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External Dimension of EU Social Policy

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DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT **A**
ECONOMIC AND SCIENTIFIC POLICY



External Dimension of EU Social Policy

EMPL



DIRECTORATE GENERAL FOR INTERNAL POLICIES
POLICY DEPARTMENT A: ECONOMIC AND SCIENTIFIC POLICY

EMPLOYMENT AND SOCIAL AFFAIRS

The External Dimension of EU Social Policy

STUDY

Abstract

This study assesses EU impact on promoting social standards in non-member countries. The EU is very ambitious and its external social policy is becoming increasingly coherent. However, it is argued that there is still a need for a more integrated and professional approach; a new social alliance should be built; and implementation and enforcement of current initiatives should be enhanced. Furthermore, the instruments should be adjusted; and finally social responsibility of companies should be improved.

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LIST OF ABBREVIATIONS

ACP	African Caribbean and Pacific
ASEAN	Association of Southeast Asian Nations
BRIC	Brazil, Russia, India and China
CARIFORUM	Caribbean Forum of ACP Countries
CLS	Core Labour Standards
COP	Communication of Progress
CSR	Corporate Social Responsibility
DWCP	Decent Work Country Programme
EAC	East African Community
EBA	Everything But Arms
ECC	European Chamber of Commerce
ECJ	European Court of Justice
ECOWAS	Economic Community of West African States
EEA	European Economic Area
ENP	European Neighbourhood Policy
EPA	Economic Partnership Agreement
EPZ	Export Processing Zone
EU	European Union
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
FTZ	Free Trade Zone
GATT	General Agreement on Tariffs and Trade
GAFTA	Greater Arab Free Trade Area

GDP	Gross Domestic Product
GSP	Generalised System of Preferences
GUF	Global Union Federation
ICFTU	International Confederation of Free Trade Unions
IFA	International Framework Agreement
ILO	International Labour Organisation
ITUC	International Trade Union Confederation
LARRGE	Labour Rights Responsibility Guide
MDG	Millennium Development Goal
MFN	Most Favoured Nations
MERCOSUR	Mercado Común del Sur [Southern Common Market]
OECD	Organisation for Economic Cooperation and Development
OMC	Open Method of Coordination
PCD	Policy Coherence for Development
TBP	Time Bound Programme
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNDAF	United Nations Development Assistance Framework
VGCL	Vietnam General Confederation of Labour
WCSDG	World Commission on the Social Dimension of Globalisation
WTO	World Trade Organisation

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EXECUTIVE SUMMARY

This study analyses the external dimension of EU social policy, along with its recent developments, and evaluates the impact of EU external social policy on non-member countries. The study defines the external dimension as EU action to promote labour standards in non-member countries.

Recent initiatives concerning the social dimension of globalisation

The debate on social standards has been framed as the social dimension of globalisation. Core labour standards, the decent work agenda and corporate social responsibility are key initiatives. The EU has been an important actor in promoting social standards, in particular within the ILO, but also through direct external trade, development and social policy initiatives.

The core labour standards (CLS) are specified in eight ILO conventions. Their ratification status, however, is rather mixed, as some emerging economies have a low ratification rate together with more marginal countries in the global economy and the notable case of the US.

The decent work agenda has recently become an important ILO initiative to promote social standards. The decent work country programme (DWCP) is a dynamic approach based on dialogue and technical assistance provided to facilitate the implementation of the ILO conventions. Most countries taking part in the global production chain (except for the industrialised countries) are in the process of developing and implementing DWCPs.

Key actors in corporate social responsibility (CSR) initiatives are (multinational) companies which are expected to implement social standards via voluntary internal codes of conduct. The study shows that the companies do indeed adopt such codes, but that enforcement and actual implementation are issues. There is no such thing as a broadly shared concept of CSR.

The coherence of EU policies on the external dimension of social policy

The coherence of EU policies is important for the legitimacy and impact of EU initiatives. The study distinguishes between horizontal coherence and vertical coherence (direct and indirect). Horizontal coherence refers to whether the EU prioritises market-enhancing policies over social policies. Vertical coherence refers to whether EU external social policies are coherent and covers two dimensions: direct vertical coherence refers to EU-bilateral and regional relations to other countries; and indirect vertical coherence refers to the EU's relations with intergovernmental organisations such as the ILO and the WTO. In recent years coherence in EU external policies has grown, but there is still room for improvement.

The study finds that the Lisbon Strategy and the EU 2020 Strategy now place more emphasis on social policy than before; however, market-enhancing policies and competitiveness concerns are still prioritised over social policies. With regard to core labour standards and their relation to international trade rules, EU multilateral, bilateral and unilateral trade policies reveal less than full coherence.

The EU prioritises cooperation with the ILO over the WTO when promoting social policy globally and the policy is, as such, assessed to be indirectly vertically coherent. However, because the EU is not always able to act as a unitary actor, its policies are not entirely coherent. While the EU negotiates on behalf of the Member States within the ILO, actual voting is far from coordinated.

The impact of EU external social policies

The EU as a normative power

From the outside, the EU is perceived as a normative power in social issues and an attractive partner, owing to the unique combination of economic dynamism with a social model. The EU has a good reputation, which can be seen as a major asset when it comes to international dialogue on social issues.

Economic growth and social standards

Promoting CLS should be a universal objective, but raising social standards depends on the state of economic development. Emerging economies, and also multi-national companies relying on their global supply chains, tend to be reluctant to adopt and enforce more demanding standards. Competition between locations is a major obstacle when governments try to adopt higher social standards, as investors could be driven to relocate.

This contributes to non-ratification or non-enforcement of CLS. In fact, one of the major findings of our study is the fact that there are major deficits in the ratification, implementation and enforcement of social standards advanced by the EU and its partners. At the same time, there is no evidence of an accelerated 'race to the bottom' in terms of a deterioration of social standards due to the global economic crisis. Hence, a careful and balanced approach is needed, as raising social standards requires walking a tightrope.

Different approaches for different types of countries

The report finds that according to geographic proximity and economic conditions, the *countries* addressed by the external dimension of EU social policy form a number of concentric circles. The EU is most important in the phase of accession due to the implementation of the *acquis communautaire* and related financial and technical assistance. The European Neighbourhood Policy is particularly effective when combined with an accession perspective. Developing countries, in particular those in Africa, benefit from European development aid – and this gives the EU, the world's largest donor, a lever to advance social concerns.

The situation is different in emerging economies, in particular in Asia. They have a strategic location in global value chains and are highly dynamic in economic terms. Given global competition, the advancement of social standards by the EU and other actors has proven to be difficult, but some emerging countries, as well as regional organisations, have entered into a dialogue with the EU. Until now, this has been dominated by economic and trade issues, but there is some potential to bring in social considerations in the future. Export processing zones raise major concerns, as they undermine attempts at general social standards.

What works? Different types of instruments

The study distinguishes, for analytical purposes, between hard instruments, financial instruments and soft instruments although the different archetypical instruments are overlapping and interconnected. Hard instruments are, for instance, Free Trade

Agreements, the Generalised System of Preferences (GSP) and GSP+, while EU development aid and technical assistance are financial instruments. Corporate social responsibility and the decent work country programme are soft instruments. In recent years the EU has emphasised the latter to a greater extent.

Core labour standards

With respect to hard instruments, ILO conventions on CLS have been a cornerstone of global social policies. In fact, the EU has been a major supporter of the ILO at the global level. But the study notes that the more demanding the standards the EU 'uploads' at the global level, the higher the risk of a low ratification rate and substantial implementation deficits.

External trade: GSP and GSP+

The study finds that the EU's GSP and, in particular, GSP+ regimes are highly useful instruments, since they make it clear that the EU has specific expectations that have to be met by its trading partners. However, there is evidence that implementation and enforcement in partner countries are a major weakness. Even in the case of violations, the EU tends not to degrade partner countries, and in the rare cases when this has been done, it has only had minor implications for the countries. In contrast to GSP+ and despite the fact that the EU has taken several initiatives to advance CLS in its policies, its success in this regard has been mixed. In general, Free Trade Agreements have proven to be less relevant in furthering the social dimension of globalisation in so far as there were only few references to labour standards. But the EU-South Korea agreement can be seen as a pilot as well as the recently concluded FTAs with Columbia and Peru. With respect to FTAs, it is important to note that when the EU concludes an FTA with another country, the conditionality in the GSP/GSP+ often no longer applies. Therefore it is very important to include social aspects in FTAs.

The EU and the US – remarkable differences

The study notes a remarkable difference between the EU and the US approach to trade and social standards. While the EU pursues a soft and dialogue-oriented approach, the US expresses its preferences explicitly and formulates requirements for free trade with them unilaterally. At the same time, and in stark contrast to the EU, the US is reluctant to adopt ILO conventions. Although this approach has had a major impact on the incorporation of social clauses in trade agreements, the US strategy suffers from major implementation deficits as well as serving to isolate the US at the global level. In this context the EU could establish itself as an alternative partner and normative power at the global scene.

Corporate social responsibility

Over the last two decades the debate on corporate social responsibility has pointed to the core role of companies, in particular multinational companies and their contractors, in emerging economies. European companies are some of the most important investors and employers in emerging markets and therefore bear a major responsibility for working conditions. Since CSR is a voluntary, broad, flexible and ambiguous concept so far, it cannot be expected to bring about uniform activities. There is also evidence that CSR is not systematically related to better working conditions across the global supply chain.

Financial and technical assistance

Finally, EU financial and technical assistance is an important element of external EU social policy, as it can help not only in tackling the actual implementation and monitoring deficits regarding binding standards but also regarding better delivery on the ILO decent work country programmes.

Five key recommendations

1. A coherent, integrated and professional approach

In the future the EU will not necessarily have to raise its ambitions regarding the promotion of stricter social standards. EU activities should rather be streamlined, more pragmatic and geared towards implementation and enforcement.

First, a coherent policy approach mainstreaming social policy both internally and externally is vital. The EU's reputation as a normative power and frontrunner in social issues is an asset, but should be used in a consistent and pragmatic way.

Second, better coordination inside the EU is needed to raise coherence, in particular between different committees of the European Parliament as well as with the European Commission and the new External Action Service. Instead of acting independently, the European Parliament could increase its influence by looking for cooperation. An important task is to further social objectives inside the EU.

Third, while the EU is able to act as one actor in trade policy, this should also be the case in the external dimension of social policies. Professionalism is required in order to enhance impact.

Consistence and pragmatism should be the building blocks of a renewed approach focusing on:

1. mainstreaming social policy internally and externally to improve coherence;
2. structured, coordinated dialogue within the EU and especially with the newly established External Action Service;
3. a professional approach to the outreach of EU initiatives in terms of representation in both intergovernmental organisations and especially the developing countries and emerging economies.

2. Building a social alliance

The role of the EU in global social governance has been assessed as a leadership which emphasises cooperation and partnership. The EU should establish itself as an alternative partner and soft leader at the global scene.

One important area in this respect is Asia, in particular China, South Korea and other East Asian emerging economies. Building long-term and sustainable relationships with these countries is important. This can raise the chance that social standards are also addressed properly in foreign investment decisions.

Second, the social alliance could also be developed on a regional basis. The EU has a tradition of good relations with, for instance, the ASEAN countries. Yet, the role of social standards in regional agreements should be improved in line with questions such as trade, security and climate changes. However, not only ASEAN, but also MERCOSUR, the Greater Arab Free Trade Area, and other regional organisations could be important in this matter.

Third, relationships with the ILO and WTO should be advanced. A balanced approach is needed, owing to the paradox that the more influence the EU exerts over ILO conventions

the less these conventions are ratified. Regarding the WTO, establishing a stronger link between trade negotiations and social standards may again be a topic in future.

An EU speaking with one voice has several potential partners in terms of building a new social alliance:

1. cooperation with Asian states such as China in order to enhance the spread of high labour standards;
2. equalising social concerns with trade, security and climate changes in dialogue with other economic areas in regional partnerships;
3. relationships with intergovernmental organisations have great potential. A balanced EU approach to the ILO should ensure long-term credibility for the organisation. A stronger link between the WTO trade negotiations and social standards may again be a topic in future.

3. Developing the soft approach further: Implementation and enforcement

One of the major findings of the study is that there are large deficits in terms of implementation and enforcement of social standards, especially the ILO-conventions and the CSR-principles. There is a pertinent need for pragmatic, sustainable solutions and support in order to meet the high EU ambitions. Practical work is as important as policy formulation.

In terms of implementation and enforcement, technical assistance has shown sustainable results in partner countries, in particular capacity building, training and raising governments', employers' and workers' awareness. The European Parliament's budget competence serves as a powerful lever.

General enforcement is crucial. In principle, the EU should try to avoid exceptions from general regulations, e.g. in export processing zones. They raise several concerns due to the fact that they tend to undermine attempts at setting feasible and general social standards.

The EU has a robust background of providing experience and assistance to ensure implementation and enforcement in different national contexts:

1. In order to enhance the soft approach, there is a pertinent need for pragmatic, flexible and sustainable support.
2. Technical assistance and raising employers' and employees' awareness of their rights and obligations are important instruments to ensure the actual implementation of labour policies.
3. Enforcement, especially to avoid exception from general regulation as in the case of export processing zones, would have an important impact.

4. Prioritising and adjusting the instruments

In terms of the impact of EU initiatives, the report finds that according to geographic proximity and economic conditions the countries addressed by the external dimension of EU social policy form a number of concentric circles. Different incentives are at play in these concentric circles, and thus different combinations of instruments should be used to address specific countries.

First, for a broader range of countries, connecting fundamental ILO conventions to conditional trade agreements and the GSP regime is found to improve ratification, but is assessed to be less adequate in terms of the actual implementation of CLS. Here consistent

action is needed. The GSP and the GSP+ should be monitored coherently, just as the process of assessing progress should be made more transparent. Adopting a strategy incorporating both incentives and sanctions, the monitoring should be followed by effective technical assistance. With respect to technical assistance there is scope for more cooperation with ILO.

Furthermore, the Lisbon Treaty gives Parliament a stronger role by giving it the right to be consulted by the Commission on trade negotiations and to vote on trade agreements – hence, Parliament can make itself heard in the process and express its preferences for social standards, for example in the renewal of the GSP system.

The exchange of experiences, policy learning and social dialogue, and also partnerships with other countries and regions, are essential elements of the EU external strategy. However, one key challenge is to ensure coordination and concurrence of different initiatives with the overall policy approach.

When it comes to financial instruments a core issue is technical assistance, which is essential in order to overcome the implementation gap. Coordination between the different EU donor countries and a consistent focus on the implementation of labour standards are also areas for improvement.

The instruments used should be adjusted and streamlined to improve the impact:

1. GSP and GSP+ should focus more on implementation – both of the social standards in the partner countries and in terms of EU actions in the case of violations. Following a strategy of using both incentives and sanctions, rules should not only be monitored transparently, but partner countries should also benefit from effective technical assistance. In this respect there is scope for more cooperation with ILO.
2. Social standards should be consistently applied in EU external trade agreements.
3. Social standards should be streamlined in dialogue, exchange of experiences and technical projects in order to improve their effect. Technical assistance is crucial in supporting implementation. Furthermore, social standards should be incorporated more consistently in developmental aid.

5. Enhancing and strengthening the role of companies via CSR

Ultimately, companies are key actors in the implementation of social standards. Their position in competitive global production chains is a crucial factor, which has to be taken into account. More concise CSR should be part of a future strategy.

First, one should not expect too much from voluntary action. The impact of CSR could be improved by providing a clearer definition and some minimum requirements, thus leaving less room for heterogeneous interpretations in place at the moment. The OECD guidelines for multinational companies can be seen as a model for this as they include consistent, practical and transparent requirements. Furthermore, the International Framework Agreements (IFAs) negotiated in a form of global social dialogue of multinational companies and Global Union Federations (GUFs), could be a forum for this.

Second, in cases when Member States are asked by multinational companies for investment guarantees they can bind those guarantees to the implementation of the official CSR-guidelines (e.g. Global Compact or the OECD guidelines for CSR). Reliable and comparable reporting on CSR and applying certain guidelines throughout the entire global

value chain could also become a requirement when applying public procurement rules in the EU.

Third, the EU could assist European companies in supporting their suppliers in the entire global production chain. Making the companies responsible for their entire supply chain and implementing social standards in their suppliers' factories could create sustainable results.

Fourth, the role of NGOs and the media and ultimately the consumers should not be ignored. These actors are helpful in following violations of the standards.

With regard to CSR, a consistent approach is needed:

1. A clear definition including minimum requirements should leave less room for interpretation.
2. Implementation, reporting and monitoring should be enhanced via common guidelines, binding social clauses to, for instance, investment guarantees and improving reporting on CSR to focus on the entire global production chain.
3. Providing assistance to companies taking responsibility for sustainable labour conditions across their entire production chain.
4. Partnership with watchdogs such as NGOs and the media should ensure a continuous focus on social standards.

1. THE EXTERNAL DIMENSION OF EU SOCIAL POLICY

This study analyses the external dimension of EU social policy, its relation with internal policies and its impact regarding the objectives. The study both assesses the recent development of the external dimension of EU social policy and the current state of play. The methodological approach is described in Annex A. In this chapter the basic character of the external dimension of social policy is outlined and analysed.

KEY FINDINGS

- The EU has shown a strong commitment to ensure that social priorities are increasingly incorporated in external relations. Similar to the development of internal EU social policy there has been a shift in focus in the external dimension of EU social policy: with the Lisbon Strategy, market-oriented policies, while still the top priority, have been balanced more by social policies, albeit with a growing importance of 'soft laws' complementing 'hard' regulatory policies. The most recent initiatives in particular show that EU policies have a strong ambition to contribute to the social dimension of globalisation.
- The EU changed the strategy of the external dimension of social policy around the turn of the century in parallel with the implementation of the Lisbon Strategy. While in earlier phases the focus was on connecting social standards with trade agreements ('hard' approach), it changed to focus more on international cooperation and dialogue ('soft' approach). The EU emphasis on the decent work agenda and corporate social responsibility is in line with this paradigm shift.
- The core of the external dimension of social policy is formed by EU activities to promote decent work and labour standards in non-member countries. Core labour standards and decent work are a major component of this work-centred approach. However, trade and development policies also aim at poverty reduction in a wider sense.
- The character of the EU and its complex division of decision competencies imply that despite having coordination procedures in place, the EU cannot be perceived as a unified actor in all relevant areas of the external dimension of social policy.

The Committee on Employment and Social Affairs of the European Parliament has identified the external dimension of EU social policy among its priority themes of work for 2009-2010. This priority is a continuation of the EU's strong commitment to ensure that both internal and external policies are exercised in such a way that the economic and societal benefits of globalisation will be maximised while the social cost will be minimised, both within the EU and in non-member countries.

1.1 The development of the external dimension of EU social policy

Since the early 1990s various initiatives have been deployed to incorporate European social values into EU external relations. In the 'Medium Term Social Action Programme 1995-1997' (COM(95)134) the Commission stressed the need for a clear overall concept of the external dimension of European social policy. Instruments such as incorporating social issues in political and economic relations with third countries and bilateral and multilateral cooperation (including the ILO, the UN and the WTO) were set as targets. 'The Social Action

Programme 1998-2000' (COM(98)259) recognised that the primary aim of EU social policies was the progress of the social agenda within the Union, although 'there is also an external dimension which is assuming increased importance.' This programme put particular emphasis on the applicant countries.

After this first step, the role of external dimension was strengthened further with the Lisbon Strategy from 2000. The background of this development was the Amsterdam Treaty, effective from January 1999, which incorporated both the social as well as the employment chapter into the legal founding documents of the Union in order to balance the dominant market-oriented approach. With the strategy's emphasis on job creation, competitiveness, innovation and improved social cohesion, a very ambitious policy agenda was formulated. This can be seen as an attempt at a comprehensive European response to globalisation and growing global interdependence, and it stresses the close link between economic and social progress both internally and externally.

Globalisation and its inherent interdependence between economic and social aspects, the Lisbon Strategy stressed, calls for complementing the internal dimension of social policy with a stronger focus on the external dimension in order to shape the globalisation in line with EU values, principles and experiences.

Although the Lisbon Strategy was indeed optimistic and consisted of several very concrete actions, the European Commission's evaluation of the impact concluded that 'progress has at best been mixed' (COM(2005)24). This statement covers a wide range of criticisms of the implementation of the very ambitious strategy, with the Kok Report (2004) as the most prominent. This has led to a re-launch of the Lisbon Strategy, with its aim and vision kept intact, but with new instruments and streamlined procedures to increase its effectiveness.

Several key documents in the subsequent period followed in the path of the Lisbon Strategy. In 2000 the Commission formulated the Social Policy Agenda (COM(2000)379) stressing an agenda of full employment, economic dynamism and greater social cohesion and fairness. The international dimension was addressed with specific reference to the candidate countries adopting the 'Social and Employment Acquis' of the European Union and the exchange of experience and good practice with the ILO, the OECD and the Council of Europe and other institutions.

A core paper in the light of the Lisbon Strategy and the focus on the external dimension of social policy is the 2001 communication from the Commission on 'Promoting Core Labour Standards and Improving Social Governance in the Context of Globalisation' (COM(2001)416). This communication was built upon the Lisbon Strategy and the social development and respect of fundamental rights as protected in the EU Charter adopted in Nice in 2000. The communication underlined the 'universality of core labour standards' and argued that 'global market governance has been developed more quickly than global social governance.' Thus, with the aim of creating better social governance internationally, a wide range of ambitious actions were proposed, such as making the ILO instruments more effective and pooling together the EU policy tools, including the EU Generalised System of Preferences (GSP) and bilateral relations. Parliament's resolution on this communication strongly emphasised the need for both the Member States and, most specifically, the Commission to cooperate with the ILO and hinted at the challenges involved in WTO's Doha round where the role of social standards in trade policy was a most controversial issue (2002/2070 (COS)). Parliament called for the incorporation of a clause with core labour standards in all external trade agreements.

Furthermore, in 2001 a Green Paper 'Promoting a European Framework for Corporate Social Responsibility' was adopted by the Commission (COM(2001)366). The aim was to identify voluntary ways in which the EU could contribute to achieving sustainable development and a more effective form of governance. In the European Parliament's resolution related to the Green Paper (2002/2069 (COS)), Parliament urged the Commission to work for appropriate social and environmental reporting and assessment, to investigate the possibilities of regulatory authorities being better collated and called for the creation of an EU multi-stakeholder CSR forum. This was later followed by a communication from the Commission on 'Implementing the partnership for Growth and Jobs: Making Europe a Pole for Excellence on Social Responsibility' (COM(2006)136). In the European Parliament's resolution commenting on this Communication (2006/2133 (INI)), Parliament explicitly asked for the Commission to work for better coordination, more effective social and environmental reporting, and allowing the possibility for suppliers to meet certain criteria. This issue has remained high on the agenda for Parliament, as expressed latest in the Committee on Employment and Social Affairs' work on an opinion on 'Corporate and Social Responsibility in International Trade Agreements' (INI/2009/2201).

After the inclusion of social values into the Union's external relations in the early 1990s and, secondly, the accentuated focus on the external dimension with the Lisbon Strategy, came a third step – the European Union's response to the debate on the report by the World Commission on the Social Dimension of Globalisation (2004). This topic was triggered in 2003 with the 'Mid-Term Revision of the Social Policy Agenda' (COM(2003)312). Other general policy documents such as the 'Social Agenda' from 2005 (COM(2005)33) and the 'Renewed Social Agenda' (COM(2008)33) basically followed this track. Based on the argument of the World Commission, in this most recent phase the incorporation of European social values into external dialogue through measures at a bilateral, regional and multilateral level was stressed.

In 2004 the Commission adopted a communication titled 'The Social Dimension of Globalisation - the EU's Policy Contribution on Extending the Benefits to All' (COM(2004)525), which gave a European response to the work of the World Commission on the Social Dimension of Globalisation. The communication described the range of relevant internal and external actions undertaken by the EU and proposed changes in certain areas. Parliament's resolution stressed the importance of the interdependence of the economic, social and environmental dimensions and underlined the arguments in favour of coordination and cooperation between the Council, Commission and Member States in order to do everything in their power to promote the core labour standards and ensure that these are adequately enforced (2005/2061 (INI)). Bilateral agreements and the decent work agenda were stressed particularly as the main priority issues. The European Parliament called once again for CSR schemes and a multi-stakeholder forum on CSR. In addition, the issue of poverty reduction was raised. The latter has been a core focus for Parliament, as manifested through several resolutions, most recently pronounced by the opinion on 'Poverty Reduction and Job Creation in Developing Countries: the Way Forward' (INI/2009/2171). This has furthermore been an issue for EU development policy, arguing both for promoting the decent work agenda and in relation hereto to achieve the Millennium Development Goals (see for instance SEC(2007)495).

The debate following the World Commission's report was complemented by a Communication adopted on 24 May 2006 on promoting the internationally agreed objective of 'Decent Work for All' (COM(2006)249), which also states that the Commission will address the issues of decent work in political discussion and cooperation in terms of bilateral and regional relations. Parliament's report (2006/2240(INI)) on this underlined a

number of important achievements which have been made in both internal and external EU policies. However, many challenges still lay ahead, including the recognition of decent work as a key part of development goals. This was followed by a declaration of the European Council in December 2007 on globalisation, which confirmed the strong EU commitment to strengthen the social dimension of globalisation and decent work.

Part of this discussion of the social dimension of globalisation is the question of policy coherence (Article 3 of the Treaty on the European Union). The European Consensus on Development of 20 December 2005 concerned the efforts of the European Institutions and Member States regarding the improvement of coordination, consistency and complementarity of their actions in the field of development. Furthermore, as stated in the Council conclusions (16079/09), it was of outmost importance to improve the Policy Coherence of Development (PCD), particularly in the areas of core labour standards, decent work and corporate social responsibility. The new PCD approach and its work programme for 2011 to 2013 (SEC(2010)421) refer to several initiatives which are important from a social dimension of globalisation perspective, notably the implementation of the GSP+ and the integration of ILO standards into bilateral and regional trade agreements and strengthening OECD guidelines for multinational companies.

1.2 From the 'social clause' to the 'Social Dimension of Globalisation'

In the beginning of the 1990s the European strategy on the external dimension was focused on the debate of a 'social clause', i.e. to incorporate social requirements in external relations and to reward countries which respect core labour standards in terms of more favourable trade agreements. This instrument is still in place, in particular in the GSP + approach; however, from 2001 onwards the EU started to accentuate other types of instruments and mechanisms for promoting social standards in non-member countries. The goal was still to promote CLS, but the instruments to be used were new and 'softer'. Dialogue, stimulation and negotiation within the ILO were seen as a better way to promote CLS than via the WTO, in particular taking into account the experiences of the Doha round. Connecting Free Trade Agreements with social standards was on the agenda of the Doha round, but – especially due to pressure from the developing countries – this could not be agreed upon. As such, the Doha round was seen as the time when 'the battle was lost' in terms of social standards in WTO, at least for the moment.

This new track manifested itself in institutional changes: for example, the main responsibility of the EU's policy on the external dimension of social policy shifted from DG Trade to DG Employment and Social Affairs and DG Development. Furthermore, the social objectives were broadened from a discussion on fair competition to a more complex and wide term, i.e. the social dimension of globalisation'. This development is referred to in the literature as a shift from the 'social clause' to the 'social dimension of globalisation' (Orbie, J. and Tortell, L.). It is summarised in the table below:

Table 1: Instruments and objectives in the EU's external dimension of social policy

	1995-2000	Since 2001
Instruments	Trade policies (hard approach)	Development co-operation International Labour Organisation (soft approach)
Objectives	Core labour standards	Social dimension of globalisation Decent work agenda Corporate social responsibility

Source: Orbie, J. and Tortell, L.

This brief review of key documents focusing on the external dimension of EU social policy underlines the strong commitment by the EU to ensure a fair distribution of the benefits of the globalisation. Similar to the development of internal EU social policy, it is clear that there has been a shift in focus in the external dimension of EU social policy: with the Lisbon Strategy, market-oriented policies while still the top priority, have been balanced more by social policies, albeit with a growing importance of 'soft law' complementing 'hard' regulatory policies. This development can also be seen in terms of the external dimension with the prioritisation of softer issues, such as the decent work agenda and CSR. The most recent initiatives particularly show that EU policies have a strong ambition to contribute to the social dimension of globalisation.

1.3 Defining the external dimension of social policy

In order to focus this study, the term 'external dimension of social policy' is defined. The term 'social policy' is a broad concept, and the report of the World Commission on the Social Dimension of Globalisation (WCSDG) does not clarify much: 'social' stands for everything that is *development-related*, ranging from poverty reduction and economic growth, to health and education, democratic development and human rights (WCSDG, 2004: 5).

However, an operational and appropriate definition of the external dimension has to be more precise. Therefore, this study limits its focus to working conditions, labour rights and associated policy-making. This limitation is made for a number of reasons. First, working conditions and labour rights are the core focus areas of internal and external social policy. This is the case both at an individual level – working conditions and the nature of work – and at an earnings level, which allows for a sustainable livelihood. Thus, these themes are of central concern for many people throughout the world (Orbie, J. and Tortell, L.). This definition is even more appropriate in the context of the EU. A number of scholars argue that EU social policy has to be understood in the light of the overall EU ambition of creating a common market, which includes ensuring fair competition in workers' mobility and labour rights (Orbie, J.; Aust, A. et al.; Daly, M., 2007).

Second, the core debate of this area – the social dimension of globalisation – has a very broad focus, but, as argued by the Commission and others, employment is the most sustainable way to ensure consistent growth. Thus, 'employment can therefore be seen as the bridge between growth and poverty reduction' (SEC(2007)495). Furthermore, it is argued that in practice the social dimension of globalisation mainly focuses on areas such as CLS and the Decent Work Agenda (Orbie, J. and Tortell, L.). Hence, working conditions

and labour standards are *the* key area of the international debate – and are as such central for this study.

The next task is then to come closer to an operational definition of the ‘external dimension’. The EU has aimed at becoming the leading entity in the world regarding social policy considerations by promoting social objectives globally. Thus, the external dimension denotes the EU’s initiatives to promote social standards internationally, i.e. with regard to non-member countries, either directly or indirectly via international organisations.

In summary, the term ‘external dimension of social policy’ refers to the EU’s work on promoting working and labour standards in non-member countries.

1.4 EU competencies in the external dimension of social policy

The character of the external dimension of the EU’s social policy is also shaped by the complex distribution of competencies within the EU, as well as the specific procedures and forms of decision-making in external issues. In external trade the decision competencies are well defined and the EU has a tradition and the competencies to act as one player. However, the picture is less clear in terms of social policy and development policy (Orbie, J. and Tortell, L.; Wanlin, A.). The principle of subsidiarity implies that the social policy *de facto* is formulated in interaction between the Community and the Member States. In addition, in many Member States this is combined with regional and local level authority and shared with the social partners. As a consequence, competencies in social policy are rather divided and more loosely connected. Member States still have control over major elements of social policy, such as social insurance, minimum income support and labour market policies, and also taxation and income redistribution. The picture is similar in terms of developmental aid where competencies are also divided, resulting in a – sometimes – uncoordinated effort. But several initiatives of coordination and coherence (e.g. PCD) have been undertaken.

The distribution of competencies is a major factor when it comes to the question in which areas the EU has external competencies to act as one player and where the Member States are reluctant to share formal competencies with the Commission. This has led to a dispute about how the EU should contribute to the formulation of social standards within the framework of the ILO (Orbie, J. and Tortell, L.). Generally speaking, the ECJ stated that when the Community limits itself to setting minimum labour standards (as is the case with most labour legislation), external competence is shared by the Community and Member States (ECJ Opinion 2/91), which means that the EU does not constitute a single unified actor in this area. However, coordination efforts aim at overcoming divergence between Member States.

2. RECENT AND CURRENT KEY INITIATIVES IN RELATION TO THE EXTERNAL DIMENSION OF SOCIAL POLICY

KEY FINDINGS

- Key initiatives have to be understood as contributing to the overall framework shaped by the debate on the social dimension of globalisation, which is based partly on the UN Millennium Development Goals. Within this framework, core labour standards, the decent work agenda and corporate social responsibility are the three most important elements.
- The core labour standards are manifested in eight ILO conventions focusing on (i) the freedom of association and collective bargaining, (ii) the elimination of forced and compulsory labour, (iii) the elimination of discrimination in respect of employment and occupation and, finally, (iv) the abolition of child labour.
- The decent work agenda has been an important ILO initiative to try to make these conventions, and especially the implementation of them, more dynamic and focused on the individual country's needs. This is partly focused on providing technical assistance to implement the ILO conventions.
- CSR initiatives focus on (multinational) companies as core actors. Internal codes of conduct addressing, for example, social standards are one element of CSR.

2.1 The social dimension of globalisation

For the first time, the 1995 World Summit for Social Development in Copenhagen addressed the social dimension of globalisation at the highest political level. It was recognised that globalisation creates opportunities, but, at the same time, globalisation could also lead to poverty, unemployment and social disintegration. In 2000 the World Summit in New York adopted the UN Millennium Development Goals (MDGs)⁽¹⁾ to be achieved by 2015. These goals inspired the subsequent debate on the social dimension of globalisation.

These goals are central to the global debate on social standards, although the fact that the goals should be met in 2015 means that they will be difficult to reach at a global scale. One of the core arguments is that there is a need for global leadership to achieve the MDGs. This is especially pronounced in the report from the World Commission on the Social Dimension of Globalisation (WCSDG) from 2004. The report 'A Fair Globalisation: Creating Opportunities for All' had a huge impact on the subsequent worldwide discussion of globalisation.

