EU incentives for promoting peace

Nathalie Tocci

Conceptualizing itself as a peace endeavour, the European Union has identified conflict resolution beyond its borders as one of its top foreign policy priorities. Particularly when it comes to conflict resolution in areas straddling or bordering the Union, the EU can and has used integration incentives and conditionalities embedded in its contractual relationships with third countries. Integration incentives are specific to the EU, which itself is an integration project. Most clearly, they relate to the accession process, which includes the incentive of membership to be mobilized at the service of conflict resolution, as was the case of the 1995 Stability Pact to diffuse minority and border tensions in Eastern Europe for example. Yet integration incentives can also fall short of membership, including the offer (or withdrawal) of preferential trade relationships with the EU, participation in Community programmes and agencies and harmonization with EU legislation. These alternative forms of integration incentives are deployed through a variety of contractual relations, such as the Association Agreements, the Partnership and Cooperation Agreements, the Stabilization and Association Agreements and the European Neighbourhood Policy (ENP). The third countries to whom these relationships are offered and thus towards whom the Union can develop conflict resolution policies that differ from those of traditional mediators are those in its neighbourhood. The European neighbourhood includes North Africa, the Middle East, the East Mediterranean, the South Caucasus, the Western Balkans, and Eastern Europe (Ukraine, Moldova, Belarus and Russia). The declared aims of these contractual relations are both to achieve varying degrees of cooperation and integration in the EU, as well as to foster long-run structural change, such as conflict resolution, within and between third countries. But through which mechanisms can EU contractual relations incentivize conflict resolution? And what determines their effectiveness?

Dr Nathalie Tocci is a Senior Fellow at the Istituto Affari Internazionali in Rome.
EU mechanisms for conflict resolution

Conditionality

A first mechanism through which the EU can spur conflict resolution beyond its borders is conditionality. Positive conditionality entails the promise of a benefit in return for the fulfilment of a predetermined condition, and is most frequently used in the delivery of economic assistance, as well as in the context of EU accession. Negative conditionality involves the infliction of a punishment in the event of the violation of a specified obligation, and the most evident cases in point are diplomatic and economic sanctions.

The fulfilment of obligations can also be ex ante or ex post; ie, either conditions are fulfilled before the contract is signed, or conditions specified in an agreement must be respected otherwise the contract may be suspended. In between these two extremes, conditionality can be exerted over time, and not exclusively at the time or after the delivery of specified benefits. The case of the 1993 Copenhagen criteria for EU membership is an example of ex ante conditionality, while the ‘human rights clause’ in EU Association Agreements is an example of ex post conditionality. Aid instead lends itself to a constant exercise of conditionality over time, given the divisible nature of the benefit on offer.

While these types of conditionality are all available to the EU in principle, in practice the Union has declared and demonstrated its preference for ex ante and positive conditionality and its reluctance to engage in negative and ex post conditionality. Sanctions are used rarely and often target weak and far-away countries (eg African, Caribbean and Pacific countries). They are deployed in the neighbourhood only when the EU perceives grave security threats and no strong contrasting interests pressing in favour of cooperation (eg Syria for state-sponsored terrorism, former Yugoslavia for war crimes and regional instability, Belarus for the treatment of EU and OSCE diplomats). The only example of EU sanctions in response to a lack of cooperation in conflict resolution was the 2003 visa ban on the Transnistrian leadership. Furthermore, when the EU does opt for sanctions, it also attempts to deploy positive measures towards the affected populations (eg the parallel track of sanctions towards Belarus accompanied by financial support for Belarusian civil society).

The Union developed its policies of positive conditionality particularly in the process of the eastern enlargement through the use of gate-keeping, benchmarking and monitoring techniques. The benchmarked and monitored conditions to be fulfilled to proceed along the successive stages of the accession process related to reforms in the fields of democracy, human rights, as well as market reforms and...
harmonization with the EU's acquis communautaire (or body of law). Yet conditionality is also applied to other types of contractual relations, as well as to other objectives such as conflict resolution. The delivery of EU benefits could be made directly conditional on peace efforts, such as the case of the 1995 Stability Pact for Eastern Europe. Conditionality could also have an indirect effect on conflicts by affecting policy fields linked to the conflict resolution agenda, which can affect the bargaining positions of the conflict parties. For example, the European Commission requirements on the abolition of the death penalty in Turkey had an indirect impact on the Kurdish question.

**Learning**

A second mechanism through which the Union can promote peace is that of social learning and persuasion, which takes place through the institutional, political, economic and wider societal contact between the EU and conflict parties. As opposed to conditionality, which alters decision-makers' cost-benefit calculus, domestic change through learning occurs with a transformation of perceived interests, as conflict parties voluntarily internalize the norms and logic underpinning the EU. Through participation in or close contact with the EU institutional framework, conflict parties may thus alter their substantive beliefs, visions and purposes, as well as their preferred strategies in the conflict in a manner conducive to peace.

