

A Joined-up Approach in EU External Action? The Case of EU-Switzerland Relations

New title:

A new kind of conditionality in EU external relations? Instrumentalizing sectoral cooperation in EU-Switzerland relations

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Abstract: In its 2016 Global Strategy, the EU pledges to better integrate and coordinate its various forms of external relations. This article proposes an innovative framework to assess this “joined-up approach” and apply it to Switzerland. Bridging foreign policy and external governance literatures, it investigates whether the European Union increasingly uses cooperation in sectoral policies to gain leverage in the realization of overarching foreign policy goals towards Switzerland. We present a conceptualization of this approach based on three different aspects: foreign policy, sectoral cooperation, and the EU’s internal organization. Based on a systematic collection of relevant documents from both sides as well as interviews with European and Swiss diplomats and officials in Brussels and Bern, our findings reveal that the EU has indeed increasingly linked sectoral cooperation to foreign policy issues in its relations with Switzerland. We find evidence of this approach, especially in the instrumentalization of sectoral agreements and the EU’s internal organization.

Keywords: EU foreign policy; External governance; Coherence; Conditionality; EU-Switzerland relations

INTRODUCTION

“We must become more joined up across our external policies, between Member States and EU institutions, and between the internal and external dimensions of our policies.” (European External Action Service 2016: 11).

With these words in its 2016 Global Strategy, the European Union (EU) has set itself the objective of bringing more coherence and better integrating its diverse forms of external relations. Since the beginning of the twenty-first century, the EU’s external influence has mainly developed along two axes: foreign and sectoral policies. Foreign policy encompasses the development of traditional, state-like, diplomatic relations with the creation of the European External Action Service (EEAS) alongside the Common Foreign and Security Policy (CFSP). The EU also exerts its influence in third countries through cooperation within policy sectors and the diffusion of its sector-specific rules and norms. These two vectors of influence have evolved independently from each other and with varying degrees of success. On the one hand, even though the EU made advances in foreign policy and diplomatic integration, it is still assumed that it remains primarily an economic giant but a political dwarf in international relations. On the other hand, with countries asking for association below the membership threshold, the EU has started to export its norms and practices to third countries. This ‘functionalist extension’ (Lavenex 2014) draws on and deepens interdependence between the EU and its neighbors. The joined-up approach mentioned in the Global Strategy aims to bundle EU capabilities and integrate action in both areas, thereby enhancing the EU’s capacity to promote its foreign policy priorities abroad.

The literature reflects this duality and remains split between foreign policy analyses and external governance studies. No study has hitherto looked at how the two types of external action intersect and under what conditions. The literature on the EU trade-foreign policy nexus has underlined the difficulty to bring coherence between the trade and foreign policy spheres in the EU external action (Bossuyt et al. 2020). The main reason given for this is the institutional structure of the EU, with the high degree of autonomy enjoyed by DG Trade. DG Trade is reluctant to let foreign policy considerations prevent it from pursuing its economic objectives of gaining better access to foreign markets, which significantly reduces the chances of integrating the EU's foreign policy objectives into its trade policy (Bossuyt et al. 2020: 50; Messerlin 2013: 40). However, recently the EU has adopted a very tough stance towards Switzerland and has linked the development of all sectoral cooperation, including trade, to the signature of an overarching Institutional Framework Agreement (InstA) (Veuthey 2020). These latest developments in EU-Switzerland relations have been puzzling. Indeed, it is somewhat surprising to see the EU being so tough on a peaceful European third country that shares similar governance standards with the EU and with which a low level of politicization has traditionally characterized relations. Moreover, these developments require a significant degree of coherence across the EU policies, which goes against the expectations of the literature on the trade-foreign policy nexus previously mentioned.

This paper takes its point of departure against this political background and theoretical puzzle. We propose a conceptualization of the joined-up approach at the intersection of EU foreign policy and external governance theories. This term expresses that the EU's sectoral cooperation with a third country is used as leverage to pursue foreign policy objectives. In other words, the EU links the development of cooperation in specific or multiple sectors to a diplomatic issue. For instance, in its relations with Israel, the EU has excluded from its financial support in the research sector organizations or private entities based or working in the settlements to support its foreign policy position of non-recognition of settlements (European Commission 2013). This practice of issue-linkage could enhance the EU's bargaining power in international negotiations and improve its actorness in international relations. This practice would not be limited to the EU's response to external crises characterized by violent conflicts but could be mobilized in all types of negotiations. After conceptualizing the joined-up approach, we test its applicability by analyzing the relations between the EU and Switzerland. The conceptualization and empirical analysis of an EU joined-up approach in external relations also have broader implications for our understanding of the EU as a new type of political actor and a force in the world. Our analysis is based on a systematic collection and examination with Atlas t.i. of approximately 780 documents from the Council of the European Union's different formations, publications from the European Commission, and the EEAS covering the period between 2000 and 2021. We have also conducted 15 interviews with European and Swiss diplomats and officials in Brussels and Bern. We propose a reconstruction of the joined-up approach and its development on three levels, namely foreign policy, sectoral cooperation, and the EU's internal organization.

THEORETICAL FRAMEWORK

Our theoretical framework draws on findings from two kinds of literature that are at the heart of the joined-up approach: research on the EU's foreign policy strategy and, for the sectoral aspect of the

joined-up approach, external differentiated integration, that is, third country participation in EU sectoral policies.

