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# LABOUR PROVISIONS IN G7 TRADE AGREEMENTS: A COMPARATIVE PERSPECTIVE

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INTERNATIONAL LABOUR OFFICE

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## FOREWORD

This report has been prepared by the ILO Research Department as a contribution to the G7 Social Employment Task Force on “Reshaping multilateral action to strengthen social justice”, under the French G7 Presidency in 2019.

It has been prepared by Marva Corley-Coulibaly and Elizabeth Echeverria Manrique, with valuable contributions from Ira Postolachi. The report has benefited from the excellent guidance and comments provided by Deborah Greenfield, Deputy Director-General for Policy, and Claire Harasty, Special Adviser to the Deputy Director-General for Policy, as well as the support of Damian Grimshaw, Director of the ILO Research Department.

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## ACRONYMS

CAFTA-DR	Dominican Republic-Central America Free Trade Agreement
CARIFORUM	Forum of Caribbean States
CETA	Comprehensive Economic and Trade Agreement
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership
CSR	Corporate Social Responsibility
DSM	Dispute Settlement Mechanism
EBA	Everything But Arms
EFTA	European Free Trade Association
EPA	Economic Partnership Agreement
EU	European Union
FPRW	Fundamental Principles and Rights at Work
FTA	Free Trade Agreement
GATT	General Agreement on Tariffs and Trade
GSP	Generalized System of Preferences
ILAB	Bureau of International Labor Affairs, United States Department of Labor
ILO	International Labour Organization; International Labour Office
ITO	International Trade Organization
LP(s)	Labour provision(s)
NAALC	North American Agreement on Labor Cooperation
NAFTA	North American Free Trade Agreement
NAO	National Administrative Office of Canada
OECD	Organisation for Economic Co-operation and Development
OSH	Occupational Safety and Health
OTLA	Office of Trade and Labor Affairs, United States Department of Labor
RTA(s)	Regional Trade Agreement(s)
RTA-IS	Regional Trade Agreements Information System

SADC	South African Development Community
UNCTAD	United Nations Conference on Trade and Development
US	United States
USMCA	US-Mexico-Canada Free Trade Agreement
USTR	United States Trade Representative
WTO	World Trade Organization

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## EXECUTIVE SUMMARY

It has been 25 years since labour provisions were first included by G7 member countries in a regional trade agreement (RTA). Since then they have become a common feature of all G7 RTAs. Of the 85 bilateral or plurilateral agreements with labour provisions, more than half, or 45, include as a partner at least one G7 country. These 45 agreements represent 1.2 billion workers, which amounts to almost 30 per cent of the world's workers. Thus, the regulatory frameworks of these trade agreements have a deep connection to the governance of the world of work.

While some countries have a longstanding tradition in their legislation and trade policy of considering labour rights in relation to trade, others have more recently begun to employ this approach. Recent negotiations and ratifications of RTAs between G7 countries seem to have converged on key objectives, which is a reflection of the significant lessons learned regarding the implementation (including the settlement of disputes) and compliance with labour provisions. It also reflects the broad-based concern with the uneven impacts of globalization and trade on the labour market and the attempts by nation states to push for a level playing field based on minimum conditions of work and labour rights for all trading partners. In addition, it enhances the need to further social justice through the integration of international labour standards in different economic (including trade), financial, social and environmental policies.

*G7 labour provisions have similar characteristics with respect to the general framework of the labour provisions.*

All G7 countries promote international labour standards in a framework of binding commitments with mechanisms for implementation in trade agreements. Irrespective of the approach that countries take towards non-compliance, the final goal is similar. Hence, previous distinctions

between ‘conditional’ or ‘promotional’ approaches of labour provisions are no longer relevant for G7 countries. Labour provisions are a tool for both labour governance as well as for cooperation — they commit countries to upholding labour standards, implementing mechanisms for stakeholder involvement and promoting dialogue, monitoring and exchanging information on a number of labour-related issues.

More recent G7 labour provisions have similar characteristics with respect to their general framework: (i) establishing labour obligations; ii) setting institutional arrangements or procedures for social partner and civil society participation in the implementation of the agreement; and (iii) establishing rules for dispute settlement. Additionally, mechanisms are also put in place to foster dialogue and cooperation (including cross-border) and address institutional weaknesses through development cooperation and technical assistance.

Although, broadly speaking, the G7 countries follow this framework, there are specificities as each country – or group of countries – has its own approach, which has evolved over time. The key findings of this report show some convergence with respect to labour obligations and an increased reliance on cooperative activities, including capacity building. A more nuanced approach remains towards dispute settlement and mechanisms for stakeholder involvement.

*The latest G7 trade agreements include similar obligations on effectively upholding and implementing labour standards.*

All G7 countries establish obligations in their trade agreements not to derogate from or waive their labour laws to encourage trade or investment. They also include an obligation concerning the effective implementation of national labour laws, which is intended to protect the labour principles and rights set out in the 1998 ILO Declaration on Fundamental Principles and Rights at Work.

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Some distinctions among approaches include obligations to implement ratified ILO fundamental Conventions – and, as in the case of the European Union (EU), to undertake efforts towards the ratification of the remaining ones. References to the Decent Work Agenda and the 2008 Declaration on Social Justice for a Fair Globalization are particularly included in EU and some Canadian trade agreements. While, previously, commitments on occupational safety and health, wages and working hours were characteristic of agreements by Canada and the United States, EU trade agreements now increasingly include similar provisions. In addition, commitments in the areas of labour administration and labour inspectorates are gradually being included in almost all recent G7 trade agreements.

Labour provisions may also be incorporated in different parts of the agreements. Most of G7 trade agreements include references to labour or sustainable development in the preamble of an agreement. Canada and the United States establish dedicated chapters or side agreements on labour, while the EU links labour with environmental provisions in sustainable development chapters. Additionally, labour provisions can be found in cooperation chapters (in the case of the EU), in investment chapters (Canada and Japan) and, most recently, in the rules of origin chapter (Canada and United States, in an agreement not-yet ratified). Location is important, as it has implications on the legal status of the labour provision, the mechanisms pertaining to it (such as the institutional arrangements) or the applicability of the dispute settlement and the remedies.

*Institutional arrangements can foster national and transnational dialogue between social partners on labour issues*

G7 RTAs also include different arrangements to facilitate dialogue (including cross-border) and monitor and implement labour provisions. Institutional arrangements may be exclusive to the parties to the agreement and foster intergovernmental collaboration and communication, but they may also provide for stakeholder involvement. To date, institutional arrangements involving stakeholders have been generally exclusive

to the issues stated in the labour, sustainable development chapters, and/or the side agreements on labour, but an evolution to broaden the scope is expected for agreements under negotiation (e.g. those of the EU).

Regarding mechanisms with governmental representation, all G7 agreements provide for the establishment of national contact points, which are the first points of interaction between the parties and the primary mechanism for communication with the general public at the national level. Most agreements also provide for a joint mechanism involving governments at the ministerial level (or their representatives), with the purpose of monitoring the agreement and discussing any other matter related to the provisions. However, in practice, these governmental mechanisms have not been implemented consistently among some of the G7 members.

All G7 countries provide for mechanisms to involve stakeholders (including social partners) on a mandatory (e.g. EU) or non-mandatory (e.g. US) basis, and in some cases establish a joint mechanism for transnational dialogue. Stakeholders, in some G7 agreements, may also file public submissions or ‘complaints’ in case of a perceived lack of compliance with labour commitments.

### *G7 RTAs with labour provisions also foster cooperation between the parties.*

In general terms, cooperation may include development cooperation, technical assistance, dialogue, exchange of information and best practices, research and trainings. Cooperative activities are also important when disputes arise. Parties may agree on action plans that can provide technical assistance and channel resources to support development cooperation activities with trade partners in specific labour related areas.

G7 trade agreements provide for dedicated mechanisms for different activities that can be carried out in the framework of cooperation according to specific priorities. For instance, the United States includes a labour

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cooperation and capacity building mechanism, and Canada appends an annex targeting specific cooperative activities and issues. The EU generally inserts a dedicated article in the trade and sustainable development chapter or may refer to other chapters on cooperation. Moreover, Canada, the EU and the United States foster other means for cooperation in the multilateral arena.

*All countries include a dispute settlement mechanism that encourages dialogue while addressing compliance shortcomings.*

When differences regarding implementation or interpretation of the labour provisions arise between the parties to the agreements, most trade agreements with a G7 country as a partner include one or more means of dispute resolution. In practice, G7 countries rely on dialogue before triggering the dispute settlement mechanism.

Currently, in G7 countries, all obligations in specific labour or sustainable development chapters may be subject to dispute settlement, either to the general mechanism provided by the agreement or a labour specific one. At any point during a dispute settlement process, the parties may reach a solution through dialogue or suspend the process to implement an action plan.

Not all trade agreements include the possibility of sanctions, which may imply the suspension of trade benefits or a monetary assessment. Trade sanctions have been indicative of mainly the US approach, while Canada usually relies on monetary assessment. However, in CPTPP, Canada and Japan have included the possibility of suspension of the trade agreement's benefits. In 25 years of the existence of labour provisions in trade agreements, only one arbitration panel has been constituted. This occurred in the case of Guatemala under its agreement with the United States. In the case of the EU, there is no recourse to sanctions, but there are institutional arrangements to keep parties engaged in remedying the situation.



*The ILO has been engaged, upon request, in assisting countries to promote and effectively implement international labour standards in the context of trade agreements.*

The ILO assists countries in their efforts to comply with labour provisions in trade agreements, in compliance with the spirit of the Organization's mandate to establish international labour standards; promote their ratification and implementation in the Member states; and supervise their application.

In this respect, the ILO has a number of complementary roles in assisting its Members:

- The first role consists of providing advice and technical expertise on labour issues, when requested, which it has been doing on an ongoing basis.
- The ILO's supervisory mechanism also serves as an indirect source of information. The comments of the supervisory bodies on the monitoring and following-up on the implementation of international labour standards, in particular, may serve partner countries to a trade agreement to understand how these standards are implemented in practice.
- The ILO is also involved in assisting countries, upon request, in strengthening their capacity to adhere to obligations in labour provisions. This assistance is given in the form of development cooperation projects that are either carried out by ILO's technical departments or by its field offices. Examples of this activity are found in the implementation of the EU–Colombia–Peru–Ecuador Trade Agreement and the United States–Colombia Trade Agreement and its Action Plan Related to Labor Rights.
- Additionally, the ILO conducts research on trends, implementation and effectiveness of labour provisions in RTAs and provides training to social partners.

