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Trade agreements and labour standards' clauses: Explaining labour standards developments through a qualitative comparative analysis of US free trade agreements

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Abstract

Whereas a number of studies have been conducted to investigate causal relations between individual conditions (e.g. trade relations and labour standards), there is a lack of consensus among practitioners and scholars about the conditions that favour or cause labour standards improvements and, specifically, it is still unclear whether the increasing pervasiveness of Free Trade Agreements (FTAs) is conducive to enhancing labour conditions. The aim of this study is to shed light on whether labour clauses in FTAs are conducive to better labour standard practices, whether the content of a clause makes a difference, and whether changes have anything to do with other (external) pressures that play a role in changing labour standards. The main argument of the article is that FTAs do not play a determinant role in improving labour standards in signatory states. The analysis is done by looking at 13 FTAs signed by the United States with 19 countries. The United States is chosen because of its relatively extensive collection of FTAs including different conditions on labour standards. The empirical dataset is analysed with Qualitative Comparative Analysis (QCA) method, which permits to trace the combined effect of independent variables rather than to focus on the direct and individual causality with each of them.

Keywords

Free trade agreements, labour standards, qualitative comparative analysis

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Introduction

The number of Free Trade Agreements (FTAs) has increased significantly over the past 20 years. Markets are opened up in which labour costs can be an important aspect of the competitiveness of a country. The increasing importance of FTAs as a means to advance trade has been accompanied by protests from trade unions who expect increasing unemployment, declining wages and less protection for workers. Some view FTAs as increasingly being an instrument of neoliberal policy, through which countries protect investors' rights and grant foreign companies access to the markets also in areas that were previously public (Gathii, 2011). As a result of this intense debate about the effects of free trade,¹ US FTAs increasingly include references to labour standards. These FTAs also provide sanctioning mechanisms to create a further incentive towards labour standards improvements. While the inclusion of stronger commitments to labour standards in FTAs does not necessarily reflect a strong commitment to actually improve the labour rights situation in the signatory countries, it may nevertheless have an impact.

The question this article poses is whether this strategy is effective. We know little about the conditions under which labour standards improve – including the effects of clauses in FTAs. Whereas a number of studies have investigated causal relations between individual conditions, there is a lack of consensus among practitioners and scholars about the combination of conditions that favour labour standards improvements and it is unclear whether the increasing strength of FTAs is conducive to enhancing labour conditions. Our study is designed to shed light on whether labour clauses are conducive to better labour standard practices, whether the content of a clause makes a difference, and whether the changes have anything to do with other (external) pressures that play a role in changing labour standards. It focuses on 13 FTAs signed by the United States with 19 countries.² The United States is chosen because of its relatively extensive collection of FTAs including different conditions. We selected the differences in content of the FTAs and salience of the agreement to signatory parties, the level of democracy and the level of economic development of a country as independent variables. We included this combination of the variables discussed in previous studies to help to explain why some countries improved their labour situation after signing an FTA with the United States and why others have failed to do so. Of these variables, we found that economic development is the most important. The empirical dataset is analysed with Qualitative Comparative Analysis (QCA) method, which permits to trace the combined effect of independent variables rather than to focus on the direct and individual causality with each of them. By further testing systemic conditions that permit labour standards improvements, this article directly contributes to the debate on the effectiveness of FTAs and on the conditions that lead to labour standards improvement.

The article is structured as follows. It begins with an overview of the FTAs and the case studies. This is followed by a discussion of the theoretical model. The next section analyses the dataset, highlighting the results of the QCA analysis. The conclusion summarizes our contribution to the debate on the effectiveness of labour standards clauses and sets new horizons for research on labour standards improvements.

The focus of this study: US FTAs with 19 countries

Previously conducted research has not been able to provide a solid answer to the question of whether, and what kind of, conditionalities in trade agreements will improve a country's labour situation. While many of the previous studies have provided valuable insights into specific cases (see, for example, Compa and Vogt, 2001; International Labour Organization [ILO], 2013; Vogt, 2014), they have not systematically assessed the effects of different variables. Quantitative studies did however include a number of important variables in a more systematic fashion and thus added to a more in-depth analysis; they pay less attention to detail, such as the differences between agreements in terms of strength of the different conditions included (see, for example, Greenhill et al., 2009). They were also restricted to a more limited set of labour rights (Greenhill et al., 2009; Heintz and Luce, 2010; Mosley and Uno, 2007). We have adopted a medium-N research design in which we look at a broad set of labour standards and take into account the specifics of the agreements.