Studies on the evolution of EU foreign policy acknowledge that EU external relations have shifted from a more normative, integrationist logic to a more strategic, interest-based approach since the start of the twenty-first century. The wave of political integration after the 1986 Single European Act coincided with the need to develop a policy towards highly interdependent EFTA countries who wanted to stay outside the Union and towards the newly independent east and south-east European countries willing to join or, at least, have a close association with the EU. In reaction to the challenge of avoiding the creation of new sharp borders in Europe, the EU first developed a constructivist logic of external relations that rely on the expansion of its regulations, norms, and values. This logic underpins the European Economic Area (1992) and the Bilateral Approach subsequently conceded towards Switzerland and is at the core of the 2003 European Security Strategy and the European Neighborhood Policy (European Commission 2003; European Council 2003). From the point of view of IR theory, the EU has been interpreted as being a foreign policy entity “*sui generis*”, acting more through international “*presence*” (Bretherton and Vogler 1999) than targeted foreign policy and exerting “*normative power*” (Manners 2002) rather than interest-maximization. Following the authoritarian turn in its neighborhood, and in reaction to global power shifts as well as internal crisis and centrifugal tendencies (most notably Brexit), the EU profoundly revised its external relations as expressed in the 2015 reform of the ENP and the 2016 Global Strategy. These two documents give stronger priority to the short-term interests and security of the EU member states, and put the stability of neighboring countries at the center of their concerns, to the detriment of their further integration into the EU (European Commission 2015; European External Action Service 2016: 23). This new rationalist strategy for the conduct of the EU external action is defined in the EUGS as “*principled pragmatism*”. Studies on the evolution of EU foreign policy have provided evidence of this shift in the EU’s logic of external relations from a value-based approach to a more rationalistic, interest-based, approach (Mac Ginty et al. 2021; Pomorska and Noutcheva 2017). These changes in the EU’s external relations environment, coupled with a more general context of a global power shift, have made it necessary for the EU to emancipate itself in its foreign policy and assert itself as a full-fledged actor in international relations. To do so, the EU seems to be opting for a more rationalist approach defending its own interests at the expense of the normative approach that was developed at the beginning of the 21st century.

The second strand of theoretical literature inspiring this study focuses on the EU’s sectoral relations with third countries and external differentiation, which refers to the participation of non-EU states in a specific EU policy and their adoption of EU rules (Leuffen et al. 2013: 17). In 2015, Gstöhl (2015) identified an emerging strategy from the EU regarding third countries’ participation in the internal market. She found that the EU “*increasingly attempts to ensure market homogeneity by concluding agreements with a dynamic adaptation to the *acquis*, its uniform interpretation, as well as an independent surveillance and judicial enforcement*” (Gstöhl 2015: 866). Further studies have confirmed Gstöhl’s findings and underlined that “*the EU has established a set of conditions or principles it wants to see reflected*” in its agreements with third countries seeking extensive participation in the internal market (Baur 2019: 40). These conditions include a dynamic approach to the evolution of the EU *acquis*, independent surveillance, judicial enforcement, a dispute settlement mechanism, and a homogeneous interpretation of the agreements (Baur 2019: 40). This emerging strategy was corroborated by the EU’s behavior in its negotiations with the UK after the Brexit vote

(Wachowiak and Zuleeg 2021). Indeed, the EU made clear that “there can be no cherry-picked access to the internal market, the four freedoms are indivisible and relations should be governed by an overarching institutional framework” (Wachowiak and Zuleeg 2021: 16). These findings indicate that the EU has increasingly made market access conditional on the signing of a comprehensive institutional framework to protect the integrity and homogeneity of the internal market.

This new EU strategy regarding external differentiation is not an isolated phenomenon for third countries accessing the internal market. Instead, it reflects a more general trend towards differentiated integration, where the EU seems to fear too much diversity. Concerning third countries’ participation in EU agencies, for example, it had been acknowledged that third countries’ participation in these agencies followed a functionalist logic. This logic means that third countries’ participation reflected “patterns of sectoral interdependence and bureaucratic affinity rather than overarching association relations” (Lavenex 2015: 837). However, more recent research has shown that this functionalist logic persists in the case of the external relations of EU agencies but under stronger control of the central EU institutions (Lavenex et al. 2021). These trends indicate that the EU appears to be gradually restricting external differentiation, which is illustrated by the set of conditions imposed on third countries’ participation in EU policies and the greater control exercised by the central EU institutions over the external relations of its agencies.

This theoretical overview reveals similar trends in the EU’s foreign policy and external differentiation strategies. On the foreign policy front, the EU has adopted a more rationalistic approach that places its interests and those of its member states at the center of its concerns, to the detriment of the normative approach that aimed to export European regulations, norms, and values to neighboring countries through progressive integration. Regarding sectoral cooperation with third countries, the EU has gradually restricted external differentiation by conditioning the participation of third countries to an EU sectoral policy to a set of stricter conditions, seemingly fearing too much diversity. Both literatures thus indicate similar trends of “rebordering” in the EU’s external relations. “Rebordering refers to all activities of boundary closure or retrenchment as well as increases in (central) boundary control and in boundary congruence” (Schimmelfennig 2021: 316). The crises that the European Union has experienced over the past decade, as well as geopolitical changes in its environment, have led to a backlash against the European integration process and increased pressure for “rebordering” (Schimmelfennig 2021). The rationalistic turn in the EU’s foreign policy and the stricter conditions imposed on external differentiation by the EU illustrate this external “rebordering” process that seems to characterize the EU’s external relations recently.

Based on this context of the EU’s external relations, we formulate the assumption that the relations between the EU and Switzerland represent a most likely case for the joined-up approach. Switzerland’s relationship with the EU is based on many sectoral agreements that provide Switzerland significant access to the internal market. However, these relations are not governed by the overarching agreement that includes the set of conditions established by the EU for third countries’ access to its internal market, as highlighted by the literature on external differentiation. Such an agreement, the InstA, was negotiated for five years before the Swiss government refused to sign it at the end of the negotiations in 2018 and finally decided to end the negotiations in 2021. In the broader context of increasing pressure for external “rebordering” in the EU, we argue that the Swiss government’s decision represents a strong foreign policy disagreement between the EU and Switzerland. The

combination of this foreign policy disagreement with the strong sectoral links between Switzerland and the EU, which give the latter ample opportunities to instrumentalize them in negotiations, makes Switzerland a most likely case for the joined-up approach.

