



# **LABOUR PROVISIONS IN TRADE AGREEMENTS: THE ROLE OF THE ILO**

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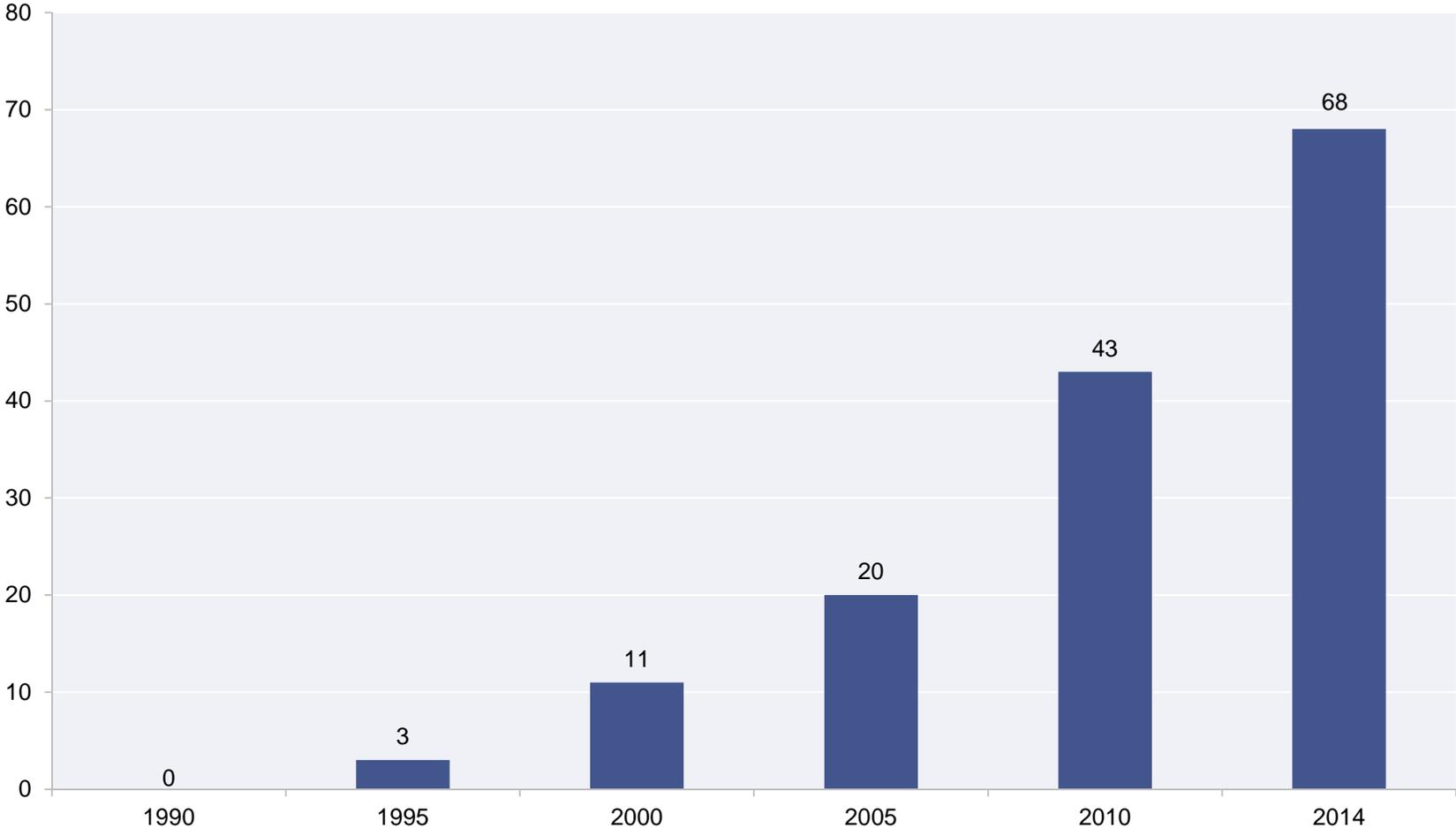
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