FTA countries are important to the US economy as they account in 2012 for 46% of the US exports of goods (International Trade Administration [ITA], 2014). In addition to opening up the markets of the signatory countries and creating a predictable trading environment, FTAs increasingly address other elements designed to free up the economic relationships between the signatory states in the fields of intellectual property rights, market access to services markets and government procurement. All 13 US FTAs, which involve 19 countries, contain provisions on labour rights. In doing so, they mainly refer to labour rights identified by the ILO in 1998 as 'fundamental', the so-called core labour standards (CLS), but not to the specific provisions in the related ILO conventions. These labour rights include the 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. However, the FTAs differ with respect to the specific labour standards they refer to. For example, the elimination of discrimination has been omitted in many of the agreements, while 'acceptable working conditions' such as working hours, wages and safety, which are not part of the CLS, are part of the US FTAs (Van Roozendaal and Voogsgeerd, 2011). The labour standards as part of the US FTAs are the focus of this study.³

As Table 1 illustrates, the North American Free Trade Agreement (NAFTA) side agreement on labour, which entered into force in 1994, was the first FTA including labour standards and the most recent (at the time of research) is the Panama FTA that entered into force in 2012.

In the table, we make a distinction between first and second generation agreements. While first generation agreements may differ in what they refer to, that is, only domestic laws (such as in NAFTA) or have a stronger role for labour rights included in the ILO Declaration on the Fundamental Principles and Rights at Work of 1998, their common denominator is that they are quite weak in what they demand of the signatory countries. Bolle (2001), for example, calls NAFTA '[. . .] non-invasive in that it does not require any country to adopt any new worker rights laws or conform to any international standards – only to enforce what it already has on the books' (p. 3). While other first generation

Table 1. US free trade agreements entered into force between 1994 and 2014.

Name	Date when entered into force	Labour standards ^a
First generation		
NAFTA ^b	January 1994 (signed December 1993)	'Committed to promote' the freedom of association and the protection of the right to organize; the right to collective bargaining; the prohibition of forced labour; the right to strike, provisions on the protection of children; minimum employment standards, prohibition of discrimination; equal pay for men and women, prevention of occupational illness and injuries and the compensation thereof; and the protection of migrant workers
Jordan FTA	December 2001 (signed October 2000)	'Strive to ensure' the right to association; the right to organize and bargain collectively; a prohibition on the use of any forced or compulsory labour; a minimum age for the employment of children; and acceptable conditions with respect to minimum wages, hours of works and occupational safety and health
Singapore FTA	January 2004 (signed May 2003)	'Strive to ensure' the right to association; the right to organize and bargain collectively; a prohibition on the use of any forced or compulsory labour; a minimum age for the employment of children, labour protections for children and young people, and prohibition and elimination of the worst forms of child labour; and acceptable conditions with respect to minimum wages, hours of works and occupational safety and health
Chile FTA	January 2004 (signed June 2003)	'Strive to ensure' the right to association; the right to organize and bargain collectively; a prohibition on the use of any forced or compulsory labour; a minimum age for the employment of children and the prohibition and elimination of the worst forms of child labour; and acceptable conditions with respect to minimum wages, hours of works and occupational safety and health
Australian FTA	January 2005 (signed May 2004)	Similar to Singapore FTA
Bahrain FTA	January 2006 (signed September 2004)	Similar to Singapore FTA
Morocco FTA	January 2006 (signed June 2004)	Similar to Singapore FTA
Oman FTA	January 2009 (signed January 2006)	Similar to Singapore FTA

Table 1. (Continued)

Name	Date when entered into force	Labour standards ^a
CAFTA-DR (Dominican Republic–Central America) FTA	2009 ^c (signed August 2004)	Similar to Chile FTA
Second generation Peru TPA ^d	February 2009 (signed April 2006)	'Shall adopt and maintain in its statutes and regulations, and practices thereunder' the right to association; the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; an effective abolition of child labour and a prohibition of the worst forms of child labour; and elimination of discrimination with respect to employment and occupation. Acceptable working conditions are still included in another article of the chapter
Colombia FTA	May 2012 (signed November 2006)	Similar to Peru FTA
Korus (United States–Korea) FTA	March 2012 (signed June 2007)	Similar to Peru FTA
Panama TPA	October 2012 (signed June 2007)	Similar to Peru FTA

Source: the full text of the FTAs is published on the website USTR.gov.

