

## **Andreas Bieler - The Global Trade Regime and Alternatives: conceptualising the agency of labour**

The pandemic has demonstrated the fragile nature of the global political economy. With production being organised across borders in global value chains (GVCs), the disruption of free trade has resulted in serious questions about the overall system. As free trade is being questioned more generally, in this post I will argue that this is a good moment to revisit the question of trade unions and free trade in order to explore what a labour-centred perspective on trade could look like and how we can conceptualise the agency of labour in this respect.

### **Towards a labour-centred perspective on trade**

In December 2011, we held a first workshop on trade unions and free trade at Nottingham University ([Bieler, Ciccaglione, Hilary and Lindberg 2015](#)). At the time, interestingly, it became clear that free trade was generally not a problematic issue for trade unions in the Global North and here especially in Europe. There was a general understanding that everyone who participated would benefit. Of course, there were critical NGOs and social movements, but trade unions themselves did not question free trade. Ten years later, the situation has changed and there are three reasons for why it is now an opportune time to revisit this issue. First, in view of the expanded free trade regime, which now includes trade in services, intellectual property rights, trade related investment measures as well as the infamous Investor-State-Dispute-Settlement mechanisms, large European trade unions including the German DGB and the British TUC have become increasingly sceptical about free trade and rejected the Transatlantic Trade and Investment Partnership (TTIP). Second, more reactionary, xenophobic forces around Trump in the US have increasingly questioned free trade and the way it has disrupted employment especially in manufacturing in the Global North. Finally, the pandemic and its disruptions of free trade has revealed the fragility of GVCs. More and more voices call for the production of essential goods such as medicines to be relocated closer to home.

There has been a significant amount of research on the implications of free trade on trade unions mainly through a focus on labour provisions attached to free trade agreements (FTAs). The positive implications for labour of such provisions, for example, in FTAs negotiated by the EU have, however, been negligible ([Smith et al 2021](#)). Equally, there are question marks over the re-negotiated US – Mexico – Canada FTA by the Trump administration and its focus on a Labour Value Content clause and labour law reform in Mexico and the extent to which this will actually improve the situation of workers in the three countries ([Scherrer 2020](#)).

When assessing free market based and state-led development policies, Ben Selwyn pointed out that both strategies of development were at the expense of workers' rights and wellbeing. Hence, he demanded a shift towards a labour-centred development policy in which the interests of workers would come first ([Selwyn 2014](#)). Perhaps it is now the time to ask what a labour-centred trade policy could look like? In order to address this question, we need to look at trade through the perspectives of labour movements. When doing so, however, it is first important to define who is part of this labour movement agency and how we can conceptualise it.

### **Conceptualising labour agency**

Labour movement agency, of course, does not take place in a structural vacuum. In order to comprehend agency within the structuring conditions of the capitalist social relations of production,

we need to pursue a historical materialist approach, which is able to comprehend the historical specificity of capitalism. Organised around wage labour and the private ownership or control of the means of production, capitalism is an enormously dynamic system, as not only workers compete with each other for jobs, but employers too are in constant competition over market share. As a result of this dynamic, however, capitalism is also structurally prone to crises of overproduction or overaccumulation. In order to overcome crises, finally, there is this relentless pressure towards constant outward expansion of capitalist accumulation along uneven and combined development lines ([Bieler and Morton 2018: 38-41](#)).

It is within these structuring conditions that labour movement agency on free trade plays out and it is not surprising that there is no automatic solidarity by labour movements considering their different locations within the uneven global political economy. In 2008, for example, there was a bitter confrontation between the European metalworkers' union, which demanded reciprocity in the attempted revival of WTO negotiations, and the South African trade union COSATU, which pointed out that this would imply deindustrialisation and job losses in many African countries ([Bieler 2013: 169](#)). This is not to say that transnational solidarity is impossible, solidarity can emerge as a result of class struggle, but equally it is not automatic.

When considering the agency of labour movements on free trade, of course, we have to include trade unions as key representative institutions of workers. Nevertheless, recent changes in the world of work in tandem with the fact that trade impacts not just production, but also the sphere of social reproduction, implies that we need to look beyond trade unions.

In its report in 2018, the ILO reported that 'two billion workers — representing 61.2 per cent of the world's employed population — are in informal employment' ([ILO 2018](#)). Established trade unions, however, often only organise workers on formal employment contracts. It is new, more radical and rank-and-file trade unions together with other organisations, who are successful at mobilising informal workers. Relevant labour movement agency, therefore, also includes, for example, food sovereignty groups, which oppose the global agricultural system based on free trade and fight for an alternative around farmers' self-determination.

Moreover, as feminist scholars remind us, 'trade policy reforms under neoliberal globalization have come with a deepening of gender-based inequalities in many areas' ([Hannah et al, 2021: 72](#)). Hence, feminist groups working on trade such as the [Feminist Forum against Free Trade](#) should also be part of our focus on labour movement agency.

Finally, many observers point out that today's expanded free trade regime is in many respects a continuation of colonial practices in the way of how it is being imposed across the world deepening neo-liberalism ([Grady and Grocott 2019](#)). Consequently, NGOs, social movements and trade justice networks, which all challenge these practices as they unfold, for example, in extractive industries and global food production are also part of the wider labour movement in relation to free trade. Examples of relevant actors are the British campaign groups [War on Want](#) and [Global Justice Now](#).

In sum, it is important to understand labour movement agency in a broad sense within the structuring conditions of the capitalist social relations of production, when investigating potential alternative trade regimes from a labour-centred perspective prioritising the interests of working people around the world over the interests of capital.

## **Kayhan Valadbaygi - Labour and the Future of Free Trade: Critical Review of Mainstream Approaches**

The effects of the Trump administration's trade policies and the Covid-19 pandemic have been the subject of inquiry of the conventional IPE approaches. The first objective of this piece is to examine how labour has been considered in these accounts. By looking at the growing literature on the inclusion of labour clauses in free trade agreements, the second aim of the paper is to evaluate the impacts of these provisions on labour.

While acknowledging that the current international trade regime was already under pressure, there is a consensus among liberal, realist and neo-statist scholars that the regime has been fundamentally disturbed by the Trump administration. There is also a suggestion that the Covid-19 pandemic has served to amplify and accelerate this ongoing tendency within the global economy. From this mainstream literature, the consequences of these two recent developments could be summarised in four categories. The first impact is a setback from globalisation and free trade by questioning reliance on global value chains as well as introducing some new trade and investment barriers. The second effect is the fuelling of protectionism and nationalism, which in turn provides a space for the advocacy of industrial sovereignty and domestic supply chains. The third far-reaching consequence is the potential return of the state as a key player in the economy. Finally, it is believed that these developments have precipitated the under-way transition towards a multipolar international system. In other words, these approaches believe that both Trump's trade policies and the global pandemic have reinforced the move towards the end of the liberal international order, globalisation and neoliberal free trade, albeit with varying positive and negative perceptions about these changes.

Liberal scholars still view trade integration and globalisation as the only fruitful direction for the global economy. However, they argue that future free trade agreements should be more comprehensive by addressing the current challenges. For them, despite the recent rise of antiglobalisation and anti-free trade sentiments, not only reliance on national value chains but also pursuing bilateral trade deals must be emphatically rejected due to the discernment of their zero-sum nature as well as their relatively limited impacts. Instead, liberals emphasise the possibilities of establishing a liberal, multilateral free trade regime 2.0 based on US-EU leadership through the re-examination, revision and expansion of regional agreements. This is because multilateral trade deals are viewed as the best option for ensuring economic growth, improving under-threat institutions such as the WTO and keeping alive a more regional form of globalisation. In this market-centred liberal approach, the agency of labour is visibly absent. There is also no need to point out that this renewed liberal trade strategy depends on extreme labour exploitation despite the claim of benefits of the continuation of global integration through regional free trade for both capital and labour.

IPE state-centric approaches can be put into two groups: Realist IR and neo-statism. The former typically focuses on great powers and the future of the international system. It views Trump's trade policies as a strategy for the recreation of the international order in favour of the American power or the management of its declining hegemony. Envisaging the US in fierce competition with China, realists argue that the Covid-19 pandemic has offered an opportunity to the administration to intensify their pressure to encourage American firms to move their production back to the United States or outside China. Those subscribing to neostatism/developmental state theory view Trump's trade policies and the Covid-19 pandemic as valuable opportunities because they have repudiated the free trade orthodoxies and facilitated the greater role for the state in constructing a coherent industrial policy. Under the current circumstances where neoliberal free trade has been challenged,

the neo-statist scholars argue that protectionism is the only viable future option for developing countries in order to imitate the 'industrial revival of Asia'. In short, the state-centric approaches perceive a shift towards a nationalist, mercantilist trade strategy as a way of managing US hegemonic decline or opening up new state-led development opportunities for developing countries. In the former approach, labour is not considered to have any role to play but acting as soldiers of trade wars. Equally, in the latter perspective, labouring classes have been treated as nothing more than a mere instrument of accumulation for the 'grandiose catch-up development' based on extreme exploitation.

When it comes to the new regime of free trade, there is growing literature on labour clauses as part of free trade agreements through which trade unions would ensure the presence and depth of these provisions. The literature shows that the EU, the US, and Canada have supported this action and included labour provisions in most of the free trade agreements that they have negotiated with third countries in recent years. This trend has been followed by other actors, including Japan and New Zealand, among others. The labour chapters of this 'new generation' of trade agreements aim to ensure that economic growth goes hand in hand with higher labour standards.