Regarding the theoretical foundations of the joined-up approach, we start from the assumption that the EU's stated aim for a joined-up approach stems from a rational cost-benefit calculation whereby the EU has recognized the potential of its sectoral policies as resources in foreign policy. We argue that two instruments theorized in the literature can contribute to the implementation of the joined-up approach: the use of conditionality and the bargaining strategy of issue-linkage.

The literature on conditionality emphasizes the EU's foreign policy capacity based on external incentives. Research on the Europeanization of Central and Eastern European countries highlight that the credibility of EU rewards as well as adoption costs are key factors in explaining the EU conditionality's effectiveness (Grabbe 2006; Kelley 2004; Schimmelfennig and Sedelmeier 2004, 2005; Vachudova 2005). The democratization, as well as the adoption of the *acquis communautaire* by post-communist candidate countries, are best explained by the external incentives model (Schimmelfennig and Sedelmeier 2004). This model explains the Europeanisation of candidate countries by a rationalist bargaining model in which "the EU sets its rules as conditions that the Central and Eastern European countries have to fulfill in order to receive EU rewards" (Schimmelfennig and Sedelmeier 2004: 663). This deliberate conditionality applied by the EU with the benefit of membership has been identified as the decisive factor in explaining political changes and reforms in the liberal and illiberal states of Central and Eastern Europe (Vachudova 2005). Studies on the use of conditionality in the Western Balkans also highlight that while the credibility of EU membership for these candidate countries remains low, an alternative tactic deployed by the EU nevertheless induces some level of Europeanization. The EU has started to offer intermediate rewards for candidate countries' compliance with specific EU policies (Trauner 2009). This tactic allows the EU to circumvent the shortcomings of its conditionality policy related to the absence of credible membership and provides the EU with an "additional avenue of external leverage" (Zhelyazkova et al. 2019: 32).

The other instrument that can contribute to implementing the joined-up approach comes from the issue linkage literature (Axelrod and Keohane 1985; Oye 1985; Poast 2013; Tollison and Willett 1979). Issue linkage is a negotiating strategy that "involves attempts to gain additional bargaining leverage by making one's own behavior on a given issue contingent on others' actions toward other issues" (Axelrod and Keohane 1985: 240). This bargaining strategy increases cooperation and decreases mutual defection in bilateral conflicts (Ert et al. 2019).

On the one hand, the conditionality literature emphasizes the EU's foreign policy capacity based on external incentives. On the other hand, the issue-linkage literature underlines that linking two issues in the same negotiations can increase one's bargaining power. Both instruments are rooted in a rationalist logic that explains the success of a negotiation by how one party affects the cost-benefit calculation of the other party and are two relevant tools that can contribute to putting the joined-up approach into practice.

Finally, to explain why the EU would choose to mobilize the sectoral cooperation in a joined-up approach, we argue that the EU has identified these external sectoral links as available instruments

which contribute to the EU's "capabilities" in its external action (Bretherton and Vogler 2006; Conceição-Heldt and Meunier 2014). The external governance literature has highlighted the potential of external influence that the EU enjoys towards third countries by externalizing its regulations and governance norms through various mechanisms (Lavenex 2014: 889). Even though sectoral policies have mainly been used at technocratic and depoliticized levels of interaction, they represent an important external influence source. In particular, sectors related to the internal market have proved to exert significant leverage on non-member states seeking market access (Damro 2012; Macaj and Nicolaïdis 2014: 1076). As a result, we argue that sectoral policies can be seen as potential resources already at the EU's disposal. The EU can therefore mobilize them in order to enhance its capabilities in its external relations.

THE JOINED-UP APPROACH

For conceptualizing the joined-up approach, we differentiate between three aspects of the EU's relations with a third country: *foreign policy*, *sectoral cooperation*, and *the EU's internal organization*. To analyze these aspects, we also differentiate between two dimensions: *document analysis*, and *institutional analysis*, which will focus on the interaction between the different institutional actors. *Table 1* summarizes our conceptualization.

The *foreign policy* aspect of the joined-up approach covers the general foreign policy relations between the EU and a third country. These relations are generally politicized and led by high-level political officials such as heads of governments or diplomats. Our *document analysis* covers overarching market access agreements, setting the framework for the cooperation between the EU and a third country, which often provides the third countries access to the internal market. Such agreements can be an Association Agreement (AA) or an overarching agreement providing an institutional framework for third-country access to the internal market. These agreements are usually very broad and reflect the general foreign policy relations between the EU and a third country. We also analyze the European Council and Foreign Affairs Council conclusions – as they gather foreign policy officials from the member states – as well as the general foreign policy documents presenting the EU's foreign policy position towards a third country. For the *institutional analysis* dimension, our research focus on the European Council, Foreign Affairs Council, the European External Action Service (EEAS), and the European Commission President's Cabinet. These actors define the EU's high-level political position towards a third country and are responsible for the conduct of diplomatic relations.

The *sectoral cooperation* aspect covers the relations between the EU and a third country at the sectoral level. These relations are generally depoliticized and led by technocrats. The *document analysis* includes sectors specific agreements, participation in EU programmes, and the conclusions of the Council of the EU formations dealing with sectoral issues, e.g., Trade, Transport, Competitiveness. The sectoral agreements and the participation of a third country in EU programmes differ from the more overarching agreements included in the *foreign policy* aspect as they provide for specific technical cooperation. Agreements on electricity, rules of origin, cabotage rights in the aviation sectors, and participation of a third country in the EU Research and Innovation Framework Programme are examples of such sectoral cooperation. For the *institutional analysis* dimension, we analyze the Council of the EU formations dealing with sectoral issues, as well as the joint committees, the EU expert

groups, the EU agencies, and the sectoral Commission Directorates-General (DG), e.g., DG Trade, DG Move, etc. The joint committees and the expert groups are venues of sectoral cooperation where an agreement is already in force. The joint committees gather officials from the EU and a third country and are responsible for the implementation and adaptation of the sectoral cooperation. The EU expert groups assist the Commission in the preparation and implementation of EU legislation and can be opened to the participation of third countries' officials.

