

GOVERNING LABOUR STANDARDS THROUGH FREE TRADE AGREEMENTS: LIMITS OF THE EUROPEAN UNION'S APPROACH

SUMMARY

Our research project examines the effectiveness of labour standards provisions in Trade and Sustainable Development Chapters of EU trade agreements. It highlights the limitations of those labour provisions, and the need for closer examination of their aims and objectives if those limitations are to be overcome.



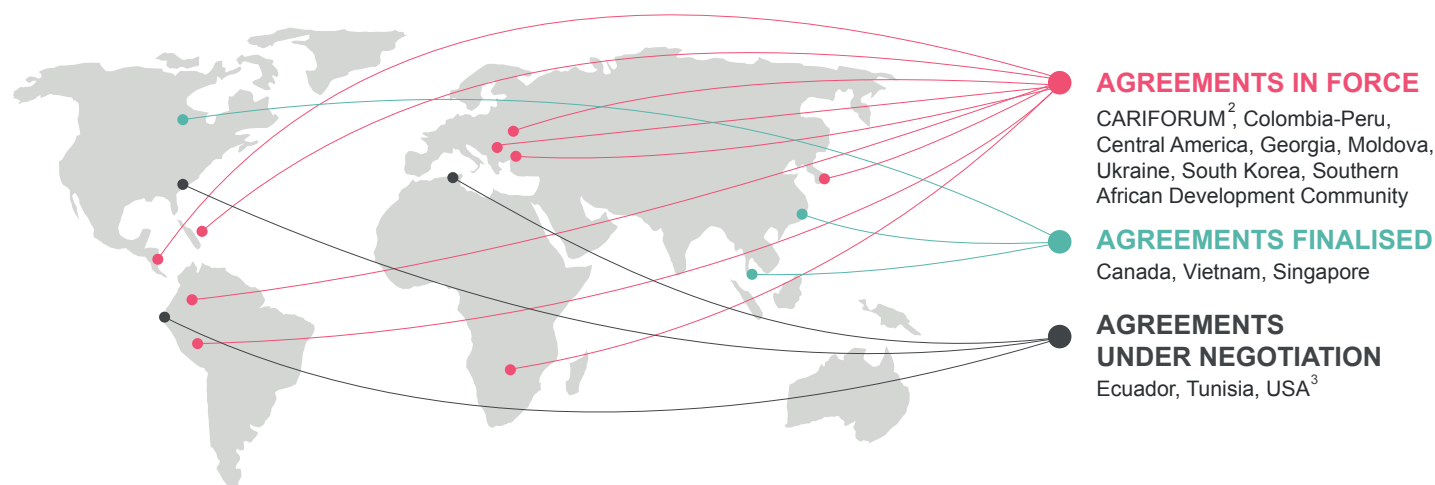
WHAT ARE TRADE AND SUSTAINABLE DEVELOPMENT (TSD) CHAPTERS?

TSD chapters have become a standard part of recent EU free trade agreements (FTAs). They include provisions to protect and promote labour standards as well as provisions to protect the environment.

WHY ARE LABOUR STANDARDS INCLUDED IN TRADE AGREEMENTS?

The Directorate General for Trade of the European Commission recognises that trade policy has come under increased public scrutiny. A key response to this is improving 'sustainable economic, social and environmental conditions' in the EU and trade partner countries. One mechanism for achieving this is 'strong provisions to promote the respect of labour rights' in its trade agreements.¹

EU TRADE AGREEMENTS WITH TSD CHAPTERS



KEY LABOUR PROVISIONS IN TSD CHAPTERS

While there is some variation, the TSD chapters share three main types of labour provisions:

SUBSTANTIVE COMMITMENTS

- Core labour standards as embodied in the International Labour Organisation (ILO) fundamental conventions
- ILO Decent Work Agenda

PROCEDURAL COMMITMENTS

- Dialogue and cooperation between the Parties
- Transparency in introducing new labour standards domestically
- Monitoring and review of sustainability impacts of the FTA
- Upholding levels of domestic protection on labour standards

INSTITUTIONAL MECHANISMS

This diagram represents the institutional model set up in the South Korea-EU FTA. Other agreements vary slightly.



