

Vienna, 4-6 February 2016

**Trade and Social Impacts: Are the EU's new Trade and Sustainability Chapters fit for purpose?**

Maria Garcia, University of Bath (m.garcia@bath.ac.uk)

The impact of trade liberalisation on societies has been a hotly debated issue. Attempts to include environmental and labour standards within the WTO architecture have not prospered. The European Union, through its Treaties, and in particular through Article 21 of the Lisbon Treaty, is committed to linking its trade and other external policies to the promotion of its internal values, including environmental and labour values. This creates complex tensions between economic drivers and normative demands on the EU's trade policy.

This paper addresses the question of whether resistance to EU values abroad (including the issue of sustainability in FTAs) is leading to a weakening of the EU's position on these matters, and suggests that indeed, external rejection of EU mechanisms for norm extension have led to less binding approaches. It does so by analysing FTAs, official documents and materials from elite interviews with officials and stakeholders, to assess the level of commitment achieved in recent FTAs on non-trade issues in terms of procedures for implementation, and also instances of implementation in FTAs that are in effect. Section 2 summarises the debates surrounding the linkage of non-trade issues, particularly labour standards, in trade negotiations. Section 3 focuses on the EU's legal commitment to the externalisation of its values and the methods through which it operationalises this.

Section 4 assesses the challenges in recent FTA negotiations of gaining acquiescence to its approach. Within its free trade agreement policies, since the 2011 Trade Agreement with South Korea, the EU attempts to better integrate social consequences into its agreements through the inclusion of a

chapter on sustainability aimed at promoting labour and environmental standards in its trade and association agreements. Exempt from the general dispute settlement mechanism of the agreement, this chapter creates its own set of institutional rules for the resolution of disputes based on expert reports, benchmarking and information sharing, and develops a regular mechanism for the promotion of standards through the Trade and Sustainability Sub-Committees enshrined in the agreements. This paper argues that this mechanism represents a transposition and externalisation of EU governance innovations (particularly the open method of coordination for social policy), and like all aspects of EU external governance, in the absence of strong conditionality, the EU relies on voluntary adoption of the underlying norms by its partners. Using meeting minutes, reports and interview materials the paper assesses the first years' of the implementation of this chapter in the new agreements with South American partners, and identifies the conditions which mediate the adoption of norms, implementation and successful promotion of standards through this mechanism (e.g. composition of civil society dialogues, domestic government-civil society relations, tradition of alignment with international standards, logistical resources).

A final section concludes by suggesting that the current FTA negotiations have heightened the tension between a legal obligation to pursue linkage and a pragmatic approach to trade negotiations and places this in the context of debates regarding the nature of the EU as an international actor. The analysis suggests that the likelihood of breaches of labour/environmental standards being raised and resolved under this procedure is contingent on the composition, status and trust of civil society groups in the partner states, and concludes that the delicate position of the EU, encouraging certain behaviours, whilst avoiding direct intervention in the domestic affairs and institutional set-up of partners, could hamper the longer-term efficiency of this chapter, and raises questions about the viability of this mechanism as a method for reconciling the economic and social aims of free trade agreements

## **1. Introduction**

A unique characteristic of EU FTAs is that they are accompanied by a Framework Agreement or a Political Cooperation Agreement which creates the legal framework for the bilateral relationship, and includes a '*paserrelle*' or 'linkage clause' whereby breach of EU fundamental values can result in suspension of trade preferences. Such conditionality has been a major tool of the EU's foreign policy, leveraging its market appeal to externalise its values and vision of global society. This approach is increasingly challenged by partners, creating a strong tension between the EU's legal imperative as incorporated in the Lisbon Treaty to encapsulate its values in all its policies, and the realities of international negotiations.

## **2. The contentious issue of trade and labour standards linkage**

After trade in goods resulting from convict labour was banned by the USA and UK, and others, in the 1890s, further attempts to link labour standards and trade at the failed International Trade Organisation (ITO) in the post-war period, and at its successor, the General Agreement on Trade and Tariffs (GATT) did not prosper (Kolben 2006, 229). Instead GATT Article XX limits itself to permitting restrictions on the importation of goods from convict labour. Successive attempts by the USA and EU to establish a linkage at the WTO have failed.

Academic debates on the matter (*inter alia* Bhagwati 1995; Sengenberger 2005; Alston 1993), and between policy-makers have been inconclusive regarding the desirability of linkages. Concerns have been voiced as to the potential pitfalls for developing economies' abilities to compete globally if forced to comply with the costly standards of developed states. Jagdish Bhagwati (1995) has argued that cross-country intra-industry standards differ in different states due to divergent prioritisation of interests. He argues the evidence reveals that a 'race to bottom' in terms of labour standards has not happened, but rather low business taxes have been used by states to incentivise business investment and relocation. The ability of small and medium enterprises, particularly in developing

states, to comply with higher labour standards and their costs has been highlighted by opponents of linkage (IOE 2006), as has the fact that most violations of human rights and labour standards occur in non-export sectors (Edgren cited in van Liest 2004). Although, as Kevin Kolben (2006) demonstrates the controversy has often pitted developing versus developed states in policy circles, with developing states opposing linkages invoking claims of Western protectionism, and with the West attempting to export high labour standards and costs to developing states thus limiting the outsourcing of jobs, and limiting job growth in developing states; civil society groups have also been actively involved. Trade unions, especially in higher regulation jurisdictions, have been key proponents of linkage, however development NGOs, and even some trade unions in developing states have opposed linkages (Kolben 2006). Others have expressed fears that the enforcement of labour standards through trade sanctions could increase labour market inequalities through a shift of jobs towards the informal sector where those labour-standards would not be applied (Kaber 2004).

Such divergent views have impeded the incorporation of labour standards into the WTO regime. Instead at the 1996 WTO Singapore Ministerial it was agreed that the appropriate forum for labour standards was the International Labour Organisation (ILO), where in 1998 the Declaration on Fundamental Principles and Rights at Work was adopted, introducing minimum labour principles. The ILO fundamental conventions are: Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), Right to Organise and Collective Bargaining Convention, 1949 (No. 98), Forced Labour Convention, 1930 (No. 29), Abolition of Forced Labour Convention, 1957 (No. 105), Minimum Age Convention, 1973 (No. 138), Worst Forms of Child Labour Convention, 1999 (No. 182), Equal Remuneration Convention, 1951 (No. 100), Discrimination (Employment and Occupation) Convention, 1958 (No. 111), i.e. right to association, banning child labour and forced

labour and non-discrimination in the work place.<sup>1</sup> These are the key issues which could have a significant bearing on labour cost differentials from one jurisdiction to another. Many developing states have signed the ILO Fundamental conventions despite rejecting linkages between these and the WTO trade regime, this is because unlike the WTO, the ILO lacks a binding dispute settlement mechanism. However, a great deal is required by governments in terms of ILO supervisory processes (Committee on the Freedom of Association, Applications Committee) which should not be underestimated (IOE 2006).