The ILO could have an even stronger impact in making labour provisions more effective through increased engagement with social partners and tripartite dialogue in the framework of trade agreements.

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*Going forward, the challenges to multilateralism have led to a call for increased dialogue.*

The challenges to multilateralism have led to a call for increased dialogue, potentially leading to greater policy coherence, among international organizations. The ILO Global Commission's Report on the Future of Work highlights these challenges, while emphasizing the need to seek greater coherence among social, economic and trade policies in order to fulfil the human-centred agenda for growth and development.

The Global Commission's perspective resonates strongly with the G7 Presidency's call for "networked multilateralism" as a key element in addressing global inequality. The G7 could play a strong role in facilitating precisely the kind of dialogue within the multilateral system that could advance the analysis and understanding of the contributions of labour provisions to inclusive and sustainable growth and development.



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# 1.

## **INTRODUCTION: TRADE AND SUSTAINABLE DEVELOPMENT**

Labour provisions in trade agreements have been one tool used by G7 countries to set framework conditions for decent work. In 45 current G7 trade agreements, representing over 90 countries, labour provisions have increasingly become more commonplace and comprehensive in the past two and a half decades. Part governance tool and part cooperative framework, labour provisions commit countries to upholding labour standards, implementing mechanisms for stakeholder involvement and/or promoting dialogue, monitoring and exchanging information on a number of labour related issues.

Almost 70 per cent of labour provisions reference instruments of the International Labour Organization (ILO), in particular the 1998 ILO Declaration on Fundamental Principles and Rights at Work (ILO 1998 Declaration) and the ILO fundamental Conventions, which are underpinned by the principles and associated rights that are considered essential for social justice.<sup>1</sup> Previous ILO research has focused on the effectiveness of these provisions and has confirmed their beneficial impact with respect to easing labour market access and improving some conditions of work for women (ILO, 2016, 2017). It is significant that the studies have also found that labour provisions have not been used for protectionist purposes, nor have they diverted or decreased trade flows. In fact, trade agreements with and without labour provisions have boosted trade to a similar extent. These findings support evidence indicating that respect for core labour standards does not reduce exports or investment and can be a signal to foreign investors of the existence of good governance (OECD, 1996, 2000).

<sup>1</sup> Fundamental principles and rights at work (FPRW) are: Freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.

There is, however, scope for further improvement, including meaningful stakeholder involvement and government accountability in reducing the persistent gaps between labour legislation and its enforcement. Recent trade agreements concluded by some G7 countries indicate steps in this direction through time bound commitments, strengthening the capacity of institutions to enforce laws and the effective implementation of cross-border dialogue mechanisms.

This report is structured as follows: After these short introductory comments, Section 2 lays out the definition of labour provisions and discusses the scope of the analysis. Section 3 provides a broad overview of approaches in G7 countries with respect to linking the promotion of international labour standards to trade. The country specificities and the comparative analysis relating to the means of action are discussed in Section 4. The means of action include obligations, institutional arrangements, cooperative activities and dispute settlement mechanisms (DSMs). Finally, Section 5 considers the role of the ILO in this process and proposes issues for further reflection.

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## 2.

### CONCEPTUAL FRAMEWORK AND TRENDS IN LABOUR PROVISIONS

#### *2.1. Definition of labour provisions*

There are different definitions of labour provisions in the academic literature. The one applied for this analysis is a broad definition that is based on various aspects highlighted in the academic literature, policy documents and previous ILO research.<sup>2</sup> In this sense, labour provisions are both a tool for the governance of labour markets as well as a means for promoting compliance with international labour standards through dialogue and cooperative mechanisms. Labour provisions in trade agreements are defined as:

- (i) any principle or standard or rule which addresses labour relations or minimum working conditions and terms of employment;
- (ii) any mechanism to ensure compliance with the standards set under national law or in the trade agreement; and
- (iii) any framework for cooperative activities, dialogue and/or monitoring of labour issues.

Point (i) refers to the specific commitments and obligations with respect to labour standards and conditions of work – such as freedom and autonomy in choosing and carrying out work, minimum wages, working hours and occupational safety and health issues. Point (ii) relates to institutional and procedural commitments<sup>3</sup> for the implementation of the obligations and ensuring compliance. These institutional and procedural commitments include, for example, dialogue and monitoring frameworks as well as dispute settlement procedures. Point (iii) concerns cooperative activities to promote compliance. This may include development cooperation

<sup>2</sup> See, for instance, Addo, 2014; IILS, 2009; ILO, 2016; Kaufmann, 2007.

<sup>3</sup> Barbu et al. (2018, p. 264) refer to procedural commitments as the commitment to engage with civil society in monitoring, for example, through transparency and dialogue.

activities to support implementation as well as monitoring of the obligations through established bodies that facilitate consultations and/or regular dialogue between the parties.

Labour provisions are included in different types of trade arrangements. They were first incorporated in unilateral arrangements in 1974 as a part of the Generalized System of Preferences (GSP) of the United States. In 2001, labour provisions were integrated in the Everything But Arms (EBA) initiative of the European Union (EU), which later became part of the EU's Generalised Scheme of Preferences (GSP) and GSP+ arrangements. These unilateral programmes promote economic growth and development by providing duty free access to certain exports from eligible beneficiary developing countries based, among other criteria, on labour conditionality. Currently, 112 countries receive preferential market access based on these arrangements.<sup>4</sup>

Concerning the multilateral context, although a number of high level discussions on trade and labour conditionality did take place in the early days of international trade organizations, there is no prominent mention of labour standards within this framework (see Box 2.1) (Corley-Coulibaly and Puri, 2017). Article XX of the General Agreement on Tariffs and Trade (GATT), the precursor to the World Trade Organization (WTO), established general exceptions in 1994, whereby unacceptable conditions, including the use of prison labour, could trigger trade restrictive measures.<sup>5</sup> However, with the establishment of the WTO, a compromise was reached on the trade and labour linkage at the first Ministerial Conference held in Singapore in December 1996. The WTO Singapore Ministerial Declaration affirmed, among other things, that the ILO was the competent

<sup>4</sup> There are currently 101 independent countries that are US GSP-Eligible Beneficiaries. This excludes Mauritania, whose eligibility was suspended in January 2019 owing to issues of forced labour. It also excludes India and Turkey, which are also no longer beneficiaries of the programme since the termination of their designation as developing country beneficiaries took effect in June and May, respectively, because they do not comply anymore with the statutory eligibility criteria (USTR, 2019). There are 70 independent countries that are Eligible Beneficiaries of EU GSP (14), GSP+ (8) and EBA (48). This excludes Samoa and Ukraine, which acceded to, respectively, an Economic Partnership Agreement and a Deep and Comprehensive Free Trade Agreement. It also has excluded Ghana, Ivory Coast, Paraguay and Swaziland as of 1 January 2019. Paraguay has been classified by the World Bank as an upper-middle income country in 2015, 2016 and 2017, and it therefore no longer qualifies for GSP beneficiary status. Ghana, Ivory Coast and Swaziland have preferential market access arrangements that started to apply in 2016.

<sup>5</sup> Article XX of General Exceptions of the GATT includes exceptions for measures necessary to protect public morals (Article XX (a)); to protect human life and health (Article XX (b)); and relating to the products of prison labour (Article XX (e)). The exception also states that the measures should not be applied in a manner "which could constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade".

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body to set and deal with international labour standards.<sup>6</sup> This compromise, which was reaffirmed in the WTO's Doha Ministerial Declaration in 2001, essentially excused the WTO from further action with respect to labour, and it nullified the link between trade and labour standards in the multilateral context.<sup>7</sup>

This elimination of labour provisions from the multilateral system<sup>8</sup> created space for their proliferation in bi- and plurilateral trade agreements (hereafter referred to as regional trade agreements, (RTAs)).<sup>9</sup>

The first binding labour provision in an RTA was included in the North American Free Trade Agreement (NAFTA) between Canada, Mexico and the United States in 1994. Other agreements quickly followed, as the multilateral rounds of trade negotiations continued to stall.<sup>10</sup> This is part of a trend towards using trade policy to promote social sustainability in areas such as environmental and labour standards, with legally enforceable commitments. The limited number of participants in these agreements makes it easier to reach a consensus on these more sensitive issues, allowing them to be treated at greater depth and in wider scope than would be possible in the multilateral framework.

Although some argue that this tendency towards the conclusion of RTAs may be hindering multilateral liberalization by lowering incentives and reducing the urgency for subsequent multilateral negotiations, others suggest that it might be helpful to the process. For example, RTAs place

<sup>6</sup> The full statement reads: "We renew our commitment to the observance of internationally recognized core labour standards. The International Labour Organization (ILO) is the competent body to set and deal with these standards, and we affirm our support for its work in promoting them. We believe that economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of these standards. We reject the use of labour standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question. In this regard, we note that the WTO and ILO Secretariats will continue their existing collaboration." See paragraph 4 on "Core Labour Standards." (WTO, 1996).

<sup>7</sup> The 2001 Doha Ministerial Declaration (WTO, 2001) also took note of the ILO's work on the social dimension of globalization. For further discussion of the ILO's engagement in early trade discussions, see Reynaud (2018) and Tapiola (2018).

<sup>8</sup> This also includes follow-up discussions. The EU tried unsuccessfully to establish a joint ILO/WTO working group on the topic; the United States and Canada also failed to set up a WTO group. See for example, OECD (2000).

<sup>9</sup> The WTO uses the term "regional trade agreements" for any reciprocal preferential trade agreement between two or more partners. They include free trade agreements and customs unions. For further information on RTAs, see WTO (2019).

<sup>10</sup> The Uruguay Round lasted eight years, while the Doha Round, which started in 2001, has still not been concluded. WTO members came to an agreement in 2013 and adopted the "Bali Package"; however, the future of the Doha Round is still uncertain (WTO, 2013).



### Box 2.1 The Havana Charter, GATT, WTO and labour standards

One of the first and most ambitious attempts to link trade and labour issues in a multilateral trading system dates back to 1947, when the United Nations launched a Conference on Trade and Employment with the aim of establishing an International Trade Organization (ITO).<sup>a</sup> After contentious negotiations, the Havana Charter<sup>b</sup> was adopted, which extended beyond trade liberalization by affirming that full employment and economic development were “not of domestic concern alone” but constituted a “necessary condition” for the “expansion of international trade, and thus for the well-being of all other countries” (Ch. 2, Art. 2).

