

**A Response to the Non-paper of the European Commission on Trade and Sustainable
Development (TSD) chapters in EU Free Trade Agreements (FTAs)
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This response provides insights from academic scholarship in relation to the questions posed at the end of the European Commission's non-paper on TSD chapters in EU FTAs.² It focuses on the labour dimensions of the TSD chapters. It draws upon the academic research which has (1) investigated the purposes and functions of the EU's TSD chapters, (2) analysed other models of labour protection in FTAs – focusing in particular on the US model, and (3) other academic work which is relevant to considering how TSD chapters might be reformed. The non-paper asks four questions and we organise our response under each of those headings.

1. Are EU TSD chapters meeting expectations? If not, what are the shortcomings to be addressed and what could be done to improve them?

A number of studies have examined the effectiveness of the EU's TSD chapters, by investigating the functioning of those chapters both with respect to the EU and the EU's trading partners.³ These studies have found a series of important limitations and failings with the current operation of TSD chapters in a variety of different contexts. Among the key findings (referred to in the rest of this document as 'Key finding 1', 'Key finding 2' etc.) are:

1. **EU actors** who are involved in the negotiation and implementation of TSD chapters view their role as very limited.⁴ Opportunities to use sustainability impact assessments and 'pre-ratification conditionality' to make significant progress on labour issues in trade partners have been missed.⁵ During the negotiations, commitments to more ambitious labour provisions (beyond GSP+ requirements) could have been pursued. Finally, once agreements are in force, key EU interlocutors often lack detailed knowledge of relevant labour issues in trade partner countries and have not prioritised labour issues in their discussions with trade partner representatives.⁶
2. **Government officials from trading partners** with responsibility for engaging with labour issues within the institutions of the TSD chapters often do not see the issues as their responsibility and/or are not the most appropriate representatives for the task in hand. Such officials are often not based in labour ministries or other relevant governmental departments.⁷ This poses problems for achieving appropriate follow-up on relevant issues.
3. **Civil society mechanisms** institutionalised through TSD chapters are hampered by operational failings including problems of resourcing, lack of meetings, difficulties with representation in trading partners, insufficient substantive discussions, lack of awareness and information-sharing, lack of independence from government and inadequate inter-relationships with other bodies institutionalised within the TSD chapter.⁸ Their overall purposes and functions are also unclear.⁹
4. Despite the focus on **co-operative activities** in the text of the TSD Chapters, such provisions are not systematically implemented through the relevant EU instruments and no systematic evaluation of the cooperative activities conducted under the TSD Chapters takes

place. In particular, the EU's development cooperation arrangements do not systematically address labour issues in the EU's trade partners.¹⁰

5. **The dispute resolution process** is insufficient. TSD chapters are exempt from the general dispute settlement mechanism of EU FTAs and disputes are instead examined by panels of experts. This process has not been utilised and lacks a credible enforcement mechanism so as to induce compliance with obligations contained in the TSD chapter.¹¹
6. The EU's **common formulation approach** to TSD chapters appears ill-equipped to dealing with the complexity of labour issues encountered within diverse trading partner scenarios.¹² Where individual 'roadmaps' have been produced in addition to the TSD Chapters in EU FTAs, there has been insufficient follow-up to ensure compliance.¹³
7. The provisions contained in TSD Chapters regarding the **monitoring and assessing** of 'sustainability' impacts of the agreement itself, including on labour standards have not been properly operationalised.¹⁴ The relevant provisions are furthermore highly unspecific, leaving the parties a significant amount of leeway with regard to the monitoring's modalities and there is little evidence that vigorous monitoring has been conducted. Also, no appropriate mechanism is in place to ensure that any identified negative effects of the FTA on labour standards are adequately remedied. As a result, the TSD Chapters' potential to ensure that workers are not adversely affected by the FTA is significantly reduced.¹⁵
8. Despite the formally reciprocal nature of the provisions, there is no evidence that they have been operationalised in a way that considers **labour issues within the EU**.¹⁶
9. Efforts to extend the reach of labour provisions beyond the trade relationship between the two trade partners and to engage with labour issues in **global supply chains** have largely focused on encouraging corporate social responsibility initiatives which are limited in scope, vigour and potential future impact.¹⁷

Overall, these studies have therefore failed to find positive impacts of labour provisions for the situation of workers in the EU or its trade partners. In two studies it was found that governments had actually sought to weaken labour standards protection (Peru successfully and South Korea unsuccessfully) since the trade agreements with the EU came into force.¹⁸ Given the significant structural problems identified, the findings of these studies also raise serious questions about whether the current EU model has the potential to achieve significant changes to workers' lives in the longer term.