COMMITTEE ON TRADE AND SUSTAINABLE DEVELOPMENT

Senior officials from the EU and South Korea oversee the overall implementation of the TSD chapter and report to the Trade Committee.



PANEL OF EXPERTS

Independent experts nominated by the Parties to be called upon to examine and make recommendations on matters not addressed satisfactorily by other mechanisms in the TSD chapter.



INSTITUTIONAL MECHANISMS OF THE TSD CHAPTER



DOMESTIC ADVISORY GROUPS

A DAG each for South Korea and the EU, with representatives of 'civil society' including trade unions, NGOs, businesses and academia. DAGs advise on the implementation of the TSD chapter.






CIVIL SOCIETY FORUM

Annual exchange of dialogue between the two DAGs and other civil society representatives on the sustainable development aspects of trade relations between the Parties.

OUR RESEARCH ON TSD CHAPTERS

We examined three recent EU trade agreements which contain labour standards in order to assess the effectiveness of implementation of these provisions:

 <p>MOLDOVA-EU ASSOCIATION AGREEMENT</p> <p>Includes Deep and Comprehensive FTA - trade is one aspect of a broader agenda of fostering closer economic and political relations</p> <ul style="list-style-type: none"> • Relatively minor EU commercial interests in Moldova • Moldovan exports dependent on EU (and Russian) markets • Grassroots civil society organisations lack capacity to engage with TSD chapter institutions • Limited unionisation in majority of factories • Low wages and changes to the labour inspection system are the most pressing labour issues 	 <p>SOUTH KOREA-EU FREE TRADE AGREEMENT</p> <p>A stand-alone free trade agreement</p> <ul style="list-style-type: none"> • Strong commercial motives on both sides - the world's largest economic region and the 11th largest* economy • Korean industry export-oriented (e.g. automobiles, electronics, ships) • An attractive market for European firms (incl. automobiles) • Complex and vibrant civil society • Powerful and well-organised industry lobby • A militant trade union movement (especially in automobiles) • Big domestic battles over traditional labour standards issues <p><small>*Korean GDP as of February 2017 (World Bank)</small></p>	 <p>CARIFORUM-EU ECONOMIC PARTNERSHIP AGREEMENT</p> <p>An inter-regional agreement with a stated development dimension</p> <ul style="list-style-type: none"> • Relatively small European commercial interests in the Caribbean • Historical trade links with EU through colonialism and post-colonial trade relationship • Civil society (incl. trade unions) nationally-orientated which is problematic for regional governance • Small-scale farmers, informal traders and the self-employed most at risk as a result of the region's changing trade relationships • Primary exporters in Guyana and other countries suffered from EU trade liberalisation
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RESEARCH METHODS:



Interviews with state, business and civil society stakeholders in the Caribbean, Moldova, South Korea and the EU



Analysis of primary literature on TSD chapters (agendas, minutes of meetings, agreed statements)



Analysis of grey and secondary literature evaluating TSD chapters and the wider trade agreements (institutional reports, academic studies)

ACHIEVEMENTS AND CHALLENGES OF TSD CHAPTERS



TSD chapters have been successfully negotiated despite hostility (South Korea, CARIFORUM) or indifference (Moldova).



Government officials from trading partners generally see TSD chapters as externally imposed and not their responsibility.

“At the moment we risk becoming another one of these institutions where you meet twice a year, and you put out a statement ‘Committee met in Brussels and raised concerns about this and that’ and that is the end of it.”
(Caribbean informant)

“The main achievement is that they [the Consultative and Parliamentary Committees] exist in these agreements.”
(EU informant)

EU member states’ opposition to sustainable development issues in trade deals is diminishing.