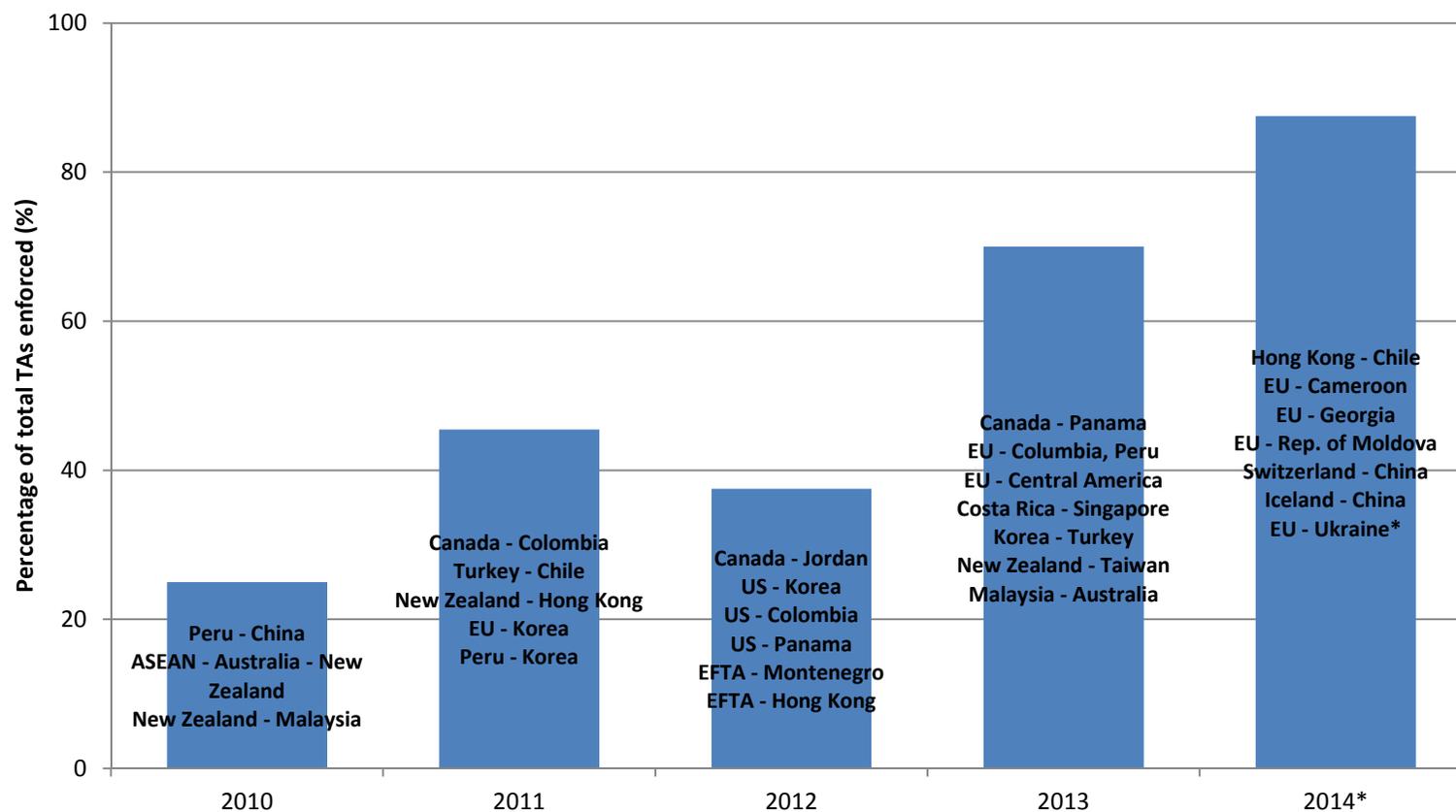
# Structure

1. Global perspective
2. The role of the ILO: Implications of the referral in TAs
3. EU and US approach in the most recent TAs

