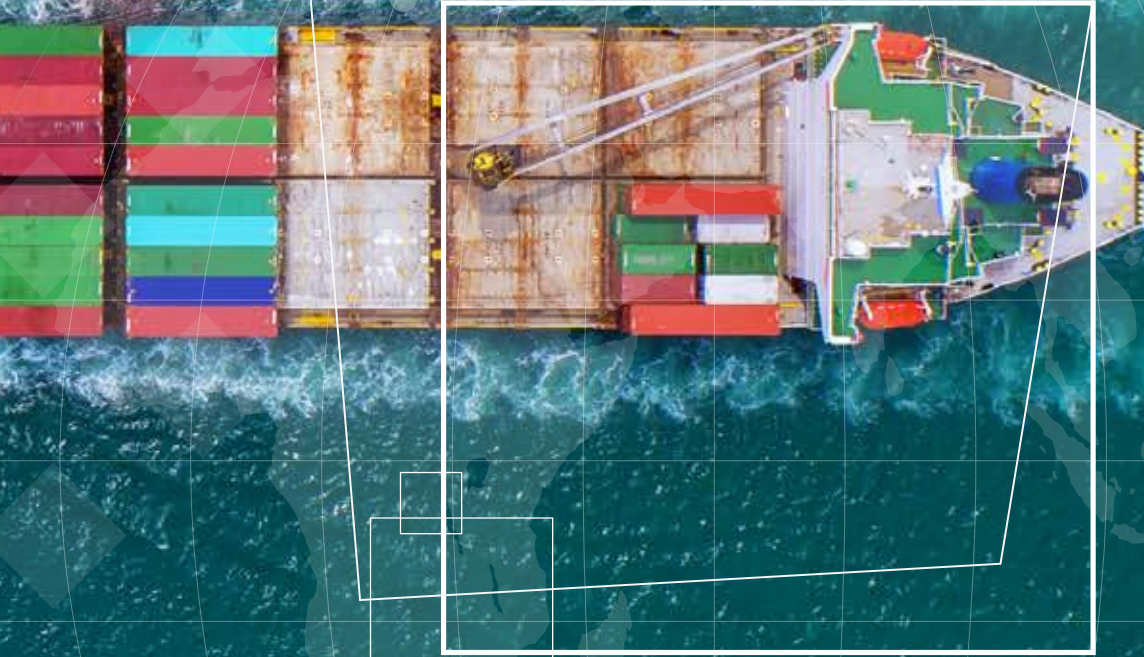




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# HANDBOOK

ON ASSESSMENT OF LABOUR PROVISIONS  
IN TRADE AND INVESTMENT ARRANGEMENTS

STUDIES ON GROWTH WITH EQUITY

**HANDBOOK ON ASSESSMENT OF LABOUR PROVISIONS  
IN TRADE AND INVESTMENT ARRANGEMENTS**

INTERNATIONAL LABOUR ORGANIZATION

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First published 2017

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*Handbook on assessment of labour provisions in trade and investment arrangements*  
International Labour Office – Geneva: ILO, 2017

ISBN 978-92-2-130342-8 (print)  
ISBN 978-92-2-130343-5 (web pdf)

*ILO Cataloguing in Publication Data*

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This publication was produced by the Document and Publications Production,  
Printing and Distribution Branch (PRODOC) of the ILO.

*Graphic and typographic design, layout and composition,  
printing, electronic publishing and distribution.*

PRODOC endeavours to use paper sourced from forests managed  
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Code: CMD-WEI-ICA

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## FOREWORD

The *Handbook on Assessment of Labour Provisions in Trade and Investment Arrangements* is funded by the European Commission and the Flemish Government. Its main purpose is to provide in an accessible and practical manner an overview of the design, implementation and impact of labour provisions, as well as addressing specific issues related to trade and labour. It is intended for government representatives and social partners, as well as the broader public interested in trade and labour matters.

