

The Spread of Bilateral and Regional Trade Agreements

Introduction: Bilateralism, Regionalism and Multilateralism

The number of both bilateral and regional trade agreements is growing. Almost all trading nations are pursuing bilateral and/or regional agreements at the same time as they are following multilateral agendas.

While some of these new agreements will supersede agreements already in place, many of these new agreements include countries participating in such arrangements for the first time, indicating a growing number of countries engaged in such trade agreements. Also, many regional groupings are expanding and bringing in new members.

Most WTO members are also party to one or more regional trade agreements. Since the early 1990s some 250 Regional Trade Agreements (RTAs) have been notified to the GATT/WTO up to December 2002, of which 130 were notified after January 1995. Over 170 RTAs are currently in force; an additional 70 are estimated to be operational although not yet notified. By the end of 2005, if RTAs reportedly planned or already under negotiation are concluded, the total number of RTAs in force might well approach 300¹.

There is debate about the extent to which regional or bilateral agreements are complementary to multilateral agreements, or are either a risk or a distraction to multilateralism. Either way, the number of regional and bilateral agreements is growing. Most of the world's major trading nations are already party to such agreements, and actively engaged in negotiating further agreements.

While the speed at which such agreements are being negotiated, and the priority different nations place on bilateral and regional agreements vis-à-vis the WTO, varies from one agreement to another, most seem to be affected by the situation at the WTO, and the speed with which multilateral trade liberalisation efforts seem to be progressing. This is evident from the relatively lower profile given to bilateral and regional activities in the months after the Doha ministerial, when multilateral trade negotiations came to the fore once more. Since the failure of progress in Cancún in September 2003, this has been changing and a rapidly increasing number of regional and bilateral agreements is being negotiated lately. Both key players, the EU and the US are undertaking regional and bilateral trade negotiations at the moment, and the US Trade Representative Zoellick announced after Cancún, that the US would conclude more bilateral trade deals.

Whether a complement or a distraction to multilateralism, virtually all trading nations appear to be pursuing bilateral and/or regional, and multilateral agendas at the same time. It is by no means only the Quad, or even OECD, countries that are now engaging in bilateral or regional trade agreements, although many such agreements still include at least one Quad or OECD country. Regional agreements exclusive to

¹ WTO website

developing countries are increasing, as are developing country bilateral trade agreements.

The scope of bilateral and regional agreements vary, although the majority are classified by the WTO as Free Trade Agreements (FTA), meaning that reciprocal trade preferences between two or more countries cover a large spectrum of the countries' trade in goods. Much fewer are Customs Unions (CU), whereby trade preferences between countries are combined with a common external tariff for products imported from countries not party to the agreement. There are also numerous asymmetric relationships, whereby not all the countries party to an agreement make the same concessions, or have different flexibility criteria or transitions periods regarding reciprocal concessions.

Trade agreements generally no longer restrict themselves to issues of tariffs and trade in goods. Just as the WTO was greatly expanded relative to the GATT in terms of its scope, many bilateral and regional agreements (both already agreed and currently being negotiated) include the usual broader list of *trade-related* issues: trade in services, investment, intellectual property, trade facilitation, competition, and so on. Furthermore, many trade agreements now being concluded are elements of broader political, social and economic association agreements. Agreements of this type are frequently concluded between developed and developing countries, and can serve as a framework for development assistance. These often provide for co-operation in various ways and on various themes, sometimes including labour issues.

Trade unions in a number of countries have become more active in recent years in following their government's negotiations of trade agreements, and in pressuring their government to include provisions safeguarding workers' rights in those agreements. As a result, there are several examples of trade agreements treating workers' rights in various different ways. However, there are far more examples of trade agreements that make no mention of workers' rights.

Trade union pressure to include labour considerations in trade agreements has most often been successful where the trade provisions were a component of a broader association agreement as mentioned above, rather than where the agreement is more specifically trade-oriented.

This report looks at major Customs Unions, Free Trade Areas, and economic association agreements around the world, with particular attention to any clauses covering social issues, core labour standards and trade union participation.

The European Union (EU) – Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Ireland, Luxembourg, Netherlands, Portugal, Spain, Sweden, the UK, and the newly acceded members Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia, - entry into force of founding treaty 1957

The European Union (EU) is one of the earliest and best developed examples of a trade agreement, although because of its broad scope and high profile political implications, it does not always come to mind when considering trade agreements. The EU began in the 1950's as a coal and steel trade agreement and has grown in both

size and scope since then. The EU is now defined as a customs union, and has essentially a single market in goods and services. There is free movement of workers within the EU, and there is a “Social Chapter”, which specifies fundamental workers’ rights that are to be respected across the EU.