In the recognition that unfair conditions of employment could distort trade, the Havana Charter included an Article (Ch. 2, Art. 7) on “Fair Labour Standards”, which states:

1. The Members recognize that measures relating to employment must take fully into account the rights of workers under inter-governmental declarations, conventions and agreements. They recognize that all countries have a common interest in the achievement and maintenance of fair labour standards related to productivity, and thus in the improvement of wages and working conditions as productivity may permit. The Members recognize that unfair labour conditions, particularly in production for export, create difficulties in international trade, and, accordingly, each Member shall take whatever action may be appropriate and feasible to eliminate such conditions within its territory.

The Article also highlights the importance of a close collaboration with the ILO on labour standards:

2. Members which are also members of the International Labour Organisation shall co-operate with that organization in giving effect to this undertaking.
3. In all matters relating to labour standards that may be referred to the Organization ... it shall consult and co-operate with the International Labour Organisation.

<sup>a</sup> For an overview, see: Aaronson and Zimmerman (2008), Dutilleul (2018) and Graz (2016, pp. 281–290).

<sup>b</sup> Interim Commission for the International Trade Organization, “Havana Charter for International Trade Organization” (1948).

“pressure on the multilateral track to work better” and facilitate multi-lateral negotiations (Lawrence, 1996, p. 3) by starting with like-minded groups of participants. Additionally, the “move towards RTAs is a natural progression that can be equated to the more traditional establishment of

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diplomatic, or bilateral politico-economic relations” (Wilson, 2008, p. 1). Finally, the harmonization of some rules and regulations in countries with different settings could help reduce the costs and frictions that disparities between them would entail (Doumbia-Henry and Gravel, 2006), while also promoting and ‘importing’ best practices (WTO, 2011).

## *2.2. Recent trends in labour provisions*

As of mid-2019, there were 85 RTAs that included labour provisions. This represents just under one-third of the total RTAs in force (293) and notified to the WTO (see Box 2.2 and Figure 2.1). Most G7 countries have historically been the principal proponents of labour provisions and, as such, are responsible for half of the RTAs that include labour provisions.

Although G7 RTAs with labour provisions tend to be with developing country partners, there has recently been a trend towards RTAs with labour provisions between G7 partners. These North-North RTAs with labour provisions include: NAFTA (1994)<sup>11</sup>; the EU-Canada Comprehensive Economic and Trade Agreement (CETA, 2017); the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP, 2018) between 11 countries, including Canada and Japan; and the EU-Japan Economic Partnership Agreement (2019).

Although a greater share of the RTAs of the United States and Canada include labour provisions (at least 85 per cent), in absolute values, the EU has a larger number of RTAs with labour provisions (18). More recent RTAs that have entered into force with G7 countries tend to include labour provisions. As of 2019, Canada had included labour provisions in 12 of its 14 agreements in force (up from 9 of 11 in 2016), while the United States, which also has 14 agreements in force, has included labour provisions in 13 of them (see Figure 2.2 and Appendix II).<sup>12</sup> The EU has included labour provisions in 43 per cent of its RTAs, up from 40 per

<sup>11</sup> The labour provisions are contained in a side agreement, the North American Agreement on Labor Cooperation (NAALC). A new agreement between the United States, Mexico and Canada was signed in November 2018, but it has not yet been ratified.

<sup>12</sup> Canada’s two RTAs without labour provisions are Canada-Israel (1997) and Canada-EFTA (2009); the US agreement without a labour provision is the one between the United States and Israel (1985).

## Box 2.2 The methodological framework of labour provisions in RTAs

The ILO labour provision dataset draws on the WTO's Regional Trade Agreements Information System (RTA-IS) database, which, as of March 2019, includes 293 trade agreements, among 193 economies, in force and notified to the WTO. The WTO database has been used for two main reasons. First, the agreements are in force; hence, they currently have effects on the parties to the agreement. Second, these agreements are recognized by a multilateral organization and are compliant with WTO rules.<sup>a</sup> Although there are more comprehensive databases,<sup>b</sup> they also include trade agreements that are no longer in force and have not been notified to the WTO.

In terms of their location, only labour references and obligations that go beyond the aspirational statements included in the preamble are considered.<sup>c</sup> While the preamble may provide guidance in the interpretation of the agreement as a whole, it is generally considered non-binding or limited in strength (Bartels, 2014). Thus, this report considers labour references and obligations that are contained in the core text of the agreement (such as the different chapters) and/or in side agreements or parallel agreements on labour (such as a memorandum of understanding or an agreement on labour cooperation).<sup>d</sup>

With respect to the content of the labour provision, this report takes three aspects into account: (i) reference to the labour standard; (ii) compliance mechanism; and (iii) framework for cooperative activities. Where possible, ILO instruments are identified, such as the 1998 Declaration and ILO fundamental Conventions, as well as reference to additional elements, such as gender and corporate social responsibility (CSR). For a list of all G7 RTAs with labour provisions, see Appendix I.

<sup>a</sup> Agreements notified to the WTO are examined by the Committee on Regional Trade Agreements or the Committee on Trade and Development (when they are registered under the Enabling Clause).

<sup>b</sup> See, for example, Dür et al. (2014).

<sup>c</sup> See, for example, the agreement between the European Free Trade Association (EFTA) and Canada, which is aspirational.

<sup>d</sup> In some cases, these side agreements can be non-binding. An example in G7 countries is included as part of the Chile-Japan trade agreement, in which a Ministerial Declaration on labour is made. Declarations, unless otherwise agreed, are generally non-binding under international law.

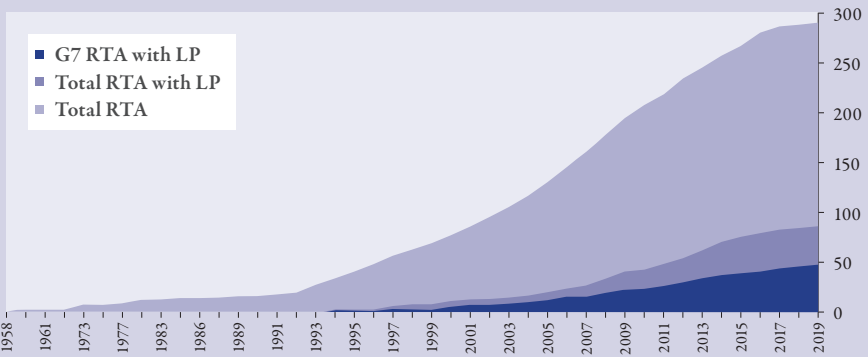
cent in 2016.<sup>13</sup> Since 2013, only 2 out of 13 EU RTAs in force have not included labour provisions.<sup>14</sup> Japan has included labour provisions in 6 of its 18 agreements in force, owing to the recent ratifications of EU-Japan and CPTPP in 2018.<sup>15</sup>

<sup>13</sup> The EU has different agreements that include a trade pillar, but may not necessarily include labour provisions.

<sup>14</sup> This includes EU-Ghana and EU-Côte d'Ivoire, both of which entered into force in 2016.

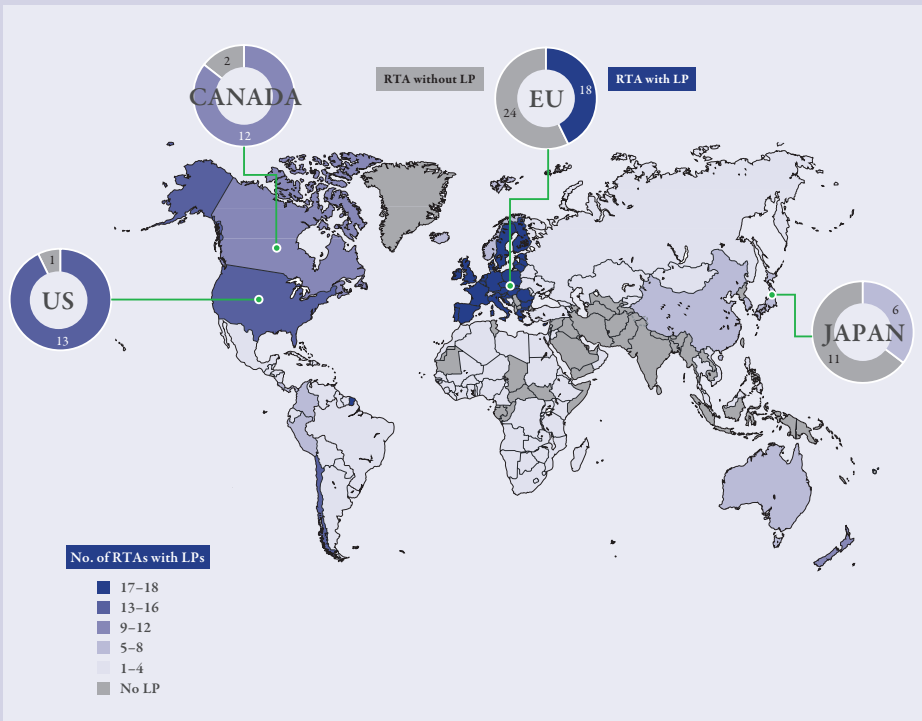
<sup>15</sup> Japan's RTAs with labour provisions are located in the investment chapters in agreements with Switzerland (2008), the Philippines (2006) and Mongolia (2016).

**Figure 2.1. Regional trade agreements (RTAs) with and without labour provisions, G7 and global, 1958–2019**



Note: RTA = Regional Trade Agreement; LP = Labour Provision.  
Source: ILO Research Department based on WTO RTS-IS database.

**Figure 2.2. Global coverage of RTAs (in force) with labour provisions**



Note: The map covers 193 economies, of which 138 economies included labour provisions (LP) in their RTAs. 94 economies signed between 1 and 4 RTAs with LPs; while 12 economies signed between 5 and 8 RTAs with LPs. 2 economies signed between 9 and 12 RTAs with LPs, that includes New Zealand and Canada. As well, there are 2 economies, United States and Chile, that signed between 13 and 16 RTAs with LPs. Finally, there are 28 EU economies that signed 18 RTAs with LPs. RTA = Regional Trade Agreement; LP = Labour Provision.  
Source: ILO Research Department based on WTO RTS-IS database.

There is also an increasing number of South-South RTAs with labour provisions between developing and emerging country partners, the share of which represents about one-quarter of the total RTAs with labour provisions. As of mid-2019, there were 55 countries without labour provisions in any of their RTAs, with the vast majority of countries located in Southern Asia and the Middle East.

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# 3.