NAFTA: North American Free Trade Agreement; FTA: Free Trade Agreement; TPA: Trade Promotion Agreement.

^aMany of the agreements include some sort of disclaimer on the subject of minimum wages. For example, the FTA with Morocco states that '(f)or greater certainty, nothing in this Agreement shall be construed to impose obligations on either Party with regard to establishing the minimum level of wages'.

^bIncluding Mexico, Canada and the United States.

^cThe agreement is between the Dominican Republic, Costa Rica, Guatemala, Honduras, El Salvador and Nicaragua. Date of entry-into-force differs between countries.

^dThe official name of the Panama and Peru agreements is Trade Promotion Agreements, but they will be referred to in this article as FTAs.

agreements do refer to international labour rights, these FTAs appeal to countries to *strive to* adapt their domestic law in accordance to CLS (Van Roozendaal and Voogtsgeerd, 2011: 331). Therefore, these agreements focus on enforcing domestic laws (Ahearn, 2005: 6). There are also differences among first generation agreements. For example, the NAFTA enforcement coverage is less than the labour standard enforcement coverage of the other agreements. In the case of NAFTA, it is limited to some domestic laws related to child labour, minimum wages, and health and safety. For other agreements such as CAFTA-DR (Central America and the Dominican Republic), enforcement is limited to the failure to enforce those domestic labour standards related to certain international standards and that affect trade between the Parties to the agreement. Also, most limit the sanctions available

in case of violations (Bolle, 2014: 3–5). This changes from the Peru agreement onwards, when the agreements also *demand* the parties to the FTA to ‘[. . .] adopt and maintain in its statutes and regulations, and practices thereunder, the following rights, as stated in the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up* (1998) [. . .]’ (Peru FTA, n.d.: Article 17.2). Now, it is not only CLS that are also part of national labour laws that are subject to the FTA. The CLS themselves are to be enforced whether or not they are already included in national laws (Salem and Rozental, 2012: 12).

The second important difference between the agreements concerns the way in which the FTAs attempt to ensure compliance. The first generation of FTAs included a separate sanction to deal with partial violation of labour standards practices. However, as of May 2007 dispute settlement procedures for labour-related problems have been upgraded to other disagreements that can arise from the agreement, such as commercial disputes. This included the suspension of trade benefits in presence of any violation of the labour chapter, including CLS. This is not only the case for the FTAs with Panama and Korea, but also applies retrospectively to the FTAs with Peru and Colombia (Bolle, 2014; Elliott, 2007: 14; US Trade Representative [USTR], 2007; Van Roozendaal and Voogsgeerd, 2011: 335–339).⁴ The rights referred to have also changed, as the second generation FTAs also mention the elimination of discrimination as a fundamental right.

There are more ways in which distinctions can be made among the US FTAs, including the financial resources made available by the United States to the member countries to improve their labour standards. Moreover, as a report of the ILO (2013) shows, in some cases an improvement in labour standards was formulated as *a condition* before the ratification of an agreement.

On the basis of the above, we can conclude that the first generation agreements are relatively weak, compared to the second generation agreements.⁵ This evolution was inspired by the expectation according to which stronger agreements would be more effective in ensuring better labour standards. All the above differences have been translated into variables utilized in this study.

Theoretical underpinnings of the selection of independent variables

The dependent variable: labour rights improvements

Studying changes in labour rights is fraught with difficulties, as data available on developments in individual rights, whether legally or in practice, are severely limited. In addition to a lack of data collection and registration, there are also differences of opinion with respect to how labour rights can be measured (see, for example, Compa, 2003; Heintz and Luce, 2010; Teitelbaum, 2010). We have chosen to use the Cingranelli and Richards (CIRI) database which allows us to study changes per country concerning different labour rights over an extended period of time (until 2011).

Taking into consideration data starting 4 years before signing the FTAs,⁶ this database provides information on the right of association and the right to organize and bargain collectively; prohibition on the use of forced or compulsory labour; a minimum age for the employment of children; and acceptable conditions of work with

respect to minimum wages, hours of work, and occupational safety and health. The database is based on de facto changes, not on de jure. The measurement of labour practices utilizes the following classification: labour rights can be severely restricted (0), somewhat restricted (1) or fully protected (2). The right of association and the right to organize and bargain collectively are seen as the most important rights, and a violation of one of these rights will categorize a country as '0'. To be classified as a '1', the above rights must be *overall* guaranteed, or the other rights are substantially violated. Countries receive a '2' when they protect both groups of rights (Cingranelli and Richards, 2013a: 65–67).

