recognition is that the EU is permitted the courtesy to speak 'as EU' within the NPT negotiations. Thus the Council Presidency can submit working papers and proposals and speak on behalf of the EU in all plenary and committee sessions despite the EU having no formal membership within the NPT. A further elaboration of this recognition afforded the EU as an, albeit complex, actor was also notably seen in 2010 where the newly selected High Representative for the Union, Catherine Ashton, was permitted to speak for the EU during

the NPT's plenary session prior to the Foreign Ministers of many States Parties⁸⁴ (interview, EU diplomatic source, New York, 7th March 2011, interview, Ambassador to the UN, southern developing country, New York, 10th March 2011). The EU may therefore be identified as an actor within the NPT; although one with several peculiar characteristics which must be taken into consideration when evaluating its performance. In the following section this is developed with discussion of the NPT negotiations themselves.

5.2. The NPT review negotiations: Major players and key issues

The Treaty on the Non-Proliferation of Nuclear Weapons (NPT) came into effect in 1970 and was indefinitely extended in 1995. Considered the 'cornerstone' of the global nuclear non-proliferation regime; the NPT encompasses a near universal acceptance⁸⁵ by the international community of the principles it enshrines including: the non-proliferation of nuclear weapons and weapons technology, the sovereign right of all states to the peaceful use of nuclear energy, and the agreement by the NWS to disarm their nuclear weapons. Within the text of the NPT (UNODA: 1968, VIII(3)) is the proviso that the Treaty be reviewed at intervals of every five years by a majority of the Parties to the Treaty in order to review its operation. Beginning in 1970 review conferences have therefore taken place quinquennially with their success typically judged by the production of a Final Document – agreed by consensus among the states parties – intended to offer a review of the previous five years of activity, as well as detailing points of action and provision for States Parties to meet their obligations under the Treaty.

Therefore, unlike the WTO and UNFCCC negotiations (see Chapters Three and Four) which are continuous with meetings taking place throughout the year, NPT RevCons typically take place at the United Nations General Assembly in New York during April to May every five years and with negotiations lasting upwards of four weeks. Since 1995, NPT States Parties have also met under the forum of NPT Preparatory Committees or PrepComs, which take place in cycles of three annual PrepComs followed by one RevCon followed by one year off. PrepComs are intended to discuss issues as they arise and to set the agenda for the upcoming RevCon where decisions are then formally taken. Whilst important, PrepComs have not been included in this analysis for several reasons. First, as

⁸⁴ This was all the more notable for taking place prior to the UNGA resolution on EU representation within the UN and was to set an important precedent for the EU as an actor within the NPT.

⁸⁵ The NPT currently has 189 members. Notable exceptions however include nuclear weapon states Israel, India and Pakistan who have refused to accede to the Treaty as well as the Democratic People's Republic of Korea who withdrew from the Treaty in 2003.

primarily procedural events PrepComs are rarely formal negotiating sessions. The 1st and 2nd PrepComs in a five-year cycle are intended to discuss issues that have arisen and to offer delegates a chance to indicate the direction for negotiations at the upcoming RevCon (interview, senior official, UNODA, New York, 10th March 2011). The 3rd PrepCom is more relevant and is intended to set the agenda for the upcoming RevCon. In practice however, no PrepCom has yet resulted in an agenda being finalised entering the RevCon. Instead the RevCon agenda is typically set in the first week(s) of the RevCon itself. Secondly, as primarily procedural meetings, the EU, whilst regularly giving prepared statements by the rotating Council Presidency and occasionally submitting working papers, does not enter each PrepCom with a prepared common position (interview, senior official, Department of Non-Proliferation and Disarmament Affairs, EEAS, Brussels, 10th May 2011). Assessing the EU's capacity to act within the NPT PrepComs is therefore far more complex as, without a formal common position, there is not evident an EU goal or goals, "articulated in a document so that its formulation, if not its interpretation, is beyond dispute" (Sjöstedt: 1977: 24, see also Chapter Two).

Focusing therefore on the RevCon as the principle 'milestone' negotiation conducted under the NPT, conferences are typically broken down into negotiations concentrating on three Main Committees, each tackling one of the NPT's three main pillars: Main Committee I (MCI) dealing with disarmament, Main Committee II (MCII) dealing with non-proliferation, and Main Committee III (MCIII) dealing with the peaceful uses of nuclear energy. In addition, since 1995, the NPT RevCon has also included closed Subsidiary Body (SB) negotiations which tackle specific issues including practical measures to disarmament (SBI) and regional issues including the Middle East (SBII) (see Appendix IV for a detailed breakdown of issues addressed in these committees and the positions of the major negotiation groups). Within each of the four RevCon's between 1995 and 2010 a key aim for negotiators has been to agree, by consensus, a Final Document agreeing a review of the Treaty; to put in place a plan of action for future work and steps towards the NPT's core principles. As the NPT constitutes the only multilateral agreement in which the P-5 commit to the disarmament of their nuclear weapons and nuclear weapons technology, a major, and on-going, issue under negotiation with the NPT is the obligation by the NWS to disarm and by the NNWS not to proliferate. Table 5.1 below reflects a timeline of the major issues under negotiation in each of the RevCons and their subsequent outcomes between 1995 and 2010.

Table 5.1: Timeline of NPT review negotiations (1995-2010)

NPT RevCon	Negotiation outcome	Key issues under negotiation
1995 RevCon	Decision 1: Strengthening the review process Decision 2: Principles and objectives for Nuclear Non-Proliferation and Disarmament Decision 3: Extension of the NPT Decision 4: Resolution on the Middle East	Negotiations intended to agree the extension of the NPT. Focus also is upon strengthening the NPT review process, introducing a nuclear-weapon free zone in the Middle East, and for new benchmarks by which States Parties performance in meeting their NPT obligations could be measured. The conference ended in success with the NPT indefinitely extended and with several other major decisions taken.
2000 RevCon	Final Document agreed reviewing the operation of the NPT and detailing the improved effectiveness of the strengthened review process. <i>Document includes the '13 Practical Steps' towards nuclear disarmament</i>	Negotiations focused in particular upon practical measures towards nuclear disarmament (with Indo-Pakistani nuclear test explosions a critical subject) and regional issues, including the implementation of the Middle East Resolution. Negotiations end with agreement on practical steps towards nuclear disarmament
2005 RevCon	No agreement	Negotiations stalled over procedural issues with the US and others blocking progress on the adoption of a conference agenda due to mention of the objectives and principles detailed in 1995 and 2000. Once negotiations start, focus is given particularly to DPRK withdrawal in 2003 and tackling issues of compliance. No consensus is agreed and the RevCon ends in failure.
2010 RevCon	Final Document agreed reviewing the operation of the NPT and detailing conclusions and recommendations for follow-on actions. <i>Document includes a 64-point Action Plan covering all three pillars of the NPT</i>	Negotiations aimed at putting in place a forward-looking, comprehensive and ambitious action plan to enable States Parties to fulfil their obligations under the Treaty. Focus is particularly given to Iranian nuclear developments and other on-going nuclear concerns in the Middle East

Source: Author's own compilation

Whilst committing to the general principle of disarmament of their nuclear weapons, the NWS have demonstrated only limited substantive progress in actually eliminating their stockpiles since the Treaty was first enacted in 1970. Recent statistics published in the Bulletin of the Atomic Scientists suggest that whilst there has been a general decline in the number of nuclear weapons by the NWS, inventories of nuclear weapons within the P-5 remain at just under 18,000 warheads with Russia accounting for 12,000, the US 8,000, France 300, China 240, and the UK 225 (Norris & Kristensen: 2010). Representing the interests of the NWS, the P-5 is therefore of particular importance within the NPT with their involvement and consent key to any outcome agreement being approved.

Standing in sharp contrast to the P-5, the Non-Aligned Movement (NAM) is a major negotiation group within the NPT calling for immediate nuclear disarmament by the NWS. The NAM is a group of over 100 non-western, developing States Parties representing the interests of developing NNWS and with lead states including Egypt and South Africa, each of whom have strong pro-disarmament credentials. Egypt in particular is widely regarded as a major player within the NPT (interview, Minister Counsellor to the UN, northern developed country, New York, 7th March 2011, interview, First Counsellor, EU Member State A, New York, 9th March 2011, interview, Deputy Permanent Representative to the CD, EU Member State C, Geneva, 19th May 2011), not only for its leading role within the NAM, but also as a major power broker in the Middle East having influence with both Iran and Israel with whom it has close diplomatic relations. Egypt is also prominent in the New Agenda Coalition (NAC) a group formed in 2000 with South Africa, Mexico, Brazil, Ireland and Sweden to act as a bridge between the west and the developing world in the proactive pursuit of nuclear disarmament. Whilst the NAC is strongly pro-disarmament, it attempts to work with the P-5 to find practical measures for disarmament and is particularly active in the pursuit of the universal ratification of a Comprehensive Test-Ban Treaty (CTBT) and a Fissile Material Cut-Off Treaty (FMCT).

In addition to the fundamental division between NWS and NNWS States Parties within the NPT negotiations, a further issue of contention is between developed and developing States Parties over the mechanisms by which states cooperate in the peaceful use of nuclear energy and in compliance and reporting of non-proliferation efforts. For example, the US and Russia, along with the EU and Vienna Group of Ten are in favour of initiatives such as introducing an Additional Protocol to IAEA verification standards, strengthening export controls on nuclear supplies, and pursuing multilateral approaches to the nuclear fuel cycle. The NAM however has been strongly and consistently opposed to any initiatives that would hinder their development and has resisted these efforts on the grounds that they benefit the developed world only.

For the EU therefore, the NPT presents an interesting challenge. Since 1995 the EU has pursued the core objective to, “strengthen the international nuclear non-proliferation regime”; to “contribute to the successful outcome of the review conference” (Council: 1994, 2000a, 2005a, 2010a); and, to “build consensus on substantive issues” within the NPT (Council: 2000a, 2005a, 2010a). Unlike other negotiation groups within the NPT

which comprise States Parties who congregate over specific issues of shared interests, the EU is a regional grouping⁸⁶ representing the common objectives of a highly divergent group of Member States. Its position therefore requires that it occupy the centre ground between NWS and NNWS positions. An example of this may be seen in its position on nuclear disarmament. Whilst supporting in principle the goal of nuclear disarmament, the EU common positions place much greater emphasis on principles of disarmament such as ‘irreversibility’ and ‘transparency’ as well as strengthening other multilateral arms control treaties such as the Comprehensive Test-Ban Treaty (CTBT) and the Fissile Material Cut-Off Treaty (FMCT) (Council: 2005a, 2010a). In this way the EU’s stance on disarmament is relatively universal, appealing not only to all of its Member States (including its NWS) but also the broader NPT community.

Such a position has both its benefits and drawbacks. In terms of the EU’s objectives relative to the preference structures of key negotiation partners within the NPT, a more ambiguous and ‘universal’ common position – itself already a compromise by having gone through the process of internal EU negotiations - does enable the EU to find agreement with most, if not all, States Parties. As reflected in Appendix IV, the EU is well positioned to achieve its key objective of “building consensus” in order to achieve a successful outcome due in part to these close symmetries with other key players. However, the ambiguity of the EU’s common positions does also present the EU with a presentation problem within the NPT, particularly when compared to other negotiation groupings. For example, the NAC stands out in the NPT negotiations for its proactive stance, since 2000, on nuclear disarmament issues (interview, senior analyst, Acronym Institute of Disarmament Diplomacy, London, 19th April 2011). The Vienna Group of Ten (G-10) has established itself as a prominent player on all ‘Vienna’ issues pursuing objectives such as strengthening the IAEA, export controls and nuclear safeguards. The strategic interests of the P-5 meanwhile ensure that on all nuclear issues, not least the key issue of nuclear disarmament, these five states are of fundamental importance; whilst the NAM is high profile on all issues in representing the views of the developing world. Comparatively the EU has no such *raison d’être*. Instead the EU’s position, which has little in the way of uniquely ‘European’ positions or particular entrepreneurial solutions by which it could help steer negotiations, is in danger of being submerged by other more prominent, and

⁸⁶ Other regional groupings also exist within the NPT i.e. the Arab League, or the Pacific Island Group. Their contributions tend to be irregular however and less formalised than the EU. The Arab League is also specific in dealing with single issues i.e. the Middle East Resolution, rather than providing a common position across all pillars.

ambitious, objectives, pursued more aggressively by groups who are dedicated to achieving specific results and who have very set views on what a ‘successful outcome’ should look like. It is therefore to this position, and the EU’s performance in its pursuit and delivery, that we now turn.

5.3. EU performance in the NPT review negotiations

In this section the EU’s performance within each of the four NPT review negotiations between 1995 and 2010 - outlined in Table 5.1 above - is evaluated. Evaluating performance using the analytical framework developed in Chapter Two, this analysis focuses upon the EU’s performance as a measure of both its negotiation behaviour and effectiveness. In each NPT RevCon focus shall therefore be given first to the ambition of the EU’s common position, focusing therefore on its progressiveness relative to the preference structures of other negotiation groups. EU performance is then assessed across four performance indicators focused upon the EU’s negotiation behaviour – including the level of EU unity, outreach, and significance – and its effectiveness with an overall assessment then made of the EU’s performance based on a scale of very good, good, fair, poor, or very poor. In each of the following sub-sections the EU’s performance assessment is detailed within each of the section headers.

The 1995 RevCon: A good performance on indefinite extension but lacking elsewhere

The 1995 Review and Extension Conference commenced in New York on the 17th April 1995. A significant milestone for the NPT, the 1995 RevCon marked the end of the Treaty’s original fixed term period of 25 years. Under article X(2) of the NPT (UNODA: 1968) the 1995 RevCon was convened for States Parties to decide on whether the Treaty should continue in force indefinitely, or to be extended for a further fixed period(s). Entering the 1995 RevCon with its first Joint Action, agreed in July 1994, the EU’s position therefore detailed its principle objectives to act together to strengthen the NPT through the pursuit of the, “unconditional indefinite extension” of the Treaty and to promote its, “universal adherence” by all States (Council: 1994). In attaining that goal the Joint Action further outlined a course of action that sought to build consensus through *demarchés* by the Presidency to third countries, both to encourage accession if not already a member and to promote the cause of unconditional indefinite extension (Council: 1994).

In calling for indefinite extension the EU's negotiation position entering the 1995 Review and Extension Conference was moderately ambitious. Joining forces with Canada and Japan (Fischer & Müller: 1995) who had also launched a campaign to build support in favour of indefinite extension, the EU's objectives also met with the preference structures of the United States who was in favour of indefinite extension. The US however was of the view that the decision on extension should be taken by a vote of 50%+1 in support of indefinite extension to secure its success. The EU however, was more ambitious than the US in this respect, calling instead for a unanimous decision in order to strengthen the legitimacy of the NPT's extension (Fischer & Müller: 1995: 18, Van Dassen & Müller: 1997). Standing in contrast to the EU however, were a number of developing countries who opposed unconditional indefinite extension. Mexico in particular was prominent in calling for extension *plus* (UNODA: 1995a) which sought the indefinite extension of the NPT but with additional measures including commitment by the nuclear-weapons states to cease all production of nuclear weapons and to reduce their arsenals directly. A number of NAM countries, led by Iran, further opposed indefinite extension and called instead for rolling fixed term periods of 25 years and comprising several obligations that States Parties must meet, not least by the nuclear-weapons states (UNODA: 1995b)⁸⁷.

Within the existing literature, accounts of the EU's performance in pursuit of the NPT's indefinite extension have been highly positive, with the EU's actions widely acknowledged as "crucial" to the campaigns success (Meier & Quille: 2005, Portela: 2003: 6, Van Dassen & Müller: 1997: 65). Focus particularly has been given to the EU's, "efficient and protracted diplomatic campaign" (Fischer & Müller: 1995: 42) judged to have been, "the best-known and celebrated example of EU action in non-proliferation" (Portela: 2003: 6) as well as a, "model for joint European action" (Meier & Quille: 2005). Across other issues under negotiation during the 1995 RevCon however, the EU's performance has also been criticised for having, "showed major shortcomings" (Fischer & Müller: 1995: 43) with the EU's inability to agree a common EU position on the crux issue of nuclear disarmament especially highlighted as a notable flaw in its ability to make a difference across other major issues (Fischer & Müller: 1995: 43). In fact, with the EU Joint Action focused solely on the objective of indefinite extension and strengthening the NPT through universality, it has not been possible to evaluate 'EU' performance on any other negotiating issues during the 1995 RevCon. Efforts by the EU to attempt to develop a

⁸⁷ Co-sponsors of this proposal included the DPRK, Indonesia, Iran, Jordan, Malaysia, Mali, Myanmar, Nigeria, Papua New Guinea, Thailand and Zimbabwe

common line on nuclear disarmament largely failed (Fischer & Müller: 1995: 43) and thus the 'EU' was an actor over the issue of indefinite extension only. On this issue however, the EU was to give a good performance, demonstrating not only a moderate level of overall negotiation behaviour but also high effectiveness.

On the indefinite extension decision, the EU was represented during the 1995 NPT RevCon by the then French Council Presidency with the EU position openly endorsed within the national statements and activities of each of the EU Member States (UNODA: 1995c). Speaking with many voices but maintaining cohesion over the issue of indefinite extension, EU unity on this issue was therefore moderate. The EU's outreach to its negotiation partners prior to and during the RevCon was also notably high. Adopting a proactive negotiation strategy approaching the 1995 RevCon, the EU's tactics included a *tour des capitales* of demarchés conducted by the Troika of past, present and future Council Presidencies and further reinforced, by diplomatic relations pursued with third countries by Member States individually (Fischer & Müller: 1995, Portela: 2003). The EU specifically targeted those countries that continued to resist indefinite extension of the NPT, including, for example Egypt, Indonesia and Mexico (AgenceEurope: 1995). The core aims of this tactic was to persuade States Parties to support indefinite extension of the NPT and to garner enough support in order to add weight to EU calls for the decision to be taken unanimously rather than by a vote. This strategy was highly successful with a number of Latin American and African States Parties identified as having shifted their stance in favour of indefinite extension as a result of EU persuasion (Fischer & Müller: 1995: 43). The co-sponsored proposal in favour of indefinite extension further resulted in 111 NPT States Parties formally aligning with the Draft Decision to indefinitely extend the NPT during the 1995 RevCon (UNODA: 1995d).

Furthermore, with representation by the French Council Presidency – and with France attending not only as a NWS but also as a recently acceded NPT member – the EU was formally participant in the final week negotiations that took place between a small group of 25 States Parties as 'Friends of the President'. These negotiations focused specifically upon the drafting of the final language to be included in the RevCon outcome document and on the crux negotiations centring on strengthening the NPT review process (Fischer & Müller: 1995: 43). It is noted however that, with the EU position so dominated upon the extension decision, France's participation in this group was much more to do with its position as a P-5 member and NWS, than to the high significance of the EU to the decision-making

process. Subsequently, whilst the EU position on indefinite extension was pushed during these sessions, 'EU' participation beyond that was far more limited. EU significance is therefore assessed as being moderate in the 1995 RevCon producing an overall moderate level of negotiation behaviour in the pursuit of the EU Joint Action.

Adding to this moderate negotiation behaviour, the EU was also highly effective in achieving the objectives of its Joint Action in the 1995 RevCon. Most importantly the EU attained its core objective to extend indefinitely the NPT. In the decisions adopted in the negotiation conclusion, Decision Three detailed that, "as a majority exists among States party to the Treaty for its indefinite extension, in accordance with article X, paragraph 2, the Treaty shall continue in force indefinitely" (UNODA: 1995e (Decision 3)). Further emphasising this success, the EU was also effective in achieving its objective through unanimity. No vote was taken on the indefinite extension decision but was instead approved by consensus. Whilst the extension decision was not wholly 'unconditional' as the EU Joint Action specifies, the conditions which came with it did nevertheless include several elements favoured, and openly supported, by the EU. Most notably the EU objective of promoting the universality of the NPT was included within the Final Document under Decision Two, with a call to all States not yet party to the Treaty to accede as soon as possible (UNODA: 1995e (Decision 2(1))).

It should be noted however, that the indefinite extension decision was just one of a number of substantive developments to come out of the 1995 RevCon. Also agreed were several principles and objectives for nuclear non-proliferation and disarmament (UNODA: 1995e (Decision 2)) aimed at reconfirming the obligations of both NWS and NNWS to their commitments under the NPT. Stronger review processes were also negotiated, and subsequently implemented in 1995. Critically the 1995 NPT RevCon also produced a Resolution on the Middle East – itself seen as a compromise to those States Parties reluctant to support indefinite extension (interview, EU diplomatic source, New York, 7th March 2011, interview, Minister Counsellor to the UN, northern developed country, New York, 9th March 2011) – calling for all States within the Middle East to take practical steps towards, "the establishment of an effectively verifiable Middle East zone free of weapons of mass destruction, nuclear, chemical and biological, and their delivery systems". It further called upon all NPT States Parties and, "in particular the nuclear-weapon States" to extend their cooperation and exert effort to establish this nuclear weapon free zone in the region (UNODA: 1995e). On these more substantive and politicised issues, the EU, with

no agreed common position beyond that of the indefinite extension decision, was virtually irrelevant to the negotiations; having little to offer beyond that of what its Members had been able to agree in July 1994 and subsequently of little or no influence. Thus, whilst the EU's good performance in delivering its objectives from the Joint Action was impressive, its impact elsewhere was lacking.

The 2000 RevCon: A fair performance

The next NPT Review Conference took place from 24th April to 19th May 2000. Particularly dominant on the agenda in 2000 was the issue of Indo-Pakistani nuclear test explosions two years previously which had, “sent shivers through the non-proliferation regime”(Johnson: 2000). Efforts to push forward with the Principles and Objectives for nuclear non-proliferation and disarmament agreed at the 1995 RevCon, as well as the implementation of a Middle East nuclear weapon free zone, had met with limited success; raising calls for the 2000 RevCon to produce practical and concrete steps forward for the regime. For the EU the 2000 RevCon also reflected an important development in its negotiation position. In a substantial development from the 1994 Council Decision, the EU's 2000 Common Position (Council: 2000a) included the aim, in addition to its core objectives to, “strengthen the non-proliferation regime”; “promote a successful outcome” in the 2000 RevCon and; to “help build consensus”: twenty-one substantive issues, “for consideration” which ranged across all three pillars of the NPT.

Amongst them, the EU set out objectives to pursue the early entry into force of the Comprehensive Test-Ban Treaty (CTBT), to push for negotiations to commence on a Fissile Material Cut-Off Treaty (FMCT) calling for provision for the reduction in non-strategic nuclear weapons, and the establishment of a new working group under the Geneva-based Conference on Disarmament focused upon the cessation of the nuclear arms race and nuclear disarmament (Council: 2000a). It further called for the development of nuclear weapon free zones, and to introduce an Additional Protocol under IAEA comprehensive safeguard agreements⁸⁸ (Council: 2000a: Art 2). However, despite its increased detail, the EU's common position entering the 2000 RevCon was low in ambition. Conservative in nature, the EU's position gave no clear indication of what it sought for in the Final Document, and was principally premised on basic – universally

⁸⁸ The Additional Protocol is a legal document granting the IAEA complementary inspection authority to that provided in existing safeguard arrangements. It enables the IAEA inspectorate to give assurance about both declared and possible undeclared nuclear activities.

acknowledged – principles such as encouraging the support of other multilateral arms control efforts and helping to “*build consensus*” towards a successful outcome (Council: 2000a, emphasis added). Subsequently, the EU’s position ensured that, whilst saying a great deal more than in 1995, it also found symmetries with the preference structures not only of its own and other NWS, but also the wider NNWS community as well.

The EU has nevertheless been lauded within the existing literature for its role in achieving a Final Document in 2000 (Meier & Quille: 2005). The RevCon outcome is seen to have been, “inspired by EU proposals” (Portela: 2003) and the EU has been judged to have played, “a notable role in the eventually successful Conference” (Portela: 2004: 6). Implicit in these assessments is that, because many of the EU’s substantive issues were included in the RevCon’s Final Document, the EU performed well in the 2000 RevCon. Closer analysis of the EU’s performance as a measure of both its negotiation behaviour and effectiveness however, shows that the EU’s performance was only fair in the 2000 RevCon. Whilst corroborating those claims that the EU had a high level of effectiveness in attaining what are the majority of its negotiation objectives in the Final Document, it also finds that this in fact coincided with a low level of negotiation behaviour. It is thus argued that the success of the 2000 RevCon may have had less to do with the EU’s own negotiation position and subsequent behaviour, and much more to do with others with whom the EU was to share negotiation objectives.