There are also academic studies which argue that there are some positive impacts of EU trade agreements/TSD chapters on workers' rights.¹⁹ These are largely based on quantitative analysis and/or Brussels-based interviews with key informants. These studies therefore are not informed by a detailed understanding of how TSD chapters have been operationalised (or not) in third country contexts, and so do not, in any detail, identify strengths or deficiencies within the TSD model. There are also questions about causality in relation to these studies (i.e. is it the TSD chapters, the wider trade agreement, or other domestic and international factors which are causing any positive effects that occur for the protection of workers' rights in trading partners?).

Some of the EU's more recently negotiated agreements do contain some additional content beyond that which is analysed in existing studies. In particular, the EU-Canada Comprehensive Economic and Trade Agreement (CETA) contains additional substantive provisions (for instance on the health and safety of workers) and more detailed provisions on enforcement (referencing labour inspection and domestic legal remedy). But overall, it is not a significant departure from the existing approach and so is likely to be largely subject to the same limitations.²⁰

There are therefore clearly limitations of the current model. But, in order to answer the question about the extent to which TSD chapters are ‘meeting expectations’ it is important to try to understand clearly what it is that the EU’s approach is seeking to achieve. Key commitments in the agreements in relation to labour include: (1) Commitments/reaffirmations in relation to sustainable development with specific reference to the protection of labour rights²¹ (2) a commitment not to lower social standards in order to increase levels of trade and investment (3) stipulations that parties will cooperate or ‘work together’ in certain policy areas such as engagement in multilateral fora, exchange of information and best practices on relevant topics, furthering the ratification of sustainable development related conventions, or promoting corporate social responsibility and (4) an obligation to monitor and assess the impact of the agreement on sustainable development.

The most common hypothesis within the academic literature is that labour provisions are seeking to have some positive impact for labour in trade partners irrespective of whether workers’ jobs are connected to internationally-traded goods and services.²² But analysis of key commitments in EU trade agreements, as well as EU policy documents and relevant policy speeches (e.g. by Trade Commissioner Malmström) suggest that TSD chapters might be expected to have effects in other ways.²³ For instance, a second hypothesis is that TSD chapters aim to tackle labour issues which have trade-related impacts. A third hypothesis is that they address the social impacts of the trade agreement itself, supported by the fact that all TSD chapters contain an obligation to monitor the impacts of the agreement on sustainable development (in which case key finding 7 above is particularly important). A fourth hypothesis, based on analysis of relevant policy speeches suggests that TSD chapters contribute to making global supply chains ‘more responsible’ and therefore *are* concerned with jobs in specific export-oriented industries (in which case key finding 9 is particularly important). Being clear about the particular pathways through which TSD chapters are going to have positive impacts in relation to labour rights is therefore key when it comes to judging their impacts, and deciding upon the reforms to prioritise.

We provide insights in relation to how to address the shortcomings identified above in relation to our answers to questions 2 and 3 below.

2. Should the EU pursue a more assertive partnership on TSD in bilateral FTAs as described in option 1?

The presentation of options 1 and 2 in the non-paper (“a more assertive partnership on TSD” or “a model with sanctions”) as separate approaches should be re-considered. As discussed below in our response to option 2, academic analysis suggests that concrete and tangible economic (dis)incentives to action on labour rights are an important element of building up capacity to be more assertive in terms of co-operative activity with trade partners.²⁴ The ideas in option 1 for a more “assertive partnership” presented in the non-paper should not therefore be seen, *a priori*, as an alternative to option 2. But rather consideration should be given to whether elements of the two approaches can be *combined* to strengthen the overall model created by TSD chapters.