Using this database has its drawbacks. It omits measuring the level of discrimination, while this is included in some of the agreements. It has a limited categorization of what is considered to be a violation (or a protection) and the basis for determining this. In addition, the database takes into account developments in the whole country, rather than concentrating on the export sector. Finally, the database runs until 2011, which makes measuring the consequences of the second generation agreements problematic, as three of the four (Colombia, Panama and Korea) only entered into force in 2012. Measuring the effects of these agreements will therefore stay limited to the effects of the pre-ratification phase, whether or not pre-ratification adjustments were demanded by the United States. While these drawbacks should be kept in mind, it is still the most comprehensive database available in terms of rights measured on such a scale.

Independent variables: agreement conditions, salience, democracy and economic development

Four independent variables were selected: FTA agreement conditions, FTA salience, level of democracy and economic dependency between FTA's signatory parties. As we will show in this section, all four variables have in some form been brought forward in previous studies on the effects of labour clauses in bilateral or international agreements.

Agreement conditions. The inclusion of labour standards in trade agreements should serve to secure support for the trade agreements by adding mechanisms to increase protection of labour rights in the trading partners' jurisdictions. It is therefore important to study whether conditions imposed during the ratification phase and following the ratification have contributed to the effectiveness of trade agreements measured in terms of labour standards improvements. This would help to answer the question whether a labour clause in a trade agreement makes a difference. The fact that there is constant pressure by groups such as trade unions to strengthen the conditions and procedures suggests that effects are expected, which is the reason why we have selected pre-ratification procedures, the strength of the threat of sanctions and the possibility of financial support as indicators that might affect the effects of agreements. These indicators represent the areas in which actual measures can be taken by the United States that are expected to increase the effects of adherence to labour standards. As we will show, there is no clear scientific understanding yet of how agreement conditions affect labour standards practices, even though practitioners do seem to expect positive results.

There is support for the idea that agreement conditions will stimulate changes in labour standards, but this support is limited. The strongest evidence is provided in the area of pre-ratification conditions. Hafner-Burton (2009) argues that FTAs may be effective with respect to changes in labour standards where a future FTA partner had to demonstrate its willingness to reform its labour laws in accordance with US trade laws before an agreement, while an agreement already in place might only stimulate modest reform (pp. 146–160).⁷ An ILO study published in 2013 (hereinafter ‘the ILO study’) shows that there is evidence that some FTA countries have made fundamental changes in their labour laws (Morocco, Bahrain and Oman), while others have made some specific reforms (Peru, Panama and Colombia) as a result of the pre-ratification conditions of the FTA. Vogt (2014) comes to a similar conclusion, arguing that despite the weak language of the agreements, the pre-conditionality of the FTAs with Bahrain and Oman did have important *de jure* effects (p. 130) although *de facto* effects (labour practices) have not yet been identified.

The second indicator relates to whether there is a strong sanctioning mechanism. The four FTAs which include such a mechanism also cover a broad range of labour rights. Literature on the possible effects of sanctions does not point strongly in one direction. The 2013 ILO study concludes that once an FTA is in place (the post-ratification phase), *de facto* compliance effects will dominate. The study maintains that effects on compliance with labour laws, rather than on the legislation itself, can be the result of the complaint mechanism (which will be dealt with later) and/or of the dispute settlement mechanism. However, efforts to gather evidence of such effects are limited as complaints have been filed under only four of the FTAs (NAFTA, CAFTA-DR, Peru FTA and Bahrain FTA). Measures such as sanctions do matter according to Hafner-Burton (2009): ‘[. . .] trade agreements with “hard” standards of conduct – binding obligations, precise rules, and delegation of enforcement – are sometimes more successful in encouraging reforms than are many human rights agreements with “soft” implementation measures . . .’ (p. 142). Their success is limited, however, as they will not evoke large-scale policy changes, but rather small-scale adaptations (Hafner-Burton, 2005: 614). In another article, she points out that there is little consensus on whether sanctions have desired effects, but if they do, it is often because they are executed quickly and convincingly, they are directed at countries that are both in economic distress and economically dependent (in terms of exports) on the country that uses the sanctions. In addition, she adds that sanctions work better if they are more precisely targeted and do not affect an entire population, and are not accompanied by military actions (Hafner-Burton, 2014: 279). Elliott and Freeman (2003: 80) also show in their analysis of the US Generalized System of Preferences (GSP) that the more specific the abuses are, and the more precise problems are targeted, the more successful the (threat of) sanctions will be.

