

The Future of Trade and Sustainable Development (TSD) Chapters in EU Trade Agreements (FTAs):

Perspectives from Labour Voices in Trade Partner Countries

A Workshop Report, 18-19 December 2017, Brussels

1. Introduction

On 18-19 December 2017, a workshop was organised which brought trade union representatives from Colombia, South Korea and Moldova to Brussels for two purposes (see Annex 1 for workshop participants).

First, the workshop provided an opportunity for labour voices from trade partner countries who have been involved in the implementation of the Trade and Sustainable Development (TSD) chapters in European Union trade agreements to provide their views on (1) the current state of workers' rights in their countries, (2) the limitations of current TSD chapters for tackling those issues, and (3) the extent to which the European Commission's proposals for reform as set out in the recent '[non-paper](#)' address those limitations. Trade union representatives also identified the reforms that they themselves would prioritise. The workshop concluded with a [public event](#) at which trade union representatives from the three EU trade partner countries set out their ideas on the above issues. This short report reflects on the key issues raised by trade union representatives at the workshop.

Second, the workshop provided a forum where research findings on TSD chapters were discussed with trade union representatives from the EU's trade partners. The academic researchers who organised the workshop are from Queen Mary University of London, the University of Warwick, and the University of Leuven. Over the last two and a half years researchers from Queen Mary and Warwick have been investigating the impact of Trade and Sustainable Development Chapters in EU trade agreements. The findings of this research can be found at the website of the [Working Beyond the Border](#) (WBB) Project. Researchers from the Leuven Centre for Global Governance Studies have been undertaking [similar research](#), with a focus on labour rights in Colombia. These researchers (along with some others) have also [collectively responded](#) to the European Commission's non-paper.

2. Key Issues Facing Workers and Workers' Representatives in Colombia, Korea and Moldova

Representatives from trade unions in all three countries stressed that there were a number of very serious problems with the protection of labour rights in their countries and that in a number of respects, key labour rights protections had deteriorated since trade agreements with the EU had come into force.

In **Colombia**, there are a range of well-known and longstanding violations of labour rights including anti-trade union killings and violence; impunity for those perpetrating that violence; a prevalence of informal and precarious forms of employment; outsourcing of work to avoid labour protections; and a weakening of the labour inspection system.

Since trade agreements with the EU and other developed countries have come into force, trade union density has declined and collective bargaining rights have also weakened. In some areas of the economy that were opened up as a result of trade agreements with the EU and other developed countries, there have been deteriorations in labour conditions and threats to the jobs of workers (e.g. in the sugar sector). There are also concerns about a range of serious human rights and environmental problems caused by European and other international companies in the extractive sector in Colombia.

In **Korea**, the Korean government still has not ratified ILO Core Conventions on freedom of association, collective bargaining and forced labour. Despite widespread international condemnation, the president of the Korean Confederation of Trade Unions remains in jail for protesting against reforms to weaken labour law protections. Such reforms are supported by domestic business groups, including powerful firms (chaebols) who are very influential on government.

While there are some instances where working conditions are improving in Korea (e.g. in working hours at the top of the supply chain in the automotive sector), there are also serious problems, particularly lower down the supply chain with poverty wages and migrant workers in precarious forms of employment.

In **Moldova**, there are serious concerns about poverty wages – the minimum wage is half that necessary for a basic minimum income. Delays in receiving salaries for some workers are also increasing. There are high levels of informal employment, with many people receiving ‘envelope wages’. Supported by foreign business interests, the government is currently reforming the Labour Code to reduce protections for employees. The effectiveness of the Labour Inspectorate has also been seriously reduced recently, resulting in more accidents and deaths at work, higher levels of debt for employees and greater use of informal labour.

3. Limitations and Failures of TSD Chapters to Address those Issues

Colombian and Korean representatives both described TSD chapters as ‘ornaments’ that did nothing to help the protection of labour rights, but were included to create a better image for trade agreements and make it look as though social issues are being addressed. Moldovan representatives argued that the TSD chapter has not been well implemented and so was ineffective.

Colombian representatives argued that the EU was less committed to tackling serious labour issues in Colombia than the Canadian and US governments. They argued that the EU had not seriously addressed labour issues before the FTA was ratified when they had most leverage. The roadmap on human, environmental and labour rights established through the FTA has been ineffective. While the EU has made complaints to trade bodies to address issues of commercial interest for EU companies (e.g. for [discrimination against foreign alcoholic beverages](#)), they had failed to do so in relation to clear labour violations. This demonstrated where their priorities lay. Given that the Colombian government had refused to take action on labour issues, even when under pressure from a range of international actors, they queried what positive role the central pillar of the EU’s TSD approach – processes of dialogue – could possibly have.

Korean representatives argued that neither the Korean government nor the EU have strong or meaningful obligations under the TSD chapter. They only hold meetings. They have no obligation to report in a meaningful way on their efforts to implement the obligations of the TSD chapter. They also said that civil society dialogue was ineffectual; the composition of Domestic Advisory Groups, which include business representatives and pro-business academics, make it very difficult to successfully raise labour rights issues.

Moldovan representatives argued that the TSD chapter has not been well implemented and that civil society meetings which take place within the institutional framework of the TSD chapter are not fruitful because some members are partisan and they therefore cannot reach common ground. Trade unions have raised questions about protection of labour rights and the raising of the minimum wage. But these had not been seriously addressed. While concerns relating to the reform of the Labour Inspection system in Moldova have been raised in the Domestic Advisory Group, little change

has occurred as a result, despite an International Labour Organisation ruling that the changes contravene the relevant ILO conventions ratified by the Moldovan government. No work has been carried out beyond the meetings themselves (e.g. studies on labour-related issues).

All the representatives raised issues about important labour issues not covered by the TSD chapters like poverty wages, health and safety at work and the labour inspection system.

4. Key Reforms to Address Issues Identified

All trade union representatives were very sceptical about whether processes of dialogue by themselves would lead to meaningful change, even in the longer term. They all called for a stronger dispute settlement system for TSD chapters which would incentivise partner governments to take labour issues more seriously. Ideas for strengthening the dispute settlement system included the capacity for civil society organisations to make complaints (Colombia) and the power to bring complaints directly against companies who are violating labour rights (Korea). Stronger forms of sanctions were seen as critical by representatives from all three countries.

Korean representatives argued that the European Commission in its proposals for reform needed to go beyond simply looking at the US and the EU's approach as the only two options. Investor State Dispute Settlement was an effective way of protecting investor rights and there was no reason why a similar model could not be introduced to protect labour rights through FTAs. Moldovan representatives thought that a detailed action plan with timelines and clear attribution of responsibilities backed by a stronger complaints mechanisms would increase the chances of compliance. But Colombian representatives were more sceptical of the potential for change. Neither the EU's roadmap nor the stronger pressure applied by the Canadian and US governments has led to meaningful action by the Colombian government. They believed that the commercial imperatives of FTAs would always triumph over consideration of social issues, and labour issues need to be dealt with in other ways.

There was also consensus that TSD chapters need to include proper monitoring processes. This should involve setting clear goals about what the TSD chapters seek to achieve over established timeframes, and then measurable indicators drawn up so that progress could be monitored. Korean representatives argued that a reporting process could be introduced which is similar to the ILO Supervisory Mechanism or the UN human rights state reporting procedure. This would mean that governments have to report on their progress in implementing TSD chapters, that trade unions and other civil society actors could produce their own 'shadow' reports and that all these reports would be scrutinised by an independent body who could make pronouncements about progress on implementing commitments under the TSD chapter.

ANNEX 1 – WORKSHOP PARTICIPANTS

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