The potential for learning depends first and foremost on the scope and intensity of contact between the EU and the conflict parties. It also depends on the degree of pre-existing overlap between EU and domestic norms within the conflict party, as well as the identification of the conflict party with the EU and its proclaimed values. Another determinant of the scope for learning is the degree of popular dissatisfaction with the status quo. To the extent that the public in a conflict party is dissatisfied with its leadership, it is more likely to be receptive to the ideas and proposals emanating from Brussels. This led to a deeper process of change in the north, which has largely persisted irrespective of the dampened expectations of reunification and EU accession in the post-Annan Plan period.

**Passive enforcement**

A final mechanism of EU impact on conflict resolution is that of passive enforcement. Rather than highlighting the logic of punishment, which sets in when rules are violated, this mode of foreign policy-making hinges on a system of rule-bound cooperation, which is expected to work through its inbuilt incentives. Unlike conditionality, passive enforcement does not attempt to alter the incentives of a conflict party by altering its cost-benefit calculus. The EU's delivery of benefits does not come as a recompense to a conflict party's compliance with a given condition. Obligations constitute the necessary rules which make mutually beneficial cooperation with the EU possible. For passive enforcement to work there must be a clear set of legally defined and definable rules embedded in EU contracts rather than a series of conditions the EU simply considers politically desirable. Furthermore, this system of rules must be considered as a necessary price that comes with EU engagement. In the case of conflict parties whose policies oppose EU objectives, these rules will initially be viewed as high costs (i.e., the infringement on a state's sovereign capacity to pursue unconditionally its perceived interests). In these situations, the process of change embedded in passive enforcement requires that costs are viewed as obligatory and that the conflict party accepts to undertake these obligatory costs. In doing so and thus by experiencing the respect of the rule, over time its attributed costs could passively change and the respect of the rule could come to be seen as a benefit.

Passive enforcement relates to the EU's legal obligation of 'non-recognition.' Non-recognition relates to the duty of a state or international organization not to recognize or offer assistance to a third state's violations of the general norms of international law. A notable case in point has been the dispute between the EU and Israel over the preferential treatment of products originating in Israeli settlements and exported to the EU under the Association Agreement. After years of dispute, in 2005 the EU fulfilled its legal obligation to deny preferences to settlement-based products, arguing that failing to act would entail acquiescing and lending assistance to Israel's violations of international humanitarian law. The EU did not present its position as a policy of conditionality, let alone sanctions; ultimately Israel accepted it as a necessary 'rule of the game' for the smooth functioning of cooperative trade relations.
The determinants of EU effectiveness

EU contractual relations can influence ethno-political conflicts through three inter-related mechanisms. But which factors affect the extent and manner in which conditionality, learning and passive enforcement can influence ethno-political conflicts in the European neighbourhood?

Value

The effectiveness of each of the mechanisms depends first on the value of the benefits the EU holds on offer mapped against the costs of compliance with EU obligations. Only if the potential gains relative to the costs are sufficiently high, could the Union meaningfully exert influence on its neighbourhood conflicts. Value is determined by the objective nature of the contract. Naturally, when full membership is an option, the EU's potential leverage on a conflict is higher than in cases where relations are based on association, partnership or financial assistance. This begs the question of whether the EU can significantly influence third states that it cannot or does not wish to fully integrate. Indeed this is the core dilemma underlying the ENP, which was born precisely to find an alternative to full membership for aspirant EU members such as Ukraine and Moldova (and only later extended to the Southern Mediterranean and the South Caucasus countries).

Yet equally important is the subjective value of EU benefits: the perceived value by the recipients within a conflict party. Whereas membership may be the most valuable offer the Union can make, it may be of little interest to a nationalist zealously guarding his/her country’s sovereignty and seeking international alliances elsewhere. By contrast, the more a conflict party identifies with 'Europe' or the more dependent it is upon it, the greater the EU’s potential influence. However, different actors within a third country may value EU benefits differently. Domestic actors have different aims, strategies and tactics, which are driven by different historical, economic and political interests. As such their assessment of the EU differs. Hence, depending on the internal balance of different domestic actors and their interaction within a conflict party, the overall effect of EU conditionality can be positive, negative or nil.