## OVERVIEW OF APPROACH IN G7 COUNTRIES

### *3.1. Linking international labour standards in RTA frameworks*

G7 countries increasingly consider the promotion and enforcement of international labour standards a trade policy tool. While some countries have a longstanding tradition in their legislation of considering labour rights in relation to trade, the depth and scope of the labour related objectives have increased over time.

The most recent US legislation that lays out labour obligations in RTAs is the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (TPA 2015). The Act requires that RTAs ensure that: (i) a party does not fail to effectively enforce its own labour laws and that such laws must include core labour standards as stated in the 1998 Declaration (in the case of environment commitments, in multilateral environmental agreements); and (ii) parties do not derogate from or waive labour standards affecting trade or investment between the parties.<sup>16</sup> Additionally, the Act allows governments to retain discretion in implementing their labour statutes, but not in such a way as to prevent them from complying with their obligations under the RTA. In addition, the Act emphasizes the strengthening of the capacities of the trade partners to comply with obligations (both labour and environment), and it subjects these obligations to the same dispute settlement mechanism and remedies as other obligations under the agreement.

In the case of the EU, the “Trade for All” (2015) strategy reinforces the EU’s integration of sustainable development in RTAs, based on high labour and environmental standards coupled with development

<sup>16</sup> Public Law 114-26, 114th Congress, Sec. 102(b)(10). TPA 2015 expands on earlier Acts from 1988 and 2002.

cooperation.<sup>17</sup> The Council of the EU adopts negotiating directives and instructs the Commission to negotiate on behalf of the EU with different trade partners. These negotiating directives, which are not always publicly available, include specific commitments on sustainable development that the EU aims to include in the RTA.<sup>18</sup> Currently, EU Member States, the European Parliament and stakeholders are debating areas of improvement of trade and sustainable development chapters, and a 15-point plan has been put forward by the European Commission (European Commission Services, 2018).

Canada has promoted the inclusion of core labour standards and linkages to trade since the 2001 Summit of the Americas in Quebec. Moreover, Canada's trade policy also promotes the enhancement of basic workers' rights and the improvement of working conditions and living standards, along with the development of cooperative activities and technical assistance in the framework of such agreements (Government of Canada, 2018a; 2018b). Canada's approach also places specific emphasis on inclusive trade, with an agenda that comprises an emphasis on women, indigenous peoples and other groups that have historically benefited less than others from trade (Palladini and Goldfarb, 2018).

Japan's "Development Strategy for Gender Equality and Women's Empowerment" (Government of Japan, 2016) also focuses on inclusive development that fosters women's participation in the labour market and "traditionally male-centered areas". Although not explicitly a trade policy, the document signals trade as one area of emphasis for more inclusivity.

At the WTO level, during the process of trade policy review, Canada, the EU and the United States reaffirmed their commitments to labour rights as core values, expressing concern for workers affected by trade domestically and in their trade partners' countries (WTO, 2015, 2017, 2018).

<sup>17</sup> Earlier strategies and policies include the European Council's Strategy adopted in 2006 together with the Communication from the European Commission (EC) of the same year, with a focus on sustainable development that has continued until today (Council of the European Union, 2006; European Commission, 2006).

<sup>18</sup> See, for example, the Directives for the negotiation of a Free Trade Agreement with Japan, where guidelines are set for the negotiation of the trade and sustainable development chapter (Council of the European Union, 2017).

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### 3.2. *Key characteristics of G7 RTAs*

Depending on the approach, labour issues are dealt with in different parts of an RTA. This includes the preamble of the agreement itself, labour and sustainable development chapters, cooperation chapters (with or without a linkage to trade issues) and parts of other chapters, such as investment and rules of origin.<sup>19</sup>

As mentioned above, labour provisions can also be located in side agreements or parallel agreements on labour (such as a memorandum of understanding or an agreement on labour cooperation). The location is important, as it has implications for the legal status of the labour provision and the mechanisms applicable to it (such as the institutional arrangements): it may also influence the applicability of the dispute settlement and remedy mechanisms. Examples of RTAs with labour provisions in the preamble, core text and side agreements can be found in table 3.1.

In general, more recent G7 labour or sustainable development chapters in RTAs have similar characteristics with regard to their general framework: (i) referencing the labour obligations; (ii) laying out the institutions or procedures for social partner and civil society participation in different phases of the agreement; and (iii) establishing the rules for complaint and dispute settlement. Additionally, to promote compliance, mechanisms are also put in place to improve bilateral dialogue and cooperation and to address institutional weaknesses through development cooperation and technical assistance.

Although, broadly speaking, the G7 countries follow this framework, there are country specificities, particularly pertaining to means of action. Indeed, each country has its own approach, which has evolved over time on the basis of its own principles and goals. These specificities with respect to obligation and implementation will be discussed further in Section 4.

<sup>19</sup> The US-Mexico-Canada Free Trade Agreement (USMCA) – which is not yet in force – establishes some labour requirements in Chapter 4 on Rules of Origin (Annex 4-B, Article 7): a “labour value content” (relying on the payment of average wages of US \$16 per hour) for vehicles (passengers and light and heavy trucks) needs to be fulfilled in order for these vehicles to be considered “originating goods” of the North American parties. EU-Canada makes reference to the trade and sustainable development chapter when dealing with regulatory cooperation (Article 21.1).



**Table 3.1. Location of labour provisions in trade agreements, examples of G7 and other agreements**

Labour provisions location		RTA
Core text	Labour chapter	<ul style="list-style-type: none"> <li>• US-Colombia Free Trade Agreement (FTA) (Chapter 17 + annex on Labour Cooperation and Capacity Building Mechanism)</li> <li>• Canada-Rep. of Korea FTA (Chapter 18)</li> </ul>
	Trade and sustainable development chapter	<ul style="list-style-type: none"> <li>• EU-Rep. of Korea FTA (Chapter 13)</li> <li>• EFTA-Central America (Chapter 9)</li> </ul>
	Other chapters	<ul style="list-style-type: none"> <li>• Free Trade Agreement between the Republic of Chile and the Republic of Turkey (Cooperation chapter, Article 37)</li> <li>• Japan-Switzerland (Investment chapter, Article 101)</li> </ul>
	Annex	<ul style="list-style-type: none"> <li>• US-Colombia FTA (Annex on Labour Cooperation and Capacity Building Mechanism)</li> <li>• EU-Rep. of Korea FTA (Annex 13 on Cooperation)</li> </ul>
Side agreements		<ul style="list-style-type: none"> <li>• Memorandum of Understanding on Labour Cooperation between New Zealand and Hong Kong, China</li> <li>• Memorandum of Understanding on Labour Cooperation among the parties to the Trans-Pacific Strategic Economic Partnership Agreement (P-4, New Zealand, Chile, Singapore, Brunei)</li> <li>• Agreement on Labour Cooperation between Canada and the Republic of Honduras</li> </ul>

Source: Compilation by ILO Research Department.

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# 4.

## CONTENT OF LABOUR PROVISIONS: COMPARATIVE ANALYSIS

### 4.1. *Obligations related to principles, standards and regulations*

Trade agreements are negotiated among States, which are the parties to the agreement. Trade agreements are instruments binding upon the parties, and, unless the agreement specifies otherwise, all parties, irrespective of their level of development, must comply in good faith with the provisions of the agreement. These agreements may include labour provisions that can be soft, such as aspirational undertakings (e.g. “parties should strive to”) and also hard legal obligations (e.g. “parties shall enforce”, or “shall not waive”).

Obligations – soft or hard – refer to specific principles, standards and regulations. For instance, some trade agreements commit the parties to enforcing national labour laws effectively (in which case, some agreements explicitly mention what is to be understood by labour laws)<sup>20</sup> and/or international principles and standards. The most frequent reference is the ILO 1998 Declaration and its follow-up. Agreements can also reference ILO Conventions (mostly the fundamental ones), the Decent Work Agenda and the 2008 Declaration on Social Justice for a Fair Globalization. References may also be made to other standards, such as acceptable minimum working conditions, including minimum wages, working hours and occupational safety and health. Figure 4.1 shows a general overview of the labour obligations found in trade agreements and their relationship to specific standards, principles and regulations.

Regarding the specific approaches of G7 countries, Canada, the EU and the United States have traditionally included obligations on the effective implementation or enforcement of labour laws. Such laws incorporate

<sup>20</sup> Labour laws, in some agreements of the United States and Canada, refer to laws and regulations of each party related to the internationally recognized rights. Previous agreements, such as NAFTA, excluded the principle of non-discrimination. Also, some agreements, particularly by the United States, explicitly refer to which governmental organs issue such laws, so that they can be considered by the trade agreement.

specific rights and principles, namely: “internationally recognized labour rights” (Canada’s approach);<sup>21</sup> the rights stated in the ILO 1998 Declaration and its follow-up (United States’ approach);<sup>22</sup> or internationally recognized core labour standards as contained in the ILO fundamental Conventions (EU’s approach). Canada, since the North American Agreement on Labour Cooperation, has consistently included, as part of its “internationally recognized labour rights”, the right to “non-discrimination in respect of working conditions for migrant workers”, with the sole exception of CPTPP, which only incorporates such reference as a cooperation issue.<sup>23</sup> Agreements of Canada, the EU and the United States provide that, in order to constitute a violation of the aforementioned obligation, the lack of effective enforcement shall occur in a *sustained or recurring course of action or inaction*. Canada and the United States add to the same obligation a relation to trade,<sup>24</sup> while the EU includes this relation only in the agreement with Japan.

Unlike other G7 members, the EU has consistently incorporated a commitment related to the effective implementation of the ratified ILO Conventions and an obligation for the parties to make efforts towards ratifying remaining fundamental ILO Conventions and/or to provide information on the progress towards ratification (some agreements make reference also to the up-to-date or priority Conventions).<sup>25</sup> Other G7 coun-

<sup>21</sup> Internationally recognized labour rights refer to: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour and a prohibition on the worst forms of child labour; (d) the elimination of discrimination in respect of employment and occupation; (e) acceptable minimum employment standards, such as minimum wages and overtime pay, for wage earners, including those not covered by collective agreements; (f) the prevention of occupational injuries and illnesses and compensation in cases of occupational injuries or illnesses; and (g) non-discrimination in respect of working conditions for migrant workers. Canada specifies that the rights from (a) to (d) refer to the ILO 1998 Declaration, while those from (e) to (g) are based on the Decent Work Agenda.