States with an interest in extending social regulations have sought binding linkages through bilateral trade regimes.<sup>2</sup> The General System of Preferences (GSP) of the USA and EU grant preferential access to their significant markets to imports from developing states, and both set conditions regarding labour rights (typically right of association), the absence of which can invoke a reversal of trade preferences (Kolben 2006, 230). The USA's use of the GSP system was initially subjugated to foreign policy alliances during the Cold War, and has also been criticised for excluding products that compete directly with domestic products (Tsogas 2000). The EU's GSP was originally developed in 1971 under the aegis of the Lome Conventions, but did not include a linkage to labour standards until the 1994-5 reform. Increasingly, labour rights are also being linked to trade through bilateral and regional preferential trade agreements (FTAs). In a review by the International Labour Organization for the ILO (2013, 18), researchers found that whilst this linkage in FTAs has been led by developed states (particularly, North American states), increasingly labour clauses feature in South-South FTAs, with 16 FTAs between developing states containing labour clauses. The study distinguishes between conditional elements of labour provisions linked to economic consequences

---

<sup>1</sup> There are many more ILO conventions relating to work in specific sectors and categories of workers. Not all states have signed all the conventions.

<sup>2</sup> Private initiatives Codes of conduct, Corporate Social Responsibility Charters, and International Framework Agreements (within industry) have also been used to tackle the issue of labour standards and their intersections with trade, but lie outside the scope of this article.

for lack of compliance (which they find in USA and Canadian FTAs), and promotional elements which do not include economic sanctions but rely instead on cooperative activities, dialogues, monitoring and information sharing. They find characteristics of the later in most FTAs, and in particular in the EU's (more on this below) and New Zealand's approach to labour standards in FTAs.

### **3. Labour and social standards in the EU's international policies**

Internally, EU-level competences over social policy matters were originally absent from the foundational Treaties of the 1950s. Over time, responding to both demands from below for greater social intervention and to spillover pressures from the creation of the common market, a social dimension developed. Jacques Delors's initiative for a Community Charter of Fundamental Social Rights led to EU level legislation on young workers, pregnant workers, contract workers, and paved the way for increased constitutionalisation of social legislation in the Maastricht, Amsterdam and Nice Treaties, not least through the creation of the Charter of Fundamental Rights, the legal value of which has been recognised in the Lisbon Treaty (Masselot and Garcia 2014).

Externally, labour and social standards were absent from EU policies until the 1990s,<sup>3</sup> when they came to the fore in the context of the reform of the GSP system. Jan Orbie *et al.* (2005) have traced the incorporation of social clauses, in particular the demand that states ratify and implement the ILO fundamental conventions, into EU external commercial policy. They argue that as the WTO engaged labour standards in the Millennium and Doha Rounds, these too featured more prominently in the EU's trade policy, and suggest that increased international concern with this issue, as encapsulated in the 'free trade versus fair trade debates' (van Roozendaal, 2002, 67) coincided in time with a series of social-democratic governments in Europe more sympathetic to these issues, and who were also faced with increased civil activism in favour of fair trade and concerns over rising European unemployment and social dumping effects of trade. Within the revised GSP system, a punitive

---

<sup>3</sup> Within the context of the Eastern enlargement, candidate states had to adopt the entire '*acquis*' including social legislation and norms.

mechanism was introduced permitting the temporary withdrawal of trade privileges if the state breaches the ban on the use of forced labour, creating a binding link between trade and some basic labour standards. Through the GSP Plus system the UE also introduced further standard promotion mechanisms, whereby developing states would benefit from enhanced access to the EU market if they acceded to the ILO fundamental conventions, and other human rights and environmental conventions.<sup>4</sup> The unilateral nature of the GSP scheme allowed the EU to introduce both incentives and coercive mechanisms to encourage behavioural changes in partners.

There are few instances in which the EU has implemented trade sanctions on the basis of breaches of labour rights (in particular forced labour) under the GSP system.<sup>5</sup> Trade preferences of Myanmar in 1997 and Belarus in 2006 were withdrawn over the use of forced labour and violations of the freedom of association. However, as Weifeng Zhou and Ludo Cuyvers (2011) demonstrate the effects in terms of encouraging behavioural change were minimal, given these states' limited trade with the EU in general, and the fact that trade continued, albeit without preferential access. In fact, during the sanctions, Myanmar multiplied its total trade with the EU. In a few cases the EU considered but did not invoke sanctions. In 1997 the European Commission dismissed a request for an investigation into China lodged by the European Parliament as at the time the Parliament did not have authority to demand an investigation, and given the challenge of getting the information for

---

<sup>4</sup> Subsequent reforms of the GSP scheme have pushed the emphasis from ratification to effective implementation of the standards and have also included conventions on human rights and on sustainable development (see Portela & Orbie 2014).

<sup>5</sup> Sri Lanka was downgraded from the GSP Plus to GSP scheme in 2010 after an investigation into its non-compliance, not with ILO standards, but with the Covenant on Civil and Political Rights, the Convention against Torture and the Convention on the Rights of the Child, in the context of its government's actions against the Tamil Tigers (Portela and Orbie 2014). Cancelling trade benefits on the basis of breaches of human rights by Russia in 1999 in the context of the Chechnya conflict, and over Indian nuclear tests in 1998 was considered but not implemented.

the investigation in Chinese prisons (Portela and Orbie 2014, 70). The case of Pakistan is particularly remarkable, as although no sanctions were imposed, a change in behaviour was effected, unlike in the cases above. As Emile Hafner-Burton (2005, 610) explains the Trades Union Confederation in 1995 mobilized against the Pakistani government's use of forced child labour, and the European Parliament requested an immediate investigation, but the European Commission after considering a ban on Pakistani imports, chose to pursue influence through the threat of a ban coupled with positive incentives for Pakistan's active participation in the International Labour Organization's (ILOs) program for the eradication of child labour (IPEC). Pakistan introduced legislation against child labour and acceded to the ILO fundamental conventions. An interesting feature of the cases in which sanctions were implemented is that they coincided with ILO investigations into the perpetrators of breaches, suggesting that the EU would only proceed to withdrawal of trade preferences for breach of labour standards when the ILO confirms that the breach has occurred and been persistent and serious (Orbie and Tortell 2009, 679).

The 2012-2013 GSP reform implemented in 2014, reduced the number of beneficiary states from 176 to 90, to focus on the least developed states (European Commission 2013). As states reach higher levels of income and 'graduate' out of the GSP this limits the already questionable potential impact of the GSP as a tool for the diffusion of labour standards.

### **3. Standards in recent Free Trade Agreements**

Given the delays and reduced ambition of negotiations at the WTO throughout the Doha Round, many states, and the EU, have turned to bilateral preferential trade agreements (FTAs) as mechanisms to expand trade and investment opportunities and to extend a preferred model of economic governance.<sup>6</sup> The USA has included binding commitments to labour clauses in its FTAs.<sup>7</sup>

---

<sup>6</sup> On the recent rise of FTAs see *inter alia*, Fiorentino et al 2007, Milner and Mansfield 2012, Ravenhill 2009, Bhagwati 2008, Solis, Katada and Stallings 2008, Aggarwal and Urata 2007.

Although its FTAs do not require the parties to sign the ILO fundamental conventions, they do require the signatories to enact domestic laws that ensure that the elements covered in the ILO fundamental conventions are adhered to.<sup>8</sup> These clauses are subject to the FTA's dispute settlement mechanism which allows for financial or equivalent recompense in case of breaches.