Moving beyond this initial issue, the academic literature has provided insights which are particularly relevant to a number of the ideas set out in option 1. The non-paper proposals are set out in italics below and relevant insights from the academic literature follow (issues in relation to the dispute resolution process are dealt with below in the response to option 2):

- “[E]arly and continuous engagement aiming to achieve ratification of the eight fundamental labour conventions.” A shift towards stronger forms of pre-ratification conditionality is important (see key finding 1 above), as this is when EU actors are in the strongest position to press for legislative change in trade partners.²⁵ Strong forms of conditionality will increase the potential for relevant labour standards to be incorporated into the domestic law of trade partners. This could also include requirements for trade partners to act upon the observations made by the ILO’s Committee of Experts on the Application of Conventions and Recommendations so that conventions are not only ratified but also effectively implemented. Research suggests the importance of the United States’ (stronger) efforts with regard to pre-ratification conditionality in its trade negotiations. Compared to the EU, the US has been more insistent that certain changes are made to labour law in its prospective FTA partners prior to the agreement being signed.²⁶ There is evidence to suggest that these measures have supported domestic pressure for change in certain countries²⁷ (although such conditions are no guarantee of improvements to labour rights²⁸), and are considered one of the strongest forms of leverage that trading partners can exert.²⁹ At the same time, while getting standards into law is necessary (so that it can be used as a key reference point to struggle against worker abuses), it is not sufficient to ensure positive improvements in workers’ lives. Pre-ratification conditionality therefore needs to be combined with effective action once trade agreements come into force.
- “Enhance the advisory role of civil society by improving the functioning of the Domestic Advisory Groups and the Joint Forums.” As catalogued above (key finding 3), a number of studies have identified serious *operational* issues with the functioning of DAGs and Joint Fora. The limitations set out above with respect to the key findings of academic research should be carefully considered in any reform discussion and responded to. They need to be overcome if civil society actors are to play a meaningful role. More fundamentally, there is also a need to clarify (1) what *the role of* civil society is with regard to trade agreements and whether they have any procedural rights vis-à-vis state actors (e.g. a right to a reasoned response within specified time limits) (2) to recognise that ‘civil society’ takes different forms in different trade partners and to adapt institutions accordingly,³⁰ and (3) to ensure that civil society actors have rights and resources that are commensurate with their roles and duties (e.g. to allow them to initiate studies of the sustainability impacts of the trade agreement).
- “... a focus on priority areas on trade related labour and environment, through the development of individual strategies for each FTA partner.” As highlighted above (key finding 6), labour issues are often very different across trade partners, as are the strategies needed for achieving change. The reach of the central provisions relating to ILO Core Labour Standards is insufficient to deal adequately with many of the consequences of the trade-labour linkage.³¹ It is vital that the EU moves beyond a single ‘template’ approach and develops roadmaps with regard to each trading relationship that focus on the key concerns identified in each trade partnership, and that there is then concerted follow-up to ensure roadmaps are acted upon.³² Such roadmaps could be developed informally in relation to existing agreements, and be formally mandated in relation to future agreements.
- “More assertively use all existing TSD tools.” As identified above, there are a range of provisions in TSD chapters which have not been fully operationalised. In particular, there is a need to create specific funding streams to support co-operative and capacity-building activity envisaged in TSD chapters (key finding 4). The yearly intergovernmental meetings concerning the implementation of the TSD chapter should also be more vigorously seized upon as an opportunity for reviewing progress on the most important labour issues and agreeing on future plans (key finding 2). There is also a need to operationalise provisions on monitoring the employment and broader social impacts of the agreements as well as to ensure that any adverse effects identified through the monitoring are effectively addressed (key finding 7). At the same

time, there are limits to what even a fully operationalised monitoring process can achieve in terms of identifying problems created by the trade agreement for workers, and so other measures may need to be taken if the EU is to ensure that trade agreements have positive impacts on workers and their conditions of work in both the EU and trade partners (see answer to question 4 below).

3. Do you think a sanction based approach as described in option 2 would address the shortcomings identified?

As identified above (key finding 5), the EU's approach towards dispute resolution/ within TSD chapters has not been utilised and has been of marginal importance within the EU model as a whole. The idea for reform, as presented in the non-paper focuses on the idea of importing stronger sanctions into the EU model, drawing on the example of the US/Canadian approach.