The last aspect of our conceptualization, the *EU's internal organization*, covers how the EU is organized internally to conduct its external relations. For the *document analysis* dimension, we look at the conclusions of the Council of the EU in both foreign and sectoral arenas (European Council, Foreign Affairs, Trade, Competitiveness, and Transport councils). The *institutional analysis* looks at the coordination and centralization within and across the different EU institutional actors, i.e., EU Commission, EU councils, EEAS, and EU agencies. Regarding our *document analysis*, we analyze the type of issue addressed in the conclusions of the different EU Councils. For example, if the Foreign Affairs Council deals with sectoral issues, or if the Transport Council mentions a foreign policy disagreement with a third country, this indicates coordination between the different EU actors and a joined-up approach. For the *institutional analysis* dimension, joined-up coordination can be observed if different EU bodies, such as the DGs, the EEAS, or the EU agencies, coordinate their cooperation with a third country. Further, if an EU institution (the Commission or the EEAS) takes the lead in supervising and controlling bilateral relations with a third country, this would be a sign of centralization aimed at joining up EU external action.

Aspects of the Joined-up approach	Document analysis	Institutional Analysis
<i>Foreign policy</i>	Overarching market access agreements, European Council conclusions, Foreign Affairs Council conclusion, General foreign policy documents	European Council, Foreign Affairs Council, EEAS, EC President's Cabinet
<i>Sectoral cooperation</i>	Sectors specific agreements, EU programmes, Sectoral Council of the EU conclusions (Trade, Transport, Competitiveness)	Sector-specific councils, e.g., Trade Council, Competitiveness Council, Transport Council, EU agencies, Joint Committees, EU expert groups
<i>EU's internal organization</i>	Council of the EU conclusions (EC, FAC, Trade, Competitiveness, Transport)	Coordination and centralization within and across EU Commission, EU councils, EEAS, EU agencies

Table 1: Conceptualization of the joined-up approach

EU-SWITZERLAND RELATIONS AND THE JOINED-UP APPROACH

This part will first present the state of EU-Switzerland relations and their latest developments. Then, we proceed to the analysis, which is structured according to the three aspects of the joined-up approach presented above. We start with a qualitative assessment of EU-Switzerland relations for each of these aspects based on official documents and interviews. This analysis is based on approximately 780 documents from the different formations of the Council of the European Union, and publications from the European Commission, and the EEAS, as well as monitoring provisions including documents from implementing sectoral sub-committees and eventual disputes covering the period between 2000

and 2021. For the sectoral cooperation, we have selected three sectors: trade, research and innovation, as well as aviation. These sectors differ in their predisposition to be used as foreign policy instruments. In addition to this document-based analysis, 15 semi-structured expert interviews have been conducted in Brussels and Bern. In Brussels, interviews with European diplomats of the EEAS, officials in the different DGs responsible for relations with Switzerland as well as members of Switzerland's mission to the EU have been run. We have also met in Bern officials in the EU delegations as well as members of different Swiss' ministries responsible for cooperation with the EU. A list of the interviews with their references is provided in the Appendix.

In the second step, we conduct a computer-assisted qualitative data analysis (CAQDAS) of EU Council conclusions. We have collected the conclusions from every relevant EU Councils since 2000 and uploaded them in the software. As our analysis focuses on the interaction between foreign policy and sectoral cooperation in trade, research and innovation as well as aviation, the conclusions included in our database are the European Council, the Foreign Affairs Council, the Trade Council, the Competitiveness Council, the Transport Council, and the Council conclusions on relations with Switzerland. To conduct our analysis, we have proceeded in three steps. First, using a "text search" tool, we have looked for documents that mention Switzerland. Then, we have created groups of documents and assigned each document to the group to which it belongs. Finally, we have developed a codebook and assigned quotations mentioning Switzerland the corresponding code.

Based on our conceptualization of the joined-up approach, we have created two different document groups: *foreign policy and sectoral policy*. *Foreign policy* includes the conclusions from the Foreign Affairs Council, the European Council, and the Council conclusions on relations with Switzerland. The Foreign Affairs and the European Council's conclusions are meetings of foreign policy officials, respectively the foreign affairs ministers of the member states and the heads of governments of member states. Therefore, according to our conceptualization, they correspond to the actors responsible for conducting the EU's foreign policy relations. The Council conclusions on relations with Switzerland are included in this category because they represent general documents that define the EU's overall relations with Switzerland. *Sectoral policy* consists of the conclusions from the Competitiveness, the Trade, and the Transport councils. These council formations are meeting of representatives of member states' governments who are coming from sectoral ministries, i.e., trade, research and transport ministries. Therefore, they correspond to our conceptualization for the actors responsible for conducting EU's external sectoral cooperation.

For the codebook, we have created two different code groups: *type of issue* and *joined-up approach*. The code group *type of issue* comprises three codes: *diplomatic disagreement*, *foreign policy*, and *sectoral*. *Diplomatic disagreement* corresponds to every quotation mentioning the InstA issue. *Foreign policy* is composed of every quotation that deal with foreign policy issues that are not the InstA. For instance, this can include cooperation in the frame of the CSDP or other diplomatic, high-level issues. Quotations that mention sectoral cooperation are coded as *sectoral*. We have two different codes regarding the *joined-up approach* group: *soft* and *strong*. Instances where we observe a threat of linking the development of sectoral cooperation to a foreign policy issue are coded as *soft joined-up approach*. When the EU does it and links sectoral cooperation development to a foreign policy issue, the quotation is coded as *strong joined-up approach*.

