Enforcing Respect for Labour Standards with Targeted Sanctions

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CLS+

Core Labour Standards Plus

Linking trade and decent work in global supply chains

FRIEDRICH EBERT STIFTUNG

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Abbreviations

CFSP	Common Foreign and Security Policy
EU	European Union
FTA	free trade agreement
GSP	Generalised Scheme of Preferences
ILO	International Labour Organization
TSD	Trade and Sustainable Development

Foreword

This paper contributes to the discussion on how to make the enforcement of labour standards in trade agreements and preference schemes more effective by introducing a mechanism for targeted sanctions. It is an output of the Friedrich-Ebert-Stiftung in Asia project Core Labour Standards Plus (CLS+), which promotes binding labour standards in trade agreements.

European Union trade agreements typically include dispute settlement mechanisms to ensure that they are properly applied and that disputes can be settled. Non-compliance can lead to the suspension of obligations under an agreement. The violation of labour rights, however, does not fall under these dispute settlement mechanisms. European Union free trade agreements have a special and softer so-called overseeing mechanism for the implementation of their Trade and Sustainable Development (TSD) chapter. This goes to show that applying sanctions for the violation of labour standards in trade agreements is a highly contentious issue.

In response to criticism that European Union trade agreements do not succeed in upholding workers' rights, the European Commission launched in February 2018 a 15-point plan to make TSD chapters more effective at protecting labour standards, but fell short of proposing a sanctions-based approach. Yet, the threat of sanctions is an important incentive to improve the enforcement of labour standards.

The CLS+ project has documented numerous labour rights violations in the region through four case studies. The researchers examined working conditions in global value chains in the garments, footwear and electronics industries in Bangladesh, Cambodia, Pakistan and Viet Nam. A team of researchers also put together a Model Labour Chapter, which provides a template for what a strong social clause should look like. Another study, Conditional or Promotional Trade Agreements—Is Enforcement Possible? sought to explain why social clauses have not been successful. One of the reasons is the lack of political will. The study concluded that sanctions should be considered—as a last resort—but they should be there to act as a deterrent.

The power of sanctions does not lie in their activation but in the threat of their activation. Sanctions do not prevent labour abuses, which is the purpose of the social clause. The challenge, therefore, is to design sanctions in a way that does not impact on the workers whom the social clause is supposed to protect.

Clara Portela argues in this paper that by introducing a targeted approach to sanctions, inspired by the European Union's Common Foreign and Security Policy, it is indeed possible to advance the enforcement of labour standards by ensuring that eventual sanctions would be directed towards those who bear responsibility for the wrongdoing.

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Introduction

This paper concerns sanctions that may result from conditionality that links trade with labour standards in the external relations of the European Union (EU).[1] Two forms of labour standard conditionality have been used since the mid-1990s:

1/ The EU has gradually inserted political conditionality provisions in its bilateral mixed agreements. "Non-execution" clauses protecting the respect for democratic principles and the rule of law and human rights, which are designated as "essential elements,"[2] have become a routine feature in its trade agreements. Severe breaches of these elements can trigger the suspension of agreements.

2/ Conditionality is embedded in EU trade privileges for developing countries, known as the Generalised Scheme of Preferences (GSP) and which takes the form of a unilateral instrument. Systematic and persistent breaches of core labour standards can lead to the temporary withdrawal of the privileges.[3]

Although conditionality clauses may temporarily suspend the application of bilateral treaties or trade privileges, the activation records of each of these tools differ vastly: No instance of violation of labour standards has ever elicited the suspension of a trade agreement. By contrast, three beneficiaries have experienced the suspension of trade privileges: Myanmar in 1997 (when known as Burma), Belarus in 2007 and Sri Lanka in 2009. Withdrawal was contemplated—but not activated—with Pakistan, the Russian Federation, China and, more recently, El Salvador and Bolivia.[4]

Starting with the EU agreement with the Caribbean Forum and then especially after the Lisbon Treaty entered into force in 2009, each EU free trade agreement (FTA) has included a Trade and Sustainable Development (TSD) chapter, with provisions to protect labour standards. This chapter is often endowed with a dispute settlement mechanism but it does not encompass the possibility of suspension of the agreement in the event of violations.

Outside the realm of trade, the EU has a practice of imposing sanctions under its Common Foreign and Security Policy (CFSP). Measures adopted in this framework are designed to affect only those foreign individuals, companies and sectors responsible for wrongdoings that triggered the sanctions. A primary objective of the mechanism is to spare the populations not involved in the condemned activity. This approach, labelled as "targeting," permeates the CFSP sanctions practice. However, it has not become part of the EU conditionality policy in the trade domain. Even though targeting and individualization have characterized foreign policy sanctions over the past two decades, the trend has not been adopted into the suspension clauses of trade agreements or the GSP withdrawals.[5]

Despite the conditionality provisions in EU agreements, the record of their use suggests that enforcement mechanisms are unsatisfactory. This paper argues that the idea of targeted sanctions should be transferred to the TSD chapters and to the GSP. It posits that the targeted approach can strengthen the conditionality provisions in trade agreements to promote compliance with labour standards and that enforcement mechanisms can be designed as a precise tool capable of affecting individuals, companies and sectors.

Consideration of this transfer is expedient. Criticisms of the labour and environmental provisions in trade agreements led the European Commission to issue a "non-paper" in July 2017 on the operation of TSD chapters in free trade agreements concluded after the Lisbon Treaty went into force. The non-paper reacted to a discussion on the possibility of endowing TSD chapters with sanctions. While some advocates want strengthened enforcement through a sanctions mechanism, the Commission questioned whether sanctions would enhance compliance. According to the Commission, the use of sanctions would imply a particular model of the TSD chapter geared towards protecting the EU against social dumping, while a sanctions-free model would ensure improvement of standards by the trade partner. The Commission opposed the integration of sanctions in the TSD chapters, suggesting instead to step up monitoring and make more assertive use of dispute settlement mechanisms.[6] While the Commission has foreclosed the introduction of sanctions for the time being, there is political opportunity for reforming the use of sanctions in the GSP because it is regularly revised.

Having recently concluded a mid-term evaluation exercise, the Commission will soon prepare a draft to replace the current GSP regulation when it expires in 2023.

The objective of this paper is thus to help design an enforcement tool that advances respect for labour standards that can be integrated within the TSD chapters and the next GSP regulation.

Sanctions in support of labour standards

Social conditionality in international agreements under the human rights clause

The protection of labour standards finds reflection in two sets of provisions within agreements between the EU and third countries:

1/ In the provisions protecting human rights as an essential element of the agreement, which is subject to a non-execution clause.
2/ In the provisions of the Trade and Sustainable Development chapter included in the "new-generation" FTAs (concluded since 2009).

The first protection of labour rights can be found in the human rights clauses, which the EU has been inserting as a matter of policy in all new mixed agreements since 1995. They take the form of a "non-execution clause", which foresees the suspension of the agreement in the event that one of the parties commits a severe breach of an essential element of that agreement. While their scope varies from case to case, there are essential elements that entail commitment by both sides to respect human rights. The conditionality clauses allow for the lawful interruption of an agreement in the face of compelling political motives.[7] These clauses have proliferated in EU practice.[8]

FTAs are not generally endowed with a human rights clause. However, a policy adopted by the EU in 2009 specifies that such agreements must be accompanied by a framework agreement that provides for cooperation in non-trade areas, and these framework agreements typically feature a human rights clause.[9] FTAs are explicitly linked to framework agreements, and are subject to the human rights clause these feature.[10] As the following Asian examples indicate, framework agreements, such as partnership and cooperation agreements, invariably accompany an FTA.

In principle, the suspension of an FTA in response to severe breaches of core labour standards could be accomplished by activating human rights conditionality, given that core labour standards are recognized as human rights.[11] Because the activation procedure is not specified in the text of a partnership and cooperation agreement, considerable flexibility exists. In remarks about the FTA with Colombia, former European Commissioner for Trade Karel de Gucht (2010–2014) confirmed that the human rights clause can be activated in the event of a breach: "… the Agreement contains a solid [human rights] clause. It allows for the immediate and unilateral adoption of appropriate measures—including suspension—whenever an essential element of the Agreement has been violated. In an effort to encourage dialogue, the other Party is of course entitled to call for consultations, but it is important to note that in no way is it necessary to wait for these, or for the emergence of a consensual solution to be able to cancel autonomously and immediately the trade preferences granted under the FTA."[12]

Important hurdles stand in the way of such activation, however. First, the labour rights protected under the

Status of European Union framework agreements and free trade agreements, in selected Asian countries.

Partner country	Framework agreement (partnership and cooperation or similar)	Free trade agreement
Republic of Korea	Concluded 2010*	Concluded 2010
Indonesia	Concluded 2009	Negotiations launched 2016
Malaysia	Concluded 2016	Negotiations launched 2010
Singapore	Concluded 2013	Concluded 2014 (not yet in force)
Viet Nam	Concluded 2012	Concluded 2015 (not yet in force)
Philippines	Concluded 2012	Negotiations launched 2015
Thailand	Negotiations frozen since 2014	Negotiations frozen since 2014

**= This is a framework agreement rather than a partnership and cooperation agreement.*

notion of human rights are almost entirely limited to the *core* labour standards as specified in the 1998 International Labour Organization's (ILO) Declaration on Fundamental Principles and Rights at Work. Breaches of other labour rights are not always covered under human rights conditionality.

Second, considerable variation exists between the human rights clauses in different agreements. De Gucht acknowledged that variation when he conceded that conditionality in the agreement with Colombia was exceptionally robust: "If you compare it to previous agreements signed by the EU, the threshold for unilateral suspension is significantly lower since—in this case—there is no requirement of a qualified violation of an essential element, but a simple violation would suffice."[13] In contrast, the applicability of the human rights clause embedded in framework agreements is often qualified.[14] Also, the TSD chapters endowed with a dedicated dispute settlement mechanism may exclude the activation of the human rights clause despite breaches of their provisions.

Third, there is some uncertainty concerning the procedure governing the activation of the non-execution clause. Stipulations for such activation tend to merely prescribe consultations between the parties to the treaty before the EU makes a decision. The Council of the European Union (European Council) alone makes the decision on suspension, and there is no formal mechanism that allows for civil society input in the process.

