



Social Norms in Sustainability Chapters of Bilateral Free Trade Agreements

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Overview

- Context & Objectives
- Experiences and Good Practices
- Basic elements of social norms in FTAs
- Sample texts
 - EU – Developing Country
 - EU – Industrialized Country
- Conclusions



Context & Objectives

- “Global Europe” (2006) – A new generation of bilateral FTAs
 - Economic criteria
 - Sustainable Development
 - Development impact
 - Further considerations
- Criticism
 - Economic issues above sustainability
 - Unjust negotiation structures and process
- Lisbon Treaty: requirement of EP consent

→ *How shall FTAs be designed so as to improve labour rights?*



Experiences and Good Practices

- Differentiation
- Drawn from the following agreements:
 - Mercosur (1991)
 - NAALC (1993)
 - ASEAN (1995)
 - USA – Cambodia Textile Agreement (1999)
 - USA - Jordan (2000)
 - USA – Chile (2004)
 - Canada – Chile (2004)
 - EU – Cariforum (2008)
 - Canada – Peru (2009)
 - GSP, GSP+ (2009-2011)
 - EU – Korea (forthcoming 2010/11)
 - Canada – EU (under negotiation)



Implementation experiences

- USA - Jordan (2000): first US agreement integrating labour rights in dispute resolution mechanism
- EU – Korea (forthcoming 2010/11): first EU agreement containing a Sustainability Chapter
 - Non-lowering standards
 - Civil Society Forum
 - Weak implementation system



Elements of good practice

- USA – Cambodia Textile Agreement (1999):
„Better Factories“ Programme
 - Positive incentives
 - Monitoring by ILO
 - Weaknesses: „free rider syndrome“, reporting system, little progress in terms of some labour rights;
- USA – Chile (2004): progressive Social Chapter
 - Dispute resolution applies to labour matters
 - Comprehensive cooperation mechanism
 - Amicus curiae petitions



Methodology of the “model chapters”

- 2 chapters reflecting the groups of negotiating countries
- Room to negotiate for the EU: minimum, average, maximum requirements
- Chapters contain provisions of existing agreements



Main elements of the “model chapters”

- Non-lowering of standards
- Shield function of human rights
- Sustainability impact assessments prior to negotiations
- Standards – variance depending on negotiating partner and EU
- Implementation structures – cooperation, monitoring, incentives, fines, suspension of benefits
- Labour and trade issues are treated equally





Structure of chapters

	EL		IL
Standards			
	Core Labour Standards		Core Labour Standards + Priority Conventions
	Priority Conventions		Minimum wage, working hours, health & safety in the workplace, non-discrimination of migrants
	Decent Work Agenda		Decent Work Agenda
Implementation mechanisms			
	Social standards part of dispute resolution		Social standards part of dispute resolution
	Programme for improving working conditions		

EU – Developing Country

- **Standards:** ILO core labour standards (minimum), ILO priority conventions (average), ILO decent work agenda (maximum)
- **Implementation:** cooperation, programme on the improvement of working conditions, capacity-building, sanctions



EU – Developing Country

- Cooperation mechanisms: panel of experts, involvement of ILO
- Programme on the improvement of working conditions (based on ILO Better Factories Cambodia Programme)
- Sanctions: last resort – fines, suspension of trade benefits; possibility of amicus curiae briefs



EU – Industrialized Country

Standards:

- ILO core labour standards + ILO priority conventions (minimum), minimum wage, working hours, H & S, non-discrimination of migrants (average), decent work agenda (maximum)
- Social Standards favouring Trade



EU – Industrialized Country

Implementation:

- Cooperation, capacity-building, sanctions as last resort (fines, suspension of trade benefits); possibility of amicus curiae briefs



Conclusions

- Integration of social norms in bilateral FTAs is increasing
- Tendency to apply various standards and implementation structures – no minimum standards
- Role of EU as central player to realize minimum standards