Code	Definition	Example
Type of issue: diplomatic disagreement	Mention of the InstA issue	"In May 2014, the EU and Switzerland have entered into negotiations on a common institutional framework for existing and future agreements, (...)."
Type of issue: foreign policy	Mention of a foreign policy issue that is not the InstA	"The Council approved the signing and conclusion of an agreement on the participation of the Swiss Confederation in the EU Integrated Border Management Assistance Mission in Libya."
Type of issue: sectoral	Mention of sectoral cooperation	"The Council adopted a decision approving the signature of a scientific and technical cooperation agreement with Switzerland in order to associate this country with the EU's 7 th framework programmes for research and development."
Joined-up approach: soft	Threat of conditioning the development of sectoral cooperation to a foreign policy issue	"In assessing the balance of interests in concluding additional agreements, the Council will have in mind the need to ensure parallel progress in all areas of cooperation."
Joined-up approach: strong	Implementation of conditioning the development of sectoral cooperation to a foreign policy issue	"The Council emphasizes that the conclusion of the InstA on the basis of the present text is a precondition for the conclusion of future agreements on Swiss participation in the EU's internal market (...)."

Table 2: Codebook

EU-Switzerland relations

The current model of EU-Switzerland relations finds its origins in the negative popular vote regarding Switzerland's accession to the EEA in 1992. Following the vote, the Swiss government was quick to react in order to find an alternative way of accessing the EU market which would benefit the country's economy (Miéville 2013). The negotiations with the EU resulted in the Bilateral Agreements (BA) I & II.¹ This bilateral model has provided the Swiss economy with adequate access to the internal market without an institutional link to the EU. They also preserve Switzerland's sovereignty as they provide for a static adaptation to the evolution of EU law, except for the air transport and Schengen/Dublin, each party is responsible for ensuring implementation on their respective territories, except, once again, for the air transport, and they are concluded in areas where both parties share a common interest in cooperation. Under the bilateral model, EU-Switzerland relations have been characterized by a low level of politicization as they mainly consisted of technical cooperation taking place in the sectoral joint-committees provided by the bilateral agreements where technocrats from both sides discuss the potential disputes and the eventual incorporation of new EU legislation in the bilateral agreements.

The first tensions in these bilateral relations emerged in 2014 when Swiss citizens accepted by popular vote an initiative aiming at limiting migration. The text of this initiative provided that quotas and annual caps should limit all immigration to Switzerland.² The acceptance of this initiative by the Swiss citizens

¹ The first BA cover technical barriers to trade, public procurement markets, some agricultural products, overland transport, civil aviation research and the free movement of persons. They are interlinked by a 'guillotine clause'. The BA II include, in particular, the association to Schengen and Dublin.

² Initiative populaire fédérale 'Contre l'immigration de masse', <https://www.bk.admin.ch/ch/f/pore/vi/vis413t.html> [accessed 10 January 2022].

created the first tensions in EU-Switzerland relations as it was incompatible with the agreement on the free movement of persons that was part of the first package of bilateral agreements between these two partners. Moreover, this first package was linked by a “guillotine clause”, which means that if one of the seven agreements of the package was terminated, the other six agreements would also be annulled. The Swiss Federal Council found a solution to implement the initiative without revoking the agreement on the free movement of persons.³ This popular vote represented the first event of politicization of EU-Switzerland relations in recent decades.

This first spike of tension was followed in 2018 by the InstA issue. At the time, the EU and Switzerland had been negotiating this agreement for five years,⁴ which would provide more legal certainty in the bilateral relations between these two entities and ensured that Switzerland would respect a certain level of obligations that come with the benefits of privileged access to the internal market. The InstA was supposed to apply to five current market access agreements: the free movement of persons, land transport, air transport, technical trade barriers, and agriculture – as well as all future market access agreements.⁵ It provided a dispute settlement mechanism with the introduction of an arbitration tribunal and Switzerland’s dynamic adaptation to EU law in the sectors covered by the agreement. The negotiations came to an end in December 2018, and a draft agreement was published. However, to the EU’s surprise, the Swiss Federal Council refused to sign the Agreement and instead decided to hold domestic consultations with the relevant stakeholders (Federal Council 2018) to address widespread discontent with specific provisions, notably concerning state subsidies, flanking measures for posted workers and the EU citizens’ rights directive (Schwok 2020). Following these consultations, the Swiss government requested clarifications and possible modifications to ensure sufficient support among the Swiss population, who would ultimately have to approve the agreement in a popular referendum (Federal Council 2019). The President of the European Commission, Jean-Claude Juncker, stated that clarifications could be undertaken but that the agreement would not be renegotiated (Juncker 2019). Despite several rounds of discussions between EU and Swiss negotiators, no compromise could be reached on Swiss concerns. In a sudden and largely unexpected move, the Swiss Federal Council announced unilaterally in May 2021 – apparently without consultation with EU counterparts – that it had decided not to sign the agreement and to withdraw from the negotiations (European Commission 2021a; Parmelin 2021).

The Swiss government’s refusal to sign the InstA in 2018 and its unilateral withdrawal from the negotiations in 2021 have constituted a significant diplomatic disagreement between the EU and Switzerland. In the following sections, we analyze the developments around the InstA issue and how the EU has responded to it according to the three aspects of the joined-up approach we have developed in our conceptualization: *foreign policy*, *sectoral cooperation*, and the *EU’s internal organization*.

³ See Implementation of Art. 121a Cst. Federal Council adopts ordinance amendments <https://www.sem.admin.ch/ejpd/fr/home/actualite/news/2017/2017-12-081.html> [accessed 10 January 2022].

⁴ See Timeline of Swiss-EU relations since 2013 (aspects related to the institutional agreement) https://www.eda.admin.ch/dam/europa/en/documents/abkommen/20210526-mm-europapolitik_beilage-8-2_chronologie_EN.pdf [accessed 10 January 2022].