The clause remains equally silent on the specific sections of the agreement that would be suspended if it were activated. This leaves the European Council with considerable flexibility. The only obligation enshrined in non-execution clauses relate to the priority that must be given to measures that least disrupt the functioning of the agreement, in accordance with the principle of proportionality.[15] A catalogue of aspects that can be subject to suspension is specified in the communication that heralded the development of the human rights clauses, from trade embargoes to the suspension of high-level bilateral meetings.[16] Yet, the list of options was clearly drafted with the intent of affecting non-trade cooperation because few measures are applicable to an FTA context. These problems are compounded by the scarcity of suspension practice and hence little precedent.

When was labour standard conditionality activated and why?

Despite the proliferation of conditionality clauses, suspension practice is meagre. EU agreements with third parties have seldom been suspended. The most common triggers are situations of obvious political gravity, such as a civil war or coup d'état. Virtually all suspensions have concerned a specific subset of partners, namely African, Caribbean and Pacific States parties to the Cotonou Partnership Agreement.[17] Outside of that group, the only case of suspension was Uzbekistan: The technical meetings specified in the partnership and cooperation agreement were suspended in the aftermath of the Andijan events of 2005.[18] There remains no example of the activation of a human rights clause in a partnership and cooperation agreement with the EU affecting the application of an FTA. In any case, suspension under a human rights clause has never been triggered by breaches of a core labour convention.[19]

Trade and Sustainable Development chapters in free trade agreements

The international trend towards including a social chapter that protects labour standards in trade agreements started with the signing of the North American Free Trade Agreement in 1992.[20] In parallel with the United States, the EU established itself as a global advocate of labour standards, in particular following the failed attempt to introduce the notion of a labour-trade link to the World Trade Organization at the Singapore Ministerial Summit of 1996.[21] The turning point for the EU in establishing the labour-trade link came with its agreement with the Caribbean Forum in 2008.

After the agreement with the Caribbean Forum, labour chapters became more ambitious in terms of content and inclusiveness as businesses and civil society became increasingly involved in monitoring the implementation of labour provisions.[22] This trend was accentuated following the entry into force of the Treaty of Lisbon in 2009, which injected a normative approach into the EU external action. The new-generation FTAs since then contain a dedicated TSD chapter that promotes enforcement of the

fundamental labour conventions as well as multilateral environmental agreements.

A relatively novel tool in the EU repertoire, TSD chapters are not primarily designed as a form of conditionality but rather as a safeguard to ensure that trade liberalization does not lead to deregulation or to the erosion of labour rights or environmental standards. So far, a TSD chapter exists in the FTAs with the Republic of Korea, Central America, Colombia, Peru, Georgia, Moldova and Ukraine. The FTAs with Canada (the Comprehensive Economic and Trade Agreement), Singapore and Viet Nam, all of which are awaiting ratification, are also endowed with a TSD chapter. TSD chapters frame core labour standards as part of a sustainable development agenda rather than as social human rights.[23]

The TSD chapters are often—but not always—subject to a dispute settlement mechanism. For example, the TSD chapter in the EU-Singapore FTA provides for consultations but not for dispute settlement. The TSD provisions are not defined as essential elements of that treaty, which could justify suspension in the event of a breach.[24]

This issue has proven controversial, as evident from the European Commission's resistance to the subjugation of TSD chapters to a sanctions mechanism. In its Opinion 2/15 on the EU-Singapore FTA of May 2017, the Court of Justice of the EU maintained that, in accordance with article 60(1) of the Vienna Convention on the law of treaties of 1969, "a breach of the provisions concerning social protection of workers and environmental protection, set out in that [TSD] chapter, authorises the other Party […] to terminate or suspend the liberalisation, provided for in the other provisions of the envisaged agreement, of that trade."[25] This contradicts the Advocate General Opinion of December 2016, which had claimed that "unlike the 'essential elements' clauses found in some EU international trade agreements, which impose an obligation to respect democratic principles and human rights, breach of the labour and environmental standards to which those provisions of the [EU-Singapore FTA] refer does not give the other Party the right to suspend trade benefits resulting from the [agreement]."[26]

Social conditionality in the Generalised Scheme of Preferences

In contrast with the human right clauses applicable to trade agreements, which often refer to the protection of human rights *in general,* the GSP displays a stronger focus on core labour standards. The granting of trade privileges by the EU is governed by a unilateral instrument—a European Commission regulation—that is revised at regular intervals. Privilege granting is justified as assisting developing countries "in their efforts to reduce poverty and promote good governance and sustainable development by helping them to generate additional revenue through international trade, which can then be reinvested for the benefit of their own development and […] to diversify their economies."[27] The system operates essentially as follows.

First, the European Commission drafts a regulation for adoption by the European Council alongside a selection of products that may enter the EU market at a reduced tariff as well as a list of countries deemed eligible according to criteria of economic vulnerability. The system is subdivided into three schemes, which specify levels of privilege and are subject to different conditionality provisions:

1/ The general scheme, also called the "default scheme,"[28] is the least advantageous.
2/ The special incentive scheme, labelled "GSP+," offers improved access to the EU market in exchange for commitments in the fields of labour standards, human rights, good governance and environmental protection.
3/ The Everything But Arms scheme offers the most advantageous access to the least developed countries,[29] without imposing additional conditions.

Of the three, the GSP+ incentive scheme embeds the most pronounced conditionality dimension: Those countries that voluntarily sign and implement a number of international treaties, including the core ILO conventions, may benefit from a supplementary tariff reduction. The inclusion of beneficiaries in the GSP+ scheme allows the European Commission to discuss labour standards with them, thus raising issues affecting a broad scope of labour rights—not just core labour standards—and addressing violations well before their gravity warrants the launch of an investigation and eventually

consideration of suspension. Overall, the GSP+ tries to incentivize compliance without resorting to suspension.

The GSP+ is not built around suspension but rather around other types of compliance mechanisms, including monitoring and capacity building. Suspension of the GSP+ is seen as a last resort—due to failure of the other mechanisms. The GSP+ applies to few beneficiaries, however, given that the least developed countries are granted Everything But Arms preferences.

Historically, the link between labour standards and trade initially took the form of a sanctions mechanism before emphasis shifted to the voluntary incentive scheme of the GSP+. Although the EU has given preferential market access to developing countries under the GSP since 1971, the scheme did not introduce negative political conditionality until 1994, following the United States model. Technically, the suspension of the GSP merely entails the restoration of normal trade flows, such as the application of regular duties to products of the suspended beneficiary entering the common market.[30] Subsequent regulations have gradually upgraded to the requirement that beneficiaries comply with the ILO core labour standards.

The withdrawal procedure for all GSP schemes is detailed in article 19 of EU Regulation No. 978/2012, which has been in force since January 2014.[31] Contrary to what was specified under previous regulations, it is not necessary for any external stakeholder to bring violations of labour standards to the attention of the European Commission. This institution is empowered to propose the launch of an investigation of its own accord, although it must first consult with a committee of member State representatives.[32] After that, the Commission must notify the beneficiary country, indicating the grounds for initiating the procedure. For the ensuing six months, the Commission monitors the situation in the beneficiary country, taking into account available assessments by supervisory bodies, and submits a report to the beneficiary, which may comment on it. The Commission then decides either against withdrawal or in favour.[33]

Thus, the decision on withdrawal remains at the discretion of the European Commission and the European Council, while the European Parliament, which remains excluded from the process, may only influence it by rejecting the act. The suspension does not take effect until six months after its adoption, and the Commission is empowered to repeal it if the reasons justifying the withdrawal no longer prevail. In that six months, the beneficiary is given opportunity to take corrective action before the suspension becomes effective.

The selective suspension of specific products was made possible in 2014. Article 19.1 of the GSP regulation currently in force reads: "The preferential arrangements… may be withdrawn temporarily, *in respect of all or of certain products* originating in a beneficiary country" (author's emphasis).[34] This possibility of differentiation constitutes a remarkable innovation with respect to previous regulations.

When was it activated and why?

The GSP has been suspended on three occasions so far, with each episode governed by a different GSP regulation.

Myanmar constituted the first case. The investigation was triggered by a joint complaint filed by the European Trade Union Confederation and the International Confederation of Free Trade Unions in 1995. The investigation, which included hearings with civil society and experts, confirmed the existence of forced labour. The government contested the charges, arguing that the practice was covered by an exception in the ILO Forced Labour Convention (No. 29) allowing for community service (article 2(2)), an interpretation the ILO rejected. Withdrawal was eventually approved in 1997. The regulation enacting the suspension stipulated that the suspension would be reversed once the condemned practices no longer prevailed. Subsequent regulations excluded Myanmar from eligible beneficiaries and justified this measure "due to the *political situation* in Myanmar" (author's emphasis), in a departure from the original formulation. This departure was criticized as evidence of political interference in the criteria for reinstatement.[35] Following a reform process initiated by President Thein Sein and his handover of governance to a partially civilian government, the European Commission reinstated Myanmar to its most favourable GSP scheme, Everything But Arms, in June 2013.[36]

Shortly after the complaint against Myanmar, international trade unions filed a complaint regarding child labour practices in Pakistan. But the European Commission rejected it. The complaint was resubmitted in 1998 with charges of forced and child labour, especially in the carpet industry, this time with the backing of the EU Economic and Social Committee. The Commission declined to launch an investigation, pointing out that the prohibition of child labour was not covered under the GSP regulation at the time and that Pakistan had already committed to take steps to reverse this practice.[37]

The second suspension case was Belarus. In 2003, the European Commission initiated an investigation against violations of the ILO conventions on freedom of association and the right to collective bargain, triggered by a joint request of the European Trade Union Confederation, the International Confederation of Free Trade Unions and the World Confederation of Labour. In 2005, the Commission announced that it intended to recommend withdrawal to the European Council unless the government of Belarus committed to conforming to the principles of the 1998 ILO Declaration on Fundamental Principles and Rights at Work. The Commission found attempts by the Belarusian authorities to show compliance insufficient and that the government had "not taken any real, tangible measure to remedy the situation."[38] The regulation, which entered into force in 2007, indicated that preferences would be reinstated when the violations no longer prevailed. In the meantime, the reinstatement of the GSP for Belarus has become impossible, given that upper-middle-income countries are no longer eligible under the latest GSP. This renders the persistence of the suspension a purely political gesture.