The US and Canada do have, in some respects, stronger dispute settlement processes, including the ability to apply monetary or trade-based sanctions if a case is successful. Focusing on the US model, it can be differentiated from the EU approach not only in terms of the sanctions available at the end of the process, but also because it has a more open system for receiving and responding to complaints about the violation of labour provisions. Such complaints have been raised by transnational alliances of trade unions and labour NGOs in the US and its trading partners, and have led the US Department of Labor to formally investigate disputes in seven countries to date, in some cases resulting in government-level action plans.³³ It is therefore important to note that cases do not have to result in dispute settlement proceedings for action to take place, and that the credible threat of legal action (and ultimately sanctions) can lead to progress being made on labour issues in trade partners who would otherwise be reluctant to engage.³⁴ However, as with pre-ratification conditionality, the effects of these interventions should not be overstated. Agreed action plans are not always followed.³⁵

The one US case which has proceeded all the way to a decision by the dispute settlement panel found in favour of Guatemala. It concluded that the US had not proved that Guatemala had failed to effectively enforce its own labour law "in a manner affecting trade" between the parties. This case has already led to demands from key US stakeholders for "beef[ed] up" provisions for enforcing labour standards in future trade agreements, and a review of the legal hurdles which must be overcome if a case is to be successfully brought.³⁶

It is therefore important that lessons are learnt about both the strengths and weaknesses of the US dispute settlement process and that an EU dispute settlement process is created which can enhance the EU's efforts on labour issues. As identified in the academic literature, there are a number of models for dispute settlement which could be drawn upon in these reform efforts.³⁷ These models (as well as the US experience) demonstrate the need to consider a range of complex design issues including: (1) how (and by whom) a dispute is initiated, (2) who it targets (corporations could be targeted as well as states), (3) in relation to what type of labour-related allegations, (4) who investigates those allegations, (5) who adjudicates on any complaints that come to dispute settlement, (6) the nature of the legal test for proving a violation has occurred, and (7) what form of sanctions or fines are available to those making the judgements.³⁸

4. Are there any other issues related to TSD to be addressed?

If TSD chapters do aim to have an impact on global supply chains, they need to move beyond textual references to corporate social responsibility and to consider the role and responsibility of lead-firms to control working conditions in outsourced supply chains. Serious thought should be given to how TSD chapters can best make a meaningful difference to workers' lives. One mechanism would be to "establish road maps for action in key export sectors with clear monitoring processes aimed at enhancing working conditions relevant to those economic sectors."³⁹

Key to effective implementation of labour provisions in leading export sectors is a widening of the scope of the provisions themselves. Research on global value chains and labour provisions has shown that a focus on ILO Core Labour Standards is important but insufficient to enhance working conditions in many sectors. Recourse should be also made to a broader set of labour standards including living wage provisions, occupational health and safety, and hours of work; as well as migrant workers' rights, social protection and informal work.⁴⁰

Consideration of labour issues should also not be restricted to the TSD chapter alone. The impact that obligations in the rest of the trade agreement will have on labour rights issues is of critical importance. Some provisions may have *negative effects*, and consideration should be given to the exclusion of provisions that threaten the rights of workers.⁴¹ For instance, careful attention should be paid to investment protection provisions which allow international arbitrators, who lack knowledge and understanding of labour issues, to make decisions which can have serious direct and indirect impacts on the rights which workers enjoy.⁴²

Other provisions, if included, could have *positive effects*. For instance "more relaxed rules of origin for companies that demonstrate they have enhanced labour rights protection of particular types; competition rules which specify that abuses of labour rights would amount to actionable subsidies; a negative list of prohibited labour abuses, perhaps using ILO reporting measures as a trigger, which could be assessed as 'conferring a benefit' in terms of the Agreement on Subsidies and Countervailing Measures; and provisions which specify that export credit licenses and other forms of support will only be granted to companies if they demonstrate compliance with certain labour rights."⁴³

Overall then, it is important not to see the TSD chapters in isolation but to think about them in relation to other governance mechanisms for improving the lives of workers and other aspects of the trade agreements in which they are situated.