EU new generation FTAs, which follow from the 2006 'Global Europe' policy document (see Woolcock 2007) address labour standards differently. Under the sustainability chapter of the EU's new FTAs (Korea, Central America, Peru, Colombia, Singapore, Canada-pending completion), the parties agree to cooperate in labour and environmental matters (information and expertise exchanges, considering joint training, technical assistance...), reflecting the EU's promotional approach to these standards. Parties also commit themselves to not lowering domestic labour and environmental legislation, and:

Reaffirm their commitments to respect, promote and realise internationally recognised labour and social standards, as laid down in particular in the ILO Declaration on Fundamental Rights and Principles at Work (Art. 22.3, EU-ROK FTA, European Union 2011b, p.36).

The cooperative nature of the sustainability chapter is reinforced by the fact that it is not subject to the general FTA dispute settlement mechanism, but to its own dispute settlement regime. This determines that complaints regarding breaches of the clause can be notified to the FTA's implementation Joint Council by civil society, businesses or government representatives of the signatory parties. The Joint Council will then appoint a three member expert panel to investigate and produce a report with non-binding recommendations for action. The expectation is that through benchmarking processes, and a dispute mechanism based on naming and shaming, voluntary

---

<sup>7</sup> The USA was first required to this with NAFTA in 1994 to allay Congressional and trade union fears regarding business relocation to Mexico.

<sup>8</sup> The exact wording has been checked against the USA-Korea and USA-Singapore FTAs.

measures will be adopted to ensure high standards. To date no complaints have been brought forward using these mechanisms, thus, it is impossible to assess their effectiveness.

What is clear is that the mechanism stands in contrast with the coercive linkages in the GSP system and to the conditionality through which the EU extends its democratic and human rights values through its trade agreements. As the world's largest trading entity, the EU has used the attraction of access to its market and leveraged it in its trade policy in exchange for other foreign policy aims (Smith 2006, Baldwin 2006, Meunier and Nicolaidis 2006), exerting its 'market power' (Damro 2012). Since the 1990s the EU has subordinated its agreements with third parties to respect for human rights, democracy and the rule of law. EU negotiations of FTAs are accompanied by the negotiation of overarching Political Cooperation Agreement (PCA) or Framework Agreement (FA) that establishes the overarching legal basis for the relationship. PCAs/FAs encapsulate the EU's core values of democracy and respect for human rights and make the entire relationship (including the FTA) conditional on these values, as this clause is included as an essential element of the agreement that gives the EU a possibility to cancel trade preferences if these core values are breached.<sup>9</sup> PCAs also incorporate many of the EU's more recent broader normative concerns, including sustainability, nuclear non-proliferation, counter-terrorism cooperation, support for multilateral organisations, but are included in non-binding terms (Horn et al. 2010), and as mentioned earlier, sustainability clauses are introduced in a voluntary manner in FTAs as they are not mentioned as 'essential' elements.

The dichotomy in the mechanism by which human rights, democracy and rule of law values, on the one hand, and social and environmental values, on the other, are exported in agreements is striking, particularly as the Treaty of Lisbon (2011), elevated some of the later to core EU values under the rubric of equality, and in Article 21.1 enshrined the legal responsibility of the EU to ensure that:

---

<sup>9</sup> Human rights conditionality became an essential element of EU agreements with third parties in 1995 when the Council agreed to a Commission proposal on the matter to ensure the principle of coherence across its policies. A full history of can be found in Miller 2004.

The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.

Elsewhere, in its trade policy documents, no less, the European Commission (2006, 5) has also acknowledged the importance of these values, stating that 'as we pursue social justice and cohesion at home, we should also seek to promote our values, including social and environmental standards and cultural diversity, around the world.' It has also reiterated its commitment to 'insisting on the promotion in trade negotiations of sustainable development (i.e. decent work, labour standards and environmental protection)' (European Commission 2010, 4). The promotional mechanisms created in recent FTAs fulfil the European Commission's commitment to promotion of these values, however, their effectiveness will have to be proven with time.

### *3.1 Sustainability clause and negotiations*

The mechanisms by which norms have been exported from the EU to third countries have often include compulsion and conditionality, especially in the relationships between the EU and its neighbours, where potential membership has translated into a legal requirement to adopt the EU's norms and laws, and through unilateral mechanisms such as the GSP, or development aid. However, conditionality is contested in the EU's relations with regions further afield because of the distance, and the political as well as economic power imbalance (Schimmelfennig and Sedelmeier 2004). Socialisation, persuasion and emulation appear to be more relevant in the EU-Asian context in terms of gaining acquiescence for EU preferred norms abroad (see Chaban et al. 2014). Within this context, the novel mechanisms created in the sustainability chapters of FTAs, are a clear example of institutional frameworks to encourage socialisation processes.

One important reason for the more voluntary approach taken comes from the fact that in reciprocal negotiations, the will and position of the other party will have an impact on the final outcome. Unlike the GSP scheme, the EU cannot impose its conditions unilaterally. Developing states' opposition to binding labour standard and trade linkages was explained in section two, and is applicable to bilateral FTAs.

Objections to this comprehensive approach by the EU have been raised in particular by all its Asian partners. Even a developed and highly competitive state like Singapore has lengthened FTA negotiations with the EU. Although negotiators from both sides insist on Singapore's rapid acceptance of the EU's proposed sustainability chapter (Interviews Brussels October 2013), Singapore was reluctant to the human rights linkage clause in the PCA. Significantly, when the conclusion of negotiations with Singapore was announced in December 2012 no announcement was made on the conclusion of the PCA that was being negotiated alongside the FTA, which was only finalised in June 2013. Prior to this, FTAs and PCAs had either been completed simultaneously, or PCAs/FAs had preceded FTAs, as the EU used its most powerful foreign policy tool, the 'carrot' of trade, to gain acquiescence for broader regulatory and normative aims in the PCAs, by making market access conditional on acceptance of a broad FA. As Singaporean officials admit, they only signed the PCA, as the EU made it clear that no FTA would be signed without that, however, they object to the methodology of linking human rights to trade. South Korea, which was the first Asian state to conclude a FTA and FA with the EU, notwithstanding its final acquiescence, also had important internal debates about the FA, the EP and the EU's general FTA/FA approach (Interview, Brussels October 2013).

Singapore and South Korea both complied with EU requirements in the end, despite disagreement with the human rights linkages. In part, both were more concerned with reaching an overall FTA with the EU. Both states have been pursuing aggressive FTA strategies to position themselves as hubs for the Asian markets (see Tay 2010, Kim 2010, Solis et al. 2008). Both had also signed FTAs with the

USA by the time the EU began negotiations with them, therefore they had already implemented (in Singapore's case) or agreed to (in South Korea's case) much of the market liberalisation and regulatory changes that the EU would demand in a FTA negotiation. They had also agreed with the USA to the labour standards similar to those the EU would demand. The difference lay in the fact that the USA does not require formal accession to core ILO conventions. The USA's approach in FTAs creates a stronger linkage to between labour standards and trade than the EU's as its labour chapters are subject to the dispute settlement mechanism of the FTA. In this way, any objection to this linkage that Korea and Singapore may have had had already been weakened by negotiations with the USA. Unsurprisingly, then their objections focused on the human rights linkage rather than the EU PCA/FAs create.

EU FTA and PCA negotiations with Malaysia and Vietnam which were launched in 2010, only entered the real negotiation stage in late 2012 (DG Trade 2013), again due to differences over the EU's mandated comprehensive approach to FTAs, covering WTO-plus liberalisation, as well as objections to the human rights PCA linkage clause, and different understandings of sustainability and environmental matters (Malaysia Digest 2011, Yean 2012: 10).