The core thesis of the report is that globalisation is here – and thus we need to act to ensure a sustainable development in a broader sense to balance the growing influence of the market economy. The WCSDG therefore calls for global leadership with the aim of changing the focus from a narrow 'preoccupation with markets to a broader preoccupation with people'. (WCSDG, 2004: viii).

¹ The MDGs are: ending poverty and hunger; providing universal education; ensuring gender equality; and promoting child and maternal health.

The report relies on a thorough analysis of globalisation, both its potential and risks. It suggests a wide range of proposals and recommendations. The report argues that nations are fundamental determinants of our way of organising, and that change should therefore be founded at local and national levels. Thus, the report includes suggestions at national levels, such as national governance and effective state organisations, and also a consistent focus on implementing decent work at national levels.

In relation to global governance, the focus is on creating and developing fair rules, in particular with respect to trade, global production systems, the international financial system and labour in the global economy. Furthermore, there is a concern for creating better international policies, including the ILO decent work agenda, and socially responsible investments. Finally, attention is drawn towards creating more accountable institutions, both in terms of state actors, multilateral systems and non-state actors.

This agenda has influenced the different aspects of the European Union's external policies. Of particular relevance is the communication from the Commission in 2004 on 'The Social Dimension of Globalisation' and the contribution of the Commission to the European Council meeting in October 2005. These papers focus on both the internal and the external dimension of the social dimension of globalisation and discuss how social aspects are parts of different bilateral and regional negotiations and of trade agreements, etc.

Although the debate on the social dimension of globalisation addresses a wide variety of themes, issues and policy proposals, three elements are of specific interest for this study: (i) the core labour standards (CLS), (ii) the decent work agenda, and (iii) corporate social responsibility (CSR).

2.2 ILO core labour standards

Four core labour standards are laid down in eight ILO conventions:

- Freedom of association and the effective recognition of the right to collective bargaining (Convention No 87 and Convention No 98)
- Elimination of all forms of forced or compulsory labour (Convention No 29 and Convention No 105)
- Effective abolition of child labour (Convention No 138 and Convention No 182)
- Elimination of discrimination in respect of employment and occupation (Convention No 100 and Convention No 111).

A thorough description of these conventions can be found in Annex B.

Looking at these core labour standards, it is evident that most of the principles are some which the EU has traditionally been working for – for instance the principle of tripartism and the focus on gender equality.

The 1998 ILO Declaration on the Fundamental Principles and Rights at Work went beyond the focus on promoting CLS and formulated several instruments to follow up on the ratification and implementation of the ILO conventions, such as regular reporting and complaint procedures. This was due to criticism raised against the ILO concerning the fact that the ILO has limited possibilities of following up on countries' ratification and their

actual implementation of ratified conventions (Locke, R. et al.). The issue of both the ratification status and the implementation will be discussed further in Chapters 5 and 6.

Generally speaking, the CLS were for some time, especially in the 1990s, coupled with trade policy, which meant that countries ratifying conventions benefited from favourable trade agreements. However, the EU at the time was very clear in its rejection of using sanctions-based approaches and rejected the use of labour standards for protectionist purposes. Furthermore, it is clearly stated that the comparative advantage of countries, particularly low-wage developing countries, should not be put into question.

In this context, it is noteworthy that, as early as in 1996, an OECD study on international trade and core labour standards (OECD, 1996) concluded that the absence of labour standards is not a competitive advantage in international trade, but instead it pointed at a positive relation between the liberalisation of international trade and the application of CLS. As such, CLS were seen as a part of a positive development in the countries under scrutiny.

2.3 The decent work agenda

The decent work agenda was formulated by the ILO, but it was also emphasised by the World Commission on the Social Dimension of Globalisation (WCSDG, 2004: 64-66, 110-113). The decent work agenda can be seen as a 'soft' successor of the earlier agenda of connecting core labour standards with trade (Orbie, J). The decent work agenda continues to promote the core labour standards but takes some further steps. It consists of four strategic objectives:

1. fundamental principles and rights at work and international labour standards (i.e. the core labour standards);
2. employment and income opportunities;
3. social protection and social security;
4. social dialogue and tripartism.

The EU has been keen to support the decent work agenda and the decent work country programmes (DWCP), country-specific programmes agreed upon by the ILO and the country's social partners. Its main objective is to make the implementation of ILO conventions more dynamic and focused on the individual country's needs. The DWCP is strongly focused on providing technical assistance to facilitate the actual implementation of the ILO conventions.

The DWCP is a dynamic tool focused on the individual needs of a specific country. After a pilot period, the concept of decent work is now being promoted and applied in several ILO member countries. One core element which is central at all stages of the process is tripartite participation. Furthermore, the decent work country programme has benefited from cooperation with the United Nations Development Assistance Framework (UNDAF). The implementation of the individual country programmes is monitored via reviews and evaluation studies, which are used to improve the measures continually.

The ratification status of both the CLS conventions and the DWCP is analysed in chapter 5.

2.4 Corporate social responsibility

The focus of the corporate social responsibility is genuinely different from the other more political initiatives, due to the fact that the core actors of this approach are private companies, in particular multinational companies. These companies aim at sending a signal to their stakeholders and consumers that they act in a social, environmental and economic responsible way. Thus, consumers become important actors in this respect. The concept of CSR has been discussed – proponents argue that this approach encourages companies to think more broadly than simply in terms of their short-term economic goals, while opponents tend to see CSR as a non-binding superficial ‘window-dressing’ without any real impact.

Several organisations, companies and governments have been working with CSR. Four of the central initiatives or guidelines come from the UN, OECD, ILO and the International Framework Agreements (IFAs), respectively.

In 1999 the UN introduced a programme named ‘Global Compact’ aimed at companies. The programme focuses on the support for and mainstreaming of 10 CSR principles. The 10 principles focus on human and labour rights (corresponding to the CLS), environmental protection and anti-corruption. The UN Global Compact Programme is not a regulatory instrument but is based instead on companies’ voluntary participation.

In 2000 the OECD presented guidelines for multinational enterprises (OECD, 2000), establishing a set of recommendations for multinational enterprises. Although the recommendations are non-binding, they are supported by the OECD countries where most multinational enterprises have their headquarters. The guidelines focus on company matters, such as employment, industrial relations, human rights, the environment, competition, information disclosure and taxation, combating bribery and consumer protection. Looking specifically into the area of social policy within the guidelines, the recommendations – as was also the case with the UN Global Compact – are very similar to the content of the eight fundamental ILO conventions, i.e. the CLS.

Another initiative is the ILO ‘Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy’. This instrument is an important point of reference for many companies. It is the only internationally negotiated text enjoying the support of governments, and employers’ and workers’ organisations.

As early as in 1988 the first International Framework Agreements (IFAs) were negotiated. They include agreements between multinational companies and the Global Union Federation (GUF), referring to the ILO core conventions (especially conventions 87 and 98 on freedom of association and collective bargaining) and the UN Global Compact (Stavis, D.). From the unions’ point of view, the IFAs therefore facilitate a redirection of the proliferation of private codes of conduct away from discretionary forms of CSR and towards global social dialogue and industrial relations. Another important characteristic is that by negotiating an IFA multinational companies are acknowledging a global actor that represents workers, whether that actor is the GUF or a global employee organisation. Since 2002 the utilisation of IFAs has become more widespread. It should be noted that IFAs are mostly a European initiative, as 58 of the 70 companies that have signed an IFA are European. But the recent trend is that more companies from non-European countries are now negotiating and signing IFAs, including a Canadian (Quebecor) and a Japanese (Takashimaya) company. This is of significance because Canada and Japan historically have been more reluctant to sign IFAs.

The Commission has committed itself to promoting CSR externally through trade incentives (notably the GSP and GSP+), development agreements (most notably the Cotonou Agreement) and cooperation with the ILO. Furthermore, in 2006 the European Commission and the business community launched the European Alliance for corporate social responsibility, which constitutes an umbrella for CSR-related business initiatives and serves as a forum where corporations and stakeholders can discuss various aspects of CSR.

Generally speaking, these programmes, which are the most prominent examples of many, encompass the same areas for the companies to focus on – indicating, that these areas are a core element of CSR. However, they allow for quite some variation and leave considerable room for interpretation, which is indeed an important obstacle when it comes to the actual implementation.

Another issue is the actual monitoring and measuring of the companies' progress in the area. Owing to the heterogeneity of the concept of CSR, different companies have developed different standards to serve as a framework for social accounting, auditing and reporting, and CSR reports are hardly comparable. However, it should be noted that several initiatives have been made on national levels to implement the guidelines or encourage companies to do so by arranging a supportive environment for the companies' CSR initiatives. The EU has made several noteworthy initiatives, including the 'Labour Rights Responsibilities Guide' (LARRGE) which provides an overview of more than 50 excellent CSR tools (e.g. codes of conduct, e-learning tools and self-assessments) currently in use.

3. KEY ELEMENTS OF THE ANALYTICAL FRAMEWORK: ACTORS, COUNTRIES AND INSTRUMENTS

This chapter presents the analytical framework used in the report. The key elements in the framework are actors, countries and instruments.

KEY FINDINGS

- The external dimension of EU social policy is shaped by several actors. Apart from the EU institutions, international organisations, in particular the WTO, the ILO and the OECD, international social partner associations, multinational companies and non-governmental organisations are also of particular importance. Governments of other developed countries and non-EU member countries play a crucial role as well.
- A typology of countries is developed in order to analyse the EU's relations to non-member countries. Based on the countries' relationship and geographical proximity to the EU and on their status in the internal economy, the typology distinguishes between developed countries, developing countries, accession countries, neighbourhood countries and other emerging economies.
- In relation to types of instruments, a typology is adopted distinguishing between (i) 'hard' regulatory instruments, (ii) 'soft' dialogue-based measures, and (iii) financial and technical assistance instruments on the one hand, and internal and external instruments on the other hand.

3.1 Actors

Table 2 provides an overview of the most important actors, which are divided into three groups of actors:

1. International, i.e. intergovernmental organisations working in the relevant areas of social policy, trade and development aid which the EU identified to promote the external dimension of social policy. Of particular importance are the WTO, ILO, but also the World Bank, IMF, OECD and UNCTAD.
2. International interest organisations occupied with the external dimension of social policy. These are primarily transnational associations of the social partners, such as ETUC, ITUC and BUSINESSEUROPE.
3. Other actors actively working to improve social standards globally. It is primarily the US that is relevant here; throughout this report the US will be used as a benchmark for the EU approach. With respect to CSR, multinational companies will also be included. Last, but not least, non-governmental organisations (NGOs) should be considered.

Table 2: Overview of the most important actors

Actor	Type	Core objectives	Relations to the EU
WTO	IGO	<ul style="list-style-type: none"> • Administering trade agreements. • Forum for trade negotiations; settling trade disputes and reviewing national trade policies • Assisting developing countries in trade policy issues, through technical assistance and training programmes 	<ul style="list-style-type: none"> • The Commission negotiates trade agreements and represents European interests on behalf of the Member States.
ILO	IGO	<ul style="list-style-type: none"> • Promote and realise standards and fundamental principles and rights at work • Create greater opportunities for women and men to secure decent employment and income • Enhance the coverage and effectiveness of social protection for all • Strengthen tripartism and social dialogue 	<ul style="list-style-type: none"> • Tripartite structure • The Commission only has observatory status; instead Member States coordinate horizontally • Coordination, regular meetings between the Commission and ILO
ETUC	IO	<ul style="list-style-type: none"> • Representation and defence of European workers' rights • Promotion of the EU social model, including tripartism 	<ul style="list-style-type: none"> • Partnership and coordination • Social dialogue
ITUC	IO	<ul style="list-style-type: none"> • Representation and defence of workers' rights with respect to trade union and human rights; economy, society and the workplace; equality and non-discrimination and finally international solidarity 	<ul style="list-style-type: none"> • Partnership • Input and dialogue about non-members
BUSINESS-EUROPE	IO	<ul style="list-style-type: none"> • Preserving and strengthening corporate competitiveness and sustainable growth at the EU level • Promotion of social dialogue to ensure a smooth functioning of the labour market 	<ul style="list-style-type: none"> • Partnership and coordination • Social dialogue
USA ^a	Country	<ul style="list-style-type: none"> • Promoting free trade • Exporting social standards 	<ul style="list-style-type: none"> • Important economic and political relations • Benchmarking to the EU

Note: IGO: Intergovernmental Organisation; IO: Interest Organisation A: The objectives described concerning the USA is in relation to promoting social standards globally. The World Bank, IMF, OECD and UNCTAD are also relevant – especially because they provide technical assistance – but not as central to the study on the external dimension of social policy as the WTO and ILO, which is why they are not included in the table.

3.2 A typology of countries

A typology of countries facilitates the analysis of differences in the success and failure of different instruments and – more generally – answering the question how the EU can influence different countries most effectively. The typology is based on the two most relevant criteria:

- geographical proximity and the country's relation to the EU, in particular regarding the perspective of accession to the EU or other specific neighbourhood policy;
- the country's economic situation and position in global production, ranging from developed to emerging and developing countries.

However, to include the above-mentioned criteria in *one* typology makes the typology less straightforward. Geographical proximity means that different instruments and incentives are in place due to the fact that some countries are accession countries or under the influence of the European Neighbourhood Policy (ENP), while others are not. This is especially the case for the category of emerging economies, as this cluster consists of countries which are accession countries, ENP countries and countries without these specific types of relations to the EU.

Table 3: Typology of different countries – characteristics and countries

Typology/ grouping	Relation to EU	Economic characteristics	Key incentives/ instruments/ initiatives	Countries
Least developed countries	EU is the largest aid donor and export market	Least developed countries	GSP, GSP+ and EBA Cotonou Agreement Dialogue about e.g. DWCP via ILO	ACP countries: sub-Saharan Africa, Caribbean, Pacific countries. Consists of 79 states; 48 African, 16 Caribbean and 15 Pacific. This covers countries such as: Kenya, Tanzania, Zambia, Sudan, Côte d'Ivoire, Burkina Faso, Solomon Island, Ghana, Liberia, Niger, Nigeria, Senegal, Belize and Cuba
Accession countries/candidate countries	More direct EU influence due to their accession process	Primarily emerging economies	Stabilisation and Association Agreements	Candidate countries: Turkey, Croatia and Former Yugoslav Republic of Macedonia Accession countries: Iceland, Albania, Montenegro and Serbia
Neighbourhood countries (under the Neighbourhood Policy or the Stabilisation and Association Process)	Frontier countries - important security aspects. In the long run a focus on either membership or closer relations with the EU.	Primarily emerging economies	Free Trade Agreements Dialogue about e.g. decent work via ILO	Eastern group: Armenia, Azerbaijan, Russia, Moldova, Ukraine, Belarus and Georgia Union for the Mediterranean states/Southern group: Morocco, Algeria, Tunisia, Libya, Egypt, Jordan, Lebanon, Syria, Israel and Palestine
Other emerging economies	Competitors now and in the long run	Primarily emerging economies	Free Trade Agreements Dialogue about e.g. decent work via ILO	Asia and some Latin American countries including: China, India, Brazil, Cambodia, South Korea, South Africa, Argentina, Chile, Mexico, Peru, Cambodia, Laos, Thailand, Vietnam, Malaysia, Indonesia, the Philippines and Singapore.
Developed countries/industrialized countries (other than EU-countries)	Trading partners and competitors, but also joint challenge of competition from emerging countries. In general high social standards	Developed countries	WTO Agreements EEA and EFTA	OECD member states EEA and EFTA countries (EU-27 plus Norway, Switzerland and Liechtenstein)

3.3 Different types of instruments

The EU uses a wide range of instruments in its internal and external relations. The instruments can be categorised as 'hard', 'soft' and financial instruments, both with respect to EU internal and external action. On that basis the typology of instruments constitutes an analytical framework for the further analysis of the external dimension of EU social policy.

Hard instruments are regulations and directives which have direct legal implications for member countries (e.g. EU Member States, but also with respect to WTO member countries). When using these instruments it is possible to sanction countries not complying with existing regulations.

Soft instruments are instruments of a more dialogue-based and normative character, i.e. instruments that seek to alter the behaviour of a country by altering how the country considers its options. That is, soft instruments may make countries *want* to change, when they are not being coerced to change (Kissack, R., 2009).

Financial instruments include aid, subsidies, technical assistance and other funds made available to facilitate desired action. Financial instruments can either be conditional upon certain criteria, e.g. compliance with hard regulatory provisions, or unconditional.

It is important to note that this categorisation is of course archetypical and that there is substantial overlap between the types of instruments. Financial instruments can as such be both soft and hard instruments. However, in order to perform a coherent and detailed analysis, this categorisation is applied.

3.3.1 Internal instruments

With respect to internal policy instruments the principle of subsidiarity is of key importance.

Hard instruments cover EU legislation and regulation, including binding legislation stemming from the Social Dialogue. For example, in the EC Treaty it is established that the EU has competence concerning gender equality but not regarding freedom of association. The lack of EU competencies regarding labour standards including freedom of association is attributed to the fact that these rights are deeply entrenched in the constitutional traditions of the EU Member States and thus not susceptible to change without degrading the sovereignty of the Member States.

Soft instruments refer to incentives, recommendations and persuasions. A prominent example is the Open Method of Coordination on Social Protection and Social Inclusion. In broad terms, OMC is a way the EU can help Member States to develop a shared vision of social challenges, fostering a willingness to cooperate and learn from other Member States' best practices to better implement reforms (COM(2008)412).

In terms of *financial instruments*, it is relevant to mention EU funding, for instance the structural funds and the Globalisation Adjustment Fund. The structural funds are the main redistributive mechanism within the EU and make '(...) a vital contribution to the promotion of opportunities, access and solidarity by strengthening both competitiveness and social cohesion' (COM(2008)412).

3.3.2 External instruments

Despite some differences from internal policies and measures, instruments available to the EU with respect to external relations can also be categorised as hard, soft and financial instruments.

Hard instruments

The EU has been a significant user of different kinds of Free Trade Agreements (FTAs), such as the EU Association Agreements with states in Eastern Europe, in the Western Balkan region and Euro-MED with the aim of promoting economic development and political stability; the Economic Partnership Agreements (EPAs) with the Africa Caribbean and Pacific (ACP) states largely motivated by development policy objectives, and finally, some more commercially motivated agreements which have been established or are under way with South Africa, Mexico, Chile and MERCOSUR. In general, FTAs have few references to social standards, but the agreement between the EU and South Korea shows that it is possible to have more ambitious arrangements.

A sub-category of FTAs is the EU Generalised System of Preferences (GSP scheme), since the EU does not pursue a trade sanctions-based approach to social and labour standards. Instead, it offers additional tariff preferences (under the GSP and GSP+) to countries which have signed and are effectively implementing the core UN human rights and ILO labour rights international conventions. In brief, the GSP exempts developing countries from export tariffs compared to the 'normal' tariffs imposed on industrialised countries (i.e. the most favoured nations, MFN). In the 1960s UNCTAD had already advocated such a system; and in 1971 the General Agreement on Tariffs and Trade (GATT, the predecessor for WTO) enacted two waivers to the most favoured nation principle which permitted tariff preferences to be granted to developing countries' goods. Both of these waivers were limited in time to 10 years. In 1979 the GATT established a permanent exemption from the MFN obligation by way of the enabling clause. This exemption allowed contracting parties to the GATT (the equivalent of today's WTO members) to establish systems of trade preferences for other countries, with the caveat that these systems had to be 'generalised, non-discriminatory and non-reciprocal' with respect to the countries they benefited (so-called 'beneficiary' countries). Today the EU, USA and Japan have their own GSP systems.

The EU GSP system autonomously grants this preferential access. The modalities for granting preferences under the GSP are set out in Council Regulation (EC) No 732/2008 of 22 July 2008 and in Council Regulation (EC) No 980/2005 of 27 June 2005. The GSP scheme is renewed every three years. The current regime applies from 1 January 2009 until 31 December 2011.

The EU GSP system covers three different preference regimes:

- The standard GSP provides preferences to 176 developing countries and territories.
- The special incentive arrangement for sustainable development and good governance, known as GSP+, which offers additional tariff reductions to support vulnerable developing countries in their ratification and implementation of international conventions in these areas. Vulnerability is in this respect understood in terms of size and limited diversification of the countries' exports. In the current scheme the GSP+ includes 16 beneficiary countries.
- The 'Everything But Arms' (EBA) arrangement, which provides duty-free and quota-free access for all products for the 49 Least Developed Countries.

Social incentives under the GSP scheme are an important instrument for the promotion of core labour standards. The GSP regulation addresses the issue of CLS by (i) providing a positive incentive scheme, whereby effective compliance with CLS qualifies for additional trade preference, and (ii) allowing for a withdrawal, in whole or in part, where beneficiary countries practice any form of slavery or forced labour. Degrading or withdrawal of a country's GSP status is, however, not only limited to 'negative' situations (e.g. violations of the conventions or missing ratifications) but also due to 'positive' situations, such as increased economic competitiveness, which makes trade preference unnecessary to enable the competitiveness of the given country.

The GSP+ is of particular interest because the beneficiary countries are obliged to ratify 16 core human and labour rights conventions (UN and ILO) and 11 environment and good governance conventions (see Annex III of the regulation). Currently, Sri Lanka has been moved from the GSP+ to the general GSP because of problems with ratification of the conventions. It should be noted that the suspension of GSP+ benefits to Sri Lanka is temporary and without any direct influence for its key export items, as the overarching EU objective remains to use GSP+ as an incentive to underpin improvements in the human rights situation in Sri Lanka. Apart from Sri Lanka, only Belarus and Burma have been degraded due to general violations of human rights (Novitz, T.).

Another type of hard instrument is the *indirect influence via international organisations*, in particular the way in which the EU influences the outcome of ILO Conventions and WTO trade agreements. Although this is indirect, it is by no means the same as saying it is a softer instrument. WTO agreements are regulations and any influence the EU may have in the formulation of these regulations will have a very powerful effect. On the other hand, ILO conventions are not such hard instruments as WTO trade regulations, but they can be integrated in other hard instruments (e.g. GSP). This discussion will be unfolded more in Chapter 4 when analysing the coherence of EU social policy.

Soft instruments

The main component of soft instruments is dialogue- and incentive-based schemes. The EU approach in its *regional and bilateral arrangements* is to focus more generally on social development objectives within a cooperative framework. EU agreements often recognise and promote social rights and cooperation, including specific issues such as gender and health.

With respect to the social dimension of globalisation the *decent work agenda* is important; in that connection the decent work country programme is especially interesting as it is an instrument to achieve the goals set forth in the decent work agenda. Here, the EU has worked closely with the ILO; and hence, this aspect of the soft instrument could also be seen as an indirect instrument.

Another example of a soft tool is corporate social responsibility because it is a more indirect and incentives-based approach to influence the promotion of, in particular, CLS. The Commission enhanced the focus on CSR, which is a good accompaniment to the development of EU global social policy moving towards softer instruments (Orbie, J. et al., 2009(a)). Despite the call from the European Parliament concerning how to strengthen, in particular, the legal requirements of the reporting process (INI/2006/2133), the EU approach to CSR has not included legal aspects but has relied on voluntary initiatives.

Financial instruments

Regarding financial instruments, aid to developing countries is an important external policy instrument. The European Union (the Member States and the EU Commission) is by far the biggest aid donor worldwide (Huybrechts, A. and Peels, R.). EU development policy has consisted of three pillars: (1) political and social issues, (2) trade, and (3) development. During the 1990s the focus shifted towards political and social issues of development such as human rights, good governance, democratic principles and the rule of law. This was primarily due to the changes in the international environment and a general aid fatigue because of a lack of results (Huybrechts, A. and Peels, R.). Important development-oriented initiatives and policies are:

- The EU Consensus on Development (2006), which sets out to ensure consistency between Member States and EU institutions in EU development policies. 11 different policy objectives are considered particularly relevant as regards helping developing countries to achieve the UN MDGs: the social dimension of globalisation, employment and decent work and trade.
- The Cotonou Agreement (EU-ACP Partnership Agreement, 2000 and 2005) is a treaty between the European Union and the African, Caribbean and Pacific group of states ('ACP countries'). It was signed in June 2000 by 79 ACP countries and the then 15 Member States of the European Union. It entered into force in 2003 and is the most recent agreement in the history of ACP-EU development cooperation.

The Cotonou Agreement is a clear example of the EU creating stronger ties between political and social improvements and aid. The agreement was designed to give a stronger political foundation to ACP-EU development cooperation. Therefore, political dialogue is one of the key aspects of the arrangements and addresses new issues which have previously been outside the scope of development cooperation, such as peace and security, arms trade and migration.

Another important issue in terms of financial instruments is *technical assistance* to non-member countries. This type of instrument varies depending on the content and context. Important examples are the technical assistance that the EU provides to accession countries in terms of assisting the adaptation of their law to European standards. But EU training activities spread to Asia and Latin America as well. One major agency active in this field is the European Training Foundation (ETF). Other prominent examples are the assistance provided by the ILO in terms of the decent work country programme, which supports the social dialogue and helps implementing ILO conventions. In addition, technical assistance has also been focused on supporting NGOs.

3.3.3 A typology of instruments

With instruments available defined as hard, soft and financial instruments in both internal and external policies, the typology presented in Table 4 can be established.

Table 4: Categorisation of EU instruments regarding social policy

	Internal policies	External policies
Hard instruments	EU legislation (treaties, directives and regulations) <i>Gender equality (EC Treaty)</i>	FTA GSP and GSP+ WTO: Trade policies (indirect) ILO Conventions (indirect) <i>Social incentives incorporated in agreements</i>
Soft instruments	Incentives, recommendations and persuasions <i>Social OMC</i>	Dialogue, incentives, recommendations and persuasions <i>Regional and bilateral agreements</i> <i>CSR</i> <i>Decent work (indirect via ILO)</i>
Financial instruments	EU funding <i>Structural Funds</i> <i>Globalisation Adjustment Fund</i>	Development Aid Technical assistance <i>The EU Consensus on Development</i> <i>The Cotonou Agreement</i>

Note: Text in **bold** indicates the instruments, whereas text in *italics* symbolises concrete cases regarding the instruments mentioned.

As argued in Chapter 0, the EU is increasingly focusing on 'soft instruments' with regard to its external policies – a case in point being the closer cooperation with the ILO at the expense of the WTO, regarding the external dimension of social policy. This will be analysed further in the later chapters.

4. THE COHERENCE OF THE INTERNAL AND EXTERNAL DIMENSION OF EU SOCIAL POLICIES

KEY FINDINGS

- Policy coherence is a broad term which has to be divided into horizontal coherence and vertical coherence (direct and indirect). EU social policy is becoming increasingly coherent, but there are still major challenges.
- With respect to *horizontal coherence*, it is found that although the Lisbon Strategy and the EU 2020 Strategy have accentuated the focus on social policies, there is still a prioritisation of market enhancing policies over social policies. The promotion of social objectives through trade policy is subordinated to the core business on the EU trade agenda.
- With regard to core labour standards and their relation to international trade rules, an account of the EU's multilateral, bilateral and unilateral trade policies reveals that consistency has been a major challenge. The EU prioritises cooperation with the ILO over the WTO when promoting social policy globally. This policy is assessed as (indirectly) *vertically coherent*. However, because the EU does not always act as a unitary player its coherence cannot be assessed as complete. With respect to EU-ILO relations a paradox is identified: The more influence the EU exerts over ILO Conventions, the lower the number of ratifications of those conventions. Influence within the WTO is more limited and constrained to the extent that social considerations could not be promoted appropriately.
- The EU utilises soft instruments and does not enforce the potential conditionality embodied in many of the bilateral and regional Free Trade Agreements. Hence, coherence is far from perfect in this realm.

4.1 Defining policy coherence

Policy coherence is a broad term. In order to make use of it analytically it is necessary to define and disentangle the term. Coherence is defined as a balanced policy or strategy with concurrence of, or only very limited tension between, the various aspects of the policy or the strategy. In the context of this study, coherence is to be broken down into three sub-dimensions: horizontal coherence, indirect vertical coherence and direct vertical coherence (see Table 5).

Table 5: Definition of horizontal coherence and of vertical coherence (indirect and direct)

	Horizontal Coherence	Vertical Coherence: Indirect Influence	Vertical Coherence: Direct influence
Definition	Tension or concurrence between social and other – mostly economic and trade – European external policy objectives.	Tension or concurrence between the EU and other international organisations (ILO and WTO)	Tension or concurrence between the EU and non-member countries (regional and bilateral agreements)

4.2 Horizontal coherence

Within a large and integrated body such as the EU, coherence is a natural challenge. This analysis concerns the coherence of external policies, especially the order of priorities between trade policies, aid policies and social policies, when the EU promotes the social dimension of globalisation, i.e. core labour standards, decent work agenda and corporate social responsibility.

4.2.1 Coherence between social policy and trade and development policies

The relationship between EU trade policies and EU social policies is the most important aspect when assessing horizontal coherence. From the EU strategic documents (e.g. the Lisbon Strategy and the 2020 Strategy) two main points can be derived: first, at a general level, the EU emphasises market-enhancing policies over social policies. For example, the Lisbon Strategy and the Renewed Lisbon Strategy put emphasis on ‘growth’ and ‘jobs’ and the social dimension of globalisation to this is only to a limited extent incorporated into the Lisbon Strategy. The secondary focus on the social dimension of globalisation is also apparent in the new 2020 Strategy. As these documents set the overall policy ambitions of the EU they are very important in shaping horizontal coherence. Second, at the same time, however, these strategies prove the strengthening of the social dimension of the EU over the last years – both in terms of the internal and the external dimension. This tendency is supported by the different Social Agendas the EU has produced over the last decade. In other words, there is a tendency for the EU to become more ambitious with respect to external social policy, which also increases coherence in this respect.

With the EU focuses primarily on ‘growth’ and ‘jobs’ (see the ‘Renewed Lisbon Strategy’) the main point of *EU CSR policy* is also to attain those objectives which might undermine the value of CSR as a means to improve core labour standards. As such ‘(...) *the European Commission tends to subordinate it [CSR-policies] to other objectives and presents it to firms as a strategic element of their competitiveness*’ (Orbie, J. et al., 2009(a): 111). With respect to EU CSR policy, it is also important to emphasise that the EU CSR strategy is primarily based on soft and flexible instruments and voluntary, i.e. non-binding agreements and dialogue. This stands in stark contrast to the EU as a ‘regulatory state’ (Majone, G.) which uses strict regulations and directives to advance a common policy – also in the domain of business regulations (e.g. levels of carbon dioxide emission or high minimum threshold values in the food industry). As argued by (Orbie, J. et al., 2009(a)), the

emphasis on a voluntary and process-oriented approach tends to reduce the chances of the EU CSR policies having a significant impact on business conduct and CLS. It is therefore interesting to note that the EU – despite some opposition – has gradually focused more on binding aspects in its CSR policy, such as regulation concerning EU development contractors' social standards and a directive allowing Member States to include non-economic criteria (e.g. CLS) in public procurement tenders (Martin-Ortega, O. and Eroglu, M.). Nevertheless, these are limited exceptions to a predominantly voluntary approach, which indicates a priority of market policies over social standards.

With respect to *development policies*, the 1990s showed a shift in strategy prioritisation from a focus on trade and development towards more emphasis on social and political issues, such as human rights, good governance and democratisation. This shift occurred mainly because of a lack of efficiency in both development aid and the preferential trade system, which had not brought about the desired results regarding economic growth and reduction in poverty in developing countries. Therefore trade preferences and development became more closely linked to political and social objectives. This policy development is clearly expressed in the EU Consensus on Development dating from 2006, which called for more consistency among policy domains by various EU institutions and the Member States. The commitment was formulated in a statement on Policy Coherence for Development, suggesting how non-aid policies could assist developing countries in achieving the UN MDGs. The Council of the European Union reaffirmed this statement in 2009 (16079/09). The question, then, is if this development and shift in policies with a stronger focus on political and social issues has in fact increased the coherence of EU development policies horizontally. One way to assess this is to analyse which demands are linked to development policies and which are linked to trade policies. As such *'(...) the EU has far fewer difficulties in applying its rhetoric of increased social and political engagement (i.e. promotion of human rights, decent work etc.) in its external policies on a soft policy, such as development, than on a harder one such as trade, where many more interests for both the EU and local governments are at stake'* (Huybrechts, A. and Peels, R.: p. 224). Their findings suggest that the EU puts forth much more demanding policies with respect to development aid than to trade policies. Consequently, trade, development and social policies are not conducted in a mutually reinforcing way.

4.2.2 A policy example: Gender equality and freedom of association

At a more specific level the tendency to prioritise market policies over social policies can be exemplified by a study showing that the EU prioritises market-enhancing aspects over social concerns with respect to the core labour standards of gender equality and freedom of association (Novitz, T.). Gender equality and freedom of association are both part of CLS and therefore aspects which the EU is supposed to promote externally. If the EU acts in accordance with the decent work agenda, one might expect to find that the EU is engaged in both the import and the export of CLS, thereby making its policy horizontally coherent.