The EU’s official voice during the 2000 RevCon was provided by the Portuguese Council Presidency who gave statements on behalf of the EU in the plenary session, as well as in all three Main Committees (UNODA: 2000a). Continuing to demonstrate moderate unity, the Council Presidency’s voice was again supplemented by the EU Member States with several Members also working alongside other negotiation groupings. Sweden for example, in a statement to the general plenary endorsed both the EU statement and also that of the newly formed New Agenda Coalition (NAC) position (UNODA: 2000a: 36). Several other Member States including Austria, Denmark, the Netherlands and Ireland also worked alongside the G-10 to pursue shared objectives in Main Committee II and III. Belgium, Germany, Italy and the Netherlands (along with Norway) in fact stressed within the titles of their working papers submitted to the negotiations as the ‘NATO-5’ that their position was, “complementary to the European Union Common Position” (UNODA: 2000b: xvi-xvii). On the whole these activities were not contradictory to the EU common

position which, due to its ambiguity, enabled Member States some freedom to pursue stronger national interests without crossing any EU red-lines.

The EU's outreach during the 2000 RevCon was however, low. Whilst demonstrating a marked improvement relative to 1995 through the submission of a number of formal EU working papers, including several to the negotiations on nuclear disarmament (UNODA: 2000b: xvi-xvii), the EU's negotiation strategy during the negotiations was reactive and the EU undertook no clear activity to persuade others of any specific EU objectives. Relative to the impressive diplomatic campaign conducted by the EU in preparation for the NPT's indefinite extension in 1995, its outreach in 2000 was underwhelming. Similarly the EU's significance was also to diminish following 1995. Whilst participant in all of the open negotiation sessions, the Portuguese Council Presidency was then excluded from endgame bargaining. Most notable in this regard was that whilst the EU's official voice was excluded from the 'Friends of the President' negotiations, which were to again take place in 2000, these same negotiations were to include several EU Member States present in their own national capacity as members of the P-5 and NAC. With disarmament proving to be the fundamental dividing issue between the P-5 and NAM it was therefore with members of the NAC, and not the EU, that the P-5 chose to negotiate in the final week in an effort to find agreement (Johnson: 2000, Hill: 2000).

Despite this low outreach and significance, the EU was however, to achieve most of its objectives in the 2000 Final Document. Negotiations concluded with the consensual adoption of a document for, "Improving the effectiveness of the strengthened review process for the Treaty" (UNODA: 2000c) and which encompassed what are referred to as the "Thirteen Practical Steps" towards nuclear disarmament by the NWS. Within that document the EU can claim the attainment of the majority of the 21 substantive issues raised in its common position. Most notably flagged up within the existing literature are the references within the Final Document to the principles of irreversibility and transparency, and to the commitment to establish a nuclear disarmament working group within the Conference on Disarmament (Portela: 2003, 2004). Other goals were also attained however, including a call for all States to ratify the CTBT, to begin negotiations towards a FMCT, and to accede to several other multilateral arms control conventions including the Anti-Ballistic Missile Treaty, and the Physical Protection Convention (UNODA: 2000c) as also detailed within the EU common position.

This particular case therefore presents an interesting dynamic. The EU's high effectiveness should suggest that it performed well. Accounts within the existing literature of the EU's proposals 'inspiring' and helping to achieve the 2000 Final Document would certainly imply this as well. However, it is also clear that in the 2000 negotiations, the EU's negotiation behaviour was low. Whilst the EU did therefore attain most of its goals, it did so with a low outreach, moderate unity, and without being participant in endgame bargaining, suggesting that some other factors must have been at play in helping the EU to attain its goals. Firstly, it is important to note that the EU's goals in 2000 were low in ambition. Subsequently its goal-attainment, whilst high, was premised on the acknowledgement of basic principles widely acknowledged, if not tacitly favoured, within the international community already. Second, the EU was not the only negotiator to support those objectives outlined in the Final Document. Importantly, the NAC position also reflected close symmetries with these principles. For example, the NAC supported the pursuit of the CTBT and FMCT, sought the acknowledgement of the principles of irreversibility and transparency in NWS disarmament, and had also called for a working group to be established within the Conference on Disarmament to tackle practical disarmament (NAC: 2000). Comparative to the EU moreover, the NAC did have high outreach in 2000 (Johnson: 2000) and was also highly significant, being participant in the last week negotiations along with the P-5. Whilst the Final Document was a consensus decision, and therefore the EU can claim some credit for these goals being attained, its lack of involvement during key negotiation processes, coupled with its low outreach to other negotiation partners, would seem to suggest that EU effectiveness in this case was more a result of actions by the NAC than by the EU itself. Its overall performance therefore is assessed as fair.

The 2005 RevCon: Very poor performance and a missed opportunity

The 2005 NPT RevCon took place in New York from 2nd to 27th May and has been widely acknowledged to have been a failed negotiation (Interview, Ambassador to the Political & Security Council, EU Member State F, Brussels, 16th May 2011, interview, Ambassador to the UN, southern developing country, New York, 10th March 2011, Kile: 2006, Johnson: 2005, Müller: 2005: 34, Potter: 2005: 19). During the five years since the 2000 RevCon several critical nuclear proliferation events had taken place in focusing the attention of delegates. The terrorist attacks in the US on 11th September 2001 and the resultant War Against Terror had significantly increased the threat of nuclear terrorism and emphasised the need for stringent nuclear non-proliferation measures. The US had further targeted

several States in an ‘Axis of Evil’ – including NPT members Iran, Iraq and Syria - for allegedly harbouring terrorist cells and fostering a black market in nuclear materials. Adding further fuel to the fire, in 2003 the DPRK had announced its withdrawal from the NPT; further reinforcing concerns that the DPRK was attempting to develop a nuclear weapons programme. States Parties entering the 2005 RevCon were thus faced with pressing challenges, not only in how to deal with an unprecedented case of withdrawal from the Treaty, but also ensuring the strict compliance by several of its own members with the principles it enshrined.

For the EU, the 2005 RevCon provided an opportunity on several levels. With the United States reverting to unilateralism in efforts to tackle threats to its security the EU was in a position to fill this “void in leadership” within the NPT community (Müller: 2005: 43). In 2003 the EU had moreover launched a Strategy Against the Proliferation of Weapons of Mass Destruction (WMD) (Council: 2003d). The strategy outlined, for the first time, the need for a coherent EU Action Plan to address the threat of nuclear proliferation. In it, the strategy emphasised that ‘effective multilateralism’ was the cornerstone of EU efforts in combating the proliferation of WMD and that it would pursue the universalisation of multilateral treaties, including the NPT, putting particular emphasis on compliance with those treaties (Council: 2003d: 6). It therefore presented an important document in emphasising EU continued commitment to ‘effective multilateralism’ at a time when US unilateralism was making many nervous. In 2004 moreover, all EU Member States – including the recently acceded central and eastern European countries – had signed the Additional Protocol to IAEA comprehensive safeguard arrangements. As a leading advocate of the Additional Protocol, this domestic action further created opportunity for the EU to ‘lead the way’ by setting an example that others could follow.

The EU’s common position entering the 2005 RevCon was also more substantive than in 2000. Continuing to pursue its primary objectives: to “strengthen the international nuclear non-proliferation regime by promoting the successful outcome of the RevCon” and to “help build consensus” (Council: 2005a: 2(b)), the EU also outlined a total of forty-three ‘essential issues’ that it would pursue in the 2005 RevCon. Notable amongst these was a call for the adoption of measures to discourage withdrawal from the NPT, an emphasis on the “absolute necessity of full compliance with all provisions of the NPT” and further emphasising the need for an Additional Protocol as the new verification standard for the IAEA’s Comprehensive Safeguard Arrangements. The EU position also continued to

reiterate the need for urgent ratification of the CTBT as well as the need for negotiations to commence on a FMCT (which still had not progressed since 2000). The position nevertheless continued to be weak on the issue of nuclear disarmament, mentioning simply that the NPT, “represents the essential foundation for the pursuit of nuclear disarmament” (Council: 2005a: 2(b)2)) but offering no concrete steps for tackling the issue.

Whilst the EU common position in 2005 was judged to have been “promising” (Müller: 2005: 43) and “well-defined” (Potter: 2005: 23), it is noted that the EU continued to utilise ambiguous, lowest common denominator language. Whilst outlining several more substantive issues than it had in 2000, the 2005 position nevertheless remained ‘business as usual’ by failing to indicate how it would pursue those essential issues it had highlighted, or what it explicitly sought for the negotiation outcome. Rather than offering clear direction the EU position remained conservative, continuing to offer broad appeal to both NWS and NNWS by remaining resolutely uncontroversial but offering little of the leadership that would enable the EU to “fill the void” that had been left by the US’s reticence.

The EU’s performance during the 2005 RevCon has been broadly criticised within analytical commentary of the event. Müller (2005: 43), an analyst and official with the German delegation during the negotiations, has referred to the EU’s “dismal performance” during the RevCon; blaming divisions within the EU for its failure to offer leadership at a time when the United States was backing away from multilateral efforts and focusing on its unilateral policy (Interview, Minister Counsellor to the UN, northern developed country, New York, 9th March 2011, interview, EU diplomatic source, New York, 7th March 2011, Johnson: 2005). Others have suggested that the EU failed due to its “unconvincing strategy” (Johnson: 2005) and because it was “hampered by internal divisions” (Kile: 2006: 616). Supporting these claims it is here found that the EU performed very poorly in the 2005 RevCon because it had both a low level of negotiation behaviour and, with the RevCon failing to produce any Final Document, a low effectiveness also, reflecting a worst case scenario for EU performance with low levels across all four performance indicators.

The EU’s unity in 2005 was to prove a particular set-back for the EU’s performance. Represented during the negotiations by the Luxembourg Council Presidency, Member States also continued to speak and negotiate in a national capacity. Unlike the 1995 and 2000 RevCons where their positions remained primarily complementary to the EU

common position, in 2005 several Members voiced opinions and objectives contradictory to the EU. A particular point of contention early in the negotiations was the agenda to be adopted. Holding up proceedings, the United States, supported by France, had objected to an agenda that included the agreements achieved in 1995 and 2000, particularly with regard to steps towards nuclear disarmament (Johnson: 2005: 1, interview, Minister Counsellor to the UN, northern developed country, New York, 9th March 2011). Increasingly vocal in opposition to any mention of the '13 Practical Steps' to nuclear disarmament, France's actions were in direct contradiction to the EU common position which stated that any negotiations should be built, "on the basis of the framework established by the NPT in supporting the Decisions and Resolution adopted at the 1995 Review and Extension Conference and the final document of the 2000 NPT Review Conference" (Council: 2005a: 2(b)).

Within Main Committee negotiations the EU Member States were also seen to go "astray along national lines" (Müller: 2005: 43), failing to adequately reiterate EU positions (Potter: 2005: 24) and actively pursuing their own stronger national interests in Committee negotiations (see UNODA: 2005a). The Netherlands, for example, was seen to work particularly actively, not only within the EU, but also within the G-10 and NATO-7, who it then spoke on behalf of in the main committees. Whilst these positions were broadly complementary to the EU common position, that it spoke so regularly and was quite so 'hyperactive' (Müller: 2005: 43) further emphasised the impression of EU division.

EU outreach during the 2005 RevCon was also low. Despite having more to say in its more detailed common position, the EU then failed to promote its position with negotiation partners (Johnson: 2005), spending more time attempting to reconcile differences within its own membership rather than negotiating with others. Whilst the EU was found to increase the number of formal working papers submitted to the 2005 RevCon (UNODA: 2005b), including papers submitted to each of the Main Committees and with one aimed specifically at the issue of withdrawal, its negotiation strategy was reactive and, with divisions increasingly evident amongst its Members, the EU was then unable to actively promote them. In addition, the EU had low significance with the Luxembourg Council Presidency excluded from the final week 'Friends of the President' negotiations held

between approximately twenty States Parties⁸⁹ (interview, Ambassador to the UN, southern developing country, New York, 10th March 2011).

The overall failure of the 2005 RevCon to find agreement and produce a Final Document was moreover to result in the EU having low effectiveness. With its priority objective of, “promoting the successful outcome of the 2005 Review Conference” (Council: 2005a: 1) the failure of the conference was an inevitable failure for the EU’s objectives also. The 2005 RevCon thus not only ended in failure for the NPT community, but for the EU as well. With its very poor performance – sharply revealed in the limited ambition of its negotiation position and the divisions of its Member States – the EU missed its opportunity to make a difference to the negotiations and to take on a bigger role within the NPT itself.

The 2010 RevCon: A transitional period and a good performance

In sharp contrast to the negative atmospherics of the 2005 RevCon, the 2010 NPT RevCon, taking place from 3rd to 28th May in New York, was launched under a far more positive negotiation environment (interview, EU diplomatic source, EEAS, New York, 7th March 2011, Johnson: 2010). Following the failure of 2005, officials from across the political divide were increasingly concerned about the implications that a second failed RevCon would have on the NPT (Interview, Deputy Permanent Representative to the CD, EU Member State C, Geneva, 19th May 2011, interview, Ambassador to the UN, southern developing country, New York, 10th March 2011, interview, Minister Counsellor to the UN, northern developed country, New York, 9th March 2011). The 2010 negotiations were however to receive a significant boost in 2009 by the election in the US of the Obama Administration which was to re-energise the non-proliferation and disarmament debate by taking important steps to demonstrate a new multilateral approach to the issue. These were to include a prominent speech given by President Obama in Prague in April 2009 (White House: 2009) which was lauded for the US’s re-commitment to a world free of nuclear weapons (BBC News: 2009, Interview, EU diplomatic source, New York, 7th March 2011, interview, First Secretary, EU Member State E, New York, 11th March 2011, interview, senior analyst, Acronym Institute of Disarmament Diplomacy, London, 19th April 2011). Also in 2009 the US and Russia had begun renegotiations on a second Strategic Arms

⁸⁹ The final week negotiations took place at the Mexican mission in New York and were colloquially referred to as the ‘Smokers Group’ meetings due to the large number of delegates who smoked (interview, Ambassador to the UN, southern developing country, New York, 10th March 2011). The negotiations involved several EU Member States including members of the P-5 and NAC but Luxembourg was excluded in its role as EU representative.

Reduction Treaty (START-II), and in April 2010 the US hosted a Nuclear Security Summit coinciding also with the publication of its Nuclear Posture Review where it set out concrete steps to reduce the United States' reliance on nuclear weapons for security and to move towards 'global zero' (US Department of Defence: 2010). Compared to 2005, with the US's stance so altered, there was therefore real momentum towards a successful outcome for the NPT RevCon in 2010 (Anthony et al. 2010: 87) with the mood seen to be "cautiously optimistic" (Johnson: 2010, Müller: 2010: 5)

The EU's common position entering the 2010 negotiations again followed a similar trend to that seen in 2000 and 2005. Demonstrating an increased substance, the 2010 common position not only outlined its on-going core objective, "to strengthen the international nuclear non-proliferation regime by promoting a substantive and balanced outcome to the 2010 Review Conference" (Council: 2010a: Art. 1), but in fact specified that to attain that goal the EU would pursue "the adoption of a set of concrete, effective, pragmatic and consensual measures for stepping up international efforts against proliferation, pursuing disarmament and ensuring the responsible uses of nuclear energy" (Council: 2010a: Art. 1). In addition, in an improvement to the 2000 and 2005 positions, the EU common position in 2010 further specified seven *priority areas* that it sought to address in the negotiations backed up by a total of 56 'essential issues' to promote. These seven priorities included: a reaffirmation by all States Parties to their Treaty obligations, the adoption of concrete measures to enable States Parties to meet their obligations; ensuring the rapid entry into force of the CTBT and for negotiations to start on an FMCT; including the Additional Protocol as the new verification standard for the IAEA's comprehensive safeguard arrangements; establishing a common understanding on how to resolutely and effectively respond to cases of non-compliance (with particular mention to the DPRK and Iran), and encouraging multilateral approaches to the nuclear fuel cycle (Council: 2010a: Art. 2(1-7)). On top of this the common position was notable in calling for a moratorium on the production of fissile material for nuclear weapons pending the entry into force of a FMCT (Council: 2010a: Art 3(17)), as well as for emphasising the need for, "immediate steps" towards the goal of nuclear disarmament and, "for an overall reduction in nuclear arsenals in the pursuit of gradual, systematic, nuclear disarmament" (Council: 2010a: Art 3(7-8))⁹⁰.

⁹⁰ It is also noted that the EU does also stress that "the special responsibility of the states that possess the largest arsenals" should be also be taken into account (Council: 2010a: Art 3(8))

Comparative to its own previous common positions, the EU's stance entering the 2010 RevCon was also more ambitious. Most notably, unlike the 2000 and 2005 RevCons, the EU's position in 2010 actually outlined specific goals that it sought for the 2010 negotiation outcome – and not just broad principles that it favoured for the NPT regime as a whole. Specifying the need for concrete measures and detailing seven priority areas for moving the negotiations forward gave the EU a more progressive position in 2010 and moved it beyond its traditional conservative basis. This position was however only moderately ambitious. Whilst it was progressive it nevertheless met in large part with the preference structures of its negotiation partners. In calling for concrete and pragmatic measures to be agreed from the RevCon, the EU position was largely in keeping with a general consensus that had emerged following the 2009 NPT PrepCom that a balanced action plan across all three pillars would be required from the 2010 outcome (Interview, Counsellor, southern developing country, New York, 11th March 2011, interview, Counsellor, EU Member State D, New York, 10th March 2011, interview, Deputy Permanent Representative to the CD, EU Member State C, Geneva, 19th May 2011). On the majority of issues within each pillar moreover the EU position was to show many symmetries with the position of the P-5 and G-10 (see also Appendix IV) – particularly evident on support for an Additional Protocol and promoting the multilateral fuel cycle. The EU could also claim some symmetry with the NAC and NAM over support for the CTBT and FMCT, including a call for a moratorium on the production of fissile material. In this way therefore the EU's position in 2010 was to find areas of agreement with each of the main negotiation groupings within the NPT.

The EU's performance in the 2010 RevCon was then good. Demonstrating both a moderate level of negotiation behaviour and a high degree of effectiveness the EU considerably improved upon its poor performance from 2005. This was further notable in light of changes that had taken place within the EU as a result of the Lisbon Treaty with the EU undergoing a 'transitional period' at the time of the 2010 RevCon (interview, EU diplomatic source, New York, 7th March 2011). The transitional aspect in particular affected the EU's representation within the NPT, with a system of dual-representation including both the rotating Council Presidency – held by Spain and led predominantly by the then Spanish Disarmament Ambassador Miguel Aguirre de Carcer – and the EEAS, headed up initially by the newly appointed High Representative for the Union on Foreign Affairs and Security Policy – Catherine Ashton – and latterly by the EEAS Director for Non-Proliferation and Disarmament Affairs, Annalisa Giannella. This odd state of affairs

resulted in the EU being represented by Catherine Ashton speaking in the general debate on the first day of the RevCon, and then by the Spanish Ambassador supported by Ms. Giannella for the remainder of the four weeks of negotiations.

Despite this complexity over EU representation, and in a notable improvement to 2005, the EU's unity in the 2010 RevCon was moderate. With the Council Presidency speaking for the EU on the majority of issues, including in all plenary and committee discourses, EU Member States did then retain cohesion with the EU common position in their own statements and during committee sessions (UNODA: 2010a). Comparison of the language between Catherine Ashton's statement and those of the EU Member States for example reflects marked similarities, with Member States national statements also focusing on the Additional Protocol; calling for the ratification of the CTBT, emphasising concerns over non-compliance by Iran and the DPRK, and stressing the urgency of introducing the Middle East Nuclear-Weapon Free Zone (NWFZ) to fulfil obligations from the 1995 RevCon (UNODA: 2010a). In sharp contrast to the 2005 RevCon where French efforts to block a negotiation agenda weakened the EU's unity, in 2010 the EU managed to prevent internal disagreements from being openly aired but instead presented itself a united front. This has further been acknowledged by the EU's negotiation partners, with one third country official claiming that the EU, "did not wash its dirty laundry in public" (Interview, Deputy Permanent Representative to the CD, northern developed country, Geneva, 24th May 2011).

A further point of note is that a number of Member States did also continue their tradition of working alongside other like-minded negotiation groupings including the New Agenda Coalition, the G-10 and the NATO-7 (see Figure 5.1 above). Despite this, in interviews conducted by the author, many EU Member State officials involved in the 2010 NPT RevCon emphasised that whilst they sometimes went 'further' in their national positions by aligning with other groups (interview, First Counsellor, EU Member State A, New York, 9th March 2011, interview, Deputy Permanent Representative to the UN, EU Member State B, New York, 9th March 2011, interview, Deputy Permanent Representative to the CD, EU Member State C, Geneva, 19th May 2011, interview, Ambassador to the CD, EU Member State G, Geneva, 20th May 2011) this was not considered contradictory to the EU position (Interview, Former Disarmament Ambassador Aguire de Carcer, Spanish Permanent Mission to the EU, Brussels, 5th May 2011). Others further emphasised that whilst Member States often aligned with other groups their loyalty remained to the EU and

to the common position with, “the level of alliance being much stronger within the EU” than to other groups (Interview, Deputy Permanent Representative to the CD, EU Member State C, Geneva, 19th May 2011, Interview, Ambassador to the CD, EU Member State G, Geneva, 20th May 2011).

In 2010 moreover, rather than undermining the EU’s performance, Member State cross-alignment with other groups in fact provided an important avenue for the promotion of the EU’s common principles and to spread the EU position to a wider audience. Demonstrating a proactive negotiation strategy and with a high level of outreach, this cross-alignment of EU Member States working in other negotiation groups was a highly useful tactic; creating a multiple effect by utilising a network of diplomacies and communication through which the EU’s principles and objectives were promoted, issues debated and intentions between groups known. Furthermore, this action was not detrimental to the EU’s performance but instead allowed different streams within the EU to better understand the positions of the other members of these groupings, and to feed this into the EU process. EU coordination meetings thus became an opportunity where each Member State brought the outcome of its own bilateral relations to the table in order to fine-tune the EU’s own position and activity (interview, Former Disarmament Ambassador Aguire de Carcer, Spanish Permanent Mission to the EU, Brussels, 5th May 2011). With an EU position then agreed the Member States used whatever channels they had outside of the EU to promote the EU position. Interestingly this was also something the Member States did, “as a matter of course” (interview, Deputy Permanent Representative to the CD, EU Member State C, Geneva, 19th May 2011) and which was moreover considered to be a great tool and an advantage for the EU, allowing it to have, “eyes and ears in many different bodies” (interview, Deputy Permanent Representative to the CD, northern developed country, Geneva, 24th May 2011).

This diversity of activity within the EU group – building on the Member States’ own network of relationships and communication and through information sharing between these other negotiation groups – further allowed the EU to be even better informed of the movements at play in the negotiations and to consequently adapt its reactions to compensate. In an environment where information matters, this ability of the EU to act as a hub for information coming in and going out ensured it was well-placed to be an actor that helped find the necessary consensus needed to produce a successful outcome. This was most notable with regards to the language debated for inclusion in the RevCon’s Final

Document. As one EU Member State official involved in the final week negotiations explained:

“Quite a lot of the language from the EU is taken on in discussions with other groups – because the EU Member States are also in those other groups. At the NPT, in the secret drafting exercise going on in parallel to the main negotiations, they were looking for language trying to build bridges. The chair of that drafting committee could rely on EU language because it had already been tested in other fora and where states had found some agreement” (interview, Ambassador to the Political & Security Council, EU Member State F, Brussels, 16th May 2011)

As several interviewees suggested, the language put forward by the EU in the NPT was debated within the other negotiation groups of which the EU Member States also form part. The close symmetry between the EU common position and the P-5 statement, as well as likenesses with the NAC and G-10 language, further provides some testimony of that. In this way acceptable language, already finely debated within the EU itself, was then aired in other negotiation groups and slight adaptations made which the EU could then put forward in the inner negotiations.

This in turn emphasises a further improvement for the EU’s significance in the 2010 negotiations. Unlike in 2000 and 2005, in 2010 the EU was to have a moderate level of significance, importantly being invited to, and participant in, the closed inner negotiations formed by the RevCon President, Ambassador Libran Cabactulan and hosted at the Egyptian Mission (Interview, Counsellor, southern developing country, New York, 11th March 2011, interview, Ambassador to the UN, New York, 10th March 2011, interview, First Secretary, EU Member State E, New York, 11th March 2011, interview, Former Disarmament Ambassador Aguirre de Carcer, Spanish Permanent Mission to the EU, Brussels, 5th May 2011, Johnson: 2010). Whilst the Spanish Council Presidency and EEAS were not involved in all sessions⁹¹, their participation within these crucial drafting negotiations ensured that the EU’s choice of language – finally debated both within the EU and with other negotiation groups – could be pushed forward. The EU’s invitation to form part of this closed group of negotiators was also seen to be an important indicator that the

⁹¹ The EU was not critical to the closed inner negotiations held by the RevCon Presidency and key players involved in the Middle East negotiations (interview, Ambassador to the UN, southern developing country, New York, 9th March 2011)

EU was taken seriously within the NPT and that it was a voice that should be heard at the table (interview, First Counsellor, EU Member State E, New York, 11th March 2011).