Negotiations with India, which began in 2007, and have been beset by numerous setbacks (see Khorana and Perdakis 2010, Khorana and Garcia 2013, Orbie and Khorana 2014), reflect this tension clearest, even though as a democratic state with a Constitution that guarantees the fundamental values that the EU wishes to extend, this would be the state with which the normative agenda ought to resonate. Being consistent with its position at the WTO, India's government has objected to the inclusion of labour and other matters in FTAs, as it sees these as a form of protectionism (Paulus 2009: 7), which resonates with the widely held perspective that the EU is a 'protectionist club'

(Lisbonne de Vergeron 2006: 25).<sup>10</sup> When referring to the incorporation of human rights (including social and labour rights) in FTAs, India 'is of the opinion that such an issue does not belong in a market opening agreement' (Sen and Nair 2011, 434). This view is shared by large sections of civil society (with the exception of trade unions), as civil society groups fear standards would protect Western markets from cheap goods, adversely impacting trade and employment in India (Kolben 2006). However, the EU's soft law approach towards these issues in the enforcement mechanism of the sustainability chapters in recent FTA, is unlikely to result in the aggressive trade protectionism feared by Indian and other Asian partners (Sen and Nair 2011, 435).

Unlike the cases of Singapore and South Korea, India, Malaysia and Vietnam have displayed a stronger rejection of the EU's methodology for weaving values into FTA negotiations. The later states had not concluded FTAs with the USA at the time of negotiations with the EU, and had not already agreed to the mixing of labour standards and trade. Singapore and South Korea are also more developed and technologically advanced economies than are Vietnam, Malaysia and India, without large export textile sectors (where labour standards have been called into question), and which are less likely to fall foul of ILO standards. As explained in the 'external governance' literature, when existing regulations or standards between the partner and the EU are closer there is a greater likelihood of acceptance of EU regulations and norms (Lavenex and Schimmelfenning 2007), and it seems so in this case.

#### **4 Increasing tensions in linkages and trade negotiations**

---

<sup>10</sup> For example, Indian small and medium producers may struggle to comply with EU environmental certification requirements and sanitary and phytosanitary standards for imports, and critics argue that EU requirements tend to benefit larger firms and agricultural producers (Wichterich 2009: 17).

Even when approached in a non-binding manner, the extension of EU norms remains questioned by partners as evidenced in the cases above. In the first round of EU-India negotiations in 2007, the issue of human rights was not raised (Business Standard India 2007), but the EU subsequently incorporated it as part of its global approach to FTAs, as well as the result of domestic pressure by civil society citing labour abuses in India (European Union 2010b). Fears have also been expressed in India that the European Parliament's greater trade supervisory powers since the Treaty of Lisbon, will result in human rights being used as a 'trade weapon' by the EU (Business Standard India 2010). In a Resolution dated 11 May 2011 on negotiations with India, the Parliament argued in favour of the inclusion not only of 'legally binding clauses on human rights' as is already the custom under the linkage clause in the PCAs/FAs, but also of 'social and environmental standards and their enforcement, with measures in the event of infringement' (EP 2011). This view was reiterated by the European Economic and Social Committee (2011). However, the Council of the EU and European Commission pursue a non-binding, deliberative approach to social standards, and the European Commission has re-assured partners that social provisions will be non-binding and are driven by 'soft' incentive-based approach (Bossuyt 2009, 720).

Recent FTAs evidence the commitment to a 'soft' approach. The EU has signed (pending ratification) the FTA and PCA with Singapore, which includes the human rights essential clause in the PCA, despite the fact that Singapore maintains the death penalty (although it has not been used since 2009), and has a system of government that differs from the EU's definition of a liberal democracy. The FTA with Colombia was ratified despite controversy surrounding the government's dubious human rights record regarding the treatment of trade unionists,<sup>11</sup> reaffirming arguments regarding

---

<sup>11</sup> Despite inconsistencies, Colombia (as most Latin American states) was already a signatory to the ILO fundamental conventions, and on paper in its Constitutional arrangements shares all of the EU's core values. From this perspective Latin American states have not opposed the EU's proposed norms generally. In fact, the early linkages of human rights in EU external agreements were with Argentina and Chile in political and trade cooperation agreements from the early 1990s and were introduced at these countries' behest. Mexico did

the importance of economic competition with the USA as a motivational factor for EU FTAs (Garcia 2012) and the competitiveness and economic agenda embedded in EU FTAs (Siles-Brugges 2014). Regarding Colombia's trade unions, the European Parliament (EP) expressed its concerns over the matter on several occasions. In its Resolution on the negotiating mandate for the negotiations with the Andean states, the EP (2007) insisted the agreement must include:

[...] the 'democracy clause' and other social clauses (in connection with the labour rights incorporated in the ILO conventions, with particular reference to Convention 169 concerning Indigenous and Tribal Peoples in independent countries, the protection of decent working conditions, non-discrimination, equality of work between men and women and the eradication of child labour), and environmental clauses.

In its 2010 resolution on Human Rights, Social and Environmental Standards in International Trade, the EP (2010) supported the European Commission's approach in its FTAs, and insisted on the need to gain acquiescence with ILO fundamental conventions and other human rights and environmental conventions. Parliamentarians also insisted on the need to focus more on oversight of implementation of these measures. In its 2012 resolution on the signing of the agreements with Colombia and Peru, the Parliament raised the matter of trade unions in Colombia and expressed its object to the linkages in its negotiations of a Global Agreement, including a FTA, in the late 1990s, but eventually acceded once the EU made it clear that it was legally bound to include a linkage clause to democracy and human rights, and that it would leave negotiations if this was not accepted, as it had recently done in the case of Australia (Szymanski and Smith 2005, 189).

With the exception of Chile, and negotiations with Mercosur, Latin American states with which the EU has negotiated FTAs (Central America, Colombia, Peru) had previously finalised FTAs with the USA, thus they had already accepted similar compromises with the USA in terms of market opening, liberalisation, intellectual property rules etc., making these issues less controversial in negotiations with the EU. Although they were all parties to the ILO conventions prior to negotiations with the USA, they had also signed labour clauses in their FTAs with the USA.

condemnation of trade unionist murders, however it supported the Colombian governments' efforts to resolve the situation, and called for an action plan to accompany the FTA.<sup>12</sup> NGOs and activists felt

---

<sup>12</sup> During the negotiations of the EU-Colombia/Peru Trade Agreement, the European Parliament voiced concerns about the human rights situations in both of these countries. It was especially concerned about in Colombia, where after a prolonged internal armed conflict, the mistreatment of trade unionists was a special cause for concern. In an attempt to bolster the positive impact of the Trade Agreement on human rights and labour rights in the Colombia, the European Parliament passed Resolution 2628, also known as Roadmap of the EU-Colombia/Peru FTA (hereafter 'Roadmap'), on 13 June 2012. Peru and Colombia both had to present plans of action regarding institutional and legislative measures they would undertake to ensure the protection of human and labour rights. In Peru's case the main concerns, as pointed out by Human Rights Watch (2015), include use of force against protestors (including 34 civilian deaths in 2014). Protest were linked to proposed gas pipeline projects. Through the trade and sustainability chapter civil society concerns have been raised regarding the environmental assessments of mining and large infrastructure projects.