There is a large body of law at the EU level, as well as a number of permanent institutions. Trade Unions in Europe have joined to form the European Trade Union Confederation (ETUC), which represents workers’ interests at EU level. There are legal provisions that mandate consultation by workers and their representatives, including at company level and EU level in the tripartite Economic and Social Committee. This is an institution consisting of workers’, employers’ and NGO representatives from across the EU, which has the right to consultation on all European law. Laws have mandated the constitution of European Works Councils, whereby all large companies employing more than 1,000 employees and operating in more than one EU country have to facilitate the interaction of workers from different plants in different EU countries, to provide certain information to workers’ representatives, and to involve them in certain company decision-making.

The decision-making procedure in the EU is such that some laws are subject to consensus among the 25 member states, and others are subject to a form of majority voting. Some countries have retained the right to opt out of certain agreements, such that some EU laws, including the social chapter and laws on European Works Councils, are not binding across the EU.

Notwithstanding these exceptions, the EU is probably the best example of the integration of social considerations, including workers’ rights, with the economic considerations of a trade agreement. In fact the origins of the EU are arguably as much social as economic, since economic integration was sought as a means of securing peace and social equality in the post-World War Two period.

The relative priority given in the EU to social considerations is maintained to a certain extent in agreements between the EU and other countries or other groups of countries. Most association agreements do contain paragraphs saying that all Parties will respect human rights. This case should not be overstated, however, as there remain examples of trade agreements between the EU and other countries, such as Mexico, where there are no provisions to promote or protect labour standards. There is much scope for EU negotiators to include more far-reaching clauses concerning social development and workers’ rights in their bilateral and regional agreements.

The EU has approximately 30 agreements or ongoing negotiations with countries regarding trade liberalisation. Many of these are broader than just trade liberalisation, even in its broadest form, and include provisions for social and development co-operation.

European Union (EU) – Mexico Agreement - entry into force 2000

This agreement is aimed at a free market in goods and services, the opening of government procurement, and regulation governing both competition and intellectual property. It takes democratic principles and the respect for human rights as essential

elements of the agreement, but it does not mention trade unions or workers' rights. This is notwithstanding pressure by the ETUC, ICFTU and others on the EU trade negotiators to include these trade union priorities.

EU – ACP: Cotonou Convention and Regional Economic Partnership Agreements (EPA's) – entry into force 2000

The Cotonou Convention, which is itself the descendent of a series of Lomé Conventions, brings together the EU and 77 states of Africa, the Caribbean and the Pacific (ACP). Signed on 23 June 2000 in Cotonou, Benin, the agreement will determine the ACP- EU relationship at least until 2020. The new partnership agreement builds on the expired Lomé Conventions I-IV, which go back to 1975 and provided for development cooperation and for trade preferences for the former colonies of EC member states. The Cotonou Convention is far broader than simply a trade agreement, and in it, trade is very clearly an element of a development assistance framework. The trade provisions in the Cotonou Convention are not reciprocal, and provide for preferential access to the EU market for the members of the ACP.

The Cotonou Convention provides for joint parliamentary and civil society forums, as well as study of the implementation of the agreement by meetings of EU and ACP social partners and other groups. The agreement's essential elements include respect for basic social rights, and specific procedures to be followed in the event that any party fails to fulfil these obligations. These procedures have been enacted on several occasions, in recent years involving flagrant breaches of democracy in Fiji and Zimbabwe.

The trade provisions of the current Cotonou Convention include article 50 on Trade and Labour Standards, in which the parties reaffirm the commitment to the ILO's core conventions², and agree to enhance co-operation on how to support these conventions and enforce national legislation. The Parties also agree to undertake educational and awareness raising programmes. The Parties agree that labour standards should not be used for protectionist trade purposes. It is not clear whether this will be maintained as it is in the Cotonou Convention or whether it will be subject to partial renegotiation in the new trade agreements.