Another determinant of value is timing. In the case of ex ante conditionality, expected reforms are demanded in the short and medium terms but the actual delivery of the benefit (eg membership) occurs in the long run. This generates several problems. Long-term benefits are valued less than short-term ones. The unpredictability of the long-term reduces the value of the benefit and therefore the potential incentives for conflict resolution. The time lag between the demanded conditions and the subsequent delivery of the benefit may also induce policy-makers in conflicts to delay policy changes or negotiating positions until the delivery of the benefit is closer and surer. This may be particularly true in conflict situations in which taking steps towards a settlement is often viewed as taking a risky step into the unknown. As such, principal parties may be reluctant to reach an agreement until the prospects of membership are closer. This dilemma characterizes the Turkish position on Cyprus and the Kurdish question for example. In other situations however the opposite problem may apply. At times, benefits delivered before the fulfilment of their accompanying obligations may also have disincentive effects on conflict resolution, as for example has been the case of Greek Cyprus and EU membership. When the benefit is delivered in the short-term based on an understanding that the respect of its accompanying obligations will follow suit, its value is absorbed by the recipient party. This may induce the conflict party to avoid or postpone the respect of the conflict-related obligations, counting on the EU’s unwillingness to withdraw the carrot.

The credibility of the obligations

Beyond valuable carrots, the effectiveness of the three mechanisms also hinges on the credibility of the EU and its demanded conditions or obligations. Credibility depends on the conflict party’s perception of the EU’s capacity and willingness to carry out its declared commitments. In the case of ex ante conditionality, credibility is related to the Union’s track record in delivering its promised gains, when and only when the specified conditions are fulfilled; whereas in the case of ex post conditionality, credibility is related to the EU’s track record in withdrawing benefits in cases of consistent violations of specified obligations. Credibility in passive enforcement instead entails cooperating when and only when the rules governing engagement are respected by all parties. Credibility also impinges on the potential for learning, given that a particular norm is more likely to be assimilated when all parties engaged in contractual relations are steadfast in their respect of it.

In conflict countries, the EU's credibility is seriously damaged if the principal parties observe that the Union itself does not respect a condition demanded of it, such as minority rights in member states like France or Greece. Likewise, if EU policies are perceived as displaying double standards, favouring one side of a conflict, an inverse social learning effect may set in. This problem is particularly acute in secessionist conflicts from Cyprus to the former Soviet space, where the EU,
fearing indirect recognition, refuses to have any official contact with the de facto authorities of a secessionist entity. Official ties with the metropolitan state and the snubbing of the unrecognized entity creates resentment within the latter, which may lead to its distancing from the goal of European integration and the values that allegedly underpin the EU project.

EU credibility also requires clarity in the specification of conditions and obligations. In addition to its informational value, the clarity of a condition is key to credibility because it reduces the scope for the political distortion of a contractual relationship, and also raises the likelihood of learning and passive enforcement given the clear nature of the rule to be experienced and assimilated. Yet often, when it comes to conflicts, clarity is hard to obtain. When are human rights respected? When is justice obtained? What constitutes a compromise? Human rights violations and features of undemocratic practice, racism and xenophobia exist within the EU as well as outside it. The meeting of a criterion is rarely clear-cut and often a question of degree. In addition, the Union does not have readymade benchmarks to monitor precisely the implementation of political reforms and policy shifts, and often does not have specific models that provide a clear format for an expected change within a third country.

**Political management**

Rather than representing a determinant of EU effectiveness in its own right, political management frequently provides the underlying explanation of why the EU’s potential in conflict resolution is not met. Conflict parties’ awareness of the EU’s political management of contractual relations on the one hand reduces the value of an offered incentive, while on the other hand diminishes the credibility of the EU’s conditions or obligations. It is often due to political imperatives, operating beyond the blueprint of a contract, that problems arise relating to the value and credibility of the EU’s incentives and conditionalities in conflict resolution.

An effective EU contractual relationship would necessitate the automatic entitlement to rights when obligations are fulfilled and the automatic withdrawal or non-entitlement of benefits when they are not. Yet such automaticity is never present in practice. Both the granting and the withdrawal of a benefit require a consensus within the Union. For an association agreement or an accession treaty to come into force, there must be unanimity of the member governments, and the ratification of national parliaments and the European Parliament. Such a consensus depends on the fulfilment of the contractual obligations of the third state. But it also depends on other factors, which are motivated by underlying political or economic imperatives. Some degree of political management in determining when and whether conditions are met and when and whether benefits should be granted is inevitable. However, when blatant violations persist without consequences or when benefits are not granted despite the general fulfilment of contractual obligations, then the EU’s own credibility is harmed. In other words, when other conditions unspecified in the contract govern the Union’s relations with third states, then EU policy loses its effectiveness in foreign policy.

In conclusion, the value of EU contractual relationships often grants the Union considerable potential to promote its peacemaking objectives in the neighbourhood. However, this potential is frequently marred by the waversing credibility of EU contractual obligations, which hinders the prospects for effective conditionality, learning and passive enforcement. Political management in turn diminishes both the value of EU relations and the credibility of EU conditions in the eyes of conflict parties. By contaminating contractual relations with political precepts that fall beyond the blueprint of contractual ties, the EU frequently punches beneath its weight in conflict resolution.