This publication is part of a larger International Labour Organization (ILO) project that assesses labour provisions and has been accompanied by field research, interviews and regional seminars with academics, governments and social partners. It builds on previous research on the effectiveness of labour provisions, namely: *Assessment of Labour Provisions in Trade and Investment Arrangements* (2016) and *Social Dimensions of Free Trade Agreements* (2013).

The authors and contributors to the 15 chapters are Susan Ariel Aaronson, Jonas Aissi, Mirela Barbu, Liam Campling, Marva Corley-Coulibaly, Elizabeth Echeverria Manrique, James Harrison, Takaaki Kizu, Pablo Lazo Grandi, Ngoc-Han Tran, Myriam Oehri, Rafael Peels, Tilottama Puri, Ben Richardson, Daniel Samaan, Anselm Schneider, Pelin Sekerler Richiardi, Adrian Smith, Lore Van den Putte and Christian Viegelaehn. Research assistance was provided by Salonie Hiriya and Ngoc-Han Tran. The Handbook has been coordinated by Marva Corley-Coulibaly, under the supervision of Moazam Mahmood, Director A.I. of the Research Department.

The Handbook has benefitted from substantive comments and discussion with ILO colleagues Raphael Crowe, Karen Curtis, Ariana Rossi, and Anne Ziebarth.

Special thanks to Rudi Delarue, Silvia Formentini and staff of the European Commission, in particular the Directorate General for Trade and the Directorate General for Employment, Social Affairs and Inclusion for their substantial comments and suggestions.

Finally, thanks to the participants in the seminars held in Brussels, the European Economic and Social Committee and our colleagues at the ILO Office for the European Union and the Benelux countries for their support and assistance during the preparation of the seminars.

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## EXECUTIVE SUMMARY

### *Labour provisions play an active role in trade agreements*

Research has shown that trade liberalization can serve as a catalyst for economic growth and increased employment opportunities in both developing and advanced economies. At the same time, some economies have been increasingly marked by inequality and informality, which have led to the heightened public scrutiny of trade liberalization, and in particular trade agreements. There have been calls for policy-makers to do more, including in the context of trade agreements, to protect and promote labour standards and institutionalize the involvement of stakeholders.

It is in this context that labour provisions in trade agreements have come to take on an increasing role. Trade-related labour provisions are defined as: references to any standard that addresses labour relations or working terms or conditions; mechanisms for monitoring or promoting compliance with labour standards, such as consultative groups; and/or a framework for cooperation, such as the sharing of best practices, seminars and forums.

These provisions have become more commonplace in trade agreements and increasingly comprehensive in their scope. This characterization is not limited to trade agreements between advanced and developing economies, but applies equally to trade agreements between developing and emerging economies. One-quarter of the trade agreements with labour provisions are between developing economy partners. Moreover, the large majority of current labour provisions reference internationally recognized core labour standards (such as those referred to in the 1998 Declaration on Fundamental Principles and Rights at Work), in addition to monitoring, cooperative and dialogue mechanisms.

The ILO has been involved in providing advice and technical expertise relating to the design and implementation of labour provisions, upon request of its Members. This is in accordance with its constitutional mandate, the 1944 Declaration of Philadelphia, which lays out the aims and principles of the Organization, and affirms the responsibility of the ILO to review all national and international economic and financial policies and measures in the light of the fundamental objective of social justice.

This mandate is reiterated in the 2008 Declaration on Social Justice for a Fair Globalization, which also states that, upon request, the ILO can provide assistance to its Members that aim to enhance decent work in the framework of bilateral or multilateral agreements subject to their compatibility with ILO obligations. Together with the 1998 Declaration on Fundamental Principles and Rights at Work, the member States affirm their commitment to international labour standards within the context of trade, stressing that labour standards should not be used for protectionist trade purposes; that the comparative advantage of any country should in no way be called into question; and that the violation of fundamental principles and rights at work cannot be invoked or used as a legitimate comparative advantage.