Mining is also a problematic in Colombia, where the Ministry of the Environment is attempting to lead changes in an environment that still favours investment in the mining sector. It is significant that both these states negotiated exclusion of these sectors from full liberalisation in the Trade Agreement with the EU. These sectors still carry a past legacy of facilitating investment by multinational corporations and on occasion these firms have been suspected of skirting labour legislation through the use of contractors or various forms of alternative employment contracts. The mining sector represents a particular challenge as it is an important source of export revenue, but also a sector with high environmental externalities and harsh working conditions. An alternative avenue to support improvements in these countries could be the use of multilateral and international fora to encourage multinational corporations to join the Clean Mining Initiative and other certification programmes.

In Colombia's case, the Roadmap represented a reinforcement of the 'Plan de Accion Laboral Obama-Santos' (PAL) (Labour Action Plan) signed by US President Obama and Colombian President Santos at the time of the US-Colombia Free Trade Agreement to safeguard labour standards in Colombia. The Roadmap's ambition is to ensure the application of core conventions on labour standards and human rights.

A Report by the Colombian Escuela Nacional Sindical (National Trade Unions School) from March 2015 strongly criticises the Colombian Government's inadequate implementation of the Roadmap. Their criticisms concentrate in the following areas:

1. Labour coordination bodies that are not independent trade unions;
2. Lack of transition from informal to formal contracted labour;
3. Violence against trade unionists;
4. Limited civil society involvement;
5. Implementation and legal deficiencies.

Between 2012 and 2013, thirty-six agreements were signed that changed the status of 12,030 workers from informal labour to contracted labour. However, this only represents 0.05 percent of the country's total workforce. Trade unions criticise the fact that these agreements were signed between the Labour Ministry and companies, with no participation of workers or their representatives. They also criticise the lack of transparency in publishing details of the beneficiaries. They cite the former Labour Minister Pardo as stating that 'contracted' only means that there is a contract in place, and does not differentiate between 'fixed-term' and 'indefinite' contracts, or between a contract with the company or with a sub-contractor (ENS 2015).

Most worryingly, the report notes continued violence against trade unionists, included 20 murders in 2014, 22 attacks, 12 arrests, and 181 threats. Although this represents a decline in overall numbers, it reveals a serious problem. Trade unions have identified the complained about the reactive rather than preventative character of the trade unionist protection programme, which provides body guards for trade unionists who have been subjected to threats, rather than focusing on the creation of a violence-free environment. Within the framework of the 'Plan de Acción Laboral' (PAL) the Colombian Government agreed to a series of measures to enhance trade unionists' protection: increasing protection of more people, emergency measures for special cases, changes in the Committee for Risk Evaluation and strengthening of the protection programme, strengthening the protection programme for teachers.

this was too weak in its resolution and protested the signing of the agreement with demonstrations (*El Mundo* 2010). In essence the European institutions accept that the promotional measures in their agreements should create mechanisms and an environment conducive to respect for the core social values enshrined in the agreements, without needing a complete *a priori* overhaul of other state's systems or policies. In its negotiations with third parties the European Commission reiterates to partners the fact that its binding human rights clauses and non-binding sustainability clauses will only be enacted if there is a severe deterioration of the situation (Interviews Brussels October 2013). Reluctance by partners to accept binding mechanisms in negotiations helps explain the EU's soft approach.

#### *4.1 Trade and Sustainability Chapters in Action (FTAs with Peru and Colombia)*

The cooperative nature of the sustainability chapter is reinforced by the fact that it is not subject to the general FTA dispute settlement mechanism, which includes monetary compensation for breaches, but to its own dispute settlement regime. Whilst the inclusion of its own dispute settlement mechanism brings additional importance to the matter and upgrades the mere cooperation of older generation agreements, the system remains 'soft' and legally non-binding. The dispute mechanism determines that complaints regarding breaches of the clause can be notified to the FTA's implementation Joint Council by civil society, businesses or government representatives of the signatory parties. The Joint Council will then appoint a three member expert panel to investigate and produce a report with non-binding recommendations for action. The expectation is that through

---

The EU's own Roadmap for the involvement with civil society in Colombia (*Hoja de Ruta de la UE para el compromiso con la sociedad civil en los países socios 2014-2017*) reinforces the EU commitment to create more inclusive civil society participation, not just within the Trade Agreements, but also within domestic public policy processes. The Roadmap highlights the EU Delegations, and member states' (especially Spain, Sweden, and UK) actions in Colombia to bolster civil society. Whilst highlighting progress in the inclusion of civil society in public policy, especially in the peace dialogues, the Roadmap identifies clear deficiencies in applying Colombia's legal framework for civil society representation at the local level. Key challenges facing civil society when dealing with local level authorities include the asymmetric dialogue, where officials have expertise and civil society struggles to understand technical documentation on public policy, and, of course, the lack of safety at the local level for numerous civil society leaders.

benchmarking processes and a dispute mechanism based on naming and shaming, voluntary measures will be adopted to ensure high standards. To date no complaints have been brought forward under these mechanisms, thus, it is impossible to assess their effectiveness.

This chapter creates a 'Sub-Committee on Trade and Sustainable Development' tasked with monitoring progress, exchanging information and sharing best practice. An important aspect of these endeavours is the fact that the chapters specifically call for the involvement of civil society groups in these deliberations. Since its creation, in fact, the 'Sub-Committee on Trade and Sustainable Development' has also organised open sessions with civil society.

As mandated by the Chapter, Colombia reported on the existing and future policies from the Ministry of Environment and Sustainable Development, and the steps the Ministry is taking with regards to the implementation of multilateral environmental agreements such as the Basel Convention, the Convention on International Trade in Endangered Species (CITES), the Montreal Protocol, the Convention on Biological Diversity, the Cartagena Protocol, and the United Nations Framework Convention on Climate Change (UNFCCC).

At these meetings, Peru also reported on the Legal and Political Framework for Environmental Issues, the Strategic Axis of Environmental Management in Peru, the National Agenda, and the National System for Environmental Action. Peru further reported on the National System for Environmental Impact Evaluation and the National Service of Environmental Certification for Sustainable Investments.

For its part, the EU discussed the liberalisation of environmental goods, highlighting the green goods initiative at the WTO of which the EU and 13 other states are part, and encouraged Colombia and Peru to join the initiative. The EU outlined its resource efficiency roadmap and environmental footprint methodologies, with 17 products selected for pilot testing, and offered Colombian and Peruvian stakeholders and opportunity to participate in the pilot programme.

In terms of the social and labour commitments under the Chapter on Trade and Sustainability, the EU reported on progress on member states' ratification of various ILO conventions (maritime workers). Peru provided an update on its reinforcement of Labour Inspections, regulations for registry of labour unions in construction, action plans against child and forced labour, ratification of ILO conventions, and regulations for equal opportunities for persons with disabilities. Colombia informed counterparts on the new structure of the Ministry of Labour, mechanisms for social dialogue, the implementation of freedom of association, its surveillance systems, legislation adopted against illegal labour intermediation, and the situation regarding the implementation of the ILO conventions.

The Parties agreed to further the implementation of labour-related provisions of Title IX, including the ratification and implementation of ILO conventions (i.e., the Domestic Workers Convention of 2011, later ratified by Colombia on 9 May 2014), and agreed to continue exchanging information, in particular with respect to measures against child and forced labour, and the promotion of freedom of association and collective bargaining. Colombia also highlighted the need to consider social and environmental mechanisms in the gold market to tackle illegal mining. Civil society groups, such as Agua Viva-Amigos de la Tierra de Colombia have also expressed concerns about the distribution of the economic gains from the agreements, especially in terms of increased mining for export.