This literature suggests that the approaches of countries with regards to the provision of labour clauses have been rather different. It is possible to identify two main approaches: a 'promotional approach' and a 'conditional approach'. The promotional approach, implemented in the EU and some other countries, opts for providing a framework for dialogue, cooperation, and/or monitoring. It therefore lacks any effective mechanisms to enforce compliance with the provisions under the Trade and Sustainable Development (TSD) chapters. Consequently, the general dispute settlement mechanism of EU free trade agreements does not apply to TSD chapters, and disputes are instead examined by panels of experts. Even, this process had not yet been activated in any free trade agreements despite the serious issues being raised in relation to labour violations. Whilst this situation changed when the EU called for the constitution of a panel of experts to conduct an inquiry into the EU-Korea dispute on labour rights in December 2019, it seems that the usefulness of this mechanism is still to be proven. The United States and Canada adopt the conditional approach that enables the imposition of sanctions in case of violations of labour standards. As of now, there is no evidence of the application of this approach. The re-negotiated United States-Mexico-Canada Agreement (USMCA) in some respects is more progressive than the provision of labour clauses because of its Labour Value Content clause plus provisions for reinforcement of Mexican labour law. Despite this early optimism, it is too early to assess the functionality of these provisions considering the recent experience about the enforcement of labour clauses.

In light of this, it is fair to argue in favour of the lack of evidence for demonstrating the effectiveness of labour provisions as part of new generations of free trade on the improvements in labour standards governance. More importantly, although the inclusion of the social clauses in new free trade agreements has been supported by trade unions, labour has not played an active role in the process.

Against the backdrop of the current multiple crises, what is required is an alternative just trade regime. To this end, the focus should move away from the market-led and state-led developmental models as well as the provision of labour clauses in favour of a labour-centred trade regime through which labouring classes exercise agency and direct a just economic model for the future.

## **Patricia Ranald - Covid-19 pandemic exposes flaws in neoliberal trade policy, opens space for alternatives**

The pandemic has exposed the flaws in the 'one-size-fits-all' neoliberal trade policy, which aims to achieve not only zero tariffs but also zero other barriers to all trade and investment. This policy demands that each country should specialise in its most cost-competitive exports, import everything else at the lowest possible prices, have no active local industry policies and minimise government regulation. The policy maximises low-cost global production chains for corporations, but can result in a race to the bottom on labour rights and environmental standards. It has left many economies with a narrow manufacturing base, unable to produce essential medical products and with scarce public health resources to deal with the pandemic.

The realities of the pandemic have forced the Australian government to act to [assist firms to develop local manufacturing capacity](#) for facemasks and ventilators, prompting [widespread support](#) for more long-term active local industry and procurement policies.

Critics of neoliberal policy point to the limitations of the basic assumptions of comparative advantage theory. Historical studies like those of Ha-Joon Chang question whether the imposition of these policies on low income countries amounts to 'kicking away the ladder' to economic development. Studies of contemporary trade agreements criticise their expansion into non-tariff areas of [law and policy](#) normally decided through national democratic processes.

Regional and bilateral trade agreements like the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and numerous bilateral agreements are based on this policy. In addition to zero tariffs, these agreements open up most services, including health and other essential services to international private investment. All services are included unless specifically excluded, and trade rules treat regulation of services like a tariff, which can only be decreased and not increased in future. These rules [deregulate essential services and encourage privatisation](#).

Despite the rhetoric of free trade, competition and lower prices, trade agreements have increased the legal monopoly rights of global corporations at the expense of consumers. The foremost example is that pharmaceutical companies have successfully lobbied for trade rules in the WTO and other agreements that entrench and/or increase their 20-year patent monopoly on new medical products, delaying the availability of cheaper medicines and vaccines.

The [monopoly patent rules](#) in the World Trade Organisation (WTO) leave pharmaceutical companies in control of global vaccine production. Governments have to negotiate with them on both quantities and price of Covid-19 vaccines, despite the fact that most were developed with public investment. High income countries are first in line while the majority in low income countries will not have access to vaccines until 2023. South Africa and India have led over 100 low income countries out of 164 WTO members to demand a temporary waiver to WTO rules during the pandemic, supported by the World Health Organisation, [public health, union and other civil society organisations](#). This proposal has been blocked by the US, the EU and other high income countries, but community campaigning has now pressured the [US to support the waiver](#).

The second example of expanded corporate legal powers through trade agreements is the development of specific trade rules that give foreign investors special legal rights to bypass national courts and sue governments in international tribunals for millions of dollars if they can argue that new laws or regulations harm their investment, known as Investor-State Dispute Settlement

(ISDS). These corporate rights are in addition to the government-to government dispute processes that are in all agreements. ISDS tribunals are [staffed by practising advocates](#), not independent judges, and there are no precedents or appeals. ISDS has been rejected by the low-income majority of countries in the 164-member WTO, but has featured in many bilateral and regional agreements. There are now [1,061 known SDS cases](#), many against low income countries), with costs awarded against governments amounting to [hundreds of millions or even billions of dollars](#).

The Philip Morris tobacco company used ISDS to claim billions in compensation from the Australian government for Australia's plain packaging legislation. Defeating this case took a total of seven years, cost the Australian government [\\$12 million in legal costs, and other countries delayed similar regulation pending the result](#). There are increasing numbers of ISDS cases against [government regulation to reduce carbon emissions](#) and combat climate change.

ISDS rules could result in cases from global companies claiming compensation for government actions during the pandemic that reduced their profits but were essential to save lives. Peru cancelled road tolls to facilitate internal transport of essential goods during the pandemic, and has been [threatened with an ISDS case](#) by private road toll operators. Legal firms specialising in ISDS are advising corporations on other possible cases. [An international arbitration law firm](#) has told its clients that "the response to the COVID-19 pandemic is likely to violate various protections provided in bilateral investment treaties and may bring rise to claims in the future by foreign investors... While States may invoke *force majeure* and a state of necessity to justify their actions, as observed in previous crises that were economic in nature, these defences may not always succeed" [Legal scholars](#) have confirmed that governments could face claims for compensation from global corporations. UNCTAD, the UN body which monitors ISDS cases, [has also acknowledged this danger](#) [Prominent lawyers, economists](#) and [civil society groups](#) have called for all governments to withdraw consent from ISDS rules to avoid an avalanche of cases relating to the pandemic.

These debates should open the way for trade policies that could improve peoples' lives. Such policies would be part of broader socially just and environmentally sustainable economic policies to enable a diverse economy. This could include a manufacturing sector with the capacity to deal with health crises, as well as agriculture, services and other sectors, supported by high quality health, education and other essential services. Trade rules should be negotiated openly and democratically in a system which includes all governments and provides for the specific needs of developing countries.

Trade agreements should not prevent governments from regulating for public health and the environment, nor strengthen medicine monopolies, nor give additional legal rights like ISDS to global corporations. And finally, trade agreements should be based on internationally agreed and fully enforceable labour rights and environmental standards, to counter the race to the bottom on these standards. We need to continue this struggle to achieve trade justice.

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## Leah Sullivan - Trading Away Our Jobs 2.0

In 2009 War on Want published a [report](#) 'Trading Away Our Jobs' that made the case that decades of trade liberalisation negatively impacted employment and working conditions across Europe and reversed industrial development and employment in the countries of the Global South that adopted the trade liberalisation policy prescriptions of the Washington Consensus. Today, much as after the global financial crisis, politicians continue to proclaim their faith in free trade to pull the economy out of recession and create jobs, and demonise anything deemed to 'distort' trade. The answer, we hear from some to the current crises we face, is to 'globalise' our way out of the crisis through deeper trade liberalisation. This paper sought to assess how developments and trends in international trade have impacted jobs and living conditions since 2009, and look critically at the role that the UK is now playing as an independent actor in international trade governance.

In the last 15 years, international trade has become increasingly dominated by preferential trade agreements, and more 'comprehensive economic' deals, which rewrite rules of national policy making. It has long been the prerogative of developed countries to introduce nontrade issues, such as investment, competition policy, government procurement, intellectual property - into the multilateral negotiation space the last decade has seen an intensification of the use of trade rules to reduce the capacity of states to regulate investment, banking, finance, health, safety and environmental standards, workers' rights and intellectual property, among others that are seen to 'distort' trade.

Where these developments have been rejected by Southern countries, these and other issues of interest to northern countries became increasingly addressed in bilateral and regional trade agreements. Alongside the WTO, groups of countries with shared interests have moved ahead with so-called "plurilateral" discussions. This has happened hand in hand with a process by which the negotiations of other policy areas (such as intellectual property under the WIPO) became subsumed into the sphere of the WTO.

In addition to increasing within-country inequality, we see a growing inequality between countries since 1980, if China is excluded. In developed countries, the vast majority of people experienced a stagnation or fall in living standards. We have seen an increase in the concentration of wealth in the hands of corporations, and since 2009 a huge increase in the influence of data gathering, the use of algorithms and on demand labour platforms in the world of work.

Looking at the countries which applied the policies of the Washington Consensus, it's clear that the ramifications of trade liberalisation - jobs losses in infant industries, in the manufacturing sector across Latin America and Africa - continue to be felt today. Premature deindustrialisation in emerging economies has continued to hamper the ability of those countries to pass through a strong industrialisation process has locked out of possibilities for structural transformation. For many countries, race to the bottom policies have become the only strategy for long-term growth.

The introduction of digital provisions in trade deals reflects the growing power of tech companies over many aspects of our lives, including our work places. Through digital trade, big tech companies, supported by countries like the UK, seek to lock in rules that will make it impossible for countries to regulate their activity. The labour rights impacts of these digital trade provisions are already skewing power in favour of the employer and result in the intensification of work, increased surveillance of workers, and inability to enforce labour standards. The "digital trade" agenda that big tech wants to see enshrined in trade rules compound the inequality and power imbalances generated by earlier

waves of trade liberalisation. Looking back to the premature deindustrialization of the 80s and 90s, there is a danger of repeating those same mistakes now with data, leading to digital colonialism and the exacerbation of increasing global inequality.