EU competencies taking measures to implement labour standards are set out in Chapter 1 of Title XI of the EC Treaty, namely Articles 136 to 145 EC (Novitz, T.). However, neither pay, the right of association, the right to strike nor the right to impose lock-outs are mentioned. The lack of EU competencies concerning these rights is attributed to the fact that such rights are deeply entrenched in the constitutional traditions of the Member States and thus not susceptible to change without degrading the sovereignty of the Member States. Therefore, there is no EU directive that requires Member States to respect rights to form and join trade unions, to engage in collective bargaining or to take industrial action. However, the ECJ has been willing to acknowledge that some social rights guaranteed

under international human rights instruments (i.e. the European Convention on Human Rights) may be regarded as fundamental and, thereby, a constraint on the adoption and implementation of Community Law. But the outcome of the Viking⁽²⁾ litigation indicates that not only are aspects of freedom of association, such as collective bargaining and the right to strike, not protected under Community legislation, but that national legislation providing such protection can be curtailed by the ECJ. It also indicates the potential of the Court to adopt a much more restrictive view of legitimate objectives of strike action than ILO supervisory findings (Novitz, T.). Hence, there is some evidence that compliance of EU Member States with ILO Conventions concerning freedom of association and collective bargaining can be undermined by requirements to comply with free movement provisions under the EC. This could explain why the EU, although the Commission stated that the Member States respect and are in full compliance with ILO Conventions (87 and 98), has not entirely implemented the conventions internally (i.e. in all Member States) so that ILO supervisory bodies could not find universal compliance (Novitz, T.).

Whereas there is no mention of freedom of association in the EC Treaty, *gender equality* is explicitly mentioned as the principle of equal pay for equal work. For instance, Article 141(3) of the EC Treaty states that measures shall be adopted '(...) to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.' Softer instruments, such as the OMC as part of the European Employment Strategy, have also been implemented in the EU to promote gender equality internally. The reason why the EU more actively promotes gender equality internally is that it is central to both fair competition and productivity in the EU internal market. Owing to the fact that the EU has legislative powers internally a higher degree of ratification and implementation of the ILO Conventions regarding gender equality (Conventions 100 and 111) could be achieved compared to the ILO conventions describing freedom of association.

Although the ILO Conventions concerning the freedom of association are not fully implemented in all Member States, the EU still uses the conventions in its external policies. For example, the EU made references to the ILO Conventions in relation to the South African-EU Free Trade Agreement. Furthermore, the EU referred to the ILO Conventions on freedom of association in Article 50 of the Cotonou Agreement on 'Trade and Labour Standards'. Also, with respect to EU GSP and GSP+ regimes, there are clear references to freedom of association furthering the aspect of conditionality which is embodied in those agreements, since any breach of ILO Conventions 87 and 98 will result in a de-grading of preferential trade status to the country breaching the conventions. In contrast to this, the EU has given no references to ILO Conventions 100 and 111 regarding gender equality in their external (trade) relations – gender equality is only included as a general aspect of CLS. Furthermore, there is no reference to gender equality in EU GSP or GSP+ regimes. This could be because of the cultural sensitivity that gender equality has in many developing countries, which could lead to difficulties in trade relationships.

The exploration of the two cases leads Novitz, T. to conclude that '*[T]he EU is not so much exporting its 'social model', but rather a 'market model', which reflects the particular role that the labour standards can play foundationally within a European labour market structure*' (p. 29).

² The case has highlighted how it is possible that the right of seafarers to take collective action to prevent social dumping, which is recognised by the Court as a fundamental social right, can nevertheless be trumped by the right of ship owners to switch national flags – even between Member States – as part of the exercise of their right of establishment in any state within the EU.

4.2.3 Assessment of horizontal coherence

The analysis of horizontal coherence illustrates the difficult balance between a market dimension of globalisation and the social dimension. Further, it shows that the EU uses different instruments in its external policies. Market integration is generally pursued through hard instruments (legal framework) while the promotion of CLS has followed a softer track through dialogue and cooperation.

Rather than exporting its social model, the EU promotes a market model which reflects the role labour standards and gender norms play foundationally within the European labour market structure. This leads to the conclusion that EU policy is horizontally coherent with respect to market-enhancing policies. That is, the EU in general prioritises market-enhancing policies over social policies – both internally and externally. At the same time, it is important to keep in mind that recent policy documents, such as the renewed Lisbon Strategy and the EU 2020 Strategy, point towards a more formal, although still secondary focus on social policy. Hence, there are signs that EU policies and strategies become increasingly coherent in the social policy realm.

4.3 Indirect vertical coherence

Indirect vertical coherence concerns the multilateral relations between the EU and other international and intergovernmental organisations. In the following the indirect vertical coherence is assessed with special attention on EU-ILO relations and EU-WTO relations, as the WTO and the ILO are the most important actors with respect to social policy and trade policy.

4.3.1 Relations between the EU and the ILO

With respect to the social dimension of globalisation the EU-ILO relationships is of utmost importance, since the two organisations have now aligned many of their objectives and cooperate at many levels regarding various policy areas; in particular, the link between trade policies and labour standards and the objective of implementing corporate social responsibility.

This close cooperation is, however, of a more recent origin. In 2001 intense co-operation between the ILO and the Commission was launched with an exchange of letters between the institutions laying out the overall policy framework for EC-ILO cooperation. Since then, high-level meetings between the Commission and the ILO have been held on an annual basis. In 2004 the Commission signed a Strategic Partnership with the ILO explicitly targeted at developing countries (Delarue, R.). The close cooperation between the EU and the ILO has two main components: (1) the EU influences the outcome of ILO conventions, and (2) the EU influences non-member countries to ratify the conventions.

The alignment of EU-ILO interests has, of course, increased the EU's influence on ILO Conventions, but it is less clear whether this has had a positive overall effect on the general ratification of ILO Conventions (Orbie, J. and Tortell, L.; Kissack, R., 2010). In a survey of the 51 ILO conventions adopted since the EU Member States have begun to speak collectively, there is a clear inverse relationship between the frequency and intensity with which the EU spoke during the drafting committees and the number of ratifications a convention ultimately received. The explanation for this is that the more the EU intervenes during the drafting process, the closer the final document is to its own interests, which

favour higher levels of social protection and the uploading of EU law to the ILO level. The consequence of maximum ILO labour standards is that they are not ratified by a majority of ILO members, which ultimately makes these conventions less effective (Kissack, R., 2009). This can be attributed to scepticism by developing countries which perceive ILO conventions as being heavily influenced by the EU as a protectionist measure. Regarding the EU-ILO relationship and the ratification of conventions it can therefore be argued that there is a general risk of 'capture', i.e. the EU is much more powerful than the ILO and the close relationship may undermine the ILO's global standing in the long run (Orbie, J. et al., 2009(a)).

The EU's increasing emphasis on the role ILO conventions can play with regard to the relationship between trade and labour standards is evident in one of the EU's most important trade instruments: the Generalised System of Preferences (GSP). Since 2001 the legal basis of the social GSP clause, both the punitive and the incentive dimensions, has been extended to all eight ILO fundamental conventions.

The increasing role of ILO conventions in the EU GSP is further emphasised concerning the GSP sanctioning clause, which is almost exactly consistent with ILO sanctions. Thus, the ILO and the EU emphasise and prioritise the same aspects and their objectives can therefore be viewed as aligned and coherent.

The close alignment between the ILO and the EU with respect to the social GSP incentive has had a positive effect because the EU requirement of ILO core conventions has resulted in a high degree of *ratification* (e.g. in Venezuela, Mongolia and El Salvador). However there is still a problem in relation to the *implementation* of the ILO core conventions in many of the GSP countries. Many countries which have ratified have not yet implemented properly – this is for example, the case in Colombia (Orbie, J. et al., 2009(b): 160), and even though the ILO Committee of Experts on the Application of Conventions and Recommendations has been very critical towards Colombia, the EU has not de-graded the country. Belarus is the only country the EU has de-graded following violations of ILO Conventions (Novitz, T.). This leads to the conclusion that '*(...) the Commission's interest lies primarily in ratification as opposed to effective implementation of ILO "fundamental" Conventions, despite the wording (...) of the current GSP Regulation*' (Novitz, T., p. 35).

This indicates that the EU, in general, prioritises trade relations over effectively implemented labour standards, which might undermine the work done with the close alignment to the ILO. However, it is not unproblematic to link the implementation of CLS to EU trade policies in a sanction-based way. As noted by Falke, A., although the EU remains committed to multilateral regulation, at the same time it realises that its policy of linking labour standards enforcement to trade policy is seen by many other states as a veiled form of protectionism.

Although EU-ILO relations have intensified it should be noted that the EU, in its own right, only has observatory status within the ILO and therefore has no formal power – only Member States have the power to vote. This calls for a significant attempt at coordination between the Member States if EU interests are to be promoted via the ILO. However, scholars can argue that the EU has difficulties speaking with one voice in the ILO. This is partly because of the structure of the ILO and partly because of the complex relations between national, EU and international law.

The ILO has a unique structure because within the ILO, unlike other UN bodies, full legislative and executive powers are granted to non-governmental actors, owing to its

tripartite structure. This challenges coordination. However, the fundamental problem does not lie in the tripartite principle but in the structural relations between national, European and international law. In labour policy areas, where the EU has exclusive competence, the Member States have transferred their powers to legislate to the EU and with that their sovereign authority to act internationally in relation to those issues. However, the EU remains an observer in the ILO and is unable to represent itself directly through its legal personality. In these areas, EU Member States draft and ratify international labour standards in the ILO as individual states, but they are only able to legislate on them collectively (Kissack, R., 2008).

The main consequence of this with respect to coherence is that Member States can and do vote differently from EU aggregate preferences (i.e. the coordinated preference) within the ILO, thereby decreasing the value of the mandate given. As a result, this impairs coherence, since Member States act outside common 'EU preference'. This difference between coordinated EU preferences and Member States' voting in the ILO exists because they are aware that if they are 'too successful' and scupper the adoption of an instrument they risk damaging relations with states at the international level who could punish recalcitrant behaviour by blocking cooperation in other organisations. To overcome this dilemma they use a flexible solution that allows enough protest to satisfy domestic constituents on the one hand while, not damaging international cooperation on the other (Kissack, R., 2010). Member states are hence unwilling to put EU cohesion above their domestic needs. However, the upstream coordination during drafting committees that provides the basis for a strong EU promotion of its interests is more important than cohesion during the plenary roll-call vote within the ILO.

4.3.2 EU-WTO relations

EU-WTO relations are different from EU-ILO relations. First, since 1995 the Commission has represented the EU in almost all WTO meetings, thus having more formal status as opposed to the observatory status within the ILO. However, the 27 EU Member States are also members of the WTO in their own right, but owing to considerable coordination, the EU is assumed to be a unitary actor when operating inside the WTO (Kissack, R., 2010). This is further emphasised by the fact that most WTO documents make reference to the 'EU' and not to individual Member States, unless their laws differ from EU law.

Although WTO agreements are formally based on majority voting, in practice the WTO is consensus-based in its decision procedure. The fact that more and more countries have entered the world stage as economic powers (e.g. the BRIC countries specifically and the emerging economies in general) has resulted in a weakening of the EU (and the US) with respect to influence on WTO agreements (Kissack, R., 2010).

This leads to a paradox: the EU has more formal power within WTO than within the ILO, but in reality it is the opposite since the EU exerts more influence over ILO policy formulation than over WTO policy. A case in point is the EU attempt to include social policy – the so-called 'social clause' – in WTO trade agreements. Throughout most of the 1990s the EU perspective was to include a social clause in WTO agreements. This was, however, only a very limited success – partly because of a substantial disagreement within the EU on the desirability of integrating labour standards in the trade regime and partly because of substantial opposition by developing countries fearing a social clause would be 'protectionism in disguise'.

Hence, the EU has not entirely pursued a coherent and concise strategy: owing to fear of jeopardizing a new trade round, the EU did not pursue the implementation of a social clause at the WTO Doha Conference in 2001 as vigorously as announced by the Commission. This explains why the EU shifted towards the ILO to advance CLS from 2000 and onwards.

The EU's relatively cautious approach to a social clause contrasts with its offensive pursuit of (equally contested) issues, such as those concerning investment and competition. In terms of coherence, it may thus be argued that the promotion of social objectives through trade policy became subordinated to the core business of the EU trade agenda.

4.3.3 Assessment of indirect vertical coherence

The EU relations to the WTO and the ILO differ in many areas, but first and foremost it is evident that the EU has more influence over ILO policies than over WTO policy when it comes to social standards. This is not only due to the structure of the two organisations but is also due to a shift in EU priorities with a move from advancing global social policy via the WTO to the ILO.

This move was already stated by the European Commission in 2001, when the Commission noted that existing international economic and social rules and structures were unbalanced at the global level (COM(2001)416). The Commission therefore expressed its strategic ambition to enhance the role of the ILO concerning its influence on the social dimension of globalisation. As the Commission noted *'(...) the ILO is, and must remain, the organisation competent to set and deal with labour standards, and a rebalancing of the global system should seek to strengthen the social pillar by taking its starting point in the ILO mechanisms, not in the WTO'* (COM(2001)416).

In general, there is a large degree of coherence between the ILO and the EU and there appears to be a development towards increasing coherence. However, it is important to note that the EU focus on ratification, instead of effective implementation, might undermine the actual coherence. In addition, the asymmetrical relationship between the EU and the ILO may in the long run limit the influence of ILO conventions in promoting social policy globally.

4.4 Direct vertical coherence

When assessing the direct vertical coherence of the external dimension of social policy the focus is primarily on EU bilateral and regional agreements, including various Free Trade Agreements. Most bilateral agreements negotiated by the EU after 1995 include a chapter on social cooperation or references to CLS. Contrary to the so-called 'human rights clause', used in all EU external trade and cooperation agreements in a rather homogeneous way, the EU does not seem to have one clear-cut-formula for a 'social clause' to be inserted in all bilateral trade agreements (Orbie, J. et al., 2009(b)). Thus the bilateral trade agreements are analysed in clusters according to the typology of countries.

The primary document regarding EU relations to *developing countries* is the Cotonou Agreement. Within the Cotonou Agreement there is a clear linkage and reference to the ILO and its international labour standards and trade, but more general human rights issues are

also mentioned and referred to in the agreements. There are, however, substantial differences in the references made in the agreements to labour standards and human rights. Whereas a serious violation of human rights may allow the EU to terminate or suspend the operation of its agreements, this type of trade conditionality does not exist at all in the case of labour standards. On the contrary, the phrase, 'labour standards should not be used for protectionist purposes', included in the Cotonou Agreement, seems to preclude implicitly the use of sanctions in the case of non-compliance with labour standards (Orbie, J. et al., 2009(b)).

Therefore, the EU does not use a sanctions-based approach (as compared to the US) but instead bases its policy towards ACP countries on social dialogue. However, the impact and relevance of those dialogue mechanisms are rather limited. With respect to the Cotonou Agreement, it is striking that the 'social dimension' of EU-ACP relations has rarely figured on the EU-ACP Joint Council agenda since the Agreement was signed (Orbie, J. et al., 2009(b)). In addition, the declaration of the Danish Presidency in 2004 concerning Zimbabwe has been the only declaration referring to CLS up to now within the framework of EU-ACP relations. Surprisingly, this declaration referred to Zimbabwe's obligations as a member of the ILO and not to its being a party to the Cotonou Agreement.

The Cotonou Agreement constitutes the general framework for EU-developing countries relations, but the GSP and the GSP+ constitutes the bilateral relations between the EU and developing countries. However, as mentioned earlier, the same issues are valid when assessing the GSP as the ones emphasised with respect to the Cotonou Agreement. In brief, it is argued by scholars that the EU rarely enforces the conditionality mentioned in the GSP agreements; and when the EU does enforce conditionality it either has limited consequences for the country being degraded, as was the case with Belarus, or the degradation is not a result of violations of core labour standards but human rights in general, as was the most recent case of the degrading of Sri Lanka (Novitz, T.; Kissack, R., 2009; Orbie, J. et al., 2009(a)).

In contrast to the EU approach towards developing countries, the EU approach to *accession and candidate countries* shows the utilisation of 'harder' instruments in a coherent way. This is primarily due to Stabilisation and Association Acts which in broad terms have the aim of promoting harmonisation between accession and candidate countries and EU Treaty Provisions (e.g. equal treatment for men and women, and health and safety at the workplace). Otherwise the policies pursued are often specified in other documents and agreements (e.g. dialogue on the movement of persons in the case of the Euro-Mediterranean Association Agreements).

In terms of the *neighbourhood countries*, the European Neighbourhood Policy (ENP) does not cover countries which are in the process of joining the European Union and those covered by the Stabilisation and Association process. This is why neighbourhood countries are treated separately. The ENP countries may be divided into two groups - European states with explicitly stated EU membership as a long-term option and Mediterranean states with no such statement in the respective Action Plans. The ENP countries are politically and economically very heterogeneous and (with the exception of Israel) noticeably below the EU average in terms of GDP per capita or democratisation.

Although the ENP countries are not close to membership of the EU, the EU policy towards these countries can broadly be considered as aiming at some degree of harmonisation. Of course, the extent of harmonisation will always be smaller than is the case for full EU members, and some policy areas may not be covered (depending on the particular state),

but in general the EU has pursued its underlying aim of exporting its social model, although it recognises that the model cannot simply be exported (COM(2004)383).

Under the heading of EU External Relations, the European Union offers financial assistance to countries taking part in the European Neighbourhood Policy, as long as they meet the strict conditions of government reform, economic reform and other issues surrounding positive transformation. Hence, the relationship with neighbourhood countries is characterised by conditionality.

However, the agreements (e.g. the Euro-Mediterranean Free Trade Agreement) do not directly require adherence to ILO labour standards, but include a general human rights clause.

In a comparison between EU social policy towards ENP countries and EEA (European Economic Area) countries, the EU uses 'softer' instruments towards ENP countries and 'harder' instruments towards EEA countries, which leads to the conclusion that *'(...) EU's social policy export has been (horizontally and vertically) coherent in the EEA but not in the newer ENP'* (Gstöhl, S., p. 107).

Finally, the countries included in the category of *'emerging economies'* are very heterogeneous in terms of size, status of democratisation and economic power and it is therefore more difficult to assess a common EU social policy towards these countries. Instead, one must assess the different bilateral agreements between the EU and the different emerging economies.

In general, EU policy – via the different bilateral and regional FTAs and EU GSP – is similar to the policies towards ENP countries and developing countries. The EU generally relies on soft instruments not enforcing the potential conditionality mentioned in the agreements. In addition, the agreements put more emphasis on general human rights rather than on the eight ILO fundamental conventions. The regional agreement with the ASEAN countries can be taken as an example, as it is mainly focused on trade issues and topics such as protection of intellectual property, whereas social issues are more rarely mentioned.

The main conclusion concerning direct vertical coherence is that the EU makes use of soft instruments and rarely enforces harder instruments, i.e. the conditionality mentioned in the agreements. Instead, the EU acts as a normative power, but the impact of this might be insufficient in to improve global social policy. The lack of enforcement of conditionality might undermine the EU ambition of promoting social policy and core labour standards globally.

In addition, the EU bilateral and regional FTAs and the EU GSP and GSP+ policies reveal that in terms of coherence these agreements suffer from some of the weaknesses detected in the assessment of horizontal coherence, such as the EU's general prioritisation of market-oriented policies over social policies. This might also explain the reluctance of the EU when it comes to the application of harder instruments and to making stronger use of the conditionality embodied in most of the direct bilateral and regional agreements.

5. THE RATIFICATION STATUS OF KEY INITIATIVES

Chapters 5 and 6 explore the impact of the EU's external dimension of social policy by studying how non-member countries have adapted to the relevant policy initiatives. As a first step, this chapter analyses the ratification status of the core initiatives, i.e. the CLS, the decent work country programme and the corporate social responsibility.

KEY FINDINGS

- When it comes to ratification of CLS, the status is rather mixed. Emerging economies in particular (often Asian) have a low ratification rate, together with more marginal countries in the global economy and the notable exception of the US. In particular, Convention 138 on a 'Minimum Age' and Convention 87 on 'the Freedom of Association and Protection of the Right to Organise' have been ratified to a lesser extent.
- The analysis of the implementation of the decent work country programmes shows that most countries in a central position in the global production chain (except for the industrialised countries) are in the process of developing and implementing DWCP. However, one has to note that the remaining countries are, to a large extent, countries with a more critical perspective on international cooperation.
- In terms of objectives of the DWCPs, the analysis shows that in all regions employment efforts are a prominent priority. Capacity building of the social partners and promoting social dialogue are other common priorities. It is particularly noteworthy that child labour is a common issue in Africa, while social protection is an issue in the Arab states and in the Asia region. However, freedom of association is not such a central concern in Asia as the low ratification rate of these conventions by Asian countries would otherwise imply.
- In terms of assessing the global spread of the CSR, it can be shown that many companies, organisations and institutions work with CSR on different aspects and levels, but there is no comparable, reliable and valid empirical evidence concerning the actual role of CSR on a global scale.

5.1 Ratification of the eight core ILO conventions on core labour standards

At the global level, the ILO core labour standards have been ratified to a varying degree. The table below presents an overview of the ratification status of the different conventions and a sum of the different regions. It is important to note that this section covers the ratification status only, whereas a more in-depth discussion about implementation and enforcement will be undertaken in the next chapter.

Table 6: Regional ratification status of the eight core ILO conventions

Region (total no of countries)	Freedom of association and collective bargaining		Elimination of forced and compulsory labour		Elimination of discrimination in respect of employment and occupation		Abolition of child labour		No of countries not having ratified all conventions
	Conv. 87	Conv. 98	Conv. 29	Conv. 105	Conv. 100	Conv. 111	Conv. 138	Conv. 182	
Europe (51)	50	51	51	51	51	51	50	50	2
Africa (53)	48	52	53	53	50	53	47	50	12
Americas (35)	33	32	33	35	33	33	30	34	7
Asia (33)	16	19	26	21	26	22	19	26	23
Arab states (11)	3	6	11	11	7	10	9	11	9
Total of 183⁽³⁾	150	160	174	171	167	169	155	171	54

Notes: General ratification status 18. 3. 2010. In the ILO clustering, Europe includes all successors of the former Soviet Union.

Source: Based on ILOLEX (<http://www.ilo.org/ilolex/english/docs/declworld.htm>).

More detailed ratification information on selected countries can be found in Annex C. Based on this analysis the status of each of the regions is as follows:

- Europe: Most countries have ratified all conventions, only Turkmenistan (missing the two on child labour) and Uzbekistan (missing one on 'Freedom of Collective Bargaining') have not.
- Africa: Out of 53 countries in the African region, 12 have not ratified all conventions. However, all countries in the region have ratified at least one convention.
- Americas (both North and South): Out of 35 countries in the region, seven countries have not ratified all the core ILO conventions. The US has only ratified two conventions ('Worst Forms of Child Labour Convention', 1999 (No 182) and 'Abolition of Forced Labour Convention', 1957 (No 105)). All countries in the region have ratified at least one convention.
- Asia: This region is the one with the second-lowest rate of ratification, since 23 out of 33 countries (70 %) have not ratified all conventions. Three countries have not ratified any of the conventions.

³ It should be noted that nine states are members of the UN but not members of the ILO and thus not a part of this analysis. These are Andorra, Bhutan, North Korea, Liechtenstein, the Federated States of Micronesia, Monaco, Nauru, Palau and Tonga. Furthermore, the Vatican State and the Palestine Territories are observers in the UN and not members of the ILO.

- Arab states: 9 out of 11 states in this region have not ratified all conventions, which is the lowest ratification rate of all. However, all countries have ratified one or more conventions.

Taking a closer look at the conventions, one has to note that Convention 138 on a 'Minimum Age' and Convention 87 on the 'Freedom of Association and Protection of the Right to Organise' have been ratified to a lesser extent than the other conventions. Fewer than half of the Asian countries and only three Arab states have ratified the convention on freedom of association. The convention on the minimum age has only reluctantly been ratified in Asia (28 out of 44 countries), but also Africa (where six countries still need to ratify it) and the Americas (where five countries still need to ratify it) have some way to go. The next table takes a closer look at the countries which have not yet ratified all conventions.

Table 7: Overview of countries not having ratified all conventions

0 conventions ratified	1 convention ratified	2 conventions ratified	3 conventions ratified
Maldives Marshall Islands Tuvalu	Brunei Darussalam Solomon Islands	United States Myanmar	Somalia Afghanistan
4 conventions ratified	5 conventions ratified	6 conventions ratified	7 conventions ratified
Bangladesh China India South Korea Oman Timor-Leste	Uzbekistan Canada Suriname Iran Laos Malaysia Qatar Saudi Arabia Singapore Thailand Viet Nam	Turkmenistan Liberia Sierra Leone Mexico Japan New Zealand United Arab Emirates	Cape Verde Eritrea Gabon Ghana Guinea-Bissau Kenya Morocco Namibia Sudan Brazil Cuba Saint Lucia Australia Bahrain Iraq Jordan Kuwait Lebanon Nepal Vanuatu

A look at this list shows that countries with a very low rate of ratifications are often countries with only a very marginal role in the global economy. The first approximately eight countries (except the US) are small countries or countries that have been, or are struggling, with (civil) wars.

However, it is also obvious that several of the countries categorised as the emerging economies, i.e. countries that already are or will become significant economic competitors

to the EU, are high on the above list. For instance, India and China have so far only ratified four conventions and Mexico six.

Furthermore, it is notable that countries such as Bangladesh, South Korea, Lao, Malaysia, Thailand and Vietnam, which are also able to compete at least on low wages, are countries which have signed five conventions or fewer.

In summary, this analysis shows that the status of the ratification process is at best mixed. The Arab states and the Asian region in particular exhibit a low ratification rate. Putting the small and more marginal countries (and the notable exception of the US) aside, the emerging economies are a core group of countries with low ratification rates. The analysis furthermore shows that especially Convention 138 on a 'Minimum Age' and Convention 87 on 'the Freedom of Association and Protection of the Right to Organise' have so far been ratified only reluctantly by a number of countries.

5.2 The implementation of the decent work country programme

The ILO supports the development, implementation and monitoring of the decent work country programme (DWCP). Via the DWCP a country can set priorities, ensure coherence and improve the status of implementation of the different aspects of the decent work agenda. One key part of the programme is the technical assistance which the ILO provides, together with the implementation of the programme.

Since the start of the decent work agenda and the DWCP, the EU has been an explicit supporter, acknowledging the potentials of a more dynamic tool building on the tripartite framework and ensuring progress in the implementation of the conventions. The decent work agenda has been a core issue of the subsequent Social Policy Agendas put forward by the European Commission, as well as the Communication adopted in 2006 on promoting the internationally agreed objective of 'Decent Work for All' (COM(2006)249). One of the later examples is that the EU has financed an ILO project with the aim of assessing and addressing the effects of trade on employment in developing countries. However, this project runs from 2009-2013, and thus it is too early to draw any conclusion from it.

A DWCP consists of a six-step cycle and usually takes four to six years to implement. It is important to note that the content of a particular DWCP is dynamic and specific to each country. This becomes clear from the six steps of the procedure (ILO, 2008):

1. **Defining the country context**, including major decent work trends in the country, how it is reflected in national priorities, the country's commitment to ILO conventions etc.
2. **Establishing the country programme priorities** by identifying a small number of (a maximum of three) priorities that synthesise the country situation and priorities, the ILO global objective commitments and the ILO comparative advantage.
3. **Defining intended outcomes, indicators, targets and strategies** by operationalising the country programme priorities identified in step two and by defining strategies to achieve defined outcomes.
4. **The ILO aspect of DWCP implementation planning** which should result in a broad plan to implement the DWCP, which all partners (government, the country's social partners and the ILO) should agree on.
5. **Implementation, monitoring and reporting**, including the monitoring of the implementation plan and the strategies outlined.

6. Review and evaluation of the DWCP including a clear focus on lessons learned.

These steps are to be undertaken using the instruments of tripartism and social dialogue.

On a yearly basis an overview of the implementation of the DWCP is produced by the ILO office. This, combined with a status of recent developments in the ongoing programmes, provides an overview of the status of the DWCP⁽⁴⁾. What is shown in the table here and in the more elaborate table in Annex D is at which stage of the programme development cycle each country programme currently is. In addition, the number of countries which have already completed the first programme and have moved on to develop a second programme can be identified. Lastly, countries which have not yet been involved in the development of a DWCP are given in the last column.

Table 8: Implementation status of decent work country programmes

Region	Current programme status*			Previous programme, in addition to current status	Countries not involved in DWCP
	Stage I	Stage II	Stage III		
Europe (51)	2	5	5	4**	36
Africa (53)	22	20	8	14	2
Americas (35)	2	15	13	1	5
Arab States (12)	7	2	2	1	1
Asia (33)	5	9	14	0	7
Total	38	51	42	16	51

Stage I: Preparatory phase

Stage II: Drafting programme document

Stage III: Final document approved. Implementation pending or ongoing

Methodological note: ILO reports on the implementation status of DWCP have provided the background for this overview. However, it has proven difficult to compare the development of each country in the different reports, owing to inconsistency in the categorisation. Thus, the tables should be read with this in mind.

*The USA, Canada and the EU countries have no decent work country programmes, following the implementation reports of the ILO; ** In addition, five countries have signed Memorandums of Understanding, one country has signed a DWC Agenda and the Russian Federation has signed a Programme of Cooperation

Most industrialised countries have not started a DWCP. Taking a closer look at the remaining countries the analysis shows the following:

- Europe: Four European countries have completed their first programme. In addition to these, five countries, instead of starting a DWCP, signed Memoranda of Understanding, Bulgaria signed a decent work country agenda (a DWCP 'light') and the Russian Federation signed a Programme of Cooperation. Twelve countries, all Eastern European, are developing or implementing programmes. Thirty-six countries

⁴ However, the latest status report of February 2010 was not available for the African region at the time of writing, and the overview of this region, as shown in the table below, is thus based on the slightly older implementation report of November 2009. The methods applied in the status report from 2010 and the implementation report from 2009 differ, and the data for the African region has therefore been slightly adjusted to fit with that of the other regions.

are not involved in DWCP – 26 of which are EU Member States. Bulgaria is the only EU Member State which has been involved via its DWC Agenda.

- Africa: 14 countries have already completed their first programme and have gone on to develop the next one. Fifty out of 53 countries are currently developing or implementing a programme. Only two countries – Eritrea and Guinea-Bissau – have not yet begun the process of developing a programme, but both of the countries are scheduled to start negotiations in 2010.
- Americas: Only one country – Argentina – is in the process of developing a second programme after finishing the first one. Thirty out of 35 countries are currently developing or implementing a programme, while the three remaining countries (except for the US and Canada) – Venezuela, Haiti and Suriname – have not yet been engaged in the DWCP. None of them are scheduled to start negotiations.
- The Arab states: Jordan is the only country that has started a second programme. Eleven out of 12 countries are developing or implementing programmes at the moment, with only Saudi Arabia not being involved in a DWCP programme.
- Asian Region: The only region with no countries having moved on to their second programme. Twenty-six out of 33 are currently developing or implementing a programme, while three countries – Maldives, Myanmar and South Korea – have not been involved in the DWCP work.

The analysis shows that, especially in the African region, considerable effort has been made to work with the programmes. The programmes are well under way in the American region and the Arab states while there the programmes have not been as widespread in Asia. Despite the fact that industrialised countries have no DWCP it is noticeable that the remaining countries are, to a large extent, countries with a more critical perspective to international cooperation, for instance Myanmar and Saudi Arabia. Most countries contributing to the global production chain (except for the industrialised countries) are in the process of developing or implementing DWCP.

While one thing is the purely numerical progress of the programmes, another aspect is the actual objectives set in the programmes, in particular given the fact that the programmes are very dynamic by design. As can be seen in Annex D, it becomes clear that in all regions employment efforts, especially those directed towards the young, women and people with disabilities are a prominent priority. Capacity building of the tripartite partners and promoting social dialogue are other common priorities. The most prominent priority areas in each region are:

- Africa: Youth employment, abolition of child labour (in its worst forms), HIV/AIDS at the workplace
- Americas: International Labour Standards, capacity of tripartite partners and institutional strengthening, social dialogue
- Arab States: Employment, good governance, social protection
- Asia: Employment, social protection, fundamental principles and rights at work, capacity of tripartite partners, social dialogue
- Europe: Employment, social dialogue, social protection, social partnership/tripartism.

The regional analysis shows that despite the general focus on employment efforts, capacity building of tripartite partners and social dialogues, child labour is a common issue in Africa, while social protection is an issue in the Arab states and in Asia. However, freedom of association is not a central concern in Asia, as the low ratification rate of these conventions by Asian countries would otherwise imply.

5.3 Monitoring corporate social responsibility

As described in Section 2.4, several initiatives and programmes can be identified with respect to CSR. The UN Global Compact, the largest initiative, covers 8 130 participants, including 5 911 businesses in 130 countries (status as of 31 March 2010). This covers all relevant social actors – companies, governments, labour, civil society organisations and the UN. Here it is possible to find links to companies' annual Communication of Progress (COP), but it is clear from official UN Global Compact sources that only 7 419 participants have submitted their annual COP.

Another interesting example is the International Framework Agreements (IFAs). By 2002 IFAs had become more widespread and while CSR represents unilateral initiatives, the negotiation of IFAs can be seen as the start of social dialogue at a global level. Although only 70 companies have signed an IFA, it is still an important instrument since it covers some of the world's largest employers (e.g. G4S and IKEA). The most significant aspect here is the fact that IFAs provide procedures allowing the signatories to *jointly* develop implementation and monitoring procedures, while CSR is implemented and monitored by the individual companies. However, experience of the implementation of the existing IFAs varies considerably. In some instances, employees have merely been informed about the existence of an IFA; in others, concrete steps have been taken to build international union networks and to develop action plans to make fullest use of the IFAs. Owing to the lack of global legal enforcement mechanisms, any enforcement of IFA provisions relies on the readiness of companies' management to cooperate, or on the capacity of trade unions to compel companies to resolve complaints. To date, there have been relatively few examples of instances where complaints have been raised under an IFA.