Thus, far, disputes *per se* have not been brought forward within the context of the trade and sustainability chapter dispute settlement mechanism. The main problem identified thus far is that when the Dialogue with Civil Society took place in Peru only Peruvian civil society organisation attended, and when it took place in Bogotá only Colombian organisations were present. This indicates that financial constraints may be hampering the viability of the Dialogue. European Commission Delegations on the ground are exploring means to fund these meetings. Civil society organisations from the EU, Peru and Colombia expressed an interest in forming a tri-partite meeting where they can coordinate their positions and elaborate joint positions ahead of the formal Dialogue

within the remit of the trade and sustainability chapter. Participants in the Dialogue have commented positively on the level of engagement and enthusiasm displayed by Colombian civil society. Peruvian civil society is engaged but less dynamic, this may be in part due to historical distrust between trade unions and the government in Peru. This has not been improved by the fact that although the Peruvian government has established a mechanism for domestic consultation as mandated in the trade and sustainability chapter, it has been reluctant to inform the Sub-Committee on Trade and Sustainability of the actual operation of the mechanism. The chapter mandates the establishment of a mechanism, but does not specify its nature nor does it oblige the parties to inform each other on its operation.

Even in the case of the essential 'passerelle clause' between the Political agreements and FTAs linking human rights to the FTA, the EU is facing increased opposition. Although Asian partners reject this linkage, those that have agreed to enter into PCA and FTA negotiations with the EU, are willing to acquiesce so as to reach their objective of concluding a FTA with the EU, as they understand this to be a *sine qua non* requirement on the part of the EU. However, even this linkage is under increasing pressure, and from the EU's closest allies. In the case of the negotiations between the EU and Canada (still pending final signatures), the Canadian government has openly expressed its opposition to the human rights clause in the political. European officials have stressed to other democracies, who argue that as democracies sharing the same core values it is a denigration to have to sign such linkage clauses, that such clauses are there to ensure consistency between all EU agreements with third parties. Embassy Magazine (2013) in Canada cited Manfred Auster's, head of the political section at the EU Delegation in Ottawa, explanation 'the idea is that in countries other than Canada where the human rights situation or the situation as far as weapons of mass destruction are concerned are not as crystal clear as they are with Canada, in those cases we have a variety of tools including the suspension of existing agreements at our disposal.' The article also

cited an unnamed European diplomat, who in reassuring the Canadian government of the EU's willingness not to invoke the clause, allegedly claimed that 'the human rights language in the Canada-EU deal would likely never apply to "funny issues" like First Nations or the seal hunts'. Notwithstanding the uncertain and sensationalist nature of the claim, it does seem to be in line with the EU's pragmatic approach to adapting its normative demands, and the mechanisms by which these are articulated, to what might be acceptable to partners. On 18 October 2013 the EU and Canada reached a political agreement on the key elements of a trade agreement. The actual texts of which have not been made public yet, however interview sources suggest that the human rights clause may have been drafted with slightly different wording to other agreements so as to make it acceptable to Canada, which marks a contrast to the situation in 1997 when the EU ended discussions for an agreement with Australia over Australia's refusal to sign a human rights clause.

Given the aforementioned cases, Singapore, Canada, Colombia, but also the few instances of sanctions based on social standards under GSP, it would appear that partners' fears over potential suspension of trade preferences under FTAs over social issues are unwarranted given the nature of the procedures. Even under the human rights linkage clause, it appears the EU is reluctant to invoke this unless a gross breach of rights takes place. However, some partners remain cautious in their willingness to accept these measures and sustainability clauses, and have expressed fears that the EP may take it upon itself to investigate practices in their states and invoke sanctions, even though the mechanisms in the sustainability chapters do not allow for specific sanctions. The EP (2012, 3) would like to see sustainability chapters that are subject to sanctioning mechanisms in FTAs:

[The EP] [r]egrets that, although the chapter on trade and sustainable development includes legally binding provisions, there is no binding dispute settlement mechanism for this chapter in the Trade Agreement [...]

However, this is not matched by the reality of the provisions in FTAs, and it is unlikely that the EU will deviate from the mechanisms established in recent FTAs, especially given the animosity that even its current sustainability clauses have attracted from partners.

## **5. Implications**

Three conclusions can be derived from the narrative above:

1. The EU has legally committed itself to the externalisation of its values, including social values.
2. The EU makes a distinction between basic human rights and other social values in its mechanisms for externalisation. Human rights are linked to possible trade sanctions as these are 'essential elements' of the agreements. Social rights are enshrined in new FTAs through the sustainability chapter which does not contemplate pecuniary punitive measures. An exception exists in the case of the GSP scheme, which as unilateral measure enables the EU to associate suspension of trade privileges on account of breach of standards.
3. The EU has shown great prudence and reluctance in using coercive trade-related mechanisms to extend social values to accommodate both its partners' reluctance and its own interest in finalising deals, however its FTAs include soft promotional mechanisms to comply with its legal commitment to externalisation.

All this reflects an underlying tension in the EU's trade policy, with regard to FTAs, that is encapsulated in the admission by EU negotiators that 'partners will make us pay with other concessions for the human rights linkage clause and sustainability chapters' (Interview Brussels October 2013). Commentators have honed in on this tension between the EU's economic aspirations of FTAs with crucial emerging markets and expansion of a particular economic model and its normative commitments and aspirations in terms of development or value promotion (True 2009,

Siles-Brugges 2014, Bailey and Bossuyt 2013). Extending beyond trade policy the rich debates in the literature regarding the conceptualisation of the European Union as a normative power (*inter alia* Manners 2002, 2008, Whitman 2011) and its suitability (Hyde-Price 2007, Youngs 2004) also often revolved around this dichotomy. David Bailey and Fabienne Bossuyt (2013, 572) explain the tension as derived from the fact that the EU trade policy is largely driven by pressures to achieve market expansion, accompanied by a discourse of legitimation. They argue that scholars assume that the EU's normative agenda is viable but as yet unrealised, and instead suggest that the EU's trade policy is designed to perpetuate 'mechanisms of domination' through its market extension. Chad Damro (2012, 686-9) has also argued that rather than being normatively constituted and thus predisposed to act normatively, the EU is in its essence a market that is bound to externalize its market norms. In this context, material, interest-based and institutional factors determine the EU's success in promoting its market norms (Damro 2012: 686-9). These conceptualisations resonate with the empirical cases of EU social values in FTAs, where the objective of market expansion, trade liberalisation, and the export of certain market regulations can have a bearing on the soft approach to norm export chosen by the EU. Interestingly, in the face of increasing opposition to its norms, the EU has chosen, for now, to 'pay' for the inclusion of some of its core values in agreements. In reality this reveals the impossibility of separating norms from interest in the context of the EU's trade policy- the promotion of social values reflects material interests (the safeguarding of some aspects of EU social model) and the expansion of its market norms abroad, but it is also part of a discourse of self-legitimation, regarding the intrinsic nature of the EU as more than a market. The inevitable concessions on fundamental norm-setting in bilateral negotiations and the lack of coherence between the internal and the external EU actions impacts on the EU's identity building (Bain and Masselot 2013).