The UK has used every opportunity to talk up digital trade as a core part of its independent trade strategy. At a recent G7 meeting of trade ministers, the UK describes the biggest challenges of the WTO as the need to reflect digital and data policy, and decried the threat of forced technology transfer. And has advanced trade deals it sees as creating opportunities for the tech sector, including the UK-Japan deal and plans to join the CPTPP.

As a now independent voice at the WTO the UK, despite voicing supposed commitments to multilateralism, has taken up an active role in Joint Statement Initiative (JSI) on E-Commerce. The UK not only continues to repeat the fallacy that a Digital Trade Agreement at the WTO would benefit developing and least-developed countries, but is funding developing countries to participate in negotiations over an agreement risks depriving the vast majority of people of rights over their data and locking in a pattern of highly unequal relationships between working people and capital.

Developed country trade priorities have moved more firmly to policy areas that will define power relations between working people and capital in the 21<sup>st</sup> century including the regulation of the digital economy. Among the threats created by non-tariff measures, that posed by digital trade poses a concern, not only to jobs in highly digitalised economies, like the UK, but digital provisions in trade deals, risk a new form of premature deindustrialisation of Southern economies. It is far from clear that deeper trade liberalisation, particularly through digital trade and trade in services liberalisation is the answer to the jobs crisis that the world faces, particularly on terms that hand greater power to capital. The labour movement must analyse the new relationships of production of the digital era in order to organise against capital, and agitate against the new free trade threats to jobs presented by the digital trade agenda.



## John Hilary - A Contested Inheritance: The Labour Party, Institutional Internationalism and Free Trade

As we move towards the second quarter of the twenty-first century, the labour movement in Britain faces a new challenge in its political response to the free trade agenda pursued by transnational capital. During the five years of Jeremy Corbyn's leadership, the Labour Party articulated a trade policy that was aligned with British trade unions in its rejection of the new generation of free trade agreements such as the Transatlantic Trade and Investment Partnership (TTIP) and the Comprehensive Economic and Trade Agreement (CETA). Those treaties were widely seen as privileging the interests of capital over the needs of labour, especially in the new powers offered to foreign investors through the notorious investor-state dispute settlement (ISDS) mechanisms. By contrast, the Labour Party leadership elected in April 2020 has signalled that it wishes to develop policies that are 'unashamedly pro-business', in keeping with the opposition of its most senior members to Corbyn's stance on free trade.

The British labour movement has held a range of positions on free trade over the course of its history, and the Labour Party has provided a forum for debate and contestation of those positions. In its earliest days, left theorists rejected the Liberal Party's ideological insistence that free trade would lift working families out of poverty, pointing to the historical evidence from the nineteenth century that it had done precisely the opposite. In the interwar years, as the Conservative government turned to protectionism and the 'imperial preference' afforded to intra-Commonwealth trade, the Labour Party developed its own policy for an internationally negotiated liberalisation of trade as a corollary to planning at the national level. This 'institutional internationalism' found its fullest expression in the Attlee government's successful attempt to establish the General Agreement on Tariffs and Trade (GATT) in 1947, which would remain the arena for international trade negotiations until the birth of the World Trade Organisation (WTO) in 1995.

Despite its support for international negotiations that would lead towards the progressive liberalisation of trade, the post-war Labour Party was adamant that there should be no return to the *laissez-faire* model of free trade advocated by the Liberals. To avoid a devaluation of sterling, Labour Prime Minister Harold Wilson introduced a 15 per cent surcharge to tariffs on all manufactured imports in October 1964, and senior Cabinet ministers called for similar action from the later Wilson administration when the country faced even greater challenges in the wake of the oil crisis of 1973. The various iterations of the Alternative Economic Strategy developed by the left in the early 1980s highlighted the importance of planning and intervention in international trade relations if Britain were to avoid not only continuing balance of payment problems but also the loss of key industrial sectors and the mass unemployment that would inevitably follow.

The advent of New Labour saw a rejection of the labour movement's historical preference for an interventionist trade policy. Tony Blair used his first speech to the WTO in 1998 to declare that under his government Britain would be 'an unashamed champion of free trade', and later appointed fellow New Labour architect Peter Mandelson to the post of European Trade Commissioner, in which role he introduced the aggressively neoliberal Global Europe strategy that has informed EU trade policy to this day. New Labour's enthusiasm for neoliberalism coincided with the expansion of the free trade agenda under the WTO to encompass more than the quantitative restrictions that had characterised earlier rounds of international trade negotiations under the auspices of the GATT. This expansion in turn laid the foundations for the even greater expansion of the agenda seen in twenty-first century free trade agreements such as TTIP and CETA, as well as other bilateral and regional treaties under negotiation around the world.

The European trade union movement fractured in its response to the free trade agenda promoted by New Labour and the EU. While some parts of the European labour movement, notably its public sector trade unions, were active participants in the civil society resistance, the Brussels-based European Trade Union Confederation (ETUC) collaborated with the European Commission in its promotion of the free trade agenda, supported by export-oriented trade unions from the northern European states. The clear threat posed by TTIP and CETA saw a groundswell of concern which forced European trade unions to revise their support for that agenda, so that eventually all but a few (mainly in Scandinavia) came out in opposition to TTIP and CETA. Despite this, the Labour Party declared its unqualified support for TTIP in its manifesto for the 2014 elections to the European Parliament, and continued to back the negotiations until Jeremy Corbyn's victory in the contest for Labour Party leader in September 2015.

The campaign for trade justice has a powerful opportunity to exert direct influence now that responsibility for UK trade policy has returned to Westminster from Brussels. At the same time, there is no indication that the Labour Party will continue to support trade unions in their opposition to the free trade agenda as it did under Jeremy Corbyn. The successful resistance to TTIP revealed how it is still possible to mobilise significant numbers behind a campaign against even the most technical of free trade agreements, once the level of threat to social and environmental standards posed by those agreements is made clear. British trade unions have the capacity and the connections to join forces with other civil society actors and rebuild a positive campaign so that Labour MPs and others in Westminster are under no illusion as to the importance of continuing the fight against free trade.

## **Pablo Sanchez - Free Trade and Trade Unions: a love and hate relation**

The issue of free trade has been central to the labour and trade union movement since its inception. Trade and its impact on the economy and the development of the productive forces has been a cornerstone of the debates about how workers should relate to the rules that the different states imposed while there is economic exchange.

In 1847, a very young Karl Marx inscribed himself on the list of speakers to the first international gathering in favour of free trade; but, as might have been expected, before his turn came on, the Congress was closed<sup>i</sup>.

In Spite of this unsuccessful stunt by Marx before the revolutionary movement of 1848, and his expulsion of Belgium a year later, the issue of protectionism and free trade marked the 40 years that followed the development of the workers movement and therefore, also marked the moments of formation of the first trade unions, the International Workingmen Association as well as the formation of the Socialist (second) International. 100 years later, these debates echo in the meeting rooms of the inheritors of such organisations.

Today' free trade is not just economic agreements to reduce tariffs and customs. This was the case in the international agreements prior to the Second World War. For the countries of the OCDE the level of tariffs and barriers is indeed very low. During the negotiations of the infamous TTIP several impacts assessment showed that the level of tariff was as low as 3% between the US and the EU. Today's economy is extremely open and interconnected. A big chunk of the world population shares the same furniture, cloths, type of food and culture (IKEA, Zara, H&M, McDonalds, Unilever, or Amazon are some labels that come to mind and are implanted virtually across the globe).

When we talk about free trade and free trade agreements, we refer to the series of agreements that include investment chapters and that deal with the common standards that to nations (or trading blocs) decide to 'harmonise'.

The creation of World Trade Organisation in 1995 was a major change in the dynamic of Free trade. As we will see later, the growth of global trade in the period that followed the collapsed of the Soviet Union and the so-called socialist bloc was unprecedented and created a very interlinked economy in what was called 'Globalisation'.

Looking at the real impact of FTA's is something that trade unions need to do without the aprioristic approach that they seem to have and abandoning some of the features of trade unionism of the second part of the XX the century, i.e., the assumption state roles in the daily practice.

Since the creation of the national markets trade has been the way to expand the capacity of placing its own products in someone else's market. The permanent contradiction for labour organisations has been the following: those workers of the country that produces cheaper goods have an interest in favouring free trade, so more goods can be produced and that gives organised labour a position of force.

For those workers of the country that receives cheaper (or better) goods risk their jobs and they tend to accept worse working conditions due to the danger of increasing unemployment. Historically trade unions develop very locally and as the development of capitalism advanced, they realised that they need it coordination, capacity to change and influence the law and national

structures. This process reached its peak towards the end of the XIX century in the western world. At the time, the socialist and labour organisations were immersed in a debate about their attitude towards the rift between the two wings of the ruling elites: the industrialists (protectionists) and the mercantilists (free traders).

Free trade, or *Freihandel*, was a hot-button issue at the German Social Democratic Party (SPD) Congress held in Stuttgart in 1898, most notably because of the policy's numerous advocates. SPD leader Karl Kautsky kicked things off with a resolution denouncing protectionism for counteracting 'international solidarity.' Louise Zietz, a German feminist, and head of the SPD women's movement, seconded Kautsky's call: 'We have to adopt a principled stance, and that is in favour of free trade and against protective tariffs.' August Bebel, SPD chairman and long-time pacifist, followed up on Kautsky and Zietz's free-trade endorsements, and the congress adopted a qualified resolution along these lines. Free trade would receive an even stronger SPD endorsement in 1900 because 'free international exchange is . . . before all, a working-class question'.<sup>ii</sup>

When mass trade unions were created in the late XIX century and beginning of the XX, they hold a similar view given the influence that the SPD and the theoretical founders of the movement (Marx and Engels) had. They view trade as part of the international class struggle not as a harmonious relationship between countries that needed rules.