EC officials have limited conception of their role regarding TSD chapter commitments, and limited understanding of domestic labour struggles in trade partners.

Civil society mechanisms (incl. DAGs in South Korea and Moldova) are up-and-running (albeit after a 6-year delay in the CARIFORUM case).

Civil society mechanisms (incl. DAGs) are hampered by unclear aims, inadequate resourcing and limited influence upon the state-led committees to which they ultimately report. There is also uneven ability in trading partners to bring labour issues meaningfully onto the agenda.

Some work beyond institutional meetings is now being done (e.g. a project on ILO Convention 111 in South Korea and capacity-building for regional labour organising in the Caribbean).

Focus is on the institutional meetings and reporting procedures themselves. Progress on labour issues is not being stimulated in any systematic fashion by EU-funded projects.

“There is only so much that can happen through these discussions because the right people are not round the table to make it [ratify core conventions] happen.”
(Korean informant)

“In the context of a very contested domestic political sphere, in Korea putting people in a room to achieve dialogue is important.”
(EU informant)

Labour standards issues are discussed in some meetings (detailed discussion limited to South Korea).

No evidence that dialogue is leading to significant progress on key substantive labour issues. Little evidence that dialogue creates added value for civil society actors involved in labour struggles.

LIMITATIONS OF THE EU APPROACH IN TSD CHAPTERS

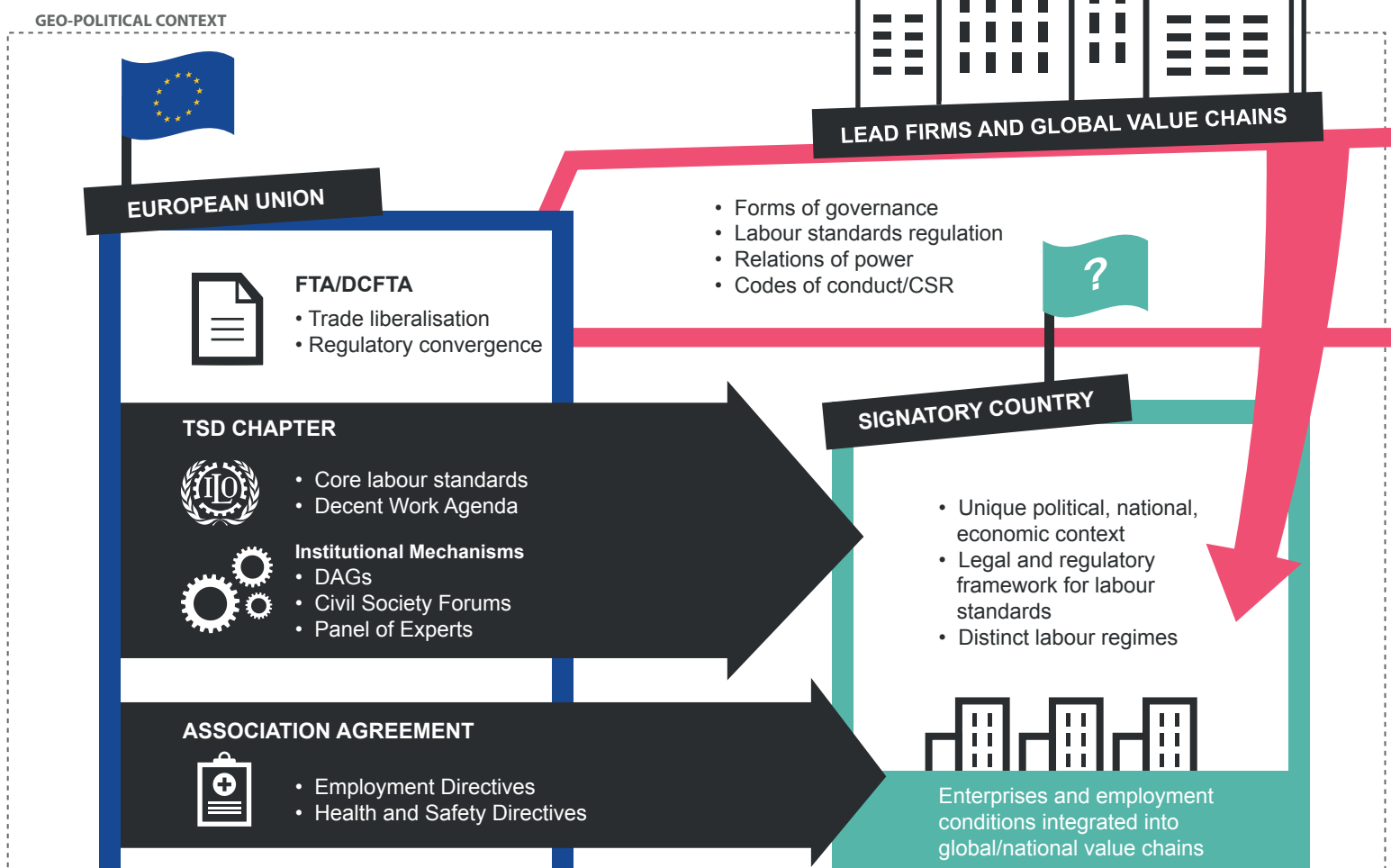
The common EU model, that is based on dialogue and cooperation in relation to the ILO core labour standards, struggles to be effective in all contexts.