In their 2001 study on the provisions in the US GSP which allows for a suspension of trade benefits in case labour standards have been violated, Compa and Vogt have also identified effects of (the threat of) sanctions. They conclude that aside from the discouraging cases where the United States decided not to pressure a country despite clear violations of labour standards (e.g. Chile at the end of the 1980s), the US sanctions under the GSP programme led to a weakening of the business support for the government. In Guatemala in the beginning of the 1990s, the threat of sanctions helped

to crush support for the political regime, although the labour rights situation has continued to be worrisome. The authors maintain, however, that the US government's decision to undertake action reflected more political considerations than an assessment of the severity of the labour rights situation (Compa and Vogt, 2001). Harvey (cited in Athreya, 2011: 10) also pointed to the success of GSP suspensions in the case of Paraguay and the Central African Republic, which resulted in changes in the political regime. In sum, there is some evidence that sanctions might work, but probably under specific conditions. However, Greenhill et al. (2009: 681) are less positive. They found that the relationship between FTAs with strong labour provisions (trade being conditional on respect for labour standards) and labour *practices* is statistically not significant. They even found that FTAs with weak labour provisions (no trade sanctions) tend to have a statistically significant negative relationship with labour standards practices. Their explanation is that countries that have no intention to change their behaviour rather sign weak agreements than strong ones.

The third indicator used is financial aid. There is not much known about the effects of aid on human rights (which also includes labour rights) (see Hafner-Burton, 2014: 278–279). However, as some of the FTAs include financial aid to support the improvement of labour standards, we are interested in whether this has had any effects on the labour practices. The assumption is that in cases where governments are willing but unable to make changes because of financial constraints, substantial financial support will help to improve labour standards (see also Elliott and Freeman, 2003: 80).

Salience. Salience concerns the importance that is given to the labour rights situation in the FTA member country as measured by the enactment of a complaints procedure in the United States and the follow-up on such complaint. In addition, export concentration is used to measure the importance of the United States in terms of merchandise exports of the FTA partners. Through the operationalization of this variable, we measure three aspects: the salience of an issue in the eyes of civil society stakeholders measured through the filing of complaints; the salience of an issue from the perspective of United States measured through the way in which it responds to complaints; and the salience of an issue from the perspective of the partner country measured through the dependency on exports to the United States.

The choice to include salience is inspired by the study by Greenhill et al. (2009), who found that trade with countries characterized by high labour standards tends to influence the labour laws of countries with low labour standards, especially if the main export destinations are countries with stronger labour rights (the so-called California effect, a concept coined by Vogel – see Greenhill et al., 2009). The California effect works through different mechanisms: purchasing power, lobbying to increase standards, and product standards. Greenhill, Mosley and Prakash argue that the California effect can also take place through process standards. This will also be assumed for our study, which looks at the process used to produce a good, and not product itself. Greenhill, Mosley and Prakash measure the other mechanisms (purchasing power and political lobby) of the California effect through the ‘bilateral trade context’, which looks at both the scores on the labour laws and practices in the exporting and in the importing country, as well as at the dependency of the exporting country on an importing country. While the effect of Greenhill

et al.'s (2009) bilateral trade context was less when they studied the effect on labour practices and not labour laws, they did measure a significant statistical improvement in the case of labour practices after a longer period of time (pp. 676, 681).⁸

Our study will use different indicators for salience. The significance of a country as an export destination is taken into account, but adds to this whether the United States is committed to upholding the FTA labour standards, regardless of how the United States itself scores in terms of these standards. Also, we can develop sensitive indicators for lobbying as we are only analysing the effect of the 13 FTAs in 19 countries, not the relationship between trade and labour standards among 90 trading partners. The pressure to uphold standards is measured by the number of complaints been made by civil society actors. It measures the importance that civil society stakeholders (consumers, trade unions, etc.) attach to the violation of labour rights in a certain country. The follow-up on complaints has been selected as an indicator of the willingness of the US government to pursue an issue. Research thus far shows that much of the effects of labour clauses in trade agreements depend on whether the United States is willing to put pressure on a country (ILO, 2013).⁹ Therefore, the US government's responses to complaints show the issue's salience to a government. In addition, we follow Greenhill, Mosley and Prakash in arguing that the dependency of a country on export to an importing country (in our case, the United States) is important. This is measured through the variable export concentration.