By 1907, several international trade secretariats existed in some sectors: there was even an international secretariat of national trade union federations for global coordination of national federations (today that would be called an international confederation).<sup>iii</sup> Workers were in a coordinated fashion demanding the same conditions and a clear internationalist view assumed that any advanced would be used to promote similar agreements elsewhere. For most branches of industry, the issue of free trade or protectionism was not at all relevant. In that regard, up until 1914 the view was internationalism and strengthening workers organisations as well as international coordination. It has to be said that the second international was capable of organising international strikes without the help of the phone or internet, something that today's organisations are not able to do.

The First World War, the interwar period and the Second World War changed the approach of most labour and trade union organisations. The impact of the Russian revolution, the rise and collapse of fascism and the 1929 crack had a deep impact in the minds of the leadership of the trade union movement.

The development of the welfare state in the west and the approach of American trade unionism to the interests of the ruling elite made trade unions, particularly those socialist oriented (not the communist oriented or the ever-smaller anarchists ones), strong defenders of the nation state and the post war pact was born. Those trade unions under the influence of the communist movement were even more adamant in the rejection of global trade and what they saw as US led attempt to undermine the 'socialist' camp.

After 1945 monopoly capitalism (in those countries where the system applied)<sup>iv</sup> meant that transnational capital operated on a world scale<sup>v</sup> this also led to advances in technology transferring centrality to ultra-modern branches of activity like atomic power, space research, electronics... and therefore the concentration of technological knowledge passed to transnational corporations that pushed to a further increase in international trade.

So-called “free trade” has been a crucial and early part of the extension of capitalist social relations of production. “Free trade imperialism” shows how more developed capitalist countries can exercise power over less developed ones, largely through “economic relations”. The post-war era was then characterised by the further expansion of trade in manufactured goods through successive rounds of agreements on lowering taxes within the GATT that culminated in the creation of the WTO in the 90s<sup>vi</sup>. Thus, trade unions in the most developed countries mostly perceive their trading relations with other dependent countries as a way to export democracy but not the subjugation of the labour movement to the global value chain as a weakest link.

Trade unions in the western world (free trade unions) significantly moved away from the previous pre-war positions. After the Second World War and the wave of nationalisations, trade union made calls for “joint decision-making with management bodies”<sup>vii</sup>, something unthinkable before the interwar period. They abandoned class struggle as a method of analysis and adopted social dialogue. This went hand in hand with the abandonment of Marxism or revolutionary socialism by most socialist or social democratic parties<sup>viii</sup>

From that point on, trade union organisations started to see the development of national industries as a part of their own interests. The period called by the official trade union historians the ‘Golden Age’ gave a great amount of power but in exchange of a less internationalist position. Instead of direct coordination amongst workers organisations, the trade union efforts to harmonize labour standards would be done through the ILO. Which was a left-over of the old Society of Nations that saw a second life and its impact multiply tenfold with the creation of the United Nations. Communist oriented unions, despite the radical rhetoric, took a similar line.

This process can be seen as what some have called the ‘degeneration of the trade unions in the process of drawing close to and growing together to state power’<sup>ix</sup>. The highest point of which is the co-management of trade unions of state functions (unemployment benefit, pensions) and the transformation of trade union into managers of the current society and not a counter power within the labour market (the Gent system and the Nordic model).

The trade unions thus accepting the logic of capitalism, supported the creation of the GATT and the UN system and endeavour themselves to work within their framework. The GATT was signed by 23 nations in Geneva on October 30th, 1947 and remained in effect until January 1st, 1995, when the World Trade Organization (WTO) was established after agreement by 123 nations in Marrakesh on April 15th, 1994, as part of the Uruguay Round Agreements. The bulk majority of trade unions show themselves not against the system but as a left consciousness of it.

Since the completion of the GATT Uruguay Round in 1993 the global free trade regime was fundamentally changed<sup>x</sup> and trade unions, and their European and global federations, continued the mixed messages regarding the need of defend labour standards and the need for more international trade to produce more jobs. In fact, before 1989 only 24 FTA had been signed globally and a few of them were in the context of ‘European unity’. After 1989 until now over 200 FTA’s have been signed (with a peak during the 2000 to 2009 period with 135 agreements).<sup>xi</sup>

The fact that the TPP, CETA, TTIP, TISA or the Energy Charter (and all current agreements being negotiated within the OCDE countries) have near identical stipulations designed to empower multinational corporations against the legislation of any government within these treaties reveals something of the strategic thinking of the ruling elites of most developed nations.

These modern agreements (FTA) enable private firms a right of litigation against the laws and regulations of the various States [signed up to the free trade treaty], whenever these firms feel that these laws and regulations represent unnecessary [for multinationals regulation is always called red tape] obstacles to trade, access to public markets, investment, and service-providing activities. This litigation will no longer be enacted through national jurisdictions, but through private arbitration structures.

It is time for the trade union movement to recover its internationalist credentials and stop thinking within the narrow frame of its own national state structures and recover the tradition of the early socialist movement, not to promote free trade and the expansion of capitalism, it is difficult to see how the predominant economic system could further develop without causing an even worse social and environmental catastrophe, but to provide with global answers to the current planetary problems.

The experience of the past 150 years needs to be used to construct organisations that do not fall into the trap of protectionism while not defending the interest of the shareholders of big multinationals. That requires rethinking the decision-making mechanisms within trade unions, questioning where power lies within the organisation as well as in depth analysis and an honest balance sheet of the experience of the role trade unions played in the western world after the Second World War.

The love-hate relation and the ambivalence must stop, and trade unions need to take a position not only about the jobs of a particular industry but on the type of society they want to build and that implies undoing the strength of the multinationals and promoting and strengthening the force of workers in the industry, not as part of an advisory body but as the group of workers that take the key decisions for that branch of industry. That demands a major change of perception about the role and tasks of trade unions, but the global FTAs are a great opportunity to start that shift.

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<sup>i</sup> <https://www.marxists.org/archive/marx/works/1888/free-trade/index.htm>

<sup>ii</sup> Marc-William Palen, "Marx and Manchester: The Evolution of the Socialist Internationalist Free-Trade Tradition, c1846-1946," *International History Review* 43 (March 2021): 381-398.

<sup>iii</sup> Keller, F & Höfertl, A. *Fighting for public services: better lives, a better world*. 2007. PSI. Page 9

<sup>iv</sup> Most of Asia and chunks of Europe, Africa, the Middle East and Latin America were outside of the international market for long periods (China, Yugoslavia, Cuba, Syria...).

<sup>v</sup> World scale here refers to the western and capitalist world. After the Second World War a third of the world did not have a capitalist mode of production.

<sup>vi</sup> <http://www.andreasbieler.net/wp-content/workshop/Andreas%20and%20Adam%20-%20Globalizations.pdf>

<sup>vii</sup> Keller, F & Höfertl, A. *Fighting for public services: better lives, a better world*. 2007. PSI. Page 26

<sup>viii</sup> Bad Godesberg congress of the SPD is probably the most iconic of those events but there are also other throughout the second part of the XX century: Suresnes congress of the PSOE, the abandonment of Clause IV of the Labour Party, etc.

<sup>ix</sup> Trotsky, L. *Trade unions in the epoch of imperialist decay*. 1940 (1996). Pathfinder Press. Page 47.

<sup>x</sup> Bieler at al. *Labour and transnational action in times of crisis*. 2015. Rowman & Littlefield. Chapter 3.

<sup>xi</sup> Myant, M. *The impact of trade and investment agreements on decent work and sustainable development*. 2017. ETUI (page 22).

## Stephen Hurt - African labour movements and their response to the African Continental Free Trade Area

The huge growth in bilateral and regional free trade agreements over the past 20-30 years should be understood as a key part of neoliberal restructuring. The consequence has been that it has become harder to defend the rights of workers. As a result, efforts to forge transnational solidarity of labour movements is an important part of attempts to resist this process. Moreover, workers in the Global South face particular challenges as a result of these structural changes to the organisation of global capitalism.

One of the attempts to ameliorate some of the negative impacts on labour of this enhanced free trade agenda has been the inclusion of labour chapters into Free Trade Agreements (FTAs). This, I would argue, has limitations. Research on the EU's use of Trade and Sustainable Development (TSD) chapters in its new generation FTAs provides us with a compelling outline of the limitations of this approach to ensuring labour rights are guaranteed ([Harrison et al. 2018](#)). In the case of the Southern African Development Community (SADC) Economic Partnership Agreement (EPA) negotiations, despite the broader developmental claims made by the EU and the inclusion of TSD chapters, organised labour in Africa has remained critical of the impact on workers ([Hurt 2017](#)). The African Regional Organisation of the International Trade Union Confederation (ITUC-Africa) urged African governments not to sign EPAs with the EU. They argued that the inequitable structure of Africa's trading relationship with Europe will only be perpetuated by these FTAs. Similar arguments were made by individual trade union confederations in Southern Africa in response to the SADC EPA.

It is important, therefore, that we broaden our focus to understand how labour movements are responding to the free trade agenda beyond their engagement in any formal structures built into FTAs. For example, the Congress of South African Trade Unions (COSATU) in South Africa demonstrated a critical response to both the negotiation of a Trade, Development and Cooperation Agreement (TDCA) with the EU in the 1990s and the subsequent EPA negotiations with SADC ([Hurt 2014](#)). The main thrust of COSATU's critique was that EPA negotiations reflected an attempt by the EU to open up the markets of developing countries for the benefit of European capital. In contrast, COSATU's adopted a rather different position with respect to the liberalisation of trade between member states of SADC. They did raise concerns over the potential impacts of the SADC FTA for development across the region. However, national imperatives reflected in the desire to protect certain labour-intensive sectors (such as textiles and clothing) meant that they were far less vocal in their criticism, in comparison to the trade negotiations conducted with the EU.