The non-reciprocal trade relationship has been granted a waiver by the WTO which will expire in 2008. As a result, the trade provisions will be renegotiated between 2002 and 2008, in the Economic Partnership Agreements (EPAs) which will take forms of free trade areas and which may differ between ACP countries and regions but will all be according to WTO rules. From 2008 on, these free trade agreements will be implemented up to 2020. The EPA shall include specific assistance for ACP countries that have to undergo structural adjustments in order to implement the EPA. ACP countries can conclude EPAs with the EU either individually or according to their own regional integration schemes.

² Note that the Cotonou Convention does not refer explicitly to ILO Convention 138 on the Minimum Age for Employment.

EU – Chile Agreement – concluded in 2002

The EU – Chile agreement is very broad in its scope, including provisions on services, investment, government procurement, competition, intellectual property and dispute settlement. Its premises include democracy and respect for human rights and the rule of law, although it is not clear what mechanisms are envisaged to enforce these essential elements.

In terms of social dimensions, this agreement includes article 44 (Social Co-operation), which recognises the importance of social development, and the fundamental role the ILO's conventions play in this. There is no explicit mention of trade unions, nor any direct connection between this social co-operation and the trade section, such that the agreement would ensure that trade improve social and labour conditions and not the opposite.

EFTA – European Free Trade Area – Iceland, Liechtenstein, Norway, Switzerland - established 1959

This is a four country free trade area that provides for a single market in industrial goods and some other goods and services. Similar to the EU's Economic and Social Committee, EFTA has a Consultative Committee with an institutional role to play in EFTA policy on employment and social affairs as well as other economic and political topics.

EFTA also has trade agreements with 29 countries outside the EU (of which 8 of the newly acceded countries), among which Turkey, Morocco, Singapore, Mexico, Mercosur and Chile.

Iceland, Liechtenstein and Norway are also part of the European Economic Area, which aims at the free movement of goods, services, capital and persons.

Baltic Free Trade Area (BAFTA) – Estonia, Latvia, Lithuania – established 1993

The objectives of the Free Trade Agreement are the creation of a free trade area for agriculture, food and fish products between the three countries, the promotion of a harmonious development of economic relations, and the provision of fair conditions for competition. There is no reference to workers' rights or trade unions.

Central European Free Trade Agreement (CEFTA) – Bulgaria, Czech Republic, Hungary, Poland, Romania, Slovenia- established 1992

The aim of the agreement was the gradual introduction of a free trade area by its members during the transition period. The objectives of the agreement are to harmonise the development of economic relations among signatories through expansion of trade, to speed up the development of the commercial activities of the signatories, to raise standards of living, and to ensure better employment opportunities, increased productivity and financial stability. Another objective of the agreement is to ensure fair trade between members and, through the removal of trade

barriers, to contribute to the balanced development and expansion of world trade. There is no reference to workers' rights or trade unions.

North American Free Trade Agreement (NAFTA) (Mexico, USA, Canada) and North American Agreement on Labour Co-operation (NAALC) - came into force 1994

NAFTA is a wide ranging free trade agreement that covers trade in goods and services, intellectual property, investment, government procurement, free movement of business people, competition, and a dispute settlement mechanism. Perhaps its most notable and distinguishing feature is that as concerns investment, and the right of entry of investors from one party to NAFTA into another party. There is a mechanism whereby the investor can claim damages from a sovereign party for infringement of its rights under NAFTA, which is known as investor to state dispute settlement.

In NAFTA, this investor to state mechanism, often referred to as Chapter 11, which is the investment chapter of NAFTA, has produced some examples of the priority investors' rights have over public health or environmental protections. Investors have filed claims for over 13 billion US\$ in damages under chapter 11 of NAFTA. Damages have been awarded, for example, when one of the governments party to NAFTA banned certain products for environmental reasons, or maintained zoning laws for environmental reasons.

The preamble of the NAALC (the Commission for Labour Cooperation, which was established under NAFTA) affirms the importance of improving labour and living standards, and the agreement outlines the various areas in which the parties will co-operate to bring this improvement about. The agreement refers only to domestic labour law, and requires parties to ensure that their domestic law provides for high labour standards, without in any way defining this. The agreement does require parties to provide grievance procedures for actors, including trade unions, claiming violations of domestic law. It also stipulates that parties ensure the enforcement of collective agreements; however it excludes the rights of association and bargaining from its enforcement mechanism.

The enforcement mechanism is weak, and none of the cases taken to the NAALC tribunal have forced the offending party to reform its practices. The process, and international profile of the cases taken under the NAALC for violations of workers' rights have helped to resolve some offending situations, and have also strengthened co-operation between some trade unions in the three countries.