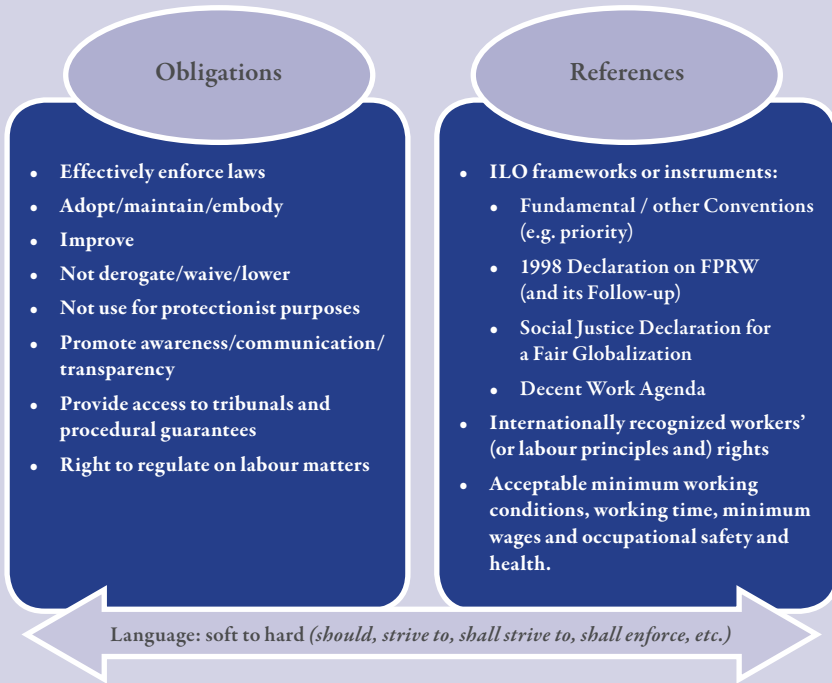
<sup>22</sup> In CPTPP, however, labour laws are defined with reference to internationally recognized labour rights incorporating: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour and a prohibition on the worst forms of child labour and other protections for children and minors; (d) the elimination of discrimination in respect of employment and occupation; and (e) acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health. USMCA (signed in 2018, but not yet in force, with text as of March 2019) also refers to the same rights.

<sup>23</sup> In EU agreements, only EU-Colombia/Peru (2013, with Ecuador joining in 2017) incorporates a reference to promoting equality of treatment and elimination of discrimination between workers, including migrant workers legally employed (Article 276).

<sup>24</sup> USMCA’s labour chapter includes a definition of the phrases “sustained or recurring course of action or inaction” (see footnotes to Articles 23.5, 23.7 and 23.9) and “in a manner affecting trade and investment between the Parties” (see footnotes to Articles 23.3, 23.4, 23.5, 23.7 and 23.9). This following the decision of the arbitral panel related to the case *In the Matter of Guatemala – Issues Relating to the Obligations Under Article 16.2.1(a) of the CAFTA-DR*. See a further USMCA analysis in Claussen (2018); Ebert and Villarreal (2018).

<sup>25</sup> See, for example, EU-Japan (2019), Article 16.1.3; EU-Ukraine (2014), Article 291.3; EU-Colombia/Peru/Ecuador (2013), Article 269.4.

Figure 4.1. Relationship between obligations and references to specific standards



Source: ILO Research Department.

tries include this obligation in their trade agreements with the EU, for example in CETA and EU-Japan. All G7 countries establish obligations to not derogate or waive from their labour laws to encourage trade or investment.<sup>26</sup> CPTPP also references the application of these obligations in special trade or customs areas (e.g. export processing zones).<sup>27</sup> In the case of Japan, the non-derogation clause is solely investment related.<sup>28</sup> The Japan-Philippines agreement is the only agreement involving Japan (excluding its agreements with other G7 partners) that defines labour laws

<sup>26</sup> Some variations are found in CPTPP and Canada-Rep. of Korea, where the non-derogation is limited to the rights and obligations established in the agreement.

<sup>27</sup> Similarly, USMCA adopts such an approach (Article 23.4(b)).

<sup>28</sup> Article 103 of the Japan-Philippines Economic Partnership Agreement and Article 101 of the Japan-Swiss Confederation Free Trade and Economic Partnership Agreement.

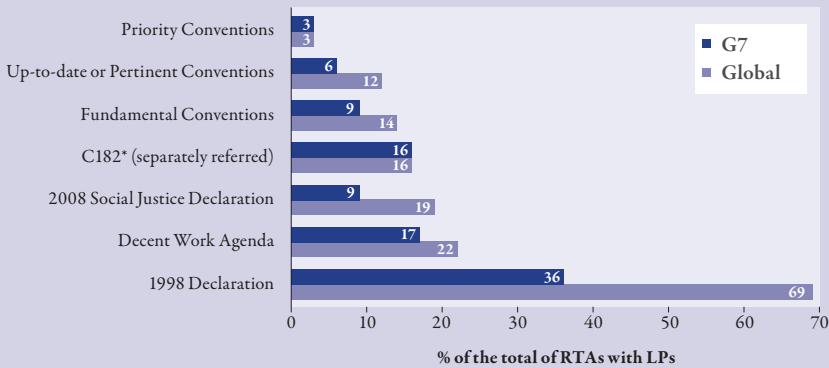
as those regulations directly related to “internationally recognized labour rights”; other agreements refer broadly to labour laws.<sup>29</sup>

Additionally, while establishing a right to regulate on labour matters, EU agreements also emphasize that labour provisions should not be used for protectionist purposes. In CPTPP, the parties also include this clause.

It is worth noting that, in most agreements, the G7 countries reaffirm their obligations as members of the ILO. Figure 4.2 shows the number of agreements that make reference to various ILO instruments.

Turning to references related to specific actions that governments undertake to ensure enforcement, Canada, the EU and the United States include specific obligations regarding public awareness of labour legislation. Canada and the United States also include provisions on ensuring access to justice and remedy and procedural guarantees. These provisions in the case of Canada (and in the case of the EU and Japan in CETA and CPTPP,

**Figure 4.2. References to ILO instruments in RTAs, G7 and global**



Note: C182 refers to the Worst Forms of Child Labour Convention, 1999 (No. 182).  
 Source: ILO Research Department.

<sup>29</sup> Article 103 sets out the following: (a) the right of association; (b) the right to organize and bargain collectively; (c) a prohibition on the use of any form of forced or compulsory labour; (d) labour protections for children and young people, including a minimum age for the employment of children and the prohibition and elimination of the worst forms of child labour; and (e) acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health.

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respectively)<sup>30</sup> also include commitments regarding labour administration and labour inspection, for instance with respect to appointing and training labour inspectors.<sup>31</sup>

Finally, G7 countries have been proponents of other obligations with a link to labour, such as corporate social responsibility (CSR). In Canadian agreements, this is characteristic of investment chapters, which make reference to internationally recognized standards (CPTPP includes a reference in the labour chapter),<sup>32</sup> while the EU references CSR not only in its trade and sustainable development chapters, but also in other parts of the agreements.<sup>33</sup>

#### 4.2. *Institutional arrangements*

Trade agreements provide for different arrangements or mechanisms to facilitate communication, monitoring and implementation of the commitments. These mechanisms may be exclusive to the parties to the agreement or provide for stakeholder participation. They are generally exclusive to the issues stated in the labour or sustainable development chapters and/or the side agreements on labour.

Regarding mechanisms exclusive of governments, G7 agreements provide for the establishment of national contact points, and countries have established an office for all agreements.<sup>34</sup> Contact points are generally mandated to be the first point of interaction between the parties and the primary mechanism for communication with the general public at the national level. In the case of the United States and Canada, the contact points also receive and process the submissions from the public.

<sup>30</sup> In the case of the EU, in agreements under renegotiation or updating, it is expected that provisions on labour inspectorates will be included (e.g. in the yet to be signed EU-Mexico FTA). The signed text of USMCA also includes such a reference.

<sup>31</sup> See e.g. Canada-Rep. of Korea (2015), Article 18.4; Agreement on Labour Cooperation between Canada and Jordan (2012), Article 3. In the case of CPTPP, areas of cooperation may include labour inspection (19.10 (6)(m)).

<sup>32</sup> Canada has mentioned CSR also in preambles of side labour cooperation agreements (e.g. Canada-Jordan, 2012; Canada-Panama 2013). Other agreements of non-G7 countries, such as those of EFTA, also make reference to CSR in their Trade and Sustainable Development chapters.

<sup>33</sup> For more information, see Peels et al. (2016).

<sup>34</sup> For the United States, for example, this is the Office of Trade and Labor Affairs (OTLA) in the Department of Labor.

Moreover, most agreements provide for a joint mechanism involving governments at the ministerial level, also with the purpose of monitoring the agreement and discussing any other matter related to the provisions. For the EU, this mechanism generally is the Trade and Sustainable Development Committee (or subcommittee, depending on the agreement). Canada includes a Ministerial Council or Labour Council (as in CPTPP), which, in addition to the monitoring functions, explicitly provides for the establishment of working groups.<sup>35</sup> The United States also includes a Labour Affairs Council or Labour Council, while Japan has included a subcommittee for investment. In terms of implementation, Canada, in a recent self-evaluation of its trade agreements, did not find any evidence of the activities of the Ministerial or Labour Council. The main engagement with its trade partners for discussing matters related to the provisions of the agreements has been through the contact points and programme officials.<sup>36</sup> The EU has consistently held meetings of the institutional arrangement established. It has included in the discussions the implementation of ILO Conventions as well as other issues, such as CSR. For example, under the EU-Rep. of Korea agreement, six meetings have been held.

Both Canada and the United States include in their agreements provisions for sessions with the general public after the governments meet. However, in practice, the implementation of these stipulations is challenging. As of 2014, the United States has held ten labour meetings with 16 trade partners,<sup>37</sup> followed by public sessions. Some of the issues discussed included changes in labour law.

Canada, the EU and the United States also establish mechanisms for stakeholder involvement. The EU makes the establishment of advisory bodies (or the use of existing mechanisms) mandatory for parties to the agreements. The United States also provides for these bodies, but they are not mandatory.<sup>38</sup> Canada's recent agreements, such as CPTPP and

<sup>35</sup> See, e.g., Agreement on Labour Cooperation between Canada and the Republic of Honduras, Article 7.2(b). Canada-Rep. of Korea does not include the establishment of such groups.

<sup>36</sup> The report states: "The evaluation found no evidence of the required Ministerial Council reviews of operations and effectiveness being planned or undertaken as part of the implementation process." Government of Canada (2018a, p. 13).

<sup>37</sup> See United States Department of Labor, Bureau of International Labor Affairs (ILAB). n.d.