So, historically, African labour movements have been critical of FTAs with the EU despite the inclusion of labour chapters. An interesting and important avenue for future research, within the context of Africa, will be to look at the response of trade unions and social movements to the recently launched [African Continental Free Trade Area](#) (AfCFTA).

The AfCFTA has been lauded by a number of African leaders as the route to poverty reduction and a transformation of the continent's development prospects. Much of the rhetoric is bound-up in the idea of pan-Africanism. How have key representatives of labour responded to the AfCFTA? Do they take a different stance to the development of free trade within the continent of Africa as they do to FTAs with external trading powers?

Negotiations over the development of an AfCFTA began at an African Union (AU) Summit held in Johannesburg in June 2015. The legal text to establish the AfCFTA was then agreed at a subsequent

AU Summit on 21 March 2018. This includes the main agreement plus three Protocols covering trade in goods, trade in services and dispute settlement mechanisms. Of the 55 member states of the AU only Eritrea has so far failed to sign the AfCFTA. Meanwhile, significant progress has been made on the ratification process, with 36 of these states completing this stage at the time of writing. Due to the impact of the Covid-19 pandemic, implementation of the AfCFTA was delayed by six months and it finally came into force on 1 January 2021.

Like many other FTAs, implementation of the AfCFTA will be a long process. The first stage is focused on the liberalisation of trade in goods, with tariffs due to be reduced over a five year period, with LDCs given additional time to remove their tariffs. Negotiation over the liberalisation of trade in services will come later in the second stage and so far five sectors have been agreed upon (finance, tourism, transport, communication and professional services).

Both the AU's '[Agenda 2063](#)' and the AfCFTA seek to promote industrialisation as a central component of the continent's future development. For example, 'Agenda 2063' includes a call for the structural transformation of African economies 'through industrialization, manufacturing and value addition to create shared growth'. The ultimate aim is to create a single market on the continent of Africa. It is argued that liberalising barriers to trade will help to increase intra-African trade. It has been argued that 'the agreement is premised on the notion that trade liberalisation, through both tariff and non-tariff barrier reduction, will drastically increase intra-continental trade, and that this increased trade will be beneficial for all' ([Cannard 2019](#)).

Earlier this year [The Economist](#) linked the AfCFTA to the vision of Ghana's first President, Kwame Nkrumah, arguing that 'six decades later, his dream came a little closer to reality when the African Continental Free Trade Area (AfCFTA) came into effect at the start of 2021'. Such rhetoric is not uncommon and the idea of the AfCFTA is rooted in a much longer history of Pan-Africanism and struggles for decolonisation. In other words, the framing of the AfCFTA is one built on the idea of an 'African interest'. What this ignores is the fundamental tensions between capital and labour across the continent. The beneficiaries are likely to be the big pan-African companies (banks, airlines, breweries, mobile phone providers, etc.).

Most of the existing research on the AfCFTA is underpinned by what [Selwyn \(2016a\)](#) describes as elite development theories. These dominant theoretical approaches to free trade and development provide arguments in favour of the AfCFTA. Orthodox economists tend to support trade liberalisation because it is claimed to lead to the most efficient allocation of resources. Meanwhile, developmental state theory, views the potential increase in market size as an opportunity for manufacturing growth across the continent. As [Selwyn \(2016b: 1038\)](#) makes clear, taking a labour-centred development (LCD) view allows us to put the concerns of labour, rather than capital, at the heart of our analysis. Selwyn outlines how an LCD approach gives agency to labouring classes by demonstrating how their collective action can lead to immediate gains.

The research agenda proposed here would seek to rectify this lacuna through an analysis of the response of African labour movements to the creation of the AfCFTA. It would explore the response of organised labour at the continental level through ITUC-Africa. It would also examine the views of trade unions in two of the biggest economies in Africa – Nigeria and South Africa – through analysis of the biggest labour federations in each country (COSATU and the Nigeria Labour Congress). Finally, it would evaluate any attempts at building transnational labour solidarity across the continent in response to the AfCFTA.



To this point, the labour movement across Africa has raised concerns about its lack of involvement in the negotiations that resulted in the ratification of the AfCFTA. Beyond this, however, there appears to be no agreed policy position among trade unions across the continent. In May 2020, when reports emerged of plans to postpone implementation of the AfCFTA, [an open letter](#) signed by leading African business people arguing against the delay, was also signed by the General-Secretary of ITUC-Africa.

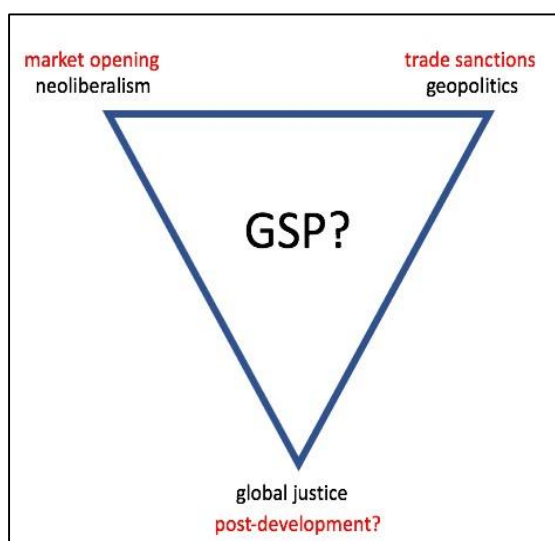
In sum, without more effective transnational solidarity across the continent between organised labour and social movements, there is the potential for the implementation process of the AfCFTA to have a detrimental impact on workers over the coming years.

# Antonio Alcazar III, Jan Orbie & Tinus Sioen - EU social trade conditionality: A post-development critique

## Research objectives

This research is still in the exploratory phase. We aim to critically assess social conditionality in the EU's trade policy. For this purpose, we (1) develop a pragmatic framework drawing from post-development thinking, (2) apply this to debates on the EU's Generalized System of Preferences (GSP), and (3) pay particular attention to the position of leftist members of the European Parliament, civil society actors, and trade union representatives.

## EU and neoliberal trade



The paper can be situated against wider debates on the future direction of EU trade policies post-Covid (Orbie and De Ville 2020). Existing research has illustrated Europe's neoliberal trade policy course since the mid-1990s and even more outspokenly since the mid-2000s when the Global Europe Strategy launched a series of negotiations on free trade agreements (Holden 2017; De Ville and Siles-Brügge 2019). Politicization of the TTIP and CETA agreements entailed a more value-based discourse, although this seems not to have altered the EU's pro-active free trade orientation. Instead, covid-19 may more fundamentally challenge the neoliberal paradigm. The pandemic context has arguably strengthened tendencies towards a more 'realist', 'muscular', or

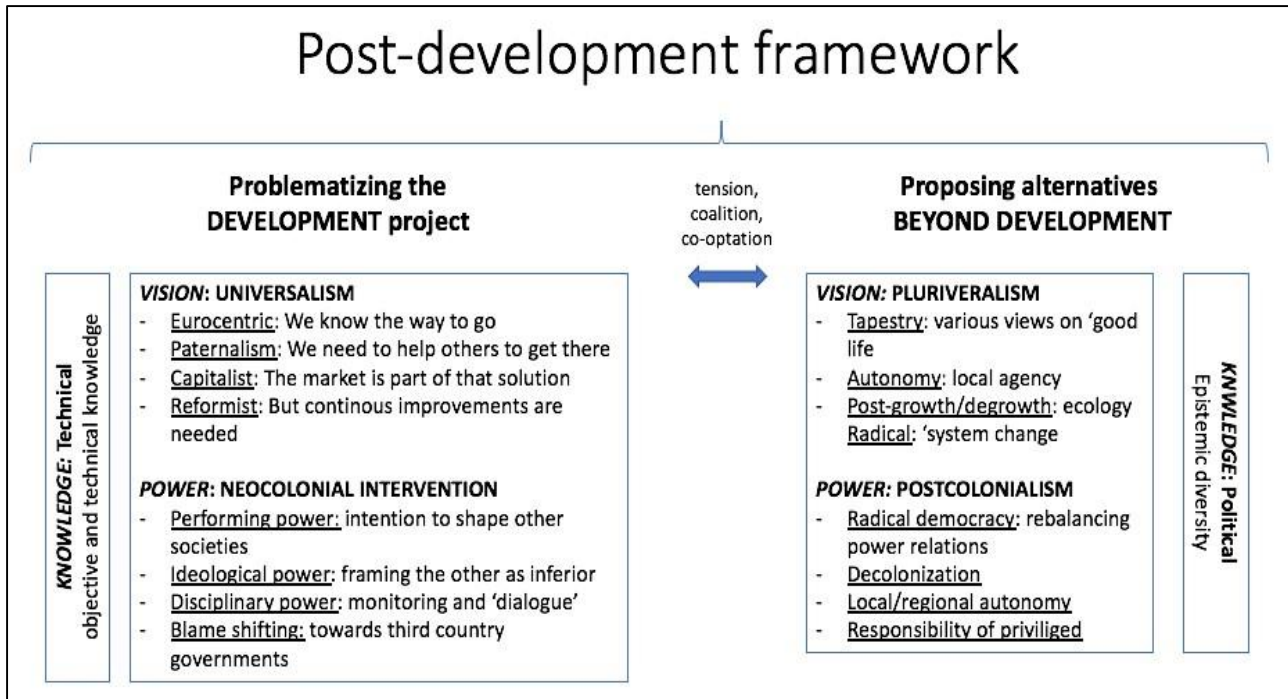
indeed 'geopolitical' trade policy (Meunier and Nicolaidis 2019; De Ville 2019; Orbie 2021). However, the exact meaning of the new buzzword 'strategic autonomy' remains unclear and there are no indications of a radical shift away from free trade and/or in the direction of global and social justice.