Central American Free Trade Agreement (CAFTA) – US, Honduras, Nicaragua, Costa Rica, Guatemala, El Salvador, and to be included Dominican Republic - 2004

The agreement includes paragraphs on goods (agriculture, manufactures, textiles), services, government procurement, investor protection, intellectual property, workers' rights, environmental protection, trade capacity building and dispute settlement. Labour obligations in CAFTA are part of the core text of the trade agreement and include provisions that commit CAFTA countries to provide workers with improved access to procedures that protect their rights. It provides a three-part cooperative approach. The Agreement requires that all parties shall effectively enforce their own

domestic labor laws, which, however, may not be in line with international standards. They will work with the ILO to improve existing labor laws and enforcement. And thirdly strategies will be build to improve workers' rights (consultations, training programmes, financial resources and public participation). However, countries are not obliged to include procedural guarantees or sanctions to correct detected breaches, and funding to promote cooperation is lacking (The US labour cooperation budget was just cut by 85% for 2005). Moreover, the ILO core Convention on Discrimination is not included in the agreement.

Caribbean Community (CARICOM) - Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, Saint Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago. Entry into force 1973

Caricom is more than simply a customs union, extending to foreign policy co-ordination and wider economic, social and political co-operation. In the treaty establishing the Caricom, article 73, regarding industrial relations, promotes various trade union concerns, including tripartite consultations. It also promotes collective bargaining. There are no explicit linkages – in terms of procedures – between trade and labour issues in Caricom law, nor are there specified shared labour standards that countries are required to meet. The Caribbean Congress of Labour, established by trade unions in the region as a counterpart to Caricom, has a full programme of activities, and holds regular meetings, including top level meetings, with Caricom officials and regional leaders.

Free Trade Agreement of the Americas (FTAA) –

The FTAA will create a single American free trade area, of all North, South and Central American countries. Deadline for negotiations is the 1st of January 2005 and the agreement should enter into force no later than December 2005. During the last Ministerial in Miami it was decided that “a common and balanced set of rights and obligations applicable to all countries should be sought. In addition, negotiations should allow for countries that so choose, within the FTAA, to agree to additional obligations and benefits (mainly in the areas of services, investment and intellectual property rights). One possible course of action would be for these countries to conduct plurilateral negotiations within the FTAA to define the obligations in the respective individual areas”. However, FTAA negotiations seem to have come to a standstill.

Chapter VII of the draft agreement deals with labour provisions and non-implementation procedures for environment and labour provisions.

Mersosur – Argentina, Brasil, Paraguay, Uruguay – entry into force 1991

Mercosur is a customs union. The common external tariff has been suspended by Argentina, and a series of devaluations have left the alliance less stable than in its early years. Due to concerted pressure by trade unions in the region, with the support and assistance of the ICFTU and ORIT, the four member governments signed a Social and Labour Declaration in 1998. This document is very far reaching and goes beyond the core ILO conventions or statements and cover also social dialogue, employment promotion, unemployment protection, health and safety, and social protection. The

Declaration also mandated a Commission to monitor adherence to the Declaration and to advise on measures to ensure adherence.

Trade unions in the region have formed the Southern Cone Trade Union Coordinating Committee (Coordinadora) and hold regular meetings to press regional officials on social and labour issues.

Mercosur is currently in negotiations with the EU regarding a trade and association agreement, and the Coordinadora is active along with the ETUC, ICFTU and ORIT in pressing for the importance of social and labour issues in these negotiations.

Negotiations are expected to start on free trade agreements between Mercosur and Japan, Mercosur and Singapore, Mercosur and Korea, Mercosur and India and Mercosur and China.

Comunidad Andina – Bolivia, Colombia, Ecuador, Peru, and Venezuela – entry into force of free trade area 1993.

Now a customs union, the Comunidad Andina (CA) began as a free trade area, and the customs union developed over time. Peru is still not party to the common external tariff, but has an agreement to harmonize the external tariff over the next year to reach full harmonization by the end of 2005.

There is a permanent forum for co-operation on social and labour issues, with a statement of principles, a work programme and regular meetings of labour ministers. The statement of principles includes such topics as employment creation and social security, but does not discuss workers' rights, nor mention trade unions. There is also a Declaration on protection of Human Rights, including the International Covenant on Social, Economic and Cultural Rights, and the freedom to join and form trade unions. There is a Trade Union Consultative Council (CCLA) which meets regularly with CA officials on issues of social and labour co-operation.