These examples illustrate the core methodological challenges of examining this area. There is a wide variety of standardised ranking and assessments systems. However, owing to the heterogeneity of the different ranking systems, it is evident that there are no comparable standards for environmental and social reporting (Schäfer, H. et al.). Another example illustrating the heterogeneity of the work on CSR is the ambitious LARRGE project (Labour Rights Responsibility Guide) supported by the EU. The LARRGE project has the aim of developing a methodology for monitoring and assessing the level of excellence achieved in European CSR practices. The guide provides an exceptional overview of more than 50 excellent CSR tools, such as codes of conduct or self-assessments currently used at the European and the global level. At the same time, however, the large number of selected tools indicates the diversity and heterogeneity of the concept of CSR.

Thus, the comparability of the data – to the extent that it is published by the companies and available – raises some concerns. Furthermore, due to the fact that some of the CSR reporting systems have a voluntary character and do not enforce rigorous standards for data and reporting accuracy, it is not possible to ensure that the actual submitted data are valid. As such, is it not possible to obtain a comprehensive, detailed and comparable overview of how well companies are doing in terms of corporate social responsibility.

This brief review leaves no doubt that CSR is indeed a widespread concept, which many companies, organisations and institutions have worked intensively with over recent years. However, due to the voluntary character and heterogeneity of the concept, no comparable data exists, which makes it challenging for institutions as well as consumers to use CSR reports and assessments as a tool to evaluate companies' social efforts.

6. ASSESSING THE INSTRUMENTS AND MEASURES USED

This chapter examines the instruments and measures used – primarily by the EU, but also by other central actors, such as the US – to influence and promote social standards globally. This in-depth assessment is based on case studies exemplifying the different aspects and characteristics of countries with which the EU has external relations and on a number of expert interviews.

KEY FINDINGS

- In general, the EU is perceived as a leader in social issues. The EU has a good reputation from the outside, which can be seen as a major asset when it comes to international dialogue on social issues.
- Several factors – both internally and externally - influence countries when they import social standards. The different instruments available to the EU are one essential channel of transmission. Furthermore, economic trends are also relevant, although there is no evidence that the current crisis has resulted in a ‘race to the bottom’.
- The impact of the EU on different countries depends on geographical proximity, especially if combined with a perspective of accession to the EU, and on the status of economic relations. Thus, the EU influence on different countries can be understood in terms of *concentric circles*.
- There is a significant implementation and enforcement deficit since, although several countries have ratified the core conventions, many of these do not enforce the ratified standards sufficiently. To some extent, the implementation deficit can be explained by problems concerning the rule of law, but a lack of political will and economic pressure are also factors. Furthermore, it is problematic that the general awareness of workers’ rights as stipulated in the ILO conventions is limited.
- Hard instruments, such as linking ILO conventions with conditional trade agreements and the GSP, are found to improve ratification, but they are less adequate in ensuring the actual implementation of CLS. The ratification of core conventions is an important first step in improving CLS, which is why the impact of utilising the hard instruments on global social policy is in general strong. However, the EU is reluctant to enforce the conditionality in the agreements, which actually decreases the potential of this instrument.
- Concerning soft instruments, such as dialogue and recommendations, the EU has a great potential at hand, as it is renowned for its commitment to improving social standards globally. The EU acts as a global role model with regard to its know-how concerning the integration of market and social policies. CSR has great potential, too, but conflicting understandings, which result in difficulties of monitoring CSR progress, constitute a major challenge in realising the full potential of the concept.
- Financial instruments, including technical assistance, are very important, since these instruments facilitate the actual implementation of ILO conventions. The DWCP is a good example of this. Development aid is useful for poverty reduction, but there is still a deficit of coordination between the EU and the Member States regarding the question of whether development aid should be used to improve CLS.

- Taking the US as a benchmark, it is apparent that the EU approach differs substantially from the US approach: the EU places greater emphasis on soft instruments, while the US favours a much harder approach. There is evidence supporting the view that the EU approach has yielded better results in the long term, owing to its focus on partnership and implementation.
- China and other Asian emerging economies are becoming increasingly important in terms of investments abroad. This phenomenon carries a risk that the country and its companies will 'export' lower labour standards to African and Southeast Asian countries. Hence, the EU should pay special attention to this by strengthening the dialogue and external relations with the ASEAN group and emerging economies such as China.

6.1 What has the EU achieved so far?

The EU has become a major actor at the global level in terms of promoting social policies and core labour standards. From the outside, the EU is perceived as a leader in social issues. In fact, on a worldwide basis the EU is often seen as a magnetic field and is considered an attractive partner, owing to the unique combination of economic dynamism with a genuine social model – and the variety of social models inside the EU is also perceived as an asset, as it points to different possible arrangements of markets and social policies.

Hence, the reputation of the EU can be seen as a major asset regarding international dialogue on social issues. Compared to many other actors, the EU has built up a reputation of credibility and sensitivity, owing to its focus on social issues. It is thus important to capture this momentum by using the opportunity for further progress in order to reach the very ambitious goals set by the EU.

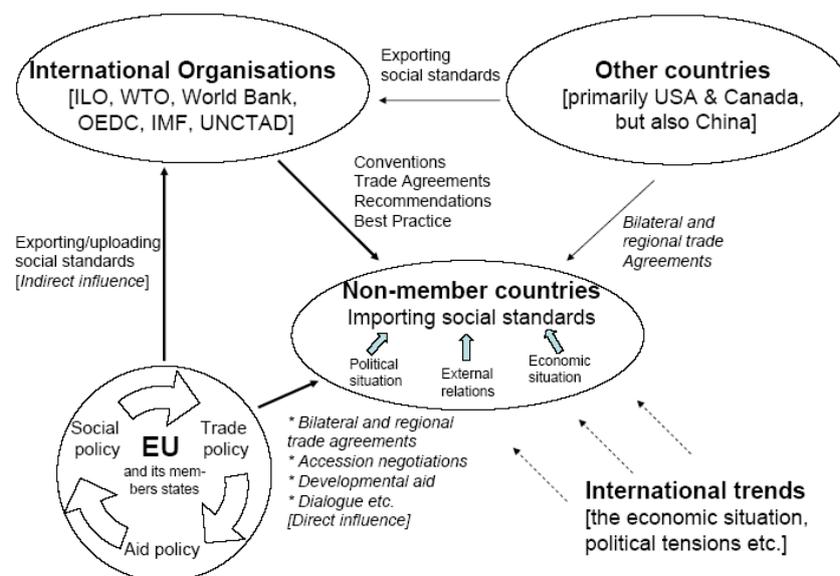
However, there is still some untapped potential. One key challenge in improving the impact of the EU is to ensure consistency and coherence in the approach, which in turn enhances the legitimacy of EU action. This is indeed demanding, due to the fact that the ambition to advance the social dimension of globalisation is a relatively new external policy objective and – as a cross-cutting objective – it cannot easily be implemented. The analysis shows that EU initiatives in the area of the social dimension of globalisation still constitute a patchwork of ideas and initiatives. Furthermore, as the analysis of coherence in Chapter 4 has shown, although coherence has increased in recent years, there is still room for improvement. As is the case with internal social policies, which are secondary to market integration and economic policies, the EU tends to emphasise market integration and trade issues more than social issues in its external relations. As the European Commission stated in its communication on 'Europe in the World – Some Practical Proposals for Greater Coherence, Effectiveness and Visibility' (COM(2006)278) '*... unsatisfactory co-ordination between different actors and policies means that the EU loses potential leverage internationally, both politically and economically.*'

6.1.1 Which factors influence the adoption of labour standards?

Labour laws are bound by traditions, social norms and culture, as well as economic circumstances. Therefore, they are difficult to influence from the outside. Studies have shown that it is mainly internal factors that influence the changes and implementation of labour laws. External factors, such as attempts by international organisations and other countries to influence a country are of secondary importance (Brown, A. and Stern, R.). Furthermore, one has to be aware of the fact that there is a dynamic relationship between economic growth and social standards. Promoting CLS can and should be a universal objective, but raising social standards crucially depends on the state of economic development. Long-term economic developments triggered by globalisation will, for example, facilitate the development of social policies and their actual implementation in emerging economies. Thus, an integrated approach which also focuses on economic growth, poverty reduction and other social policies in broader terms is crucial. Despite the fact that internal factors are vital, the EU and other international powers can and do influence countries – both economically via trade agreements and politically via pressure to enforce CLS. Figure 1 provides an overview of factors influencing non-member countries in their process of importing and implementing social standards. From an EU perspective there are two ways of influencing non-member countries: (i) via international and intergovernmental institutions and organisations (indirect influence), or (ii) via bilateral and regional agreements including trade agreements (direct influence).

However, the EU is not the only actor influencing non-member countries. Here the US is of special importance, since it is a political and economic superpower which can exert strong influence on other states directly via (trade) agreements and indirectly through international organisations. In addition, the role of other outward-oriented countries, such as China, is relevant.

Figure 1: Factors influencing non-EU member countries in importing social standards

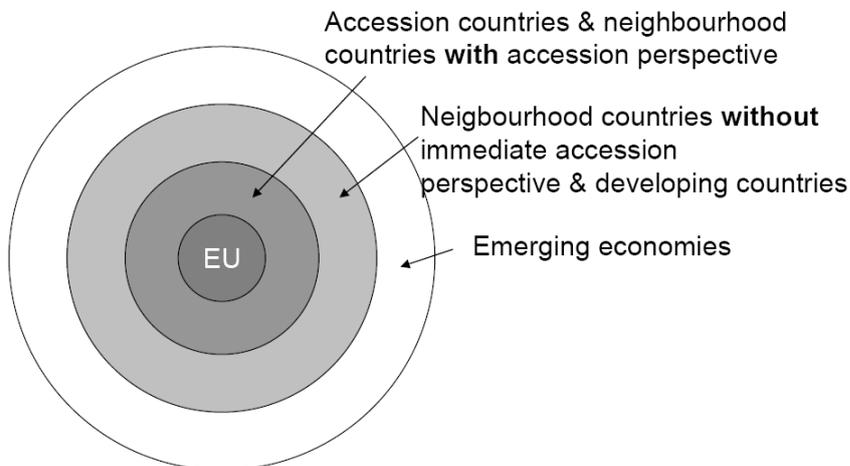


In addition, other international factors, such as the current economic crisis, can also potentially influence non-member countries' willingness or ability to import social standards. The current crisis, which started in 2008, has led several scholars to fear a 'race to the bottom' in terms of a deterioration of social standards. However, the analysis does not support this concern. Global competition is – especially among the emerging economies – still strong, and thus the possibilities of increasing labour standards are confronted by several barriers. The current economic crisis has not changed this. Another fear raised in the analysis is that some countries start a new wave of protectionism, which could lead to adverse effects in terms of competition. Yet this is too early to say.

6.1.2 Concentric circles of countries

While the figure above in general terms describes the factors influencing countries in their process of importing labour standards, it can be shown that there is a large variation in the way different countries adapt to the work done by the EU. Whether a country imports social standards as prescribed by the EU or not depends to a large extent on its geographical proximity to the EU: the closer the country is to the EU, the more the country is influenced by the EU. The stronger influence on the countries closer to the EU is not a consequence of geographical proximity as such but exists because the EU is able to use different (and to some extent harder) instruments towards these countries, which have closer economic and political relations to the EU. Hence, according to geographic proximity and economic conditions the countries addressed by the external dimension of EU social policy form a number of *concentric circles*, as illustrated in Figure 2 below.

Figure 2: The concentric circles illustrating how geographical proximity and economic relations determine the impact of the instruments



In terms of impact, the EU has a particularly strong influence on accession and candidate countries, owing to the implementation of the *acquis communautaire*. This is in particular clear from our case study of Croatia, which shows that as a candidate country it needs to adapt and harmonise its domestic legal framework with that of the EU. Furthermore, the EU oversees the progress made by issuing country reports and these reports focus not only on ratification and implementation of the *acquis communautaire* but also on the actual enforcement of the harmonised domestic legal framework. Because of this involvement by the EU, coupled with the requirement for Croatia to harmonise its domestic legal framework with EU law, Croatia exhibits a strong incitement to enforce the changes made, due to the

very attractive perspective of accession. Serbia, another accession country, shows many of these characteristics too.

The European Neighbourhood Policy is most efficient when it is combined with an accession perspective, which is the case for many East European countries. For example, Ukraine has improved its legal framework with respect to CLS as the provisions in the EU-Ukraine Action Plan make clear reference to the ILO Core Conventions. Because of the significant amount of trade between Ukraine and the EU, the EU exerts influence over Ukraine policy. Hence the EU is an attractive partner – not only with respect to economic issues but also with respect to raising social standards and the general democratic development in the country. In this case, the strong incentive to adapt comes from both an accession perspective and trade potential. However, when no accession perspective is involved, as for example in Northern Africa, the EU leverage is somewhat smaller. Yet due to the comprehensive framework for cooperation laid down in the ENP and the related association documents, the EU still exerts substantial influence over these countries, although social policies including CLS are not necessarily an important part of this. For example, with respect to EU-Morocco relations the key initiatives are the Association Agreement and the European Neighbourhood Policy. These highlight several objectives, including the fight against poverty and unemployment. In addition, when it comes to social policy within the framework, the core focus is on health and education, which follows the strong focus on ensuring productivity and thereby an ability to create more jobs. Furthermore, in the actual Association Agreement, the part about cooperation in social and cultural matters primarily focuses on freeing workers from discrimination, providing social security and ensuring that the partners of the agreement maintain a continuous dialogue on social matters.

Developing countries, in particular those in Africa, benefit from EU development aid and assistance – and this gives the EU, one of the world's largest donors, a lever to advance social concerns in these countries. Therefore the EU is utilising the GSP and the GSP+, which provide unilateral trade benefits to the developing countries if they in turn implement universal human rights declarations and conventions and the ILO Core Conventions. A newer tendency is for market integration to become a more dominant feature in the EU's policy towards developing countries. In both Tanzania and Nigeria the EU is facilitating the construction of regional free markets similar to the EU model, which integrates economic dynamism with social policy. This is therefore more an issue of technical assistance, which is, however, a very important instrument that the EU utilises – not only with respect to developing countries but also in connection with ENP countries.

The situation is different with regard to the emerging economies, in particular those in Asia. They are major locations for production in the framework of global value chains and therefore highly dynamic in economic terms. Given global competition, the advancement of social standards by the EU and other actors has proven to be more difficult. For example, there is no FTA between the EU and China and it has – perhaps as a result of this – been difficult to apply pressure to China to ratify all eight ILO core conventions. A further challenge is the heavy influence of large multinational companies evident in China and many other emerging economies. While some observers argue that multinational companies, in general, offer better working conditions than domestic firms in those countries, there is also evidence of foreign investors putting pressure on governments not to increase social standards (c.f. the case of Vietnam and China in Annex E). Thus, incentives to follow the European path are in conflict in these countries with incentives stemming from other potential allies (other countries and multinational companies). Yet most emerging countries, as well as regional organisations such as ASEAN, have entered a dialogue with the EU. Until now, this has been dominated by economic and trade issues,

but there is some potential to bring in social considerations in the future if a link between these areas is established.

6.1.3 Assessing the implementation of core labour standards and decent work country programme

The formal ratification status of the core labour standards (CLS) and the decent work country programme (DWCP) is analysed in Chapter 5, and the analysis has shown a rather mixed picture.

However, ratification is one thing, but another equally important issue is implementation. When a country has ratified an ILO convention, it does not automatically enforce the convention. Ultimately, this is a question of enforcing the rule of law, but it is also a question of political will. This general point can be exemplified by our case studies, which show that all countries under scrutiny faced severe problems in implementing core conventions.

Table 9 provides examples of implementation deficits in countries studied in depth. As the table indicates, there are severe problems enforcing the core conventions in the countries analysed. Non-discrimination and equal pay for equal work (i.e. gender equality) are aspects that most countries have trouble enforcing. In addition, the use of child and forced labour are challenges many countries face, primarily developing countries and emerging economies. More developed countries, in particular emerging economies but also candidate or accession countries, primarily exhibit an implementation deficit concerning trade union rights, i.e. with the conventions of freedom of association and the right to collective bargaining.

Table 9: Examples of enforcement problems and violations of ratified ILO core conventions

Country	Examples
Croatia	With respect to the elimination of discrimination concerning employment and occupation (conventions 100 and 111) there is still a severe gender gap, with women receiving 20 % less pay than men for equal work.
Serbia	The right to strike is strongly limited because strike action cannot be undertaken if parties to a collective agreement do not reach an agreement. The law on strikes states that participation in a strike can lead to suspension, not only of wages, but also of social security rights.
Ukraine	Administrative barriers to create a trade union and discrimination and pressure against trade union members.
Morocco	Moroccan law protects children against exploitation at work, but it is only applied in certain sectors and does not, for instance, cover domestic employees. Although the National Action Plan for Children has been adopted, there are still severe problems with respect to its implementation.
Tanzania	All eight ILO fundamental Conventions have been transposed into new labour laws. Various reports, however, still document problems of enforcing CLS in Tanzania, especially concerning child labour.
Nigeria	Although forced labour is prohibited in Nigeria there are still serious problems in this area – for instance regarding then trafficking of women and forced prostitution – thus violating the conventions regarding the elimination of all forms of forced or compulsory labour.
China	Although both conventions on child labour have been ratified and child labour is restricted by law, in practice there is substantial employment of children, some even being employed under work-study schemes approved by the Ministry of Education.
Vietnam	Although the relevant ILO conventions concerning discrimination and equal remuneration have been ratified, this area has also been criticised - especially when it comes to offering women decent work and creating opportunities for the disabled.

Note: The examples given in the table are elaborated in Annex E.

In broader terms, these examples provide two important lessons regarding violations of the core conventions:

1. Implementation problems are a result of a missing or counterproductive legal framework, i.e. problems regarding lack of political will (e.g. Serbia).
2. Implementation problems are in some countries a consequence of a legal framework which is not sufficiently enforced, i.e. problems regarding the rule of law (e.g. Morocco, China)

International pressure is important when countries lack the political will to implement the core conventions. A case in point is the EU accession process, which puts strong pressure on candidate or accession countries facing these problems, since the EU is demanding harmonisation of the *acquis communautaire*.

Many countries face problems concerning the rule of law, e.g. citizens or companies who break the laws not being properly punished, due to very low fines. Therefore, there is an increasing focus on providing technical assistance to the countries concerned in order to make sure that the actual implementation of legal provisions takes place. This is precisely one of the main aims of the decent work country programme.

Another enforcement issue concerns the fact that (local) officials', employers' and employees' awareness of laws and rights is of crucial importance for the actual enforcement of a law. For instance, China has used the lack of knowledge of regulations against forced and compulsory labour to argue for the country's inability to ratify these conventions. Furthermore, the case of Tanzania shows that, despite institutional changes, the limited knowledge of Tanzanian workers of their own rights results in the violation of social standards that the workers have already been granted in the legal framework.

A final, but important, issue concerning the implementation of labour standards is the fact that exceptions are made in order to legally defy the regulations. This holds for so-called export processing zones and free trade zones. These zones are of specific interest to emerging economies and export-oriented companies, but they raise severe concerns because they tend to undermine attempts at setting feasible general social standards.

6.2 Assessing the impact of different instruments

6.2.1 The impact of hard instruments

Geographical proximity is an important factor when analysing the impact of the different instruments that the EU utilises. The closer a country is to the EU, the harder the instruments applied by the EU. Making demands on accession and candidate countries to harmonise domestic law in accordance with EU law (c.f. *acquis communautaire*) is, of course, the hardest approach and has a strong impact on those candidate and accession countries. This is evident in the case studies of Serbia and Croatia. One disadvantage is that this instrument can only be applied to a very limited number of countries.

At a global level the *ILO conventions on core labour standards* have been a cornerstone of lawmaking in social policies. In fact, the EU has been a major proactive supporter of the ILO at the global level, which has – indirectly – facilitated the progressive ratification of ILO conventions by a growing number of countries. In analytical terms the study notes, however, that the more demanding the standards the EU tends to 'upload' to the global level, the higher the risk of a low ratification rate and substantial implementation deficits. This indicates that the EU is very ambitious regarding global social policy – and indeed that the EU ambition, at times, can be counterproductive.

International pressure is an important instrument regarding both ratification and implementation. Such pressure has been relatively successful in making countries ratify core conventions. The most commonly used instruments in this respect are the GSP-scheme and other FTAs linking foreign trade to the ratification of social standards and core conventions. The EU's GSP and GSP+ regimes are highly useful and important instruments in this respect, since they make it clear that the EU has specific expectations that have to be met in order to obtain access to the EU system of GSP. Making reference to social standards, such as the CLS and other ILO core conventions, incites the trading partner to ratify a growing number of conventions.

A recent evaluation of the EU's GSP and GSP+ (Gasiorek, M. et al.) has shown that these instruments raise both income and the ratification rate of CLS in GSP+ countries. Another study also concludes that the timing of convention ratifications suggests that, at least in some cases, there appears to be a direct link between the conditionality of the GSP and the countries' decision to ratify. El Salvador is identified as the most obvious example of the working of such a mechanism. The country was granted GSP+ in late 2005 with the condition of completing ratification of the two then un-ratified ILO core conventions (87 and 89). El Salvador finally ratified both conventions only in September 2006, just short of the EU deadline, when the risk of losing GSP+ status became real (Orbie, J. and Tortell, L.). Furthermore, ITUC also concludes that EU GSP with respect to El Salvador has led to improvements in working conditions (ITUC, 2010). This implies that, with respect to actual implementation, there are also indications of positive effects of GSP and in particular GSP+ (Gasiorek, M. et al.).

However, there is also compelling evidence of 'non-effect', which indicates that, when it comes to ensuring the actual implementation and enforcement of ratified conventions, the GSP does not seem to be an adequate instrument. One study concludes that during the period 2005 to 2008 the GSP+ did not lead to an overall improvement in implementation of labour standards in the analysed countries (Orbie, J. and Tortell, L.). And when improvements have been documented, the GSP+ is not assessed to be the main reason behind the development; in Georgia it took many years of pressure before the country improved the rights of association and collective bargaining and this development owes more to the ENP and the Georgian desire for closer alignment with the EU than to the GSP+ in itself (Gasiorek, M. et al.).

In addition, reports document that even in the case of violation of the conventions the EU tends not to degrade partner countries and in the rare cases when this has been done (e.g. Sri Lanka, Burma and Belarus) it has not had major consequences. In addition to this, criticism concerning lack of transparency in the process of reviewing a country's implementation status of the conventions has often been raised. In order to make the GSP and the GSP+ work in accordance with its intentions it is important that there is transparency in the whole process of monitoring implementation and that actions follow words. The EU cannot only use 'carrots' but also has to use the 'stick' when deemed necessary. Otherwise, the EU will ultimately allow for the degradation of an otherwise very useful instrument. However, partner countries need support to ensure more effective implementation.

This finding also corresponds well with the major weakness of the ILO itself: it lacks enforcement capabilities. This leads to the conclusion that '*(...) when it comes to following their advice and the enforcement of the conventions, the ILO has been criticised for lacking enforcement power*' (Locke, R. et al., p. 22). Hence, following a strategy of using both incentives and sanctions, not only should the GSP and the GSP+ be monitored, implemented and enforced coherently, but partner countries should also benefit from effective technical assistance. . Providing effective technical assistance could be an area where the EU could benefit more from ILO expertise thus broadening the scope of cooperation between the EU and the ILO.

Another tendency that could potentially diminish the effects of the GSP+ in particular is that many of the countries included in the system currently are negotiating bilateral or

regional Free Trade Agreements with the EU⁵. Thus the relevance of the GSP social conditionality system might be downgraded significantly (Orbie, J., 2010) because EU Free Trade Agreements only rarely make references to CLS and therefore have proven to be less effective in promoting the social dimension of globalisation so far. In addition, when EU FTAs include these topics the conditionality in the agreements is often only vaguely described. The EU-South Korea FTA is. However, a step in the right direction as it also deals with sensitive social and environmental matters. This is also the case concerning the FTA with Columbia; this case is particular interesting because the EU has been heavily criticised for not enforcing the sanctions under the GSP regime, although there were reports on clear violations of CLS in Columbia. Therefore, the EU-Columbia FTA contains a democracy clause, which is unique in an FTA. However, there are no enforcement mechanisms; instead the agreement contains areas of dialogue and a Council on Trade and Sustainable Development will be established to oversee the implementation of the chapters concerning social policy and CLS. In addition, the 2007 EU-CARIFORUM Economic Partnership Agreement should be mentioned as it refers to CLS and the ILO in the context of FDI, trade, dispute settlement and at the same time the agreement stresses that labour standards cannot be used for protectionist purposes. However, the EU-CARIFORUM EPA faces the common problem of lacking enforcement capabilities, as 'naming and shaming' is the only instrument available (Orbie, J., 2010).

Although the EU is thus currently concluding FTAs, there is simultaneously an interesting tendency towards the EU focusing more on capacity building in the form of integrated regional markets, which is a different approach from the FTAs, to ensure economic growth (see for instance the case studies of Nigeria and Tanzania, Annex E). This shift can be explained by the insight that ratifying core conventions does not necessarily result in improved labour standards and economic growth. Therefore, the EU has instead begun to export the internal market model with its clear links to integration of social policy, thereby assuming that this will improve social policy standards in countries referring to this model.

In the future the formulation of EU external trade documents might change as the role of the European Parliament has been strengthened significantly by the Lisbon Treaty. The ordinary legislative procedure now applies to all trade-related legislation, including GSP, as well as to ratifying trade agreements. Parliament will also have to be consulted and informed systematically about trade negotiations (Ulmer, K.; Woolcock, S., 2008). This changing role of the EP might also improve another criticism raised concerning the GSP and GSP+ framework; that there are inherently problems of transparency in the framework – especially in relation to the degrading of countries' GSP/GSP+ status.

6.2.2 The impact of soft instruments

The EU as a normative power

Similarly to hard instruments, soft instruments are targeted at changing behaviour, however, not by coercion but through dialogue. This makes it hard to assess the impact of soft instruments.

One way in which the EU can influence other countries is a normative power, i.e. by being a global role model. With respect to social policy the EU is generally perceived as an attractive entity owing to the unique 'EU model' integrating social policies and a strong

⁵ Peru and Columbia will probably sign a trade agreement with the EU in 2010, while other members of the Andean Community (Ecuador and Bolivia) and the Central American region (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama as observer) are negotiating an association agreement.

market. This model gives the EU credibility at the global scene to promote social policies, which is why the EU is perceived as a major soft power.

The integration of social and market policies is based on social dialogue, a soft instrument regularly used and promoted by the EU. The main advantage of tripartism and social dialogue is that it involves trade unions and employers' associations in the implementation of social standards, thereby improving the chances of success since civil society has been involved in the process. Because the EU has a positive history of tripartism, it is possible to provide technical assistance and knowledge sharing. In that respect, the promotion of using social dialogue in non-member countries is an important topic for technical assistance and capacity building. Involving civil society and interest organisations in social dialogue also makes it possible to take into account that one size does not fit all, since the social standards in a given country are path dependent and national starting conditions have to be considered when defining and developing social standards. The exchange of experience, diplomacy and specific policy learning regarding social policy are important policy instruments that the EU uses as a normative power (Kissack, R., 2009).

As a normative power the EU regional partnerships with, for example, ASEAN and MERCOSUR, are of great importance as they strengthen the dialogue between the regions, thereby facilitating policy learning and exchanges of experience. Although social policy is only rarely on the agenda of meetings between the EU and other regional organisations, these regional partnerships have the potential to result in social alliances, facilitating so the promotion of social policy.

However, there is one important aspect which risks endangering the EU's global credibility. Despite the fact that the EU is involved in the drafting process of ILO negotiations as a single actor, Member States tend to vote separately. This undermines the role of the EU to some extent and also its credibility when the EU globally promotes ILO conventions. Furthermore, disseminating information about the positive effects ambitious labour standards can have to developing countries is important as many of these countries fear that the EU's active engagement in the promotion of global social standards is just a disguised form of protectionism.

Corporate social responsibility

Corporate social responsibility, a flexible and voluntary approach addressing firms in general and multinational companies in particular, has grown in importance as it can be seen as a substitute for legislation or as a second best solution of regulation when binding rules are not feasible. Over the last two decades the debate on CSR has pointed at the core role of companies, in particular multi-national companies and their contractors in global value chains, thus extending its scope to emerging economies. Indeed, from our case studies it is evident that CSR is a fairly widespread and widely known concept which has received increased attention over time as companies, owing to the advancement of economic globalisation, spread their activities to many different countries, especially emerging economies offering highly competitive wages and overall labour costs. All countries analysed in the case studies exhibit some CSR practices in one form or another. The high diversity in the implementation of CSR illustrates precisely the main problem of this approach. CSR is translated into a specific country context and, as argued by some critics, is then often just used to legitimise the current situation. In this process something gets 'lost in translation' since there is great variation between the countries' and companies' application of CSR. In addition, there is also a great variation *within* the countries, since CSR can be interpreted in many different ways.

As CSR has always been a broad concept open to diverse interpretations, and since its meaning is inherently flexible and ambiguous, it cannot be expected to bring about uniform activities, but in practice it has led to a patchwork of heterogeneous initiatives. However, as a consequence of the very different approaches utilised in the countries, the monitoring information of CSR is hardly comparable, just as the validity of the data can be questioned. Most consistent and ambitious is the Danish CSR reporting requirement, but in other Scandinavian countries and the UK there is also a strong trend towards more demanding and 'harder' CSR. This could be a model for external CSR relations as well. Regarding technical assistance, relevant experiences can be drawn from, for instance, the Swedish intergovernmental CSR projects with Egypt. This project has organised several events for the exchange of experiences, including seminars, business cases and workshops focusing on sustainable CSR strategies. Both Swedish and Egyptian companies (SME's and large companies), governments and NGOs have participated.

As there is no general standard of CSR, no straightforward 'naming and shaming' can be applied in the case of non-compliance with CSR practices. However, one feasible option is to provide incentives for good CSR practices via guidelines setting certain standards or labels certifying good practices. Here the contractors and consumers come into play. In addition to this challenge, it is difficult to assess the impact an integrated CSR framework would have on social policy in general and labour standards in particular.

Therefore, it is very important to develop and apply more general guidelines for the definition and use of CSR. This is precisely the ambition with the EU project 'Labour Rights Responsibilities Guide' (LARRGE). The LARRGE project has developed a methodology for monitoring and assessing the level of excellence achieved in European CSR practices. The project provides a guide with an overview and a detailed description of the existing CSR instruments and consulting tools targeting work-related human rights applied in the EU. To ensure practicability and flexibility for users, the LARRGE guide allows for some discretion according to different sectors of activity, company size or other issues of concern. In addition, the project provides general guidelines on how to best ensure the implementation of work-related human rights in companies. In conclusion, the LARRGE project seems to be a step in the right direction through facilitating the delivery of practical technical assistance. However, this project also shows some of the core weaknesses of CSR. The guide provides an overview of more than 50 examples of CSR, but this large number of selected tools indicates the diversity and heterogeneity of the concept, which makes it hard to monitor and compare.

Although the IFAs (International Framework Agreements) are subject to a joint monitoring system between the signatories (i.e. a company and a global union), the problems of monitoring and enforcement are also in this respect pronounced. As the main aim of the IFAs is to increase CLS by combining CSR elements with global social dialogue, they have great potential as an instrument. This is primarily because – if designed properly – IFAs can combine soft and harder instruments in a more comprehensive CSR-related framework. In the absence of binding global rules, IFAs can converge towards a more comprehensive and institutionalised global social dialogue. With a functional monitoring and enforcement mechanism, both social responsibility and social accountability could be an achievable goal.

Technical assistance is important to non-member countries to enable them to ensure that the multinational companies actually enforce CSR in a more consistent way along the full value chain and do not act in contradiction to CSR activities in their home countries. As European companies are some of the most important investors and employers in emerging

markets and a major economic partner to many developing countries, they bear a major responsibility for working conditions in those countries.

In the light of these observations, it is highly problematic that the case studies reveal that, particularly in emerging economies, the international companies have acted in a counterproductive way, facilitating a 'race to the bottom' by lobbying for lower labour standards. This has especially been the case in the emerging economies, where both European and US-based companies have lobbied for relaxed labour standards for the sake of competitive (cheap) mass production. The case studies also revealed that labour conditions in export processing zones and free trade zones tend to undermine attempts at setting general standards in emerging economies. Labour conditions in export processing zones have been heavily criticised in the recent past. CSR in multinational companies could either just be used to hide and mask these severe problems or, used in a more serious and effective way, help improve the situation.

All in all, the case studies show that CSR is an increasingly important issue. But it is not clear to what extent CSR has in fact contributed to the promotion of social standards globally. In addition, there is evidence that CSR activities are not necessarily related to an improvement of working conditions over the whole global supply chain. That CSR is an ambiguous concept should come as no surprise, since it is a well established fact that implementing codes of conduct such as CSR is complicated, because there are many aspects which need consistent action (Locke, R. et al.; Winstanley, D. et al.). The EU LARRGE project is a much needed step in the right direction.

6.2.3 The impact of financial instruments

In addition to CSR technical assistance, the EU also provides technical assistance via its financial support to the ILO decent work country programme. Technical assistance is important when it comes to improving implementation deficits regarding binding standards, and also with respect to a better delivery on the DWCP. The broader and more process-oriented approach of the DWCP can thus help further the development of social policies in partner countries.

