

Labour Provisions in bilateral Trade Agreements: Incidence and Effects



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Structure

Overview of labour provisions in bilateral trade agreements: incidence and effects

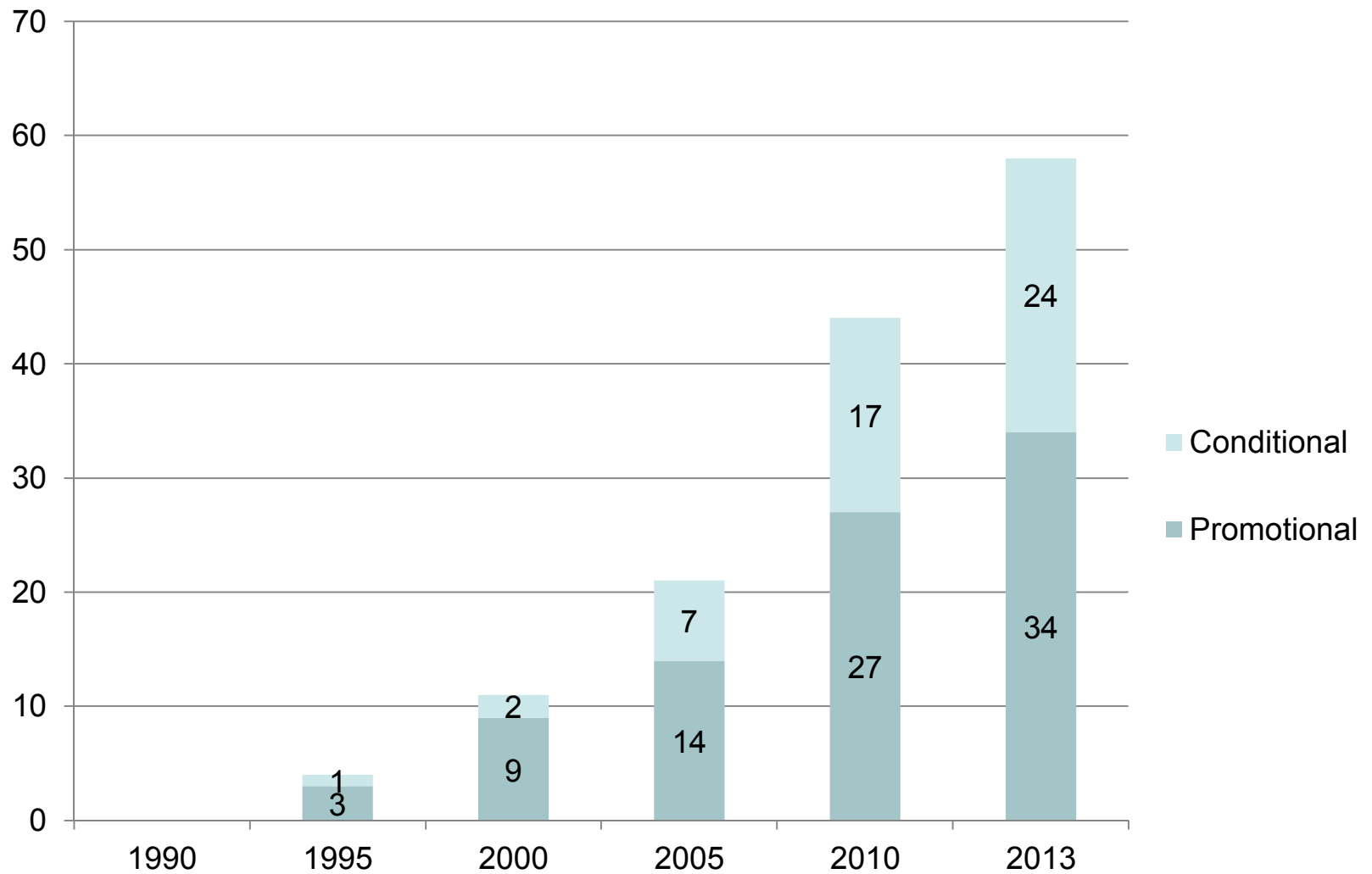
The way forward



There has been fast proliferation of labour provisions in trade agreements



A fast-expanding reality



Number of Trade Agreements with labour provisions



Key features of the EU's approach in compared to the approach of the US and Canada

EU trade agreements	US and Canada's trade agreements
Labour standards commitments (ILO Conventions)	Labour standards commitments (1998 Declaration)
Dialogue with civil society and cooperation	Cooperation and dialogue
Monitoring and non-sanction-based dispute settlement	Complaint mechanism and sanction-based dispute settlement



So far, evidence with complaint and sanction mechanisms is mixed



The effects of complaints and dispute settlement mechanisms

- Evidence still scarce – less than $\frac{1}{4}$ of the complaint mechanisms have been activated
- No sanctions have been applied so far



The effects of complaints and dispute settlement mechanisms

- Evidence for NAALC cases:
 - Some early complaints helped address problems
 - Some indirect effects, e.g. the creation of transnational labour coalitions
- Potential for innovation: Complaint against Guatemala under CAFTA-DR
 - Labour Enforcement Plan



Pre-ratification conditionality and cooperation have had interesting effects



The pre-ratification effects of labour provisions

- So far clear evidence only for the US
- Impact on legislative changes – highly case specific:
 - Major effects on Bahrain and Oman,
 - Minor effects on: Peru, Panama, Colombia etc.



The application of the cooperative mechanisms

- Differs widely across the trade actors involved
- Example of US/Canadian FTAs:
 - Labour provisions led to an increase of cooperative activities on labour standards
 - Modernization of labour institutions
 - Capacity building of civil society



The way forward



The way forward

Reference towards labour concerns in itself is not a guarantee for impact

- Need to further assess the effectiveness of various implementation mechanisms and innovative practices



The way forward

Comprehensive implementation strategies: The option of labour development plans

- Measurable and time-bound commitments
- Linked to monitoring framework of the trade agreement
- Technical cooperation as integral part
- Sustainability Impact Assessment: ex-ante and ex-post



The way forward

The institutionalisation of civil society involvement

- Include all stages of trade agreements
- Complexity of civil society participation



The way forward

Do we need a stronger focus on positive incentives?

- e.g. development cooperation conditioned to labour improvements?



The way forward

The potential role of the private sector

- More intelligent targeting
- Self-regulation (references to CSR)



Moment of opportunity to enhance global coherence

- EU - Canada - US
- EU investment policy
- Role for the ILO?



Thank you !

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The EU approach – commitments

- **General:**
 - Implementation of ILO fundamental conventions
 - Not to weaken or fail to apply national labour law in order to encourage trade or investment
- **EU-Republic of Korea:**
 - Ratify outstanding ILO up-to-date Conventions
 - Implement ratified conventions
- **EU-Peru/Col.; EU-CA:**
 - consult on possible ratification of ILO conventions
- **Outlier: EU-Cariforum**
 - Ensure that investors act in line with the 1998 Declaration's Core Labour Standards



The EU approach – implementation

- Monitoring and civil society involvement
- Technical cooperation
- Mechanism for dispute settlement:
 - Apart from regular dispute settlement
 - Possibility of ILO involvement
 - No economic sanctions
 - No specific complaint mechanism
- **Outlier: EU-Cariforum**
 - “All-but-trade” sanctions possible for general labour provisions
 - Trade sanctions possible for labour provision in investment chapter