The European Commission investigated El Salvador concerning the implementation of ILO Freedom of Association and the Right to Organize Convention (No. 87) but concluded that the findings of the investigation did not justify the withdrawal of the GSP.[39]

Sri Lanka, which had had access to the GSP+ since 2004, is the only beneficiary suspended from that category. While the government's compliance with labour standards was never contested, the European Commission launched an investigation into violations of the Covenant on Civil and Political Rights, the Convention Against Torture and the Convention on the Rights of the Child in 2008 perpetrated by government forces during its offensive against the Tamil Tigers. The experts tasked to conduct the investigation, which included a field visit to Sri Lanka, concluded that legislation failed to implement the three human rights conventions. They thus held the government accountable. The Commission proposed to withdraw the GSP+ in 2009. The European Commissioner for Trade at that time, Karel De Gucht, and the High Representative for Foreign Affairs and Security Policy Catherine Ashton announced to the Sri Lankan government that they would reconsider the recommendation if the government agreed to a number of steps, such as the cancellation of the state of emergency. The Sri Lankan government denounced these proposals as a breach of national sovereignty. In August 2010, Sri Lanka reverted to standard GSP tariffs.[40] Following a new application for GSP+ in July 2016, the EU granted the privileges to Sri Lanka in May 2017 to reward its improved governance and human rights, including re-establishing the independence of the National Human Rights Commission and re-engaging with the United Nations system.[41] Despite the reinstatement, current European Commissioner for Trade Cecilia Malmström (since 2014) acknowledged the unsatisfactory state of labour rights in the country, describing the move as "a vote of confidence from the European Union that the Sri Lankan Government will maintain the progress it has made in implementing the international conventions."[42]

The case of Bangladesh, an Everything But Arms beneficiary, is worthy of attention, even if it is (at the time of writing) still a "non-case." Following the collapse of the Rana Plaza factory complex in Dhaka in 2013, the EU participated in the launch of a sustainability compact in Bangladesh to improve labour, health and safety conditions for workers in the garment industry. The EU repeatedly requested the government to redress violations in the garment industry that the ILO had identified. In a letter sent in March 2017, the European Commission and the European External Action Service warned the government that failure to take "concrete and lasting measures" to ensure respect of fundamental human and labour rights could lead to the launching of a formal investigation that could result in the temporary withdrawal of preferences.[43] The lack of follow-up on this warning, despite the government's inaction, prompted the International Trade Union Confederation, the Clean

Clothes Campaign and the HEC-NYU EU Public Interest Clinic to file a complaint with the European Ombudsman over the Commission's failure to investigate Bangladesh.[44]

The case of Bangladesh largely mirrors that of Cambodia, where civil society unsuccessfully called for the launch of an investigation after a United Nations Special Rapporteur documented serious and widespread human rights violations associated with land grabbing in 2012.[45] The Commission's attitude to these cases reflects its main dilemma: While it claims to be ready to launch the GSP withdrawal procedure as a last resort if ongoing dialogues fail to produce satisfactory results, it still highlights that it will give "due consideration to the negative economic, social and human consequences related to the potential withdrawal of GSP preferences," which clearly militates against suspension. [46]

Suspension under current social conditionality tools: Why it is unsatisfactory

The explicit character of the social conditionality embedded in the GSP makes it appear, *prima facie*, as a more useful instrument for the promotion of labour standards than FTAs, given that it has enabled the EU to react to some breaches. This contrasts with the absence of suspension practice in the field of trade agreements. Our analysis suggests that both the design and the use of GSP suspensions suffer from important weaknesses that speak against their continuation in their present shape and in favour of reconfiguration.

Inconsistency in target selection

Scholars and civil society leaders alike complain that suspension has not been consistently applied, despite severe and systematic violations of labour and other human rights.[47] The activation of the withdrawal procedure is seen as subject to political considerations.[48] Indeed, while the activation of the GSP conditionality has been considered multiple times, the scheme has been withdrawn only from countries (Myanmar and Belarus) that had been under CFSP sanctions for years before the procedure was triggered.[49] In contrast, Pakistan is regarded as shielded by virtue of its geopolitical importance, as were world powers like China or the Russian Federation at the time when they were still eligible.[50] The downgrading of Sri Lanka from the GSP+ to the default GSP was not accompanied by CFSP sanctions, even though the grounds for withdrawal—transgressions of human rights and humanitarian law—are relevant to the CFSP.

Bluntness

Although suspensions are directed against foreign governments, they nevertheless penalize the state apparatus as a whole, spreading the impact among the population. Measures are not "individualized" because no specific persons are singled out. In contrast to what happens to targets of CFSP sanctions, such as travel bans and asset freezes, leaders responsible for wrongdoings may hold assets and travel freely in Europe. The withdrawal of GSP privileges is equally non-discriminating. The list of products benefiting from preferences is determined by the EU on the basis of commercial and development considerations, in accordance with the World Trade Organization requirement that favourable treatment must "respond positively to the development, financial and trade needs of developing countries."[51]

It is that same selection of products that ceases to receive benefits. There are no discriminating mechanisms to maintain preferences for those persons not complicit with the wrongdoing, in the event of a suspension. The same is true of positive conditionality under the GSP+: There is no link between the products given additional preferences and the international standards; for example, compliance with environmental standards is not targeted at benefiting forestry products. Thus, this absence of linkage works in both directions.

A second dimension of bluntness resides in the inability of the current mechanisms to distinguish between private and government actors. Trade preference is granted to the country as a whole, not to individual operators, and suspension has been employed in exactly the same way as traditional economic sanctions—as a tool to react to government misbehaviour. Indeed, the responsibility of the beneficiary government in labour rights violations proved central in triggering the suspensions in Myanmar and Belarus, where violations were perpetrated by government authorities.[52] But the system lacks the ability to penalize non-state actors when they commit the breach.

Ineffectiveness

In terms of impact, GSP withdrawal has been subject to the same criticism as economic sanctions: that it is ineffective in promoting compliance.[53] GSP suspensions have not recorded a single case of compliance yet, although this situation does not exclude the possibility that the threat of suspension may have had a compliance effect not captured in figures.[54] While reinstatements have occurred, they have never been driven by the target's compliance.

Preferences were restored to Myanmar after a partially civilian government was installed. The suspension of Belarus is bound to cease on account of its graduation of the scheme, not of reinstatement. Sri Lanka regained access to preferences well after the termination of the military campaign that gave rise to the withdrawal, after certain EU demands were met.

Perverse effects

In addition to the charges of inefficacy, GSP suspensions display perverse effects by hitting the wrong parties. Because GSP suspension often fosters unemployment, this tool has been criticized as harming those groups it purports to help: the economic situation of the target country worsens on account of less favourable terms of trade, which is likely to translate into a deterioration of labour and human rights. It may unfairly penalize all workers in the defaulting country, including those employed in "innocent" industries.[55] A case in point is Myanmar. The suspension of Western preferences severely disadvantaged Myanmar's textile industry, a sector unconnected to the condemned leadership or the policies that triggered the sanctions. The suspension reportedly not only failed to address violations but arguably hampered the emergence of positive social forces—in the form of an organized working class, which might have become opposition constituencies.[56] This example illustrates that GSP sanctions are unfit for targeting. The GSP is only suspended across the board, without discriminating between sectors or companies on the basis of their connection to the condemned activities.[57]

These difficulties contribute to the Commission's overall reluctance to activate the conditionality mechanism. For instance, the Commission acknowledged that suspensions might backfire when it rejected suspending Pakistan, calling the move "counterproductive."[58] The official discourse emphasizes qualities of suspension *other* than their capacity to correct the breaches that triggered it. Former European Commissioner for Trade Peter Mandelson (2004–2008) presented the suspension of Belarus as "a test case of our collective commitment to the promotion of workers' rights."[59] Cecilia Malmström, the current Commissioner for Trade, referred to the GSP commitments to communicate unease about human rights backsliding in the Philippines: "We have now an agreement between us called GSP+, which opens up good trade possibilities but is also subject to certain international conventions. So the European Parliament and member States in the EU have some concerns."[60] In the case of Sri Lanka, as noted, the reinstatement of the GSP+ was employed as "a vote of confidence" to encourage progress.[61]

The Commission's reticence to employ sanctions surfaced in the current debate on the enforcement provisions in the TSD chapters of FTAs. In its 2017 non-paper, the Commission expressed scepticism about the efficacy of sanctions, pointing to the presence of "only very limited evidence to demonstrate a positive impact on the issues in question."[62] According to Trade Commissioner Malmström, "Doubts that third countries will accept" as well as their inconsistency "with development efforts to effect systemic change" speak against the desirability of a sanctions mechanism in the TSD chapters.[63] In turn, inhibitions about activation of the withdrawal mechanism undermine confidence in the scheme. As the Fédération Internationale des Ligues des Droits de l'Homme resentfully highlighted, "The EU's constant reluctance to launch an investigation into […] violations in accordance with Article 19 of the GSP regulation also undermines the potential for promoting respect for human rights."[64]

Targeted sanctions in European Union foreign policy

The Common Foreign and Security Policy is the principal framework for foreign policy formulation in the EU. It is an intergovernmental venue for the framing of foreign policies outside the communitarized areas of trade and development, operating mostly by unanimity. CFSP sanctions are adopted in pursuit of the objectives of the EU external action as stipulated in article 21(2) of the Treaty on European Union, which include, among others, to consolidate and support democracy, the rule of law, human rights and the principles of international law; and to foster the sustainable economic, social and environmental development of developing countries.[65]

EU documents on its sanctions policy explicitly embrace the notion of targeting. The official guidelines read: "Sanctions should be targeted in a way that has maximum impact on those whose behaviour we want to influence. Targeting should reduce to the maximum extent possible any adverse humanitarian effects or unintended consequences for persons not targeted or neighbouring countries."[66] Targeted sanctions emerged in the mid-1990s in response to the legitimacy crisis provoked by the humanitarian catastrophe caused by the United Nations embargo in Iraq. Their objective is to apply coercive pressure on transgressing parties while avoiding impact to innocent bystanders. Research suggests that their effectiveness is comparable to that of comprehensive measures.[67] Targeted sanctions have become the instrument of choice of both the United Nations Security Council and the EU.

Targeted versus non-targeted sanctions

The design of the CFSP measures respects the distinction between those persons responsible for violations and the population at large. Sanction regimes purport to blacklist persons whose activities seriously undermine democracy, respect for human rights and the rule of law in the target country or who are connected to terrorist networks, justifying the selection of individuals on the basis of their direct responsibility for wrongdoings, such as fraudulent elections.