## EU and GSP conditionality

Against this background, we examine the conditionality system with the EU's GSP. Despite its relative negligence in literature, the GSP system has been claimed to be the 'flagship' of the EU's trade instruments (European Commission 2012). In this regard, observers emphasize the 'generous' treatment of least developed countries under 'Everything But Arms' (EBA) as well as the 'innovative carrot-and-stick mechanism' that enlarges market access for 'vulnerable' countries complying with a number of international conventions (GSP+) and that withdraws such preferences when these conventions are violated. Most debate has concerned the inclusion of the 8 core labour conventions of the International Labour Organization (ILO), 2 of which concern trade union rights (C 87 and 98).

Should this GSP conditionality be seen as a liberalizing instrument that reinforces the EU's free trade orientation, would it rather be a geopolitical tool that can be used to reward friends and sanction enemies, or does it constitute an important contribution to global justice?

## Post-development framework



We approach this global justice question from the perspective of post-development (e.g. Escobar 1995; Ziai 2007; Matthews 2010; Mignolo 2011; Schöneberg 2016; Kothari et al 2019). We thereby hope to contribute to a small but growing literature that problematizes Eurocentric and neocolonial tendencies in EU foreign policy and research and that seeks how the EU may nevertheless contribute to a more just world order (e.g. Onar and Nicolaïdis 2013; Keukeleire and Lococq 2017; Murray-Evans 2018; Rutazibwa 2010; Langan 2020; Hurt 2003; Joseph 2014; Musliu 2021; Manners 2021; Sjursen 2021).

### Tentative findings

Tentative findings confirm that EU policymakers (strongly) support the universalistic development project through the GSP. The EU's GSP is seen as being the 'most generous' and 'unique' in the world. There is also an unquestioned assumption that EU market opening is the 'path' to follow as it will foster exports, growth, and therefore also wellbeing in 'beneficiary' countries. However, 'beneficiaries' who 'enjoy' tariff preferences (or 'privileges') should also be supported with aid. The EU never fails to stress the (effective or potential) European power of the GSP, which is typically framed as 'tool' to 'influence' or 'leverage' reforms in third countries. 'Developing' countries are divided into sub-categories by use of economic criteria. 'People' or 'workers' in developing countries are presented as passive recipients and victims of their governments. Increasingly sophisticated monitoring procedures contribute to the EU's disciplinary power. Instead of engaging in fundamental questions on global social justice, the GSP conditionality debate is confined to quite narrow shifts on the 'with or without sanctions' continuum and aimed at finding a 'middle ground' between 'soft dialogue' and 'hard sanctions'. Against the spirit of post-development, there are no considerations about alternatives to the growth-driven development trajectory and about rebalancing historically grown power asymmetries.

## Leftist politicians, civil society and trade unions

This discourse is largely also adopted by left-winged MEPs, NGOs and trade unions. While these actors put less emphasis on the need for export-led growth, they remain faithful to the assumption of export-led growth for development. Moreover, they strongly advocate for more intensive and sophisticated monitoring procedures. The only possible exception is the issue of 'due diligence', which is regularly stressed by these progressive actors. This goes more in the direction of post-development perspective as it lays the emphasis on 'western' responsibilities (specifically, companies based in the EU). Within the EP, the only leftist critique that resonates with post-development thinking came from Miguel Urbán Crespo (Podemos, Spain), who "(c)ondemns the economic, social and political interference by the EU in third countries through GSP arrangements" and "points out that these policies have led to landgrabbing and the pillaging of natural resources, and are responsible for the economic, social, political and humanitarian crisis" – although he also demands more monitoring (Crespo 2018). Trade unions have in some documents pointed to human rights abuses in the garment sector *within* the EU (Clean Clothes Campaign 2015), but usually trade unions (sometimes under the flag of the wider GSP Reform Platform) focus advocacy on refining conditionality and monitoring. It therefore seems that, instead of reflecting on alternatives to the trade-social-growth logic, leftist actors further legitimize it.

*Research is in progress. Future research will also concern views from so-called 'beneficiary' countries including labour representatives. Feedback welcome ([Jan.Orbie@UGent.be](mailto:Jan.Orbie@UGent.be)).*

## **Ben Richardson - The EU Trade-Labour Linkage: Present Limits, Future Possibilities**

When the ILO celebrated its centenary in 2019, its Director-General Guy Ryder visited the ILO's first headquarters, now occupied by the WTO, to launch an exhibition featuring some of the building's original artwork. The symbolism was not lost on him. It was for Ryder, 'a reminder that the world of labour and the world of commerce are intimately linked'. The fact that he needed to restate the point was in part due to the failed attempt to bring a social clause into the WTO negotiating agenda in the late 1990s. The political fallout from that was to put a barricade between labour and commerce in multilateral trade regulation that has persisted to this day. Yet precisely because these two worlds cannot be disentangled, this was always likely to be a temporary separation. Ways of governing labour through international trade policy proliferated during the 2000-2010s, most notably through bilateral FTAs.

This evolution of the trade-labour linkage was led by the EU, which by 2019 had signed the largest number of FTAs with labour standards provisions. These were typically contained within a Trade and Sustainable Development (TSD) chapter that covered substantive commitments to the fundamental ILO Conventions, procedural commitments like upholding existing levels of labour protection, and institutional mechanisms to aid dialogue and monitoring – though unlike other chapters in the FTAs, there would be no recourse to economic sanctions in the event of non-compliance. It was against this backdrop that myself and colleagues embarked on an ESRC-funded project entitled '[Working Beyond the Border](#)' which asked how this new kind of linkage was affecting workers in trade partner countries.

We took a multi-level approach to this question, looking for changes in both national-level labour policy and industry-level employment practices. Our chosen case studies were: the 2008 CARIFORUM FTA and the Guyanese sugar industry; the 2011 South Korea FTA and the automobile industry; and the 2014 Moldova FTA and the clothing industry. Of particular importance methodologically was our use of interviews to trace the operationalisation of the labour provisions and to better understand the experience of different groups of workers on the ground.

We found that during negotiations, DG Trade sought only to obtain agreement to include labour provisions in the legal text rather than engage in any substantive discussions around the labour rights agenda and its subsequent implementation. For their part, state representatives in CARIFORUM, Korea and Moldova made clear that labour provisions were proposed and driven through by EU negotiators, though Korean negotiators obtained concessions in the form of fewer references to international standards and the removal of any immediate obligation to ratify all fundamental ILO Conventions.

At the same time, there was little evidence that organised labour had been able to use the negotiations to advance their interests. While some interviewees stressed that trade unions were opposed to the FTA as a whole or did not see it as a political priority, others argued that trade negotiators and government officials did not consult with them on the substance of the agreement. This appeared to us as a missed opportunity on the part of the EU to use the political leverage afforded by FTA negotiations. Indeed, the proactive role taken by the European Parliament during negotiations with Vietnam – signed after our research had finished – has been argued by some to have acted as an external catalyst for policy reform, leading to ratification by the Vietnamese government of ILO Conventions 98 on collective bargaining and 105 on the abolition forced labour.

During the implementation period, we found that labour standards were not treated as a priority by civil servants, who were focused instead on implementing the FTAs commercial provisions. They did not see labour standards as an important issue and were not intending to monitor and pursue those provisions domestically simply as a result of commitments made in a trade agreement. In CARIFORUM and Moldova, the subsequent processes of governmental and civil society dialogues with the EU that the labour provisions called for did little to change this picture. The situation in Korea was very different. Not only did European and Korean trade unions on the Domestic Advisory Groups push for action on Korea's ratification of the fundamental ILO Conventions, but they also identified widespread violations of labour rights taking place in the country, particularly around freedom of association, activating a set of obligations in the FTA that might otherwise have lay dormant. For years DG Trade resisted pressure for action on these issues and insisted on continuing with processes of inter-state dialogue. But spurred to action by increasing domestic criticism of its TSD chapters, the Commission did finally request a Panel of Experts. The Panel's recommendations, which emerged after our research had concluded, were that the Korean government should reform its labour law to comply with the principle of freedom of association and ought to make further effort to ratify the outstanding fundamental ILO Conventions. Whilst these recommendations were non-binding, the process of initiating dispute resolution might again be seen as an external catalyst, which, combined with a new government willing to tackle the power of big business, aided the longstanding campaign of Korean trade unions to promote collective labour rights. The ratification of three of the four outstanding Conventions [was approved in February 2021](#).

Given these findings at the national level, it was unsurprising that we did not find any positive 'trickle down' impacts into the workplaces of the export industries we examined during our period of study. Moreover, the major workplace concerns that did exist were mismatched with the fundamental ILO Conventions which lie at the heart of the EU approach. Mass redundancies and loss of supply contracts in Guyana, the use of irregular workers (including disproportionate numbers of female and migrant workers) in Korea, and poverty wages and the restructuring of labour inspection in Moldova were all high-profile issues inadequately captured by the FTA text and subsequent implementation dynamics. Interestingly, in the labour reforms undertaken in both Vietnam and Korea, progression in terms of ratifying ILO Conventions appears to have gone hand-in-hand with *regression* on issues like ease of termination and rights in non-standard employment – a possible trade-off that requires further study.

Our industry-level analysis also revealed how the commercial aspects of the FTA also affect workers, and to some extent undermined the purpose of its labour provisions. In Korea and Moldova for instance, trade liberalisation was used by domestic political coalitions to strengthen their case for *labour market* liberalisation and worsening levels of employment protection. One of our broader contributions, then, was to argue that labour standards provisions in FTAs should be analysed in the context of the wider agreement. Doing this not only exposes some of the countervailing tendencies on employment prospects and labour rights, but also shows how FTAs enable global value chains to extend and intensify, exacerbating some of the exploitative practices that are deemed necessary to regulate in the first place. The dual function of FTAs to both enable *and* legitimate capital accumulation creates a fundamental tension that has to be grappled with in an analysis of the trade-labour linkage.