The EU was then also to attain most of its goals in the 2010 RevCon Final Document. Returning to the EU's common position, the EU's main objective for the 2010 NPT RevCon was to strengthen the NPT regime and to promote a substantive and balanced outcome. This was certainly achieved. The 2010 RevCon was widely acclaimed a success by diplomats and analysts alike (all interviewees – see Appendix I for full list, Johnson: 2010, Müller: 2010, Dhanapala: 2010). A Final Document was adopted by consensus and which included a forward-looking action plan that covered major points across all three pillars of the NPT. In that respect therefore the EU's primary objective was attained.

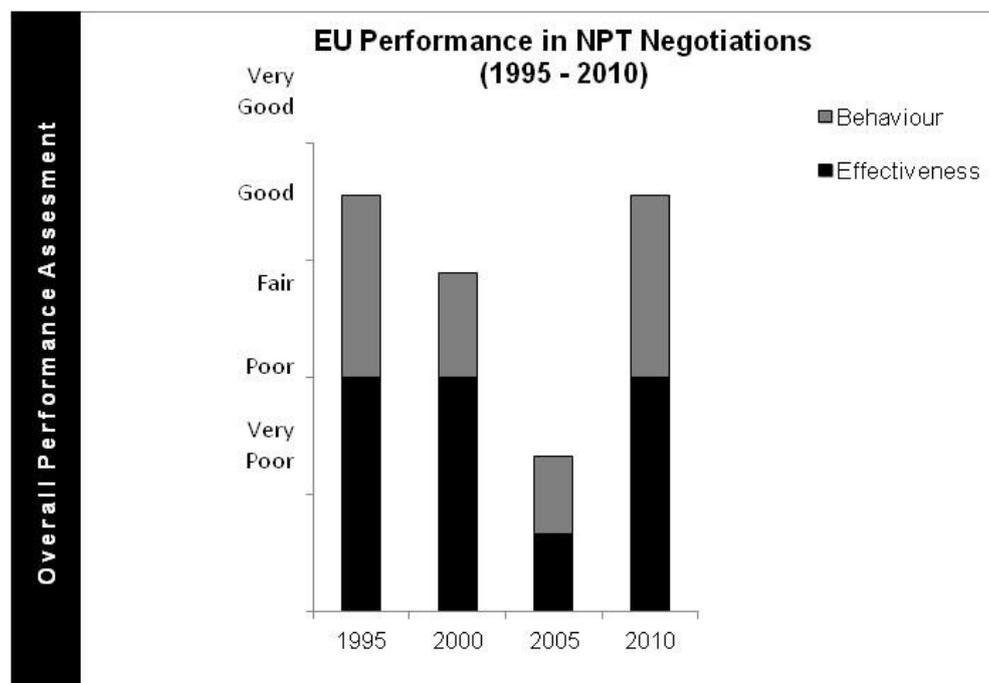
Closer analysis of the Final Document further shows that the EU did attain most of its Seven Priorities as well as other aspects of its common position. For example, the Final Document reiterates the obligations of all States Parties to their responsibilities under the NPT as well as emphasising the principles of irreversibility, transparency and verifiability in disarmament measures (UNODA: 2010b: Actions 1-2). The Document moreover makes a direct call to States Parties to ratify the CTBT and start negotiations of an FMCT, with language analogous to that of the EUs (UNODA: 2010b: Actions 10-18), whilst also emphasising that discussions would continue regarding the development of multilateral approaches to the nuclear fuel cycle (UNODA: 2010b: Action 58). The EU was however, unsuccessful in securing a firm commitment for the Additional Protocol to become the IAEA new verification standard, with the Final Document softening this language to “encourage” States to adopt the Protocol (UNODA: 2010b: Action 18) and calling for the IAEA Board of Governors to work towards recognition of the Protocol as a new verification standard. However, the EU was successful in receiving some recognition of its efforts to encourage discussion between parties over the Middle East Resolution. Whilst not included as an item on the EU's original common position, an EU offer made during the RevCon to host a seminar in 2012 between the key stakeholders involved in the Middle East Resolution to establish a nuclear weapon free zone was welcomed and included in the Final Document (UNODA: 2010b: IV(5e)). For many this was a critical development to come out of the 2010 negotiations (Interview, senior advisor, ICRC, New York, 10th March 2011, interview, EU diplomatic source, New York, 7th March 2011, interview, Counsellor, southern developing country, New York, 11th March 2011, interview, First Secretary, EU Member State E, New York, 11th March 2011, Dhanapala: 2010: 11) and further

emphasised the EU's high level of effectiveness. Coupled with the EU's improved negotiation behaviour, its performance as a whole in 2010 had therefore shown considerable improvement.

Conclusion

As this analysis has demonstrated, EU performance in the NPT review negotiations between 1995 and 2010 has been variable, with the EU giving performances assessed as poor, fair and good - reflected in Figure 5.2 below. Starting off well in 1995, the EU achieved a good performance in fulfilling its Joint Action to pursue the indefinite extension of the NPT. Its performance dropped however to fair in 2000 and then to very poor in the failed 2005 RevCon – in fact demonstrating a worst case scenario for EU performance with low measures across all four performance indicators. EU performance has however, seen a marked improvement since 2005, with the EU achieving a good overall performance in the 2010 NPT RevCon. This good performance was moreover, in an improvement to its performance in 1995, evident across all aspects of the 2010 negotiations further suggesting an improved substance to the EU's performance also.

Figure 5.2: EU performance in the NPT review negotiations (1995-2010)



Source: Author's own compilation

These findings therefore offer some interesting results with regards to expectations of EU performance in this 'hard' test negotiation. As highlighted at the start of this chapter, with

no EU competence, limited integration, and with the EU speaking with many voices in this forum, expectations of the EU's performance in this negotiation environment are low. Despite this, it was only in the 2005 RevCon that the EU's performance was in fact to fully meet these low expectations. Further demonstrating the utility of a longitudinal perspective when assessing performance, this analysis has found that in 1995, 2000 and 2010 the EU challenged these low expectations by giving fair to good overall performances. This is interesting for several reasons. Most notably, it has shown that the EU can perform well and exceed expectations in what are perceived to be 'hard' security negotiation environments despite the challenges it faces as an actor in this field. This in turn would suggest the fallibility of relying on expectations based on the EU's 'capacity to act' when seeking to understand how well the EU performs in such forum.

Findings do further emphasise the importance of evaluating performance as a measure of both negotiation behaviour and effectiveness. Reflected in Table 5.3 below are the results of the EU's performances broken down by level of ambition, performance indicator, and overall performance assessment. As these results show, the EU's negotiation behaviour has been challenged within the NPT with difficulties over its unity, outreach and significance. Whilst it has managed to overcome these challenges – most clearly seen in its ability to maintain its cohesion whilst its Member States continue to speak and negotiate in a national capacity – to judge the EU's performance solely on these indicators would considerably under-estimate its overall performances which were, on the whole, creditable. Conversely, to address assessment only upon the EU's effectiveness in this case would have significantly over-estimated EU performance. As these findings suggest, with the exception of the 2005 RevCon, the EU was to attain most of the objectives outlined in its joint action, and later common positions, over this time period. Taken on its own and the EU would be seen to have performed very well in this forum. This on its own however, is insufficient in assessing the full extent of EU performance. As these cases particularly emphasise, whilst the EU has achieved mostly high levels of effectiveness within the NPT, this has not corresponded to high levels of negotiation behaviour. What the EU has therefore achieved has not always been a result of what the EU has said or done, but rather the often tacit consent by the EU to similar objectives pursued by other negotiation partners. The fact that the EU has shared much symmetry in its objectives to the preference structures of its negotiation partners further stresses this point.

Table 5.2: Breakdown of EU performance in the NPT review negotiations (1995-2010)

Negotiation	Ambition	Unity	Outreach	Significance	Behaviour	Effectiveness	Performance assessment
1995 RevCon	Moderate	Moderate	High	Moderate	Moderate	High	Good
2000 RevCon	Low	Moderate	Low	Low	Low	High	Fair
2005 RevCon	Low	Low	Low	Low	Low	Low	Very poor
2010 RevCon	Moderate	Moderate	High	Moderate	Moderate	High	Good

Source: Author's own compilation

More than this, as Table 5.2 reflects, on the whole the EU's negotiation position within the NPT has been moderate to low; remaining uncontroversial, maintaining relative neutrality and universality on the more politicised challenges within the NPT negotiation, and seeking to gradually evolve its own voice across each of the three pillars rather than generate specific 'EU' objectives that it has then sought to attain. By focusing on supporting the NPT regime as whole, promoting consensus and a "successful outcome" and basing its objectives on universally acknowledged principles that would not only appease its negotiation partners but also its own Member States, the EU positions in this forum have been geared much more towards enhancing the EU's overall presence within the NPT community rather than attaining specific 'EU' objectives. The EU has therefore found itself fulfilling the role of a 'NPT Champion' and supporter of the system rather than a driver of it. It was only in 1995 and 2010 that the EU's voice was more explicitly geared towards achieving a specific outcome agreement from the negotiations, maintaining its supportive role but raising its level of ambition to subsequently achieve more moderate levels of negotiation behaviour as well as high effectiveness. Thus it has been where its ambitions have been moderate that the EU has been able to outreach to its negotiation partners, demonstrate an improved negotiation behaviour and goal-attainment, and give a good overall performance.

Chapter Six: Explaining variation in EU performance in multilateral negotiations

In the study thus far focus has been paid to the evaluation of EU performance in multilateral negotiations, with attention specifically on three case studies including the UNFCCC climate negotiations, the WTO multilateral trade negotiations, and the NPT review negotiations. The purpose of these analyses has been to address the first of two research questions, namely:

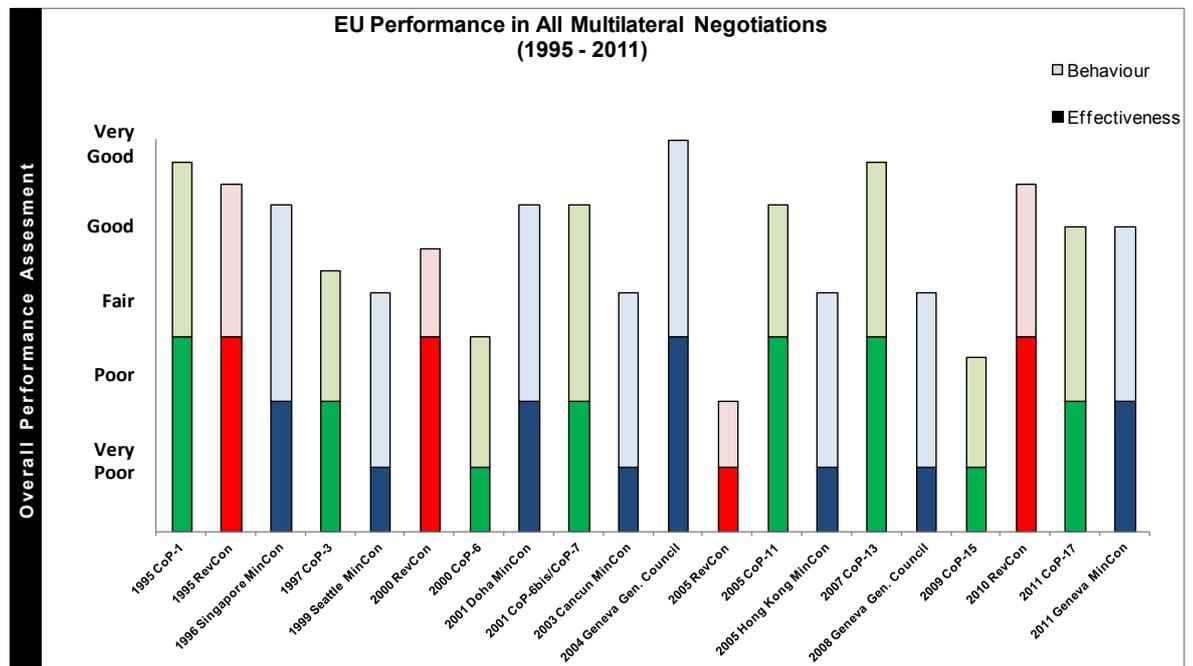
Research Questions

(1) How well has the EU performed in multilateral negotiations over-time and across-policy fields?

(2) What explains variation in EU performance in multilateral negotiations?

In addressing these questions an important factor has been to identify the dependent variable (DV), first by establishing how *performance* is conceptualised and measured (Chapter Two), and then evaluating *how well* the EU has performed within different negotiation contexts and over-time (Chapters Three-Five). Within the study thus far a core finding has been the considerable variation in the DV, not only across negotiation environments, but also within them. As reflected in Figure 6.1 below, variation has been evident across each of the three case studies with the EU demonstrating performances that have ranged between very poor, poor, fair, good and very good with numerous peaks and troughs occurring across the time-frame analysed between 1995 and 2011. It is in endeavouring to explain that variation in EU performance – and thus addressing the second of the two research questions identified above – that is the purpose of this chapter.

Figure 6.1: EU performance in multilateral negotiations: A longitudinal overview (1995-2011)



Source: Author's own compilation

Taking as its starting point the explanatory variables identified from the existing literature detailed in Chapter One, this chapter considers how changes in the EU's internal conditions and structural conditions within the negotiation environment may explain variation in how well the EU has performed. Specifically this chapter addresses how variables such as the EU's legal competence and institutional and policy developments, the presence or absence of opportunity within the international system, and more generally, how the ambition of the EU's own negotiation position has been found to influence the EU's performance across each of the case studies adopted in this study. In so doing this chapter makes several important contributions to the existing literature. First, by offering a systematic analysis of these variables it moves beyond a purely EU *qua* the EU focus to engage instead with how numerous variables – both from within the EU but also, importantly, from within the wider negotiation environment, can influence how well the EU performs in multilateral negotiations. In so doing it contributes to what Jørgensen et al. (2011: 617) identify in the conclusions of their own performance study as the need, “to identify and systematically analyse (1) those (internal) factors that enable the EU to make the most of its own potentials and (2) those (external) factors that make EU goal achievement...(or other criteria) more or less difficult”.

Second, this analysis speaks directly to expectations of the EU's actorness and behaviour within multilateral negotiations premised upon how 'state-like' the EU is (see Chapter One): in fact challenging expectations that the EU will perform at its best in multilateral negotiations purely on the basis of its exclusive legal competence and ability to 'speak with one voice'. Finally, this chapter considers not only what the EU *says* in multilateral negotiations but importantly, how that position actually shapes what the EU *does*, and what it *achieves*. In this way this study moves beyond those studies which concentrate more specifically on how the EU's negotiation position is formed and what shapes EU preferences, to engage instead with how the ambition of the EU's negotiation position can explain how well the EU subsequently performs. In so doing the main argument put forward in this study is that the EU's level of ambition – itself shaped by several intersecting variables from both within the EU and the external environment – is of critical importance to the EU's performance in multilateral negotiations. Specifically it shows that the EU has performed at its best in those multilateral negotiations where it both pursues progressive objectives but also shares some zone of agreement with its negotiation partners. Where the EU has however made ambitious demands that move far beyond the preference structures of its negotiation partners, its ability to persuade and to subsequently achieve its objectives is significantly limited. Thus it is argued that it is not enough for the EU to simply make ambitious demands within a multilateral negotiation for it to perform well; what matters is how it balances those demands against what it can achieve in light of the preference structures of its negotiation partners.

To make this case the chapter is broken down into four main sections. In section one those variables identified as explaining EU performance in multilateral negotiations within the existing literature are briefly revisited. These variables are then critically analysed in light of the findings from the previous case studies. In section two explanations are offered as to how internal variables may have shaped the EU's performance, with particular attention given to the EU's competence and institutional and policy developments. In section three focus is given to the EU's performance relative to changes in the external environment, particularly focusing on the presence of other major powers within the international system and the condition of 'opportunity'. In the fourth and final section consideration then turns to explicitly addressing how the level of EU ambition entering multilateral negotiations shapes how well the EU then performs. The chapter is then summarised in a concluding section.

It should be noted that, due to the small-*n* nature of this study, the conclusions here offered are first and foremost reflective of the findings from this empirical analysis which, without a larger sample of negotiations, does limit their inductiveness across other negotiation fora. It is also noted that findings do reflect an imbalance between the number of cases within the trade and climate change studies (each focusing upon eight separate negotiating events) relative to the NPT study (focusing upon four separate negotiating events). Aggregated results may therefore be skewed in favour of ‘easy’ negotiations which, had it been possible to conduct analysis on a larger number of cases from the NPT negotiations, may have produced marginally less favourable results. Where possible this is however recognised within the discussions. A final point of note is that, with EU performance studies being at such a preliminary stage, it has been a necessary priority for this study to spend more time on conceptualising and then identifying the DV. The balance of the studies’ focus has therefore been slanted in favour of evaluation (DV) over explanation (IVs), which does also require acknowledgement when considering the findings of this chapter. The inferences made are however, intended to offer insights of how variation in the EU’s performance within those cases here analysed may be explained. The hope is that these insights may help to move the research agenda towards further systematic analyses of how changes in EU performance over-time and across policies can be explained.

6.1. Identifying explanatory variables: Explanation within the existing literature

As detailed in Chapter One, explanation for variation in the EU’s ‘actorness’, ‘leadership’ and ‘effectiveness’ within multilateral negotiations has been largely premised within the existing literature upon three core factors. These are (1) that the EU performs well where it is at its most ‘state-like’ and thus where it has exclusive legal competence and is at its most integrated (Wessel: 2011, Jørgensen & Wessel: 2011, Gebhard: 2011, Kissack: 2010, Gstöhl: 2009, Falkner: 2007: 509, Bretherton & Vogler: 2006: 107, Meunier: 2000, Allen & Smith: 1998: 46); (2) the EU demonstrates ‘improved’ leadership as well as a ‘high degree of actorness’ within multilateral negotiations where it has had the *opportunity* to act – thus where the position of other players – most notably the US – creates space for the EU to take on a greater international role (Vogler: 2011: 31-34, Vogler & Stephan: 2007, Bretherton & Vogler: 2006: 24-27, Hovi et. al.: 2003:14). The rise of the emerging economies over the course of the 2000s has however limited that opportunity and created a more complex negotiating environment in which the EU must perform (Van Schaik &

Schunz: 2012, Torney: 2011, Obethür: 2011a, A.R. Young: 2011, Roberts: 2010, Kilian & Elgström: 2010: 268); and (3) the EU makes ambitious demands within multilateral negotiations where its own domestic policy, and/or the policy preferences of its Member States, support progressive international policy initiatives (A.R Young: 2011, Vogler: 2011: 31, Oberthür: 2011a: 673, Oberthür & Pallemmaerts: 2010: 53, Van Schaik: 2010, Oberthür & Roche Kelly: 2008: 36, M. Baldwin: 2006: 934, Falkner: 2007, 512, Groenleer & Van Schaik: 2007, Lamy: 2004, Meunier: 2000).

Within the existing literature however, several areas of disagreement may also be identified which bring into question the explanatory power of these popularised arguments. Most prevalent as a source of explanation are the EU's own capabilities to act and thus upon the EU's legal competence and institutional development. There is, however, some disagreement over the extent to which the EU's competence matters when explaining its negotiation performance. For example, whether the EU has legal competence or not is widely understood to influence the EU's mode of representation within negotiations (Wessel: 2011, Pisani-Ferry: 2009, Lacasta et al.: 2007: 216, Schreurs & Tiberghien: 2007: 24-26, Falkner: 2007: 509, Damro: 2006: 175, Bretherton & Vogler: 2006: 107, Reiter: 2005 Oberthür: 2000, Meunier & Nicolaïdis: 1999), and for being, "an enabling factor for [EU] unity" (Van Schaik: 2010: 252). Wessel (2011: 622) particularly makes the case that legal competence matters as the legal rules and procedures surrounding a policy issue within the EU can shape the EU's 'potential' within multilateral diplomacy and hence the role that the EU (and its Member States) can then play. This is supported by others, who also identify competence as an important factor influencing EU performance (i.e. Elgström & Stromvik: 2005: 118-119, Jørgensen: 2009b: 194), particularly identifying its influence over EU 'relevance' to its Member States (Jørgensen et al. 2011: 611).

Others however, have argued that competence can only explain so much of the EU's negotiation performance, especially within those negotiation environments where competence is shared between the EC and Member States (Vogler: 2011: 23). Reiter (2005: 162) for example suggests that competence can provide only a useful starting point in explaining the diversity of EU actorness within international organisations. Of itself however, competence is a, "necessary but insufficient explanation" (Reiter: 2005: 162), requiring that attention also be paid to the external environment in explaining why EU performance thus varies.

There is moreover some dispute over the extent to which the EU's own institutional development – most notably in the form of successive treaty reforms and particularly topical following changes from the Lisbon Treaty in 2009 – have shaped EU performance. The aim of successive treaty reforms have, broadly speaking, been intended to increase EU competences, streamline EU decision-making, improve EU coherence across external policy fields (see Commission: 2006), and subsequently enable the EU to better “punch above its weight” in international affairs (see also Thomas; 2012, Portela & Raube: 2012, Gebhard: 2011: 114, Carbone: 2011: 329-330, 339). Notably, the 2007 Treaty on the Functioning of the European Union, or ‘Lisbon Treaty’, had been created to enhance the EU's external coherence by removing the previous pillar structure and enabling the EU to act as the ‘EU’ (rather than as the European Community) within international institutions across all external policy fields. The establishment of the High Representative of the Union on Foreign Affairs and Security Policy, along with the EEAS, may particularly be identified for their potential to shape EU performance within multilateral negotiations; not only in terms of how the EU is represented but also its legal status within international organisations (Laatikainen: 2010: 476).

Whilst the full implications of the Lisbon Treaty's creation are yet to be fully realised, many questions nevertheless remain as to whether these institutional changes have in fact had the improving influence expected upon the EU's negotiation performance (see also Jørgensen et al. 2011: 612). Some, for example, argue that the EU's treaty reforms have gradually improved the EU's external coherence (Portela & Raube: 2012: 8, Gebhard: 2011: 121). Others however, suggest that such reforms have had only an ambivalent impact on EU negotiation performance (Jørgensen et al. 2011: 612, Meunier: 2000: 108). There is therefore some question over whether the EU having and developing ‘state-like’ qualities through ‘ever closer union’ does in fact influence its negotiation performance and thus whether such institutional changes can explain performance variation

Another grey area within this discourse is with regards to structural conditions. Explanation has increasingly been paid within the literature to the EU's place within a changing global balance of power (Van Schaik & Schunz: 2012, Oberthür: 2011a: 677, Vogler: 2011: 30-31, Curtin: 2010: 7, Kilian & Elgström: 2010: 268), and to the rise of the emerging economies most especially, as reason for the EU's diminishing effectiveness within multilateral negotiations (A.R. Young: 2011, Jørgensen et al.: 2011). Far less clear from this discourse however is how, explicitly, changes to these structural conditions and

to the EU's 'opportunity' to take on a more prominent position within a negotiation environment, explains variation in how well the EU performs. Discourse on this issue tends instead to be implicit in associating EU (in)effectiveness with the (in)significance or (in)activity of other major powers in the international system. Thus the EU is believed to perform well if it is prominent within a negotiation where other major powers are less so (i.e. following US abdication from the Kyoto Protocol, see Vogler: 2011, 2005, Oberthür: 2011a, Bretherton & Vogler: 2006), or to perform poorly where it has then been "sidelined" by them (i.e. as was the case in the UNFCCC Copenhagen Summit, see Van Schaik & Schunz: 2012: 182, Oberthür: 2011a: 670, Spencer et al. 2010). The opportunity enabling, or competition preventing, the EU from taking on a prominent role within multilateral negotiations is thus taken as a critical point of explanation for its performance but with very little attention then given to what the EU wanted relative to the preferences of those other major players or what it actually did to achieve them. This is however, an important point to take into account as it cannot be assumed that just because the EU has the opportunity to take on a prominent role in a negotiation that it will necessarily perform well, nor that the presence and active participation of rising new powers within a negotiation environment will necessarily hinder the EU's performance. In order to explain variation in the EU's performance consideration must therefore be given not only to changes in structural conditions, but importantly, to how the EU responds to them in terms of its own negotiation position.