<sup>38</sup> For example, Article 16.5(4) of US-Panama FTA sets out: "Each Party may convene a new, or consult an existing, national labor advisory or consultative committee, comprising members of its public, including representatives of its labor and business organizations, to provide views on any issues related to this Chapter".

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Canada-Ukraine, also include this feature. In terms of composition, all stakeholder bodies comprise representation of business, labour and the public. The EU also includes environmental representatives due to the nature of the trade and sustainable development chapter incorporated its agreements.

However, it is characteristic of the EU's approach to establish permanent institutional mechanisms that are explicitly aimed at promoting dialogue between members of the civil society of all trade partners. Both Canada and the United States include a mechanism available to stakeholders to file public submissions in the case of non-compliance with the labour obligations established by the parties. Through public submissions, stakeholders can provide information to the trade partners that may trigger a deep investigation, initiate further dialogue or activate the dispute settlement mechanism. The EU normally does not include submissions from the public as part of its agreements; exceptionally, this provision is found in CETA, which states that the parties shall communicate public submissions to their domestic advisory groups.<sup>39</sup> Most EU agreements, however, allow their domestic advisory groups or civil society forums to submit views on the implementation of the agreement to the parties. The submissions from stakeholders have proven to be relevant, particularly for the activation of dispute settlement mechanisms, as examined below. Table 4.1 provides an overview of the institutional arrangements and composition in G7 trade agreements.

### *4.3. Cooperation and Development*

Irrespective of a country's approach, most trade agreements with labour provisions include a section to foster cooperation between the parties. In general terms, cooperation may include development cooperation (technical cooperation), technical assistance, dialogue, exchange of information and best practices, research and the promotion of actions and programmes to promote labour rights (for example trainings or the elaboration of manuals for labour inspectors and the social partners).

<sup>39</sup> CETA (2018), Article 23.8(5).



Table 4.1. Institutional arrangements in G7 RTAs: Government and stakeholder involvement

Approach	Level	Arrangement	
		State	Stakeholders
Canada	National	National contact points (which receive public submissions)	National advisory body or consultative committee (permanent or agreement specific)
	Cross-border	Labour Ministerial Council (agreement specific)	Council may establish expert/working groups Council meets with public after sessions No formal cross-border mechanism but public submissions
European Union	National	Contact points (only in CETA explicitly receive public submissions)	Domestic Advisory Groups (agreement specific)
	Cross-border	Committee on Trade and Sustainable Development (agreement specific)	Civil Society Forum
Japan	National	Contact points (investment chapters, EU-Japan, CPTPP)	Domestic groups (named accordingly EU-Japan and CPTPP)
	Cross-border	Subcommittee for investment	Civil Society Forum (EU-Japan)
United States	National	National contact points (receive public submissions)	National Advisory Committee (permanent body)
	Cross-border	Labour Affairs Council (agreement specific)	Council meets with public after sessions No formal cross-border mechanism but public submissions

Source: ILO Research Department.

The cooperative activities are decided by the parties to the agreement. Cooperative activities can be discussed through the institutional arrangements provided by the agreements. In addition, some agreements, particularly in the case of Canada, the EU and the United States, provide for cooperation at the multilateral level, including relevant international

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organizations. With regard to Japan, this is observed in CPTPP and EU-Japan. Follow-up of the implementation of cooperative provisions related to labour is carried out through contact points and government committees, which are part of the institutional arrangements. The support of stakeholder groups is important in the follow-up.

The agreements provide for dedicated mechanisms or provisions on cooperation on labour matters to implement cooperative activities. For instance, the United States includes a labour cooperation and capacity building mechanism in its agreements, and Canada adds an annex to determine the cooperative activities. CPTPP, for example, includes a dedicated article with details on activities and priorities.<sup>40</sup> The EU generally includes a dedicated article that relates to other chapters on cooperation.

The United States emphasizes cooperation that is directly linked to facilitating the effective enforcement of the Worst Forms of Child Labour Convention, 1999 (No. 182), and has supported many development cooperation programmes on this issue.<sup>41</sup> Canada has a similar approach regarding child labour.

Cooperative activities are important also in the context of a dispute. As noted below, parties may adopt action plans when they address issues related to the implementation of labour provisions. In such action plans, they can provide technical assistance to their trade partners, such as in the case of the Guatemala Labour Enforcement Plan (2013). Both the United States and the EU have used the technical assistance of the ILO to support their cooperative activities, for example in CAFTA-DR<sup>42</sup> and CARIFORUM<sup>43</sup> countries, respectively, after the entry into force of the agreements. The EU's programmes have focused on promoting awareness among workers about labour rights, with the specific focus on migrant

<sup>40</sup> With the exception of CPTPP, Japan pays only limited attention to cooperation activities with regard to labour. While Japan's agreements provide for a subcommittee on cooperation, there is no reference to labour issues.

<sup>41</sup> See Chapter 4 in ILO (2016).

<sup>42</sup> That is, the countries that are part of the Dominican Republic-Central America Free Trade Agreement with the United States: Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, as well as the Dominican Republic.

<sup>43</sup> The Caribbean Community (CARIFORUM) in the agreement comprises the following states: Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St. Kitts and Nevis, Saint Lucia, St. Vincent and the Grenadines, Suriname and Trinidad and Tobago.

workers in the banana sector. Similar to the EU, the United States has supported cooperative activities in the agricultural industry but has also funded activities on child labour, training in labour rights and improving the infrastructure to enforce labour laws. Both the United States and Canada have supported programmes to address child labour in Colombia. The US programmes have also focused on educating workers on filing labour and criminal complaints and training union leaders on skills needed for collective bargaining, research, communication and conflict resolution. Canada has prioritized activities that promote social dialogue.<sup>44</sup>

#### 4.4. *Dispute settlement*

When differences regarding implementation or interpretation of the labour provisions arise between the parties to the agreements, most trade agreements covering also G7 countries include one or more dispute resolution mechanisms. As mentioned in the previous section, institutional arrangements provide a platform for discussions of any labour issue, including implementation of obligations, originating from the agreement. In practice, G7 countries exhaust dialogue opportunities before triggering the dispute settlement mechanism.

Activation of the dispute settlement mechanism is reserved for governments. But a series of steps (mandated or not by the agreement) are taken beforehand. In the case of Canada and the United States, this consists of public submissions to the national contact points, namely the Canadian National Administrative Office (NAO) and the Office of Trade and Labor Affairs (OTLA), respectively, which may accept or decline the submission for review.

Once accepted for review by the corresponding authority of one party to the agreement, a follow-up process prior to the formal activation of the

<sup>44</sup> See, for example, “Strengthening of the Institutionalized Social Dialogue through the National Commission on Wage and Labour Policies and its Similar Bodies in Colombia” (implemented by ILO), supported by Canada (Canada-Colombia); “Improving Labour Conditions of Banana Workers by Improving Literacy Rates and Distributing Information about Labour Regulation Compliance” (EU-CARIFORUM, implemented from 2013 to 2016); “Workers’ Rights Centers” (implemented by Escuela Nacional Sindical) (2013–2017); “Promoting Compliance with International Labour Standards in Colombia” (implemented by ILO) (2012–2016), both under US-Colombia.

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dispute settlement mechanism is initiated. A report of review is issued by the authority, and, depending on its findings, the responsible authority may recommend different avenues to resolve the issues. These include engaging in dialogue through the institutional arrangements set forth in the agreements along with time-bound monitoring<sup>45</sup>, the development of action plans and/or cooperative labour consultations. In the case of the EU-Rep. of Korea agreement, the views submitted by the domestic advisory groups have been relevant for monitoring and follow-up and could lead to the establishment of the first panel of experts under an EU agreement.<sup>46</sup>

A formal consultation mechanism in dispute settlement is provided in the agreements of all G7 countries.<sup>47</sup> Consultations can be requested in writing by one party or the other. Holding formal consultations is a prerequisite to requesting the establishment of a panel of experts or arbitral panel (“panel”), which is the final authority established to address the dispute.<sup>48</sup>

Appendix III includes examples of public submissions that have led governments to examine claims of non-compliance with labour provisions, negotiate plans of action, foster dialogue and activate formal consultations or the establishment of a panel.

Currently, in all G7 countries, all obligations in specific labour or sustainable development chapters may be considered by the panel. However, this was not always the case. US agreements prior to 2006 established that only the obligation of “effective enforcement of labour laws” could be subject to arbitration. Similarly, in agreements prior to 2014, Canada

<sup>45</sup> See, for example, the labour action plan (2015) adopted between the United States and Honduras under CAFTA-DR and the action plan (2018–2021) recently negotiated by Canada and Colombia under the Labour Cooperation Agreement.

<sup>46</sup> At the time of writing, the period to solve the matter in consultations had expired (on 18 March 2019). A letter dated 4 March 2019 to the relevant ministers of the Republic of Korea asked for the immediate resolution of the issues in question; otherwise, the activation of a panel of experts could follow (European Commission, 2019a). In the letter, the EU requested evidence of concrete steps taken to address its main concerns. Furthermore, on 9 April 2019, at the 8th Trade Committee meeting under the agreement, the labour issues, including the pending ratification of four ILO fundamental Conventions, was raised by the EU Commissioner for Trade. (European Commission, 2019b).

<sup>47</sup> Prior to the initiation of formal consultations, trade agreements of Canada and the United States require holding “amicable consultations”. Canadian agreements refer to “general consultations”, and US agreements mention “cooperative labour consultations”. The EU does not include this two-step approach, but CPTPP provides for non-mandatory “cooperative labour consultations”.

<sup>48</sup> Different designations are adopted for these panels. Canada refers to “Review Panel”, the EU to “Panel of Experts” and the United States to “Arbitral Panel”.

only considered obligations related to the 1998 Declaration and not to the Decent Work Agenda.<sup>49</sup>

There are additional distinctions among G7 countries. For example, Canada and the EU usually provide for a dedicated dispute settlement mechanism for labour or sustainable development. The United States and CPTPP, on the other hand, make labour obligations subject to the same dispute settlement mechanism available for all other obligations. However, like the other G7 countries, the United States also requires labour experts as members on the panels.

Canadian agreements provide that, for the establishment of a Review Panel, two conditions must be met: (i) the requesting party considers the matter as trade related; and (ii) there has been a persistent pattern of failure (sustained or recurring course of action or inaction) to effectively enforce labour laws.<sup>50</sup> This is consistent with the obligations mentioned previously (see Section 4.1).