Central American Common Market (CACM) – Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua – Entry into force 1963

The common market came into force in all five countries when Costa Rica joined in 1963, however the negotiations regarding the customs union lasted for thirty years before Honduras acceded to the customs union in 1993. The first decade of the CACM saw a large rise in trade between member countries, and progress in lowering tariffs and other trade barriers.

The CACM Treaties do not deal with the issues of workers' rights, nor do they provide for a tripartite consultative body. There are broad civil society forums, and trade unions from the region are active in these.

Association of South East Asian Nations (ASEAN) – Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Burma (Myanmar), Philippines, Singapore, Thailand, Vietnam – founded 1967

An agreement to set up a free trade area was signed in 1992, with the goal of tariff liberalisation down to rates below 5% by 2002, and a fully common market with 0 tariffs by 2015, with recent members of ASEAN given extra flexibility in this timetable.

There is very little attention paid by ASEAN to social and labour issues. However since 1984 the ASEAN Trade Union Council (ATUC) has sought to bring workers' rights and social development into the work of ASEAN. Recently ASEAN Labour Ministers have called for the development of tripartite dialogue at national and regional levels.

SAARC – Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan Sri Lanka – established 1985, with the Preferential Trading Arrangement (SAPTA) signed in 1993.

SAPTA is a relatively modest Trade Agreement, dealing primarily with trade in goods and reductions of tariffs and other barriers to trade. During the 12th SAARC Summit (4-6 January 2004) an agreement for the establishment of the South Asian Free Trade Area was signed. This agreement will come into force on the 1st of January 2006. SAFTA would be implemented over a period of 7 years, with 8 years for Sri Lanka and 10 years for the LDCs.

SAARC is in the process of drafting a Social Charter, but current texts do not include any mention of workers' rights, nor of tripartite consultative mechanisms. The South Asian Regional Trade Union Council (SARTUC) has promoted workers' concerns within SAARC.

Asia Pacific Economic Cooperation (APEC) - Australia; Brunei Darussalam; Canada; Chile; People's Republic of China; Hong Kong, China; Indonesia; Japan; Republic of Korea; Malaysia; Mexico; New Zealand; Papua New Guinea; Peru; The Republic of the Philippines; The Russian Federation; Singapore; Chinese Taipei; Thailand; United States of America; Viet Nam – established 1989

APEC is a forum to facilitate economic growth, cooperation trade and investment in the Asia Pacific region. There are no treaty obligations and decisions are reached by consensus, whereas commitments are undertaken on a voluntary basis.

Objectives of the forum are free and open trade and investment, as well as a safe and efficient movement of goods, services and people across borders in the region.

Arab Maghreb Union (AMU) – Algeria, Libya, Mauritania, Morocco and Tunisia, established 1989, with the Maghreb Common Market and Customs Union to take effect from 1995.

The AMU was established in 1989 to promote cooperation and integration among the Arab states of North Africa. However progress in economic and trade integration has been slow, the 1995 timetable for the creation of a Maghreb Common Market and Customs Union has been missed, and there remain significant tariff and non-tariff barriers to trade.

At trade union level, the Union des Syndicats des Travailleurs du Maghreb Arabe (USTMA) brings together trade union federations in the sub-region. In 1991, USTMA issued the Charter of Fundamental Social Rights of Workers in the Maghreb. The charter welcomed the creation of the AMU and emphasised the need to make the social dimension an integral part of integration efforts.

Common Market for Eastern and Southern Africa (COMESA) – Angola, Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe – entry into force 1994

Specific areas of intended cooperation between COMESA states are (in addition to trade and customs facilitation) transport, communication, energy, monetary affairs and finance, as well as agriculture, economic and social development. However, poor transportation, communication and infrastructural links, cumbersome licensing procedures, remaining tariff and non-tariff barriers, and currency inconvertibility have hampered the development of trade, hence minimising the realisation of COMESA objectives.

There is no sub-regional trade union counterpart to the COMESA, nor are workers' rights included in the COMESA mandate.

East African Community – Kenya, Tanzania and Uganda

The EAC states have signed The East African Customs Union on 2 March 2004 in order to enhance regional integration, economic growth and development. Measures will include the elimination of custom duties, the removal of non-tariff barriers, and a common external tariff.