Another, related point of uncertainty however, is how the EU's negotiation position can itself help to explain variation in EU negotiation performance. The trade policy literature, for example, has concentrated particular efforts upon explaining why the EU *says what it says* in multilateral trade negotiations – with focus especially upon the dynamics between the Commission and the Council (i.e. Da Conceição: 2010, Delreux & Kerremans: 2010, Kerremans: 2004, Meunier & Nicolaidis: 1999), and the preference structures of the Member States themselves (Dür: 2008, M. Baldwin: 2006, Meunier: 2000), as shaping the EU's negotiation mandate. A similar tendency is evident also within the environmental literature where focus is aimed at explaining why the EU's negotiation position is ambitious in multilateral climate negotiations (Parker & Karlsson: 2010, Schreurs & Tiberghien: 2007, Groenleer & Van Schaik: 2007, Zito: 2005). Furthermore, claims follow that it is these ambitions, marking out the EU as a 'green' and 'normative' leader, that has aided the EU's 'improved' leadership in global environmental governance (Parker & Karlsson: 2010, Oberthür & Roche Kelly: 2008: 44, Falkner: 2007). Thus where the EU is

making ambitious demands within a multilateral negotiation this can often be taken as a success in itself: reiterating the EU's normative identity, pursuing its objective of 'effective multilateralism' (Vogler: 2011), demonstrating that the EU can take on, "responsibility for building a better world" (Council: 2003c), and showcasing the EU's distinctiveness as a global 'leader' that others can follow (Skodvin & Andresen: 2006: 21, Andresen & Agrawala: 2002: 49). Conversely, where the EU has a 'lowest common denominator' position this is often seen to be something of a performance failing (Müller: 2010, Elgström & Stromvik: 2005: 117, House of Lords: 2004: 56), with only implicit mention then given to how that position impacts on, for example, the EU's unity (Müller: 2010: 11) or outreach (Gupta & Ringius: 2001: 286). Far less clear is how the EU's negotiation mandate – taking into account both what the EU wants and how this relates to the preference structures of its negotiation partners - explicitly shapes EU performance within a negotiation environment⁹². It is therefore in addressing these issues of contention and uncertainty within the existing literature that the following sections are aimed.

6.2. Internal conditions and EU performance

In this section the internal conditions recognised to explain variation in EU performance in multilateral negotiations – including its level of competence and institutional and policy development over the period from 1995 to 2011 – are critically analysed in light of findings from the previous case studies.

Competence matters – but only to an extent

As detailed in Chapter One, expectations of the EU's international role, of its 'actorness' or performance more broadly, have typically been premised upon understandings of how 'state-like' the EU can be and its variable capabilities as a global actor. Expectations of the EU performing as an '*economic giant, political dwarf, and military worm*' have thus regularly been translated into expectations of the EU performing at its best in negotiations where the EU acts supranationally, but with greater challenges in areas of intergovernmentalism where it is less integrated, does not have exclusive competence, and where, due to the continued prominence and authority of its Member States, it cannot always 'speak with one voice'. Within this study cases were therefore analysed which

⁹² Exception to this may be found in A.R. Young (2011) who suggests that the rise and diminution of EU performance in the WTO over the 1990s and 2000s may be explained by the EU's ambitions which are raised by EU policy developments but subsequently lowered by the need to meet with the preferences of the EU's negotiation partners. Another exception is also found in Afionis (2011) who suggests that the EU's performance in the UNFCCC negotiations has been weakened where it has over-estimated the preference structures of the US and other major players in wanting to support the EU's own, often more ambitious, objectives.

covered both 'easy' and 'hard' tests for the EU in terms of its level of integration and competence. In the case of the WTO multilateral trade negotiations (MTN), the EU's high degree of integration and exclusive competence - reflecting one of the EU's most supranational of external policies - provided what might be understood as an 'easy' test with correspondingly high expectations for the EU's performance. Conversely, with nuclear non-proliferation and disarmament issues falling under the CFSP; and, as an intergovernmental policy where there is no EU legal competence, the NPT case provided the EU's 'hard' test with expectations for the EU's performance significantly lower. In the UNFCCC negotiations the EU's shared competence with its Member States was also expected to provide some performance challenges for the EU, however, due to the EU's ambitions to lead in this forum, and with wide recognition that the EU has performed the role of a 'leader' since the late 1990s, expectations of the EU performing well in this forum were also high.

As the findings from the previous case studies suggest, such expectations are correct to some extent. Findings indicate that the EU's negotiation behaviour is at its best within the WTO's MTN with the EU demonstrating consistently high levels of negotiation behaviour over the period from 1995 to 2011. The EU's negotiation behaviour within the UNFCCC and NPT has however been much more variable, with the EU demonstrating more moderate to low levels of negotiation behaviour (see also Figure 6.1 above and Appendix V for breakdown of findings in full). The EU's negotiation behaviour has therefore followed the expected pattern of being at its best in supranational policy-fields where the EU has exclusive competence but less well in intergovernmental policy-fields of shared or no legal competence. However, the same cannot be said of the EU's performance overall. Instead, as Figure 6.1 above reflects, findings from the previous case studies show that the EU's overall performances have varied between very poor, poor, fair, good and very good not only across each case study but also within them. Thus whilst the EU's negotiation behaviour has demonstrated some evidence of meeting the expectations associated with its level of competence, no similar relationship can be drawn between the EU's level of competence and its subsequent effectiveness. For example, within both the WTO and UNFCCC, EU effectiveness has in fact been highly variable; fluctuating between low, moderate and high over the time-period from 1995 to 2011. Within the NPT moreover, EU effectiveness has, counter-intuitively considering its lack of competence in this field, been mostly high; with some variation in 2005 where it dropped to low levels. These

findings thus raise interesting implications for the often assumed link between the EU's ability to 'speak with one voice' and its performance in multilateral negotiations.

Endeavouring to address this issue, in each of the negotiations analysed, the EU's unity was measured on a scale of low, moderate or high. High unity was assessed where the EU was represented by an EU representative or figurehead and 'spoke with one voice'. Moderate unity was assessed where the EU was represented by an EU representative or figurehead but where its Member States also participated and spoke during negotiations in a way that was complementary to the EU position. Low unity was then assessed where the EU was represented by an EU representative or figurehead but where its Member States also participated and spoke during negotiations in a way that was contradictory to the EU position.

As might be expected in light of its integration and exclusive competence, within the WTO MTN the EU maintained a consistently high level of unity and 'spoke with one voice' throughout the Ministerial Conferences and General Council meetings assessed from 1996 to 2011 (see Appendix V). Notably, this was in spite of the fact that internal disagreements and in-fighting over the Commission's negotiation mandate were believed to have threatened EU unity at times. Conversely, within the UNFCCC the EU's level of unity was mostly moderate, first in the late 1990s as Member States continued to negotiate in their national capacity alongside the Council Presidency, and then after 2004 where the EU's reformed system of 'lead' negotiators enabled the EU to speak with several voices, as coordinated by the Council Presidency. The EU has thus demonstrated an ability to maintain its cohesion in this forum despite speaking with several voices. Within the NPT moreover, EU unity has been, as may also be expected, variable between moderate and low levels, with the EU and its Member States frequently speaking within negotiations. Interestingly however, the EU's unity was, with the exception of the 2005 RevCon, mostly moderate rather than low during the period from 1995 to 2010. Thus, whilst the EU does speak with many voices within this negotiation, and often with Member States working alongside other negotiation groupings, this has not been found to be contradictory but rather, complementary to the EU common position.

As Table 6.1 below further demonstrates, of the twenty individual negotiations in which EU performance was evaluated in this study, the EU formally 'spoke with one voice' – reflected in the figure for total cases of high unity - on nine occasions, with moderate unity

on eight occasions, and with low unity on three occasions. Closer analysis of these cases relative to overall performance evaluations reflects that, as would be expected, in those three cases of low unity the EU did perform poorly (as in the case of the UNFCCC's Hague summit in 2000 and Copenhagen summit in 2009) or very poorly (as in the 2005 NPT RevCon). However, where the EU has demonstrated high or moderate unity it has had no poor performances within those negotiations analysed. What is more interesting is that the EU's ability to 'speak with one voice' has not, as might be expected, shown specific causality to the EU performing well. What the findings in Table 6.1 instead suggest is that the EU has had **good** or **very good** performances where it has demonstrated either **moderate** or **high** levels of unity. The EU has thus been able to perform well not only where it speaks with 'one voice' but also where it speaks with 'many'. Much more significant to the EU performing well therefore is its ability to maintain cohesion rather than how many voices it has speaking for it.

Table 6.1. EU unity relative to overall performance assessments

Unity		Overall Performance				
		Total	Very Poor	Poor	Fair	Good
High	9	0	0	4	4	1
Moderate	8	0	0	2	4	2
Low	3	1	2	0	0	0
Total	20	1	2	6	8	3

Source: Author's own compilation

What these findings would appear to suggest therefore is that whilst the EU's competence within any given policy field does matter in terms of shaping EU unity and its negotiation behaviour more broadly, it has more limited utility in explaining variation in the EU's performance overall. Further challenging expectations, these findings would appear to corroborate those who have started to question conventional wisdom that is only by speaking with 'one voice' that the EU may best attain its goals within multilateral negotiations (see Dee: 2012a, Koops & Macaj: 2012, Smith: 2006); suggesting instead that the EU may perform well, not always by speaking with one voice, but with many.

The variable impact of ever closer union

Another area where the EU's 'state-like' qualities are often judged to have impact – or potential impact – upon the EU's performance within multilateral negotiations are in regard to the EU's on-going integration efforts towards 'ever closer union' (Treaty of Rome: 1957). Notably this includes two particular facets of EU integration: (i) EU

domestic policy initiatives often cited as explanatory variables shaping the EU's negotiation position and the demands it makes within multilateral negotiations, and (ii) successive treaty reforms intended to strengthen EU external coherence, stream-line decision-making and enhance its modes of external representation. Focusing first on the EU's domestic policy developments, findings here corroborate the argument that changes in the EU's domestic policies have shaped its negotiation position. More specifically it is argued that, in certain cases, initiatives towards improving the EU's domestic policy – as seen in the reform of the Common Agricultural Policy (CAP), the introduction of the European Emissions Trading System (ETS) and the EU's climate and energy package – or 20-20-20 initiative – have significantly bolstered the EU's demands within multilateral negotiations.

This is perhaps most clearly evident in the WTO's MTN where the EU's negotiation position entering the 2003 Cancún Ministerial Conference was notably high in ambition thanks to the EU's 2003 CAP reform (see also A.R. Young: forthcoming, 2011, M. Baldwin: 2006). Similarly with climate change, the agreement on EU 'burden-sharing' emissions reductions between the Member States in 1997 particularly enabled the EU to propose the highest emission reductions of all the UNFCCC parties for the Kyoto Protocol (see Table 3.2 in Chapter Three, also Oberthür & Pallamaerts; 2010: 33, Vogler: 2005: 848). In addition, it has been the EU's own unilateral domestic policy initiatives including the ETS and its climate and energy package that have been most cited as providing the EU's 'directional leadership' of the UNFCCC; not only by setting the example for others to follow, but enabling the EU to itself propose ambitious targets for the international community as a whole (Oberthür: 2011a, Parker & Karlsson: 2010, Keleman & Vogel: 2009, Oberthür & Roche Kelly: 2008: 36). Notable from the previous case studies findings however is that, despite developments in the EU's domestic climate policy and its own unilateral efforts to 'lead the way', the EU has demonstrated no clear evidence of improvement over time in its negotiation performance within the UNFCCC. Instead, the EU's performance within the UNFCCC varied throughout the late 1990s and 2000s and demonstrated no obvious sign of enhanced negotiation behaviour or effectiveness in response to its ETS or the climate and energy package.

Interestingly, policy developments in the EU's nuclear non-proliferation policy have also demonstrated no clear effect either on the EU's negotiation position or its performance within the NPT RevCons. For example, the EU's Strategy Against the Proliferation of

WMD adopted in 2003, whilst creating the opportunity for the EU to pursue a more ambitious non-proliferation policy in the 2005 NPT RevCon, was in fact to have no discernible impact upon the EU's ambitions (which remained low) or its performance (which was very poor). Whilst improvements in the EU's NPT performance in 2010 may be attributed to the WMD Strategy (which was reviewed in 2008), there are no clear findings to suggest that this policy development was an explicit cause (see also Dee: 2012b, Portela: 2004). However, whilst the EU's internal nuclear policies have had limited effect on its NPT performance, the EU's institutional developments through its treaty reforms may be found to have made a difference. In particular, the 1992 Treaty on European Union (TEU) can be especially highlighted as creating the formal mechanisms by which EU performance in the NPT could in fact be assessed at all. With the establishment of the CFSP the EU could not only work in concert through their first Joint Action entering the 1995 NPT Review Conference, but could do so with French accession to the Treaty, ensuring that all EU Member States could work together.

Findings do not however, indicate any discernible trends in EU performance after 1997 and 2001 with changes proceeding from the Amsterdam and Nice Treaties. This is perhaps unsurprising in these cases as the reforms of the TEU were intended primarily to improve EU decision-making by extending the use of qualified majority voting in the Council. As most decisions in trade, climate change, and NPT are taken by consensus within the Council, these changes would not be expected to make any dramatic difference to the EU's negotiation position or subsequent performance. The 2007 Treaty on the Functioning of the European Union, or 'Lisbon Treaty' does, however, deserve closer analysis. Changes from the Lisbon Treaty, through the creation of the EEAS and subsequent efforts towards the improvement of EU external 'coherence', may particularly be expected to have improved EU performance in multilateral negotiations since the Treaty entered into force in 2009.

Findings however, suggest that the Lisbon Treaty has had limited impact on the EU's negotiation performance since 2009. In the field of trade, the Lisbon Treaty has only really affected EU performance within the WTO by giving Commission negotiators – now needing to consider the input of the European Parliament - an extra hoop to jump through when it comes to ratification of any Doha outcome agreement. Nevertheless, in interviews with the author, several Commission trade officials have suggested that the new role of the European Parliament in the EU's trade policy-making is unlikely to influence their

negotiation directives or affect the ratification of any Doha Round deal⁹³ (interview, Senior official, Cabinet to the EU Trade Commissioner, Brussels, 11th May 2011, interview, Senior official, WTO Unit, DG Trade, Brussels, 12th May 2011, interview, Senior official, DG Trade, Brussels, 16th May 2011). One area of potential discord from the Lisbon Treaty however, can be found in increased internal friction between the European Parliament – keen to exercise its new oversight capability – and the Council. This is evident particularly between the Council’s Trade Policy Committee (TPC) and the new Parliamentary International Trade Committee (INTA). Officials on the TPC have voiced concerns both over INTA requests to sit in on all Commission negotiations within the WTO, as well as requests for Parliament officials to oversee the work of the TPC, with many Member States seeing the Parliament’s request as going beyond their competence (interview, senior trade official, EU Member State E, Brussels 17th May 2011). Whilst creating potential discord in the EU’s trade-policy making, which may create challenges in deriving the EU’s negotiation mandate within the WTO, this discord may nevertheless not be expected to directly influence the EU’s performance within MTNs.

In the UNFCCC moreover, changes from the Lisbon Treaty have, as yet, had limited bearing on the EU’s performance. Whilst formally recognising environmental policy as an area generally covered by EU competence following the Lisbon Treaty’s creation, the EU’s distribution of competences in climate change policy have remained unchanged (Vogler: 2011: 31) and the Council Presidency continues to represent EU common interests within the UNFCCC (see Oberthür: 2011a, 2011b). The EU has thus continued to operate as ‘business as usual’ since the Lisbon Treaty was ratified. It should be noted however, that, at the Durban CoP-17 in December 2011, the Polish Council Presidency did also share representation with the newly established DG CLIMA. The creation of this new directorate-general was not part of the Lisbon Treaty however it does create the potential for the Commission to take on a more prominent role within the UNFCCC. With regards to the scope of this study however, the changes from the Lisbon Treaty between 2009 and 2011 demonstrated no clear causality to changes in the EU’s UNFCCC performance. Further research would therefore be recommended in addressing how changes resulting from the creation of DG CLIMA may shape the EU’s performance in negotiations to come.

⁹³ Although it is noted that these trade officials did suggest that Parliament was expected to have a greater say over the EU’s Free Trade Agreements, suggesting a greater influence over the EU’s bilateral if not multilateral trade negotiations. In the case of the Doha Round moreover, the sheer scale, time and complexity of the now decade-long negotiations makes it extremely unlikely that the Parliament would refuse or delay ratification where the Commission and Council have already approved an outcome agreement (interview, senior official, WTO Unit, DG Trade, Brussels, 12th May 2011)

Within the NPT review negotiations changes from the Lisbon Treaty were however found to create a ‘transitional period’ for the EU’s representation during the 2010 RevCon, with the rotating Council Presidency sharing representation alongside the EEAS Head of Non-Proliferation and Disarmament Affairs. This transitional period will moreover be phased out in preparation for the 2015 NPT RevCon; where the EU’s representation will subsequently move away from the Council to the EEAS. During the 2010 RevCon this odd system of dual-representation involving input from the newly formed EEAS, may provide some explanation for the EU’s improved performance. One particular area of improvement in 2010 was found in its negotiation behaviour as a whole, with the EU demonstrating enhanced unity, outreach and significance, and which may therefore be attributed to the presence of the EEAS. What will however, prove an interesting dynamic for EU performance in the next 2015 NPT RevCon is how the EEAS deals with Member States’ tradition of cross-alignment with other negotiation groups within this forum. If its performance from the 2010 RevCon is anything to go by, the EEAS would be advised not to fight this practice, but to allow its continuation as a method of enhancing EU outreach with negotiation partners.

In summary however, what this discussion does also suggest, is that the EU’s treaty reforms and policy developments may explain only some of the changes in EU performance within the multilateral negotiations assessed in this study. Whilst the EU’s domestic policies and institutional reforms can therefore be found to offer some explanation for changes in the EU’s negotiation position – not least in terms of raising the EU’s ambitions - and in shaping aspects of the EU’s negotiation behaviour, focus must also be turned to other variables at play if we are to understand the true extent of conditions shaping EU performance.

6.3. Structural conditions and EU performance

Another important aspect of consideration when explaining variation in how well the EU has performed in multilateral negotiations are the structural conditions at play within that negotiation environment (Hill & Smith: 2011b: 477). As detailed earlier, of prominence within the existing literature has been the argument that structural ‘opportunity’ has been necessary for the EU to take on a leadership role within multilateral climate and trade negotiations, whilst the rise of the emerging economies within the international system has eroded the EU’s ability to influence negotiation outcomes and achieve its objectives. In

this section the structural context will be critically analysed in light of the performance findings from the previous case studies. In particular it considers how the activity and preferences of other major powers within the negotiation environment have explicitly shaped EU performance and can thus contribute to explanation for its variation.

The structural conditions affecting multilateral negotiations during the period from 1995 to 2011 are of particular interest for this study as the international system has experienced a major global redistribution of power during this period (A.R. Young: 2010). In the 1990s it was notably the US, alongside the EU who were the two major powers of the multilateral trading system. As the world's largest emitters of greenhouse gases (GHG) the EU and US were also the most prominent players within the UNFCCC's climate negotiations. Since the early 2000s however, a global re-distribution of power away from the industrialised North and towards the developing South has considerably altered the power dynamics of multilateral negotiations, leading many to claim that the 2000s have witnessed the emergence of a 'multipolar' world order in which India, China and Brazil are increasingly exerting their influence (see A.R. Young: 2010: 3, Roberts: 2010). This has been evident particularly within the WTO where India and Brazil – and later followed by China – replaced Japan and Canada in the 2000s as the major trading powers involved in the core group of negotiators alongside the US and EU. Within the UNFCCC India, Brazil, China and South Africa (BASIC) have also grown in prominence as their rapid growth has resulted in a major shift in the global share of greenhouse gas (GHG) emissions away from the EU (whose share has diminished) and the US (who has stayed broadly the same) towards the emerging South, and China in particular, who is now the world's largest emitter.

More than this, the emerging economies have, over the course of the 2000s, increasingly exerted their influence within multilateral negotiations (A.R. Young: 2010: 3). In the WTO the emergence of the new G20 group - led by India, Brazil and China – not only blocked the adoption of agricultural modalities for negotiations at the 2003 Cancún Ministerial, resulted in the 'Singapore issues' being dropped from the Doha Round agenda, but which was also seen to bring about an end of, "bilateral co-hegemony" between the EU and US, and creating a, "new topography in global trade politics" (Mortensen: 2009: 86). Similarly, in the UNFCCC the rise of the BASIC group at the Copenhagen Summit in 2009 has been seen to have demonstrated a, "shift in tectonics of international climate policy" (Oberthür: 2011a: 677) and the emergence of a "new world (dis)order" (Roberts:

2010). Such structural changes have moreover been cited, first for aiding EU performance within multilateral climate negotiations over the late 1990s and early 2000s where the EU and US were the major powers involved in negotiations, and then for impeding it as the emerging economies rose over the course of the 2000s, creating competition for the EU (Oberthür: 2011a, Vogler: 2011). Within the WTO a similar conclusion is also found with the EU found to have exerted considerable influence as a leading power within the MTS over the late-1990s, only for its performance to diminish over the 2000s due to the 'hostile' preferences of the emerging economies towards the EU's trade agenda (A.R. Young: 2011, M. Baldwin: 2006).

Following this line of argument it may therefore be expected that the EU would show signs of performing well during the late 1990s and early 2000s, but to show a decline over the course of the 2000s and early 2010s. However, as Figure 6.1 above reflects, the EU's performance within the multilateral negotiations analysed from 1995 to 2011 has experienced considerable variation, not only across policy fields, but also over-time. No clear trends can therefore be identified within any of the three case studies to suggest that the EU's performance improved over the late 1990s and early 2000s to then diminish over the course of the 2000s. Within the WTO the EU's performance has at times been notably challenged by the activity of the emerging economies. In the 1999 Seattle Ministerial it was India and other developing countries that were to block EU efforts to launch a new trade round. In the 2003 Cancún Ministerial the creation of the G20 coalition resulted in a failed effort to launch agricultural modalities, despite the EU making concessions following its CAP reform, and where Indian resistance to the 'Singapore issues' resulted in their being dropped from the Doha agenda in 2004. In 2008 moreover it was Indian and Chinese resistance to the NAMA negotiations, as well as blocking by India over the Special Safeguard Mechanism (SSM) which resulted in a failure to conclude the Round. Since 2008 Indian, Chinese and US reticence towards the NAMA negotiations has also increasingly frustrated EU efforts to conclude the Doha Round. Despite these cases, there is no evidence to suggest any downward trend for EU performance within the WTO. In 2004 for example, the EU gave a very good performance and helped bring about a new impetus to the Doha Round. In 2011 moreover the EU gave a good performance during the Geneva Ministerial. In both of these cases the emerging economies were still significant players and yet, in these examples the EU's performance was not diminished.

Within the UNFCCC a similar scenario is revealed. For example, findings do corroborate claims that the EU's performance improved after the abdication of the US from the Kyoto Protocol in 2001 – most evident in the shift from a poor performance at The Hague Summit in 2000, to a good performance in the Bonn and Marrakesh Summits in 2001 with the EU managing to subsequently 'save the day' and push forward with the ratification of the Kyoto Protocol. The EU's performance was certainly hindered moreover, by the more active role of the US, along with the rise of the BASIC group, in Copenhagen in 2009 where the EU failed not only to maintain its unity under pressure, but failed to sufficiently outreach to these players or attain the majority of its objectives. However, these structural changes do not explain why EU performance varied prior to the withdrawal of the US from the Kyoto Protocol, or why the EU was then able to give a good overall performance after Copenhagen during the Durban Summit in 2011 at which point the US had re-engaged in the climate negotiations under the Obama Administration.

A further area of interest is within the NPT review negotiations where economic power often comes secondary to the nuclear balance of power. Within this negotiation the P-5 nuclear-weapon states have consistently maintained their preponderance within negotiations. The rise of the emerging economies has thus had less of an impact in this environment as it has in the UNFCCC or WTO⁹⁴. Structural conditions have however shifted within this environment to some extent due to changes in the foreign policy of the P-5. This has been most clearly evident in shifts in the US stance and its engagement with the NPT review negotiations. Following the September 11th 2001 terrorist attacks in New York and Washington the US's foreign policy took a notable shift towards unilateralism (White House: 2002). The War in Iraq in 2003 further distanced the US from multilateral efforts and, in the 2005 NPT RevCon the US was widely criticised for its reticence towards the NPT and for blocking efforts towards the agreement of an outcome document (Johnson: 2005, Müller: 2005, Potter: 2005). The inauguration of the Obama Administration in 2008 however brought about a re-engagement of the US within the NPT (Johnson: 2010), and the shift in US foreign policy in favour of 'Global Zero' was widely lauded within the NPT community as providing the necessary leadership to reenergise the 2010 review negotiations (interview, EU diplomatic source, EEAS, New York, 7th March 2011, interview, Minister Counsellor to the UN, northern developed country, New York,

⁹⁴ Within the NPT China is already recognised as a nuclear weapon state and a member of the P-5. Brazil is a prominent member but only as a member of the New Agenda Coalition and Non-Aligned Movement. India is a nuclear weapon state but is not recognised by the UN and is not therefore a member of the NPT. Were India to accede to the NPT it would be expected to wield the same sort of influence as Brazil because it can only accede to the NPT as a non-nuclear weapon state.