For example, in Tanzania the ILO promotes employment creation, skills development and extension of social protection to poor families, not least the families/households with child labourers, with a view to eliminate the worst forms of child labour. One strategic goal aimed at via the implementation of the ILO Time Bound Programme on the Worst Forms of Child Labour (TBP) was to: *'dictate that the problem of child labour and its worst forms are mainstreamed in the programmes and activities of strategic partner agencies, which requires close engagement and networking with these partners'* (ILO, 2006(a), p. 7). One of the supported projects had the estimated effect of withdrawing as many as 20,000 children from child labour in Tanzania. This indicates that the technical assistance, which is supported financially by the EU, can actually improve the implementation of ratified conventions. Policy learning could be a useful instrument because the EU is capable of offering policy options to other countries – either by itself or in cooperation with other actors, such as the ILO, with respect to the decent work agenda.

With respect to the DWCP some problems are also evident. Looking at DWCP in countries which, for political reasons, have not ratified some of the conventions (especially the ones of freedom of association, as in the cases of China and Vietnam), the programme does not address these more sensitive issues. Instead, areas where the countries have shown 'good will to negotiate' are more common in the programme. The DWCP therefore primarily helps

to improve the enforcement of ratified conventions, but only to a limited extent does it confront non-ratified conventions which are politically controversial, such as the convention on freedom of organisation.

Another problem with the DWCP shows the ILO's lack of enforcement capabilities. Participating in the DWCP can to some extent be a form of 'window dressing' in the sense that some participating countries do not sufficiently and adequately address the issues raised by the ILO (see the case study of Nigeria). In that sense, the DWCP is a very soft instrument and it subsequently faces the risk of being too vague to have an impact according to the goals set forth in the programme.

Although the DWCP, via technical assistance, intends to ensure that ratified conventions are implemented and enforced in practice, the DWCP does not take all aspects regarding implementation deficits into account. In order to ensure enforcement, it is important that the rights stipulated in the core conventions are widely known by the general public, but the case studies revealed that in many countries this is not the case. One key concern, therefore, is raising awareness in the general public, and especially the labour force, about CLS and workers rights. This is just as important as ratifying ILO core conventions (Lee, S. and McCann, D.). Employers' and employees' awareness of their own rights and obligations is crucial – and this could be a focus issue for further work, including technical assistance (see the case studies on Tanzania and China).

With respect to development aid, the EU and Member States play an important role as the largest donor, which contributes to the perception of the EU as a major social power. Furthermore, it has to be noted that the EU is a major trading partner of the developing countries, which is important since there is a clear linkage between trade and development aid, and between development aid and other policy domains. These linkages call for a coherent strategy, which is why the EU Commission (DG Development) in 2005 agreed to apply the Policy Coherence for Development approach covering 12 policy areas including social policy. This has led to more coordination concerning the various policy areas relevant to development aid.

However, two challenges still exist concerning development aid:

1. The EU does not act as a single player in the developing countries – but as several donors. For example, in Tanzania there are more than 600 healthcare projects in progress. Some of them were initiated by donations from either the EU or the Member States. There is therefore a need to streamline and coordinate development policies between Member States and the Commission. Although the Council of the European Union issued a Code of Conduct concerning the division of labour between Member States and the EU in development policies (Council of the European Union 9558/07), coordination problems still exist.
2. The issue of conditionality and references to CLS in development aid agreements is a contested one. The EU has a strong record in taking a comprehensive approach to aid, linking it to trade, development and political reform, while many NGOs argue that there should be no strings attached to development aid programmes (Huybrechts, A. and Peels, R.). This report shows that conditionality is necessary to improve CLS and the EU should therefore still include this in development aid. It is, however, important that development aid also includes technical assistance so that developing countries have a fair chance to improve their CLS.

These two challenges are important as they constitute major obstacles against realising the full potential of promoting CLS through development aid policies.

Table 10 provides an overview of the instruments that the EU applies to promote social policy globally, including an assessment of the major potentials and challenges of each instrument.

Table 10: Overview of the impact of instruments by type

	Instruments	Target countries	Potential	Challenges	Impact
Hard instruments	FTA	Emerging countries	Economic growth and poverty reduction	Linking CLS to FTA Actual implementation and enforcement	Low
	Associations pacts	Candidate and accession countries	Ensuring a solid legal framework	Only applicable to a limited number of countries	High
	GSP and GSP+	Developing countries	Economic growth and poverty reduction Ensuring ratification of CLS	Impact of 'the stick' (degradation) Ensuring implementation of CLS	Medium
	WTO: Trade policies (indirect)	Global	Levelling the playing field of trade	Ensuring that free trade is not prioritised over CLS	Short term: low Potentially high
	ILO Conventions (indirect)	Global	Global labour standards	Ensuring ratification and implementation of conventions	Medium/high
Soft instruments	Incentives, persuasions, partnerships etc.	Developing and emerging countries	Naming and shaming Technical assistance	No binding agreements	Medium
	Social Dialogue	Emerging countries	Involvement of government, workers' and employers' organisations and civil society	No binding agreements	Medium
	CSR	Emerging countries	Involvement of companies Alternative to legal framework	Too vaguely formulated and inconsistent definition and monitoring	Short term: low Potentially high
	Decent work (indirect via ILO)	Developing and emerging countries	Improving implementation of conventions	Voluntary approach – no enforcement capabilities Risk of 'window dressing'	Medium
Financial instruments	Development Aid	Developing countries	Improving social conditions Improving general educational skills	Applying conditionality to CLS	High
	Technical assistance	Developing and emerging countries	Improving implementation of global standards (CLS)	Voluntary approach – no enforcement capabilities	Medium/high
	Accession funds	Candidate and accession	Ensuring a solid legal framework	Only applicable to a limited number of	High

countries

countries

6.3 The EU and other actors

Although the EU is not *one* state, and although as previously assessed the EU faces problems of coordination, the EU still in many policy domains acts like one. However, at the global scene the EU is rather isolated with its ambitious agenda of raising global social standards. On the one hand, the US is an important actor owing to its economic and political power and its Free Trade Agreements which, to a great extent, refer to social standards. However, the approaches of the EU and the US differ in nature and philosophy. China, on the other hand, is a rising economic and political power and it is increasingly pursuing an international ambition.

6.3.1 Benchmarking to the US approach

In order to assess the impact of EU external social policy, this section benchmarks the EU approach against that of the US. In general, there is a remarkable difference between the EU and the US approach to trade policies and social standards. While the EU pursues a rather soft and dialogue-oriented approach, the US expresses its preferences more explicitly and formulates requirements for free trade with partner countries unilaterally. At the same time, and in stark contrast to the EU, the US is very reluctant to adopt ILO conventions.

One reason why the EU is reluctant to use hard instruments is that it fears being labelled by the developing countries as protectionist when promoting CLS through trade. This is in clear contrast to US global social policy because '*(...) the US is indifferent to the criticism of political bias in its global social policy, explicitly because the policy is intended to change behaviour. The EU's self-image of a normative power requires third states to want to change, not be coerced into change*' (Kissack, R., 2009, p. 106).

The main issue is that the EU signals being uncomfortable with articulating its interests. The EU is less inclined to enforce the conditionality emphasised in the agreements and is therefore perceived as a soft actor because it mainly utilises 'naming and shaming' in contrast to the US's use of hard instruments.

The US approach has had some impact, such as the incorporation of binding social clauses in trade agreements and subsequent compliance with the CLS. For example, the US-Cambodia Textile Agreement that operated between 1999 and 2005 had a unique feature linking increased market access to systematically and publicly monitored increased compliance with labour standards, based on ILO assessments. The Agreement is considered very successful, both in fostering a significant improvement of compliance with core ILO labour standards and in providing a major boost to the garment industry, with a four-fold increase in exports over the lifetime of the Agreement (Wells, D.; Polaski, S.).

Other studies, however, provide a less optimistic assessment of other preferential trade agreements signed by the US. In general, the US strategy, however, suffers from major implementation deficits, as exemplified in the case of Morocco. It is argued that, apart from the agreements with Cambodia and Jordan, other US preferential trade agreements appear not to have resulted in any progress on labour rights – mainly because they only incorporate the 'stick' (Greven, T.). The distinction between positive incentives (as in the

US-Cambodia Textile Agreement and EU GSP and GSP+) and negative conditionality (sanctions in response to violations of labour rights) seems therefore very important. The latter is often found not to be effective, or even possibly prone to lead to a worsening of the situation. With regard to child labour, international pressure in the form of boycotts and trade sanctions is likely to be counterproductive because specific constellations of interests and parties (e.g. child labourers vs. adult workers in the formal labour market) are involved (Doepke, M. and Zilibotti, F.). This thus highlights an important lesson that the effectiveness of particular measures can be context-specific, and hence differ between countries, periods or economic sectors.

Although the ratification and implementation are monitored, failure to comply with the conditions of the FTA does not have a clear consequence. The US approach is thus criticised for the difference between formal and actual effects. Furthermore, the US approach also makes it difficult for the EU to establish a long-standing alliance with them in this matter. On the other hand, this leaves the playing field open for the EU to establish itself as an alternative partner and soft leader at the global scene.

6.3.2 China is a rising economic and social power

What follows from the case studies is that the US is not the only important actor for the EU to keep track on – China is also becoming increasingly important. China's increasing role in Foreign Direct Investment (FDI), in particular, is expanding substantially – both in Southeast Asia and in Africa.

In Africa – especially Nigeria – China is becoming increasingly important owing to FDI, technical assistance to Nigeria and its involvement in creating a Free Trade Zone. What is important in this respect is that China and Chinese companies are only to a very limited degree interested in increasing labour standards in their partner countries. For example, with respect to the creation of a free trade zone in Nigeria, China made no reference to labour standards or social policy, which as a consequence bears the risk that the free trade zone will induce lower labour standards than elsewhere in Nigeria.

In Southeast Asia the same picture holds true. For example, Chinese investment in Myanmar comes with no strings attached (as opposed to EU and US investments), as the Chinese government attaches little or no importance to issues of human rights abuses (Frost, S. and Ho, M.).

These two cases raise important issues. Can international pressure, for example, be brought to bear on Chinese investments and corporations in Africa and Southeast Asia to ensure that international labour standards are adhered to, whether recommended by the ILO, the EU and US in joint cooperation or by multinational companies via their CSR framework? There is a clear risk that China will export lower labour standards and the EU needs to take this scenario seriously if social standards are to continue to improve. On the other hand, China has already made progress with regard to social issues internally. Social standards are gradually adapted to economic prosperity. One can expect that with growing economic dynamism social standards in China will rise further as problematic labour conditions would otherwise tend to create political and economic friction.

One way to stimulate social development in accordance with economic dynamism is to intensify the dialogue with China and deepen cooperation with ASEAN. Two important aspects should be developed in the near future: (i) FTAs with ASEAN countries which make

clear references to CLS, and (ii) increasing dialogue and the exchange of experience on social standards between the two regions.

Furthermore, the EU should improve its bilateral agreements and relations with ASEAN member states – especially developed countries such as Australia, Japan and South Korea. If the EU can influence these countries to improve and support CLS, it will put pressure on China to do the same. Furthermore, the EU should continue its dialogue with China on promoting social standards.

7. CONCLUSIONS AND SUGGESTIONS

KEY FINDINGS

- Overall, there is a need for *a coherent, integrated and professional* approach with a specific focus on mainstreaming social policy internally and externally, a structured and coordinated internal dialogue especially with the newly established External Action Service and finally professional relationships with intergovernmental organisations.
- A *new social alliance* should be built stressing the importance of social issues. China might be a potential partner in the long run, whereas the US approach makes it a less attractive partner in this respect. The ILO and, in the long run, the WTO could also be allies in the social alliance.
- *Implementation and enforcement issues* should be core in the new approach, focusing on pragmatic, sustainable solutions and support. Technical assistance and raising employers' and employees' awareness of their rights and obligations are important instruments in this matter. Furthermore, avoiding exceptions such as export processing zones could have a huge impact.
- The *instruments should be adjusted and streamlined* in order to enhance their impact. The implementation and enforcement of GSP and GSP+ should be improved, just as social standards should be streamlined in dialogue, exchange of experiences and technical projects in order to improve their effect. Furthermore, technical assistance and incorporation of labour rights in developmental aid are crucial. EP budgetary competence may be an appropriate instrument here.
- The *social responsibility of the companies* should be improved by moving CSR away from a purely voluntary approach. Thus, a clearer definition including minimum requirements should leave less room for interpretation, just as the implementation, reporting and monitoring should be enhanced. Partnership with NGOs and the media should ensure continuous focus.

7.1 A coherent, integrated and professional approach

A key asset in the promotion of social standards is the fact that the EU, on a worldwide basis, is often seen as a magnetic field and attractive partner, owing to the unique combination of economic dynamism with a social model. The EU is a leading entity in terms of social issues, 'a great soft power'. The perception of the social face of the EU is in line with the very ambitious goals of the EU. Hence, in the future the EU does not necessarily have to raise its ambitions regarding the promotion of ever stricter social standards and requirements. Within the existing ambitions, there is still room for improvement in terms of implementation and actual delivery. This can only be achieved in a pragmatic and patient but consistent way.

First, although the coherence of EU policy is increasing, both in internal and in external matters, the EU still tends to emphasise market integration and trade issues more than social issues. In parallel with the late development of the social dimension of the EU internal market, the EU's ambition to advance the social dimension of globalisation is a

relatively new external policy objective and a cross-cutting objective, yet the initiatives still constitute a patchwork of ideas, initiatives and projects. A coherent policy approach mainstreaming social policy both internally and externally is vital.

Second, better coordination between the decision-making triangle of the EU should be emphasised, including better coordination between different committees of the EP as well as with the European Commission and the newly established External Action Service. Regular formal and informal meetings can help establish a better working relationship, which would facilitate the consideration of social objectives at an early stage. Instead of acting independently, the European Parliament could increase its influence by looking for cooperation. Rather, the Parliament should focus on improving its influence by establishing strategic partnerships with, for instance, NGOs. Internally an important task is to further social objectives inside the EU. Optimising structured dialogue is the way forward.

Third, there are several cases (as for instance in the ILO) when the EU negotiates as a single actor, while Member States still tend to vote separately and not always in line with the coordinated position. This undermines the role and credibility of the EU. In terms of developmental aid, it seems to be a general pattern that the EU does not act as a single player, but as multiple donors in different countries. While the EU is able to act as a single player in trade policy (as for instance in the WTO) this should also be the case in the external dimension of social policies. Professionalism is required in order to enhance impact.

Finally, the EU uses a softer approach than the US, relying on cooperation and partnership with non-member countries. The EU approach is more successful. Given its controversial approach, the US is indifferent to criticism of political bias, owing to its explicit policy of changing behaviour. Paradoxically, the EU is perceived as being uncomfortable in articulating its position because dialogue and soft instruments are prioritised.

Self-confidence should be the building block of a renewed approach focusing on:

1. mainstreaming social policy internally and externally to improve coherence;
2. structured, coordinated dialogue within the EU and especially with the newly established External Action Service;
3. a professional approach to the outreach of EU initiatives in terms of representation in intergovernmental organisations and especially developing countries and the emerging economies.

7.2 Building a social alliance

The role of the EU in global social governance has been assessed as a leadership which emphasises cooperation and partnership as a means of implementation and enforcement. It is pragmatic, but has a clear vision. The positive version of this is that the EU's soft approach has made it a leading entity in terms of social issues. However, in a global perspective the EU stands to a large extent alone with this approach. Thus, the EU should establish itself as an alternative partner and soft leader on the global scene.

First, some of the other major powers have chosen different approaches. The US pursues a harder approach, which involves the risk of marginalising some countries, as it has been the case with China. Thus, long-term partnership with the US in this field is rather complicated. On the other hand, the role of China is changing. China is to an ever greater

extent supporting other developing countries via development aid and direct investments. Thus, China strengthens its role as a leader of developing countries and a vital actor in Asia and to some extent also in Africa. The importance of China is rising, but so far with a rather negative effect in terms of a clear neglect of labour standards. However, marginalising China is not an option. The EU has a history of good relations with China: the EU was an ally in terms of the Chinese membership of the WTO and China is inspired by the EU social model and the exchange of experiences that has taken place. In a longer perspective, a sustainable social partnership with China could be fruitful. China will increasingly prioritise its external relations, making it even more important in social issues in the future. Thus, a cooperative approach is needed in relation to China, but also with other emerging economies.

Second, the social alliance could also be developed on a regional basis. The EU has a tradition of good relations with, for instance, the ASEAN countries. This partnership traditionally focuses on issues such as political and security cooperation, economic cooperation, energy security, climate change, socio-cultural cooperation and development cooperation, whereas issues such as labour standards are not explicitly mentioned in the relevant partnership agreements. In order to build the social alliance, the role of social standards in regional agreements should be improved in line with questions such as trade, security and climate change. Australia could be an ally in this respect. However, not only ASEAN but also MERCOSUR, GAFTA (Greater Arab Free Trade Area) and other regional organisations could be important in this matter.

Third, relationships with intergovernmental organisations, especially with the ILO and the WTO, should be advanced. The ILO has already benefited from close cooperation with the EU and vice versa. However, a balanced approach is needed, owing to the paradox that the more influence the EU exerts over ILO conventions the less likely these conventions get a high ratification rate. Thus, there is an in-built risk of marginalising the role of the ILO by a cooperation that would be too close, since the ILO could then be perceived as a European 'instrument'. In terms of the WTO, a stronger link between trade negotiations and social standards may again be a topic in future. In a long-term perspective, it could potentially have enormous impact if the WTO and their trade agreements could play a role in the social alliance, whether this concerns fundamental labour standards or the incorporation of an improved CSR concept. Here, consistence and patience, and also dialogue with developing countries are needed.

The EU should focus on establishing new or improving already existing social alliances. These strategic partnerships could include:

1. other states, such as China, in order to enhance the spread of high labour standards;
2. other economic areas in regional partnerships with the potential, through dialogue, to equalise social concerns with trade, security and climate changes;
3. intergovernmental organisations such as the ILO.. A balanced EU approach to the ILO should ensure long-term credibility of the organisation. A stronger link between the WTO trade negotiations and social standards may again be a topic in future.

7.3 Developing the soft approach: implementation and enforcement are crucial

Although the analysis has shown that the ratification status of the core initiatives is mixed, one of the major findings is that the core problem lies in large deficits in terms of implementation and enforcement. Thus, there is a pertinent need for pragmatic, sustainable solutions and support in order to meet the high EU ambitions. The work 'on the ground' is as important as the policy formulation itself.

First, in terms of implementation, technical assistance based on a partnership with the specific country has shown sustainable results. Here, the EU can make use of its experience and capacities in providing development aid and technical assistance, in particular training, where EP budgetary competence serves as a powerful lever. Another aspect, which often goes unnoticed, is (local) officials', employers' and employees' awareness of laws and rights. The study has shown that despite institutional changes, there are examples of violations of social standards owing to a deficient knowledge of CLS by the workers.

Second, enforcement is also crucial. In principle, the EU should try to avoid exception from general regulations, e.g. in export processing zones, as such exceptions can undermine certain social standards. These are of specific interest to emerging economies and export-oriented companies, but they raise several concerns, due to the fact that they tend to undermine attempts at setting feasible and general social standards. Hence export processing zones include a risk of a 'race to the bottom'.

Owing to its substantial experience with a variety of national social models, the EU has a robust background of providing experience and assistance to ensure implementation and enforcement:

1. In order to enhance the soft approach, there is a pertinent need for pragmatic, sustainable solutions and support.
2. Technical assistance and raising employers' and employees' awareness of their rights and obligations are important instruments to ensure the actual implementation of labour policies.
3. Enforcement, especially in terms of avoiding exception from general regulation, as in the case of export processing zones, would have an important impact.

7.4 Prioritising and adjusting the instruments

In terms of the impact of EU initiatives and instruments, the report finds that according to geographic proximity and economic conditions the countries addressed by the external dimension of EU social policy form a number of concentric circles. The EU is most important in the phase of accession to the EU and in cases where the European Neighbourhood Policy is combined with an accession perspective. Developing countries, in particular those in Africa, benefit from EU development aid and assistance – and this gives the EU, one of the world's largest donors, a lever to advance social concerns in these countries. The situation is different with respect to the emerging economies, in particular those in Asia. Given global competition, the advancement of social standards by the EU and other actors has proven to be more difficult, but some emerging countries, as well as regional organisations such as ASEAN, have entered into dialogue with the EU. Different incentives are in place in these

concentric circles, and thus different combinations of instruments should be used to address specific countries.

First, in terms of hard instruments, the EU is promoting global social policy through its trade relations. Connecting fundamental ILO conventions to conditional trade agreements and the GSP regime is found to improve ratification but is assessed to be less adequate in ensuring the actual implementation of CLS. The implementation deficit is observed, both with regard to the partner country's actual implementation and to the EU response in the case of violations. Even in the case of violations, the EU tends not to degrade partner countries, and in the rare cases when this has been done, it has had only minor implications for the countries. However, despite the implementation deficit, the study finds that the EU GSP and GSP+ regimes are useful and important instruments, since they make it clear that the EU has specific expectations that have to be met when adopting the system of GSP. In addition, the GSP and the GSP+ should be monitored coherently, just as the process of assessing progress should be made more transparent. Adopting a strategy of using both incentives and sanctions, the monitoring should be followed by effective technical assistance. Furthermore, the stronger role of the European Parliament stemming from the Lisbon Treaty will facilitate the incorporation of further social concerns into EU external trade and future GSP arrangements. Another set of important hard instruments is association pacts and adaptation to the *acquis communautaire*, which are assessed to have a major impact, but are constrained to a limited number of countries.

Second, soft instruments have grown in importance. In particular, the exchange of experiences, policy learning and also different forms of partnerships with other countries and regions, have proven to be an essential part of the EU external strategy. CSR is also a crucial soft instrument. Dialogue at the political level and also at the technical level, such as in the case of technical assistance and different development projects, will remain central. However, one core challenge is to ensure coordination and concurrence of different initiatives with the overall policy approach.

Third, when it comes to financial instruments a core issue is technical assistance, which is essential in order to overcome the implementation gap. The EU support for the decent work country programme is a case in point. But challenges still exist when it comes to realising the full potential of the EU's large proportion of developmental aid. Coordination between the different EU donor countries and a consistent focus on the implementation of labour standards are areas for improvement.

The instruments used should be adjusted and streamlined in order to improve the impact:

1. GSP and GSP+ should be improved in order to focus more on implementation – both of the social standards in the partner countries and in terms of EU action in the case of violation. Furthermore, following a strategy of both incentives and sanctions, not only should GSP and GSP+ be monitored and implemented coherently, but partner countries would also benefit from effective technical assistance. In this respect there is scope for more cooperation with the ILO.
2. Social standards should be streamlined in dialogue, exchange of experience and technical projects in order to improve their effect.
3. Technical assistance is crucial to support the implementation. Furthermore, social standards should be incorporated more consistently in developmental aid. EP budgetary competence may be an appropriate instrument here.

7.5 Enhancing and strengthening the role of companies via CSR

Ultimately the key actors in terms of social standards are the companies. Their competitive behaviour, based on the consumers' demand for cheap products, should be central in a new approach. Their position and focus on creating competitive global production chains is thus a core feature, which makes them reluctant, however, to adapt to higher social standards. Furthermore, there is evidence that multinational companies, including those based in European countries and the US, have influenced the policy process of some emerging economies, obliging them to adopt less strict regulations than had otherwise been intended by the country concerned and argued for by the EU and the US. In order to enhance and strengthen the social responsibilities of companies an improved version of corporate social responsibility (CSR) as an instrument could be a central part of an ambitious strategy.

First, in terms of social improvements from the companies, the EU should not expect too much from voluntary action. The impact of CSR could be improved by providing a clearer definition and some minimum requirements, thus leaving less room for the current heterogeneous interpretations. The OECD guidelines for multinational companies can be seen as a model, as they include a consistent, practical and transparent list of requirements. Furthermore, the International Framework Agreements (IFAs) negotiated in a form of global social dialogue of multinational companies and Global Union Federations (GUFs), could be a forum for improved CSR implementation.

Second, binding implementation and monitoring requirements are essential for a long-term impact on companies. These should be based on a multi-level strategy in order to ensure implementation. At the intergovernmental level the EU Member States could recommend those guidelines to other governments of partner countries, as was done with the OECD guidelines. These guidelines could also be included in the social standards in different kinds of partnership agreements. Intergovernmental cooperation, such as the Swedish-Egyptian partnership, could be such a case. These guidelines should then be mainstreamed in contact with multinational companies. In cases when Member States are asked by multinational companies for investment guarantees for their investments in non-member countries, the Member States can bind those guarantees to the company's implementation of the CSR-guidelines. Typically these investments, for which such guarantees are sought, are aimed at developing countries, and thus the policies of the institutions providing these guarantees influence investment flows to developing countries. Therefore, this mechanism could potentially be an interesting instrument. Third, reporting on CSR and applying certain guidelines throughout the entire global value chain could also become a requirement when applying public procurement rules in the EU. In particular, the comparability and validity of reporting should be issues in order to improve the actual impact of the CSR instrument.

Third, in line with the soft approach, the EU could assist European companies in supporting their suppliers in the entire global production chain. Making the companies responsible for their entire supply chain and working constructively with them in implementing social standards in their suppliers' factories can help achieve sustainable results.

Fourth, the role of NGOs and the media, and ultimately the consumers, should not be ignored. By improving monitoring and reporting, NGOs and the media are useful in drawing attention to violations of social standards. Furthermore, NGOs could also facilitate networks and provide specialised technical expertise. Here, the EU in general, and the European Parliament in particular, could establish working partnerships and ensure continuity.

Social responsibility of companies does not come voluntarily and thus a consistent approach is needed:

1. A clearer definition including minimum requirements should leave less room for interpretation.
2. Implementation, reporting and monitoring should be enhanced via common guidelines, binding social clauses to, for instance, investment guaranties and improving reporting on CSR to focus on the entire global production chain.
3. Providing assistance to companies taking responsibility for sustainable labour conditions over their entire production chain.
4. Partnership with watchdogs such as NGOs and the media should ensure a continuous focus on social standards.

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ANNEXES

Annex A: Methodology

The study relied on a range of methods and data sources in order to obtain a comprehensive and valid empirical background.

Review of existing literature

This study was based on a broad range of existing literature, especially:

- academic papers, articles and books concerning different aspects of the external dimension of the EU's social policy
- EU policy documents and reports concerning the external dimension of social policy, in particular material provided by the European Commission and the European Parliament
- official documents from core actors, such as the ILO, WTO, the World Commission of Social Dimension of Globalisation or the UN.
- newspaper articles
- other official documents.

Expert interviews

Several experts have provided input to the analysis. In total, 13 interviews were undertaken with academic experts, European Institutions, interest groups, foundations and international organisations:

1. Jan Orbie, Ghent University
2. Jette Steen Knudsen, Copenhagen Business School (CBS)
3. Robert Kissack, Institut Barcelona d'Estudis Internacionals (IBEI)
4. Tonia Novitz, University of Bristol
5. Françoise Moreau, European Commission, Directorate General Development and Relations with African, Caribbean and Pacific States (EC DG Development)
6. Anne Peters, Bertelsmann Foundation
7. James Howard, International Trade Union Confederation (ITUC)
8. Madlen Serban, European Training Foundation (ETF)
9. Steven D` Haeseleer, BUSINESSEUROPE
10. Tom Jenkins, European Trade Union Confederation (ETUC)

11. Bernard Kuiten, World Trade Organization (WTO)
12. Ernst Ulrich von Weizsäcker, Ex-member of the World Commission on the Social Dimension of Globalization (WCSDG)
13. Xenia Scheil-Adlung, International Labour Organization (ILO)

The interviews were semi-structured with a focus on questions such as their assessment of the 'social side' of globalisation and the EU's role in this policy area. There were also

questions regarding the impact of EU initiatives on non-member countries, the different instruments and their impact and how the EU could enhance its role. Each interview guide was adjusted to the interview persons' area of knowledge.

Analysis of social policy monitoring data

In order to provide an overview of the ratification status of the core initiatives, accessible monitoring data was analysed, cf. Chapter 5. ILO data was used to assess the ratification status of the core labour standards and the progress of the decent work country programme. In terms of the ratification status of CLS, ILOLEX (see www.ilo.org) was used to provide this information. Further analysis of this data was undertaken as described in the relevant tables. The relevant data are enclosed in Annex C.

The implementation status of the decent work country programme was slightly more complicated. ILO yearly reports on the implementation status of DWCP combined with the status of recent developments in the on-going programmes provided the background for the overview, which can be found in Annex D.

However, at the time of writing, the latest status DWCP report of February 2010 was not available for the African region. Hence, the overview of this region is based on the implementation report of November 2009. The method applied in the status report from 2010 and the implementation report from 2009 differ. Therefore, the data for the African region was slightly adjusted to fit with that of the other regions. This marginal inconsistency does not have an impact on the conclusions. However, the tables should be read with caution.

Case studies of social policy in non-member countries

In order to provide more detailed empirical evidence on the impact of different instruments, several case studies were undertaken. Owing to the scope of the study, especially in order to be able to analyse how different instruments and actors contribute to EU external social policy, the following case selection criteria were used:

- Different types of countries according to the typology developed in section 3.2.
- The cases selected should cover different types of instruments.
- Within each group of countries there should be variation with the aim of exploring 'what works' and 'what does not work'. Furthermore, it was crucial to choose countries with substantial economic relations to the EU.
- For the category of 'other emerging economies' the ratification status of eight core ILO convention was taken into account.
- For the other clusters, relevant criteria, such as distinction between accession and candidate countries or geographical location, were taken into account.

Owing to the focus of the study on the influence of the EU on other countries' social policy, developed countries were not analysed in depth. However, in order to examine other ways of exporting social standards, experiences from the USA were included in the analysis of actors. A total of eight genuine cases were chosen.

Table 11: Case studies and their background characteristics

Country	Characteristics	No of Conventions ratified	Status of decent work country programme
Croatia	Candidate country to EU	8	No DWCP
Serbia	Accession country to EU	8	DWCP has been developed and approved
Ukraine	ENP – east	8	In the preparatory phase – no results due to complex political situation
Morocco	ENP-south	7	DWCP is to be formulated
Tanzania	Developing countries	8	DWCP is being implemented
Nigeria	Developing countries	8	DWCP is being implemented
China	Other emerging economies	4	DWCP document finalised
Vietnam	Other emerging economies	5	In the drafting stage of DWCP

For each case, the analysis was based on formal monitoring data as well as on reports by the ILO or the UN Global Compact, academic articles and other relevant sources. Summaries of the case studies can be found in Annex E.

Annex B: Description of the eight fundamental ILO conventions

Source: *The ILO website.*

Freedom of Association and the Effective Recognition of the Right to Collective Bargaining (Convention No 87 and 98)

- 'Freedom of Association and Protection of the Right to Organise Convention', 1948 (No 87). This fundamental convention sets forth the right for workers and employers to establish and join organisations of their own by choosing without previous authorisation. Workers' and employers' organisations shall organise themselves freely and not be liable to be dissolved or suspended by administrative authority, and they shall have the right to establish and join federations and confederations, which may in turn affiliate with international organisations of workers and employers.
- 'Right to Organise and Collective Bargaining Convention', 1949 (No 98). This fundamental convention provides that workers shall enjoy adequate protection against acts of anti-union discrimination, including requirements that a worker does not join a union or relinquish trade union membership for employment, or dismissal of a worker because of union membership or participation in union activities. Workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other, in particular the establishment of workers' organisations under the domination of employers or employers' organisations, or the support of workers' organisations by financial or other means, with the objective of placing such organisations under the control of employers or employers' organisations. The convention also enshrines the right to collective bargaining.

Elimination of all Forms of Forced or Compulsory Labour (Convention No 29 and 105)

- 'Forced Labour Convention', 1930 (No 29). This fundamental convention prohibits all forms of forced or compulsory labour, which is defined as 'all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.' Exceptions are provided for work required by compulsory military service, normal civic obligations, as a consequence of a conviction in a court of law (provided that the work or service in question is carried out under the supervision and control of a public authority and that the person carrying it out is not hired to or placed at the disposal of private individuals, companies or associations), in cases of emergency, and for minor communal services performed by the members of a community in the direct interest of the community. The convention also requires that the illegal extraction of forced or compulsory labour be punishable as a penal offence, and that ratifying states ensure that the relevant penalties imposed by law are adequate and strictly enforced.
- 'Abolition of Forced Labour Convention', 1957 (No 105). This fundamental convention prohibits forced or compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system; as a method of mobilising and using labour for purposes of economic development; as a

means of labour discipline; as a punishment for having participated in strikes; and as a means of racial, social, national or religious discrimination.

Elimination of Discrimination in Respect of Employment and Occupation (Convention No 100 and 111)

- 'Equal Remuneration Convention', 1951 (No 100). This fundamental convention requires ratifying countries to ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value. The term 'remuneration' is broadly defined to include the ordinary, basic or minimum wage or salary and any additional emoluments payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment.
- 'Discrimination (Employment and Occupation) Convention', 1958 (No 111). This fundamental convention defines discrimination as any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. It requires ratifying states to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in these fields. This includes discrimination in relation to access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

Effective Abolition of Child Labour (Convention No 138 and Convention No 182)

- 'Minimum Age Convention', 1973 (No 138). This fundamental convention sets the general minimum age for admission to employment or work at 15 years (13 for light work) and the minimum age for hazardous work at 18 (16 under certain strict conditions). It provides for the possibility of initially setting the general minimum age at 14 (12 for light work) where the economy and educational facilities are insufficiently developed.
- 'Worst Forms of Child Labour Convention', 1999 (No 182) . This fundamental convention defines as a 'child' as a person under 18 years of age. It requires ratifying states to eliminate the worst forms of child labour, including all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; child prostitution and pornography; using children for illicit activities, in particular for the production and trafficking of drugs; and work which is likely to harm the health, safety or morals of children. The convention requires ratifying states to provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. It also requires states to ensure access to free basic education and, wherever possible and appropriate, vocational training for children removed from the worst forms of child labour.