# Number of TA with LPs



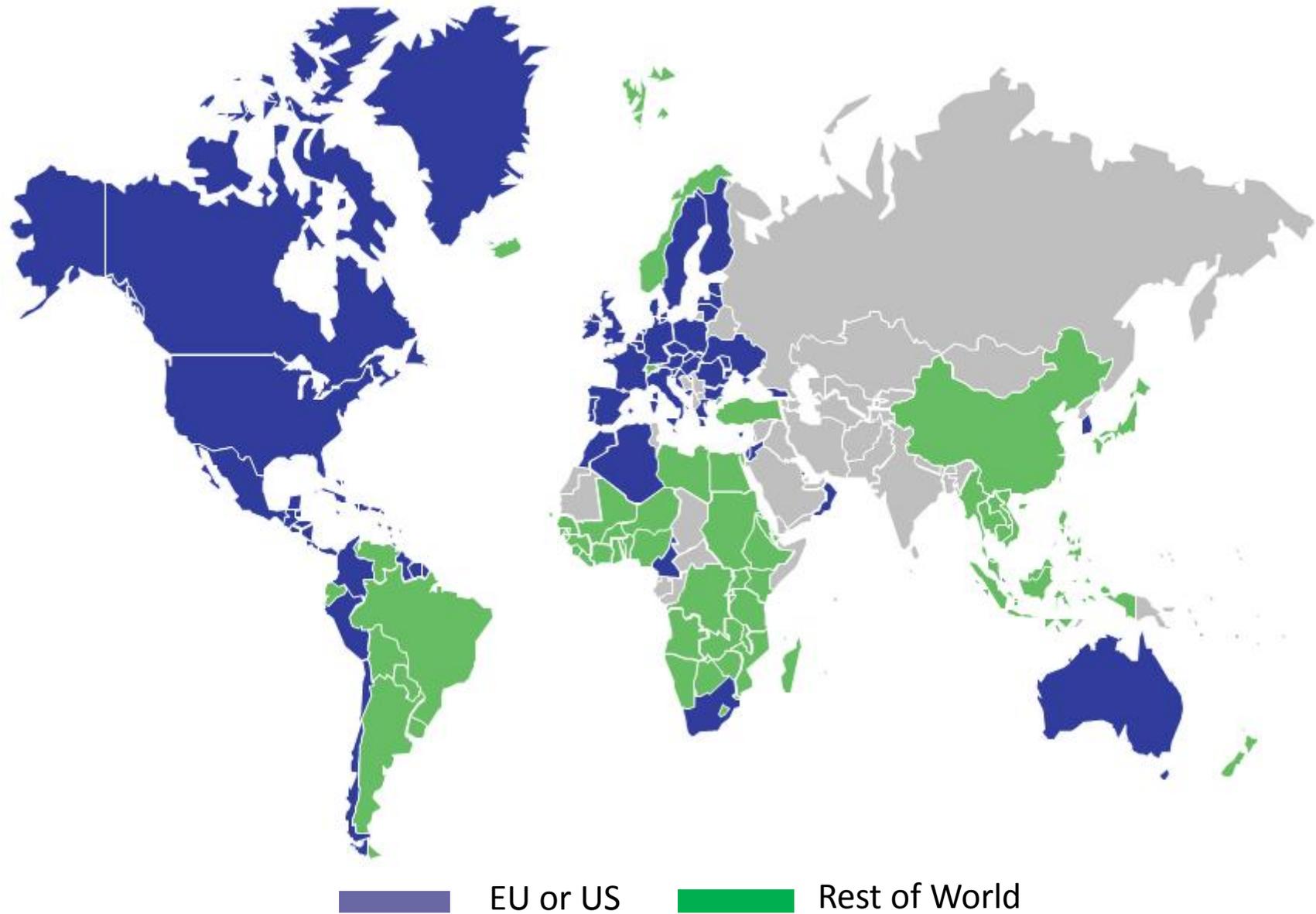
# TAs with LPs as % of total TAs that entered into force in the years 2010-2014