A second contribution was to challenge the assumption that labour provisions target workers' rights in general, however these might be measured and regardless of whether those jobs are connected to tradable goods and services. Our approach showed that the groups and individuals central to the operationalisation of labour provisions had very different understandings of what they were meant

to achieve and who their intended beneficiaries were, reflecting the hierarchies and histories that characterised each context. A final contribution was methodological, advancing process tracing as an important tool in attributing any positive impacts on workers' rights to labour standards provisions. The recurrent presence of implementation gaps in trade policy and the complex bargaining dynamics affecting industrial relations within the state and the workplace suggest that textual commitments adopted in an FTA are unlikely to have a uni-linear causal effect.

Our findings on the limits of the EU's approach in its bilateral trade policy reinforce the need to carefully scrutinise FTAs from the perspective of labour and not to be content with the existence of a labour chapter to safeguard their interests. Nevertheless, we do not reject the use of a trade-labour linkage out of hand. When trade agreements are going to be signed, the inclusion of labour provisions can provide a foothold for future action. Moreover, trade-labour linkages have historically taken many forms and could be renewed again along more radical lines. Such renewal would involve: recognising the universality of labour struggles to subject states in the Global North to labour governance; crafting bespoke labour provisions for each national context so that they articulate with domestic coalitions pushing for reform; and placing stricter obligations on the businesses governing global value chains. An ambitious agenda for sure, but one that is necessary if politicians are to make good on their claims that 'trade can work for all'.

Abridged from the final chapter of: Smith, A., Harrison, J., Campling, L., Richardson, B. and Barbu, M. (2021) [\*Free Trade Agreements and Global Labour Governance: The European Union's Trade-Labour Linkage in a Value Chain World\*](#). Abingdon: Routledge.

## **Christoph Scherrer - Alternative Global Economic Governance: A Workers-Centered Perspective**

The current global economic order is clearly in favour of capital. The rules of finance, investment and trade clash with labour rights and standards as formulated by the International Labour Organization as part of the United Nations. A labour-centric perspective must therefore call for the incorporation of ILO conventions into the global economic regime. Given the current health and climate crises, a worker-centered agenda must also include measures to protect workers from pandemics and further climate change. Many good proposals for a worker-centered agenda for the global economic regime have already been formulated. They include calls for more industrial policy space, social clauses, abandoning TRIPS, terminating international investment agreements and investor-state dispute settlement, closing tax havens, etc. (Herr & Scherrer 2020).

Less clear, however, is how labour can be mobilized for such an agenda. Changes in the rules governing international economic activity are accompanied by distributional effects that pose a challenge to overarching labour solidarity. In the division of labour, working-class people occupy different positions. In the main, workers with higher skills are less negatively affected by the current economic regime. Workers in export sectors are in a different position than workers in sectors threatened by international competition or workers in sectors less exposed to international competition, such as personal or government services. The better incomes and higher wages needed for small farmers and agricultural workers, could raise the cost of living for workers in urban areas. Workers in rich countries face corporations that exploit low-wage areas; and the economic opportunities of workers in poor countries are limited by the monopoly power of rich-country corporations, based in no small part on the protection of intellectual property rights. While strategies to strengthen the domestic market rather than exports are desirable in populous countries, more sparsely populated countries must rely on exports as a higher share of GDP.

Labour rights clauses in trade agreements are a prime example of the solidarity challenge. They are being challenged by some unions in the Global South because they fear they will reduce their countries' export opportunities. Since it was not possible to include them in the multilateral rules of the World Trade Organization, they find their way into bilateral agreements. On the one hand, this anchoring of labour rights in the trade regime is welcome, but on the other hand, the use of bilateral agreements is ethically problematic because the balance of power between countries entering into bilateral trade agreements is asymmetrical, local unions are rarely consulted (the new U.S.-Mexico-Canada agreement may be an exception), and, most importantly, the rest of the bilateral agreement reinforces corporate power.

Given these diverse constellations of interests in the global working population, a worker-centered agenda for global economic governance requires finding common ground. Two examples, one from agriculture and the other from manufacturing, illustrate what such common ground might look like.

What rules should apply to international agriculture? City dwellers usually prefer cheap food and a wide choice. But small farmers usually do not benefit from more export opportunities by being part of global agricultural supply chains. The main beneficiary is industrial agriculture. A common ground could be to support smallholder prosperity and sustainable agriculture, which would also relieve urban markets for low-skilled labour.

In manufacturing, a key divide is intellectual property rights (IPR) protection. Skilled workers, especially in the global North, benefit from this type of protection (although the companies that



own these IPRs are free to shift production). However, as consumers, workers in all countries are harmed by IPR protection, especially for pharmaceuticals. Therefore, common ground could be to grant exemptions for medical IPRs in times of pandemics, especially since most research is funded by the public. The term of IPRs should be shortened and incentives should be provided for licenses at low cost. Of course, this might require some sacrifice by skilled workers in IPR-protected sectors, unless other types of compensation can be envisaged.

Tariff preference programs could be used to improve the working and living conditions of workers in world market factories. The current EU 'Everything but Arms' (EBA) and the Generalized System of Preferences Plus (GSP+) programs are largely granted to the least developed countries. This increases the pressure on other countries, particularly the clothing producing countries, which do not benefit from the same trade preferences. Despite higher productivity, they can only raise their standards and wages at the risk of losing market share because the EU subsidizes imports from the low-wage countries.

Therefore, these EBA or GSP+ preferences should be made conditional on the commitment to devoting a certain percentage of export earnings to the environmental protection and to ensuring annual real wage growth of, for example, 5% in the clothing sector. If the target figures are not met, the trade preference could be reduced by some percentage points in the following year. Wage increases can be ensured by raising the minimum wage or by a legally extended sectoral collective agreement. At the same time, importers could be obliged not to increase their purchases in EBA or GSP+ countries that do not guarantee a predetermined annual real wage growth.

The above ideas about common ground between different groups of workers are just that, ideas. To find areas of common concern, open discussions about the different interests are needed. Concepts for worker-centered global economic governance must be based on deliberation among the workers involved.

See: Herr, Hansjörg and Christoph Scherrer (eds.) 2020, *Trade and industrial policy: implications for development and international labour standards*, IndustriALL Global Union, Geneva.

## **Andrew Waterman and Ben Norman - Moving beyond the social clause: Opportunities for a collective bargaining approach to trade in the post-pandemic global economy**

The call for minimum labour standards in relation to world trade has been a mainstay of European labour's approach to trade since the beginning of the twentieth century. Over time these standards have gradually become more embedded in international organisations. For example, rules and norms concerning social and labour standards are now a feature of the EU's 'values-based trade agenda', implemented primarily through the Trade and Sustainable Development chapters of its trade agreements (Harrison et al., 2019). However, lack of enforceability remains the key sticking point.

Similarly, rising trade politicisation since the 1990s has also increased the quantity of civil society advisory forums, social dialogue mechanisms and expert committees for trade unions to attempt to influence the world trade. Crucially, however, none of these fora offer a direct avenue of influence for trade unions who are often relegated to the status of 'stakeholders' alongside civil society organisations.

During this same period, the power of labour has declined enormously. In Europe, union membership and density have in some cases declined by 50% (Vandaele, 2019) and the industrial-political link between many unions and left-wing or social democratic parties have also been weakened or severed completely (Upchurch, Taylor and Mathers, 2009). Structurally, neoliberalism, globalisation and an aggressive free trade agenda centred on competitive market liberalisation and a shift towards non-tariff, regulatory, 'behind the border' issues have attacked the power of organised labour in a general sense through increased fragmentation of production, atomisation of labour, deregulation, and declining national policy space (Bieler and Morton, 2014).

These factors have impacted the agency of European trade unions in terms of their power resources and capacity to influence trade issues. The lobbying of elite actors remains European unions' primary strategic approach while enforceable labour standards remain their central demand. However, neither the strategy nor the policy have been able to significantly challenge the negative impact of neoliberal free trade policies. Indeed, neoliberal hegemony has made it far harder for a genuine 'social dimension' to be achieved. Further, the existing strategic approaches taken by European trade unions provide no way of mobilising the structural power of labour and little opportunity to develop genuine transnational solidarity, two of labour's most potent resources.

These points raise a number of key questions: in the context of declining power and capacity to influence: How can unions best utilise their resources to effectively challenge the impact of free trade policies? Is trade a political issue that can be solved by policy alone? To what extent is trade an industrial issue that unions can take greater ownership of? What leverage can be built to challenge for a labour-centred approach to trade? How can unions develop strategies that mobilise the power of labour?

### **A collective bargaining approach to trade**

In a recent research [report](#) for Unite the Union, we outline the potential for a collective bargaining approach to trade, an approach which emphasises the 'act' of trade rather than the 'rules' of trade.

The rules of trade, as implied above, are dominated by the interests of capital and as such provide minimal avenues for union influence. The act of trade is a very different matter. Workers are not only the most impacted by trade, but they are employed to design, produce or grow the goods being traded. Many more distribute, pack, deliver and unload them. Others provide and use the public services new trade deals seeks to regulate. Trade is simply not possible without workers.

It is for these reasons that workers still retain huge potential structural and disruptive power in strategic 'choke points' in the global supply chains that are vital to world trade. As labour scholar Kim Moody (2017) points out, "the supply chain is in fact one long assembly line. These chains can be broken. Along with their interconnectivity, their very time bound tension makes them extremely vulnerable to worker action". Even in the last year events such as Brexit, Covid and the blocking of the Suez Canal have exposed the vulnerability of global supply chains to disruption.