During the 25 years that labour provisions have been included in trade agreements, only one arbitration panel has ever been constituted. This occurred in the case of Guatemala under its agreement with the United States.<sup>51</sup>

At any point during a dispute settlement process, the parties may reach a solution through dialogue or suspend the process to implement an action plan (e.g. in the US-Guatemala dispute). During the panel procedures, all G7 countries permit the panel to consult external sources. Canada, Japan (only in CPTPP) and the United States also give stakeholders (third parties with an interest in the matter) the opportunity to submit their written views.

The panel issues a report, which generally contains a binding decision. The parties may mutually agree on the best way to comply with the panel's decision. In case of non-compliance with the decision, the agreements

<sup>49</sup> See a detailed review in (ILO, 2016).

<sup>50</sup> See, e.g., the Canada-Panama Agreement on Labour Cooperation (2013), Article 13.1(b.ii); Canada-Rep. of Korea (2015), Article 18.2 (footnote 1) and Article 18.4 (footnote 2).

<sup>51</sup> For information about this dispute see ILO (2016, 2017) and footnote 24 in this report.

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of the United States and Canada allow for sanctions (monetary or the suspension of trade benefits). Sanctions are always the last resort.<sup>52</sup> The suspension of trade benefits is found mainly in the US approach; however, Canada and Japan (in CPTPP) have recently included this type of sanction as well.<sup>53</sup> In the case of the EU, there is no possibility of sanctions, and compliance with the report of the panel of experts is followed up through the state-to state institutional arrangements.<sup>54</sup>

<sup>52</sup> The main arguments discussed in this context concern the application of trade sanctions as protectionist measures. Moreover, when countries have supported one of these sanctions, they have been more open to monetary assessments to avoid protectionist measures, which may affect the exports of a specific product from a particular industry.

<sup>53</sup> In CPTPP, a “peace clause” has been agreed by Viet Nam with other parties to the agreement through side-letters. The letter with Canada (which is comparable in content to those with other parties) mentions that “If Canada seeks recourse to dispute settlement under Chapter 28 (Dispute Settlement) with respect to any measure that is inconsistent with the obligations of Chapter 19 (Labour), Canada shall refrain from seeking to suspend benefits stipulated in Article 28.20 (Non-Implementation – Compensation and Suspension of Benefits) of Chapter 28 (Dispute Settlement) for a period of three years after the date of entry into force of the Agreement for Viet Nam”. The letter is available online at: [https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cptpp-ptpgp/text-texte/sl\\_la-vietnam.aspx?lang=eng#5](https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cptpp-ptpgp/text-texte/sl_la-vietnam.aspx?lang=eng#5)

<sup>54</sup> See, for example, EU-Japan, Article (16.18.6).



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# 5.

## THE ROLE OF THE ILO AND THE WAY FORWARD

The ILO's role in RTAs is grounded in its constitutional mandate to promote ratification of and compliance with international labour standards, as well as in its provision of technical assistance and development cooperation. The ILO Declaration on Social Justice for a Fair Globalization states that, upon request, the organization should assist Members who wish to promote international labour standards “within the framework of bilateral or multilateral agreements” in ensuring the compatibility with ILO obligations (ILO, 2008, Art.II.A(iv)).

In this respect, the ILO has a number of complementary roles to perform in assisting its Members. The first is in providing advice and technical expertise on labour issues, a role it has carried out on an ongoing basis. This entails giving direct assistance, upon request from Members who are parties to an agreement, from the design phase to the implementation phase of labour provisions in RTAs. In Canada, the EU and the United States, the ILO's role is expressly recognized with respect to monitoring, dialogue and/or dispute settlement.<sup>55</sup>

Additionally, the ILO's supervisory mechanism serves as a source of indirect assistance, particularly with respect to monitoring and follow-up of some labour practices in partner countries. In some cases, the comments of the supervisory mechanism have been used by states and other stakeholders in the process of dispute settlement, but they have also assisted in establishing and implementing development cooperation projects (Gravel and Delpech, 2013).

The ILO is also involved in assisting countries in strengthening their capacity to adhere to obligations of labour provisions. This assistance is expressed in the form of development cooperation projects that are either

<sup>55</sup> For example, US-Colombia and US-Peru mention the ability to “seek support, as appropriate, from international organizations such as the ILO, the Inter-American Development Bank, the World Bank, and the Organization of American States, to advance common commitments regarding labor matters”.



carried out by the ILO's technical departments or by its field offices. Some examples include: the EU–Colombia/Peru Trade Agreement, the Labour Cooperation and Capacity Building Mechanism of the US–Peru Trade Agreement and the Labor Action Plan of the US–Colombia Trade Agreement. The assistance also includes building capacity for the exercise of labour rights, such as the capability to organize and collectively bargain in Viet Nam, which started under the Transpacific Partnership Agreement.<sup>56</sup>

Additionally, the ILO conducts research on trends, implementation and effectiveness of labour provisions in RTAs and provides training to social partners. The ILO could have an even stronger impact in making labour provisions more effective through increased engagement with social partners and tripartite dialogue in the framework of trade agreements.

The challenges to multilateralism have led to a call for increased dialogue, potentially leading to greater policy coherence, among international organizations. Indeed, the ILO Global Commission's Report on the Future of Work highlights these challenges, while emphasizing the need to work towards greater coherence among social, economic and trade policies in order to fulfil the human-centred agenda for growth and development.<sup>57</sup> Further, the ILO Centenary Declaration for the Future of Work, adopted by the International Labour Conference at its 108th Session urges the ILO to play a leading role in deepening this dialogue within the multilateral system by reinforcing its cooperation and developing institutional arrangements with other organizations. Indeed, this would present a unique opportunity to bring the voice of the social partners to the debates about trade and labour standards.

The Global Commission's perspective resonates strongly with the French G7 Presidency's call for "networked multilateralism" as a key element to addressing global inequality. The G7 could play a strong role in facilitating

<sup>56</sup> For the case of Viet Nam, see (USTR, 2015).

<sup>57</sup> The report states: "We recommend in particular the establishment of more systemic and substantive working relations between the WTO, the Bretton Woods institutions and the ILO. There are strong, complex and crucial links between trade, financial, economic and social policies. The success of the human-centred growth and development agenda we propose depends heavily on coherence across these policy areas. Trade and financial policies are important means to the material welfare and spiritual development of the person through decent work." (ILO, 2019, p. 56).

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precisely the kind of dialogue within the multilateral system that could advance the analysis and understanding of the contributions of labour provisions to global sustainability.



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## APPENDIX I.

### REGIONAL TRADE AGREEMENTS (RTAs) WITH LABOUR PROVISIONS (LPs) IN G7 COUNTRIES

United States RTAs	Year of entry into force	ILO instruments	Gender provision	Dispute settlement
US – Panama	2012	1998 Declaration, Convention 182 (only in cooperative activities)	Only in LP	Consultations; arbitral panel for all provisions; monetary assessment or trade sanction.
US – Colombia	2012	1998 Declaration, Convention 182 (only in cooperative activities)	Only in LP	
US – Rep. of Korea	2012	1998 Declaration, Convention 182 (only in cooperative activities)	Only in LP	
US – Peru	2009	1998 Declaration, Convention 182 (only in cooperative activities)	Only in LP	
US – Oman	2009	1998 Declaration, Convention 182 (only in cooperative activities)	Only in LP	DSM (modified) exclusive for certain obligations (only when countries fail to effectively enforce labour law; possible annual monetary assessment).
US – Bahrain	2006	1998 Declaration, Convention 182 (only in cooperative activities)	Only in LP	
US – Morocco	2006	1998 Declaration, Convention 182 (only in cooperative activities)	Only in LP	
US – Dominican Republic – Central America Free Trade Agreement (CAFTA-DR)	2006	1998 Declaration, Convention 182 (only in cooperative activities)	Only in LP	

US – Australia	2005	1998 Declaration	Only in LP	
US – Singapore	2004	1998 Declaration, Convention 182 (only in cooperative activities)	Only in LP	
US – Chile	2004	1998 Declaration, Convention 182 (only in cooperative activities)	Only in LP	
US – Jordan	2001	1998 Declaration	Only in LP	Regular DSM of the agreement; trade sanctions.
North American Free Trade Agreement (NAFTA)	1994	No reference to ILO instruments	Only in LP	Arbitral panel (labour exclusive) limited to certain labour principles; monetary assessment to be directed towards enforcement and ultimately trade sanctions of an amount no greater than the monetary assessment.
<b>CANADA RTAs</b>	<b>Year of entry into force</b>	<b>ILO instruments</b>	<b>Gender provision</b>	<b>Dispute settlement</b>
Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)	2018	1998 Declaration, Decent Work Agenda	Both in LP and other chapters	Consultations; arbitral panel for all provisions; monetary assessment or trade sanction.
Canada – EU Comprehensive Economic and Trade Agreement (CETA)	2017	1998 Declaration, Social Justice Declaration, Decent Work Agenda, ILO Conventions (ratified and efforts to ratify fundamental, priority and “up-to-date” ILO Conventions)	Both in LP and other chapter(s)	Consultations; dedicated review panel for all labour obligations; monetary assessment.
Canada – Ukraine	2017	1998 Declaration, Decent Work Agenda, Social Justice Declaration (only in Preamble)		
Canada – Rep. of Korea	2015	1998 Declaration	Only in LP	

<b>Canada – Honduras</b>	2014	1998 Declaration, Decent Work Agenda, Social Justice Declaration (only in Preamble)	Only in LP	Consultations; dedicated review panel limited to 1998 Declaration; monetary assessment.
<b>Canada – Panama</b>	2013	1998 Declaration, Decent Work Agenda, Social Justice Declaration (only in Preamble), Convention 182 (only in cooperative activities)	Only in LP	
<b>Canada – Jordan</b>	2012	1998 Declaration, Decent Work Agenda, Convention 182 (only in cooperative activities)	Only in LP	
<b>Canada – Colombia</b>	2011	1998 Declaration, Decent Work Agenda, Convention 182 (only in cooperative activities)	Only in LP	
<b>Canada – Peru</b>	2009	1998 Declaration, Decent Work Agenda, Convention 182 (only in cooperative activities)	Only in LP	
<b>Canada – Costa Rica</b>	2002 (2019 modernization)	1998 Declaration	Only in LP	No trade or economic sanctions (adoption of “reasonable and appropriate measures”).
<b>Canada – Chile</b>	1997	No reference to ILO instruments	Both in LP and other chapters	Dedicated review panel limited to certain labour obligations/rights.
<b>North American Free Trade Agreement (NAFTA)</b>	1994	No reference to ILO instruments	Only in LP	Dedicated review panel limited to certain labour principles; monetary assessment to be directed towards enforcement and ultimately trade sanctions of an amount no greater than the monetary assessment.