Targeted sanctions can hit a wide range of actors that either are part of the State, linked to it or unconnected to it. They cover various types of targets, including rebel groups, government actors, economic sectors, companies, banks, harbours, vessels and private individuals.[68] For example, the EU froze the assets and restricted the admission of "persons involved in planning, directing, or committing acts that violate international human rights law or international humanitarian law" in Burundi in 2015, listing four individuals.[69]

Targeted sanctions are characterized by their versatility, reflected in the multiple uses they allow. They not only stigmatize specific actors but also deprive them of their sources of funding. During the 1990s, for example, the United Nations Security Council targeted the illegal trade in diamonds by Angolan rebels as well as the trade in timber in Liberia in a bid to weaken Charles Taylor's rebel forces. Similarly, in 2011 the Security Council blacklisted Libyan entities constituting a source of funding for the Libyan regime, including oil companies, banks, a broadcasting corporation, foundations and an investment company.[70] The EU added six port authorities to the list, making maritime trade impossible. Sanctions can be targeted to specific territories within a State. During the Kosovo crisis, the EU applied certain restrictions to Serbia but exempted Kosovo and Montenegro, which were at the time part of the same State.[71] With targets featured in blacklists, sanctions are easy to modify because designations can be added or removed from the list without fundamentally altering the sanctions regime.[72]

Designing a targeted enforcement mechanism for Trade and Sustainable Development chapters

Certain features of targeted sanctions as practised in the CFSP are apt to respond to breaches of labour standards. The sanctions can be applied at various levels—sectors, companies and individuals—and can affect either state or non-state entities, depending on who bears responsibility for the breach. This section proposes an enforcement mechanism that takes inspiration from the targeted approach characterizing CFSP sanctions and combines it with elements from the GSP withdrawal procedure. The proposed model displays a stark similarity with labour conditionality in the GSP while improving its targetability.[73] Ideally, the proposed mechanism should, to the largest extent possible, become part of the TSD chapter because it would be applicable specifically to the labour standard stipulations contained in that chapter.[74]

Crafting a targeted response to labour standard violations

Stage 0: Antechamber

The enforcement procedure would be preceded by a formalized preliminary stage, serving as an "antechamber" for the actual withdrawal process. In line with the original GSP withdrawal procedure, the decision to launch an investigation would be taken by the European Commission after consulting with the European Council. Allegations of severe breaches could be brought to the attention of the Commission by EU member States and civil society actors from both the EU and the partner country, while the Commission can also act of its own accord. The European Parliament should also be entitled to bring violations to the attention of the Commission. Before a decision to launch an investigation is taken, the alleged violations should be discussed in the context of bilateral consultations between the Commission and the partner country concerned. The next phase should only be activated if no agreement can be reached between the parties on how to redress the breach. In the event that no agreement is reached, the Commission should be empowered to launch the investigation after consultations with the European Council as well as with members of the European Parliament. The outcomes of those consultations should nevertheless not be binding on the Commission.

Stage I: Investigation

Once the decision to launch the investigation has been taken, the Commission would inform the partner country, individuals or companies affected of the reasons for the inquiry. The investigation would be geared towards determining both the existence and extent of the violation as well as the responsibility for the breach. As with the GSP withdrawal, the investigation process could be led by the Commission in close consultation with the European Council.

Which types of violations can give rise to an investigation?

The wording "systematic and persistent" is standard in GSP regulations and is intended to restrict the eligibility of violations to those of a repeated and/or continued nature, rendering isolated events ineligible. Systematic practices are subject to correction by discontinuation, unlike one-off events that are often not subject to reversal. In the interest of the economy of Commission resources, this wording should persist.

Which sources can be employed in the investigation?

The investigation would draw on multiple sources: ILO reports, information submitted by international labour unions, information collected by the European External Action Service delegation as well as by embassies of member States present in the country concerned and material provided by civil society organizations. Following the practice established in the GSP withdrawal procedure, the individuals, companies and/or the government in question would be afforded an opportunity to be heard.

Who can be held responsible for a breach?

During the generous time frame of six months specified for this process, it should be established whether

responsibility for the violation lies with specific companies and/or with government authorities. The establishment of responsibility may be complicated by the embeddedness of enterprises in global value chains. Given that the rationale requires the identification of individuals directly responsible, the targeting exercise should endeavour to single out the specific factories in which systematic breaches occur, rather than the parent company or the brand. The investigation should be as detailed as possible, aiming to identify business owners and top managers implicated in the breach, and explore possible links connecting industries affected to ruling elites.

How can the responsibility of a private company, as opposed to that of the State, be established?

The establishment of responsibility is key because the proposed system gives the choice between targeting state authorities or private actors. When a core labour convention has been ratified but its content is not appropriately reflected in domestic legislation, the authorities bear primary responsibility and should become the principal target. Companies cannot be expected to comply with conventions not codified into domestic law: The conventions do not create legal obligation for them directly, and the lack of specificity of obligations formulated in the conventions does not help to determine a breach unequivocally, contrary to the more precise obligations codified into domestic law. By contrast, if a government has ratified the relevant core labour convention and incorporated its substance into domestic law, primary responsibility for the violation lies with the private sector, while state authorities are responsible for deficient enforcement. Accordingly, the companies at fault should be targeted in the first place, while state authorities can be targeted at a later stage, in the event that enforcement of domestic law remains wanting.

An FTA partner commits to respecting core labour standards as part of the obligations embedded in the TSD chapter, even if it does not accede to all of them. In countries not party to all core conventions, private companies in breach of labour standards might have been initially unaware of certain prohibitions absent from the domestic legal framework. However, by the time an investigation is launched, both the FTA partner and the companies at fault would have been made aware of the nature and extent of the violation and would have been given ample opportunity for correction.

Once the investigation is concluded, the Commission will submit its findings to the partner country and, if relevant, also to individuals and companies under scrutiny, who may send a response. Similar to the GSP procedure, the decision on suspension will remain at the discretion of the Commission and the European Council. In the event of a decision on suspension, it would not take effect until six months after its adoption. Thus, the beneficiary would be given another six months to take corrective action before the suspension becomes effective. The Commission would be empowered to repeal the withdrawal if the reasons justifying it disappear.

Stage II: Prospective economic impact assessment

In the face of evidence of a violation calling for the activation of the enforcement mechanism, the Commission would undertake an assessment of the prospective impacts of preferences withdrawal from the affected companies or products, as well as of a ban on economic transactions with the same targets. The assessment would determine the extent to which a withdrawal of the trade preferences for the products concerned or a sector-based embargo would effectively disadvantage those bearing responsibility for the breach, as well as the ease with which they could circumvent the EU measures. The study should determine foreseeable repercussions on vulnerable societal groups, evaluating whether significant deprivation can be expected. The findings will help determine which bans can maximize impact on the perpetrators while minimizing consequences for persons not involved.

Stage III: Design of sanctions strategy

Information gathered in the previous phase will now flow into the design of the sanctions package, which should balance the objective of ending the violation with the preservation of the economic activity of those operators that bear no responsibility for the breach. In determining appropriate targets, priority should be given to impacting those actors bearing direct responsibility for the violation. It should also be determined whether preferences for

any products should be suspended. At the same time, an effort should be made to avoid hurting those sectors that are not implicated.

The design of the enforcement strategy must be articulated along two criteria:

1/ the levels that ought to be affected and
2/ the nature of the target, which can be private or government.

Sanctions can be applied at several levels:

- Individual level: When responsibility for violations lies with certain individuals, they can be blacklisted and forbidden from accessing economic resources in Europe, performing transactions with EU actors and travelling to EU member States. This measure can be applied to members of the management board or owners of companies found to engage in persistent and systematic violation of labour rights.
- Company level: Targeted sanctions could suspend preferences from certain corporate actors or prohibit any economic exchanges with them. This method permits the blacklisting of only those companies implicated in a violation. A negative list of individual economic operators can be created using the EU Registered Exporter system, which is a database for economic operators certified to export under the GSP+.[75] Where violations are concentrated on a small number of companies and when a suspension threatens to severely affect sectors on which the livelihood of vulnerable populations depend, the blacklisting of individuals or specific companies is preferable to preference withdrawal. Additionally, joint ventures between companies at fault and EU partners can be banned.
- Sector level: Trade privileges can be withdrawn from specific sectors if violations are widespread. If there is a need for escalation, this measure can be followed by a sector-based ban on the export and/or import of an entire category of goods. United Nations sanctions regimes often include some form of sector-based sanction,[76] as do some EU CFSP packages. This measure can be accompanied by a prohibition on European investment in specific economic sectors.
- Country economy level: The withdrawal of trade preferences from all sectors corresponds to the experience with Myanmar and Belarus. Following the proposed approach, full suspension would only be contemplated at an advanced stage in an escalatory logic or in instances characterized by a broad coincidence between government authorities and the private sector.

The proposed system allows for choosing the seniority level of the individuals who should be blacklisted. Mainstream practice is to target the mid-level officials; however, research points to the suboptimal results of this approach.[77] To remain faithful to the spirit of targeting, individuals responsible for the decision to systematically violate labour standards should be designated. Such individuals are likely to be positioned at the level of middle management or higher.

The strategy must consider whether responsibility for the breach lies with government authorities, the private sector or with both. In the event of violations perpetrated by private actors, the employment of blacklists prohibiting transactions with selected individuals and companies is most pertinent. By contrast, measures to affect governments are suitable to address breaches when responsibility lies with government officials. This can take the form of blacklisting officials, including cabinet members or senior civil servants from implicated entities, such as the ministries of labour, trade and industry, and mines. The suspension of high-level bilateral contacts, the postponement of new projects or the partial cancellation of cooperation can be contemplated. Both sets of actors can be targeted when they share responsibility for a breach, such as instances in which companies commit breaches and local authorities fail to enforce relevant legislation against enterprises engaging in the violations.

Stage IV: Escalation, de-escalation and termination

Combining preferences withdrawal with blacklists allows for sanction "engineering"—making different combinations possible. In planning their employment, a gradualist strategy can be used, whereby the initial blacklisting of a minimal selection of enterprises can later be followed by the suspension of preferences for selected products. If the EU decides to step up pressure, the sanctions package can be ratcheted up by including new designations to the blacklist. It can also be scaled down by reinstating preferences to companies that have improved compliance or by removing entries from the list.