⁵ Agreement facilitating bilateral relations between the European Union and the Swiss Confederation in the parts of the internal market in which Switzerland participates (final version): https://www.eda.admin.ch/dam/europa/fr/documents/abkommen/Acccord-inst-Projet-de-texte_fr.pdf [accessed 30 December 2021].

Foreign policy

Relations between the EU and Switzerland are not governed by a general agreement setting the framework for their cooperation, such as an AA. In fact, the InstA, rejected by the Swiss government, would have followed such a logic of providing an institutional framework for Switzerland's access to the internal market. As a result, we focus our analysis on the European Council and Foreign Affairs Council conclusions, as well as the general foreign policy documents presenting the EU's foreign policy position towards Switzerland.

A first observation is that Switzerland is not on the EU's foreign policy agenda. Indeed, out of the 270 conclusions of the European Council and the Foreign Affairs Council since 2000, only 16 mention Switzerland. The mentions in the Foreign Affairs Council are relatively short and deal with issues such as the opening of negotiations (Council of the European Union 2018: 12), the EU's position in these negotiations (Council of the European Union 2020a: 15, 2021: 10) or the authorization to sign new agreements (Council of the European Union 2015: 14, 2020b: 8). The Foreign Affairs Council has also addressed the diplomatic tensions between Switzerland and Libya in 2010 (Council of the European Union 2010a: 9, 2010b: 13) as well as the participation of Switzerland in PSDC missions in Mali (Council of the European Union 2014a: 25, 2014b: 22) and Libya (Council of the European Union 2014c: 19). The few mentions in the European Council are also limited to statements on the negotiations on the taxation of savings (European Council 2002: 15, 2013: 7, 2014: 3) and to welcoming the entry into force of the Schengen agreement (European Council 2008: 4). Crucially, these two foreign policy formations of the EU have not mentioned once the InstA issue.

The only *foreign policy* documents that discuss the InstA are the Council conclusions on relations with Switzerland. Therefore, these are the only documents where we observe quotations indicating a joined-up approach. In 2008, the Council already deployed a soft joined-up approach by stating that "in assessing the balance of interests in concluding additional agreements, the Council will have in mind the need to ensure parallel progress in all areas of cooperation" (Council of the European Union 2008: 8). The Council conditioned the deepening of the EU partnership with Switzerland to a set of conditions aimed at protecting the homogeneity of the internal market (Council of the European Union 2008: 8). The Council recalled these conditions and reaffirmed its soft joined-up approach in its 2010 conclusions (Council of the European Union 2010c: 7–8). In its 2012, 2014, and 2017 conclusions, the EU adopted a strong joined-up approach rhetoric by stating that "the conclusion of any negotiation regarding the participation of Switzerland in the internal market is, in particular, dependent on solving the institutional issues" (Council of the European Union 2012: 5, 2014d: 7, 2017: 1–2). After the Swiss Federal Council's decision not to endorse the text of the InstA in 2018, the EU maintained its strong joined-up approach in its following conclusions in 2019 and reinforced it even more by insisting on the indefectible link between the InstA and the signature of any market access agreement: "The Council emphasizes that the conclusion of the InstA on the basis of the present text is a precondition for the EU for the conclusion of future agreements on Swiss participation in the EU's internal market and also an essential element for deciding upon further progress towards mutually beneficial market access" (Council of the European Union 2019: 2).

The *foreign policy* aspect of the joined-up approach reveals that Switzerland is not on the EU's foreign policy agenda. Indeed, the *foreign policy* actors of the EU barely mention Switzerland in their

conclusions. The InstA issue, which represents the most critical diplomatic disagreement between the EU and Switzerland since the refusal of the EEA, is not mentioned in any European or Foreign Affairs councils conclusions. Nevertheless, the Council conclusions on EU relations with Switzerland cover the InstA issue extensively. We have seen a gradual development of the joined-up approach in these conclusions, starting with a soft joined-up approach in the 2008 and 2010 conclusions before moving to stronger forms of the joined-up approach in the following conclusions.

Sectoral cooperation

Following our conceptualization, our document analysis focuses on the sectoral agreements, the participation in EU programmes, and the Council of the EU formations dealing with sectoral issues.

Regarding the sectoral agreements, the EU's joined-up approach is illustrated by its decision to make the conclusion of the InstA a precondition for the negotiation of new as well as for the further development of existing market access agreements, as we reported in the last section. As a result, the EU has frozen the negotiations on new market access agreements. The main affected negotiations are those that had taken place since 2007 in the field of electricity. This bilateral agreement aimed to regulate cross-border electricity trading and secure Switzerland's access to the European electricity market.⁶ The EU has also frozen negotiations on cabotage rights in the aviation sector, arguing that it is a market access agreement.⁷ In addition to freezing negotiations on new market access agreements, the EU has also suspended the talks on updating existing agreements, such as the Mutual Recognition Agreements (MRA). This has the potential for significant consequences on Swiss exports in the long term. Indeed, the bilateral agreements are static, i.e., they determine the scope of the necessary regulatory adaption at the time of their conclusion. As a result, the MRA, which aims at removing technical barriers to trade between the EU and Switzerland by ensuring mutual recognition of conformity assessment, needs to be updated regularly to include the new norms of conformity assessment. Without these updates, new technical barriers to trade will gradually arise and erode Switzerland's access to the internal market. Such a phenomenon has already occurred in the sector of medical devices (European Commission 2021b).