EUROPEAN UNION RTAs	Year of entry into force	ILO instruments	Gender provision	Dispute settlement
EU – Japan	2019	1998 Declaration, Social Justice Declaration, Decent Work Agenda, ILO Conventions (ratified and efforts to ratify fundamental and "up-to-date" ILO Conventions)	Only in LP	Consultations; Trade and Sustainable Development (TSD) dedicated panel of experts.
EU – Canada Comprehensive Economic and Trade Agreement (CETA)	2017	1998 Declaration, Social Justice Declaration, Decent Work Agenda, ILO Conventions (ratified and efforts to ratify fundamental, priority and "up-to-date" ILO Conventions)	Both in LP and other chapter(s)	
EU – South African Development Community (SADC)	2016	1998 Declaration, Decent Work Agenda, Social Justice Declaration; ILO Conventions (ratified)	Only in LP	Consultations
EU – Georgia	2014	1998 Declaration, Social Justice Declaration, Decent Work Agenda, ILO fundamental Conventions, ILO priority Conventions (ratified)	Both in LP and other chapter(s)	Consultations; TSD dedicated panel of experts.
EU – Rep. of Moldova	2014	1998 Declaration, Social Justice Declaration, Decent Work Agenda	Both in LP and other chapter(s)	
EU – Cameroon (interim agreement)	2014	Potential commitments to ILO standards.	No	Possibility of consultations in future agreement.
EU – Ukraine	2014	1998 Declaration, Decent Work Agenda	Both in LP and other chapter(s)	Consultations; TSD dedicated panel of experts.
EU – Central America	2013	1998 Declaration, ILO fundamental Conventions	Both in LP and other chapter (s)	

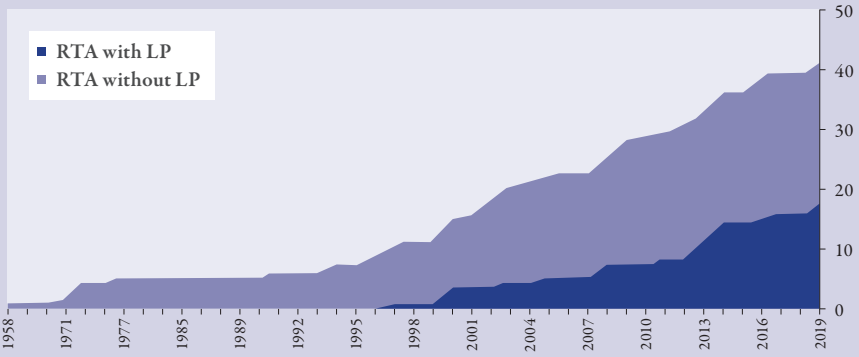
EU – Colombia –Peru – Ecuador	2013	ILO fundamental Conventions	Only in LP		
EU – Rep. of Korea	2011	1998 Declaration, ILO Conventions (ratified and efforts to ratify fundamental and “up-to-date” ILO Conventions)	Only in LP		
EU – CARIFORUM Economic Partnership Agreement (EPA)	2008	1998 Declaration, ILO fundamental Conventions	Both in LP and other chapter(s)	First ad hoc DSM for labour provisions; it is the only agreement with sanction-based arbitral DSM.	
EU – Montenegro	2008	ILO fundamental Conventions	Both in LP and other chapter(s)	Not applicable.	
EU – Algeria	2005	No reference to ILO instruments	Only outside of LP		
EU – Chile	2003	ILO fundamental Conventions	Both in LP and other chapter(s)		
EU – Israel	2000	No reference to ILO instruments	Only outside of LP		
EU – Morocco	2000	No reference to ILO instruments	Only outside of LP		
EU – South Africa	2000	Pertinent ILO standards (FPRW related)	Both in LP and other chapter (s)		
EU – Palestinian Authority	1997	No reference to ILO instruments	Only outside of LP		
<b>JAPAN RTAs</b>	<b>Year of entry into force</b>	<b>ILO instruments</b>	<b>Gender provision</b>		<b>Dispute settlement</b>
EU – Japan	2019	1998 Declaration, Social Justice Declaration, Decent Work Agenda, ILO Conventions (ratified and efforts to ratify fundamental and “up-to-date” ILO Conventions)	Only in LP		Consultations; TSD dedicated panel of experts.

<b>Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)</b>	2018	1998 Declaration, Decent Work Agenda	Both in LP and other chapter(s)	Consultations; arbitral panel for all provisions; monetary assessment or trade sanction.
<b>Japan – Mongolia</b>	2016	No reference to ILO instruments	No	Consultations; arbitral tribunal; compensation or agreed measure or suspension of concessions.
<b>Japan – Switzerland</b>	2009	No reference to ILO instruments	No	
<b>Japan – Philippines</b>	2008	No reference to ILO instruments	No	Consultations; arbitral tribunal; compensation or agreed measure or suspension of concessions.
<b>Chile – Japan</b>	2007	1998 Declaration	Only in LP	Not applicable.

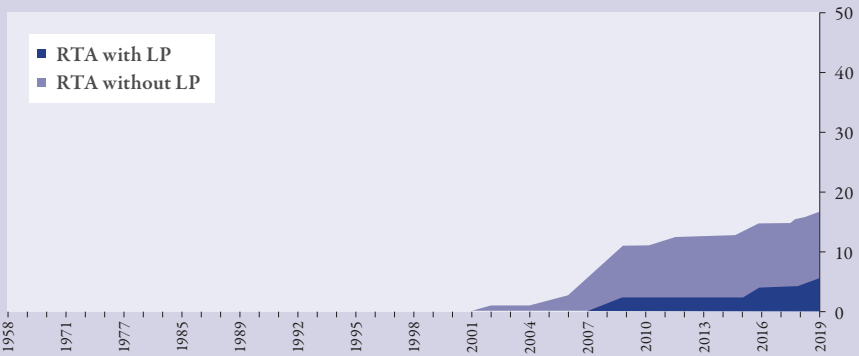
Source: ILO Research Department.

**APPENDIX II.**  
**NUMBER OF REGIONAL TRADE AGREEMENTS (RTAs)**  
**WITH AND WITHOUT LABOUR PROVISIONS (LPs) IN G7 COUNTRIES,**  
**1958–2019**

**Panel A. EU RTAs**

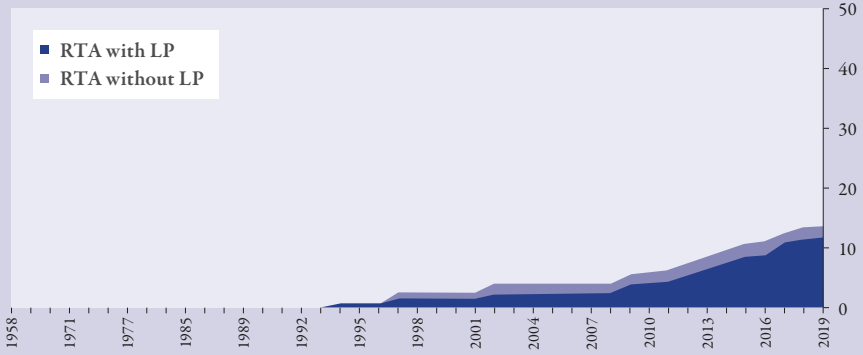


**Panel B. Japan RTAs**

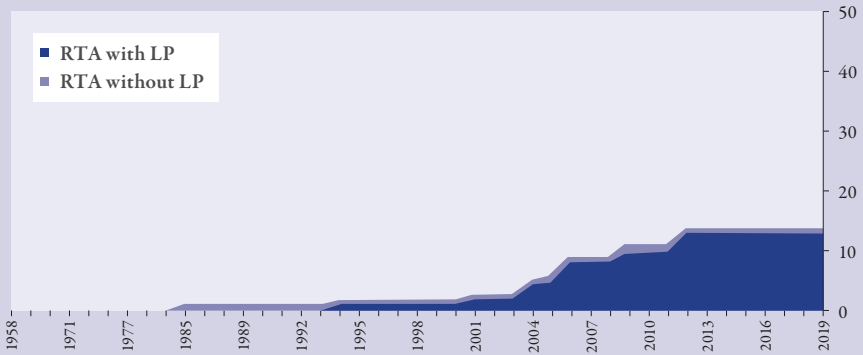




Panel C. Canada RTAs



Panel D. US RTAs



Source: ILO Research Department.

## APPENDIX III. EXAMPLES OF LABOUR SUBMISSIONS AND ACTIVATION OF DISPUTE SETTLEMENT MECHANISMS

Trade agreements	Submissions	Main issues	Status
NAFTA/NAALC	42 (9 declined for review and 3 withdrawn)	Freedom of association, occupational safety and health, migrant workers' rights	Currently 3 under review (2 against Mexico and 1 against the US). At least 22 cases reached Ministerial consultations.
CAFTA-DR: Guatemala (2008); Costa Rica (2010); Dominican Republic (2011); Honduras (2012)	4 (Guatemala 2008, Costa Rica 2010 – withdrawn; Dominican Republic 2011, Honduras 2012)	Freedom of association Acceptable conditions of work (minimum wage, OSH, working hours) Child labour, forced labour	Guatemala – Arbitral panel decision 2017. All DSM (including an Enforcement Plan previous to Panel). Dominican Republic – Report and follow up (sixth periodic review 2018) Honduras – Report, Action Plan (second assessment of progress in 2018).
US-Peru (2009)	2 (2010 and 2015)	Freedom of association	First case closed. Second case – Report issued. Follow-up of recommendations (second periodic review 2018).
US – Bahrain (2006)	1	Freedom of association/Non-discrimination	Labour consultations held in 2014. Dialogue in progress.
US-Colombia (2012)	1	Freedom of association and collective bargaining; enforcement of labour laws and procedural guarantees	Report issued (2017). Follow-up of the review of the implementation of recommendations in 2018. Dialogue.
Canada-Colombia (2011)	1	Freedom of association; collective bargaining; right to strike; labour laws enforcement; non-derogation, access to justice	Report issued. Labour Action plan agreed between the parties (2018–2021).
EU-Rep. of Korea (2011)	1	Principles of freedom of association and collective bargaining Efforts towards ratification of remaining 4 ILO fundamental Conventions	Formal consultations requested (December 2018). Period to refer the matter to panel of experts expired on 18 March 2019. Recent letter from EU Commissioner to Ministers of Trade and Labour to request evidence of changes.

Source: Compilation by ILO Research Department.



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