7th March 2011). Following the line of argument that opportunity is required for the EU to perform well, the 2005 NPT RevCon was believed to offer the “potential” for the EU to take on a “leadership role” (Müller: 2005: 43). The US’s reticence towards the negotiations and the EU’s own preferences in support of a “successful outcome” (Council: 2010a) for the RevCon – much boosted by the EU’s own domestic steps towards tackling global proliferation through its 2003 Strategy Against the Proliferation of WMD – meant that the EU was well placed to play a more prominent role and improve its NPT performance. However, in the 2005 NPT RevCon the EU performed very poorly – reflecting low levels across all performance indicators. Instead, it was not until after the US re-engaged in the multilateral process and itself took on a more prominent ‘leading’ role entering the 2010 RevCon that the EU’s performance was in fact to improve within the NPT negotiations.

What this analysis therefore suggests is that whilst the lack of competition has, at times, created the political opportunity for the EU to increase its ambitions and take on a greater role within multilateral negotiations, this has not always resulted in the EU actually improving its negotiation performance. More than this, the EU has also demonstrated that it can perform well where competition is nevertheless present. In the UNFCCC, WTO and NPT the EU has thus demonstrated that it can give good performances despite the lack of opportunity for it to always play a ‘leading’ role. As such, the condition of opportunity may not of itself be sufficient to explain why EU performance varies. A more nuanced approach to explanation is therefore required which takes as its starting point who the major players active within the negotiation environment are, but which also focuses upon the preference structures of other major players, how the EU has subsequently managed that complexity by building upon a zone of agreement, and how well it has thus outreached to its negotiation partners in building consensus. It is to these issues that we now turn.

6.4. Ambition and EU performance

It is a key argument from this study that the EU’s negotiation performance is highly dependent upon the ambition of its negotiation position. As previously discussed, the EU’s negotiation position has been a topic of some interest already within the existing literature with focus particularly given to *why* the EU says what it says in multilateral negotiations. Attention within the existing literature has therefore especially been paid to institutional dynamics shaping how the EU’s negotiation mandate is forged (Da Conceição: 2010, Delreux & Kerremans: 2010, Schreurs & Tiberghien: 2007, Delreux:

2006, Meunier: 2000), the influence of interests and EU domestic policy (A.R. Young: forthcoming, 2011, Van Schaik: 2010, Groenleer & Van Schaik: 2007, Dür: 2008, M. Baldwin: 2006), and how the EU's normative or strategic preferences shape its negotiation objectives (Keleman: 2010, Keleman & Vogel: 2009, Van Schaik & Schunz: 2012, Falkner: 2007, Groenleer & Van Schaik: 2007). The ambition of that negotiation position has also increasingly been identified as a variable to be taken into consideration in explaining the EU's leadership, actorness or effectiveness within multilateral negotiations. A.R. Young (2011) for example, identifies the EU's level of ambition – shaped by both its internal policy developments and wider structural conditions – as explanation for the rise and fall of the EU's external effectiveness in the multilateral trading system. Others make the case that the EU's ambition to take on a greater international role and to strategically orient itself as a 'leader' was a major factor behind improvements in EU leadership within the international climate regime (Oberthür & Roche Kelly: 2008: 44), as well as in multilateral trade negotiations (Ahnild: 2005: 137). Some have suggested that where the EU's ambition approaching a negotiation has been too high its performance has been low due to an inability by the EU to achieve its ambitious objectives (Afionis: 2011: 355, Oberthür: 2011a: 670, Lacasta et al.: 2007, Hovi et al.: 2003); whilst others associate the EU's 'lowest common denominator' position – implicit of low ambition – to its subsequent performance failures, particularly in terms of its unity (Gupta & Ringius: 2001: 286) and outreach (Müller: 2010: 11).

In this study the ambition of the EU's negotiation position was explicitly addressed within the analytical framework. Focusing not only on how progressive – or change-seeking - the EU's negotiation objectives are; ambition was also assessed in light of the preference structures of the EU's negotiation partners. A high ambition negotiation position was therefore assessed where the EU had progressive negotiation objectives but where it also acted as a preference outlier by going much further than the preference structures of its negotiation partners. A moderate ambition position was assessed where the EU had progressive negotiation objectives but where it shared some zone of agreement with the preference structures of its negotiation partners. A low ambition position was then assessed where the EU had conservative negotiation objectives and/or where its position was ambiguous and stated no clear objectives. In this way the EU's negotiation position – shaped not only by its internal conditions but also by the preference structures of other major players within the negotiation environment – provided a blueprint against which its negotiation behaviour and effectiveness could be compared.

As Table 6.2 below reflects, of the twenty individual negotiation positions assessed in this study, seven were high in ambition (four including positions entering UNFCCC negotiations, and three entering WTO negotiations), nine were moderate ambition (including four positions from the WTO, three positions from the UNFCCC and two positions from the NPT), and four were low ambition positions (two including positions entering the NPT review negotiations, one from the UNFCCC (Montreal CoP-11) and one from the WTO (Geneva Ministerial 2011). As this reflects the EU has therefore entered the majority of negotiations in this study with progressive – or change seeking – negotiation objectives.

Table 6.2. EU ambition relative to overall performance assessments

Ambition		Overall Performance				
		Total	Very poor	Poor	Fair	Good
High	7	0	2	3	1	1
Moderate	9	0	0	2	5	2
Low	4	1	0	1	2	0
Total	20	1	2	6	8	3

Source: Author's own compilation

Further reflected in Table 6.2 was that, of the seven negotiations in which the EU's negotiation position was one of **high ambition**, this has corresponded to only one good performance (CoP-6bis/CoP-7 in the UNFCCC), one very good performance (CoP-1 in the UNFCCC), but with the majority demonstrating fair (including at Seattle, Cancún and Geneva 2008 in the WTO) and poor performances (including CoP-6 and CoP-15 in the UNFCCC). What this would suggest is that the EU has not performed well where it has been positioned as a preference outlier and does not therefore share a zone of agreement with its (more conservative) negotiation partners. Its performances at The Hague in 2000 and in Copenhagen in 2009 in the UNFCCC negotiations particularly exemplify this point regarding the EU's objectives; first for maintaining the environmental integrity of the Kyoto Protocol, and then for the completion of a more ambitious post-2012 successor agreement, positioning the EU far beyond the preference structures of the majority of other parties within the negotiations, not least the US and later, the emerging economies.

On the other side of the spectrum however the EU was also found to perform very poorly where it had a **low ambition** negotiation position. In the 2005 NPT RevCon the EU's

negotiation position was notably ambiguous in its language approaching the review negotiations; neither indicating how it would pursue the issues it highlighted nor what it explicitly sought for the negotiation outcome. Rather than offering clear direction the EU position was thus not only a lowest common denominator position but also conservative in preserving the status quo. In this case the EU was subsequently assessed as having low values across all performance indicators, achieving an overall very poor performance evaluation.

However, of those negotiations in which the EU had a **moderate ambition** negotiating position, the EU did, in the majority of cases, perform well; demonstrating no poor performances but rather a majority of **good** (five cases), **very good** (two cases) and **fair** (two cases) performances. Thus, where the EU's negotiation position was both progressive and where it shared some zone of agreement with its negotiation partners the EU performed well. What is clear therefore is that the EU has performed well in the UNFCCC, WTO and NPT where its negotiation objectives and preferences have found some zone of agreement with negotiation partners, but poorly where the EU has been a preference outlier. The presence of some zone of agreement between the EU's preferences and the preference structures of its negotiation partners is therefore critical to how well the EU performs in multilateral negotiations. Breaking these findings down further, how has the EU's performance explicitly been shaped by its level of ambition and why does a zone of agreement matter?

Focusing firstly on the EU's negotiation behaviour in relation to its negotiation partners, findings from the previous case studies suggest that, where the EU has had a **high outreach**; adopting a proactive strategy and successfully employing tactics such as coalition-building, issue-linkage, or a willingness to make concessions, the EU has demonstrated mostly **good and very good overall performances** - as reflected in Table 6.3 below. Particular example of this can be found on several occasions within the UNFCCC negotiations where the EU successfully employed coalition-building tactics with the G77 to generate enough support to push forward with negotiations for the Kyoto Protocol, as well as a post-2012 international climate agreement.

Table 6.3. EU outreach relative to overall performance assessments

Outreach		Overall Performance				
	Total	Very Poor	Poor	Fair	Good	Very good
High	9	0	0	0	6	3
Moderate	8	0	2	5	1	0
Low	3	1	0	1	1	0
Total	20	1	2	6	8	3

Source: Author's own compilation

Conversely, where the EU has tried yet failed in the employment of negotiations tactics – evident in the eight cases of **moderate outreach** reflected in Table 6.3 above – its performance has been much poorer with a majority of **poor to fair performances**. In these cases the EU's ability to persuade its negotiation partners to support its objectives failed. Notable examples of this can be found in the WTO during the failed Seattle and Cancún Ministerial Conferences in 1999 and 2003 and at the Geneva General Council in 2008. In each of these negotiations, the EU made ambitious demands but sought to outreach to its negotiation partners – especially India and other members of the G20 – by demonstrating flexibility over the critical agriculture negotiations and offering concessions on agricultural market access and domestic support. These tactics failed however to garner their support and to build the necessary zone of agreement, and the EU could subsequently attain few of its negotiation objectives.

The EU's 'power of persuasion'⁹⁵ (see also A.R Young: 2011: 724) over other players within the negotiation environment can thus be identified as an important source of influence over the EU's performance. Where the EU is able to successfully utilise negotiation tactics in persuading others to support its objectives, it has been far more capable of performing well within multilateral negotiations. Where however, the EU has failed to persuade others – most especially in the case of the increasingly prominent emerging economies – its ability to then translate its ambitious objectives into goal-attainment is far more limited.

In addition, findings from the previous case studies further reveal that, where the EU's ambitions have been high – reflecting its position as a preference outlier relative to its more conservative negotiation partners – its **outreach is moderate** and its **effectiveness low** – detailed in Table 6.4 below.

⁹⁵ See also Risse (2000) for further discussion of persuasion in social interactions, particularly in terms of the 'power of the better argument'

Table 6.4. EU ambition relative to individual performance indicator assessments

Ambition		Unity			Outreach			Significance			Effectiveness		
	Total	High	Moderate	Low	High	Moderate	Low	High	Moderate	Low	High	Moderate	Low
High	7	4	1	2	2	5	0	6	1	0	1	1	5
Moderate	9	4	5	0	7	2	0	6	3	0	4	4	1
Low	4	1	2	1	0	1	3	2	0	2	2	1	1
Total	20	9	8	3	9	8	3	14	4	2	7	6	7

Source: Author's own compilation

Thus, where the EU is a preference outlier it has not only been unsuccessful in persuading its negotiation partners to support its goals, but has then been unable to translate those ambitious objectives into substantive goal-attainment. The EU's 'power of persuasion' in such cases is therefore severely limited, and its effectiveness impeded. This was evident in the case of the WTO's Cancún Ministerial in 2003. Approaching the negotiations with a high ambition negotiation position, the EU sought the agreement of agricultural modalities and the launch of negotiations on the 'Singapore issues'. Its negotiation partners – most prominently India and other developing countries – were however markedly hostile to the Singapore Issues, and the emerging economies believed that the EU's position on agriculture did not go far enough (see Chapter Four). The EU's outreach during the Cancún Ministerial was subsequently moderate; with the EU endeavouring to make concessions over agriculture and the Singapore issues but which resulted in the EU failing to garner the necessary support from the developing countries to bring about consensus for modalities to be agreed. EU effectiveness at Cancún was then low and its overall performance only fair. It was only after the EU had moderated its ambitions entering the 2004 Geneva General Council and began building upon a zone of agreement with its negotiation partners over the Singapore issues and agriculture that its performance improved.

However, as also reflected in Table 6.4, where the EU had **moderate ambition** entering negotiations, this corresponded to it having mostly **high levels of outreach** (in seven out of nine cases), and mostly **moderate or high effectiveness** (four cases of moderate effectiveness, and four cases of high effectiveness out of a total nine cases of moderate ambition). The EU has therefore been better able to achieve some or most of its negotiation objectives where those objectives have met in part with the preference structures of its negotiation partners. For example, in the UNFCCC Durban Summit in December 2011 the EU's negotiation position was moderate in ambition. Thus whilst the EU continued to pursue progressive objectives for a successor agreement to the Kyoto

Protocol it nevertheless shared some zone of agreement with its negotiation partners by accepting that a second commitment period for the Kyoto Protocol may also be required. The EU's outreach during Durban was also high; pursuing a proactive negotiation strategy with negotiation partners and successfully coalition-building with other ambitious groups including AOSIS and the LDC group (see also Chapter Three). The EU subsequently managed to negotiate with the emerging economies a consensus agreement which met the EU's goals of ensuring an ambitious successor agreement would be negotiated, but which also put in place a second commitment period for the Kyoto Protocol. As this example thus demonstrates, where the EU has had some zone of agreement to build upon in negotiating with others, it has been much more capable of persuading its negotiation partners to support its own (more) progressive objectives, achieve its objectives, and subsequently perform well.

Conversely, Table 6.4 also reflects that, where the EU has had a **low ambition** negotiation position – reflective of conservative or particularly ambiguous lowest common denominator objectives - its **outreach** to negotiation partners has been mostly **low** (in three out of four cases) and yet its **effectiveness** also **high** (in two out of four cases). This was, for example, seen in the NPT during the 2000 RevCon where the EU's low ambition negotiation position – detailing principles of support but specifying no clear objectives for the outcome itself – in fact resulted in the EU having a low level of outreach, with a reactive strategy and little evidence of tactics being employed to generate support for its position. Despite this, the EU did achieve a high level of effectiveness in this negotiation with many of its favoured principles evident within the outcome document. In such cases the EU's high effectiveness cannot however be attested to it performing well in terms of its negotiation behaviour – and in fact the EU's performance overall was fair at best - but much more to the fact that its objectives were ambiguous and low ambition to begin with.

What this reveals therefore is that the level of EU ambition approaching multilateral negotiations does explain changes in its negotiation behaviour with regards to its outreach to negotiation partners, and its subsequent effectiveness. More than this, in much the same way as the EU's negotiation performance has demonstrated considerable variation over-time and across negotiation environments analysed in this study, so too has the EU's level of ambition been seen to fluctuate over the period from 1995 to 2011 (see Appendix VI for overview). What is particularly interesting from a chronological perspective of changes in the EU's level of ambition is that there is evidence of EU ambitions shifting following

negotiations which have failed or where the EU performed poorly due to high ambition. This may be found in the case of the WTO where, following the EU's high ambition positions entering the failed Seattle 1999, Cancún 2003 and Geneva 2008 General Council meetings, its subsequent negotiation positions reflected more moderate ambitions, reflective of a closer zone of agreement with its negotiation partners, and which resulted in improved performances (see findings for Doha 2001, Geneva 2004, and Geneva 2011 in Appendix VII). Similarly, following the UNFCCC's 2009 Copenhagen Summit the EU was found to have moderated its ambition approaching both the Cancún and Durban Summits in order to find some zone of agreement between its progressive objectives and the more conservative interests of the BASIC group and US. At Durban moreover the EU significantly improved its performance following its failures at Copenhagen.

In these cases the EU was to maintain its progressive objectives but moderated its ambition to find some zone of agreement with negotiation partners. What these findings suggest therefore is that, whilst the rise of the emerging economies cannot of itself explain variation in the EU's performances, their preference structures do explain changes in the EU's level of ambition. Within both the UNFCCC and WTO it has been the more conservative preferences of the emerging economies as well as, at times, the US, which have caused the EU to moderate its ambitions in order to build a zone of agreement. Noteworthy therefore is that the emerging economies have not raised their ambition to meet with the preference structures of the EU as may be expected of claims to EU 'leadership' within multilateral negotiations (see Torney: 2011), but vice versa. There is moreover evidence to suggest that the EU's past performances do influence its level of ambition approaching negotiations. For example, within the NPT, following the EU's low ambition position and very poor performance within the 2005 RevCon the EU raised its level of ambition to moderate approaching the 2010 RevCon and subsequently gave a good performance.

In this way it is argued that a degree of pragmatism may be identified in the formation of the EU's negotiation objectives approaching multilateral negotiations. Shaped not only by its own interests and institutional capabilities, the EU's negotiation position has also been adjusted to account for past performances and the preference structures of its often more conservative negotiation partners. Where the EU has subsequently performed well it has been because it has moderated its ambitions to better account for the preference structures of others; building consensus towards an outcome that is in keeping with a broader zone of

agreement. What this would therefore suggest is that, despite claims particularly found within the EU leadership discourse associating the EU's high ambitions with its 'improved' performance, in fact the EU has had a limited ability to persuade others to follow or raise their ambitions to meet with its preference structures. It has thus been where the EU finds areas of commonality that the EU has performed well, not where it has set itself apart as a distinctive *demandeur*.

Conclusion

The purpose of this chapter has been to address the question of why EU performance varies in multilateral negotiations. Focusing on findings from the previous three empirical chapters and drawing on explanatory variables identified from within the existing literature, it has sought to critically analyse a number of prominent explanations typically offered for changes in the EU's actorness, leadership, effectiveness and performance in multilateral negotiations. In so doing, it has argued that explanation for the variation in how well the EU performs in multilateral negotiations may be found not in any single variable or group of variables, but rather in looking at how the internal and external conditions at play intersect and shape the EU's ambitions and subsequent performance.

Critically analysing explanatory variables identified from within the existing literature relative to the performance findings from each of the previous three case studies; it addressed how internal and structural conditions have shaped the EU's performances, as well as its ambition approaching each negotiation. It found that variables believed to enhance the EU's capacity to act, such as its level of competence and institutional and policy development, can offer only some explanatory power in the changes that have been found in the EU's performances. It has been argued that whilst the EU's capabilities, including its competence and level of integration, do matter in terms of shaping EU negotiation behaviour – most evident in terms of its unity and ability to 'speak with one voice' – these capabilities have less utility in explaining changes in the EU's effectiveness or performance overall. How 'state-like' the EU is within a multilateral negotiation has not therefore had any clear bearing on its ability to perform well in the negotiations analysed. Efforts towards 'ever closer union' through successive EU treaty reforms – most recently in the 2007 Lisbon Treaty – have moreover shown no clear improving effect on how well the EU performs within those negotiations analysed.

Analysis of the influence that structural conditions have had upon the EU's negotiation performance moreover reveals interesting insights. Findings particularly have shown that whilst changes within the international system through the rise of the emerging economies have had an impact in moderating the EU's ambitions entering the WTO and UNFCCC negotiations specifically, this has not translated into any clear trend of diminishing performance by the EU in either of these fora. It is argued therefore, that the presence or absence of competition is not of itself sufficient to explaining variation in the EU's performance, but whether the EU's preferences can find some zone of agreement with the preference structures of those major powers. This in turn highlights the importance that the level of EU ambition approaching multilateral negotiations has in explaining its subsequent performances. Influenced by both its internal conditions, as well as the preference structures of other major powers, it has been argued that where the EU has high ambition this has resulted in the EU having poor or fair performances due to the limitations of the EU's outreach and its 'power of persuasion' over negotiation partners. Rather, it has been where the EU has moderated its ambitions to find some zone of agreement with its negotiation partners that it has performed well in multilateral negotiations. Within consensus-based environments such as multilateral negotiations, it has thus been the EU's ability to pursue progressive objectives but maintain some commonality with the preference structures of its negotiation partners that has enabled it to perform well and attain its goals. It is with these findings in mind that we now turn to this study's concluding chapter.

Chapter Seven: Conclusions

“Certain subjects seem quite clear as long as we leave them alone. The answers look obvious until we ask questions, the concepts appear to be well understood until we wish to define them, causes and effects are easily recognised until we seek to explain them, and all the rules pass for valid until we try to prove them.”
(Iklé: 1964: 1)

The concept of *performance*, along with judgements on how well an actor performs is a subject which, as Iklé would support, seems quite clear and obvious until we start to ask questions. Performance is after all a term commonly used, easily recognised and widely understood – that is, until we start to ask what it means, how it differs from other concepts of analysis, and why it then matters. In a similar way, so too may we start to understand how EU performance in multilateral negotiations has, as a subject, been addressed within EU studies thus far. Commonly discussed within the literature, the concept of performance has nevertheless rarely been defined or explicitly evaluated. Often premised instead on expectations surrounding the EU’s capabilities as a global actor, the EU’s performance in the context of multilateral negotiations has typically been judged, less upon explicit conceptualisations relating to *how well* the EU actually performs, and much more upon perceptions of how the EU *ought* to perform.

Expectations have subsequently grown or diminished relative to the EU’s capacity to act in different policy areas. Expectations are, as such, at their highest where the EU is at its most ‘state-like’, as is commonly argued in the case of multilateral trade negotiations; and lower where the EU is less well integrated and where its ability to impact upon negotiations is seen to be hindered by the often more dominant role played by its own Member States. A further expectation may also be found in relation to policy fields such as environmental policy where, due to the EU’s own high ambitions in this sector, expectations of the EU taking on a ‘leading’ role have become increasingly prominent. More confusingly still, increasingly disparate accounts of the EU’s performance are found within the literature dependent upon the concept used to assess it; with the EU lauded for its sustained and improving ‘leadership’ record on the one hand, and lamented for its lack of influence and ineffectiveness on the other. Yet, understanding how well the EU performs in multilateral negotiations is never more important. In an international system in which the performance of all actors is increasingly under scrutiny and the yard-stick by

which the actions of the major powers are measured gets ever longer; now is the time to ask the questions, define the problem, and seek explanation for how well the EU does perform in multilateral negotiations.

It has been in addressing these issues that this study has been aimed. Concerned with the conceptualisation and evaluation of EU performance in multilateral negotiations spanning time and policy-fields, it has sought to test those divergent expectations and, in so doing, generate a fuller picture of how well the EU performs. Specifically, this study has sought to address two principle research questions. First, how well has the EU performed in multilateral negotiations over-time and across policy fields? And second, what explains variation in the EU's performance in multilateral negotiations? In drawing this study to its conclusion, the purpose of this chapter is to offer a response to these questions and to address how its main findings relate to the wider discourse on the EU as a global actor. To present itself the chapter is broken down into three main sections. In section one findings from the previous case studies are drawn together in order to address the study's principle research questions. Developing on these responses, in section two, aspects of the EU's performance that have challenged expectations are highlighted, along with their implications for understanding the EU as a global actor. The third and final section further outlines some possible avenues for the development of the performance research agenda.

7.1. Addressing the research questions

In approaching this study's principle research questions, three stages have been followed. First, in order to evaluate how well the EU performed in multilateral negotiations – and to subsequently enable explanation of any changes within it – performance was conceptualised in order to identify how well the EU performs as a dependent variable. Detailed in Chapter Two, an analytical framework was developed for the evaluation of performance based on analysis of the EU's negotiation behaviour and effectiveness; and which included performance indicators which drew upon process- and outcome-oriented concepts focused upon the EU's level of unity, outreach, significance, and effectiveness. These indicators were assessed on a scale of low, moderate and high which, when aggregated, related to an overall performance value ranging from *very poor*, *poor*, *fair*, *good* to *very good*. The second stage of the study was a detailed empirical analysis in which the EU's performance was evaluated over the time-period from 1995 to 2011 across negotiation environments in which expectations of the EU's performance were highly divergent and in order to capture variation in several key factors believed to shape EU

performance. Cases thus included negotiations covering three different policy fields, including: in environment, the UN Framework Convention on Climate Change (UNFCCC) negotiations (Chapter Three), in trade, the World Trade Organisation (WTO) multilateral trade negotiations (Chapter Four), and in security, the Nuclear non-Proliferation Treaty (NPT) review negotiations (Chapter Five). The final stage was then addressed in Chapter Six where critical analysis of a number of explanatory variables – as identified from the existing literature – was conducted in seeking to test and draw any causal inferences between changes in how well the EU performed and changes in its internal and structural conditions, as well, interrelated to these conditions, upon changes in the EU's level of ambition. The principle findings from this analysis are summarised as follows:

Q1: How well does the EU perform in multilateral negotiations over-time and across policies?