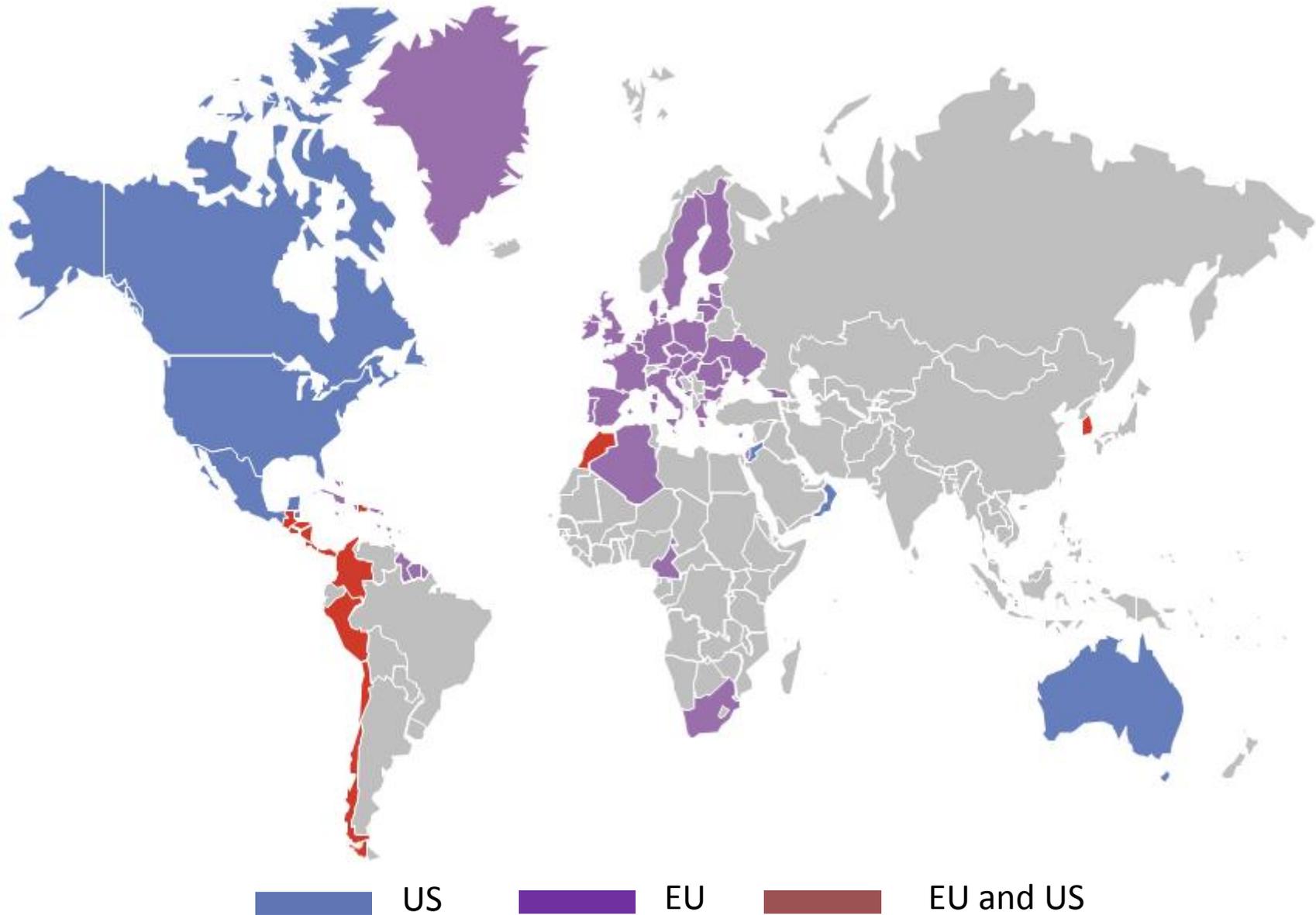
Note: EU - Ukraine (2014) currently not in force. 2014 data are until October.