The following plan (see table below) displays different escalation stages that could be applied in an imaginary example in which several companies engage in systematic violations of labour standards. The example represents a typical case of a violation whose responsibility resides with the private sector but where state authorities failed to hold responsible corporate actors to account. Depending on the nature of the violations addressed, the targets may be limited to state authorities, to the private sector or to a combination of both.

In response to progress by the companies in discontinuing the breach and by the authorities in promoting norm compliance, a strategy of gradual de-escalation can be followed:

Thanks to the flexibility of blacklists, which easily admit the addition or removal of designation, the scalability of the response is assured. Once the breaches have been rectified, the Commission is empowered to recommend the termination of the suspension to the European Council.

Optionally, as part of the termination phase, support programmes could be launched to facilitate a return to the respect of labour standards and to prevent a deterioration of the conditions of the populations at stake. For instance, in the case of child labour, blacklisting perpetrating companies and withdrawing preferences in the absence of a strategy promoting the schooling of underage population fails to improve the situation of children. Support measures should be devised and launched at this stage.

Finally, it should be taken into account that, because it is based on an essential elements clause, any mechanism of the proposed kind in an FTA would be reciprocal. Thus, the EU would have to be prepared for accusations from its partners of breaches of labour standards and potential investigations.

	Target: Economic operators	**Target: Government authorities**
Step 1	Blacklisting of top managers, board of management and owners (prohibition of admission to the European Union, assets frozen)	
Step 2	Withdrawal of preferences from products exported by blacklisted companies	Blacklisting of officials responsible for deficient enforcement of labour standards, at the appropriate level
Step 3	Blacklisting of companies (prohibition of financial transactions with companies)	Blacklisting of top officials in ministries of trade, labour and mines

	Target: Economic operators	**Target: Government authorities**
Step 4	Removal of some companies, their managers and owners from the blacklist	De-listing of officials
Step 5	Re-instatement of preferences to products exported by blacklisted companies Removal of remaining managers, board members and owners from blacklist	

Designing a targeted enforcement mechanism for the Generalised Scheme of Preferences

The targeted approach can be equally applied to the GSP. The withdrawal of trade preferences has become more targeted thanks to the latest regulation, which permits the temporary suspension of specific products from the scheme in addition to generic suspensions of all products covered. However, the suspension of an individual company responsible for severe breaches is not discussed. This situation remains unsatisfactory: If GSP conditionality was to be activated on account of violations by one single company, for example, a factory producing sandals, the entire footwear sector would suffer from the suspension. To obviate such scenario, the mechanism of suspension should be complemented with provisions allowing for the blacklisting of companies,[78] following the model established under CFSP sanctions outlined in the previous section. The employment of blacklists would considerably refine the withdrawal instrument. Such changes could be applied through the upcoming revision of the GSP regulation, whose validity will expire in 2023.

Because the system proposed for TSD chapters is partly inspired by the GSP, the current scheme would require minimal adaptation. The key feature to modify consists in specifying the possibility of blacklisting individuals and companies responsible for the violation of core labour standards, along the lines of the approach outlined in the section on the TSD chapters.

In procedural terms, the current system already specifies a lengthy and thorough investigation. Civil society and the European Parliament should be granted a formal role in bringing violations to the attention of the Commission. Civil society enjoys such role in the United States' GSP, which probably inspired the importance attached to these actors in the first rendition of GSP conditionality back in the 1990s. Over time, however, their original role eroded, so that civil society now remains absent from the GSP suspension process. By contrast, granting the European Parliament a role in bringing breaches to the attention of the Commission would constitute an innovation that enhances its function of scrutiny and would be in line with its normative vocation.

Advantages and limitations of the targeted approach

Benefits associated with the adoption of a targeted approach are manifold.

First, the employment of targeting corrects a significant difficulty with blanket sanctions, which fail to discriminate between sectors and penalize industries unconnected to the violation while leaving perpetrators and their accomplices unaffected. By suspending specific products and blacklisting individual companies, the proposed approach enables the EU to tailor its GSP withdrawal in a way that favours or disadvantages sectors, depending on whether they are implicated in breaches or not.

The proposed mechanism is sufficiently flexible to target either industry elites or political decision-makers or both. Given that companies often bear primary responsibility for the violation of labour standards, the EU must retain the ability to hit the corporate entity or industry at fault. Where violations of labour standards are perpetrated by the private sector, the blacklisting of companies is a more suitable method to redress them than blanket preference withdrawals. But where the government is the author or the accomplice of the breach, state authorities can be targeted as well. This approach establishes a clear link between specific violations and the response adopted by the EU. The fit between violation and suspension communicates unambiguously which breach triggered the sanctions and which elites are considered responsible for its perpetration, thereby avoiding possible misinterpretations by targets or observers. Finally, the targeted approach mitigates the main concern associated with GSP withdrawals: the fear that it might aggravate the plight of an already impoverished population and perpetuate forced and child labour.

Second, the sheer availability of an employable sanctions mechanism has an important role as a deterrent of violations because it specifies consequences resulting from misconduct. This situation alters the calculations of potential perpetrators because they cannot exclude the possibility of being targeted. The sanctions mechanism currently available under FTAs and the GSP hardly represent a deterrent. The activation of the non-execution clause appears to be reserved for sharp deteriorations in human rights situations while GSP conditionality is only employed for targets that, other than violating human rights, have fallen from grace in political terms.

The weak employability of the current sanctions instruments creates a problem of credibility. In view of the minimalistic activation record despite severe breaches, it is difficult to believe that partner countries will take suspension as a serious threat. In the eyes of civil society, the credibility of the EU commitment to promote core labour standards externally is at stake. The extent to which the Commission has been discredited by its reluctance to launch investigations into violations of labour standards, evidenced by the complaint to the Ombudsman filed by the International Trade Union Confederation over the Commission's acquiescence with Bangladeshi non-compliance, ought to be taken as a warning.

Of course, the adoption of a targeted approach carries some costs and risks. One of them is that the design of a targeted package requires more time and better resources than blanket measures, such as preferences withdrawal. The monitoring of its impacts is more burdensome, too. Still, given that the relevant expertise is already present within EU institutions, no dramatic expansion in capacity is required.

Another potential obstacle is associated with the requirement to grant blacklisted individuals and entities due process rights, such as allowing them to challenge their designation in front of an EU court. Since the landmark Kadi case of 2008, in which the Court of Justice of the European Union ruled that it was competent to review the designation of individuals and entities, numerous designees have brought cases against the European Council. This option is open to EU and non-EU citizens and entities alike. Legal challenges have proven problematic for the European Council, however, with the Court of Justice having often annulled designations found to be poorly substantiated.[79] As a result of this jurisprudence, the possibility remains that individuals and entities blacklisted in response to severe labour standard violations can challenge their designation in the Court of Justice. Nevertheless, while annulments of designation

under the proposed mechanism remain a possibility, they are highly unlikely. The thorough investigation that precedes the listing will require a detailed examination of the national law of the target country (to determine how and to what extent the relevant conventions are implemented) as well as a factual investigation of practice. Therefore, it will be an entirely different order of investigation than under CFSP regimes.

Finally, potential challenges could emerge from the legal accommodation of a targeted approach in EU trade policy instruments. So far, the EU has blacklisted entities under the CFSP. And GSP suspensions have been routinely combined with CFSP sanctions.[80] Avenues should be explored for integrating the targeting of companies in the trade-related frameworks. Complementing existing suspension mechanisms in FTAs and under the GSP scheme with company-specific measures would allow for differentiating between economic operators in the exporting country and would represent a change in EU trade policy.

This policy shift may require the invocation of special exceptions under World Trade Organization rules as well as some modifications of current provisions for the common commercial policy in the EU treaty. The nature of the necessary adjustments deserves careful legal analysis that exceeds the scope of this paper. In any case, innovation is possible with the integration of targeted measures in EU policy instruments rather than in the measures themselves. The blacklisting of individuals and companies as well as bans on joint ventures are regular practice in the CFSP and have been effective against operators in Syria, Côte d'Ivoire, the Russian Federation, Zimbabwe or Myanmar, in the absence of United Nations Security Council authorization.

Perhaps paradoxically, creating a workable enforceable mechanism can make its activation unnecessary. Rendering sanction mechanisms more usable will relax current inhibitions about the activation of social conditionality and help the EU overcome its self-restraint to employ them. The main utility of sanctions does not reside with their activation but with their presence—in the threat of their activation. As a partner and cooperation agreement negotiator reflected, human rights conditionality used in the relationship "to help make progress and bring up these issues."[81] Threats of suspension entail "a warning to the incumbent government to address the issues at stake" and "an invitation to negotiate measures so as to correct what has been going wrong."[82] That the threat of suspension can have a deterrent effect on possible violations and can compel authorities to comply with labour rights is exemplified in the case of El Salvador. When the Commission launched an investigation sparked by the country's Supreme Court's judgment that ratification of ILO Convention No. 87 was unconstitutional, the prospective loss of GSP+ benefits is believed to have persuaded its government to amend its Constitution.

The critical implication is not that sanctions ought to be wielded more frequently but that a higher ease of employment may enhance its deterrent effect, persuading partners to comply with labour standards. Conditionality is most successful where it elicits compliance without having to be activated. Thus, this paper does not advocate a more frequent activation of the conditionality clauses. Rather, it argues that a reform of the conditionality mechanism, guided by the notion of targeted sanctions, can enhance its aptitude to advance labour standards.

Endnotes

1 "Conditionality" is defined as the attachment of conditions to normal relations or the provision of a specific benefit to a third party, such as the provision of aid or the granting of privileged market access. Sanctions, by contrast, consist of the interruption of relations or other benefits in response to objectionable behaviour. Sanctions often result from the activation of conditionality provisions. For reasons of space economy, the abbreviation EU is used for both the European Union constituted in 1992 with the Treaty of Maastricht and the European Community as the predecessor organization.

2 Lorand Bartels, *The European Parliament's Role in Relation to Human Rights in Trade and Investment Agreements*, EXPO/B/DROI/2012-09 (Brussels: Directorate-General for External Policies, European Parliament, 2014), 8.

3 While official documents refer to "temporary suspension" when reference is made to the removal trade preferences, this text uses the term "withdrawal" to avoid confusion with free trade agreement suspension.