The last two variables selected are the level of democracy and economic development. In contrast to the previous variables, they are not (directly) related to the agreement itself, but to the characteristics that are exogenous to the agreements.

The level of democracy. We expect that the more democratic a country is, the higher the chance that labour rights will be respected. This is also suggested by Mosley (2008: 7–8), Greenhill et al. (2009: 678), and Elliott and Freeman (2003: 76). The literature also mentions a government's political will (at times influenced by non-state actors) to adapt their labour laws or practices (Greenhill et al., 2009: 684; ILO, 2013: 28–29). We assume that political will is more likely to be present in democratic countries than it is in non-democratic countries.

The level of economic development. Economic development could be important as more developed countries are expected to have better labour standards. The results of this variable have been mixed. Hafner-Burton (2014: 277) points out to a positive relationship between economic development and respect for human rights (with the exception of export-led economies), Greenhill, Mosley and Prakash were not able to find proof for this (Greenhill et al., 2009: 670, 680), and neither were Mosley and Uno (2007: 939–940). One reason for the differences in outcome might be that these last two studies were restricted to collective labour rights (freedom of association and collective bargaining).¹⁰ Also, economic development does not have a direct relationship with improved labour standards. While the lack of economic development may seriously inhibit countries' willingness to enforce certain rights, economic development will not necessarily result in improved labour standards, as political orientation is also of great importance. Nevertheless, we are interested in seeing whether we can find some kind of relationship between the two, whether mediated by other variables or not.

In sum, the theoretical model has four dichotomous independent variables and one dependent variable. While all variables individually might not show a positive correlation with the respect for labour standards practices, or a limited one, the combination between the variables may. Our main question is whether labour clauses in trade agreements help to improve the labour standards practices in the countries studied. Therefore, our hypothesis is that high agreement conditions are necessary but not sufficient for labour standards improvement. On the basis of the literature discussed earlier, we expect that we will find results in terms of labour standards practices improvements when we take into account (a combination of) the other variables.

The dataset and the methodology

The dataset is made of 19 countries that have negotiated FTAs with the United States. The cases include both first and second generation agreements. Given that negotiations, signing and entry into force occurred in different periods, this is a diachronic-across case analysis.

The first independent variable is agreement conditions (AGREECON). This variable has been built on three different indicators. The first is pre-ratification conditions and it identifies whether the United States has made its ratification dependent upon certain conditions to be met by the partner country (see ILO, 2013: 37). The second indicator is the existence of a credible threat. This concerns the second generation agreements that include a stronger sanctioning mechanism in case of a lack of compliance and refer to a broader set of labour rights than the earlier ones (see, for details, the table in section ‘The focus of this study: US FTAs with 19 countries’). The assumption is that the sanctioning mechanism adds to compliance behaviour, therefore the index will be higher. Finally, the third AGREECON indicator focuses on the amount of financial support received by the signatory state from the United States to improve their adherence to labour standards. However, relying on the information available, the financial resources offered are limited. The only agreement with substantial resources is CAFTA-DR to which the US committed US\$142 million between 2006 and 2012 (ILO, 2013: 82–83; USTR, 2011). We have also accounted for the fact that not all indicators bear the same value for the classification of the variable; therefore, we have attributed different ‘weights’ to each indicator. Thus, credible threat and pre-ratification condition have been assigned with a weight of 2, while financial support is thought to be less relevant and has, therefore, the coefficient of 1. The final value for this variable is an index from 0 to 1, so the variable was attributed a high value with the index scoring higher than 0.5.

The second independent variable is salience (SAL) of the agreement, which is defined by two proxy indicators. The first is the number of complaints filed by affected parties since the entry-into-force of the agreement. If the number is high, then it could be assumed that the agreement has been seen as important to domestic actors in the signatory countries. There are three values for this indicator: 1 if no complaint has been filed, 2 if one or less than one complaint per year, and 3 if more than one complaint per year have been filed. The second indicator is the possible proceeding of a case. Assuming that the further a case has proceeded through the different stages, or the higher the adjudication level, then the higher is SAL. This indicator has five possible values: 1 if the case