In broad terms, findings from this analysis have shown that the EU does perform well in multilateral negotiations. Out of a total twenty individual negotiations in which the EU's performance was analysed, the EU gave a **very good** performance in **three** cases, a **good** performance in **eight** cases, a **fair** performance in **six** cases, a **poor** performance in **two** cases and a **very poor** performance in one case; showing that the EU has had a good or very good performance in the majority of negotiations analysed. Closer analysis does however reveal a more variable picture which challenges expectations of how well the EU is thought to perform in multilateral negotiations. As detailed in Figure 6.1 in the previous chapter, a chronological overview of the EU's performances in all negotiations analysed from 1995 to 2011 has been found to range between very poor, poor, fair, good and very good across this time-period but with no clear trends indicating an overall improvement or diminution in its performances. Thus, whilst the EU has performed relatively well within the majority of negotiations here assessed, this has not been found to have translated into consistency in its performances, but has instead been subject to considerable variability.

EU performance within each negotiation environment further reflects this variation. Within the UNFCCC negotiations expectations have particularly been challenged with the EU's performance found to have fluctuated between poor, fair, good and very good with no clear improving trend in the EU's performance identified. Whilst the EU has demonstrated that it can perform well in this forum, and has at times given several very good performances (particularly found in Berlin in 1995 and in Bali in 2007), this has by no means been consistent. For example, whilst the EU's negotiation behaviour was found

to vary between mostly moderate and high levels within the UNFCCC, its effectiveness fluctuated between low, moderate and high levels (see Table 3.3). Findings therefore challenge expectations – particularly those associated with the EU’s ‘leadership’ within this environment – which suggest that EU performance has significantly improved over this time period. They further challenge expectations that the EU’s performance has diminished since the failure at Copenhagen in 2009, suggesting instead that the EU’s performance bounced-back with the EU giving a good performance at Durban in December 2011.

Within the **WTO** multilateral trade negotiations (MTN) the EU’s performance was also found to have varied between fair, good and very good levels. These findings also challenge expectations however, because whilst the EU was found not to perform poorly in this forum, neither has it had the extent of good or very good performances typically associated with an actor of the EU’s size or importance in the MTS. In fact this study finds that of the negotiations analysed between 1996 and 2011, on only one occasion has the EU’s performance been found to be very good (in Geneva 2004) in this forum (see Figure 4.2). More than this, no clear trends have been identified in these findings to suggest any overall improvement or diminution in EU performance within the WTO over this period. Instead, whilst the EU has shown itself to have a consistently high negotiation behaviour within the WTO, this has not always translated into higher goal-attainment and the EU’s effectiveness has mostly been moderate to low. Its performances within the multilateral trade negotiations have subsequently varied between predominantly fair and good. These findings thus challenge expectations that the EU performs at its best in the WTO due to its high capabilities and ‘state-like’ qualities.

Variation is also found within the **NPT** negotiations where the EU’s performance was found to vary between very poor, fair and good; although with some indication of an improvement in the EU’s performance over more recent negotiations with a marked increase from very poor to good performance between the 2005 and 2010 NPT review negotiations. Findings do further suggest that the EU has in fact exceeded expectations by performing well in several review negotiations (particularly found in the 1995 and 2010 RevCons), despite the challenges it has faced due to its limited capacity to act in this field. Thus whilst the EU’s negotiation behaviour was found to vary between mostly low and moderate levels, its effectiveness has, interestingly, been predominantly high; with the EU attaining most of the goals set out in its common positions in this forum.

Q2: What explains variation in EU performance in multilateral negotiations?

Explanation for variation in the EU's performance within the multilateral negotiations assessed in this study was found across several factors shaping both the EU's negotiation behaviour and effectiveness. It has argued that understanding changes in the EU's performance should take into account the internal conditions shaping the EU's capacity to act, the external conditions shaping the EU's ability to attain its goals, and also, how these factors intersect and shape the EU's ambition and the objectives it seeks within multilateral negotiations. Thus, variation in EU performance in multilateral negotiations cannot be explained by any single variable or group of variables, but rather by several intersecting, mutually reinforcing factors each shaping the EU's negotiation position and its fulfilment within the negotiation environment.

Where this approach has added value to understanding the variation of EU performances in multilateral negotiations has been with particular regard to the relationship between the EU's performance and its level of ambition as detailed in its own negotiation position. It is argued that the EU has attained **good or very good performances** within the WTO, UNFCCC and NPT negotiations where its negotiation position has reflected a **moderate level of ambition**. The EU has therefore been better able to outreach to its negotiation partners and ultimately attain its goals, where its negotiation objectives have been progressive but reflective of some symmetry with the preference structures of its negotiation partners. Where the EU's negotiation objectives have however, been high in ambition – positioning the EU as a progressive preference outlier in a negotiation environment dominated by more conservative interests – the EU's performance has been far less impressive with notably lower levels of outreach and effectiveness. Conversely, where the EU's negotiation objectives have been low in ambition – positioning the EU as a conservative player with ambiguous language and lowest common denominator preferences – this has often translated into high effectiveness but low negotiation behaviour.

In terms of understanding the EU as an international negotiator therefore, what this suggests is that the EU negotiates well not because it has set itself apart as a distinctively normative and highly ambitious player or because it has set ambiguous objectives which others cannot fail to agree with, but because it has set itself progressive objectives which also share some zone of agreement with negotiation partners. It is thus where the EU can

build upon a zone of agreement that it has been better capable of outreaching to negotiation partners, successfully employing negotiation tactics, and has been able to achieve moderate to high levels of effectiveness.

Focus was also given to how the EU's internal conditions – most especially in terms of the EU's level of integration and competence within each policy-field analysed – and the structural conditions facing each negotiation environment had shaped the EU's negotiation position and its subsequent performance. It was found that the level of EU competence did influence the EU's negotiation behaviour within multilateral negotiations; most notably boosting EU unity where it has exclusive competence, as was found in the WTO; but providing a challenge to EU unity where competence is lacking, as was found in the NPT. It was argued however, that competence, whilst important, is insufficient in itself to explain variation in the EU's effectiveness or to changes in the EU's overall performance. The EU's domestic policy was also found at times to influence EU performance; with policies such as the EU's Common Agricultural Policy (CAP) reform, or its 'burden sharing' agreement over cuts in greenhouse gases, raising the EU's ambition within the UNFCCC and WTO negotiations. EU institutional changes were also found to have some impact upon EU negotiation behaviour, although this was not to the extent that might be expected. On-going treaty reforms were in fact found to have made little direct influence on the EU's performances; although changes from the 2007 Lisbon Treaty may be expected to bring about further changes to the EU's representation within the NPT, if not in the UNFCCC and WTO.

Changes in structural conditions, particularly due to changes in the global distribution of power and the rise of the emerging economies, were also found to influence EU performance in multilateral negotiations. Notably, it was found that the rise of the emerging economies since the early 2000s has not resulted in the overall diminution of EU performance in multilateral negotiations often suggested within the existing literature (see A.R. Young: 2011, Oberthür: 2011a, Roberts: 2010, Afionis: 2009). However, these shifts in structural conditions have influenced the EU's level of ambition within negotiations over the period 1995 to 2011, with the EU often moderating its ambition in order to find accommodation with the more conservative preference structures of other major powers. It has been argued therefore that the presence or absence of competition within the international system cannot of itself explain variation in the EU's negotiation performance,

but rather how the EU manages that complexity to find some zone of agreement with the preference structures of its negotiation partners.

7.2. Challenging expectations and its implications

The findings from this study would thus appear to challenge expectations of the EU's performance; and its explanation, in several ways. At its most fundamental, expectations of how well the EU *should* perform in multilateral negotiations as premised upon how 'state-like' an actor it is have been particularly challenged in the findings from this study. As was outlined in the previous section, whilst EU negotiation behaviour has been at its best in the WTO where it has exclusive competence, a high level of integration and an ability to 'speak with one voice', this has not always been translated into a high level of effectiveness nor therefore an overall good performance in this forum. Equally, within the NPT negotiations expectations of EU performance have been low due the EU's limited integration in this field and the challenges faced of maintaining unity amongst highly divided Member States. However, the EU's performance in this forum was found to exceed expectations with the EU giving good performances on several occasions.

Expectations have also been challenged however within the existing literature; and particularly in terms of how other concepts of analysis including EU leadership, actorness and effectiveness have been evaluated within these negotiations. A critical aim of this study has been to move beyond challenges identified within this discourse by testing the highly divergent expectations that these concepts have generated over the EU's performance in multilateral negotiations. By focusing explicitly on EU performance as a measure of both its negotiation behaviour and effectiveness, it has sought to narrow the gap between predominantly process- and outcome-oriented concepts which have tended to considerably over- or under-estimate EU performance. Most notably these findings have challenged expectations by suggesting that the EU has neither performed as well as the EU leadership and actorness literature has argued, nor as poorly as the effectiveness literature would imply.

Focusing first on the leadership and actorness literatures, as was demonstrated in Chapter One, this literature - dominated particularly by case studies on multilateral trade and climate negotiations - have been seen to follow a, "decadal variation" (Oberthür: 2011a) in arguing that the EU's capacity to act, and to 'lead' within these negotiations has broadly improved since the 1990s, only to be challenged during the later 2000s as the rise of the

emerging economies has impacted upon the EU's effectiveness (see also A.R Young: 2011). Expectations of an EU who "traded places" (Keleman & Vogel: 2010) with the US as the leading actor of the UNFCCC and who was the principle *demandeur* in launching the Doha Round within the WTO in the early 2000s, have thus increasingly been replaced in the late 2000s and early 2010s by concerns of the EU "abdicating its leadership role" (Santarius et al.: 2009), and of a dawning new multipolar world order dominated by the US and emerging economies (Kilian & Elgström: 2010: 268). Findings from this study however, indicate no such improving or diminishing trends in the EU's performance. Instead it has shown that the EU's performances within the UNFCCC and WTO have continued to demonstrate the same variability found during the late 1990s, as had been the case over the 2000s and early 2010s. Concerns voiced following negotiation set-backs in Geneva in 2008 (WTO) and Copenhagen in 2009 (UNFCCC) have also been found to be premature, with the EU then bouncing back to give good performances during both the UNFCCC's Durban summit and the WTO's Geneva Ministerial Conference held in December 2011.

Equally, expectations stemming from more cautious critiques of the EU's "limited influence" (Van Schaik & Schunz: 2012, Oberthür & Roche Kelly: 2008: 36) and effectiveness in multilateral negotiations have also been challenged in these findings. As was discussed in Chapter One, the existing literature on EU effectiveness within multilateral negotiations has highlighted the considerable variability in the EU's ability to shape outcome and attain its goals (i.e. Jørgensen et al. 2011, Laatikainen & Smith: 2006), with particular attention paid to the EU's "punching below its weight" (Laatikainen & Smith: 2006: 20). Whilst these findings do corroborate the argument that EU effectiveness is highly variable within multilateral negotiations, they nevertheless challenge the understanding that the EU often "punches below its weight". Whilst recognising that the EU's level of ambition has influenced the EU's subsequent goal-attainment, it has been found that, in the majority of individual negotiations assessed in this study, the EU did attain some or most of its goals (see also Appendix V). This is particularly exemplified in the NPT review negotiations where the EU has in fact demonstrated a predominantly high level of effectiveness. Within the UNFCCC moreover, whilst it has been argued that the EU's performance has been at its best during CoPs aimed at initiating negotiations rather than in their finalisation, it has also shown that the EU has attained mostly moderate to high levels of goal-attainment overall in this forum. The concept of punching above or below its weight would also appear to have only limited utility in the context of the WTO's

multilateral trade negotiations where the EU's effectiveness has, despite its considerable 'weight' as a global trading superpower, varied between predominantly low to moderate levels. What this analysis would thus suggest is that expectations of an 'improving' EU leadership as well as concerns over its 'limited influence' within multilateral negotiations may, in fact, require some careful re-evaluation.

Moderating ambitions aids EU performance

One approach for re-evaluating expectations and more accurately evaluating the EU's performance in multilateral negotiations may be found by moving beyond attempts to conceptualise the EU's weight and presence in international relations, to engage instead with what the EU is actually trying to achieve and how its position relates to the preference structures of its negotiation partners. As was highlighted in Chapter One, the ambition of the EU's negotiation position within multilateral negotiations, and particularly within environmental negotiations, has commonly been cited as a condition of its leadership in such fora (Parker & Karlsson: 2010: 930, Gowan & Brantner: 2008: 45, Oberthür & Roche Kelly: 2008: 36, Schreurs & Tiberghien: 2007: 19, Gupta & Ringius: 2001: 288). The EU's own ambitions of playing a 'leading role' within international institutions and to, "take on responsibility for building a better world" (Council: 2003c), also emphasise this fact; with the EU's *willingness to lead* often given greater focus than its ability to then persuade followers.

Yet, what this study has reflected is that, where the EU's position entering negotiations is high in ambition the EU's ability to persuade negotiations partners to support its goals has been severely limited and its effectiveness low. Instead, it has found that it is where the EU's negotiation position has moderated its ambition that the EU has achieved good or very good performances in multilateral negotiations. In those cases, it has been where the EU's position has been progressive; yet reflecting some zone of agreement with its negotiation partners, that it has been best capable of performing well and attaining its goals. The EU thus performs well in multilateral negotiations not because it has set itself apart as a distinctive 'leader' or *demandeur*, but because it has set progressive objectives which relate to the preference structures of its negotiation partners. It has thus been by building on areas of commonality with its negotiation partners, rather than endeavouring to demonstrate its distinctiveness as a 'leading' actor, that the EU has managed to successfully outreach to others, and subsequently achieve its goals.

What this therefore suggests is the need, not for high, but moderate ambitions in order to aid EU performance. Whilst high ambitions are to be applauded in terms of raising the level of debate, highlighting the need for greater ambitions by others; and, as was found in Chapter Three with the EU's ambitions approaching the first UNFCCC COP in Berlin, may also have some utility in helping to set the agenda for negotiations; moderated ambitions, which also take into consideration the reality of the negotiation context are more likely to aid performance. More than this, where the EU's negotiation position is both progressive and realistic, it has been shown to not only have resulted in a good performance for the EU but also exhibited an outcome agreement supported by all negotiation partners. Moderating the EU's ambitions to accept the reality of the negotiation context within which it must perform can therefore be found to help not only its own performance but also contribute to the success of the negotiation itself.

'Follower' the leader: Readdressing the balance between 'leadership' and outreach

This in turn raises a further implication in terms of analysis of EU 'leadership' within multilateral negotiations. It is argued that a necessary means of re-evaluating expectations of EU performance in multilateral negotiations is to look beyond the EU's high ambitions and its potential to lead, to engage instead with the EU's negotiation performance and its outreach to potential 'followers'. A major challenge facing the EU leadership discourse however has been that it has tended to neglect the relationship between leader and followers (see Underdal: 1994). As this study has shown, the EU's success in its performance outreach to negotiation partners has been of critical importance to its subsequent goal-attainment. This begins with the moderation of its ambitions to find some zone of agreement with its negotiation partners, but it continues on into the negotiations themselves through the EU's negotiation strategy and the tactics it employs in persuading others to support its preferences.

What this study has especially identified is that the EU's negotiation strategy during the majority of negotiations here analysed has been predominantly proactive. This may be expected in these cases where the EU's negotiation position entering the UNFCCC, WTO and, to a certain extent, the NPT, has been principally progressive rather than conservative. The EU has however, also been identified to have employed several negotiation tactics within the negotiations here analysed. Coalition-building specifically was found to be successful in the UNFCCC negotiations with the EU building support with the G77 at

numerous stages throughout the Kyoto and post-Kyoto agreement negotiations. In Durban in 2011 this was also seen in the EU building support for progress towards a post-Kyoto agreement amongst other ‘high ambition’ negotiation groups including AOSIS and the LDCs (see Chapter Three). The tradition of EU Member States working within other negotiation groups within the NPT may also be found to fall into this category and which, in 1995 and 2010, was found to be highly useful for the EU spreading its voice and pushing its common objectives with negotiation partners. The EU has also been shown to use argumentation; strengthening its case with negotiation partners by, for example, basing arguments on scientific evidence (UNFCCC), and focusing on the technical details in dealing with more politically-sensitive issues.

The EU’s propensity to concentrate on more technical issues under negotiation in order to build agreement has in fact been evident across all three negotiation environments. Within the NPT the EU has placed far greater emphasis on technical issues, such as the Additional Protocol for IAEA comprehensive safeguard arrangements; where its Members’ interests are also far more convergent, than in issues relating to the more politicised and controversial issue of nuclear disarmament, where its position has been more ambiguous. Within the WTO, the EU’s penchant for pursuing technical objectives has also been found in negotiations over industrialised goods (NAMA) especially where, in its efforts to break the impasse over NAMA-sectorals, the EU conducted negotiations amongst technical experts during the critical 2008 negotiations, and in 2011 submitted a further compromise proposal outlining technical details for a formula for NAMA-sectorals (Chapter Four).

The EU has also been found to use concessions as a negotiation tactic; particularly evident in the WTO where the EU’s market size gives it considerable bargaining power and makes its concessions a critical incentive for negotiation partners to support the EU’s more offensive preferences. Within the WTO and UNFCCC the EU also employs issue-linkage which has been most commonly used in pursuing offensive interests that build support with the developing world. Coalition-building within the UNFCCC has, for example, typically gone hand in hand with issue-linkage with the EU linking its support for development issues and offering financial incentive through the Green Fund to persuade the G77 to support its objectives for a post-Kyoto successor climate agreement. Findings also indicate that the EU has made good use of *demarchés* prior to negotiations in persuading negotiation partners of its objectives. Several of its diplomatic campaigns – most especially the 1995 indefinite extension decision in the NPT; the campaign to attract

support for the launching of a new trade round in the WTO; and the campaign to persuade the ‘Gang of Four’ to ratify the Kyoto Protocol – have all been highly successful and demonstrate the significant difference that the EU can make when it utilises all of its diplomatic tools (including those of its Member States) in its efforts to persuade negotiation partners.

Findings have further shown that, where those tactics have been successful, the EU’s effectiveness is higher. It is noted however, that the EU’s ability to successfully utilise these tactics has been highly variable and the EU’s ‘power of persuasion’ has, at times, been limited. Thus, whilst the EU may often unilaterally set an example, specify ambitious objectives in its efforts to ‘lead’, and attempt to persuade its negotiation partners, this does not always translate into others then ‘following’ (see also Chaban et al. 2006, Torney: 2011). Instead, what this study finds is that rather than others raising their level of ambition to meet with the preference structures of the EU, it has been the EU that has moderated its ambitions to better account for the more conservative interests of its negotiation partners. What this would therefore suggest is the need to readdress the balance between understandings of the EU’s leadership within multilateral negotiations, and its actual outreach as an indication of its negotiation behaviour and overall performance. More specifically, it suggests that focus move beyond the EU’s leadership rhetoric to engage much more deliberately with what the EU wants in multilateral negotiations – relative to its negotiation partners; what strategy and tactics it subsequently employs, and how it can build upon any zone of agreement to subsequently achieve its goals.

Normative or Pragmatic Power Europe?

Further relating to the EU’s leadership rhetoric is the discourse on the EU as a particular ‘type’ of power. As reflected upon in Chapter One, a popular focus within the EUGA literature has been towards assessment of the EU as a distinctive ‘type’ of power; one who chose to act multilaterally, pursued distinctive and ‘normative’ preferences, and who sought to be a ‘force for good’ in international affairs (see Börzel & Risse: 2009, Aggestam: 2009, Manners: 2002, 2006). Prominent in the Normative Power Europe (NPE) discourse particularly has been a prevailing argument that the EU not only forges its international identity by being a ‘normative’ actor, but moreover exercises influence and power in its international relations through the pursuit of a distinctly normative agenda in which the EU sets itself apart as being ‘different’ from other major players (see Manners &

Whitman: 2003, Manners: 2006, 2002). An expectation therefore is that the EU is most influential – and thus most likely to achieve its goals - where it pursues a distinctive agenda in which it is not only ‘progressive’ but also ‘different’ to others (Schiepers & Sicurelli: 2007: 451-452). Relating also to the leadership debate, claims of the EU performing the role of a ‘directional leader’ by pursuing the most ambitious domestic policies to tackle climate change, of going first and of setting the example which others can follow, also stress the importance of the EU’s high ambition and normative distinctiveness to its performance within multilateral negotiations (Andresen & Agrawala: 2002: 49, Skodvin & Andresen: 2006: 21, Oberthür & Roche Kelly: 2008: 36).

However, in challenging those expectations, this study has found that where the EU has entered negotiations with a high ambition negotiation position – positioned therefore as a distinctive and normative preference outlier - its ability to outreach to its negotiation partners has been significantly limited. Prime example of this was seen at the UNFCCC’s Copenhagen Summit in 2009 where the EU’s pursuit of a distinctively normative negotiation agenda, pursuing a progressive international agreement for legally binding reduction targets for the emission of greenhouse gases by both the developed world and emerging economies, failed to garner any of the necessary support from what were the far more conservative preferences of the US, India, China and Brazil, and which resulted in a poor performance for the EU overall. More than this, in all cases where the EU was found to enter negotiations with a high ambition negotiation position, the EU’s outreach to third countries was not only mostly moderate but its effectiveness also low (see also Figure 6.4 in Chapter Six). What this therefore suggests is that where the EU has attempted to act normatively, and ‘differently’, within multilateral negotiations, its ability to successfully utilise tactics to persuade third countries to support its goals, and to subsequently influence the outcome of the negotiation in favour of those objectives, has failed.

Instead, what this study has revealed is that it is where the EU has pursued both a progressive negotiation agenda, but one which in fact builds upon common preferences with its negotiation partners, that it has performed at its best in multilateral negotiations. More than this, it has been where the EU has lowered its high ambitions following negotiations in which its performance was consequently poor that it has demonstrated improvement in its negotiation performance. This was evident particularly within the UNFCCC and WTO negotiations where, following negotiations in which the EU’s negotiation position was high in ambition and its performance poor or fair, the EU

subsequently lowered its ambition to a moderate level approaching the next negotiation and, in so doing, improved its overall performance.

It is thus argued that a degree of pragmatism can be identified in the formation of the EU's negotiation objectives approaching multilateral negotiations. Shaped not only by its own norms, interests and institutional capabilities, the EU's negotiation position has also been adjusted to account for past performances and the preference structures of its often more conservative negotiation partners. It has thus been where the EU finds areas of commonality that the EU has performed well, not where it has set itself apart as a 'different' sort of actor and preference outlier. What this would thus imply is that the EU's influence courtesy of 'what it is' as an international actor has had limited impact upon its performance within those multilateral negotiation here analysed. In an environment in which the preference structures of hundreds of other actors must be taken into consideration, and in which the EU's ability to persuade more conservative negotiation partners has been remarkably limited, it has in fact been the EU's pragmatism in moderating its ambitions to take into consideration the preference structures of others, and thus take into account the reality of the negotiation context, that has enabled it to perform well. What this would therefore suggest is that EU influence is less a consequence of its distinctiveness as a *Normative Power*, and much more a result of its pragmatism as a negotiator in better navigating the preference structures of its negotiation partners. This in turn would imply that efforts to identify the EU as a particular 'type' of power may require some refinement in order to take into consideration the EU's preferences relative to its negotiation partners and its actual rather than potential influence in shaping the objectives of others.

Speaking with 'one voice' – or with many?

Another important implication challenging expectations in this study is that the EU has been able to attain its goals within multilateral negotiation, not by always speaking with one voice, but with many. Reflected upon in Chapter One, whilst there is an assumed link between the EUs' unity and its overall effectiveness within multilateral negotiations (i.e. Gebhard: 2011: 110, Van Schaik: 2010: 255), this link has rarely been explicitly tested (see Thomas: 2012). Developing upon this, in this study EU unity and effectiveness were evaluated as two of the four performance indicators used to make an overall performance assessment. Challenging expectations, it has found that the EU has been able to attain most of its objectives; achieving **high levels of effectiveness**, in those negotiations where it

has also had **moderate unity** (see Appendix V). As shown in Chapters Three and Five evaluating the EU's performance within the UNFCCC and NPT negotiations, it was found that whilst the level of EU unity in these fora has at times been challenged by its Member States speaking in their own national capacity, the EU has also been at its most effective where it has demonstrated cohesion amongst its constituent part, and spread its voice across several 'lead' negotiators and Member States. These findings do also have important implications not only for how the EU's unity within multilateral negotiations is to be understood, but also upon the expectation that it is by 'speaking with one voice' that the EU may best attain its goals. Firstly, it is noted that these findings would appear to corroborate those who have started to challenge conventional wisdom in suggesting that speaking with one voice may not always be to the EU's advantage (see Dee: 2012a, Koops & Macaj: 2012, Smith: 2006).