Annex C: Overview of ratification of core labour standards in selected countries

The selection of countries for the annex is based on the following criteria:

Concerning the different regions:

- Europe: Since the EU and the accession countries are central for this study, the ratification status for each of these countries is shown in this annex. But for the EU and accession countries notes (country marked with *) have also been made on countries that have been 'slow' in ratifying some of the conventions, i.e. later than 2000 on all conventions except convention 182 (from 1999), where it is later than 2004. In the remaining European states, only 'problematic' countries are mentioned. The following categories of countries are used:
 - EU-27
 - accession countries
 - other European countries.
- Africa: Only countries that have not ratified all conventions are mentioned.
- Americas (both North and South): Only countries that have not ratified all conventions are mentioned.
- Asian and Pacific region: Only countries that have not ratified all conventions are mentioned.

Table 12: Overview of ratification of core labour standards in selected countries

Country	No of con v. rat.	Freedom of association and collective bargaining		Elimination of forced and compulsory labour		Elimination of discrimination in respect of employment and occupation		Abolition of child labour	
		<u>Conv. 87</u>	<u>Conv. 98</u>	<u>Conv. 29</u>	<u>Conv. 105</u>	<u>Conv. 100</u>	<u>Conv. 111</u>	<u>Conv. 138</u>	<u>Conv. 182</u>
EUROPEAN REGION									
EU-27									
Austria	8	18/10/19 50	10/11/19 51	07/06/1 960	05/03/19 58	29/10/1 953	10/01/19 73	18/09/2 000	04/12/200 1
Belgium	8	23/10/19 51	10/12/19 53	20/01/1 944	23/01/19 61	23/05/1 952	22/03/19 77	19/04/1 988	08/05/200 2
Bulgaria	8	08/06/19 59	08/06/19 59	22/09/1 932	23/03/19 99	07/11/1 955	22/07/19 60	23/04/1 980	28/07/200 0
Cyprus	8	24/05/19 66	24/05/19 66	23/09/1 960	23/09/19 60	19/11/1 987	02/02/19 68	02/10/1 997	27/11/200 0
Czech Republic*	8	01/01/19 93	01/01/19 93	01/01/1 993	06/08/19 96	01/01/1 993	01/01/19 93	26/04/2 007	19/06/200 1
Denmark	8	13/06/19 51	15/08/19 55	11/02/1 932	17/01/19 58	22/06/1 960	22/06/19 60	13/11/1 997	14/08/200 0
Estonia*	8	22/03/19 94	22/03/19 94	07/02/1 996	07/02/19 96	10/05/1 996	17/08/20 05	15/03/2 007	24/09/200 1
Finland	8	20/01/19 50	22/12/19 51	13/01/1 936	27/05/19 60	14/01/1 963	23/04/19 70	13/01/1 976	17/01/200 0
France	8	28/06/19 51	26/10/19 51	24/06/1 937	18/12/19 69	10/03/1 953	28/05/19 81	13/07/1 990	11/09/200 1
Germany	8	20/03/19 57	08/06/19 56	13/06/1 956	22/06/19 59	08/06/1 956	15/06/19 61	08/04/1 976	18/04/200 2
Greece	8	30/03/19 62	30/03/19 62	13/06/1 952	30/03/19 62	06/06/1 975	07/05/19 84	14/03/1 986	06/11/200 1
Hungary	8	06/06/19 57	06/06/19 57	08/06/1 956	04/01/19 94	08/06/1 956	20/06/19 61	28/05/1 998	20/04/200 0
Ireland	8	04/06/19 55	04/06/19 55	02/03/1 931	11/06/19 58	18/12/1 974	22/04/19 99	22/06/1 978	20/12/199 9
Italy	8	13/05/19 58	13/05/19 58	18/06/1 934	15/03/19 68	08/06/1 956	12/08/19 63	28/07/1 981	07/06/200 0
Latvia*	8	27/01/19 92	27/01/19 92	02/06/2 006	27/01/19 92	27/01/1 992	27/01/19 92	02/06/2 006	02/06/200 6
Lithuania	8	26/09/19 94	26/09/19 94	26/09/1 994	26/09/19 94	26/09/1 994	26/09/19 94	22/06/1 998	29/09/200 3
Luxembourg	8	03/03/19 58	03/03/19 58	24/07/1 964	24/07/19 64	23/08/1 967	21/03/20 01	24/03/1 977	21/03/200 1
Malta	8	04/01/19 65	04/01/19 65	04/01/1 965	04/01/19 65	09/06/1 988	01/07/19 68	09/06/1 988	15/06/200 1
Netherlands	8	07/03/19 50	22/12/19 93	31/03/1 933	18/02/19 59	16/06/1 971	15/03/19 73	14/09/1 976	14/02/200 2
Poland	8	25/02/19 57	25/02/19 57	30/07/1 958	30/07/19 58	25/10/1 954	30/05/19 61	22/03/1 978	09/08/200 2
Portugal	8	14/10/19 77	01/07/19 64	26/06/1 956	23/11/19 59	20/02/1 967	19/11/19 59	20/05/1 998	15/06/200 0
Romania	8	28/05/19 57	26/11/19 58	28/05/1 957	03/08/19 98	28/05/1 957	06/06/19 73	19/11/1 975	13/12/200 0

Slovakia	8	01/01/1993	01/01/1993	01/01/1993	29/09/1997	01/01/1993	01/01/1993	29/09/1997	20/12/1999
Slovenia	8	29/05/1992	29/05/1992	29/05/1992	24/06/1997	29/05/1992	29/05/1992	29/05/1992	08/05/2001
Spain	8	20/04/1977	20/04/1977	29/08/1932	06/11/1967	06/11/1967	06/11/1967	16/05/1977	02/04/2001
Sweden	8	25/11/1949	18/07/1950	22/12/1931	02/06/1958	20/06/1962	20/06/1962	23/04/1990	13/06/2001
United Kingdom	8	27/06/1949	30/06/1950	03/06/1931	30/12/1957	15/06/1971	08/06/1999	07/06/2000	22/03/2000
Accession countries									
Turkey	8	12/07/1993	23/01/1952	30/10/1998	29/03/1961	19/07/1967	19/07/1967	30/10/1998	02/08/2001
Iceland	8	19/08/1950	15/07/1952	17/02/1958	29/11/1960	17/02/1958	29/07/1963	06/12/1999	29/05/2000
Albania	8	03/06/1957	03/06/1957	25/06/1957	27/02/1997	03/06/1957	27/02/1997	16/02/1998	02/08/2001
Croatia	8	08/10/1991	08/10/1991	08/10/1991	05/03/1997	08/10/1991	08/10/1991	08/10/1991	17/07/2001
The Former Yugoslav Republic of Macedonia*	8	17/11/1991	17/11/1991	17/11/1991	15/07/2003	17/11/1991	17/11/1991	17/11/1991	30/05/2002
Montenegro*	8	03/06/2006	03/06/2006	03/06/2006	03/06/2006	03/06/2006	03/06/2006	03/06/2006	03/06/2006
Serbia	8	24/11/2000	24/11/2000	24/11/2000	10/07/2003	24/11/2000	24/11/2000	24/11/2000	10/07/2003
Other EU countries – only 'problematic' countries are mentioned									
Turkmenistan	6	15/05/1997	15/05/1997	15/05/1997	15/05/1997	15/05/1997	15/05/1997		
Uzbekistan	5		13/07/1992	13/07/1992	15/12/1997	13/07/1992	13/07/1992	06/03/2009	24/06/2008
AFRICAN REGION									
Cape Verde	7	01/02/1999	03/04/1979	03/04/1979	03/04/1979	16/10/1979	03/04/1979		23/10/2001
Eritrea	7	22/02/2000	22/02/2000	22/02/2000	22/02/2000	22/02/2000	22/02/2000	22/02/2000	
Gabon	7	14/10/1960	29/05/1961	14/10/1960	29/05/1961	13/06/1961	29/05/1961		28/03/2001
Ghana	7	02/06/1965	02/07/1959	20/05/1957	15/12/1958	14/03/1968	04/04/1961		13/06/2000
Guinea-Bissau	7		21/02/1977	21/02/1977	21/02/1977	21/02/1977	21/02/1977	05/03/2009	26/08/2008
Kenya	7		13/01/1964	13/01/1964	13/01/1964	07/05/2001	07/05/2001	09/04/1979	07/05/2001
Liberia	6	25/05/1962	25/05/1962	01/05/1931	25/05/1962		22/07/1959		02/06/2003
Morocco	7		20/05/19	20/05/19	01/12/19	11/05/19	27/03/19	06/01/2	26/01/200

			57	957	66	979	63	000	1
Namibia	7	03/01/1995	03/01/1995	15/11/2000	15/11/2000		13/11/2001	15/11/2000	15/11/2000
Sierra Leone	6	15/06/1961	13/06/1961	13/06/1961	13/06/1961	15/11/1968	14/10/1966		
Somalia	3			18/11/1960	08/12/1961		08/12/1961		
Sudan	7		18/06/1957	18/06/1957	22/10/1970	22/10/1970	22/10/1970	07/03/2002	07/03/2003

AMERICAN REGION

Brazil	7		18/11/1952	25/04/1957	18/06/1965	25/04/1957	26/11/1965	28/06/2001	02/02/2000
Canada	5	23/03/1972			14/07/1959	16/11/1972	26/11/1964		06/06/2000
Cuba	7	25/06/1952	29/04/1952	20/07/1953	02/06/1958	13/01/1954	26/08/1965	07/03/1975	
Mexico	6	01/04/1950		12/05/1934	01/06/1959	23/08/1952	11/09/1961		30/06/2000
Saint Lucia	7	14/05/1980	14/05/1980	14/05/1980	14/05/1980	18/08/1983	18/08/1983		06/12/2000
Suriname	5	15/06/1976	05/06/1996	15/06/1976	15/06/1976				12/04/2006
United States	2				25/09/1991				02/12/1999

ASIAN AND PACIFIC REGION

Afghanistan	3				16/05/1963	22/08/1969	01/10/1969		
Australia	7	28/02/1973	28/02/1973	02/01/1932	07/06/1960	10/12/1974	15/06/1973		19/12/2006
Bangladesh	4	22/06/1972	22/06/1972	22/06/1972	22/06/1972	28/01/1998	22/06/1972		12/03/2001
Brunei Darussalam	1								09/06/2008
China	4					02/11/1990	12/01/2006	28/04/1999	08/08/2002
India	4			30/11/1954	18/05/2000	25/09/1958	03/06/1960		
Iran	5			10/06/1957	13/04/1959	10/06/1972	30/06/1964		08/05/2002
Japan	6	14/06/1965	20/10/1953	21/11/1932		24/08/1967		05/06/2000	18/06/2001
South Korea	4					08/12/1997	04/12/1998	28/01/1999	29/03/2001
Laos	5			23/01/1964		13/06/2008	13/06/2008	13/06/2005	13/06/2005
Malaysia	5		05/06/1961	11/11/1957	13/10/1958 den. 10/01/1990	09/09/1997		09/09/1997	10/11/2000

Maldives	0								
Marshall Islands	0								
Myanmar	2	04/03/1955		04/03/1955					
Nepal	7		11/11/1996	03/01/2002	30/08/2007	10/06/1976	19/09/1974	30/05/1997	03/01/2002
New Zealand	6		09/06/2003	29/03/1938	14/06/1968	03/06/1983	03/06/1983		14/06/2001
Singapore	5		25/10/1965	25/10/1965	25/10/1965 den. 19/04/1979	30/05/2002		07/11/2005	14/06/2001
Solomon Islands	1			06/08/1985					
Thailand	5			26/02/1969	02/12/1969	08/02/1999		11/05/2004	16/02/2001
Tuvalu	0								
Timor-Leste	4	16/06/2009	16/06/2009	16/06/2009					16/06/2009
Vanuatu	7	28/08/2006	28/08/2006	28/08/2006	28/08/2006	28/07/2006	28/07/2006		28/08/2006
Vietnam	5			05/03/2007		07/10/1997	07/10/1997	24/06/2003	19/12/2000

ARAB STATES

Bahrain	7			11/06/1981	14/07/1998		26/09/2000		23/03/2001
Iraq	7		27/11/1962	27/11/1962	15/06/1959	28/08/1963	15/06/1959	13/02/1985	09/07/2001
Jordan	7		12/12/1968	06/06/1966	31/03/1958	22/09/1966	04/07/1963	23/03/1998	20/04/2000
Kuwait	7	21/09/1961	09/08/2007	23/09/1968	21/09/1961		01/12/1966	15/11/1999	15/08/2000
Lebanon	7		01/06/1977	01/06/1977	01/06/1977	01/06/1977	01/06/1977	10/06/2003	11/09/2001
Oman	4			30/10/1998	21/07/2005			21/07/2005	11/06/2001
Qatar	5			12/03/1998	02/02/2007		18/08/1976	03/01/2006	30/05/2000
Saudi Arabia	5			15/06/1978	15/06/1978	15/06/1978	15/06/1978		08/10/2001
United Arab Emirates	6			27/05/1982	24/02/1997	24/02/1997	28/06/2001	02/10/1998	28/06/2001

Note: * indicates that the countries have been 'slow' in ratifying some of the conventions, i.e. later than 2000 on all conventions except convention 182 (from 1999), where it is later than 2004 (this only applied to the EU and accession countries)

Annex D: Implementation status of decent work country programmes

The table below summarises the implementation status of decent work country programmes. An 'X' indicates, how far in the process each country is. In the table only countries which are in the process of or have been in the process of developing or implementing a DWCP have been included. The phases included in the table cover the following elements (cf. section 5.2 for further description of the Programme):

- Phase 1: Preparatory phase concerns whether negotiations on a decent work country programme has started.
- Phase 2: Draft programme document concerns to what extent the tripartite negotiations have resulted in a draft document (step 1-5 in the 6 step-cycle described in section 5.2), and finally
- Phase 3: The final document indicates, whether the process of preparing and implementing a decent work country programme has resulted in a final document, as described in step 6 of the six-step-cycle in section 5.2 of the report.

Furthermore, a few notes on process and objectives in the programme have been included in the last columns.

Table 13: Implementation status of decent work country programmes

Country	Phase 1: Preparatory phase		Phase 2: Draft programme document		Phase 3: Final document	Previous programme		Comments	Brief description of objectives in programme.
	Started	Finished	Started	Finished	Approved	Finished	Period covered	Notes on process	
European Region									
Albania					x			Consultations on extending DWCP until end 2011 underway	Social partners/social dialogue; employment policy; social protection
Armenia					x				Employment policies; social partnership; social protection
Azerbaijan			x			x	2006-09		(Youth) employment; employment policies; social dialogue; labour standards
Bosnia and Herzegovina					x	x	2006-07		Fulfilment of constitutional obligations and social dialogue; employment and labour market policies; social security policy
Bulgaria							2006-07	There exists a decent work country agenda (DWCP 'light') for 2008-09	Employment and labour market policies; social protection policies; representation, service and influence of social partners
Kazakhstan			x			x	2007-09		Occupational safety and health system; employment; social dialogue/social partnership
Kyrgyzstan			x				2007-09	MoU for period 2007-09	Employment incl. skills training; occupational safety and health system; improving conditions in informal economy
The former Yugoslav Republic of Macedonia			x					Consultations initiated last quarter of 2009, draft under preparation	
Moldova					x		2006-07	MoU for period 2006-07	Employment and labour market policies; social protection; bipartite and tripartite social dialogue
Romania							2006-07	MoU for period 2006-	Employability of vulnerable

Country	Phase 1: Preparatory phase		Phase 2: Draft programme document		Phase 3: Final document	Previous programme		Comments	Brief description of objectives in programme.
	Started	Finished	Started	Finished	Approved	Finished	Period covered	Notes on process	
								07. There exists a decent work country agenda (DWCP 'light') for 2008-09	groups; social protection; industrial relations system
Russian Federation								There exists a Programme of Cooperation	
Serbia					x				
Tajikistan			x			x	2007-09		Fundamental labour standards, principles and rights; employment (gender equality); social protection
Turkey		x						MoU signed Feb 2009	
Ukraine		x						Only MoU for 2008-11 signed. No DWCP narrative nor results matrix - due to complex political situation	Democratisation through social partners/social dialogue; employment; alignment with EU standards
Total (53)	0	2	5	0	5	4			
African region									
Algeria			x					Draft has not undergone quality assurance. Implementation not started	
Angola	x							Consultations on concept note are under way	
Benin			x						
Botswana				x				Revised draft to be approved September 2009	
Burkina Faso	x					x	2006-07	No ongoing programme for 2008-	

Country	Phase 1: Preparatory phase		Phase 2: Draft programme document		Phase 3: Final document	Previous programme		Comments	Brief description of objectives in programme.
	Started	Finished	Started	Finished	Approved	Finished	Period covered	Notes on process	
								2009. Drafting process to start October 2009	
Burundi				x		x		To be approved by end 2009	
Cameroon				x					
Cape Verde		x						Drafting started July 2009	
Central African Republic		x				x			
Chad	x							Consultations are under way	
Comoros				x				Draft programme submitted	
Congo		x							
Côte d'Ivoire					x				Youth employment
Congo			x					Process to be reactivated	
Djibouti	x							Programme 2006-07: Drafting finalizing pending. Consultations postponed	
Egypt			x					Draft under revision. To be finalized end 2009	
Equatorial Guinea	x								
Eritrea								For political reasons no programme has been drafted, but process will start in 2010	
Ethiopia					x	x	2006-07	New programme	

Country	Phase 1: Preparatory phase		Phase 2: Draft programme document		Phase 3: Final document	Previous programme		Comments	Brief description of objectives in programme.
	Started	Finished	Started	Finished	Approved	Finished	Period covered	Notes on process	
								2009-11 signed September 2009. Implementation to begin end 2009	
Gabon		x						Draft programme to be available before end 2009	
Gambia	x							Drafting to start third quarter 2009	
Ghana	x					x		Current programme not passed quality assurance. Consultations for new programme to start beginning of 2010	1st programme: Centrality of employment in socio-economic development. New programme: reflect current global reality including financial/economic crisis
Guinea		x						drafting started July 2009	
Guinea-Bissau								Formulation process to start 2010	
Kenya					x			Ongoing implementation	Youth empowerment/employment; HIV/AIDS at the workplace; enhanced influence of tripartite partners
Lesotho					x			Ready to start Programme II	(Youth) employment; improved social security; HIV/AIDS at the workplace
Liberia	x					x		Formulation process: beginning of 2010	
Libya	x							Consultation ongoing	
Madagascar				x		x		Final document to be approved	
Malawi			x						

Country	Phase 1: Preparatory phase		Phase 2: Draft programme document		Phase 3: Final document	Previous programme		Comments	Brief description of objectives in programme.
	Started	Finished	Started	Finished	Approved	Finished	Period covered	Notes on process	
Mali						x	2006-09	No 2008-09 programme. Drafting for new programme to start December 2009	1st youth employment
Mauritania	x					x		Formulation process to start 2010	
Mauritius			x					Draft did not go through quality assurance	
Morocco			x			x		Draft has not undergone quality assurance. Implementation not started	
Mozambique			x			x			
Namibia			x					Revised draft to be approved end of September 2009	
Niger	x							Drafting process to start end of 2009	
Nigeria	x					x	2005-09	1st programme did not pass quality assurance. New programme to be formulated 2010	2006: Centrality of employment in socio-economic development.
Rwanda			x					Process to be reactivated	
São Tomé and Príncipe		x							
Senegal	x					x	2006-09	Formulation process for new programme to start third quarter of 2009	
Seychelles			x					Second draft under	

Country	Phase 1: Preparatory phase		Phase 2: Draft programme document		Phase 3: Final document	Previous programme		Comments	Brief description of objectives in programme.
	Started	Finished	Started	Finished	Approved	Finished	Period covered	Notes on process	
								preparation	
Sierra Leone			x						
Somalia	x								
South Africa				x				Revised draft to be approved end of September 2009	
Sudan	x							Process will start 2010	
Swaziland				x				Revised draft to be approved mid-September 2009	
Togo			x						
Tunisia	x							Consultations ongoing. Concept paper not finalized	
Uganda					x			Ongoing implementation	Child labour, youth employment, HIV at workplaces
Tanzania					x			Ongoing implementation	Youth employment; cChild labour; HIV/AIDS at the workplace; influence of partners of tripartism
Zambia					x			Implementation started 2007. Implementation, monitoring and evaluation plan drafted August 2009. Revised programme to be launched end of 2009.	Youth and disabled employment; child labour; HIV/AIDS at the workplace
Zimbabwe					x	x	-2005	Second programme launched April 2009. Document has been	

Country	Phase 1: Preparatory phase		Phase 2: Draft programme document		Phase 3: Final document	Previous programme		Comments	Brief description of objectives in programme.
	Started	Finished	Started	Finished	Approved	Finished	Period covered	Notes on process	
								printed and disseminated widely	
Total (53)	16	6	13	7	8	14			
American Region									
Antigua and Barbuda*			x						
Argentina									Labour policies; (youth) employment and employability; child labour; social protection; social dialogue; informal economy
Bahamas					x	x	2005-07		Institutional strengthening; social dialogue; revision of labour legislation
Barbados			x						
Belize						x			Labour legislation; skills and employability; institutional strengthening of social partners
Brazil				x					
Chile									Child labour; labour policies; youth employment; social security
Colombia								Agreement letter signed December 2009	
Costa Rica								There have been many unsuccessful attempts to restart the tripartite discussion about DWCP.	
Cuba	x							No formal programme envisaged for the moment. Eventual news after mission in	
		x							

Country	Phase 1: Preparatory phase		Phase 2: Draft programme document		Phase 3: Final document	Previous programme		Comments	Brief description of objectives in programme.
	Started	Finished	Started	Finished	Approved	Finished	Period covered	Notes on process	
								March 2010	
Dominica*			x						
Dominican Republic					x				Labour standards; capacity of tripartite partners; social partnership
Ecuador			x						
El Salvador					x			The DWCP was signed by the tripartite partners, albeit with a weak representation of social partners	Labour standards and policies; capacity of tripartite partners; social dialogue
Grenada*			x						
Guatemala				x				Dialogue process delayed due to political situation	
Guyana			x						
Honduras					x				Labour standards and policies; capacity of tripartite partners
Jamaica			x						
Mexico			x						
Nicaragua					x				Labour standards; capacity of tripartite partners; strengthening the National Employment Council (Consejo Nacional del Trabajo)
Panama					x				Labour standards and policies (to promote peace); capacity of tripartite partners; social dialogue
Paraguay					x				(Youth) employment policies; institutional strengthening - especially the Ministry of Justice and Employment; Labour standards; capacity of social partners; social dialogue
Peru					x				
Bolivia					x				Workers' rights - elimination of

Country	Phase 1: Preparatory phase		Phase 2: Draft programme document		Phase 3: Final document	Previous programme		Comments	Brief description of objectives in programme.
	Started	Finished	Started	Finished	Approved	Finished	Period covered	Notes on process	
									forced and child labour; equal opportunities and employability - especially women, youth and indigenous groups; institutional capacity of tripartite partners
Saint Kitts and Nevis*			x						
Saint Lucia*			x						
Saint Vincent and the Grenadines*			x						
Trinidad and Tobago			x						
Uruguay								There are two programme versions: one with the Government and the other with employers	
Total (35)	1	1	13	2	x 13	1			
Asian and Pacific Region									
Afghanistan	x								
Australia								Commitment to prepare the national plan of action on decent work made in 2005	
Bangladesh					x				Competitiveness/employment; fundamental principles and rights at work; capacity of tripartite partners
Brunei	x								
Cambodia					x				Employment; Good governance; Rights and social protection
China					x				Employment; labour market institutions and laws; social

Country	Phase 1: Preparatory phase		Phase 2: Draft programme document		Phase 3: Final document	Previous programme		Comments	Brief description of objectives in programme.
	Started	Finished	Started	Finished	Approved	Finished	Period covered	Notes on process	
									protection (incl. HIV/AIDS); labour principles and workers' rights
Fiji			x					Pacific Action Plan for Decent Work adopted February 2010 complements DWCP	
India				x				Awaiting endorsement from constituents in Oct 2009 (Delayed?)	Employment; social protection; unacceptable forms of work eliminated
Indonesia					x				Child labour; migrant workers; youth employment; fundamental principles and rights at work
Japan								Tripartite constituents plan to develop a National Plan of Action on Decent Work	
Kiribati					x			Pacific Action Plan for Decent Work adopted February 2010 complements DWCP	(Youth) employment; labour laws; capacity of tripartite partners
Laos								Country Programme Review underway will inform the identification of country programme priorities	
Malaysia	x	x							
Marshall Islands			x					Pacific Action Plan for Decent Work adopted February 2010 complements DWCP	
Mongolia					x			The new national plan	Employment; working

Country	Phase 1: Preparatory phase		Phase 2: Draft programme document		Phase 3: Final document	Previous programme		Comments	Brief description of objectives in programme.
	Started	Finished	Started	Finished	Approved	Finished	Period covered	Notes on process	
								of action on decent work is being drafted	environment and workers' rights; tripartism, policy development and institutional reform
Nepal					x				Productive employment for building sustained peace - national employment policy and labour market reforms
New Zealand								There exists a National Plan of Action on Decent Work	
Pakistan					x			There exists a National Plan of Action on Decent Employment Generation and Skills Development	Labour law reform; human resource development; social protection; tripartism for social dialogue
Papua New Guinea					x			Pacific Action Plan for Decent Work adopted February 2010 complements DWCP	Capacity of tripartite partners; Labour law reform; (youth) employment; human resource development
Philippines			x						
Samoa								Pacific Action Plan for Decent Work adopted February 2010 complements DWCP	Labour law; (youth and the disabled) employment; capacity of tripartite partners for social dialogue
Solomon Islands					x			Pacific Action Plan for Decent Work adopted February 2010 complements DWCP	Capacity of tripartite partners for social dialogue; (youth and the disabled) employment; labour market information and analysis system; social protection
Sri Lanka					x			There exists a	Employment; labour

Country	Phase 1: Preparatory phase		Phase 2: Draft programme document		Phase 3: Final document	Previous programme		Comments	Brief description of objectives in programme.
	Started	Finished	Started	Finished	Approved	Finished	Period covered	Notes on process	
								National Policy for Decent Work	administration/employment practices; tripartite cooperation. Cross-cutting themes: informal economy, gender, labour standards, HIV/AIDS at the workplace
Thailand			x						
Iran		x	x					There exists a National Plan of Action on Decent Work	
Timor-Leste					x				Youth employment incl. skills training; integrating employment into rural economic development; labour market governance. Cross-cutting themes: gender equality, tripartism and institutional capacity building
Tuvalu				x					
Vanuatu					x				Labour standards; (youth and the disabled) employment; capacity of tripartite partners for social dialogue; social protection
Vietnam			x					There exists a decent work country framework	
Total (33)	3	2	7	2	14	0			
Arab states									
Bahrain				x					
Iraq	x							A decent work strategy to be developed in 2010	
Jordan		x					x	2006-09 New DWCP being currently developed. Expected launch in	Employment; improving governance; social protection

Country	Phase 1: Preparatory phase		Phase 2: Draft programme document		Phase 3: Final document	Previous programme		Comments	Brief description of objectives in programme.
	Started	Finished	Started	Finished	Approved	Finished	Period covered	Notes on process	
								May 2010	
Kuwait		x						Initial consultation. Process delayed due to institutional changes	
Lebanon	x							DWCP to be developed in 2010	
Oman				x				To be launched in June 2010	
Palestine	x								
Qatar	x							Two programming missions in 2008	
Saudi Arabia								Initial consultations were to start in 2009	
Syria					x			Launched Feb 2008	Capacity of tripartite constituents; employment; social protection
United Arab Emirates		x						Initial draft developed early 2009. Additional consultations to be held with the government	
Yemen					x			Launched July 2008	Improved governance; social protection; employment
Total (12)	4	3	0	2	2	1			

Note: * indicates that the country is a part of a subregional UNDAF for OECS-countries, which includes seven specific work plans for the marked countries.

Annex E: Case studies

CROATIA

In Croatia the transition from socialism to capitalism has led to deteriorations in livelihood, health, and welfare. It is only since 1995 that there has been a degree of territorial 'normalcy' in the country, and the consolidation of democracy was not completed until the election of a centre-left, internationally open, coalition government in January 2000. Average per-capita income had increased to half of the EU-25 average (in purchasing power standards) by 2005. Although the employment rate has constantly increased since 2001, a relatively high unemployment rate, limited job turnover and job creation remain among the most important economic problems. The officially registered unemployment rate was in 2006 close to 16 % (COM(2006)649).

As Croatia is a candidate country the primary legal frame regarding EU-Croatia relations is the Harmonization and Stabilization Act. The main implication of this is that Croatia must implement the EU's *acquis communautaire*, i.e. ensuring that the Croatian legal framework is in accordance with EU law so that Croatia eventually – in a legal sense – would be able to join the EU.

However, harmonisation with EU law is a demanding task, which is why the EU provides specific targeted financial aid for acceding countries, candidates and potential future members in order to support their efforts to enhance political, economic and institutional reforms.

The EU provides financial assistance to Croatia through the following instruments:

- CARDS - *Community Assistance for Reconstruction, Development and Stabilisation (2000-2004)*
- Pre-accession funds: PHARE, ISPA, SAPARD and from 2007 the new instrument IPA
- Community programmes open for Croatia.

Croatia received around €278.8 million from the CARDS programme 2000 to 2004 and €252 million from the three pre-accession funds (PHARE, ISPA and SAPARD) in 2005 and 2006. The total EU financial assistance (CARDS and the pre-accession instruments) in the period 2000 to 2006 amounts to €530.8 million. Financial allocation of the IPA programme in the period 2007 to 2010 for Croatia is €589.9 million.

Status of core initiatives

Because Croatia is a candidate country with possible EU membership in sight, it is expected that to a great extent Croatia will be in compliance with, for example, ILO core conventions and that they have implemented EU CSR standards. This is assessed in the following part.

CLS

Croatia has ratified all eight core ILO conventions and in total 51 ILO conventions. However, in its annual report ITUC notes that there are some problems enforcing the core conventions (ITUC, 2010). Concerning the elimination of discrimination in respect of employment and occupation (conventions 100 and 111) it is noted that there remains a severe gender gap with women receiving 20 % less pay than men for equal work. Furthermore, it is noted that minorities – especially the Romani population – are being discriminated against. Also with respect to the elimination of all forms of forced or

compulsory labour (conventions 29 and 105) there are problems relating to the trafficking of especially women and girls to prostitution (ITUC, 2010). Only minor problems are identified with regard to child labour, but not with respect to worst form of child labour. Lastly, with respect to freedom of association and the right to collective bargaining it is noted that Croatia has to a large extent harmonised its legislation according to the EU *acquis communautaire* and the only issue mentioned is the widespread use of fixed short-term contracts.

Decent work country programme

Croatia is not part of the decent work country programme.

CSR

In Croatia CSR is becoming more and more relevant, given the increased importance of the private sector, the rollback of state in favour of enterprises, the need to regulate businesses within a global market place and the growing strength of consumers and NGOs. In addition – and perhaps most importantly – the main aim with reforms has been the accommodation of the EU's *acquis communautaire*, i.e. harmonising national laws with EU laws.

The value of CSR has already been recognised by some leading Croatian enterprises that committed themselves to it and formed the National Business Council for Sustainable Development (BCSD). However, the Government did not implement an appropriate policy framework to coherently encourage and support the adoption of CSR practices by Croatian enterprises, and the companies lacked methods or capacities to adopt CSR in the most cost-effective manner.

On that basis the EU and UNDP have established a CSR project, 'Accelerating CSR in New Europe', which seeks to explore the progress made concerning CSR in Central Eastern Europe and the Baltic States (Poland, Lithuania, Hungary, Slovakia, Bulgaria, Former Yugoslav Republic of Macedonia, Croatia and Turkey). The main objective of the Project is to accelerate the implementation of CSR practices in Croatia, which is seen as a vehicle for EU harmonization, improving competitiveness and social cohesion. This is expected to be achieved by comprehensively mapping out the CSR activities and actors, identifying capacity gaps and areas where support to both business and the governments is needed, exchange of experience and good practices, awareness raising and supporting national stakeholders. (UNIDO, 2005).

The United Nations Industrial Development Organisation (UNIDO) launched its first technical assistance programme in 2004. In 2007 the UN Global Compact established a CSR network in Croatia with 77 participants including all the business organisations (The Global Compact, 2007). Technical assistance is for instance provided in the UNDP report 'Winning with Integrity – Manual of Corporate Social Responsibility' which has had a significant impact on the awareness and uptake of the CSR concept in Croatia, animating the debate at a country level and providing relevant tools (EU & UNDP, 2007).

Croatia is thus experiencing pressure and receiving assistance from both the EU and the UN to facilitate CSR and improve its legal framework.

Recent developments in social policy

In 2008 the EU Commission conducted a thorough analysis of the progress made in Croatia concerning its implementation of the EU's *acquis communautaire* (COM(2008)674). With

respect to social policy and employment the following was noted regarding recent developments in social policy.