¹ Authors are listed alphabetically. This response is collaboratively written to reflect the range of scholarship on the EU model. Any direct enquiries should be addressed to James Harrison at J.Harrison.3@warwick.ac.uk

² See www.trade.ec.europa.eu/doclib/docs/2017/july/tradoc_155686.pdf

³ See Axel Marx, Brecht Lein and Nicolas Brando (2016) 'The Protection of Labour Rights in Trade Agreements: The Case of the EU-Colombia Agreement', *Journal of World Trade*, 50: 4, pp. 587-610; Franz Ebert (2016) 'Labour Provisions in EU Trade Agreements', *International Labour Review*, 155: 3, pp. 407-433; Franz Ebert (2017) 'The Comprehensive Economic and Trade Agreement (CETA): Are Existing Arrangements Sufficient to Prevent Adverse Effects on Labour Standards?', *International Journal of Comparative Labour Law and Industrial Relations*, 33: 2, pp. 295-329; Jan Orbie and Lore Van den Putte (2016) Labour Rights in Peru and the EU Trade Agreement: Compliance with the Commitments under the Sustainable Development Chapter, OFSE Working Paper 58. Available at:

<https://www.econstor.eu/handle/10419/145974>; Lore Van den Putte (2015) ‘Involving Civil Society in Social Clauses and the Decent Work Agenda’, *Global Labour Journal*, 6: 2, pp. 221-235; James Harrison, Mirela Barbu, Liam Campling, Ben Richardson and Adrian Smith (2017) ‘Governing Labour Standards through Free Trade Agreements: Limits of the European Union’s Trade and Sustainable Development Chapters’, working paper available from authors. (For summaries of the key findings of the research see ‘Governing Labour Standards Through Free Trade Agreements: Limits of the EU’s Approach’ at <http://www.geog.qmul.ac.uk/research/beyondtheborder/keyfindings/#> and Harrison, Barbu, Campling, Richardson, and Smith (2016) ‘Labour standards in EU free trade agreements: working towards what end?’ *GREAT Insights*, 5 (6): 32-34; Smith, Barbu, Harrison, Richardson, and Campling, (2017) ‘Labour provisions in the European Union-Republic of Moldova Association Agreement’, in International Labour Organization, *Handbook on Assessment of Labour Provisions in Trade and Investment Agreements*, ILO: Geneva (2017), pp. 87-97; Smith, Campling, Barbu, Harrison, and Richardson, (2017) ‘Do labour provisions in EU trade agreements improve workers’ lives and working conditions around the world?’, summaries of key findings available at <http://www.geog.qmul.ac.uk/research/beyondtheborder/keyfindings/#>; Jeffrey Vogt (2015), ‘The Evolution of Labor Rights and Trade— A Transatlantic Comparison and Lessons for the Transatlantic Trade and Investment Partnership’, *Journal of International Economic Law*, pp. 827–860; Jan Orbie, Deborah Martens, Myriam Oehri and Lore Van den Putte (2016) ‘Promoting sustainable development or legitimising free trade? Civil society mechanisms in EU trade agreements’ *Third World Thematics: A TWQ Journal* Vol. 1, Iss. 4; Jan Orbie, Deborah Martens and Lore Van den Putte ‘Civil Society Meetings in European Union Trade, Agreements: Features, Purposes, and Evaluation’ *CLEER Papers* 2016/3 available at http://www.asser.nl/media/3044/cleer16-3_web.pdf Providing a framework for the analysis of impact see Aissi, Peels and Samaan (2017) ‘Evaluating the effectiveness of labour provisions in trade agreements – an analytical framework’, in, *International Labour Review* - DOI: 10.1111/ilr.12066 and Campling, Harrison, Richardson, and Smith ‘Can labour provisions work beyond the border? Evaluating the effects of EU free trade agreements’, *International Labour Review* Vol. 155, Issue 3, September 2016, Pages 357–382

⁴ Harrison et al (2017); Orbie and Van Den Putte (2016).

⁵ Harrison et al (2017), Orbie and Van Den Putte (2016); Vogt (2015).

⁶ Harrison et al (2017).

⁷ Marx et al (2016); Harrison et al (2017).

⁸ Orbie and Van Den Putte (2016); Marx et al (2016); Harrison et al (2017); Van Den Putte (2015); Orbie, Martens, Oehri and Van den Putte (2016); Orbie, Martens and Van den Putte (2016); Ebert (2017).

⁹ Harrison et al (2017).

¹⁰ Ebert (2016); Harrison et al (2017); Orbie and Van Den Putte (2016).

¹¹ Marx et al (2016).; Harrison et al (2017).; Ebert (2016).