Secondly, whilst the EU's unity is a necessary consideration in assessing its performance in multilateral negotiations, these findings would suggest some attention be given to how EU performance can be aided by the EU speaking with more than one voice. The EU's ability to 'speak with one voice' within the WTO – a negotiation environment in which the EU's capacity to act is widely acknowledged to be at its most 'state-like'; and thus where it is expected to negotiate through the official voice of the European Commission – has been a considerable strength and has enabled the EU to maintain a high level of negotiation behaviour even where it has been internally divided. However, within negotiations where its competence is less established, the EU's ability to speak with more than one voice has not been the disadvantage that many have feared⁹⁶. Of importance for the EU's negotiation performance therefore, have been less *how many voices* the EU speaks with, and much more *how cohesive* the EU's voices are. Where the EU and its Member States have maintained cohesion, with Members reinforcing and supporting EU positions in their own activities, the EU's effectiveness has been moderate to high. Where the EU Member States have been divided, contradicting EU common positions through the pursuit of their own stronger national interests, the EU's performance has been adversely affected.

There is therefore, some argument to be made in suggesting that where the EU can maintain its cohesion it is well placed to utilise the diplomatic relationships of its Member

⁹⁶ In responding to a question on the impact of Member State cross-alignment with other negotiation groups within the NPT upon the EU, one EU diplomatic source responded: "It doesn't help the visibility of the EU...It is to our discredit." (Interview, New York, 7th March 2011). Another senior official further claimed that cross-alignment could be seen to damage EU credibility (interview, senior official, Department of Non-Proliferation and Disarmament Affairs, EEAS, 10th May 2011)

States in furthering its common objectives within the context of multilateral negotiations. In an environment in which consensus-building is the order of the day and where negotiators must work closely with others in order to manage complexity and reduce the number of divergent perspectives and proposals into core interests with which to negotiate, the EU's ability to have eyes and ears in several places is a notable advantage. Where the EU can itself then maintain its own cohesion to utilise this advantage rather than allow its own internal divisions to weaken its position, its performance is significantly enhanced. This may particularly be found to be a comparative advantage in those multilateral negotiations where the EU does not have exclusive legal competence but where the Member States do coordinate under a common position. Within the United Nations especially there is certainly some argument to be made for the EU pursuing a strategic approach that takes full advantage of its Member States diplomatic connections⁹⁷.

'Ever closer union' but to what end?

A final related implication challenging expectations in this study relates specifically to the EU's competence and its ongoing efforts for institutional development and 'ever closer union'. Debate not only within the scholarly community (i.e. Thomas: 2012, Gebhard: 2011) but also within EU policy-making circles (i.e. Commission: 2006), has particularly stressed the expected improving nature of EU integration efforts upon EU external coherence and effectiveness. Findings from this study have however challenged this conventional argument in several ways. First, findings have suggested that EU performance in multilateral negotiations has not followed any notable improving trend following successive treaty reforms but has instead continued to vary considerably over-time across all policy fields. As Figure 6.1 in the previous Chapter revealed, how well the EU has performed in multilateral negotiations spanning time from 1995 to 2011 continued to vary between very good, good, fair, poor and very poor levels despite several treaty reforms over this time-period. In particular, no pertinent trends were identified to suggest improvement in the EU's negotiation performance within any of the cases analysed following the Amsterdam (1997), Nice (2001), or Lisbon (2007) Treaties; despite the intention that such treaty reforms would build 'Greater Coherence, Effectiveness and Visibility' for the EU in its external relations (Commission: 2006). Whilst the full extent

⁹⁷ See also Laatikainen (2010: 488) who argues that in pursuing an entrepreneurial style of leadership at the UN post-Lisbon Treaty – whereby the EU takes on a much more bridge-building type role - the EU's external representation would in fact be best served by the EU-27 permanent missions being the, "visible face of the EU in UN diplomacy...which in their interactions with third parties would have freedom to interact, but in line with EU positions"

of the Lisbon Treaty's impact upon EU negotiation performance has yet to be fully realised, early indications from 2009 to 2011 moreover suggest no obvious improvement for the EU in its performance within the UNFCCC or WTO particularly⁹⁸.

Secondly, findings further suggest that EU performance in multilateral negotiations has not followed any obvious trend of being at its best in the WTO trade negotiations, and at its worst in the NPT negotiations, but has instead varied considerably within each policy field (see also Appendix V). Whilst findings from this study do support the argument that greater integration and exclusive competence can benefit the EU's negotiation behaviour – most notably evident in the consistently high level of negotiation behaviour exhibited by the EU within the WTO multilateral trade negotiations - what has also been clear from this study is that how 'state-like' the EU is has had only limited bearing upon its effectiveness within multilateral negotiations. EU effectiveness has instead varied between low, moderate and high across each case study including in the WTO, the UNFCCC and the NPT negotiations, suggesting that the extent of EU integration and its level of competence in any given policy field has had limited influence upon its ability to 'punch above its weight' and attain its goals.

This would therefore appear to raise important questions of to what end EU efforts towards 'ever closer union' over the past two decades have been geared. When it comes to influencing – and subsequently explaining – how well the EU performs within multilateral negotiations, what this study has shown is that there have been no obvious trends of improved effectiveness for the EU as a result of its 'state-like' qualities or on-going efforts towards improved integration. Whilst there may be some counterfactual argument to suppose that the EU's performance could have been worse had it not been for the EU's treaty reforms and institutional development, what this study would nevertheless iterate is that the EU's competence and institutional development have been less a determinant of improvements in the EU's performance as conventional wisdom has supposed.

In making this point, it is not to say that the EU should thus stop its quest for 'ever closer union'. Rather, this study's findings reinforce the argument that the EU's exclusive competence and closer integration can boost EU behaviour within negotiations and which does therefore warrant further consideration and on-going effort. Instead, what is argued is

⁹⁸ Exception may be seen in the NPT where the introduction of the EEAS was seen to have some improving effect on its performance in the 2010 RevCon.

that scholars and policy-makers may find greater merit in moving beyond a purely EU *qua* the EU focus in looking to how the EU can improve its ‘state-like’ qualities in multilateral negotiations, to engage instead with questions of what the EU is *actually* doing relative to its negotiation partners and how well it then performs. For EU policy-makers particularly what this would suggest is the need to re-focus attentions from what has been a predominantly *coherence = effectiveness* mind-set to a more nuanced approach which looks not only to EU coherence and its capacity to act, but to how the EU positions itself and outreaches to third countries, how it fine-tunes its negotiation style and the tactics it employs in engaging with negotiation partners, and how this can in turn bolster EU effectiveness on the world stage.

7.3. Furthering the performance research agenda

As this study has aspired to show, performance studies have a great deal to offer in contributing to understanding of the EU as a global actor, power and leader. One aim of this study has been to contribute to the small, yet growing, body of debate which has, since the turn of the 2010s, begun to focus explicitly on EU performance as a distinctive research agenda. By offering these findings it hopes to have added to those preliminary studies through the further conceptualisation of performance and, importantly, through the generation of new empirical data. This contribution is nevertheless one step on the path towards a much broader research agenda which, as Jørgensen et al. (2011: 600) state, “may be about to hit a new high watermark”. As this study has endeavoured to show, performance studies have considerable utility in addressing not only how the EU acts and behaves internationally, but also how effective those actions are. As a concept of analysis it can therefore, contribute a great deal to bridging the gap within EU studies between other more process- and outcome-oriented concepts which have had a tendency to focus either on what the EU *is*, *says*, and *does* but with limited recourse to the connectivity between them (see also Damro: 2012: 697).

In furthering that research agenda several recommendations may however, still be made. First and most fundamentally, building up a wider empirical base is an important step forward. Whilst this study has endeavoured to generate a fuller picture of how well the EU performs in multilateral negotiations spanning time and policy fields, it has nevertheless been a small *n*-study. A larger data set ranging across a greater number of negotiation environments would invariably strengthen the findings here indicated. Broadening the focus to include new negotiation environments would be particularly useful in generating a

much wider picture of the EU's performance in multilateral negotiations across different issue areas as well as how other independent variables may shape that performance. In this study multilateral negotiations were selected which broadly reflected examples of 'global conference diplomacy' (Rittberger: 1983). Time and space constraints have however prevented detailed discussion of the diverse nature of those negotiation environments and the potential impact that different negotiation processes may have had upon the EU's performance. Particularly worthy of further research in this regard is the impact that iterative compared to non-iterative negotiation environments might have upon EU performance, particularly in terms of how enhanced socialisation practices amongst negotiators involved in iterative contexts may help to shape EU negotiation behaviour and likely outcomes. Broadening the empirical focus to therefore explicitly address different negotiation contexts would again enable a fuller picture of how well the EU performs to be manifested and explanation for its variation to be developed.

A further recommendation could be to further fine-tune conceptualisations of performance to suit other fora. In this study the performance indicators selected have been chosen to suit the context of a multilateral negotiation where consensus-building and the requirements of multilateral diplomacy require certain actions from an actor's performance. These indicators are not static however but could be adapted to other forum. This might be useful in relation to bilateral or plurilateral negotiations where indicators could, for example, focus more upon the EU's explicit bargaining behaviour and the power symmetry of the negotiation environment. Another point of potential development is to adopt a comparative approach that evaluates EU performance relative to the performances of other major players within multilateral negotiations. This study has endeavoured to move beyond purely EU *qua* the EU approaches by relating analysis of the EU's ambition and its outreach within negotiations to the preferences and activities of its negotiation partners, however, this could be further built upon to also conduct explicit performance analyses of other players. Such a comparative approach would moreover, considerably facilitate performance studies in reference to the competitiveness debate; enabling *how well* the EU performs to be assessed comparative to the performance of others. Whilst this approach would generate challenges over how EU performance should be evaluated in a way that allows a fair comparison to the performance of State actors, it would nevertheless enable a far wider understanding to be garnered of the EU as an international actor and negotiator relative to other actors within the international system.

A further avenue for furthering the performance research agenda is through the development of systematic approaches to *explanation* of why the EU performs as it does. Due to this study's necessary prioritisation of evaluation of performance over its explanation, it has not been possible to offer a more rigorous and systematic approach to the explication of variation in EU performance in multilateral negotiations. Whilst offering what is hoped to be a more holistic approach to understanding those variables which shape the EU's negotiation performance, it would nevertheless be recommended that much greater focus be given to this specific aspect of performance in future research. One possible approach for furthering this aspect of the research agenda could be to move beyond more inference based, process-tracing approaches to instead develop a more comparative, index-oriented approach (see also O. Young: 2001). Inference, process-tracing approaches – as were utilised in this study – are useful in endeavouring to identify pertinent trends between changes in the dependent variable relative to independent variables in an effort to prove or disprove any causal relationship between the two (see also Bennett: 2008). They are however, limited in being able to offer systematically tested explanation and rely in most part upon the identification of possible explanatory variables rather than testing how much those variables actually shape the dependent variable.

Another approach could be to utilise methods such as the Qualitative Comparative Approach (QCA) which places emphasise on identifying combinations of conditions which shape the dependent variable. QCA is a research method developed specifically for the analysis of small-*n* data sets and is typical in comparative studies (Rihoux: 2008: 724); it does therefore have some utility in cases such as these. As a research method, QCA seeks to establish “specific connections” (Rihoux: 2008: 724) by analysing a selection of cases chosen either based on a common outcome in order to identify shared conditions, or based on cases that share common conditions in order to assess whether or not they then exhibit the same outcome. Using a truth table, co-variance between the value of the dependent variable and variations in values of identified conditions is then easily and logically identified and those combinations of conditions most likely to influence the dependent variable revealed. Such an approach could therefore enable the identification of, “decisive recipes ... [to] unravel causal complexity” (Rihoux: 2008: 726) and which could therefore greatly contribute to explanation of variability of the EU's negotiation performances.

Such an approach does however, have its challenges. In particular, whilst offering a clear and systematic method of identifying connections between changes in the EU's

performance and changes in internal and external conditions, it does then place considerable stress onto how those conditions are themselves indexed into values that can be input into a truth-table. The question that must therefore be addressed is how conditions, for example, changes to the negotiation environment, or the degree of convergence amongst EU Member States interests, can themselves be indexed into quantifiable values. Another challenge is that QCA has been relatively under-utilised within EU studies. Hence, developing this approach to utilise in performance studies would be setting a precedent. It may however provide an interesting avenue for furthering the research agenda upon explanation of consistency and change in EU performance.

Conclusion

The purpose of this study has been to offer a fuller understanding of how well the EU performs in multilateral negotiations. It has dealt with questions of the EU's unity and significance; the EU's outreach to negotiation partners and its ability to attain its goals; and it has sought to make some contribution to understanding the EU as a global actor by demonstrating how conceptualisations of performance can enable the evaluation of both EU behaviour and effectiveness. In its modest contribution it has attempted to offer added value to the existing discourse by challenging those expectations of how the EU 'ought' to perform in the context of multilateral negotiations, to engage instead with how well the EU has performed. In so doing it has challenged expectations in several ways. At its most fundamental it has found that the EU's performance in multilateral negotiations does not follow a pattern of being good in those fora where it is itself most 'state-like' and poor in those forum where it is least integrated. Rather it has shown that EU performance in multilateral negotiations is highly variable, not only between negotiation environments, but also within them. Expectations have further been challenged in the way that the EU's performance has been conceptualised. Challenging the over-estimation of EU 'leadership' and actorness discourses, as well as the under-estimation of the external effectiveness literature; it has shown that the EU has performed neither as well as the leadership literature has suggested, nor as poorly as the effectiveness literature has implied.

Explanation for this variation may moreover be found, less in the EU's own capacity to act – although this is an essential consideration – and more in how the EU's institutional conditions and the conditions of the external environment shape the EU's ambition approaching negotiations. Where the EU maintains a moderate level of ambition reflecting progressiveness in its negotiation objectives, but where it also finds some zone of

agreement with negotiation partners, it is far more likely to perform well; building on its extensive diplomatic capabilities to persuade partners of its objectives and to ultimately attain its goals. What this study thus argues is that understanding how well the EU performs in multilateral negotiations cannot simply be a question of understanding how well the EU *can* perform, but of understanding how it actually navigates the negotiation environment. It is hoped that this study has made some contribution in enabling that understanding to be developed further.

Appendices

Appendix I: List of Interviewees

<i>Interviewee Reference</i>	<i>Location</i>	<i>Date</i>
Trade		
Senior official, DG Trade	Brussels	11th May 2011
Senior official, WTO Unit, DG Trade	Brussels	12th May 2011
Senior official, DG Trade	Brussels	16th May 2011
Senior official, EU Delegation to the WTO	Geneva	20th May 2011
Lord Brittan of Spennithorne, former EU Trade Commissioner	London	19th April 2011
Mr Hugo Paeman, former EU lead negotiator, DG Trade	Brussels	16th May 2011
Senior trade official, EU Member State A	Brussels	18th May 2011
Deputy Permanent Representative to the WTO, EU Member State B	Geneva	20th May 2011
Senior trade official, EU Member State C	Brussels	16th May 2011
Deputy Permanent Representative to the WTO, EU Member State C	Geneva	23rd May 2011
Deputy Permanent Representative to the WTO, EU Member State D	Geneva	20th May 2011
Senior trade official, EU Member State E	Brussels	17th May 2011
WTO spokesperson	Geneva	19th May 2011
Ambassador to the WTO, northern developed country	Geneva	19th May 2011
First Secretary to the WTO, southern developing country	Geneva	19th May 2011
Deputy Permanent Representative to the WTO, southern developing country	Geneva	19th May 2011
Commercial Secretary, southern developing country	Geneva	19th May 2011
First Secretary to the WTO, northern developed country	Geneva	23rd May 2011
Second Secretary to the WTO, northern developed country	Geneva	24th May 2011
NPT		
EU diplomatic source, EEAS	New York	7th March 2011
Senior official, Department of Non-Proliferation and Disarmament Affairs, EEAS	Brussels	10th May 2011
Former Disarmament Ambassador Miguel Aguirre de Carcer, Spanish Permanent Mission to the EU	Brussels	5th May 2011
First Counsellor, EU Member State A	New York	9th March 2011
Deputy Permanent Representative to the UN, EU Member State B	New York	9th March 2011
Deputy Permanent Representative to the UN, EU Member State C	New York	10th March 2011
Counsellor, EU Member State D	New York	10th March 2011
First Secretary, EU Member State E	New York	11th March 2011
Ambassador to the Political & Security Council, EU Member State F	Brussels	16th May 2011
Deputy Permanent Representative to the CD, EU Member State C	Geneva	19th May 2011
Ambassador to the CD, EU Member State G	Geneva	20th May 2011
Minister Counsellor to the UN, northern developed country	New York	7th March 2011
Ambassador to the UN, southern developing country	New York	10th March 2011
Counsellor, southern developing country	New York	11th March 2011
First Secretary to the CD, northern developed country	Geneva	23rd May 2011
Deputy Permanent Representative to the CD, northern developed country	Geneva	24th May 2011
Ambassador, southern developed country	By Email	6th April 2011
Senior official, UNODA	New York	10th March 2011
James Wurst, Program Director, Middle Power Initiative	New York	7th March 2011
Ray Acheson, Director, Reaching Critical Will	New York	10th March 2011
Senior Advisor, ICRC	New York	10th March 2011
Senior Analyst, Acronym Institute of Disarmament Diplomacy	London	19th April 2011

Appendix II: UNFCCC Negotiation Groups and their key issues

Negotiation Group	Period of Activity	Members	Key Issues
EU	1992-2011	EU-27 plus the EC	<p>Legally binding emission reduction targets and timetables to prevent a rise in global temperature above 2 degrees Celsius</p> <p>Developed world to take the lead in committing the most to emissions reductions but with recognition that the most advanced developing countries must also make commitments</p> <p>Proponent of domestic action to reduce emissions and, since 1997, open to flexible mechanisms to achieve reduction targets (CDM, JI, emissions trading) but with limits to ensure environmental integrity</p>
JUSSCANNZ	1992-1997	Japan, US, Switzerland, Canada, Australia, Norway, New Zealand	<p>Emissions reductions through flexible mechanisms (emissions trading, JI and CDM, use of sinks) with no limits</p> <p>Binding commitments to be made by developing countries also, particularly the most advanced developing countries</p>
Umbrella Group	1998-2011	Australia, Canada, Iceland, Japan, New Zealand, Norway, Russia, Ukraine and the US	<p>Emissions reductions through flexible mechanisms (emissions trading, JI and CDM, use of sinks) with no limits</p> <p>Binding commitments to be made by developing countries also, particularly the most advanced developing countries</p>
G77	1992-2011	Approximately 130 developing countries plus China	<p>Developed country to take the lead and cut emissions due to historic responsibility</p> <p>Prior to 2005, no binding commitments on developing countries, since 2005 some openness to consider new commitments at levels suitable to development status under a post-Kyoto agreement</p> <p>Better and more efficient funding and technology transfer from developed nations</p> <p>No limits to be placed on economic growth</p>
BASIC	2009-2011	Brazil, South Africa, India and China, fully associated with the G77	<p>Some openness to making commitments to reduce emissions but not in the short term</p> <p>Support a post-2012 agreement to which they will commit to targets but with historic responsibility to do the most still resting with the developed world</p> <p>Need for more and better financial support to DCs especially with prioritisation of adaptation</p> <p>Focus also on issues of equity, trade and intellectual property rights</p>
AOSIS (Alliance of Small Island States)	1992-2011	43 low-lying and small island countries, most of which are members of the G-77	<p>Urgent need to tackle climate change to prevent further rises in sea-levels. Most ambitious in calls for higher and quicker reduction targets by the developed world</p> <p>Scaling up and quicker provision of Adaptation funding, technology transfer and financial support for mitigation in developing countries</p>
OPEC (Organisation of Petroleum Exporting Countries)	1992-2011	12 States with petroleum exporting interests, also members of the G77.	Compensation from developed countries for undertaking new green measures and thus for buying less petroleum
LDCs (Least Developed Countries)	1992-2011	The 50 UN-recognised LDCs, also members of the G77	Easy and direct access to financial support
Environmental Integrity Group (EIG)	2000-2011	Switzerland, Mexico & Korea	More ambitious emissions reduction targets and the maintenance of the environmental integrity of the Kyoto Protocol and any post-Kyoto agreement

Source: Author's own compilation. For these and other group positions during UNFCCC negotiations see <http://unfccc.int>

Appendix III: WTO negotiation objectives by key player

Actor	Negotiation objectives
<i>Agriculture</i>	
EU	Defensive stance with preference for the maintenance of the status quo (and the protection of CAP). Willing to make some concessions in lowering or reducing tariffs/subsidies but with balance across the three pillars and with attention paid to the 'non-trade concerns' and 'multifunctionality' of the agricultural sector. Any or all concessions made conditional on agreement being reached in other sectors notably industrial goods, services, rules on anti-dumping, and development assistance. Wants the US particularly to significantly reduce its trade-distorting subsidies to farmers
US	Offensive stance calling for the elimination of all export subsidies, cuts of the highest tariffs and some concessions of cuts in domestic support (amber box) but with green box maintained.
G20	Broadly offensive positioning calling for the elimination of all forms of export subsidies, significant cuts in domestic support - particularly by the EU - and cuts in developed country tariffs.
<i>Industrial Goods (NAMA)</i>	
EU	Offensive objectives aimed at securing real improvements for access of its industrial goods to other countries. A core objective is tackling the 'water' between current bound tariff rates and the applied rates of many developing countries as well as in new industrial sectors. Favours the Swiss Formula approach in modalities for tariff reduction. Part of the NAMA 'Friends of Ambition' negotiating group seeking to maximize tariff reductions and achieve real market access in NAMA
US	Offensive interests that favours a sectoral approach with the reduction of tariffs and tariff peaks across key sectors of industrial products. Favours a Swiss Formula approach to the reduction of tariffs particularly targeting the emerging economies. Part of the NAMA 'Friends of Ambition' negotiating group seeking to maximize tariff reductions and achieve real market access in NAMA
India	Defensive interests on NAMA particularly on the formula for tariff reduction, opposing the Swiss Formula due to its emphasis on making higher cuts on high tariffs than on low tariffs – notably due to most DCs having defensively high tariffs. India's position is that the Swiss Formula goes against the principle of less than full reciprocity for DCs. A member of the NAMA-11 calling for flexibilities to limit market opening in industrial goods trade
Brazil	Offensive interests in reducing tariff peaks and escalation but opposes a Swiss Formula approach. Supports India (and Argentina) in proposing a Swiss-type formula to be applied line-by-line to bound tariffs but for unbound tariffs to be reduced from base values on the average tariffs. A member of the NAMA-11 calling for flexibilities to limit market opening in industrial goods trade
China	Defensive interests with core objectives to maintain special and differential treatment for DCs in NAMA negotiations. Has supported the Swiss Formula with dual coefficients as long as the coefficients take DCs into account. Member of the 'Paragraph Six' Group of countries with less than 35% of non-agricultural products covered by legally bound tariff ceilings. They have agreed to increase their binding coverage substantially, but want to exempt some products
<i>Services</i>	
EU	Offensive interests aimed at securing real improvements in European services access to other countries. Core objective is to tackle tariff peaks and thus to raising others level of ambition in making offers on bound tariffs that go further than current applied levels. Further objective is the overall widening of services liberalisation. Would prefer full modalities for tackling this issue within the DDA rather than the current request-offer basis.
US	Relatively offensive interests and a promoter of the more voluntary method of request and offer (rather than full modalities). Has made calls for others to offer more in opening up their markets to foreign competition.
India	Offensive interests on services and particularly on Mode-1 (cross-border supply i.e. international telephone calls) and Mode-4 (presence of natural persons). India has also been vocal in stressing the equal importance of services to NAMA and agriculture.
Brazil	Some offensive interests on sectors such as computers and IT but with concerns over possible constraints being imposed on national regulation
China	Has called for special interest to be given to sectors of particular concern or export interest for DCs

<i>New' Issues</i>	
EU	Offensive interests in all four Singapore Issues, environmental & core labour standards, as well as in further trade liberalisation in TRIPs and TRIMs.
US	Offensive interests in pursuing the Singapore Issues, particularly pushing for government procurement and trade facilitation to be kept on the negotiating agenda. Also a major advocate in the late 1990s for new round trade negotiations to focus upon core labour standards.
India	A consistently vocal opponent to the inclusion of new trade issues in early 1990s and early 2000s, particularly blocking core labour standards at Seattle, and the Singapore Issues at Cancun. Supported by much of the developing world
Brazil	Remained mostly silent on the Singapore Issues during the early 2000s, allowing India to take the lead in opposing their inclusion on the DDA agenda.