The East African Trade Union Council (EATUC) is an umbrella organisation bringing together the national trade union centres within the three East Africa Community members states: Kenya, Uganda and Tanzania, and works to ensure that the East African Community involves labour in all issues regarding regional integration, institute tripartism as a method of work, promote the ratification of international labour standards by the member states, harmonisation of labour laws and policies in East Africa, and the promotion of the concept of free movement of factors of production in the region.

South African Customs Union (SACU) – Botswana, Lesotho, Namibia, South Africa and Swaziland, entry into force 1970.

Its aim is to maintain the free interchange of goods between member countries. It provides for a common external tariff and a common excise tariff to this common customs area. All customs and excise collected in the common customs area are paid into South Africa' national Revenue Fund. The Revenue is shared among members, partially inversely according to their GDP per capita. There are no social provisions in the SACU mandate.

Southern African Development Community (SADC) – Angola, Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, Zimbabwe – founded 1992.

SADC is an association agreement with broader political and development objectives than simply a trade agreement, but it includes trade as a component, and trade liberalisation negotiations are ongoing under SADC auspices. Importantly, there is an Employment and Labour Sector, as one of SADC's core activities, and a tripartite commission, SALC, for social and labour affairs.

The Southern African Trade Union Co-ordination Council (SATUCC) is the trade union counterpart to SADC and is involved in SADC's tripartite activities, as well as bringing the trade union perspective to other SADC activities. The SALC has adopted the SATUCC Social Charter of Fundamental Rights of Workers in Southern Africa.

Union Economique et Monetaire de l'Ouest Afrique (UEMOA) – Benin, Burkina Faso, Cote d'Ivoire, Guinée Buisseau, Mali, Niger, Senegal and Togo - established in 1994

This is a broad ranging partnership agreement, consisting of a monetary union, customs union, single central bank and judicial authority, and political co-operation. Its main focus is monetary union and responsibility for the common currency.

Economic Community of West African States (ECOWAS) - Benin, Burkina Faso, Cabo Verde, Cote d'Ivoire, Gambia, Ghana, Guinée, Guinée Buisseau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo - established in 1975

The Treaty of ECOWAS includes a provision for an Economic and Social Council, to include various social and economic actors, without specifying that this ought to include trade unions.

African Union (AU) – all African states

Under the treaties constituting the African Union (AU), and the African Economic Community, all of these aforementioned sub-regional agreements are meant to be consolidated. A major focus of the AU and the African Economic Community will be the trade relationships, with a view toward an eventual free trade area and customs union.

Gulf Co-operation Council (GCC) - Bahrain, Kuwait, Qatar, Saudi Arabia, Oman and the United Arab Emirates - founded 1981

GCC is an agreement for co-operation and convergence between Gulf States on economic and political matters. It includes trade and customs provisions but is not strictly a free trade agreement. A regional standards organisation, patent office, and commercial arbitration facility were all instituted to further commercial integration, which has progressed relatively quickly. A customs union was scheduled to enter into force in 2003, which was also a pre-condition for a free trade agreement with the EU, negotiations for which are under way.

Commonwealth of Independent States (CIS) – Azerbaijan Republic, Republic of Armenia, Republic of Belarus, Georgia, Republic of Kazakhstan, Kyrgyz Republic, Republic of Moldova, Russian Federation, Republic of Tajikistan, Republic of Uzbekistan and Ukraine - founded 1991, multilateral trade agreement initiated 1993

This is an association for political and economic co-operation, including trade integration. A CIS-wide customs union is envisaged. At present a sub-set of five countries, Republic of Belarus, Republic of Kazakhstan, Kyrgyz Republic, Russian Federation, and Republic of Tajikistan, have constituted a customs union.

Canada – Costa Rica Free Trade Agreement – signed 2001

Signed in 2001, this FTA involves trade in a broad sense, including all the elements (investment, government procurement, etc) listed above. There is also an agreement on Labour cooperation. This takes the same name and same format as the labour agreements between Canada, the United States and Mexico. In this agreement, the parties are obliged to embody in their labour law the principles enshrined in the ILO Declaration and to effectively enforce these laws. The preamble reaffirms the importance of social development for economic development, and there are procedures for review of a country's compliance in the event of a complaint by the other party. There are no explicit mechanisms for trade union organisations to be involved in the agreement, nor in the review procedure for complaints.