- **Core labour standards are not the most pressing concern** in all trading partners. For example, trade-related unemployment in the Caribbean and low wages and problems of the labour inspectorate are bigger issues in Moldova.
- In South Korea, core labour standards are a concern, but the government crackdown on trade unions **calls into question the utility of an approach based on dialogue and cooperation.**

The EU model ignores regulatory mechanisms and governance dynamics outside of TSD chapters. This in turn affects the ability of FTAs to drive progressive change in working conditions.

- In Moldova, **the labour provisions** contained in the Association Agreement (AA) **are not connected in a meaningful way** to the TSD chapter. The AA includes additional norms influencing employment and health and safety at work, as part of the convergence of Moldovan national legislation to meet the EU's directives.
- In all scenarios, **the labour provisions fail to engage with the power relations** between firms across different global value chains (GVCs). The governance and power relations of GVCs may differentiate the capacity of different types of firms and suppliers of EU lead firms to enhance labour standards.

THE ANALYTICAL INTERSECTION OF FTAS, LABOUR STANDARDS AND GVC GOVERNANCE



¹ European Commission (2016) Strategic Plan 2016-2020 Available at http://ec.europa.eu/atwork/synthesis/amp/doc/trade_sp_2016-2020_en.pdf (accessed 6 December 2016).

² No TSD chapter, but equivalent provisions.

³ There may be other agreements which are under negotiation which contain a TSD chapter with labour standards provisions, but where the negotiating text is not yet public.