has been declared non-admissible, withdrawn or unclear, 2 if the case is under review or concluded after review, 3 if the case has reached the consultation phase, 4 if an arbitration was initiated, and 5 if sanctions were executed. We assumed that the response to a complaint is more important than the number of complaints filed. The sources for counting the number of complaints and the responses are ILO (2013: 51–52), Bureau of International Labor Affairs (ILAB, 2013a, 2013b, 2015) and the Government of Canada (2014). We also accounted for the relative importance of the US market for the signatory states compared to the overall foreign trade, based on the assumption that greater dependence means that a country is more sensitive to the US demands on labour standards. Therefore, the higher the export dependence on the United States, the higher is the salience of the FTA. There are three values for this indicator: 1 if the share of export of the country to the United States during the timeframe considered is below 30% of the total, 2 if the share of export to the United States is between 30% and 60% of the total, and 3 if the share is above 60%. The main source of this data is the World Trade Organization (WTO) International Trade and Market Access Data (2014).¹¹ The coefficients of importance of the indicators are 2 for the level of dispute and the dependence on US trade, and 1 for the number of complaints. This way, the coefficients make a difference between situations that have a potential to become salient, and those that already are. The final value for this variable is an index from 0 to 1, so the variable was attributed a high value with the index scoring higher than 0.5.

The third independent variable is the level of democracy (DEM).¹² This is calculated by looking at two indicators. The first is Polity IV (Polity IV, n.d.)¹³ and the second is the political rights variable of the Freedom House Index (FHI, 2015). Both indexes are used very conservatively. First, a high level for democracy will be assigned only if both Polity IV and FHI have assigned a high score to the country. This means that the average over the years studied should be simultaneously higher than 5 for Polity IV and lower than 3 for FHI for the variable DEM to be classified as high. Second, higher than 5 for Polity IV only covers the categories ‘democracy’ and ‘full democracy’. In case of the FHI, only countries in the category Free (political rights) will be considered democratic (scores 1–2.5). This means that countries not fulfilling these requirements are all grouped together, while in reality the differences between countries may vary greatly.

The fourth independent variable is the level of economic development of the signatory states (ECODEV). The level is assessed by using the World Bank classification (high income, upper middle income, lower middle income and low income) (2014a, 2014b). We have assigned ordinal values to each year starting 4 years before the signing of the agreement for each country. If the gross national income (GNI) was assigned to be in the low income, then the country would be assigned a value of 1, lower middle income a value of 2, upper middle income a value of 3 and high income a value of 4. In order to assign countries to the categories of high and low level of development, we calculate the average of the period considered and we attribute a high value if the average is above 2.5, while we classify a country with low economic development if the average is lower than 2.5. If the value is 2.5, we look at the number of years in which a country was assigned to categories and, if lower categories (1 and 2) are more frequent than or as frequent as higher categories (3 and 4), then it will be round down, otherwise it will be round up. Considering that economic development and democracy are often considered to be

Figure 1. Labour standards (LABSTA).

linked, we will check whether they are correlated in order to avoid the collinearity problem.

Finally, the dependent variable refers to the labour standards improvements in the signatory state (LABSTA) (Figure 1). The dependent variable has been calculated using the index labour standards from the CIRI database (Cingranelli and Richards 2013b).

We have collected the value for each year starting 4 years before the signing of the agreement, and we have constructed the variable on three different indicators based on this data. The first indicator is the average value for labour standards in the country. The CIRI database classifies the country with 0, 1 and 2 values; therefore, the average represents a solid base to identify where a country stands in terms of labour standards. The second indicator is the trend before and after the signing of the agreement for which we have calculated the average value for the 4 years before the signing and the average of the following years. We have assigned the value of 3 for positive trends, the value of 2 for stable trends, and the value of 1 for negative trends. Finally, we wanted also to account for unexpected events that may affect the labour standards situation in a country assuming that abrupt year-to-year changes would negatively affect the labour standards trend adding unpredictability to the system. Thus, the value of 0 was attributed in case of spikes in the evaluation and 1 if no spikes were identified. The most important indicator for this index is the trend (coefficient of 3), then the overall situation of labour standards (coefficient of 2) and whether there were any spikes (coefficient of 1). The final value of this index is within the 0 to 1 range, and we adopted a threshold at 0.5 to classify cases of positive and negative trends in labour right standards.

The analysis

The analysis of the dataset will take place in four steps. First, the focus is on the frequency of the variables and on the distribution of values across cases. Second, we will take a closer look at the main hypothesis. Third, the sufficiency and necessary tests will

Table 2. DEM and ECODEV.