¹² Harrison et al (2017). The core ILO labour standards which are at the heart of the EU model are not the most pressing worker-related concern in all trading partners. For instance, trade-related unemployment in the Caribbean and poverty wages in Moldova have been bigger issues for workers in those locations. Conversely, in South Korea, where core labour standards are a concern, the government crackdown on trade unions in 2015-2016 calls into question the utility of an approach based on dialogue and cooperation.

¹³ Vogt (2015).

¹⁴ Harrison et al (2017); Marx et al (2016).

¹⁵ Ebert (2017).

¹⁶ Harrison et al (2017).

¹⁷ Harrison et al (2017) ; Smith et al. More broadly on this issue, see Richard M Locke, (2013) *The Promise and Limits of Private Power: Promoting Labor Standards in a Global Economy* Cambridge University Press.

¹⁸ Orbie and Van den Putte (2016), Harrison et al (2017).

¹⁹ Postnikov, E. and Bastiaens, I. (2014) ‘Does Dialogue Work? The Effectiveness of labor Standards in EU Preferential Trade Agreements’. *Journal of European Public Policy*, Vol. 21, No. 6, pp. 923-940; Garcia, M. and Masselot, A. (2015) ‘EU-Asia Free Trade Agreements as Tools for Social Norm/Legislation Transfer’. *Asia Europe Journal*, Vol. 13, No. 3, pp. 241-252; Damian Raess, *Labour clauses in trade agreements: worker protection or protectionism?* (September 2017) Presentation available at <file:///C:/Users/lasgao/Downloads/Presentation+ETUI+event+Raess.pdf>

²⁰ Ebert (2017) 295-329; Lorand Bartels (2017) ‘Human Rights, Labour Standards and Environmental Standards in CETA’ *University of Cambridge Faculty of Law Research Paper No. 13/2017*

²¹ These commitments are expressed in political declarations such as the Rio Declaration on Environment and Development or the 2006 Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work; and in binding international instruments such as ILO Conventions or environmental treaties.

²² E.g. Postnikov and Bastiaens (2014).

²³ Harrison et al (2017).

²⁴ Marx et al (2016), 203. Orbie and Van Den Putte (2016), 39. See also Ebert (2017), 310-311.

²⁵ Smith, Campling, Barbu, Harrison and Richardson, (2017) “Anchoring labour rights more effectively in EU trade agreements” *Social Europe*, 13 July, available at <https://www.socialeurope.eu/anchoring-labour-rights-effectively-eu-trade-agreements>; ILO and International Institute for Labour Studies (2015) *Social Dimensions of Free Trade Agreements*. Geneva: ILO.

²⁶ In FTAs with Bahrain (entered into force 2006), Morocco (2006) and Oman (2009) for instance, the US demanded that statutory restrictions on freedom of association be reformed, while in FTAs with Peru (2009) and Colombia (2012) more specific labour law reforms were undertaken, focusing on the enforcement framework. In the US-Cambodia Textile Agreement (1999), a bespoke bilateral agreement focused on the garment sector, the US also used an incentive-based rather than sanctions-based approach, gradually increasing its quota allowance to Cambodia on the condition that factories being monitored by the ILO complied with internationally recognised labour standards. See ILO (2013).

²⁷ See e.g. David Cheong and Franz Ebert (2016), “Labour Law and Trade Policy: What Implications for Economic and Human Development?” in *Labour Regulation and Development: Socio-Legal Perspectives*, Shelley Marshall, Colin Fenwick (eds.). Edward Elgar, Cheltenham/Northampton, 82-126.

²⁸ For instance, evaluations of labour reforms actually carried out in Peru and Colombia found that progress was very limited, e.g. see Vogt (2015). On the limits of the US-Cambodia Textile Agreement, see International Human Rights and Conflict Resolution Clinic & Worker Rights Consortium (2013) *Monitoring in the Dark: An Evaluation of the International Labour Organization’s Better Factories Cambodia Monitoring and Reporting Programme*. Available at: <https://humanrightsclinic.law.stanford.edu/wp-content/uploads/2013/03/Monitoring-in-the-Dark-Stanford-WRC.pdf>

²⁹ ILO and International Institute for Labour Studies (2015).