Abbreviations

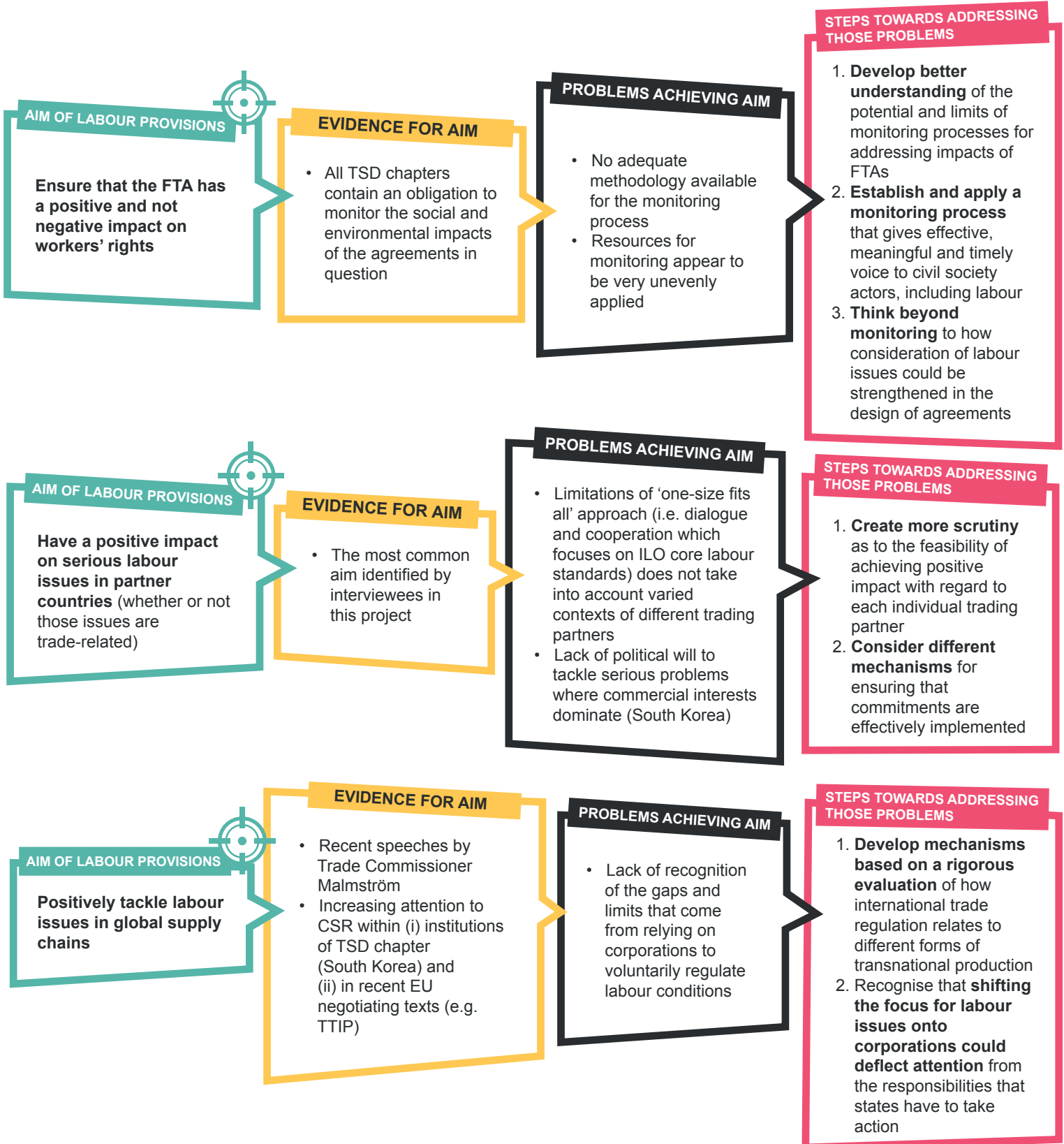
TSD = Trade and Sustainable Development
FTA = Free Trade Agreement
DCFTA = Deep and Comprehensive FTA

AA = Association Agreement
GVC = Global Value Chain
DAG = Domestic Advisory Group

CSR = Corporate Social Responsibility
EC = European Commission
ILO = International Labour Organisation

HOW CAN THESE CHALLENGES AND LIMITATIONS BE OVERCOME?

Overcoming the challenges and limitations set out above demands a much closer examination of what aims the labour provisions in TSD chapters are actually seeking to achieve. Different aims require different steps.



This summary is based on various research papers which are available on request from the authors. The research was conducted as part of an ESRC-funded project entitled "Working Beyond the Border: European Union Trade Agreements and International Labour Standards" (2015-17) (award number: ES/M009343/1). The project team are Adrian Smith a.m.smith@qmul.ac.uk, Liam Campling l.campling@qmul.ac.uk, Mirela Barbu m.barbu@qmul.ac.uk, Ben Richardson B.J.Richardson@warwick.ac.uk, James Harrison J.Harrison.3@warwick.ac.uk.

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