4 See, generally, Elena Fierro, *The EU's Approach to Human Rights Conditionality in Practice* (Leiden: Brill, 2003); Clara Portela and Jan Orbie, "Sanctions Under the EU's Generalised Scheme of Preferences (GSP): Coherence by Accident?" *Contemporary Politics* 20, no. 1 (2014); Samantha Velluti, "The Promotion and Integration of Human Rights and EU External Trade Relations," *Utrecht Journal of International and European Law* 32, no. 83 (2016).

5 Clara Portela, "Are EU Sanctions 'Targeted'?" *Cambridge Review of International Affairs* 29, no. 3 (2016), 924.

6 European Commission, "Trade and Sustainable Development (TSD) Chapters in EU Free Trade Agreements (FTAs)", Non-paper of the Commission Services (Brussels, July 11, 2017), http://trade.ec.europa.eu/doclib/html/155686.htm, 7; European Commission, "Feedback and Way Forward on Improving the Implementation and Enforcement of Trade and Sustainable Development Chapters in EU Free Trade Agreements, Non-paper of the Commission Services," (Brussels, February 26, 2018), http://trade.ec.europa.eu/doclib/html/156618.htm, 2, 8; James Harrison et al., "Labour Standards Provisions in EU Free Trade Agreements: Reflections on the European Commission's Reform Agenda," *World Trade Review*, 2018.

7 The suspension of bilateral agreements is, in any case, always possible under article 60 of the Vienna Convention on the Law of Treaties of 1969. See Lorand Bartels, *The European Parliament's Role in Relation to Human Rights in Trade and Investment Agreements*, EXPO/B/DROI/2012-09 (Brussels: Directorate-General for External Policies, European Parliament, 2014), 6.

8 Originally conceived for the protection of human rights, the EU replicated the model after 2001, employing conditionality clauses to combat terrorism as well as the spread of weapons of mass destruction. Lina Grip, "The Performance of the EU in the External Non-proliferation Assistance," in *The EU and the Non-Proliferation of Nuclear Weapons*, ed. Spyros Blavoukos, Dimitri Bourantonis and Clara Portela, (Houndmills: Palgrave, 2015), 120.

9 See Council of the EU. Reflection Paper on Political Clauses in Agreements with Third Countries, Doc 7008/09, (partially derestricted), February 27, 2009, quoted in Lorand Bartels, *The European Parliament's Role in Relation to Human Rights in Trade and Investment Agreements*, EXPO/B/DROI/2012-09 (Brussels: Directorate-General for External Policies, European Parliament, 2014), 7.

10 The linkage between both agreements can be illustrated in the example of the EU-Vietnam FTA. Article X.21(2) of the EU-Vietnam free trade agreement reads: "This Agreement shall be part of the overall bilateral relations as provided for in the Partnership and Cooperation Agreement and it shall form part of the common institutional framework." European Union, "EU-Vietnam Free Trade Agreement: Agreed text as of January 2016", http://trade.ec.europa.eu/doclib/press/index.cfm?id=1437.

11 Lorand Bartels, *The European Parliament's Role in Relation to Human Rights in Trade and Investment Agreements*, EXPO/B/DROI/2012-09 (Brussels: Directorate-General for External Policies, European Parliament, 2014), 8. There is, however, some controversy surrounding this question. See, generally, Lorand Bartels, *Human Rights Conditionality in the EU's International Agreements* (Cambridge, MA: Cambridge University Press, 2005).

12 Karel De Gucht, "On the EU Trade Agreement with Colombia and Peru," Speech at the European Parliament, SPEECH 10/101, Brussels, March 16, 2010, http://trade.ec.europa.eu/doclib/docs/2010/march/tradoc_145896.pdf, 4.

13 Karel De Gucht, "On the EU Trade Agreement with Colombia and Peru," Speech at the European Parliament, SPEECH 10/101, Brussels, March 16, 2010, http://trade.ec.europa.eu/doclib/docs/2010/march/tradoc_145896.pdf, 4.

14 Ha Hai Hoang and Daniela Sicurelli, "The EU's Preferential Trade Agreements with Singapore and Vietnam. Market vs. Normative Imperatives," *Contemporary Politics* 23, no. 4 (2017), 379. The applicability of the human rights clause embedded in the EU-Singapore Partnership and Cooperation Agreement is almost foreclosed by an accompanying side letter assuring that current practices are not subject to be challenged through conditionality. It sets out that "both sides confirm their understanding that, at the time of signature of this Agreement, they are not aware, based on objectively available information, of any of each other's domestic laws, or their application, which could lead to the invocation of Article 44 of this Agreement". Council of the European Union, 2014, 60.

15 Lorand Bartels, *The European Parliament's Role in Relation to Human Rights in Trade and Investment Agreements*, EXPO/B/DROI/2012-09 (Brussels: Directorate-General for External Policies, European Parliament, 2014), 11.

16 European Commission, "Communication from the Commission on the inclusion of respect for democratic principles and human rights in agreements between the Community and third countries," (Brussels: COM (95) 216 final, Annex 2, May 23, 1995), https://eur-lex.europa.eu/legal-content/FRN/TXT/?uri=celex:52001DC0252, 17.

17 Lorand Bartels, *The European Parliament's Role in Relation to Human Rights in Trade and Investment Agreements*, EXPO/B/DROI/2012-09 (Brussels: Directorate-General for External Policies, European Parliament, 2014), 12.

18 Clara Portela, *European Union Sanctions and Foreign Policy* (Abingdon: Routledge, 2010), 78.

19 A relevant case concerns the European Parliament's refusal to consent to the textiles protocol to the partnership and cooperation agreement with Uzbekistan on account of the continued use of child labour in cotton picking in 2011. However, this is a case of ex-ante conditionality because it involved the refusal to conclude the agreement rather than activating the human rights clause to discontinue an agreement already in force.

20 Madelaine Moore and Christoph Scherrer, "Conditional or Promotional Trade Agreements—Is Enforcement Possible?" (Singapore: FES, 2017), 1.

21 Richard Senti, *Die WTO im Spannungsfeld zwischen Handel, Gesundheit, Arbeit und Umwelt* (Baden Baden: Nomos, 2006), 28.

22 Lotte Van den Putte and Jan Orbie, "EU Bilateral Trade Agreements and the surprising rise of labour provisions," *International Journal of Comparative Labour Law and Industrial Relations* 31, no. 3 (2015), 269.

23 Madelaine Moore and Christoph Scherrer, "Conditional or Promotional Trade Agreements—Is Enforcement Possible?" (Singapore: FES, 2017), 3; Tonia Novitz, "Labour Standards and Trade: Need we choose between 'Human Rights' and 'Sustainable Development'?" in *Labour Standards in International Economic Law*, ed. Henner Gött (Springer, Cham, 2018), 113.

24 Legally speaking, the lack of labelling as an essential element must not preclude the possibility that breaches give rise to a suspension of the application of the treaty.

25 Court of Justice of the European Union, "Opinion 2/15 (EU-Singapore Free Trade Agreement) of 16. 5. 2017 Opinion Pursuant to Article 218(11) TFEU," May 16, 2017, para. 161, 24.

26 Court of Justice of the European Union, "Opinion of Advocate General Sharpston delivered on 21 December 2016. Opinion procedure 2/15 initiated following a request made by the European Commission," December 21, 2016, para. 491, 90.

27 European Union, "Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008," (Brussels: Official Journal of the European Union L303, October 31, 2012), https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:32012R0978, 2.

28 Yaraslau Kryvoi, "Why European Union Trade Sanctions Do Not Work," *Minnesota Journal of International Law* 12, no. 2 (2008), 228.

29 The list of least developed countries is prepared by the United Nations on the basis of socioeconomic development indicators: https://www.un.org/development/desa/dpad/wp-content/uploads/sites/45/publication/ldc_list.pdf.

30 Only GSP+ withdrawal takes the beneficiary back to the general scheme.

31 For specificity of GSP+ withdrawal, see preceding endnote.

32 European Union, "Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers European Union," Brussels: Official Journal of the European Union L55/13, February 28, https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32011R0182, 2011.

33 Delegated acts shall enter into force only if no objection is raised by either the European Parliament or the Council within two months of their adoption, according to Regulation (EU) 978/2012, art. 36.

34 Council of the European Union, Council Regulation (EC) No 732/2008, https://publications.europa.eu/en/publication-detail/-/publication/7f80f39b-2833-4ed3-8cd6-e5ff60e08142/language-en.

35 Clara Portela, *European Union Sanctions and Foreign Policy* (Abingdon: Routledge, 2010), 84.

36 Clara Portela and Jan Orbie, "Sanctions Under the EU's Generalised Scheme of Preferences (GSP): Coherence by Accident?" *Contemporary Politics* 20, no. 1 (2014), 67.

37 Marika Lerch, *Menschenrechte und Europäische Aussenpolitik* (Wiesbaden: Verlag für Sozialwissenschaften, 2004), 260.

38 Peter Mandelson, "Trade Policy and Decent Work, EU Decent Work Conference on Globalisation," Brussels, December 5, 2006, http://europa.eu/rapid/press-release_SPEECH-06-779_en.pdf

39 An investigation on Bolivia was launched in 2012 on the grounds of insufficient implementation of the Convention on Narcotic Drugs, but the Commission decided again against suspension. See European Commission, "Report of the investigation pursuant to article 18(2) of the Council Regulation (EC) no. 980/2005 with respect to the protection of the freedom of association and the right to organise in El Salvador," (2009) 7934, 2009.

40 European Union, "Implementing Regulation (EU) No 143/2010 of the Council of 15 February 2010 temporarily withdrawing the special incentive arrangement for sustainable development and good governance provided for under Regulation (EC) No 732/2008 with respect to the Democratic Socialist Republic of Sri Lanka," (Brussels: Official Journal of the European Union L45, February 20, 2010), https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32010R0143.

41 European Union, "Commission Delegated Regulation (EU) 2017/836 of 11 January 2017 amending Annex III to Regulation (EU) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences", Brussels: Official Journal of the European Union L125, May 18, 2017, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32017R0836; European Commission, "EU Grants Sri Lanka Improved Access to Its Market as Incentive for Reform," Press Release IP/17/1363. Brussels: European Commission, May 17, 2017, http://trade.ec.europa.eu/doclib/press/index.cfm?id=1663.

42 European Commission, "EU Grants Sri Lanka Improved Access to Its Market as Incentive for Reform," Press Release IP/17/1363 (Brussels: European Commission, May 17, 2017), http://trade.ec.europa.eu/doclib/press/index.cfm?id=1663, 1.