The present *Handbook on Assessment of Labour Provisions in Trade and Investment Arrangements* complements previous ILO research on the subject by providing practical information in a format geared towards non-specialist audiences. First, there is more information on trends and the labour market outcomes of trade. Second, further detail is provided on different approaches relating to technical cooperation, consultation, dialogue and monitoring, and conflict resolution in trade agreements. Third, practical country examples are included that show how labour provisions have been implemented – with regard in particular to stakeholder involvement. Finally, there is an examination of particular issues such as global supply chains, gender and labour governance.

*Prior ILO research has confirmed some benefits of labour provisions, without diverting or harming trade*

These trends and questions have recently been analysed in the report *Assessment of Labour Provisions in Trade and Investment Arrangements* (ILO, 2016). Before elaborating on the main issues in the present handbook, it would be useful to revisit the key findings of the assessment report, which complements this research and examines how and whether labour provisions set the framework conditions for decent work outcomes. The methodology in the assessment report was based on a cross-national quantitative assessment of the 260 trade agreements reported to the World Trade Organization (WTO) at the end of 2014, including the 71 with labour provisions, designed to give a better understanding of the labour market outcomes of labour provisions. The analysis was supported by case studies and interviews at the country level. The key findings showed:

- **Over the past two decades, trade-related labour provisions have become more commonplace and comprehensive.**

This is evidenced in the assessment report by, first, the growing number of trade agreements that include labour provisions – from the first trade agreement to include a binding labour provision in 1994 to the current situation, with 77 trade agreements in 2016 (covering 136 economies) that include labour provisions. Almost two-thirds (64 per cent) of the trade agreements with labour provisions came into existence after 2008.

Second, since 2009 it has been standard practice for most labour provisions to reference the 1998 Declaration on Fundamental Principles and Rights at Work. These are the four principles and associated rights that are considered fundamental for social justice, namely: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.

In addition, the ratification and implementation of other instruments, such as the ILO fundamental Conventions, other ILO Conventions classified by the ILO as up to date, and internationally agreed frameworks such as the Decent Work Agenda, are being included in some more recent agreements. States also highlight specific issues in their labour provisions, such as the protection of migrant workers. Aside from the

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references to labour standards, there are also evolving mechanisms for implementation and cooperation, including those relating to stakeholder involvement.

- **Labour provisions ease labour market access, in particular for working age women.**

Based on a cross-country macro-analysis, the assessment report shows that trade agreements with labour provisions result in labour force participation rates 1.6 percentage points higher than those resulting from trade agreements without labour provisions. This is because trade agreements with labour provisions bring larger proportions of working age men and women into the labour market. In addition, because this impact is stronger for women than men, the gap between men and women's labour force participation rates is reduced by 1.1 percentage points in countries that have trade agreements with labour provisions. One possible explanation for this effect is that labour provision-related policy dialogue and awareness-raising can influence people's expectations of better working conditions, which in turn increase their willingness to enter the labour force. In addition, given the focus on non-discrimination in trade agreements, women in particular may be more inclined to join the labour market in anticipation of better working conditions. These gender-related findings were also echoed in other parts of the assessment report at the country level.

- **There is country evidence of the impact of labour provisions on the narrowing of the gender wage gap.**

Evidence for this is furnished in the assessment report by the case study of Cambodia's textile sector, which, between 1999 and 2004, was covered by a trade agreement with the United States. The Cambodia–United States Bilateral Textile Agreement included labour provisions and a specific implementation mechanism at the firm level. The results of the assessment in the report show that the gender pay gap was reduced by about 80 per cent in the textile sector – from 32 per cent prior to the agreement to 6 per cent after its adoption. This reduction was directly attributable to the agreement and its implementation programme. Over the same period the gender wage gap remained virtually unchanged in other manufacturing sectors. These results are partly due to the incentive structure of the agreement, which tied export quotas to compliance with labour standards, but also to a monitoring programme (Better Factories Cambodia) that was implemented with the support of the ILO and backed by the social partners.

- **Labour provisions in trade agreements**

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