Based on and contributing to a growing body of academic and labour movement research identifying supply chain organising as a method of building worker power and union leverage (Alimahomed-Wilson and Ness, 2018; Moody, 2017; Fox-Hoddes, 2020; Fichter, 2015), our report argues that trade unions can seek to turn the weaknesses of global supply chains into an opportunity. On this basis, our report proposes that trade unions can adopt a strategy of identifying industries exposed to disruption from trade, proactively establishing links between workers within the process of production and supply before identifying choke points in the chain to amplify their collective strength.

The research outlines the notion of supply chain solidarity as the basis for a collective bargaining to trade. Such an approach can be used to identify trade-related industrial threats via collective bargaining, build positions of strength for the benefit of all workers across and within supply chains, and ultimately help develop the most vital component of any credible labour-centred approach to trade: international solidarity.

To establish the potential for a collective bargaining approach to trade the research went through three stages. Stage one, in collaboration with Unite's International Department, developed labour-centred policy proposals that could be supported by a collective bargaining strategy. Stage two, in collaboration with Unite's Research Department, identified 30 Unite-organised workplaces that were exposed to disruption from the UK's post-Brexit trade agenda.

Finally, stage three of the research consisted of semi-structured interviews with Unite shop stewards from the 30 identified workplaces. These interviews were used to precisely establish the threat of trade disruption, map out the nature of the workplace and its position within the company and/or supply chain, and identify the strength of the union, connections between workplaces within the company and/or chain and the potential for industrial leverage to be built, particularly where workplaces represented a choke point in a supply chain. 97% of the shop stewards interviewed saw the potential of the strategy to be applied to trade or any other issue where workers are likely to face threats and disruption.

Taken together, supply chain solidarity and a collective bargaining approach to trade seeks to elevate the role of rank-and-file union members and shop stewards to active participants and leaders in their own efforts to increase power in the workplace, but also, by extension, the global economy. By placing workers at the centre of a strategy to resist the negative industrial impact of free trade, it emphasises organising, collective bargaining, and international solidarity over advocacy. Such a strategy would be a key step forward in rooting union influence over world trade

in the workplace—where workers can use their power—instead of the elite-level negotiations that fundamentally affect workers’ lives and yet offer minimal avenues for union input.

The ideas presented in the Unite report propose a starting point for piecing together what has been broken. It is a strategy based on an understanding that workers do not work in isolation, but within the networks of supply, service, production, and delivery. In this respect, trade union approaches to trade should be grounded in an understanding of how trade re-shapes work and power within the workplace as a means to close the gap between trade as an abstract issue and its real-world industrial impact on workers.

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## **Diego Azzi - Historical patterns and present shifts? Trade union action and the EU-Mercosur free trade agreement**

This paper builds on the historical background of trade union action with regard to the EU-Mercosur trade liberalization agreement, identifying patterns in trans-regional labour ties forged over more than two decades since the late 1990s. The analysis uses the trade union power resource analysis framework, focusing on how different power resources interrelate in three different levels of trade union activity: *intra-union*; *extra-union* and *union-plus* levels.

### **A historical pattern of focus on institutional power of unions**

Since its origins in 1995, the EU's narrative asserted that an Association Agreement (AA) would be different from a simple Free Trade Agreement (FTA). In the EU-Mercosur case, the existence of three pillars – Trade; Cooperation and Political – instead of a sole one on trade, would guarantee that it was not to be taken as equal to the competing US FTAA proposal. That narrative was welcomed at the intra-union level among CCSCS and ETUC during the first ten years of negotiations (1995-2005). They praised the proposal as an opportunity to deepen the historical ties between the two regions and to promote quality jobs and sustainable development. Unions did not oppose the Agreement in itself, but rather approved proposals for the inclusion of a specific socio-labour chapter for the protection of labour rights, the establishment of an EU-Mercosur Trade Union Forum (similar to the already existing Business Forum), the safeguarding of collective negotiations, namely through the creation of bi-regional Business Councils.

The bottom line of labour agency during the 1995-2005 period shows a historical pattern of engagement towards social dialogue and cooperation with the extra-union level represented by the Association Agreement negotiations, with hopes of institutionalised recognition of trade unions as productive social partners. Although during this same period, the campaign against the US-led FTAA generated a strong push towards building alliances in the union-plus level, which did not happen with regards to the EU-Mercosur FTA.

### **2016-2019: growing criticism towards the extra-union level**

After negotiations resumed in 2016, a turn in trade unions' approach to the negotiating process can be identified through several joint statements that were issued by ETUC and CCSCS. Unions denounced that from the beginning of this second phase of talks they have attempted without success to participate in the official extra-union negotiating process. Not only the labour movements were not taken into consideration as productive social partners (in contrast with access provided to business representatives), but also unions and other union-plus organisations and social movements were not given access to the draft offers that were being put on the table by both sides, in an overall lack of transparency, democracy and social dialogue from the extra-union level. Not surprisingly tough, particularly within Mercosur this behaviour coincides with, growing anti-union practices and the continuous removal of labour rights at the national level, which have badly hurt unions' structural, associational and institutional power.

### **Present shifts: emphasis towards the intra-union and union-plus levels**

Since 2020, shortly after the negotiations were concluded, contradictions have risen especially concerning environmental practices and human rights violations in Mercosur countries, particularly under Jair Bolsonaro's administration in Brazil. Both at the extra-union and union-plus levels, green

forces in Europe as well as in Mercosur have put pressure at national governments so to block ratification by Parliaments. Unions start to highlight references to human rights and the environmental dimension in their joint statements as a crucial issue to be taken by workers as they oppose its ratification and build social alliances in the union-plus level, particularly with environmental organizations in both regions.

As ETUC and CCSCS coordination has been faced with no possibility to establish an institutional social dialogue within the Agreement structure and, therefore, ETUC and CCSCS have decided to establish their own Labour Forum at the intra-union level, both to resist ratification as well as to monitor and assess the impacts on labour, environment and human rights.

Present shifts can be identified in ETUC-CCSCS statements that have begun to openly affirm a complete rejection of the agreement *as it has been approved*. Nevertheless, unions do call for a reopening of negotiations, which puts in doubt the strength of convictions in their more contentious recent approach.

The bottom line of labour agency during this period is that there are present shifts from institutional power to societal power. Emphasis is being put in more confrontative action by trade unions towards the extra-union level, with a renewed focus at the intra-union level and at alliance building with actors at the union-plus level, particularly with environmental organisations.

## **Jörg Nowak - Notes on the premature death of the EU-China Comprehensive Agreement on Investment**

The EU-China Comprehensive Agreement on Investment (CAI) has been presented on 30 December 2020, by President of the EU Commission Ursula von der Leyen, German Chancellor Angela Merkel, French President Emmanuel Macron, and Chinese President Xi Jinping, one day ahead of a deadline that the partners for the agreement had set themselves. The rupture in transatlantic relations during the Trump administration had led parts of the European elites to aim for an independent relationship between the EU and China, without prior coordination with the US administration. However, the incoming Biden administration quickly made clear that it was unhappy about the progress made regarding the agreement. There were also negative comments from German Green party MEP Bütikofer who called the CAI a strategic mistake and vowed to derail it. German trade union federation DGB issued a comment, too, on the same day of 30 December 2020, not taking a principled position on the agreement, but complaining that the Chinese government did not yet ratify four of the eight core ILO labour standards.

German capital was widely seen as the main agent behind the progress made to get the CAI formalised, since it is by way the largest exporter of goods among capitalists in the EU if grouped by national origin with about 100 billion Euro per year, French capital coming second with only 20 billion Euro. 25 % of all EU investment in China stems from the automobile industry.

In economic terms, the CAI did only come with piecemeal changes, thus the significance of the agreement was rather as a political signal, and the promise of possible further market opening. The CAI includes improved market access for EU investors in automotive, private healthcare, and cloud computing in China, the removal of caps on foreign equity and openings in the area of insurance and asset management, as the US government has secured for US capital in the Phase 1 trade deal with China that the Trump administration negotiated in February 2020, and which the Biden administration aims to maintain. The CAI included also rules against forced technology transfer, and openings for Chinese capital in manufacturing and renewable energy investment in the EU.

On 5 May 2021, the ratification process was declared as being “on ice” unilaterally by the European Commission which has been widely interpreted as the end of the CAI. What has happened? The labour clauses by the EU had been seen as the crucial hurdle to be taken for this agreement, although these clauses are usually nothing more than window dressing. Plus, since the Biden administration effectively took power of the US government, European elites largely realigned with US foreign policy. This realignment was visible in a statement of the European Trade Union Confederation (ETUC), dated 9 February 2021. In the first paragraph, the statement, does not only underline the precarious situation of labour rights in China, but also that the ETUC regards “reaching this agreement a political mistake”, emphasising the need for “coherence with the relaunch of the EU-US transatlantic agenda with the new US administration”. The bulk of the statement underlines the importance of supporting EU industry, and lamenting the situation of labour rights in China, among others the ban on independent trade unions, forced labour, and repression of trade unionists and social movement activists. Interestingly, one of the various demands includes a “ban on the importation into Europe of all goods produced by forced labour”.

The CAI got into trouble after the concerted action of the US, Canadian, EU and UK governments against four Chinese officials in charge of the administration of Xinjiang province, where the Uyghur population suffers from oppression by the Chinese state. On 18 March 2021, said governments announced a freeze of assets and travel bans against the four Chinese officials, followed by

retaliation from the Chinese government against five MEPs and two European academics via travel bans. This has been seen as a major rupture between the EU and the Chinese government, and is without precedents. One can assume that the move by the four Western governments was deliberately designed to create an incident that would derail the agreement.

It was significant that the ETUC published a motion on the same day that the CAI was laid on ice that intervenes in EU debates on a regulation on distortive foreign subsidies. The statement from 4 May, 2021 proposes: “forced or child labour and not respecting basic rights like the right of workers to organise constitutes an unfair competitive advantage (...) and should be considered a subsidy from a non-EU Government that does not prevent it.”