43 European Commission and European External Action Service, "Letter sent by Trade Director of the European Commission Sandra Gallina, Director of Labour Mobility at the Directorate-General for Employment, Social Affairs and Inclusion of the European Commission Jordi Curell and Managing director of Human Rights, Global and Multilateral Issues at the European External Action Service Lotte Knudsen" (Brussels, May 31, 2017).

44 International Trade Union Confederation-Clean Clothes Campaign, "Complaint to the European Ombudsman. Alleging maladministration by the European Commission in its failure to investigate the status of Bangladesh under the GSP," Brussels, June 6, 2018, https://www.ituc-csi.org/IMG/pdf/bangladesh_ombudsman_complaint_final_2018_06_06_clean.pdf

45 Inclusive Development International, "Open letter to the EU Trade Commissioner Karel De Gucht," Nov. 6, 2013, https://www.inclusivedevelopment.net/wp-content/uploads/2013/11/CSO-Letter-to-Karel-de-Gucht-Nov-6-2013.pdf

46 European Commission, *Report on GSP covering the period 2016-2017*, COM (2018) 36 final, January 19, 2018, http://trade.ec.europa.eu/doclib/docs/2018/january/tradoc_156536.pdf, 6.

47 See, generally, Marika Lerch, *Menschenrechte und Europäische Aussenpolitik* (Wiesbaden: Verlag für Sozialwissenschaften, 2004), Karen Del Biondo, "EU Aid Conditionality in ACP Countries: Explaining Inconsistency in EU Sanctions Practice," *Journal of Contemporary European Research* 7, no. 3 (2011), Lina Grip, "The Performance of the EU in the External Non-proliferation Assistance," in *The EU and the Non-Proliferation of Nuclear Weapons*, ed. Spyros Blavoukos, Dimitri Bourantonis and Clara Portela (Houndmills: Palgrave, 2015), Development Solutions. *Mid-term Evaluation of the Generalised Scheme of Preferences. Final Interim Report* (Brussels: European Commission, DG Trade), September 21, 2017.

48 Fédération Internationale des Ligues des Droits de l'Homme (FIDH), "Contribution to the Mid-Term Evaluation of the EU GSP by Cambodian Human Rights and Development Association (ADHOC), Ligue Cambodgienne de défense des droits de l'Homme, ODHIKAR, ALTSEAN-Burma, Philippine Alliance of Human Rights Advocates and Human Rights Commission of Pakistan (HRCP)," May 2017. Accessed July 24, 2018. http://www.gspevaluation.com/wp-content/uploads/2016/12/FIDH-contribution-2.pdf, 3.

49 Clara Portela and Jan Orbie, "Sanctions Under the EU's Generalised Scheme of Preferences (GSP): Coherence by Accident?" *Contemporary Politics* 20, no. 1 (2014), 71.

50 Marika Lerch, *Menschenrechte und Europäische Aussenpolitik* (Wiesbaden: Verlag für Sozialwissenschaften, 2004), 261; Clara Portela and Jan Orbie, "Sanctions Under the EU's Generalised Scheme of Preferences (GSP): Coherence by Accident?" *Contemporary Politics* 20, no. 1 (2014), 72.

51 GATT document L/4903, BISD 26S/203, November 28, 1979.

52 Yaraslau Kryvoi, "Why European Union Trade Sanctions Do Not Work," *Minnesota Journal of International Law* 12, no. 2 (2008), 241.

53 Yaraslau Kryvoi, "Why European Union Trade Sanctions Do Not Work," *Minnesota Journal of International Law* 12, no. 2 (2008), 243.

54 Clara Portela, *European Union Sanctions and Foreign Policy* (Abingdon: Routledge, 2010), 160.

55 Samantha Velluti, "Human rights conditionality in the EU GSP scheme: a focus on those in need or a need to refocus?" in *The Human Face of the European Union: Are EU Law and Policy Humane Enough?*, ed. Nuno Ferreira and Dora Kostakopoulou (Cambridge University Press, Cambridge, 2016), 7; Madelaine Moore and Christoph Scherrer, "Conditional or Promotional Trade Agreements—Is Enforcement Possible?" (Singapore: FES, 2017).

56 Lee Jones, *Societies Under Siege* (Cambridge: Cambridge University Press, 2015), 125.

57 See, generally, Clara Portela, "Are EU Sanctions 'Targeted'?" *Cambridge Review of International Affairs* 29, no. 3 (2016), Richardson et al., 2017.

58 Quoted in Elena Fierro, *The EU's Approach to Human Rights Conditionality in Practice* (Leiden: Brill, 2003), 376.

59 Peter Mandelson, "Trade Policy and Decent Work, EU Decent Work Conference on Globalisation," Brussels, December 5, 2006, http://europa.eu/rapid/press-release_SPEECH-06-779_en.pdf

60 Quoted in Roy Canivel, "EU Trade Chief Concerned Over Drug War," *Inquirer* (Manila), March 11, 2017.

61 European Commission, "EU Grants Sri Lanka Improved Access to Its Market as Incentive for Reform," Press Release IP/17/1363. Brussels: European Commission, May 17, 2017, http://trade.ec.europa.eu/doclib/press/index.cfm?id=1663.

62 European Commission, "Trade and Sustainable Development (TSD) Chapters in EU Free Trade Agreements (FTAs)," Non-paper of the Commission Services, July 11, 2017, http://trade.ec.europa.eu/doclib/html/155686.htm, 9.

63 Cecilia Malmström, "Trade and Sustainable Development," (Brussels, October 6, 2017), http://trade.ec.europa.eu/doclib/docs/2017/october/tradoc_156137.pdf, 3. Another reason for the Commission's reluctance to activate conditionality provisions is that it does not want to establish separate parallel enforcement tracks at the EU level for the ILO and environmental conventions, to reinforce rather than bypass external enforcement regimes.

64 Fédération Internationale des Ligues des Droits de l'Homme (FIDH), "Contribution to the Mid-Term Evaluation of the EU GSP by Cambodian Human Rights and Development Association (ADHOC), Ligue Cambodgienne de défense des droits de l'Homme, ODHIKAR, ALTSEAN-Burma, Philippine Alliance of Human Rights Advocates and Human Rights Commission of Pakistan (HRCP)," May 2017. Accessed July 24, 2018. http://www.gspevaluation.com/wp-content/uploads/2016/12/FIDH-contribution-2.pdf, 3.

65 European Union, "Treaty of Lisbon," Official Journal of the European Union, C 115, vol. 51, May 9, 2008, art 21(2).

66 Council of the European Union, *Basic Principles on the Use of Restrictive Measures (Sanctions)*. (Brussels, June 7, 2004), 3, http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2010198%202004%20REV%201.

67 Thomas Biersteker, Sue Eckert, and Marcos Tourinho, eds. *Targeted Sanctions. The Impacts and Effectiveness of United Nations Action* (Cambridge: Cambridge University Press, 2016), 32; Peter Wallensteen and Helena Grusell. "Targeting the Right Targets? The UN Use of Individual Sanctions," *Global Governance* 18, no. 2 (2012), 225.

68 Joanna Weschler, "The Evolution of Security Council Innovations in Sanctions," *International Journal* 65, no. 4 (2009), 32–33.

69 Council of the European Union, Council Decision (CFSP) 2015/1763 of 1 October 2015 concerning restrictive measures in view of the situation in Burundi, , https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015D176341.

70 Council of the European Union, Council Decision (CFSP) 2011/178/CFSP of 23 March 2011 amending Decision 2011/137/CFSP concerning restrictive measures in view of the situation in Libya, Council of the European Union (CFSP), 2011/178/CFSP, https://publications.europa.eu/en/publication-detail/-/publication/9ebca4ad-42f5-471f-a1b5-9124f94d19aa/language-en.

71 Anthonius de Vries, "European Union Sanctions against the Federal Republic of Yugoslavia from 1998 to 2000. A Special Exercise in Targeting," in *Smart Sanctions. Targeting Economic Statecraft*, ed. David Cortright and George Lopez (Lanham: Rowan and Littlefield, 2002), 97.

72 Francesco Giumelli, "Understanding United Nations Targeted Sanctions: An Empirical Analysis," *International Affairs* 91, no. 6 (2015), 1356.

73 Credit for this neologism goes to Steve Charnovitz, "The World Trade Organisation: Sanctions for Non-compliance," in *International Sanctions. Between Words and Wars in the Global System*, ed. Peter Wallensteen and Carina Staibano (London: Frank Cass, 2005), 161.

74 However, certain elements of the proposed approach may not be accommodated in the context of a bilateral agreement and will remain unilateral in nature.

75 Benjamin Richardson, James Harrison, and Liam Campling, *Labour Rights in Export Processing Zones with a Focus on GSP+ Beneficiary Countries* (Brussels: European Parliament, Directorate-General for external policies, 2017), 53.

76 See, in general, Enrico Carisch and Loraine Rickard-Martin, "UN Natural Resources and Other Sanctions: Who Benefits?" Social Research 82, no. 4 (2015).

77 Clara Portela, *Targeted Sanctions Against Individuals for Grave Human Rights Violations* (Brussels: European Parliament Policy Department, 2018).

78 To ensure WTO-compatibility, the adoption of these measures could be justified under the trade-restricting exceptions covering public morals (Articles XX GATT) or security (Article XXI GATT).

79 Marco Gestri, "Sanctions Imposed by the European Union: Legal and Institutional Aspects," in *Coercive Diplomacy, Sanctions and International Law*, ed. Natalino Ronzitti (Leiden: Brill Nijhoff, 2016), 96.

80 Clara Portela and Jan Orbie, "Sanctions Under the EU's Generalised Scheme of Preferences (GSP): Coherence by Accident?" *Contemporary Politics* 20, no. 1 (2014).

81 Quoted in Lachlan McKenzie and Katharina Meissner, "Human Rights Conditionality in the European Union Trade Negotiations: The Case of the EU-Singapore FTA," *Journal of Common Market Studies* 55, no. 4 (2017), 845.

82 Nadia Molenaers et al., "What Determines the Suspension of Budget Support?" *World Development* 75, no. 1 (2015), 63.

Bibliography

Bartels, Lorand. *The European Parliament's Role in Relation to Human Rights in Trade and Investment Agreements*, EXPO/B/DROI/2012-09, Brussels: Directorate-General for External Policies, European Parliament, 2014.

Bartels, Lorand. *Human Rights Conditionality in the EU's International Agreements*. Cambridge: Cambridge University Press, 2005.