First, the Commission concludes that there has been limited progress in the area of **labour law**, although many legal reforms have been implemented. For example Croatia has made Amendments to the Act on Employment Mediation and Unemployment Rights, they were adopted in July 2008 aiming at addressing shortcomings in the field of part-time work. Furthermore, legislation aiming at transposing the *acquis* in the areas of European Works Council, the European Company, the European Cooperative Society and the protection of employees in the event of the insolvency of their employer has been adopted. As regards administrative capacity, a new Regulation on the internal organisation of the Ministry of Economy, Labour and Entrepreneurship (MoELE) was adopted in March 2008 in view of strengthening the organisation of the Directorate for Labour and the Labour Market, and hiring additional staff, but its implementation is lagging behind. In general, shortcomings persist as regards legal alignment and administrative capacity. The amendment of the Labour Act is still not in place which is problematic since it is a key element for the accession negotiations with respect to social policy. Furthermore, the Commission notes that the State Inspectorate is lacking appropriate resources but that preparations in that area are on track.

Second, with respect to **health and safety at work** the Commission concludes that good progress has been made. For instance, the adoption in 2008 of the Act on Amendments to the Occupational Safety and Health Act is seen as an important element for the accession negotiations. Legal alignment has continued also with the adoption of legislation aiming at transposing the *acquis* on various issues such as the use of work equipment and on minimum requirements for work on board fishing vessels. However, implementation and enforcement capacity is still not sufficiently developed, and sufficient funding of implementation remains a problem. The Labour Inspectorate is not sufficiently mobile either. In order to remedy the situation, the Regulation on the internal organisation of the State Inspectorate was amended in December 2007 allowing for an additional hiring of 53 labour inspectors (27 in the area of labour relations and 26 in the area of safety at work). Preparations in this area are well underway.

Third, as regards **social dialogue**, the Commission notes that there has been some progress. On the positive side tripartite social dialogue is already well established, and the influence of social dialogue on the decision making process and policy design has slightly improved. This has for instance resulted in the Act on minimum wage. Furthermore, social dialogue has resulted in awareness-raising and training activities, especially as regards mediation of labour disputes. On the negative side, the Commission shows that the existing autonomous collective bargaining still takes place mainly at company level and that sectoral social dialogue continues to be poor, and agreements at this level are rare. In addition, representativeness criteria for participation of trade unions in collective bargaining have not been adopted yet and the capacity of social partners continues to be weak. Preparations in this area are moderately advanced.

Fourth, good progress has been made in the area of **employment policy** according to the Commission. The Joint Assessment of Employment Policy Priorities (JAP) was signed in May 2008. It examines the main strengths and challenges for the Croatian labour market with a view to EU accession and Croatia's future participation in the EU employment strategy. In the framework of the National Employment Action Plan for 2005–2008, funds earmarked for the implementation of active labour market measures under the 2007 Annual Programme for Employment Incentives have been increased. The fight against undeclared

work has continued allowing a continuing rise in the employment rate (57 % in 2007 compared to 55.4 % in 2006). The unemployment rate has continued to fall (9.6 % in 2007 compared to 11.2 % in 2006). However, youth and long-term unemployment remain persistent challenges. Also regional disparities are still considerable, and the qualification and skills levels of the Croatian labour force are lower than in the EU. Preparations in this field are well on track.

Fifth, there has been good progress in the field of **anti-discrimination**. An anti-discrimination act was adopted in July 2008 aimed at completing legal alignment in this field. This is a key element for the accession negotiations on this chapter. A National Programme for the Protection and Promotion of Human Rights 2008–2011 was adopted in November 2007, and the National Plan to Combat Discrimination in September 2008. However, the level of protection against discrimination in practice and its judicial prosecution is still not in line with EU standards. Vulnerable groups and ethnic minorities, particularly the Serb and the Roma minorities, continue to face significant discrimination in economic and social life. The Ombudsman's office has not yet been transformed into an independent Equality Body. The limited statistics currently available do not allow monitoring of discrimination on different grounds, as required by the *acquis*. Preparations in this field are on track.

Last, the Commission notes that good progress can be reported on **equal opportunities**. A new Gender Equality Act was adopted in July 2008 after the Constitutional Court issued a decision in January 2008 to abrogate the former Act on the grounds of its formal non-compliance with the Constitution of Croatia. Legislation was also adopted in March 2008 aiming at transposing the *acquis* on statutory social security as well as in July 2008 in the field of parental leave. Awareness-raising activities on gender equality have continued in different areas. However, the Ombudsman's office has not yet been transformed into an independent Equality Body. Also the effective implementation of gender equality policies is not always ensured. However, as noted by the Commission, preparations in this field are well advanced.

All in all the report concludes that good progress has been made on social policy and employment. A good level of legal alignment has been reached, but there are still some gaps remaining. The Commission recommends strengthening the administrative capacity in good time before accession to ensure proper implementation and enforcement of the *acquis* which is the key element for the accession negotiations on this chapter. This is also in general the conclusion from ITUC.

Assessment of instruments used

The EU uses hard instruments and to some extent financial instruments to apply pressure on Croatia to implement the EU *acquis* in relation to social policy including core labour standards.

As EU-Croatia relations are regulated by the Stabilisation and Association Act the EU exerts much influence over Croatia's legal framework, since Croatia is bound to harmonise its framework in accordance with EU law before accession is possible. Thus, this instrument has a strong impact, but – as can be seen from the analysis above – there are still challenges.

The EU also has considerable influence with respect to CSR – but it is more in the sense of technical assistance in cooperation with the UN Global Compact.

SERBIA

Since 2001 the Republic of Serbia has undergone major economic and political changes to catch-up with a late start of its transition to a market economy. These changes revolve around the reform of the institutional framework, the privatisation of productive and financial assets, the liberalisation of the trade regime and the improvement of the business environment, as well as the development of a new system of industrial relations, social security, and employment and social policies. Serbia has throughout the 2000s experienced rapid growth at approximately 6 % which has resulted in a decline in poverty from 14 % in 2002 to 6.6 in 2007 (RSO, 2008). Unemployment is however still high; in 2007 the unemployment rate (standard) was 18.8 %, with women unemployment rate more than five percentage points higher than men's. Youth unemployment reached 43.8 % in 2007 (40.7 % for young men and 48.3 for young women). Unemployment is predominantly long-term, with 80 % of the unemployed looking for a job for one year or more (ILO, 2008).

Serbia is therefore in a state of transition and is currently coping with the past; the transition from a communist state to a market based economy and the aftermath of the civil war in former Yugoslavia. There is still a lot of emotion and a tense atmosphere – most recently emphasised by the 2008 violent demonstrations following the EU recognition of Kosovo as an independent nation which also led to diplomatic tension between Serbia and EU Member States as Serbia withdrew its ambassadors from the states which had recognised Kosovo. However, following the formation of a new Serbian government in July 2008, ambassadors who had been withdrawn from EU Member States returned to their posts. Thus the 'Kosovo-issue' is still very important when analysing EU-Serbia relations.

Serbia ratified the Stabilisation and Association Process (SAP) in 2008 and implemented the Interim Agreement from 1 January 2009. The SAP provides a framework of mutual commitments on a wide range of political and economical issues.

In addition, the EU is providing guidance to the Serbian authorities on reform priorities as part of the European Partnership. The Serbian government has adopted a National Programme for European Integration that also covers the European Partnership priorities. Progress on reform priorities is encouraged and monitored by the Enhanced Permanent Dialogue (EPD) process.

Lastly, Serbia also receives financial support from the EU as part of pre-accession support under the Instrument for Pre-Accession Assistance (IPA), which in 2008 totalled €190.9 million.

Status of core initiatives

CLS

Serbia has ratified all eight core ILO Conventions and in total 71 ILO conventions. However, there are still problems of enforcement of the core conventions.

For instance ITUC in its 2009 annual survey concludes that *'[T]rade unionists were harassed and manipulated by employers (...). A number of restrictions on the right to organise and the right to strike persist'*. Especially it is emphasised that the right to strike is strongly limited as it is noted that the strike action cannot be undertaken if parties to a collective agreement do not reach an agreement and that the law on strikes states that participation in a strike can lead to suspension, not only of wages, but also of social security rights. From ITUC's point of view this should be independent of the right to strike.

Although the constitution and law prohibit forced and compulsory labour, including labour conducted by children; women, men, and children are being trafficked for commercial sexual and labour exploitation, and children are being forced to beg and commit petty

theft. Thus there are problems enforcing the ILO convention against forced labour and also the conventions against child labour (UNHCR, 2009).

With respect to the latter – child labour – the government in Serbia has implemented laws protecting children from exploitation in the workforce in industries but it does not possess authority to check informal workplaces or individual households. There are reports that children were trafficked for commercial sexual exploitation, labour and begging. Children from impoverished, rural communities, Romani children, and children in foster care are at high risk of entering exploitive child labour (UNHCR, 2009).

Lastly, it is documented that in general Serbia faces problems concerning acceptable conditions of work. For instance it is noted that the minimum wage is not sufficient to provide a normal standard of living and only where trade unions are represented does the employee receive the minimum wage. On the more positive side, the minimum wage was negotiated in a transparent manner in a tripartite dialogue.

Decent work country programme

Serbia is participating in the ILO decent work country programme and the main aim is to overcome the problems stated above regarding core labour standards and the degree of decent work. The DWCP is to a large extent intertwined by other policies aimed at strengthening Serbia's social policy.

Most of Serbia's national priorities are reflected in the DWCP, especially in the priorities and outcomes that have an impact on the promotion of employment and social inclusion. The ILO strategy to implement the DWCP is based on technical assistance in the form of strengthening institutional capacity through human resources development. The DWCP was developed in parallel with the UNDAF programming of the UNCT Serbia for 2009-2010 so that there is a clear link between the key directions of UNDAF and the planned outcomes of the DWCP.

The current DWCP also supports the integration of Serbia in regional organisations (e.g. the European Union) and in the achievement of goals set out by international agendas (e.g. the Millennium Declaration). Many of its outcomes are in line with the UNDAF, the World Bank Country Assistance Strategy and the European Stabilisation and Association Agreement (EU-SAA). The Programme supports the country in fulfilling its obligations under the EU-SAA related to the European Employment Strategy, free movement of workers, fundamental rights at work, decent working conditions, equal opportunities and regional cooperation.

Within the overarching decent work country programme the ILO will focus on the following three priorities for the period 2008 to 2011:

1. Strengthening the capacity of government institutions and the social partners to improve the governance of the labour market, including:
 - a. Improved functioning of the Social and Economic Council with a wider mandate to incorporate social and economic issues;
 - b. Efficient labour administration, including the establishment of an effective dispute settlement mechanism;
 - c. Increased value of employers and workers organisations to existing and potential membership through the provision of new or better services.

2. Improving the formulation and implementation of employment policy as well as of measures targeting disadvantaged youth. At outcome level this should result in:
 - a. A gender-sensitive active policy on employment;
 - b. In cooperation with the social partners, the adoption of a national target plan concerning youth employment;
3. Improving the effectiveness of the social protection system with a special focus on vulnerable groups. This should result in:
 - a. Enhanced capacity of labour inspections and social partners to implement labour law;
 - b. Formulation of the social security policy through technical assistance and social dialogue.

CSR

The idea of corporate social responsibility is new to Serbia. Because Serbia implemented its political and socio-economic transition later than many other countries, many companies still have little awareness of the benefits of socially responsible practices, and many ordinary citizens do not take CSR into account when making purchases or going about their lives (Milovanovic, G. et al.).

Although the Serbian government does not have a government body responsible for CSR, the National Sustainable Development Strategy Paper, supported by the EU and implemented under the supervision of the Deputy Prime Minister, considers CSR to be a part of the government's strategy (UNDP, 2009).

In order to promote CSR in Serbia, the Business Leaders Forum was established in 2008. The forum is Serbia's first coalition of socially responsible companies with a goal of promoting CSR and operating in a sustainable way to benefit the interests of the whole community. All its members have volunteered to incorporate social, ethical, and ecological concerns into their work, and to cooperate with non-profit organisations, state institutions and other interested parties for the improvement of society. The Business Leaders Forum stimulates positive changes and promotes best practice in the improvement of business environment in society.

The key challenge however is to raise the level of awareness of CSR, since Serbian consumers have limited appreciation of CSR and fail to associate it in their choice of products (or services) to buy and do not relate CSR with social concerns. The promotion of CSR has been marked with various initiatives in the government sector, business sector and even by some NGOs (Milovanovic, G. et al.).

As is the case with Croatia, Serbia is participating in the joint EU-UNDAF project 'Accelerating CSR in New Europe' and in relation to this 'the CSR Western Balkans Baseline Study' is currently being conducted. Additionally, in 2007 UNIDO made an evaluation 'CSR in Central and Eastern Europe'. Many CSR-related initiatives have taken place in Serbia – and the main actors are the UN (UNDP and UNIDO) and the EU.

However, as an UNIDO issue paper from 2007 stated with respect to CSR in Serbia '*(...) the private sector basically does not have any strategic relationship with social issues and the link between business and the non-profit sector is particularly weak. In general, companies do not know how to strategically assume responsibility towards society and community and*

enter into relationships with other actors in that area.' (UNIDO 2007: 40). Serbia therefore has a long way to go in building an integrating CSR framework.

Recent development in social policy

As Serbia is an accession country, EU Commission reports have been conducted on the progress made under the Stabilisation and Association Process to harmonise the Serbian legal framework to the EU *acquis*. In the following, the conclusions from the most recent report from 2008 are elaborated with respect to recent developments in employment and social policies. Overall the report concludes that Serbia has started to address its priorities in the area of employment and social policies, but although the country's capacity to effectively implement employment policies has improved, it is still inadequate and only a little progress has been observed. With regard to social policies, legislation still has to be adopted and the overall implementation needs to be further developed. As such the report is in line with ILO conclusions from the interim report on Serbia's decent work country programme in that many reforms are still necessary before CLS and decent work are sufficiently implemented and enforced.

With respect to employment policies, the overall Serbian strategy is in line with EU requirements, but its application remains weak. Active policy measures aimed at boosting employment, in particular in the SME sector, have been prepared and implemented. This has contributed to a limited reduction in the number of unemployed but the rate remains high with a large percentage of unemployed women (53.8 %). The reform of the education system, including vocational training, is lagging behind. Reforms in the employment services have also been delayed and although some progress has been registered, the effectiveness and administrative capacity of the National Employment Service is not yet deemed sufficient. In general the Commission assesses that the record of implementing employment measures and policies has improved, but coordination and harmonization with other policies is not sufficient in order to reduce unemployment.

In the field of social policies, the *labour law* of March 2005 remains unchanged, although certain implementing rules have been adopted. A general Collective Agreement was signed in April 2008 between the association of employers and two representative trade unions, for the first time without state mediation. However, *social dialogue* continues to be weak. The functioning of the Socio-Economic Council needs to be improved.

Concerning *social inclusion*, the Serbian poverty reduction strategy has contributed to reducing the number of people living in absolute poverty. This number was reduced from about one million in 2002 (14.4 % of the population) to under 500 000 in 2007 (about 6.6 % of the population). However, fighting poverty and social exclusion, particularly of Roma and disabled people, remains a key challenge. Serbia signed the Convention on the Rights of Persons with Disabilities in December 2007, but it has not yet been ratified and the implementation of the Law against discrimination of people with disabilities is weak. In addition there is no comprehensive *anti-discrimination law*, which perhaps explains why there is widespread discrimination, in particular against the Roma community, people with disabilities, ethnic minorities and people of different sexual orientation. The Commission notes that protection against discrimination in the labour market is weak.

Lastly, in the area of *equal opportunities*, the National Strategy for the improvement of women's status and advancement of gender equality (2008 to 2014) was launched in January 2008. Furthermore, a Gender Equality Department has also been established in the Ministry of Labour and Social Policy. However, the Law on Gender equality is still pending.

Assessment of instruments used

As should be clear from the above, the EU exerts a direct influence over Serbia's legal framework regarding social policy because Serbia is an accession country and hence is participating in the Stabilisation and Association Process. This document provides a framework of mutual commitments on a wide range of political and economic issues and hence Serbia is in most cases bound to live up to the standards in EU acquis.

Therefore, many reforms have been made in Serbia but not all are being fully enforced, as it is the case with some of the ratified ILO core conventions.

Lastly, it should be noted that Serbia is in transition towards a market based economy, but this transition has only recently been speeded up and therefore the country in general lacks a coherent CSR framework. However, the EU in cooperation with the UN seems very active in this respect, promoting CSR – e.g. by providing technical assistance.

UKRAINE

Ukraine has been independent from the USSR since 1991 and is the second largest successor of USSR with more than 46 million people.

Since the fall of the Berlin wall, Ukraine has been focused on adapting to a market economy, and has experienced a very turbulent economic development. In the first eight years the economy was characterised by recession, but since then there has been a high increase in the GDP. However, due to the worldwide economic crisis in 2008 a recession has again taken place as the GDP fell by 20 %. The country is especially vulnerable because its main export is steel which during the crisis has faced a decreasing demand.

Ukraine is a rather new democracy, but since the 'orange revolution' at the end of 2004, it has enhanced its efforts to deepen and strengthen the process of democracy and its economic development. Furthermore it has strengthened its ties with EU – for example as part of the European Neighbourhood Policy. The cooperation is to a large extent agreed on in terms of the Partnership and co-operation agreement from 1998, which was later succeeded by an Association Agreement. Thus the EU and Ukraine have close ties which further have increased after the enlargement of the EU, since the country has now borders directly to the EU.

Looking at external trade, the EU is Ukraine's largest trade partner accounting for approximately one third of the external trade. In actual terms, the EU imports for approximately €14 billion, while its export is significantly larger, approximately €25 billion. The GSP that was granted by the EU has been particularly beneficial for the country. With €2.2 million of GSP preferential imports to the EU, Ukraine ranked in 2007 the 9th among the most effective users of the GSP-system.

Ukraine became a member of the WTO in 2008, to a large extent helped by the EU. Furthermore, the World Bank, IMF and UNDP are also actors in the country.

Status of core initiatives

In 2008 the EU and Ukraine agreed on a Free Trade Agreement, and at the moment there are negotiations towards a deep and comprehensive free trade area (DCFTA) by giving Ukraine more access to the European market and encouraging European investment in the country. The EU investment has risen rapidly in the last couple of years; from 2004 to 2005 it grew by more than 400 %.

CLS

ITUC raises some criticism of the core labour standards in Ukraine, mainly focusing on the administrative barriers to creating trade unions and the fact that Ukrainian trade union members have been subject to discrimination and pressure. In addition, there is severe criticism of the equality of women and men and the trafficking of women and children, just as there is evidence of child labour in some areas. However, the Ukrainian effort towards ensuring the CLS is of central concern in the EU-Ukraine Action plan. Furthermore, Ukraine has received several projects of technical assistance from the ILO on specific topics such as trafficking.

Decent work country programme

In 2006-2007 a decent work country programme was formulated focusing on three aims:

1. deepening the democratisation process through strengthening social partners and social dialogue

2. promotion of more and better employment opportunities for men and women
3. a closer alignment with European standards

In the light of the decent work country programme, there have been some changes in terms of trade union rights and CLS. Specifically, setting up an economic and social council, facilitating new trade union registration and expanding social policy dialogue and technical assistance (COM(2006)726 final).

However, for 2008 to 2010 only a Memorandum of Understanding has been signed, but no narrative or results have been formulated. This is due to what the ILO describes as a complex political situation.

CSR

The concept of CSR was first introduced in Ukraine in December 2005 with a large amount of PR. Then, there was rapid growth until the economic recession in 2008, which caused several companies to slow down their social responsibilities.

Several surveys on CSR⁽⁶⁾ have pointed at some problems and misunderstandings in CSR in Ukraine, which are:

1. no unified CSR terminology
2. misunderstanding of the concept and issues that it covers (often associated with charity)
3. understanding of CSR as a concept for business organisations that does not meet ISO 26000 and its concept of social responsibility as an issue for organisations of different forms of ownership
4. lack of CSR development vision among different organisations

Thus the work on formulating the national strategy on development of CSR 2011-2015 has been outlined, including working towards a common understanding of CSR and raising awareness of CSR. Furthermore, it has been argued that there is an expectation that the concept of CSR will be enhanced via the closer relationship to the EU.

Recent development in social policy

Although there has been a large process of adapting to market economy, the labour law still contains many problematic aspects, including the employee's right to work and restrictive conditions for employment. In addition, employers have to pay up to 36 % of the gross income of an employee in social security funds.

Furthermore, as described in relation to the decent work country programme, changes have been made in terms of administrative burdens on registering a new trade organisation. And there are examples of Ukraine adapting to the EU standards for instance in terms of avoiding gender discrimination.

However, although the law may change, it is debatable whether actual behaviour also changes.

⁶ http://www.csr-ukraine.org/about_the_project3.html?lang=en

Looking to the future it can be predicted that, in particular, the FTA and the EU will have a huge impact on issues such as the investment climate, and also the movement of labour and labour protection. It is argued that the instituting of European Standards could lead to improvements in terms of the protection of the rights of hired workers (as has already to some extent been shown) – and on the growing costs of labour.

Assessment of instruments used

As the above analysis shows, the EU and the ILO and its technical advice (and secondly examples of the UNDP, the World Bank and other actors) have influenced Ukraine. However, due to the vulnerability of the economy and the recession, progress in this area has not been continuous.

- The FTA coupled with a clear political agreement on institutional reforms – including specific references to ILO-conventions in the EU-Ukraine Action Plan seems to be a clear strategy. The analysis indicates that it has had an important impact.
- Decent work and the whole work to adapt to EU-standards (including the technical assistance to do so) seems a very effective way to enhance labour standards.
- CSR is still not fully implemented – the concept is vague and creates confusion.

Thus, it seems clear that due to the Ukraine's close relationship with the EU an interest in a more enhanced political co-operation and economic integration has been a driving force in the adoption of several standards including improved labour standards.

MOROCCO

Morocco is a constitutional monarchy with an elected parliament. However, the king holds vast executive power. The elections are – according to several observers - free and fair elections. Morocco is seen as a moderate Muslim country and as such an important strategic partner for the US, the EU and other Western countries regarding issues like the fight against terrorism, drug trafficking and illegal immigration.

The EU is by far Morocco's largest trading partner, but trade links with the US, the Gulf Region and China are growing. Morocco is the world's third largest producer of phosphate, but has worked to reduce its dependence on phosphate export and to focus instead on manufactured and agricultural products and tourism.

The country is a member of the enhanced European cooperation with the Mediterranean countries - EUMED. Furthermore, Morocco is a part of the European Union Neighbourhood and Partnership agreement and signed the agreement with the European Union in 1996, which came into effect in 2000 as a Free Trade Agreement (FTA) and paved the road for the implementation of a free trade arena planned for 2012.

The economic situation is affected by several issues, including petroleum imports and the unreliable rainfalls producing droughts or floods. Furthermore, the competitiveness on manufactured goods is held down due to low labour productivity and high wages compared to other emerging economies in, for instance, Asia. Another important problem is the high unemployment rate – officially about one tenth of the labour force, but in reality much higher (Barbour, 2010).

In addition to the FTA with the EU, Morocco has trade agreements with Egypt, Jordan and Tunisia and a Free Trade Agreement with the US. Furthermore, it has been a WTO member since 1995 and is a member of the ILO.

Several trade unions exist in the country; the largest of these, with nearly 700,000 members, is L' Union Marocaine du Travail, which is affiliated with the International Confederation of Free Trade Unions.

Status of core initiatives

A core initiative when it comes to the relationship between Morocco and the EU is the Association Agreement and the European Neighbourhood policy. In the EU strategy paper for 2007 to 2013 several objectives are highlighted, including the fight against poverty and unemployment. Furthermore, with regard to social policy within the framework, the core focus is on health and education. This follows the strong focus on ensuring productivity and thus an ability to create more jobs. As such, issues of labour rights (except for the unemployment issue) are not on the core agenda. Furthermore, in the actual Association Agreement, the part about cooperation in social and cultural matters primarily focuses on freeing workers from discrimination, ensuring social security and ensuring that the partners of the agreement have a continuous dialogue on social matters. This is in opposition to the US Free Trade Agreement, which explicitly mentions the core labour standards, the ILO convention on Fundamental Principles and Rights at work and the ILO convention on worst forms of Child Labour.

CLS

Morocco has ratified seven out of eight core ILO-conventions (the one not ratified being the one on freedom of association). Below, core criticisms of the actual implementation of the different CLS are discussed:

- **Freedom of association and the right to collective bargaining.** Moroccan workers are free to form or join a trade union. However, some categories of workers – judiciary, domestic and agricultural workers – are denied this right. The right to collective bargaining is formally recognised under certain conditions. When it comes to demonstrations, the trade unions generally find it easier to organise these, but there are still several examples of obstacles and harassments in relation hereto.
- **Discrimination and equal remuneration.** Although the legal basis for the principle of equal pay is fine, in practice there are huge problems in this area. Thus, a national strategy on gender equality has been adopted. Most women are effected more negatively by unemployment as they are typically employed in informal work and thus without protection against discrimination and exploitation.
- **Child labour.** Moroccan law protects children against exploitation at work, but this protection is only applied in certain sectors and does not, for instance, cover the domestic employees. Furthermore, estimates state that as much as 500 000-600 000 children are working when they should be in school – an issue which has culturally been a taboo for several years. Although the National Action Plan for Children has been adopted, there are still severe problems with respect to its implementation – and the plan has been criticised for being too modest given the extent and gravity of the problem. Especially noticeable is the problem of small girls working as many as 126 hours per week as domestic employees under poor working conditions, and issues such as child prostitution.
- **Forced labour.** Although conventions are ratified, the actual laws are not in line with the conventions due to some specific statements referring to ‘the need of the country’. Furthermore, in practice there are examples of forced labour, cf. descriptions of child labour above.

Export processing zones and subcontracting are beginning to develop and are seen as an obstacle to organising unions and the minimum wage, because the general standards in the domestic country are lowered in order to attract the investors to the EPZ. This is a problem that the ILO is very aware of and hence much attention has been devoted to the issue. As a result, only few EPZ has lower labour standards than that of the domestic country in which the EPZ is located.

Decent work country programme

In terms of the decent work country programme, Morocco was part of the pilot programme (as a part of the ILO developing the concept of the decent work country programmes), but an actual decent work country programme has only just started. Thus, the draft has not undergone quality assurance and the implementation has not commenced.

The pilot programme focused on the textiles and clothing sector – which has national priority for economic development and job creation. The programme had two overall objectives:

1. to ensure redeployment and boost competitiveness through enhancing the quality of employment via several practical measures and the full integration of the non-discrimination goals of the gender issue;
2. the improvement of social dialogue at enterprise and industry level.

According to the ILO one of the major achievements is certainly the move from a conflict-ridden approach to social dialogue to a more collaborative one. Furthermore, several

initiatives have been started to improve the quality of employment, without the actual impact of these practical initiatives being included in the evaluation.

CSR

Some companies have CSR-projects in Morocco, such as Microsoft and Ericsson. However, the concept of CSR in the Arab states is more a question of philanthropy – i.e. donating some of the companies profit to social projects or the like. Furthermore, it is in many cases considered external to companies rather than a part of internal processes. In addition it has been argued, that for consumers it is more important for a company to have the reputation of working with CSR than the actual observed behaviour. And again, the issue of different understandings of the concept is also evident.

However, several policy initiatives have been started, and therefore such items on the political agenda are moving onto the companies' agenda.

In terms of this study, it is relevant to note that in Morocco several drivers for the implementation of CSR are evident (Ararat, M.); to improve the investment climate, international codes of conduct, consumer preferences in developed countries and relations with the European Union. As such there is evidence that the pressure from the EU has had an impact on ensuring the agenda of CSR.

Recent development in social policy

In 2004 the recent high number of decrees, regulations etc. was merged into one labour law with the aim of making the country easier to approach for foreign investment. Furthermore, the law included issues such as:

- increasing the minimum employment age from 12 to 15 years
- reducing the work week from 48-44 hours with overtime rates
- periodic reviews for the minimum wage
- improved workers' health and safety regulations, addressing gender equity in the workplace etc.
- guaranteed rights of association and collective bargaining.

The law changes came just after the FTA with the US was reached (including a whole chapter about labour), and the US has furthermore financed several projects to help the lawmaking process.

In an evaluation of the labour issue in FTAs, it is stressed that via FTAs the US has an impact on labour issues, but these measures are only helpful if there is implementation and application, as it is the case with the Moroccan projects assisting the lawmaking process (Rogowsky, R. A. and Chyn, E.; Ahearn, R.).

With respect to the FTAs a comparison between the US-Morocco and EU-Morocco shows clearly, that the US has much more specific references to the different CLS and the conventions that define them. The EU-FTA on the other hand, has less concrete formulations focusing on non-discrimination, social security and dialogue. As such it is difficult to estimate the direct fingerprints of the EU-FTA in the actual law changes.

However, although law changes have been effective since 2004, the status of the situation assessed in 2009 by ITUC shows, that there are still severe problems despite the law changes in relation, for instance, to child labour, treatment of women etc. As such, the

overall impact can be discussed, although it is important to keep in mind that 'Rome wasn't built in a day'.

Assessment of instruments used

As the analysis shows, Morocco has special characteristics due to several factors. Due to its status as a moderate Muslim country, it is an important strategic partner for Western countries. When it comes to economy it has gone through a solid, but slow economic development. In terms of labour, the most important issue is unemployment, but education, women's and children's right to decent work and non-discrimination are also important. The analysis has shown several interesting points:

- The US has been clear and detailed in describing labour condition requirements in their FTA – and there is some evidence, that the US has influenced the labour law of 2004 in terms of more labour protection. However, there is still important progress to be made.
- The potential of the EU to impose social standards on Morocco is high, owing to the Moroccan interest in collaborating with the EU, as was shown in the analysis of CSR. However, this has not been done via the current formulation of the FTA.
- The lessons learnt from the decent work pilot programme, the CSR and the US FTA are that there is a demand for practical solutions, assistance for implementation and a persistent follow-up focus to ensure the progress of the very good intentions in the area.

TANZANIA

The United Republic of Tanzania, with a population of approximately 40 million, is a multi-party republic headed by a president, consisting of the mainland and the Zanzibar. Observers considered the union elections on both the mainland and in Zanzibar to be largely free and fair (US State Department, 2009).

Tanzania is in transition towards a market-based economy and in general, reforms are on the political agenda. However, Tanzania is still one of the poorest countries in the world (GDP per capita is USD 440) with a high unemployment rate, high growth rate (5-7 %), which however is swallowed by high inflation rates (6-10 %), low levels of life expectancy and with high levels of infant mortality (ILO, 2009(b)). The main sectors of work are tourism and agriculture – the latter accounting for more than half of GDP and employing approximately 80 % of the workforce.

The EU has its own delegation representing the Commission in Tanzania and the East Africa Community Institutions of which Tanzania is a member, which therefore indicates that the EU has elaborated interaction with the country.

While the Cotonou Agreement provides the legal basis for EC cooperation with ACP countries, the European Consensus on Development sets the general policy framework at the EU level for cooperation with African countries, such as Tanzania. The primary and overarching objective of the EU's development policy is the eradication of poverty in the context of sustainable development, in line with the international agenda, and with particular attention to the Millennium Development Goals (MDGs). This is also the main aim in the ILO decent work country programme in Tanzania.

Under the 9th European Development Fund (2002 to 2008), the EC committed €345 million to Tanzania in support of its Poverty Reduction Strategy and its successor, the National Strategy for Growth and Poverty Reduction (MKUKUTA). The main focus in the programme is on sectors representing transportation infrastructure and education.

The current programme (2009 to 2014) has a budget that is a third larger than the ninth programme, and it focuses now also on regional integration and trade. This is done by facilitating and assisting the creation of a common integrated market in East Africa; the East African Community⁽⁷⁾ established in 2005 a Custom Union and is now progressing towards a Common Market in 2010 (which is to be followed by a Monetary Union in 2012). This model shares many similarities with the establishing of the EU and the EU Single Market and the EU Commission is therefore able to assist in its creation by focusing on capacity building, trade and economic integration. In addition to EU support, EAC receives financial and technical assistance from a number of EU Member States including Germany, Finland, France, Sweden, Denmark and the United Kingdom. In this respect EU policy is similar between Tanzania and Nigeria (c.f. the case of Nigeria).

Status of core initiatives

As the above indicates there is substantial economic interaction between the EU and Tanzania and the question then is to what extent this interaction is translated when focusing on core labour standards, the decent work country programme and corporate social responsibility. In the following a brief status of Tanzania's social policy is provided.

⁷ EAC includes Burundi, Kenya, Rwanda, Tanzania and Uganda with a combined population of 120 million.

CLS

Tanzania faces general problems ensuring human rights and is often criticised (US Department of State, 2009; Amnesty International, 2009). The problems relate to violations of freedom of speech, oppression of albinos, abuse and violence against women and poor and abusive conditions in prison. These are of course important aspects of social policy, but the main focus in this report is on CLS, which however is closely related to the general human rights situation in the country.

Tanzania has ratified 41 ILO Conventions (and denounced four) including all eight ILO fundamental Conventions, which furthermore have been domesticated into new labour laws through a revision of its labour legislation (ILO, 2006)⁽⁸⁾. Various reports, however, still document problems of enforcing CLS in Tanzania.

For instance the 2009 survey from ITUC showed that in Tanzania *'[I]t is very difficult for trade unions to negotiate with their employers. Strike calls remain numerous but the procedure is very complex and strikes are often declared illegal. In Zanzibar, strikes are illegal and banned.'* (ITUC, 2009)⁽⁹⁾. Thus there are violations of Conventions 87 and 98.

In addition, Tanzania also faces problems concerning child labour, including the worst form of child labour.

Decent work country programme

The ILO decent work country programme in Tanzania is closely linked to the MDGs and the UN development strategy in general, as formulated in the UN Development Assistance Framework (UNDAF). For example, the DWCP in Tanzania was formulated just after the UNDAF and the goals stated in UNDAF are therefore seen by the ILO as an integral part of Tanzania's DWCP (ILO, 2006(a)).