Beyond this, an important aspect regarding the EU as an external actor, that has largely been absent from the literature conceptualising the EU's external actorness (Bretherton and Vogler 2006) and the intrinsic nature of its actorness (civilian power, market, normative) is the impact of the 'other' on the

EU's action. The EU's preferred outcomes (be they normative or economic and power based) are mediated by the preferred outcomes of its partners (whose preferences combine interests and norms as well). This is particularly the case in bilateral agreement negotiations where the nature of the negotiation process demands that both sides make concessions. In the cases above, it is significant that where the EU has been able to gain acquiescence for its human rights and broader social norms, has been in negotiations where the states had already accepted labour clauses in their negotiations with the USA. Where, states' reluctance to dealing with labour issues in FTAs had not been defeated by the USA, the EU has yet to succeed.

Increasingly we are witnessing a softening of the EU's approach to its normative clauses in FTAs and PCA/FAs. The incorporation of sustainability clauses in its new FTAs follows a voluntary, rather than the conditionality approach it has used for human rights. It well may be the case in the long run that the EU's proposed mechanisms achieve more effective results in terms of standards, given that the implementation of sanctions, as seen in the cases discussed earlier, are marred with political complications and do not necessarily lead to the desired outcomes in terms of behavioural change. A more significant test of whether the EU's economic agenda is being disassociated from the values agenda will be the wording of the EU-Canada agreement, and more crucially, the Transatlantic Trade and Investment Partnership negotiations with the USA, where there has been no mention, to date, of requiring the USA to sign an 'essential' human rights clause. It is likely that the European Parliament will demand respect for the principle of coherence and request that the EU apply the same logic that it has been applying to the Canadian case with regards to the human rights linkages, but it is still too early to venture any guesses regarding TTIP. If no linkage clause appears, and it seem unlikely that the USA would agree to that, this could mark a fundamental rethink in the way the EU frames its foreign policy, and in turn some modification of theoretical conceptualisations of the EU as a foreign policy actor, but it would lend support to what the narrative in this paper has hinted at: the need to take into account the interaction with others as a factor in conceptualisations

of the EU as foreign policy actor, as its actorness and effectiveness is in part dependent on the extent to which other actors are willing to acquiesce to its preferences.

## References

- Aggarwal, V. & Urata, S. (eds.) (2006) *Bilateral Trade Agreements in the Asia Pacific: Origins, Evolution and Implications* (Abingdon, Routledge).
- Alston, P. (1993) 'Labor Rights Provisions in US Trade Law: "Aggressive Unilateralism"?' *Human Rights Quarterly*, 1-35.
- Bain, J. & Masselot, A. (2013). Gender equality law and identity building for Europe. *Canterbury Law Review*, 18, 99-120.
- Bailey, D. & Bossuyt, F. (2013) 'The European Union as a Conveniently conflicted Counter-hegemon through Trade' *Journal of Contemporary European Research*, 9(4), 560-577.
- Baldwin, M. (2006). EU trade politics - heaven or hell? *Journal of European Public Policy*, 13(6), 926-942.
- Bhagwati, J. (1995) 'Trade liberalisation and 'fair trade' demands: addressing the environmental and labour standards issues.' *The World Economy* 18(6), 745-759.
- Bhagwati, J. (2008) *Termites in the Trading System. How preferential agreements undermine free trade* (NY, Oxford University Press).
- Bossuyt, F. (2009) 'The Social Dimension of the New Generation of EU Free Trade Agreements with Asia and Latin America: Ambitious Continuation for the Sake of Policy Coherence.' *European Foreign Affairs Review*, 14 (5), 703-742.
- Bretherton, C. & Vogler, J. (2006) *The European Union as a Global Actor* (New York, Routledge).

Business Standard India (2007). EU may not put human rights condition for FTA. <http://bilaterals.org/spip.php?article8925>. Accessed on 16 January 2014.

Chaban, N., Masselot, A., Bjorkdahl, A. & Hopkins, J. (eds.) (2014) *The European Union as a Norm Exporter*, Springer.

Damro, C. (2012) 'Market power Europe' *Journal of European Public Policy*, 19(5), 682-699.

DG Trade (2013). European Commission trade with ASEAN Website. <http://ec.europa.eu/trade/policy/countries-and-regions/regions/asean/>. Accessed on 16 January 2014.

*El Mundo* (2010) 'La UE, Colombia, y Peru firma su acuerdo de libre comercio' 19.05.2010. Online on: [http://www.elmundo.es/elmundo/2010/05/19/union\\_europea/1274266693.html](http://www.elmundo.es/elmundo/2010/05/19/union_europea/1274266693.html)

*Embassy News* (2013) 'The problem with that other EU deal' 06 December 2012, <http://www.embassynews.ca/news/2013/06/11/the-problem-with-that-other-eu-deal/44029>

European Economic and Social Committee (2011). Opinion of the European Economic and Social Committee on the role of civil society in the free trade agreement between the EU and India. REX/316, Brussels.

European Commission (2006). Global Europe: Competing in the World, COM 567/2006.

European Commission (2010). Growth, Jobs and Trade, COM (2010)216.

European Commission (2013) MEMO Revised EU trade scheme to help developing countries applies on 1 January 2014, Brussels, 19 December 2013,

[http://trade.ec.europa.eu/doclib/docs/2013/december/tradoc\\_152015.pdf](http://trade.ec.europa.eu/doclib/docs/2013/december/tradoc_152015.pdf)

European Parliament (2007) Recommendation of 15 March 2007 to the Council on the negotiating mandate for an association agreement between the European Union and its Member States, of the

one part, and the Andean Community and its member countries, of the other part (2006/2221(INI))

<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2007->

0080&language=EN

European Parliament (2010) Resolution of 25 November 2010 on human rights and social and environmental standards in international trade agreements (2009/2219(INI))

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010->

0434+0+DOC+XML+V0//EN&language=EN

European Parliament (2011). Resolution on the state of play in the EU-India free trade agreement negotiations, 11.05.2011, Strasbourg, N. P7\_TA\_PROV (2011) 0224.

European Parliament (2012) Resolution of 13 June 2012 on the EU trade agreement with Colombia and Peru (2012/2628(RSP))

<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2012->

249

European Union (2010b). EU India relations background note. Press Release 21.06.2010.

<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/10/265&type=HTML>. Accessed on 16 January 2014.

European Union (2011a). Framework agreement between the European Union and its Member States and the Republic of Korea.

[http://eeas.europa.eu/korea\\_south/docs/framework\\_agreement\\_final\\_en.pdf](http://eeas.europa.eu/korea_south/docs/framework_agreement_final_en.pdf)

European Union (2011b) *Free trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part*, Official Journal of the European Communities, L127, Vol. 54, 14 May 2011. <http://eur-lex.europa.eu/legal->

content/EN/ALL/;ELX\_SESSIONID=GksMTfJDHQCfrgg4LhbnBW1nwDHTgsKcCpqJBQKYVNTsqxYsTFYX!  
1192961215?uri=OJ:L:2011:127:TOC

European Union (2012). Trade agreement between the European Union and its Member States and the Republic of Peru and Republic of Colombia. Official Journal of the European Union 21 December 2012. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:354:0003:2607:en:PDF>. Accessed on 16 January 2014.