Switzerland's participation in EU programmes has also been affected. There has been a lot of uproar in the research and innovation sector when the European Commission published its proposal for a regulation establishing 'Horizon Europe', the new framework programme for research and innovation, in 2018. Indeed, in the article establishing the association of third countries with the programme, Switzerland is no longer part of the category 'European Free Trade Association (EFTA)' but is now in the 'third countries' category (European Commission 2018). This group change implies the conclusion of a stricter agreement covering the Swiss participation in the programme that could restrain Switzerland's involvement in particular domains. Swiss research institutions can only participate in a consortium of at least three institutions from three different member states or associated countries (Official Journal of the European Union 2021: Art. 22) and have to participate at their own costs (European Commission 2021c: 14). Switzerland's change of status in Horizon Europe was confirmed by

⁶ Swiss Federal Office of Energy, Energy negotiations between Switzerland and the EU: <https://www.bfe.admin.ch/bfe/en/home/supply/electricity-supply/energy-negotiations-between-switzerland-and-eu.html> [accessed 26 January 2022].

⁷ Interviews 1 and 3

the Programme Guide published by the Commission in June 2021, after Switzerland's unilateral withdrawal from the negotiations on the Institutional Agreement. The Programme Guide does not include Switzerland in the list of countries to which the transitional provisions apply until the entry into force of the association agreements under negotiation and stipulates that 'legal entities established in Switzerland are currently not covered by these transitional arrangements' (European Commission 2021c: 12–3).

Finally, the mentions of Switzerland in the Council of the EU formations dealing with sectoral issues are sporadic and limited to the opening of negotiations or the signature of new agreements in their field. The Competitiveness Council has adopted two decisions approving the signature of agreements associating Switzerland to the EU's framework programmes for research and innovation (Council of the European Union 2007: 15, 2014e: 19), while the Transport Council has mentioned once Switzerland when it "authorized the Commission to open negotiations to amend the air transport agreement (...) to including traffic rights between points within Switzerland and (...) within any EU member state" (Council of the European Union 2011: 13). The Trade Council does not mention Switzerland once.

Concerning the institutional analysis, the EU has in the past hardly used Switzerland's access to EU expert groups in a joined-up way. Historically, Swiss expertise is appreciated in Brussels.⁸ As a result, it has been common that Swiss experts are invited to participate in EU expert groups even though there is often no legal basis for such participation. Recently, this informal participation right has been revoked for Swiss experts, especially in the health sector, where they are no longer allowed to participate.⁹ There are two sides to this measure. On the one hand, it put pressure on the Swiss government to sign the InstA. On the other hand, according to EU and Swiss officials, this was also linked to Brexit, as the EU did not want the UK to exploit this informal practice and demand equal access.¹⁰ There has been no such revocation of the right to participate in sectors where there is a legal basis for Swiss participation, such as research and the movement of persons (Schengen area/Dublin Regulation). The sectoral joint committees have not been affected by the dispute around the InstA.

The *sectoral cooperation* aspect reveals a strong joined-up approach developed by the EU towards Switzerland via the instrumentalization of the sectoral agreements as well as the Swiss participation in EU programmes. The instrumentalization of Swiss officials' access to EU expert groups is less clear while non-existent in the joint committees. The Council of the EU formations dealing with sectoral issues barely deals with Switzerland, similarly to the foreign policy ones.

EU's internal organization

In the institutional dimension, the EU has recently demonstrated coordination and a high degree of centralization in the conduct of its relations with Switzerland. The EEAS organizes internal meetings bringing together all EU staff working with Switzerland in sectoral areas.¹¹ During these meetings, each policy officer gives a briefing on the cooperation with Switzerland in the respective sector. The EEAS ensures close coordination across all sectoral policies towards Switzerland with these meetings.¹²

⁸ Interviews 1 and 11

⁹ Interview 14

¹⁰ Interviews 9 and 14

¹¹ Interviews 3, 6 and 7

¹² Interview 6

However, the most striking aspect in the development of a joined-up approach towards Switzerland is the strong centralization of EU action under the responsibility of the Commission's Secretariat-General (SG). An internal memo sent to EU staff in 2015 requires that the SG must first approve any action or decision concerning Switzerland.¹³ As a result, individual DGs cannot take any initiative without getting the SG's endorsement, which ensures a common approach across all sectors of cooperation with Switzerland. As the SG has imposed a hard line against Switzerland, linking sectoral cooperation to progress on the InstA, this has negatively affected sectoral cooperation. These findings corroborate our analysis of the EU council conclusions for the two other aspects. The conduct of the relations with Switzerland is highly centralized under the responsibility of the Secretariat General of the Commission. This explains why the role of the various Councils of the European Union is limited to defining the EU's position in the different sectoral negotiations with Switzerland and are not involved in the InstA issue.

Finally, for our document analysis, we have created a code-document table from our database of the Council of the EU conclusions. On one side, we have the three "type of issue" codes: *diplomatic disagreement* (InstA for Switzerland), *foreign policy*, and *sectoral*. On the other side, we have the type of actors responsible for conducting the EU's external relations: *foreign policy actors* and *sectoral policy actors*. Therefore, the code-document table shows the number of occurrences of the code *foreign policy issue* in the documents belonging to the groups *foreign policy actors* and *sectoral policy actors*. The same was done for the codes *diplomatic disagreement* and *sectoral issue*. In the case of a joined-up approach, we should expect *foreign policy actors* to deal with all three types of issues, as this would indicate a greater centralization in the conduct of the EU's external relations. Our results confirm this assumption. Firstly, the InstA issue has never been mentioned in conclusions from a *sectoral policy actor* and is exclusively dealt with by *foreign policy actors*. However, we have shown that these mentions are mentioned solely in the Council conclusions on the EU's relations with Switzerland, indicating a strong centralization as even the European and Foreign Affairs councils do not deal with this issue. Then, of the 71 remaining quotations belonging to the document group *foreign policy actors*, 32 are *foreign policy issues*, and 39 are *sectoral issues*. *Sectoral issues* dealt with by *foreign policy actors* are, for instance, the Foreign Affairs Council which authorizes the opening of negotiations with Switzerland to amend an agreement on the carriage of goods and passengers by rail and road (Council of the European Union 2018: 12), or the European Council which put pressure to reach an agreement on the taxation of savings (European Council 2002: 15, 2013: 7, 2014: 3).