Other agreements involving Canada

Canada also has free trade agreements with Chile, which includes labour references, and Israel. It also negotiates agreements with CARICOM, EFTA, the other four members – minus Costa Rica – of the Central American Common Market, and Singapore.

US-Jordan free trade agreement - entry into force 2001

This is a wide ranging FTA, including provisions on services, intellectual property rights protection, and dispute settlement. As concerns social standards, it includes the following clauses in the preamble: “Desiring to promote higher labor standards by building on their respective international commitments and strengthening their cooperation on labour matters; and...Wishing to promote effective enforcement of their respective environmental and labour law;” The text of the agreement refers to the ILO and the ILO Declaration, and recognises that it is inappropriate to seek competitiveness through lowering standards. It says that while setting labour legislation is a national matter, national legislation should meet the ILO's standards. It specifically lists freedom of association, the right to collective bargaining, minimum age, prohibition of forced labour, and conditions of work as the relevant key principles. It does not include non-discrimination in this list.

US – Singapore, US – Chile and US – Morocco free trade agreements – signed 2003 Chile and Singapore, and 2004 Morocco

Labour obligations are part of the core text of the free trade agreement. Both parties reaffirm their obligations as members of the International Labor Organization (ILO),

and shall strive to ensure that their domestic laws provide for labor standards consistent with internationally recognized labor principles. The agreement makes clear that it is inappropriate to weaken or reduce domestic labor protections to encourage trade or investment. And the agreement requires that parties shall effectively enforce their own domestic labor laws. This obligation is enforceable through the Agreement's dispute settlement procedures.

US – Australia free trade agreement – draft agreement February 2004

As regards the Australian FTA, the AFL-CIO and the ACTU released a joint statement in 2001 outlining their priorities for the proposed agreement, offering their support for an agreement that includes provisions for workers' rights, transparency, and the right to regulate, and promising their opposition to any agreement that only serves to promote corporate interests. The draft text agreement was concluded on the 8th of February 2004.

A report by the Labour Advisory Committee stated that: "The labor provisions of the Australia FTA will not protect the core rights of workers in either country, and represent a big step backwards from the Jordan FTA and our unilateral trade preference programs. The agreement's enforcement procedures completely exclude obligations for governments to meet international standards on workers' rights. Provisions on investment, procurement, and services constrain our ability to regulate in the public interest, pursue responsible procurement policies, and provide public services. Intellectual property provisions reduce the flexibility available under WTO rules for governments to address public health crises. Rules of origin and safeguards provisions invite producers to circumvent the intended beneficiaries of the trade agreement and fail to protect workers from the import surges that may result".

A comment by the NTEU stated that "there are statements in the FTA about ILO obligations and the need for high levels of environment protection. However, according to DFAT the only provisions that are enforceable through the agreement's dispute-resolution mechanism are those to the effect that neither party shall fail to enforce domestic labour and environmental laws to achieve a trade advantage".

Other agreements involving the US

The agreement between the United States and Cambodia on textiles contains provisions regarding labour standards. The US has started negotiations for a free trade agreement with Bahrain and announced a framework agreement on trade and investment with the United Arab Emirates. A free trade agreement is under negotiation with the SACU countries. And another one with the Middle East countries. Peru and Colombia are negotiating free trade agreements with the US, which are due to be signed before November 2004.

Negotiations involving Japan

Japan continues to explore FTA's with Canada, Chile and Mexico, among others, and is undertaking negotiations with Singapore. It is not yet party to any bilateral FTA. RENGO has been active in pressing for labour issues in the Singapore

negotiations as well as in investment negotiations underway between Japan and Korea.

Negotiations involving New Zealand

New Zealand and Singapore have concluded an FTA, which does not include mention of labour standards or consultation with trade unions, in spite of pressure by the New Zealand Council of Trade Unions. The NZCTU also pressed the government to include such concerns in the negotiations with Hong Kong, and in 2001, the New Zealand government agreed a framework for integrating labour standards into its trade activities.

The New Zealand Government is currently involved in a number of FTA negotiations. The New Zealand-Thailand negotiations are expected to be concluded by November. The NZ Government has a policy to "better integrate" trade and labour standards but is developing a separate Memorandum of Understanding with Thailand on labour standards.

There is a three-way negotiation between New Zealand, Singapore and Chile. New Zealand already has an FTA with Singapore, one of the issues for unions include the dangers of a negative list approach to services.

There is also a negotiation process being established for a New Zealand-China FTA.