Source: WTO RTA database

## FTAs with Labour Provisions concluded by the US, EU or ROW



# TAs with LPs that are concluded by the US or EU



## The role of the ILO in TAs

Since its creation in 1919, **the mandate** of the ILO has included three interlinked elements:

1. Adopting International Labour Standards (ILS)
2. Promoting their ratification and implementation in the MSs
3. Supervising their application

Therefore, referral to ILS in TAs based on ILO instruments is important (1) but also:

- Technical cooperation (2)
- Integrated supervisory mechanisms (3)

## How is the ILO involved in the life of the ILS after they have been incorporated in the TAs?

**Technical cooperation** to facilitate the implementation of ILS

- US-Colombia Labour Action Plan
- US-Cambodia TA
- US- CAFTA DR

**Integrated supervisory mechanisms** to assess compliance

- Referral to the reports of supervisory bodies of the ILO as an authoritative source (**US TAs** cases with Costa Rica, Peru, Bahrain, and Guatemala)
- Possibility by the Governments and the Panel of experts to seek the advice of the ILO (**EU TAs** with Colombia and Peru, Rep. of Korea, and Central America)

## EU and US approach in the most recent TAs

EU	US
<ul style="list-style-type: none"><li>• Rep. of Korea (2011)</li><li>• Peru and Colombia (2013)</li><li>• Central America (2013 - Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama)</li></ul>	<ul style="list-style-type: none"><li>• Peru (2009)</li><li>• Panama (2011)</li><li>• Rep. of Korea (2012)</li><li>• Colombia (2012)</li></ul>

### Key features

1. Referral to ILS
2. Monitoring and cooperation
3. Dispute resolution

## Referral to ILS

All recent TAs concluded by the EU and the US include the referral to the ILO 1998 Declaration, HOWEVER,

- The EU stresses the effective implementation of the *ILO Conventions* (e.g. EU-Rep. of Korea (2011) EU-Central America (2013;))
- The US stresses the effective implementation of *national labour legislations* (which, nevertheless, should be in compliance with the Principles of the ILO 1998 Declaration) (e.g. US-Peru (2009))

# Monitoring and Cooperation

Both EU and US TAs provide for:

- A joint dedicated Committee/Board or Council to oversee the implementation of the Trade and Sustainable Development Chapter (T&SD) Chapter and the Labour Chapter
- Institutional mechanisms for receiving advice from civil society/ representatives of business and labour organizations, e.g. Civil Society Forum for EU-Korea TA
- Institutional mechanisms in place for cooperative activities

# Dispute settlement: differences

## EU

- provide for a dedicated mechanism for labour matters (Gov. consultations → Panel of experts)
- EU-Korea explicitly mentions that the Parties during the consultations have to “*take into account the activities of the ILO*” and whether relevant, seek advice *and assistance* from the ILO

## US

- the matter is subject to the regular mechanism of dispute settlement, if the dedicated Cooperative Labour Consultations fail
- ILO supervisory mechanism is an indirect source for dispute settlement.

## Guatemala Case –CAFTA-DR in relation to ILO

- Landmark case in that is the first labour case to reach the Arbitral Panel under LPs of any trade agreement .
- The petitioners incorporated as arguments the comments of the ILO's supervisory bodies
  - i.e. violations on freedom of association, the rights to organize and bargain collectively, acceptable conditions of work, and violence against trade unionists
- Common effects of the submission under CAFTA-DR and the Guatemala case before ILO:
  - Monitoring and follow-up (enforcement plan/roadmap) with similar objectives and recommendations towards the improvement of labour rights
  - Technical cooperation and capacity building

## The Role of the ILO

- Technical advice and guidance in implementation (CAFTA-DR) and monitoring (e.g. Better Work)
- Supervision of labour standards

Emerging issues:

- Impact assessment of employment impacts (quantitative and qualitative dimensions)
- Overall coherence with regard to ILO instruments?



Thank you!