Source: Author's own compilation

Appendix IV: NPT Negotiation Groups and their key issues

Key Negotiation Issues within the NPT	Main objectives by Negotiation Grouping			
	Permanent Five (P-5) ^[i]	European Union (EU) ^[ii]	Vienna Group of Ten (G-10) ^[iii]	New Agenda Coalition (NAC) ^[iv]
Pillar I (nuclear disarmament)	Commitment to concrete, credible steps towards irreversible disarmament (no timeline) Entry into force of the Comprehensive Test-Ban Treaty and upholding commitment to a moratoria on nuclear testing Negotiation on a Fissile Material Cut-Off Treaty (no commitment to prior moratorium on the production of fissile material)	Gradual, systematic nuclear disarmament, stressing the special responsibility of states with the largest arsenals Rapid entry into force of the Comprehensive Test-Ban Treaty Negotiations towards a Fissile Material Cut-Off Treaty including a moratorium on the production of fissile materials for nuclear weapons		Total elimination of NWS nuclear arsenals with interim measures of legally binding security assurances to non-nuclear weapon states Early entry into force of the Comprehensive Test-Ban Treaty and continuation of testing moratorium until that point Reaffirmation of negotiations towards a Fissile Material Cut-Off Treaty
Pillar II (non-proliferation of nuclear weapons)	Accession by all states to the Additional Protocol and as the verification standard Development of nuclear-weapon free zones, particularly in the Middle East (no timeline) The UNSC as having primary responsibility for tackling cases of non-compliance (as detected by the IAEA) UNSC to tackle cases of withdrawal from the NPT	Universal accession to the Additional Protocol (AP) and as the verification standard Development of nuclear-weapon free zones and a Middle East Summit to discuss nuclear issues in the region Strengthening the role of the UNSC as arbiter in cases of non-compliance of NPT obligations The adoption of measures to tackle cases of withdrawal from the NPT	Universal adherence to the Additional Protocol and as the verification standard Ensuring compliance is the precondition for cooperation in the peaceful uses of nuclear energy	Maintaining the Additional Protocol as a voluntary confidence-building measure Establishment of nuclear-weapon free zones, especially in the Middle East with support from the P5 Maintaining the IAEA as an apolitical body
Pillar III (cooperation in the peaceful use of nuclear energy)	Strengthening export controls Development of nuclear energy in the promotion of sustainable development Development of multilateral approaches to the nuclear fuel cycle	Strengthening export controls Development of multilateral approaches to the nuclear fuel cycle	Strengthening export controls Development of multilateral approaches to the nuclear fuel cycle	No undue restrictions placed on exports of nuclear materials, particularly for developing countries Prematurity of discussions on multilateral approaches to the nuclear fuel cycle

[i] Source: Statement by the Russian Federation on behalf of the P-5 to the 2010 NPT RevCon, 5th May 2010

[ii] Source: Council Decision 2010/212/CFSP, 28th March 2010

[iii] Source: Vienna Group of Ten (G-10) Working Paper "Cooperation in the peaceful uses of nuclear energy", submitted to the 2012 NPT PrepCom, 16th March 2012 (NPT/CONF.2015/PC.1/WP.2)

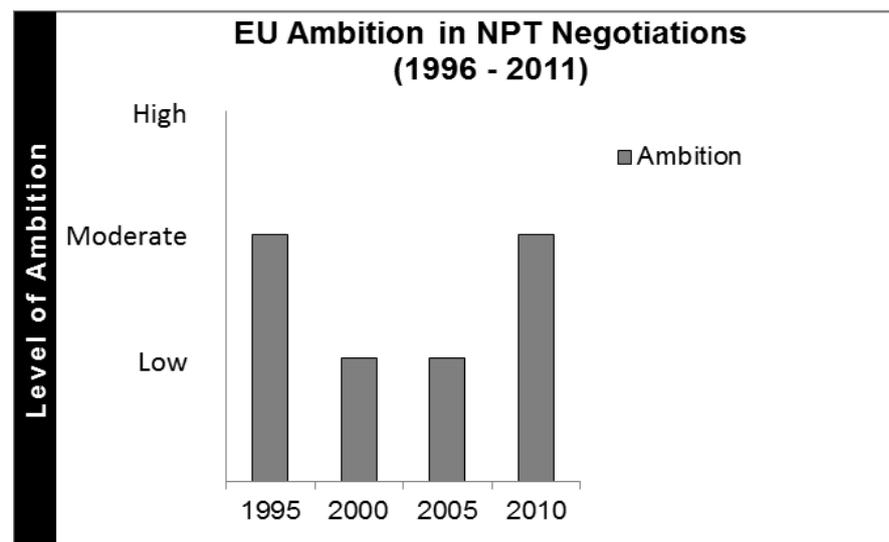
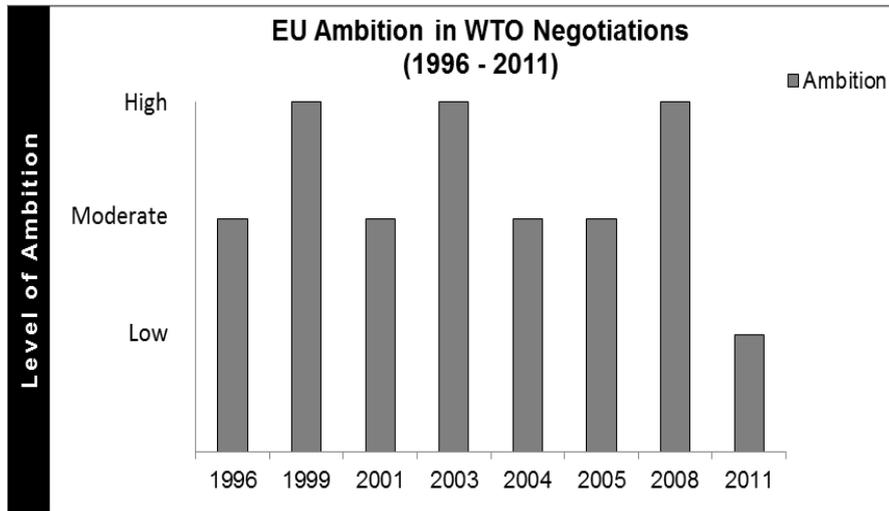
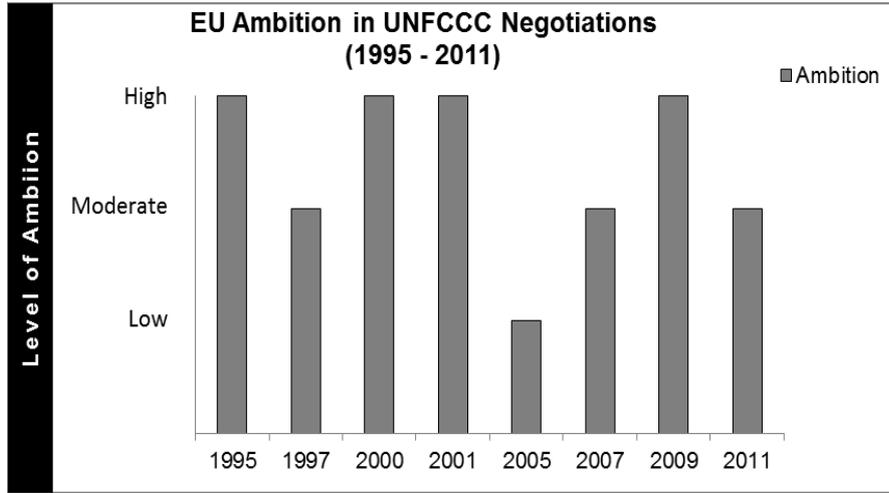
[iv] Source: NAC working paper, submitted to the 2010 RevCon, 23rd March 2010 (NPT/CONF.2010/WP.8)

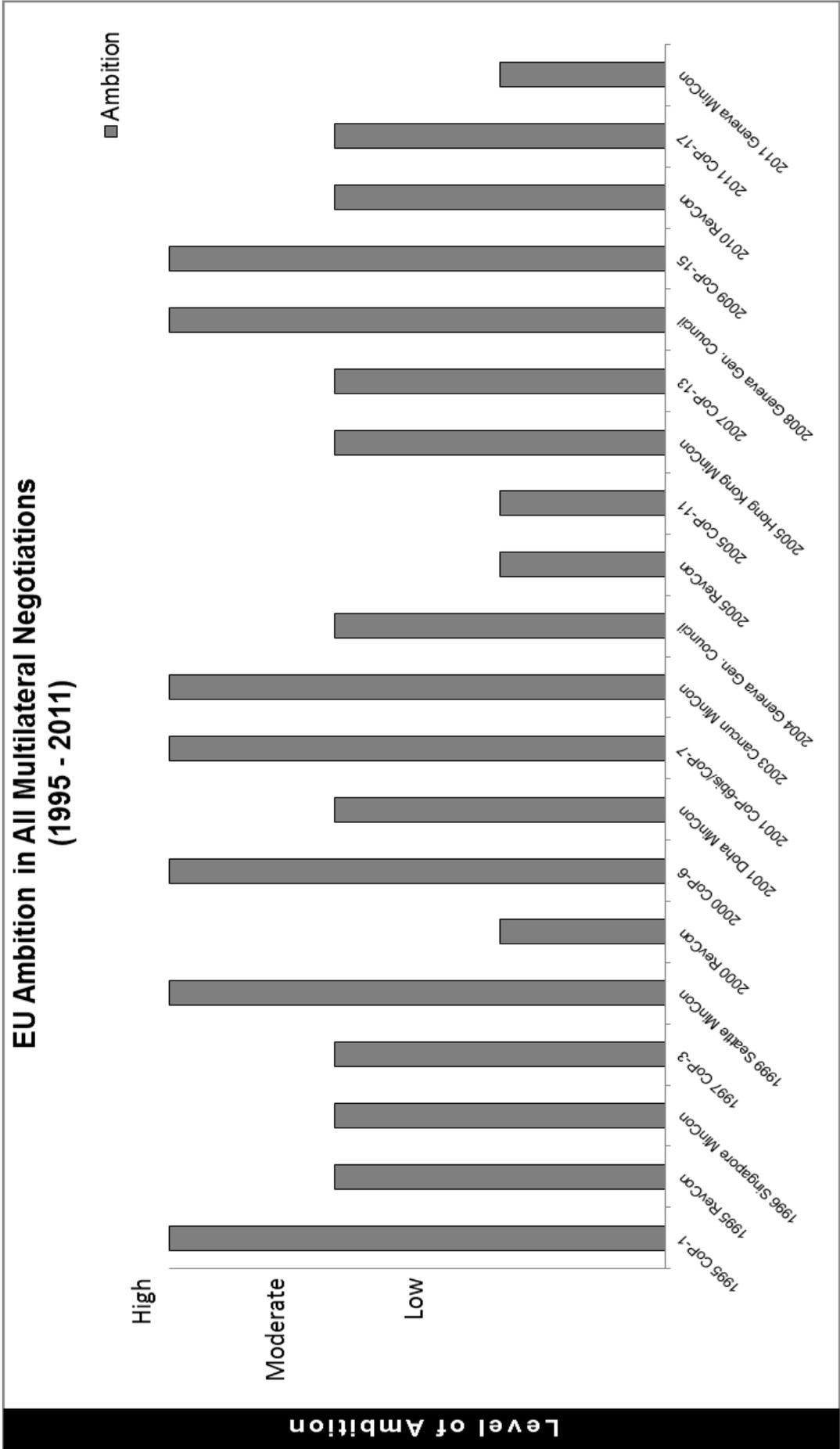
[v] Source: NAM working paper, submitted to the 2010 NPT RevCon, 28th April 2010 (NPT/CONF.2010/WP.46)

Appendix V: EU performance in all negotiations: Chronological findings

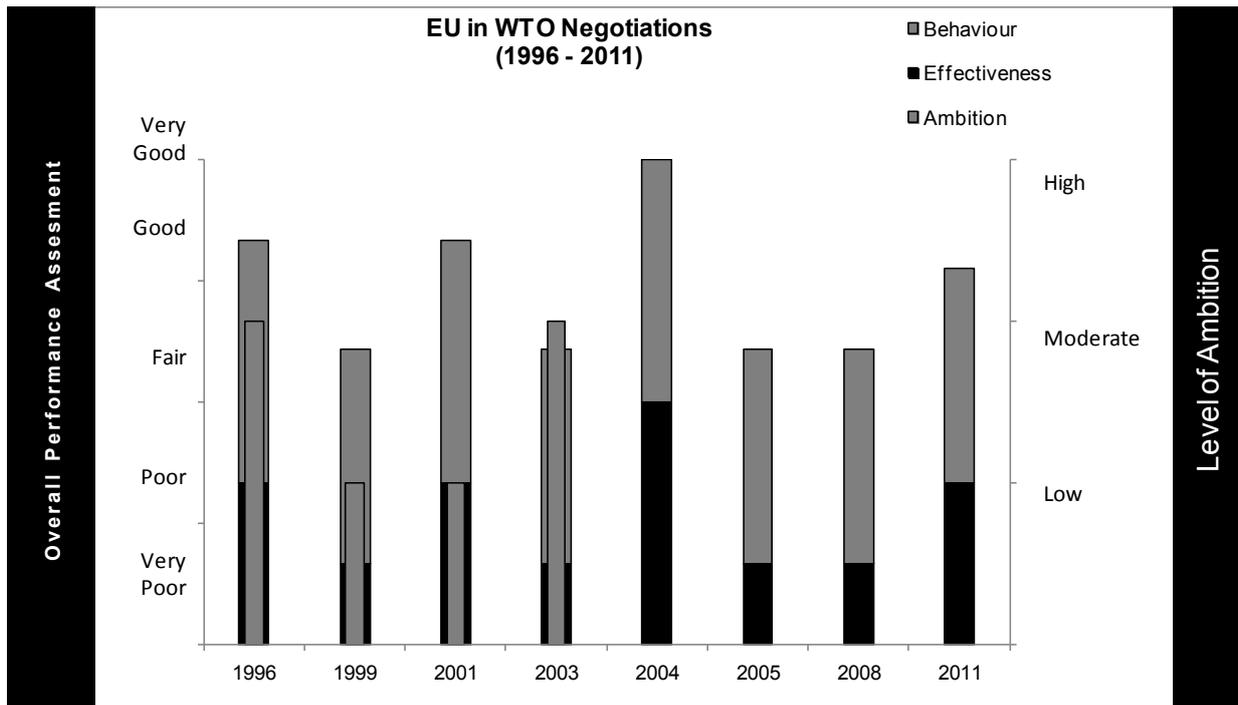
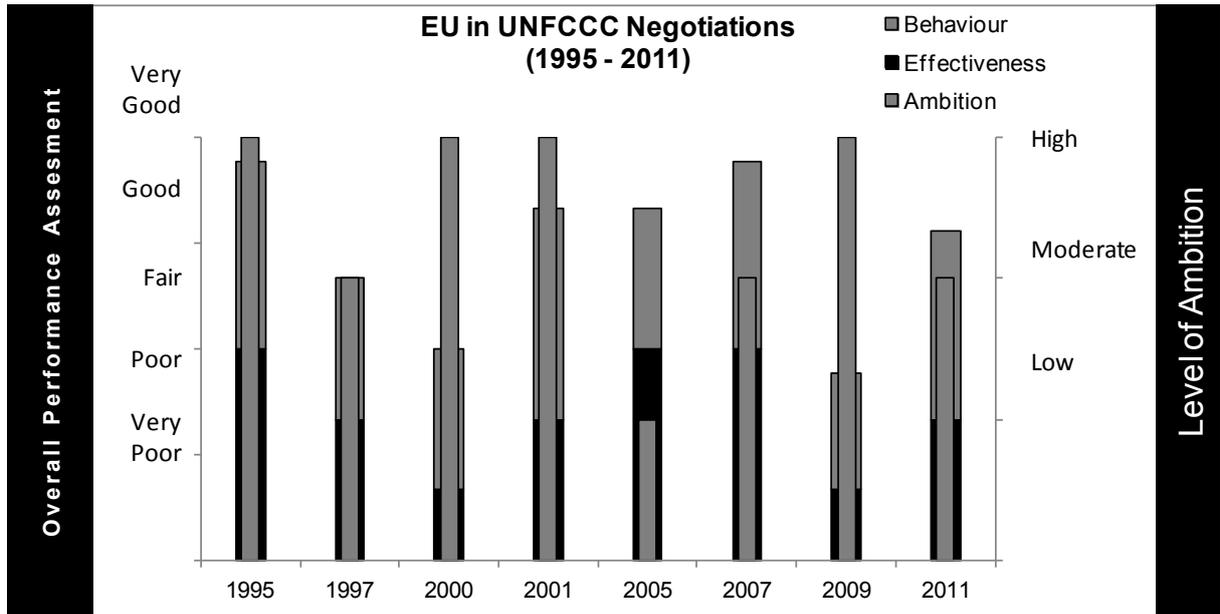
Negotiation Full Name	Case Study	Ambition	Unity	Outreach	Significance	Behaviour	Effectiveness	Performance assessment
1995 CoP-1	UNFCCC	High	Moderate	High	High	High	High	Very good
1995 RevCon	NPT	Moderate	Moderate	High	Moderate	Moderate	High	Good
1996 Singapore MinCon	WTO	Moderate	High	High	High	High	Moderate	Good
1997 CoP-3	UNFCCC	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	Fair
1999 Seattle MinCon	WTO	High	High	Moderate	High	High	Low	Fair
2000 RevCon	NPT	Low	Moderate	Low	Low	Low	High	Fair
2000 CoP-6	UNFCCC	High	Low	Moderate	High	Moderate	Low	Poor
2001 Doha MinCon	WTO	Moderate	High	High	High	High	Moderate	Good
2001 CoP-6bis/CoP-7	UNFCCC	High	High	High	High	High	Moderate	Good
2003 Cancun MinCon	WTO	High	High	Moderate	High	High	Low	Fair
2004 Geneva Gen. Council	WTO	Moderate	High	High	High	High	High	Very good
2005 RevCon	NPT	Low	Low	Low	Low	Low	Low	Very poor
2005 CoP-11	UNFCCC	Low	Moderate	Low	High	Moderate	High	Good
2005 Hong Kong MinCon	WTO	Moderate	High	Moderate	High	High	Low	Fair
2007 CoP-13	UNFCCC	Moderate	Moderate	High	High	High	High	Very good
2008 Geneva Gen. Council	WTO	High	High	Moderate	High	High	Low	Fair
2009 CoP-15	UNFCCC	High	Low	Moderate	Moderate	Moderate	Low	Poor
2010 RevCon	NPT	Moderate	Moderate	High	Moderate	Moderate	High	Good
2011 CoP-17	UNFCCC	Moderate	Moderate	High	High	High	Moderate	Good
2011 Geneva MinCon	WTO	Low	High	Moderate	High	High	Moderate	Good

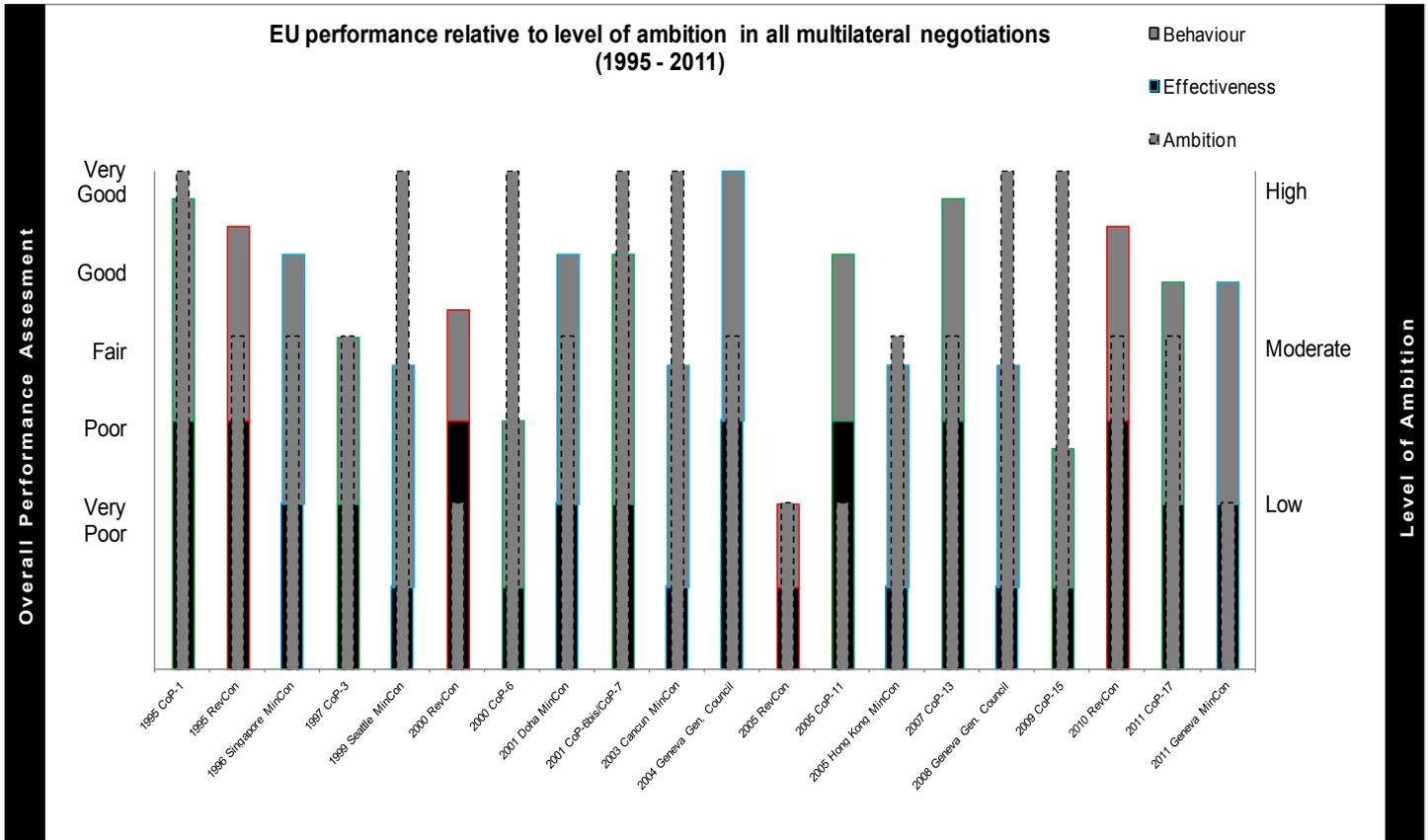
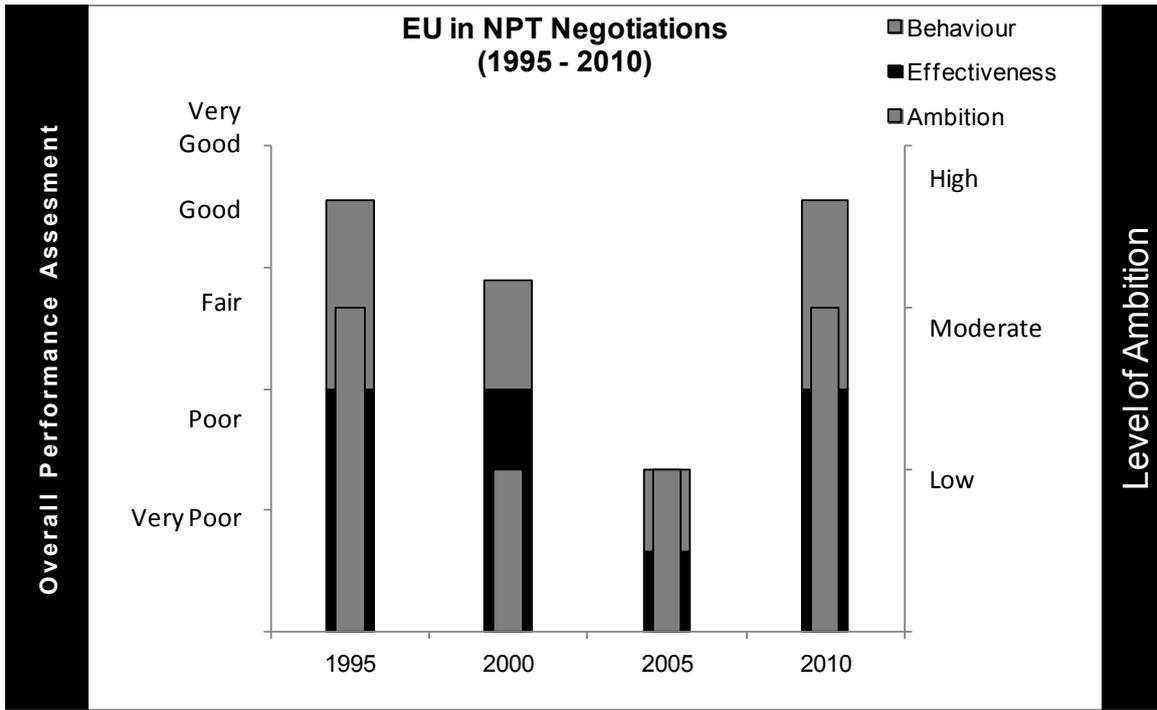
Appendix VI: Levels of EU ambition over-time and across policies: Graphic interpretation of all findings





Appendix VII: EU performance relative to ambition: Graphic Interpretation of all findings





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