³⁰ For instance, in Moldova, non-governmental organisations with capacity to engage in civil society dialogue largely consist of think tanks, consultancy organizations and public policy institutes. See Smith, Barbu, Harrison, Richardson, and Campling (2017) ‘[Labour provisions in the European Union-Republic of Moldova Association Agreement](#)’, in International Labour Organization, *Handbook on Assessment of Labour Provisions in Trade and Investment Agreements*, ILO: Geneva, pp. 87-97 at 92.

³¹ Smith, Campling, Barbu, Harrison, and Richardson, (2017) ‘Do labour provisions in EU trade agreements improve workers’ lives and working conditions around the world?’, summaries of key findings available at <http://www.geog.qmul.ac.uk/research/beyondtheborder/keyfindings/#>.

³² Harrison et al (2017); Orbie and Van Den Putte (2016); Smith et al (2017); Vogt (2015).

³³ These are Bahrain, Colombia, Dominican Republic, Guatemala, Honduras, Mexico and Peru. See US Bureau of International Labor Affairs (no date) *Submissions under Labor Provisions of Free Trade Agreements webpage* Available at: <https://www.dol.gov/agencies/ilab/our-work/trade/fta-submissions>

³⁴ For a discussion of the impact of the US approach in Peru and Colombia see Van den Putte (2016) *The European Union’s trade labour linkage: Beyond the ‘soft’ approach?* Ghent, Belgium: Ghent University. Faculty of Political and Social Sciences. pp.102-106.

³⁵ Vogt (2015); ILO and International Institute for Labour Studies (2015); Cheong and Ebert (2016).

³⁶ International Trade Daily Bulletin, Bloomberg Law (30 June 2017) available at <https://news.law.fordham.edu/wp-content/uploads/2017/07/Labor-Dispute-Article.pdf>; AFL-CIO, *Written Comments on How to Make NAFTA Work for Working People*, (12 June 2017) available at <https://aflcio.org/statements/written-comments-how-make-nafta-work-working-people>; Celeste Drake, *U.S. Trade Policy Fails Workers* (26 June 2017) available at <https://aflcio.org/2017/6/26/us-trade-policy-fails-workers>.

³⁷ Axel Marx Franz Ebert Nicolas Hachez Jan Wouters, (2017) *Dispute Settlement in the Trade and Sustainable Development Chapters of EU Trade Agreements*, Leuven Centre for Global Governance Studies ISBN: 9789082643114 available at <https://ghum.kuleuven.be/ggs/publications/books/final-report-9-february-def.pdf>. See also see Harrison, Richardson, Campling, Smith, Barbu, (2017) ‘Taking Labour Rights Seriously in Post-Brexit UK Trade Agreements Protect, Promote, Empower’ CSGR Working Paper Series, at p.24 available at <http://www.geog.qmul.ac.uk/media/geography/docs/research/working-beyond-the-border/284-17.pdf>

³⁸ For innovative ideas, for instance on who initiates complaints, see Stoll, Gött, and Abel, *Model Labour Chapter for EU Trade Agreements* (2017) at http://www.fes-asia.org/fileadmin/user_upload/documents/2017-06-Model_Labour_Chapter_DRAFT.pdf.

³⁹ Smith et al (2017). It goes on to recommend that “These should also include mechanisms to deal with sectors that are at risk of trade-related decline and redundancy (this might include requirements around due process on termination (ILO Convention 158) and the creation of redeployment and restructuring funds to support workers who lose their jobs).”

⁴⁰ Smith et al. (2017). Creating a framework for dealing with this broader set of labour issues see the CLS+ model proposed by the Friedrich Ebert Foundation in e.g. ‘What is CLS Plus?’ (2016) at http://www.fes-asia.org/fileadmin/user_upload/documents/FES-CLS.pdf;

⁴¹ See Ebert (2017).

⁴² A case brought under a bilateral investment treaty signed by France and Egypt, widely cited by opponents to introducing similar dispute settlement systems into trade agreements, involved the French waste management company Veolia suing the city government of Alexandria for increasing the minimum wage and not paying the company compensation, as purportedly set out in the contract terms.

⁴³ Harrison, Richardson, Campling, Smith, Barbu, (2017) ‘Taking Labour Rights Seriously in Post-Brexit UK Trade Agreements Protect, Promote, Empower’ CSGR Working Paper Series, at p.29 available at <http://www.geog.qmul.ac.uk/media/geography/docs/research/working-beyond-the-border/284-17.pdf>