Interestingly, the *sectoral policy actors* seem reluctant to deal with *foreign policy issues*. Indeed, of the 21 quotations belonging to the document group *sectoral policy actors*, only 1 is a *foreign policy issue*, and it consists of approving the signing and conclusion of an agreement on the participation of Switzerland in the EU mission EUBAM Libya during a meeting of the Competitiveness Council (Council of the European Union 2014f: 18). This indicates that the sectoral instances are reluctant to politicize their relations with Switzerland, which is an element that was also raised in the interviews with DG officials.¹⁴

¹³ Interviews 7 and 9

¹⁴ Interview 3

	Foreign policy actors	Sectoral policy actors	Totals
Type of issue: diplomatic disagreement (InstA)	21	0	21
Type of issue: foreign policy	32	1	33
Type of issue: sectoral	39	19	58
Totals	92	20	112

Table 3: Code-document table (Document group/Type of issue)

The *EU's internal organization* reveals a strong centralization of the EU's relations with Switzerland under the responsibility of the Commission SG, which ensures a uniform application of the joined-up approach across all areas of cooperation. The EEAS also provides a certain level of coordination between all the actors involved in the cooperation with Switzerland. The analysis of the conclusions of the Council of the European Union confirms this strong centralization as the *sectoral policy actors* do not deal with the the InstA, nor any foreign policy issue, while the scope of the *foreign policy actors* is broader.

CONCLUSION

Starting from the observation that EU external influence has developed along two axes that remain independent from each other's, i.e., foreign policy and sectoral policies, we have developed an analytical framework that integrates those two levels of EU action. Drawing on the conditionality and issue-linkage literature, we argue that the EU's stated aim for a joined-up approach stems from a rational cost-benefit calculation whereby the EU has recognized the potential of its sectoral policies as resources in foreign policy. Our research thus contributes to both foreign policy and external governance literature by integrating them into a common analytical framework highlighting their interaction. We propose a conceptualization of the joined-up approach, which can be observed in three different aspects: foreign policy, sectoral cooperation, and the EU's internal organization. We have used the relations between the EU and Switzerland to apply our concept of the joined-up approach. Our analysis shows that the EU has developed a strong joined-up approach towards Switzerland.

We found evidence of this approach, especially in the use of sectoral agreements and in the EU's internal organization. The *foreign policy* aspect of the joined-up approach reveals that Switzerland is not on the EU's foreign policy agenda. The Council conclusions on EU relations with Switzerland are the only ones that cover the InstA issue extensively. We have seen a gradual development of the joined-up approach in these conclusions, starting with a soft joined-up approach in the 2008 and 2010 conclusions before moving to stronger forms of the joined-up approach in the following conclusions. The *sectoral cooperation* aspect reveals a strong joined-up approach developed by the EU towards Switzerland via the instrumentalization of the sectoral agreements as well as the Swiss participation in EU programmes. The instrumentalization of Swiss officials' access to EU expert groups is less clear while non-existent in the joint committees. The Council of the EU formations dealing with sectoral issues barely deals with Switzerland, similarly to the foreign policy ones. Finally, the *EU's internal organization* reveals a strong centralization of the EU's relations with Switzerland under the responsibility of the Commission SG, which ensures a uniform application of the joined-up approach

across all areas of cooperation. The EEAS also provides a certain level of coordination between all the actors involved in the cooperation with Switzerland.

The main finding of our analysis is that the EU has developed a new kind of conditionality as a tool to evolve as a foreign policy actor. Whereas the EU's attempt to externalize its norms and rules is widely acknowledged (Lavenex and Schimmelfennig 2009), our study has shown that the EU now impedes sectoral cooperation to pressure a country with whom a diplomatic disagreement exists. These findings can also relate to the literature on EU market power (Damro 2012). Indeed, the joined-up approach consists of the instrumentalization by the EU of the power provided by the attractiveness of its internal market to put pressure on a third country during negotiations and force them to comply with the EU demands. Finally, the case of EU-Switzerland relations also shows that coherence between sectoral and foreign policies can be achieved in EU's external relations under specific circumstances, e.g., when the foreign policy objective is linked to economic interests such as the case of the Insta. Further studies should compare with other cases to define more precisely the conditions under which such coherence is more likely to be achieved.

A limitation of our study is that we do not look at the efficiency of the EU's joined-up approach nor at the broader potential adverse effects it could have on European non-member states' countries. The tough stance adopted by the EU towards Switzerland and the politicization of sectoral ties could indeed tarnish the image and attractiveness of the EU. These retaliatory practices could fuel the arguments of populists across Europe. Future research could explore the link between the development of a much tougher EU stance towards associated countries and the increase in anti-EU sentiments in third countries.

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APPENDIX

List of interviews:

1. Member of the Swiss Mission to the EU, Brussels, 10.09.2019
2. Member of the Swiss Mission to the EU, Brussels, 10.09.2019
3. Member of the European Commission, Brussels, 11.09.2019
4. Member of the Swiss Mission to the EU, Brussels, 11.09.2019
5. Member of the European Commission, Brussels, 12.09.2019
6. Member of the EEAS, Brussels, 12.09.2019
7. Member of the European Commission, Brussels, 16.09.2019
8. Member of the Swiss Mission to the EU, Brussels, 16.09.2019
9. Member of the EU Delegation to Switzerland, Bern, 16.12.2019
10. Member of the EU Delegation to Switzerland, Bern, 16.12.2019
11. Member of the Swiss Administration, Bern, 17.12.2019
12. Member of the Swiss Administration, Bern, 17.12.2019
13. Member of the Swiss Administration, Bern, 17.12.2019
14. Member of the Swiss Administration, Online, 20.07.2020
15. Member of the Swiss Administration, Online, 12.08.2020