The programme prioritises the following areas: poverty reduction through the creation of decent work opportunities with a focus on young women and men; reduction of the incidence of child labour and its worst forms; and mitigation of the socioeconomic impact of HIV/AIDS at the workplace.

Progress has been made particularly with respect to decreasing the number of children working – one project was able to move more than 1 200 children from child labour to the educational sector and another programme reported that an estimated 20 000 children were removed from the labour market and brought to the educational sector.

CSR

Tanzania is in the early stages of developing a more robust private sector-oriented economy that integrates CSR (Befiki, T.). Since 2002, during the East African Business Summit, business leaders from Kenya, Uganda and Tanzania have met and discussed topics relating to CSR, and have agreed on resolutions. For example, participants at the 2003 Summit resolved to increase their sourcing of inputs from small and medium-sized enterprises, with a target of 25 % of their total inputs. The Summit has provided a focus for local civil society engagement with businesses. In addition in 2009 Tanzania hosted its first annual CSR day in order to raise awareness.

⁸ ILO DWCP Tanzania, 2006.

⁹ <http://survey09.ituc-csi.org/survey.php?IDContinent=1&IDCountry=TZA&Lang=EN>.

Some of the major companies have a CSR policy – for example the largest cellular network company, Vodacom has initiated 70 projects in 17 regions with respect to three main focus areas: (1) improving access to education for children especially those in the poorest communities; (2) contributing to health challenges by providing relevant infrastructure; and (3) facilitating economic empowerment of Tanzanians.

In addition, the agricultural sector is deemed important since about 80 % of the workforce is employed in this sector and it constitutes about half of the GDP. There is, however, hardly any CSR activity in the agricultural sector and in general there is limited awareness of CSR in small and medium-sized businesses, which is deemed problematic by observers (Befki, T.).

Recent development in social policy

The ILO has initiated many different programmes and projects to overcome the implementation problems regarding the eight fundamental core ILO conventions. These projects include aspects such as child labour, gender equality and improving the employability of women, and forced (child) labour (ILO, 2009(a)).

One of the most recent projects ‘Improving Job Quality in Africa, Through Concerted Efforts by Governments, Employers and Workers’ running from 2008 to 2009 with an analysis of various sectors in Tanzania noted that the government supports the integration of employment growth and improved quality of work, as reflected in its National Strategy for Growth and Reduction of Poverty 2005–2010 and its National Employment Policy of 2008. Throughout the 2000s Tanzania has thus made several reforms – including the Labour Relations Act and the Labour Institutions Act of 2004 – which were influenced by the country’s international obligations, including the ratification of ILO Conventions and its commitments under the MDGs (Ackson, T.).

Although there have been many reforms in the legal framework, there are still serious problems enforcing the legal provisions concerning labour policy, which leads the report to conclude that *‘[T]he substance of labour laws is undermined and employees are subjected to conditions well below the specified minimum working conditions’* (ILO, 2009(a), p. 11). The problems with CLS in Tanzania are, however, not only limited to problems of enforcing the legal framework. A recent study showed that institutional changes are not the only way to improve working conditions – instead, it is important to raise awareness of the rights the workers have already been granted in the legal framework. Many workers in Tanzania have only limited knowledge about their rights, but that knowledge is precisely a fundamental precondition for improving the workers’ condition (Lee, S. and McCann, D.).

Assessment of instruments used

The above indicates that in Tanzania many regulatory and legislative reforms are being conducted – especially since the year 2000 – and these reforms seem to be the result of international pressure, including ILO core conventions.

The EU, via its commitment and cooperation with EAC regionally and Tanzania bilaterally via the negotiations on the EPA, seems to have only limited influence, since the negotiations make no reference to ILO Conventions and social policy in general.

The same development can be noted in Nigeria and the main rationale behind the new EU approach seems to be that the EU wishes to export its own historic successful development with respect to the creation of a single market, which has resulted not only in economic growth but also in improved labour standards. The reason for this change in focus is also

that the unilateral agreements (i.e. the Cotonou Agreement) did not provide the desired results with respect to poverty reduction.

However, it is also noted that it is one thing to reform and change the legislative and regulatory framework, including ratifying the ILO Convention in national legislation – another thing is to actually enforce those changes.

NIGERIA

In 1999 a 15-year period of military control ended and since then, Nigeria has held relatively free and fair elections in its presidential system. Nigeria is a federal republic and to a large extent the states have self governance. The country faces many challenges; it has problems ensuring human rights; there is tension between the various ethnic and religious groups and although the economic situation is improving it still faces severe problems in this respect.

Nigeria maintains a huge influence over the West African region, both politically and economically. About half of the West African population is Nigerian, and current figures estimate that the the country's GDP amounts to about 60 % of the region's GDP. Furthermore, the economy is one of the fastest growing in Africa with growth rates at approximately 9 % in 2008 and 2009. However Nigeria does not have a diversified production – oil is the main economic component – which makes the country volatile to the general economic situation.

It is also the largest trader in the region, accounting for almost 60 % of West African external trade. However this trade is limited both in terms of products and in terms of destination markets. Fossil-fuel products are by far the dominant export, making up about 94 % of exports towards the EU in 2006. Because of the large oil production Nigeria is strategically important to the EU, US and China.

The EU absorbs about 22 % of all exports, and overall accounts for 25 % of Nigeria's trade, second only to the US. Like most West African states, only a small fraction of the country's trade is with its regional neighbours. Ghana is its biggest trade partner in the region, accounting for just over 1 % of total trade.

Status of core initiatives

Since 2000 trade relations with the EU have been governed by the Cotonou Agreement. The current regime grants Nigeria unilateral preferences, i.e. the EU is giving Nigeria better conditions for its trade with Europe than the EU gets in return. However, this arrangement is not formally in compliance with WTO rules for international trade. Consequently, when the Cotonou Agreement entered into force, the signatory countries asked for, and received, a waiver from the other members of the WTO. This waiver expired at the end of 2007 which means that Nigeria-EU trade is regulated in the current EU GSP regime, since it was not possible to reach an agreement between the EU and Nigeria by the end of 2007⁽¹⁰⁾.

The EU Commission has made an evaluation and on the basis of this has launched a critique of the unilateral GSP regime (EU-ACP relations and the Cotonou Agreement), which is deemed a failure because it has not brought the expected benefits in terms of development. In addition, it has resulted in only limited intra-regional trade, with external trade flows remaining North-South to a very large extent. As such the Cotonou framework has not improved economic growth in the region. In addition, the Cotonou trade provisions are as mentioned not WTO compliant (EU Commission, 2010). This has led to the exploration of new ideas in EU trade relations and the end result seems to be the Economic Partnership Agreements (EPA). The main ambition of EPA is to replace unilateral preferences by relations based on diversified trade, international supply chains, services and innovation. The aim is to anchor the ACP economies into the World economy through

¹⁰ It was therefore proposed that Nigeria could receive an interim EPA which it refused – as opposed to other West African countries such as Ghana – it refused. This explains why the trade relations are regulated under the GSP available to every development country.

regional integration and furthermore to establish a secure and sustainable relationship through WTO compliance. In the future, there can thus be only two regimes, either EPA or GSP (with its various modalities: EBA, GSP+). However, as will be elaborated later, the unilateral agreements are seen by Nigeria as more adequate than the EPA and hence there is much reluctance in signing that agreement – especially out of fear that the EU will exploit their technological advantage and that the Nigerian revenues will decrease owing to the lowering of Nigerian import tariffs from exports from the EU (i.e. the bilateral element) (Nwoke, C. N.).

Below core initiatives are presented relating to CLS, DWCP and CSR.

CLS

Although Nigeria has ratified all eight ILO fundamental Conventions⁽¹¹⁾ there are problems enforcing and implementing the conventions. In a report from the International Confederation of Free Trade Unions (ICFTU) from 2005, the Nigerian enforcement and implementation of the eight fundamental conventions are heavily criticised, regarding all four areas of the CLS. As to the effective abolition of child labour the report documents that child labour is still common in Nigeria, including the worst forms of child labour, i.e. child prostitution and hazardous child labour (c.f. Convention No 182). With respect to freedom of association and the right to collective bargaining it is noted that there are still major restrictions since anti-union policies are applied by the government. Although forced labour is prohibited in Nigeria there are still serious problems in this area – for instance regarding trafficking of women and forced prostitution – thus violating the conventions regarding the elimination of all forms of forced or compulsory labour. Lastly, regarding the elimination of discrimination in respect of employment and occupation, the report documents that there are still significant differences between men and women in the labour market and that the women in general are excluded from the formal private sector.

Decent work country programme

With respect to decent work country programme, there have been problems reaching the final agreement because there has been little progress since signing the first agreement in 2005. The DWCP in Nigeria is therefore postponed until an agreement can be made.

The priority areas are very much in relation to CLS; *'job creation especially for women and youth in three pilot states, reducing human trafficking and child labour and ensuring improved quality of life for working women and spouses of working men living with HIV/AIDS'* (Nigerian Ministry of Labour and Productivity, 2010)⁽¹²⁾.

The DWCP in Nigeria thus aims at improving the areas in which ICFTU expressed criticism. Therefore it is very problematic that the programme is being stalled, which indicates that DWCP is not prioritised in Nigeria and further that there are difficulties enforcing CLS.

CSR

A survey from 2006 among Nigerian companies showed that 85 % are knowledgeable about the concept of CSR, but that they have not implemented any measures in this respect. Just about 8 % are not knowledgeable about the concept and the last 8 % are aware and knowledgeable about the concept of CSR and have implemented it (cited in Helg, Å.). This data shows first that there is a widespread knowledge about CSR in Nigerian

¹¹ In addition to this Nigeria has ratified in total 34 ILO conventions (and denounced 4).

¹² News article: Daily Trust, 25 March, 2010:

http://www.news.dailytrust.com/index.php?option=com_content&view=article&id=16188:permsec-calls-for-strengthening-of-decent-work-country-programme&catid=51:labour-report&Itemid=125

companies and second that only a few take CSR seriously enough to actually implement a CSR framework. This is probably due to the fact that in Nigeria the notion of CSR is used very broadly, meaning anything relating to any social objectives – i.e. much is counted for as CSR. This is further underlined by the fact that there are basically two concepts of CSR in Nigeria; the formal understanding, i.e. the Western interpretation, and the more informal Nigerian one, which also includes cultural diversity. The latter is of course easier to implement.

This indicates that Nigeria interprets CSR in its own way and hence that CSR is not a clearly defined concept, which again decreases the opportunities a comprehensive CSR framework has to influence and impact the social policy, including labour standards in Nigeria.

A study concerning CSR in Nigeria shows that the EU is not mentioned as an influential source of the development of a Nigerian CSR framework, but instead the UN, various NGOs and also to some extent the general public are shown to put pressure on the companies to implement a CSR framework (Helg, Å.). This indicates that the EU seems to have only limited global influence and impact concerning CSR (in Nigeria).

Recent development in social policy

On the basis of the heavy critique of the enforcement of CLS in Nigeria the ILO has initiated eight different programmes⁽¹³⁾ aiming at promoting the rights of child labourers.

With respect to the violations of ILO fundamental conventions No 87 and 98 ITUC concludes in its 2009 survey that *'[W]ith one trade union leader assassinated and hundreds of activists and members threatened or dismissed, exercising trade union rights proved a formidable task throughout the year. Nigerian legislation is not in line with Conventions 87 and 98, particularly in the EPZs [Exporting Processing Zones]'* (ITUC 2009 Survey of violations of trade unions rights).

The EU is a large trade partner (second to the US) and as a large development aid donor it should have much influence over Nigerian implementation of the conventions. It is therefore interesting to assess to what extent the EU has put pressure on Nigeria to adhere to the fundamental conventions, including an assessment of which instruments are used and with what result.

Nigeria is a member of ECOWAS, the Economic Community of West African States, which was established in 1975. Within the framework of the Cotonou Agreement, Nigeria is currently negotiating an Economic Partnership Agreement (EPA) with the European Union, together with the West-African (ECOWAS) countries.

The EU aims at creating a common market in West Africa whereas China contributes to establish a free trade zone within Nigeria. The EU thus focuses more on regional integration while China focuses more on facilitating (foreign) investment. These approaches thus differ significantly. As indicated by ITUC creating free trade zones may increase violations of CLS and this could further support the EU line of facilitating a more integrated common market in West Africa thereby – in a more indirect manner – promoting CLS. This is very much the argument of EU policy in East Africa.

¹³ These are: Child labour survey (2001); Elimination of Child Trafficking in West Africa (2006); Labour Redeployment in Cross River State; Fundamental Principles and Rights at Work and Tripartism; Building the Foundation for Eliminating the Worst Forms of Child Labour in Anglophone Africa; Elimination of the Worst Forms of Child Labour in the Cocoa Plantations and Commercial agriculture; Actuarial Assessment of Liabilities of National Social Insurance Trust Fund (NSITF) (2004); and Programme against Forced Labour and Human Trafficking.

The EPA is, as mentioned, a departure from the previously unilateral Cotonou/GSP agreements which provide market access without reciprocity, since it is bilateral in nature and makes use of reciprocity in the form of market opening and liberalisation. There is, however, a transition period of 12 years – EPA is set to be fully implemented in 2020. This long-term time horizon has however not resulted in only positive feedback from Nigeria, which is why the negotiations are not fully completed. Nigeria fears that it will lose public revenue following a liberalisation of its trade policy (Nwoke, C. N.).

It should also be noted that in the EPA there are no references to social policy, labour standards or ILO Conventions. The focus is solely on establishing a regional integrated common market in West Africa.

Thus there seems to be an important development taking place with respect to EU-Nigeria relations from a unilateral agreement with reference to CLS to a bilateral agreement without references to CLS. From an EU point of view the main idea behind this development is to 'export the successful history of EU integration', i.e. establishing an integrated and formalised trade relationship and subsequently further integrating that relationship, thereby increasing economic performance while also increasing social standards.

As a last point regarding the current development of social policy in Nigeria, it should be noted that there is currently a heavy debate regarding implementing a national legal CSR framework. The legal bill proposes that businesses spend a mandatory 3.5 % of their gross profits on CSR. Furthermore, a CSR Commission should be established to set the standards for CSR and advise companies on CSR policies. The Nigerian idea of 'CSR' as laid down in the proposed bill appears to be more philanthropy-based, with some failure in valuing CSR's integration through the supply chain (although labour aspects are covered in the bill). The law has however been heavily criticised and it is questionable whether it will pass.

Assessment of instruments used

An interesting development has been described above. The new trade regime (EPA) does not mention or make reference to the ILO, social policy or labour standards, whereas the previous Cotonou (unilateral agreement) did mention CLS. From an EU perspective the reason for this development has been that the Cotonou Agreement did not produce the desired results of eradicating poverty. The EPA's primary focus is, on the other hand, more on economic growth than on ensuring CLS.

This thus indicates a shift in focus; now the EU is focusing on capacity building, helping create a common market in West Africa (and also East Africa) – perhaps as a copy of the EU development from a customs union to the single market to the monetary union – thereby, in theory, also increasing CLS. This indirect instrument is thus deemed more efficient than the agreements which made reference to labour standards. This is much in line with the findings in this report – that the EU FTAs, with respect to CLS, have only focused on ratification and not on actual enforcement of core conventions and therefore the progress has indeed been limited.

Furthermore, the case of Nigeria showed that CSR is not a very useful tool; it does not have a great impact in itself. In addition the EU's influence through the concept also seems limited.

CHINA

The People's Republic of China is the most populous state in the world with over 1.3 billion people. China is today one of the world's largest exporter and importer of goods. It is the world's fastest growing major economy – a rapid development since the introduction of market-based economic reforms in 1978. All this makes it a huge economic and political player on the international scene.

The EU is China's largest trade partner, while China is the EU's second largest partner. The EU exports goods to China for €81.6 billion and imports goods for €214.7 billion. However, China also receives developmental aid from the EU – in the period 2007 to 2010 this was €128 million.

The transition of China from economic feudalism to post-modern society in a period of approximately 20 years is indeed impressive. In order to understand the Chinese context one must first look at the historical development of China as a communist state. Second, for the more modern part of the history comes the fact that the government is loosening its control on companies and thus privatising several of them, just as China has been a very popular place for international companies to open factories owing to the traditionally low labour requirements.

Due to its size China also plays an important role in the global economy, primarily competing as a low wage country.

China has also started devoting development aid to other developing countries. Thus, China is on the one hand seen as a developing country, and receives support as such, and on the other hand – and to a growing extent – as a crucial economic and political player, itself a donor.

The EU-China relationship reflects this schism between a developing and developed country. In the former strategy covering cooperation with China during 2002 to 2006 the focus was to move away from the previous areas of infrastructure and rural development towards supporting social and economic reform. This track has been followed in the newer strategy (2007 to 2013) of EU-China cooperation, where the focus is on policy dialogues including on socio-economic development, global concerns on climate change and human resource development. In this strategy there is acceptance of the trade with China but with a pressure for the fairness of the competition.

Furthermore, there have been negotiations about upgrading the relation to 'Partnership and Cooperation Agreement' (i.e. to an Association Agreement). In addition hereto there are regular meetings between the EU and China at a high level about economy, politics and trade, just as several agreements in sector areas have been made. Though the cornerstone of EU-China cooperation is trade, issues such as intellectual property rights and fair competition are vital.

The relationship is built upon dialogue, economic support and development programmes. The EU and the US have traditionally chosen different strategies towards China. Whereas the EU, generally speaking, has chosen a strategy along constructive and conciliatory lines, the US has traditionally been more confrontational in its approach. (Eglin, M.). This became very clear under the negotiations of China's accession to the WTO. China was the country with the longest period to negotiate membership, approximately 15 years, and it has indeed been controversial. With support from the more inclusive EU-approach, membership was finally reached in 2001.

Efforts have subsequently been made – especially from the EU – to get China to implement its WTO commitments, including not discriminating against foreign companies, to ensure protection of intellectual property rights and to lower the barriers to market access in several sectors.

China is one of the founding members of the ILO. However, China displays a more mixed picture when it comes to ratification of conventions. It has been argued that China has loosened up on the relations to the ILO and sees the ILO as an important international platform. China uses a strategy focused on adopting the more marginal conventions and rejecting the more fundamental and pervasive conventions.

Finally, a short notice on Trade Agreements should be made. China has trade agreements with different countries primarily close to China⁽¹⁴⁾, six countries with a more mixed nature are under negotiation, while three are under feasibility study. There is at the moment no FTA with the EU or the US. Especially the one with New Zealand is worth noting, since it reaffirmed both countries to the ILO and in particular the 1998 ILO Convention.

Status of core initiatives

CLS

There has been a widespread discussion about China's respect of human rights and labour rights. Indeed, there has been criticism regarding all four areas of CLS, even if China has ratified conventions on child labour and discrimination:

- In terms of freedom of association and collective bargaining, severe criticism has been raised. Although one Trade Union (ACFTU) and organisations of the employers exist, these are in practice integrated into the governmental system and elections are made by the party. Thus, the organisations are criticised for not being responsive to the workers or employers. In particular, there has been outspoken criticism of the monopoly of the trade union and the harassments made to uphold this situation.
- Discrimination and equal remuneration: although the relevant ILO conventions have been ratified, this area has also been criticised – especially when it comes to the gender issue and the issue of treatment of internal immigrant workers.
- Child labour: though both conventions have been ratified and child labour is restricted by law, in practice there is substantial employment of children, some even employed under work-study schemes approved by the Ministry of Education. Furthermore, the trafficking of children and forced labour of children are problems.
- Forced labour: none of the conventions are ratified, and although Chinese law prohibits these kinds of labour, it is a severe problem, including in the prisons. Besides, as mentioned, reports of forced child labour are evident. In addition there is evidence of trafficking of both children and women.

China keeps rejecting the ratification of the conventions on freedom of association and collective bargaining due to the fact that this confronts some of the more fundamental aspects of Chinese culture and history. However, some – very weak – signs have been shown loosening up their usual strategy, cf. below. When it comes to reasons why

¹⁴ FTAs with ASEAN, Chile, Pakistan New Zealand, Singapore and Peru are final, while Australia, Iceland and Norway are under negotiation. Finally, India, Korea and Switzerland are under feasibility study. (PriceWaterHouse Coopers, 2009).

conventions about forced labour are not ratified, explanations are vaguer. It is stated by Chinese officials, that the law prohibits forced and compulsory labour. However, the explanation from China about the inability to ratify these conventions has more to do with the lack of knowledge of these regulations by the broader population and especially by the employers.

Decent work country programme

China has a decent work country programme for 2006 to 2010. Issues of focus are especially CLS and the extension and improvement of social protection. As such it covers core areas of criticism except for the freedom of association.

There are indications that earlier changes in labour laws have been on the basis of technical assistance from the ILO. Whether this is the case for the 2007 changes in labour law is not clear, since the decent work country programme is only mentioned to a small extent in explanations for the progress of China.

CSR

Due to the central role of companies in the actual implementation of labour rights, initiatives such as CSR can become central – and indeed a large effort has been made. There have been core discussions about how to interpret CSR standards in Chinese. While the CSR-initiative was met with scepticism, this has changed with the change of century. Now many Chinese companies have CSR-projects.

However, it has been central to the discussion that the standards used are not directly comparable – it has been ‘translated’ to China Social Compliance standards. But as long as China does not ‘speak the same language’ about labour laws and human rights as the developed countries, it will be criticised for being too weak. Furthermore, the actual inspections have not been very effective. Via techniques such as falsifying documentation and coaching workers to be interviewed, the companies have thrown shadows over their actual activities, just as the inspectors are criticised for being unprofessional (ITUC, 2008(b)).

Thus, CSR is criticised for being a weak concept, not being implemented properly, and thus not being effective.

Recent developments in social policy

With the aim of meeting some of the criticism announced above, China announced a new labour law in 2008 after earlier less pervasive revisions. This labour law is an example of the difficulties that countries low in the global production chain face when trying to impose new regulations.

The focus of the law was to require employers to provide written contracts to their workers, to restrict the use of temporary labourers and make it harder to lay off employees. This law gives workers more protection than they had had before, enhances the role of the Trade Union and allows collective bargaining. Some argue that this has been inspired by the European Model. However, this law proposal resulted in huge pressure from a wide range of international companies operating in China, just as the US and EU Chambers of Commerce in China were indeed very clear in their criticism. Thus, China had to make some of the proposals less extensive. In practice this meant that companies – many of them based in the EU or the US – have caused China to adopt less restrictive labour laws than would have been the case otherwise. In addition, the adoption of this law led first to massive lay-offs of

long-standing workers and second to a relocation of the work to other parts of China or to other countries.

The law is one thing – its enforcement is quite another. This is one area where China in general – and the labour laws in particular – has been criticised. It has been argued, that Chinese workers have rights equal to European standards, but the low enforcement means that this is not the case in practice. However, foreign investors said that they are worried about the laws and have the impression that they comply with existing laws more rigorously than some of the Chinese competitors do. But officials from China argue that if there is bias in the law, it will be in favour of the international companies, since China is indeed very interested in having them there.

This schism between law and its enforcement becomes clear when research is conducted on labour laws. Several organisations geographically situated outside China have as their aim to investigate, monitor and document the labour rights situation in China – and they are indeed critical and have found several examples of companies breaking the international and Chinese laws.

The timing of the law proposal in 2006 comes with both the launch of the decent work country programme and a softening of the Chinese approach to the ILO (including China beginning to see the ILO as a platform where it can talk on behalf of the developing countries). However, the influence of the ILO's work is scarcely mentioned. A few scholars talk about how China has used the European model as inspiration for some of the regulations.

The assessment of instruments used.

The general pattern is that China has become slightly more restrictive when it comes to labour laws, although law enforcement is still an issue. However, there are still several areas of criticism both on the actual laws and on their implementation. Several points have become clear:

- International companies (and their interest in low cost production) play a crucial role in formulating labour laws – partly due to low-wage competition.
- CSR has not been an effective way to commit the companies to social standards.
- The EU has no FTA with China, which means that it cannot account for the small steps forward – but maybe the absence of it can explain the lack of progress in the area.
- The European model has been mentioned as a source of inspiration to the new and more restrictive labour laws, however it is not possible to estimate the numerous factors that are in place within a complex matter such as changes in labour policy by China.

VIETNAM

Vietnam is a one-party state governed by the Communist party of Vietnam. Within the last 20 years the country has opened up and become a player in the global economy. This has indicated a significant shift from its earlier isolation, based first on the war, then on US sanctions and finally on its membership of the socialist bloc.

However after a significant 'renovation' (doi moi) of the structures beginning in the mid-1980s, the Vietnam society was changed and prepared to enter the global economy. On this background Vietnam has experienced rapid growth in recent years at approximately 8 % per year in the period 2003 to 2008 and at almost 5 % during the economic downturn in 2009. Vietnam is seen as a relatively stable country. In addition, it is one on the top ten recipients of official development assistance (ODA) in the world. Japan, the World Bank and the Asian Development Bank are the largest donors accounting for a total of 80% of ODA primarily offering concessional loans, while EU and its Member States are the largest providers of grant assistance.

This rapid growth has been followed by a decrease in poverty, based on a clear strategy of poverty reduction. However, poverty is still an issue in some rural areas and – to a growing extent – in some suburban areas. The discussion does not concern unemployment but instead the focus of the discussion is to provide women in particular with decent work. However, progress on other social standards and labour issues is still debatable. Vietnam definitely has strength in labour-intensive production due to low wages and thus a competitive advantage.

After the opening of its economy, Vietnam joined several economic forums, the most prominent being ASEAN (the Association of Southeast Asian Nations) in 1995 and WTO in 2007. The country participates thus in the trade agreements that ASEAN are a part of – along with China, India, Korea, New Zealand and Australia.

Vietnam and the European Union have a new partnership and co-operation agreement and have recently (April 2010) agreed to launch bilateral negotiations about a Free Trade Agreement. The EU also has a very long tradition of relations with ASEAN, focusing on political and security cooperation, economic cooperation, energy security, climate change, social-cultural cooperation and development cooperation.

After long negotiations between ASEAN and the EU on a common FTA, the EU states that 'progress in these negotiations was slow and both sides agreed in March 2009 to make a pause.' Thereafter, the EU has started the process of negotiating agreements with the countries individually, and it is in this light that the above mentioned negotiations about the bilateral FTA should be seen.

Vietnam does not have a FTA with the US, but it does have a bilateral trade agreement, and in 2007 Vietnam agreed on a Trade and Investment Framework Agreement, which can be seen as an important step towards a FTA. Vietnamese exports to the EU have been relatively stable, while exports have increased six fold to the USA since 2001.

Status of core initiatives

CLS

Vietnam became a member of the ILO in 1992, and in 2002 an ILO office was opened in Hanoi. Vietnam has ratified five out of the eight fundamental ILO-conventions. None of the conventions on freedom of association and collective bargaining have been ratified, nor has

Convention 105 on forced labour. The latter focuses on forced and compulsory labour as a means of political coercion or as a punishment for holding political views. Based on various sources the status of fundamental labour standards are briefly described below:

- In terms of freedom of association and collective bargaining, severe criticism has been raised. All workers are – by definition – members of The Trade Union, Vietnam General Confederation of Labour (VGCL). However, the VGCL operations under the leadership of the Communist Party, and other unions are not legal. Furthermore, it has been argued that the leadership of both the local and the central parts of VGCL are to a large extent appointed by or are a part of the companies or the party and are thus not responsive to the workers. The rights to strike have recently (2007) been made more restrictive. The Prime Minister decides which strikes serve the public etc., i.e. which ones are legal. Most strikes occur against foreign-invested businesses. When it comes to collective bargaining, VGCL has the right to bargain collectively, but frequently they have failed to exercise this right effectively, which means that in practice few companies have collective bargaining agreements.
- Discrimination and Equal Remuneration: although the relevant ILO conventions have been ratified, this area has also been criticised - especially when it comes to offering women decent work and giving opportunities to the disabled. Furthermore, issues about the actual rights of the workers in the export processing zones have been criticised. Although they formally possess the same rights as other workers, evidence show that for them these rights are not met in practice.
- Child labour: although both conventions have been ratified and child labour is restricted by law (the minimum age for full-time employment is 18, and special provisions exist for workers between 15 to 18 years), in practice there is substantial employment of children. These have been some of the issues receiving major public focus, such as criticism of Nike's exploitation of labour under poor working conditions in the supply chain.
- Forced labour: as mentioned, only one of the conventions has been ratified, but it has not been possible to estimate to what extent it has been implemented. Evidence shows that trafficking of children and women is a problem.

Decent work country programme

So far Vietnam has not agreed with the ILO about a decent work country programme, but a 'National Cooperation Framework' for the period 2006 – 2010 has been agreed upon. It focuses on the following areas:

- the development of a labour market that is in conformity with the law, and the strengthening of labour institutions which support economic integration and the country's transition to a market economy;
- employment creation and poverty alleviation including through support to the emerging private sector, to human resources development and to the expansion of skills and livelihoods;
- extension of social security and occupational safety and health to the wider population;
- supportive policies for the most vulnerable workers.

Furthermore, the ILO has made several different programmes in Vietnam, e.g. projects aimed at decent work for women, stopping child labour and a more specific decent work country programme, for the disabled.

CSR

CSR has especially been promoted by the multinational companies operating in Vietnam. One main reason behind this has been the media focus on the scandal of Nike, GAP and other international companies, which have received supplies from factories giving their workers poor conditions. These scandals raised focus on the code of conduct for several companies, which have – to a large extent – found their own individual way and standards for an acceptable practice. Thus, Vietnamese companies often need to apply to specific, but varying, standards as they often work as sub-contractors for many different multinational companies.

It has been argued that CSR is widely implemented in Vietnam; the legal framework is adopted and the Vietnamese Chamber of Commerce has taken several initiatives. However, evidence shows that there are still challenges:

- CSR has not been developed into a Vietnamese context and it is still a very new term to many. Thus, there are many different understandings of it.
- The legal basis is inconsistent, which makes it inefficient. Furthermore, the laws have only been kept to a small extent.
- There are varying degrees of cooperation from the factories.

Thus, the actual impact of the concept of CSR is questioned.

Recent development in social policy

One important change to the law is the 2007 limitation of the right to strike as mentioned above. This can be seen as a step backwards from better labour rights.

Another important law change is the approximately 40 % rise in the minimum wage for workers in foreign-owned enterprises, which was effective from the 1st of February 2006. This shows on the other hand a step in the right direction.

As such there is no clear evidence that there is a development in a positive direction. This illustrates how Vietnam balances between on the one hand being attractive to foreign companies and being focused on ensuring the declining foreign investment, and on the other hand keeping the country stable without too many strikes. Furthermore, the internal development explaining the two above-mentioned changes is the fact that the number of wildcat strikes was growing in late 2005 and the beginning of 2006. It showed a growing dissatisfaction with the wage level. In the beginning the strike action was tolerated, but in order to obtain silence, the pay rise was decided upon – and later the right to strike was limited (cf. explanations of this below).

Interestingly, all observers explain that the strikes began without involvement of the VGVL and furthermore continued without the union's leadership.

In order to understand the pressure the government has been under during the time of the strikes it is important to take a look at the foreign investors' role. Representatives from both the European Chamber of Commerce (ECC), the American counterpart, senior officials

in the Ministry of Foreign Affairs in Taiwan and the Japan Business Federation Chairman (i.e. all the large investors in Vietnam) asked the Government to restrain the strikes. The ECC wrote to the Vietnamese Prime minister urging him to take action to restrain the strikes, indicating that foreign investment could be affected. It was underlined that one of Vietnam's attractions was 'the fact that the workforce is not prone to industrial action'. Furthermore, representatives of the large investors protested that the businesses affected were not consulted before the government unilaterally raised the minimum wage.

It seems thus clear that the Government has tried to balance the interest of its own workers and its foreign investments – but interestingly neither third countries or international organisations' interests have explicitly been mentioned in the sources used.

Although the international companies show this large interest in the labour policies of Vietnam it is worth noting that there is evidence showing that with a few noticeable exceptions, employers in the export processing zones tend to ignore workers' rights. For instance, only a few of the workers have long-term contracts, which give them different rights. The rest have more short-term contracts – although they de facto are employed much longer. One consequence is that this helps the employers avoid the legal requirement to set up unions in enterprises.

Assessment of instruments used

As the above analysis has shown, the challenges faced by an emerging economy like Vietnam are rather complex. In order to keep persistent high growth rates together with a primarily low place in the global production chain, the workers' rights to strike and organise are limited. However, the strikes etc. in 2005 and 2006 made a difference.

The analysis has shown the following:

- The country is in a very concrete schism between, on the one hand, a persistent search for a continuing and growing foreign investment, which gives the international companies a clear say in the labour issues, and on the other hand a balance of the interests of workers and especially the need to keep the country socially stable. The foreign investments are needed to ensure the continuing development of the country – especially due to estimates indicating that in subsequent years it will be important to transfer even more employment into quality wage and salaried jobs in order to maintain the country's economic development and so help reduce vulnerability and poverty.
- Although the country is seen as one with a developed and well-implemented CSR, evidence shows that the concept is vague and differently defined by each company, just as the actual implementation varies.
- The impact of third countries is not clear from the analysis. Vietnam has trade relations with several countries – but they are to a large extent focused explicitly on trade. However, the EU relationship to ASEAN is a good example. It is clear that political and security cooperation, economic cooperation and environmental issues play an important role, but issues such as labour standards are not explicitly mentioned in the relevant cooperation documents.
- The ILO has worked with several projects and a national framework, but no actual decent work country programme. As such, the intentions seem good, but the long-term impact can be questioned.

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