Biersteker, Thomas, Sue Eckert, and Marcos Tourinho, eds. *Targeted Sanctions. The Impacts and Effectiveness of United Nations Action*. Cambridge: Cambridge University Press, 2016.

Council of the European Union. *Basic Principles on the Use of Restrictive Measures (Sanctions).* Brussels, June 7, 2004.

Council of the European Union. "Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria," OJ L 147, June 1, 2013.

Council of the European Union. "Partnership and Cooperation Agreement between the European Union and Its Member States, of the one part, and the Republic of Singapore, of the other part, Interinstitutional File: 2014/0036 (NLE)." Brussels, April 29, 2014.

Council of the European Union. "Free Trade Agreement between the European Union and the Republic of Singapore." Brussels, June 29, 2015.

Court of Justice of the European Union. "Opinion of Advocate General Sharpston delivered on 21 December 2016. Opinion procedure 2/15 initiated following a request made by the European Commission." December 21, 2016.

Court of Justice of the European Union. "Opinion 2/15 (EU-Singapore Free Trade Agreement) of 16. 5. 2017 Opinion Pursuant to Article 218(11) TFEU." May 16, 2017.

De Gucht, Karel. "On the EU Trade Agreement with Colombia and Peru", Speech at the European Parliament, SPEECH 10/101, Brussels, March 16, 2010, http://trade.ec.europa.eu/doclib/docs/2010/march/tradoc_145896.pdf

Del Biondo, Karen. "EU Aid Conditionality in ACP Countries: Explaining Inconsistency in EU Sanctions Practice," *Journal of Contemporary European Research* 7, no. 3 (2011): 330–395.

Development Solutions. *Mid-term Evaluation of the Generalised Scheme of Preferences. Final Interim Report*. Brussels: European Commission, DG Trade. September 21, 2017.

European Commission. "Communication from the Commission on the inclusion of respect for democratic principles and human rights in agreements between the Community and third countries." COM (95) 216 final, Annex 2, May 23, 1995.

European Commission. "Report of the Investigation pursuant to Article 18(2) of the Council Regulation (EC) No 980/2005 with respect to the protection of the freedom of association and the right to organise in El Salvador," C (2009) 7934, 2009.

European Commission. "Trade and Sustainable Development (TSD) Chapters in EU Free Trade Agreements (FTAs), Non-paper of the Commission Services." July 11, 2017a.

European Commission. "EU Grants Sri Lanka Improved Access to Its Market as Incentive for Reform." Press Release IP/17/1363. Brussels: European Commission, May 17, 2017b.

European Commission. "Feedback and Way Forward on Improving the Implementation and Enforcement of Trade and Sustainable Development Chapters in EU Free Trade Agreements, Non-paper of the Commission Services," February 26, 2018a.

European Commission. "Report on the Generalised Scheme of Preferences covering the period 2016–2017," COM (2018) 36 final, January 19, 2018b.

European Parliament Research Service. "Human Rights in EU Trade Policy." In *Unilateral Measures* by Ionel Zamfir. Brussels: European Parliament, 2017.

European Union. "Treaty of Lisbon," *Official Journal of the European Union*, C 115, vol. 51, May 9, 2008.

European Union. "Implementing Regulation (EU) No 143/2010 of the Council of 15 February 2010 temporarily withdrawing the special incentive arrangement for sustainable development and good governance provided for under Regulation (EC)

No 732/2008 with respect to the Democratic Socialist Republic of Sri Lanka." Brussels: Official Journal of the European Union L45, February 20, 2010.

European Union. "Council Decision (CFSP) 2011/178/CFSP of 23 March 2011 amending Decision 2011/137/CFSP concerning restrictive measures in view of the situation in Libya." Brussels: Official Journal of the European Union L78/24, March 24, 2011a.

European Union. "Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers European Union." Brussels: Official Journal of the European Union L55/13, February 28, 2011b.

European Union. "Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008." Brussels: Official Journal of the European Union L303, October 31, 2012.

European Union. "Council Decision (CFSP) 2015/1763 of 1 October 2015 concerning restrictive measures in view of the situation in Burundi." Brussels: Official Journal of the European Union L257/37, October 1, 2015.

European Union. "Commission Delegated Regulation (EU) 2017/836 of 11 January 2017 amending Annex III to Regulation (EU) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences.: Brussels: Official Journal of the European Union L125, May 18, 2017.

Fédération Internationale des Ligues des Droits de l'Homme (FIDH). "Contribution to the Mid-Term Evaluation of the EU GSP by Cambodian Human Rights and Development Association (ADHOC), Ligue Cambodgienne de défense des droits de l'Homme, ODHIKAR, ALTSEAN-Burma, Philippine Alliance of Human Rights Advocates and Human Rights Commission of Pakistan (HRCP)," May 2017. Accessed July 24, 2018. http://www.gspevaluation.com/wp-content/uploads/2016/12/FIDH-contribution-2.pdf

Fierro, Elena. *The EU's Approach to Human Rights Conditionality in Practice.* Leiden: Brill, 2003.

Gestri, Marco. "Sanctions Imposed by the European Union: Legal and Institutional Aspects." In *Coercive Diplomacy, Sanctions and International Law*, edited by Natalino Ronzitti, 70–102. Leiden: Brill Nijhoff, 2016.

Giumelli, Francesco. "Understanding United Nations Targeted Sanctions: An Empirical Analysis," *International Affairs* 91, no. 6 (2015): 1351–1368.

Grip, Lina. "The Performance of the EU in the External Non-proliferation Assistance." In *The EU and the Non-Proliferation of Nuclear Weapons*, edited by Spyros Blavoukos, Dimitri Bourantonis and Clara Portela, 117–140. Houndmills: Palgrave, 2015.

Harrison, James, et al. "Labour Standards Provisions in EU Free Trade Agreements: Reflections on the European Commission's Reform Agenda," *World Trade Review*, 2018.

Hoang, Ha Hai, and Daniela Sicurelli. "The EU's Preferential Trade Agreements with Singapore and Vietnam. Market vs. Normative Imperatives," Contemporary Politics 23, no. 4 (2017): 369–387.

Inclusive Development International. "Open letter to the EU Trade Commissioner Karel De Gucht," 6 Nov. 2013.

International Trade Union Confederation-Clean Clothes Campaign. "Complaint to the European Ombudsman. Alleging maladministration by the European Commission in its failure to investigate the status of Bangladesh under the GSP." Brussels, 2018.

Jones, Lee. Societies Under Siege, Cambridge: Cambridge University Press, 2015.

Kryvoi, Yaraslau. "Why European Union Trade Sanctions Do Not Work," *Minnesota Journal of International Law* 12, no. 2 (2008): 209–246.

Lerch, Marika. *Menschenrechte und europäische Aussenpolitik*. Wiesbaden: Verlag für Sozialwissenschaften, 2004.

Malmström, Cecilia. "Trade and Sustainable Development", Brussels, October 6, 2017.

Mandelson, Peter. "Trade Policy and Decent Work, EU Decent Work Conference on Globalisation," Brussels, December 5, 2006.

McKenzie, Lachlan, and Katharina Meissner. "Human Rights Conditionality in the European Union Trade Negotiations: The Case of the EU-Singapore FTA," *Journal of Common Market Studies* 55, no. 4 (2017): 832–849.

Moore, Madelaine, and Christoph Scherrer. "Conditional or Promotional Trade Agreements—Is Enforcement Possible?" Singapore: FES, 2017.

Novitz, Tonia. "Labour Standards and Trade: Need we choose between 'Human Rights' and 'Sustainable Development'?" In *Labour Standards in International Economic Law*, edited by Henner Gött, 113–134. Springer, Cham, 2018.

Portela, Clara. *European Union Sanctions and Foreign Policy.* Abingdon: Routledge, 2010.

Portela, Clara. "Are EU Sanctions 'Targeted'?", *Cambridge Review of International Affairs* 29, no. 3 (2016): 912–929.

Portela, Clara. *Targeted Sanctions Against Individuals for Grave Human Rights Violations*. Brussels: European Parliament Policy Department, 2018.

Portela, Clara, and Jan Orbie. "Sanctions Under the EU's Generalised Scheme of Preferences (GSP): Coherence by Accident?" *Contemporary Politics* 20, no. 1 (2014): 63–76.

Richardson, Benjamin, James Harrison, and Liam Campling. *Labour Rights in Export Processing Zones with a Focus on GSP+ Beneficiary Countries*. Brussels: European Parliament, Directorate-General for external policies, 2017.

Senti, Richard. *Die WTO im Spannungsfeld zwischen Handel, Gesundheit, Arbeit und Umwelt*. Baden Baden: Nomos, 2006.

Stoll, Peter-Tobias, Henner Gött, and Patrick Abel. "Draft Model Labour Chapter for EU Trade Agreements", Singapore: FES, 2017.

United Nations Security Council. "Letter from the Permanent Representatives of China, France, the Russian Federation, the United States and the United Kingdom to the United Nations addressed to the President of the Security Council," S/1995/300, New York: United Nations, April 13, 1995.

Van den Putte, Lotte and Orbie, Jan. "EU Bilateral Trade Agreements and the surprising rise of labour provisions," *International Journal of Comparative Labour Law and Industrial Relations* 31, no. 3 (2015): 263–284.

Velluti, Samantha. "The Promotion and Integration of Human Rights and EU External Trade Relations", *Utrecht Journal of International and European Law* 32, no. 83 (2016a): 41–61.

Velluti, Samantha. "Human rights conditionality in the EU GSP scheme: a focus on those in need or a need to refocus?" In *The Human Face of the European Union: Are EU Law and Policy Humane Enough?*, ed. Nuno Ferreira and Dora Kostakopoulou, 342–366. Cambridge University Press, Cambridge, 2016b.

Vries, Anthonius de. "European Union Sanctions against the Federal Republic of Yugoslavia from 1998 to 2000. A Special Exercise in Targeting." In *Smart Sanctions. Targeting Economic Statecraft*, edited by David Cortright and George Lopez, 87–108. Lanham: Rowan and Littlefield, 2002.

Wallensteen, Peter, and Helena Grusell. "Targeting the Right Targets? The UN Use of Individual Sanctions," *Global Governance* 18, no. 2 (2012): 207–230.

Weschler, Joanna. "The Evolution of Security Council Innovations in Sanctions," *International Journal* 65, no. 4 (2009): 31–43.

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