Europe World (2010). Big prospects for upcoming EU-Singapore FTA 5 Nov 2010. [http://www.europesworld.org/NewEnglish/Home\\_old/CommunityPosts/tabid/809/PostID/1975/language/en-US/Default.aspx](http://www.europesworld.org/NewEnglish/Home_old/CommunityPosts/tabid/809/PostID/1975/language/en-US/Default.aspx). Accessed 20 January 2012.

Fiorentino, R., Verdeja, L. & Tequeboeuf, C. (2007) 'The Changing Landscape of Regional Trade Agreements: 2006 Update' Discussion Paper N° 12, WTO, Lausanne.

Garcia, M. (2012). The European Union and Latin America: 'Transformative power Europe' versus the realities of economic interests. *Cambridge Review of International Affairs*, OnlineFirst. <http://www.tandfonline.com/doi/full/10.1080/09557571.2011.647762>. Accessed on 16 January 2014.

Hafner-Burton, E. (2005) Trading Human Rights: How Preferential Trade Agreements Influence Government Repression. *International Organization*, 59(3), 593-629.

Horn, H., Mavroidis, P., Sapir, A. (2010) Beyond the WTO? An anatomy of EU and US preferential trade agreements. *The World Economy*, 33(11), 1565–1588.

ILO (2013) *Social Dimensions of Free Trade Agreements*, ILO, Geneva.

International Organisation of Employers (2006) 'The Evolving Debate on Trade & Labour Standards', IOE Information Paper, Geneva, Switzerland.

- Kaber, N. (2004). 'Globalisation, labour standards and women's rights: Dilemmas of collective (in) action in an interdependent world' *Feminist Economics*, 10(1), 3-35.
- Khorana, S. & Perdakis, N. (2010) 'EU and India free trade agreement: Deal or no deal?' *South Asia Economic Journal*, 11(2), 181-206.
- Khorana, S. & Garcia, M. (2013) 'EU-India free trade agreement negotiations: One step forwards, one step back' *Journal of Common Market Studies*, 51(4), 684-700.
- Kolben, K. (2006). The new politics of linkage: India's opposition to the workers' rights clause. *Indiana Journal of Global Legal Studies*, 13, 225-258.
- Lavenex, S. & Schimmelfennig, F. (2009) EU rules beyond EU borders: theorizing external governance in European politics, *Journal of European Public Policy*, 16(6), 791-812.
- Lisbonne de Vergeron, K. (2006) *Contemporary Indian views of Europe*. London: Chatham House.
- Malaysia Digest (2011, September 30). Fifth round of EU-Malaysia negotiations. <http://malaysiandigest.com/business/32357-fifth-round-fta-negotiations-between-malaysia-eu-in-mid-oct.html> Accessed 20 January 2012.
- Mansfield, E. & Milner, H. (2013) *Votes, Vetoes, and the Political Economy of International Trade Agreements* (Princeton, Princeton University Press).
- Manners, I. (2002). Normative power Europe: A contradiction in terms? *Journal of Common Market Studies*, 40(2), 235-258.
- Manners, I. (2008). The normative ethics of the European Union. *International Affairs*, 84(1), 45-60.
- Meunier, S. & Nicolaidis, K. (2006). The EU as a Conflicted Trade Power. *Journal of European Public Policy*, 13(6), 906-925.

Miller, V. (2004) The Human Rights Clause in the EU's External Agreements, House of Commons, Research Paper 04/33, International Affairs and Defence.

Orbie, J. & Khorana, S. (2014) 'Normative versus Market Power Europe: The EU-India Trade Agreement' *Asia-Europe Journal*

Orbie, J. and Tortell, L. (2009) 'The new GSP + Beneficiaries: ticking the box or truly consistent with ILO findings?' *European Foreign Affairs Review*, 14 (5), 663–681.

Paulus, L. (2009). The EU-India free trade agreement negotiations: Gender and social justice concerns. A memo for Members of the European Parliament. Brussels: WIDE. <http://www.wide-network.org>. Accessed 01 July 2013.

Portela, C. & Orbie, J. (2014). 'Sanctions under the EU Generalised System of Preferences and foreign policy: coherence by accident?' *Comparative Politics*, 20(1), 63–76.

Ravenhill, J. (2009). 'New East Asian Regionalism: Much Ado About Nothing?', *Review of International Studies*, 35, 215-235.

Sally, R. (2005). 'China's Trade Policy in Wider Asian

Schimmelfennig, F. & Sedelmeier, U. (2004). Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe. *Journal of European Public Policy*, 11(4), 669-687.

Sen, N. & Nair, B. G. (2011). Human rights provisions in the forthcoming India-EU free trade agreement. *National University of Juridical Sciences Law Review*, 4 , 417-437.

Sengenberger, W. (2005). *Globalization and social progress: The role and impact of international labour standards*. Friedrich-Ebert-Stiftung.

Siles-Brugges, G. (2014) 'EU trade and development policy beyond the ACP: subordinating developmental to commercial imperatives in the reform of GSP' *Contemporary Politics*, 20(1), 49-62.

Smith, M. (2006). The EU as an international actor. In J. Richardson (Ed.) *European Union: Power and Policy-Making* (pp. 289-310). Abingdon: Routledge.

Solis, M., Stallings, B. & Katada, S. (eds.) (2009). *Competitive Regionalism: FTA Diffusion in the Pacific Rim* (Basingstoke, PalgraveMacmillan).

Symanzki, M. and Smith, M. (2005) 'Coherence and Conditionality in European Foreign Policy: Negotiating the EU–Mexico Global Agreement' *Journal of Common Market Studies*, 43(1), 171-192.

Tay, S. (2010) *Asia Alone: The Dangerous Post-Crisis Divide from America*, (Singapore, John Wiley and Sons).

True, J. (2009). 'Trading off Gender Equality for Global Europe: The European Union and Free Trade Agreements.' *European Foreign Affairs Review*, 14 (5),723-742.

Tsogas, G. (2000) 'Labour standards in the Generalised System of Preferences of the European Union and the United States' *European Journal of Industrial Relations*, 6/3: 349-370.

Van Lienst, G. (2004) 'Trade and Human Rights. The issue of minimum labour standards.'" In B. Hocking & S. Mcguire, *Trade Politics*, (Abingdon, Routledge).

Wichterich, C. (2007). Economic growth without social justice. EU-India trade negotiations and their implications for social development and gender justice. Brussels: WIDE-Network. [www.wide-network.org](http://www.wide-network.org). Accessed on 16 January 2014.

Whitman, R. (2011) *Normative Power Europe. Empirical and Theoretical Perspectives*. (Basingstoke, Palgrave Macmillan).

Woolcock, S. (2007). European Union policy towards FTAs. ECIPE Working Paper 3/2007.

Yean, T. S. (2012). Negotiating for a Malaysia-EU FTA. Contesting interests from a Malaysian perspective. IFRI Centre for Asian Studies, *Asie-Visions* 57.

Young, A. & Peterson, J. (2006). 'The EU and new trade politics' *Journal of European Public Policy*, 13(6), 795-814.

Youngs, R. (2004) 'Normative dynamics and strategic interests in the EU's external identity' *Journal of Common Market Studies*, 43(4), 787-806.

Zhou, W. and Cuyvers, L. (2011) 'Linking International Trade and Labour Standards: The Effectiveness of Sanctions under the European Union GSP' *Journal of World Trade*, 45(1), 63-85.