Level of democracy (DEM)		Economic development (ECODEV)	
High	Low	High	Low
Australia	Bahrain	Australia	Dominican
Canada	Colombia	Bahrain	Republic
Chile	Guatemala	Canada	El Salvador
Costa Rica	Honduras	Chile	Guatemala
DomRep	Jordan	Colombia	Honduras
El Salvador	Morocco	Costa Rica	Jordan
Korea	Nicaragua	Korea	Morocco
Mexico	Oman	Mexico	Nicaragua
Panama	Singapore	Oman	Peru
Peru		Panama	
		Singapore	

be conducted. Finally, we will test whether dichotomous relations led to discovering either necessary or sufficient conditions.

Frequencies

The overall analysis of the frequency demonstrates that the dataset is representative in terms of distribution. For AGREECON, 3 cases have been coded as high (Colombia, Panama and Peru),¹⁴ while the others have received a value lower than 0.5. The distribution of entries for SAL has 5 cases of high salience (Bahrain, Canada, Dominican Republic, Guatemala and Mexico). The third independent variable, DEM, is distributed almost evenly across the population with 10 cases of high level of democracy and 9 cases with low level of democracy. Finally, ECODEV is quite balanced with 11 cases having been classified as high and 8 cases as low level of economic development. The full list for DEM and ECODEV is available in Table 2.

DEM and ECODEV have a low correlation coefficient (0.25), which means that there is no collinearity problem with these two variables in the dataset considered. The distribution of the dependent variable shows variance across the 19 countries. The highest improvement trend has been recorded in five countries (Mexico, Morocco, Australia, Oman and Colombia), while the others have experienced a negative trend. The full picture is presented in the following chart.

The master hypothesis: is AGREECON related to LABSTA?

Our starting hypothesis is based on the assumption that increasing pervasiveness of FTAs is conducive to enhancing labour conditions; if strict labour clauses are included in FTAs, then labour standards are more likely to improve. The empirical analysis of 19 countries selected for this study does not provide the empirical backing for this assumption. Out of the five cases of LABSTA improvements, only one case has high AGREECON (Colombia).

Table 3. Truth table for labour standards improvement.

Case	IV 1 AGREECON (A)	IV 2 – SAL (B)	IV 3 – DEM (C)	IV 4 – ECODEV (D)	LABSTA – (Y)
Australia	0	0	1	1	1
Colombia	1	0	0	1	1
Mexico	0	1	1	1	1
Morocco	0	0	0	0	1
Oman	0	0	0	1	1
Bahrain	0	1	0	1	0
Canada	0	1	1	1	0
Chile	0	0	1	1	0
Costa Rica	0	0	1	1	0
DomRep	0	1	1	0	0
El Salvador	0	0	1	0	0
Guatemala	0	1	0	0	0
Honduras	0	0	0	0	0
Jordan	0	0	0	0	0
Korea	0	0	1	1	0
Nicaragua	0	0	0	0	0
Panama	1	0	1	1	0
Peru	1	0	1	0	0
Singapore	0	0	0	1	0

AGREECON: agreement conditions; SAL: salience; DEM: democracy; ECODEV: economic development; LABSTA: labour standards.

The other four cases of LABSTA improvements have low AGREECON. This finding also suggests that second generation agreements do not necessarily lead to better labour standards conditions. Indeed, only Colombia sees a positive trend, while Peru, Korea and Panama do not, despite being second generation. However, it might take time before improvements take place. The CIRI data runs until 2011, so it is advisable to repeat this study after some time.

There are other two cases of high AGREECON (Panama and Peru), but the outcome is a worsening of labour conditions despite the fact that Peru ranks high in AGREECON and Panama ranks high in both DEM and ECODEV. This leads to the conclusion that, contrary to expectations, stricter agreement conditions are neither necessary nor sufficient for labour standards improvement.

Necessary and sufficient conditions

Table 3 defines truth table in QCA jargon and shows the independent variables coded in binary scale of high/low. The results of the analysis are interesting as variables normally thought to be necessary for labour standards improvements are not, in fact, more important than other variables. The exception is economic development, which seems to have a stronger correlation with labour standards. The full dataset presents five cases of high

LABSTA and 11 different combinations of the independent variables out of the 16 possible combinations. The full dataset is summarized in Table 3.

The combinations of the four independent variables are reproduced in QCA terms, so that capital letters corresponds to 'high' and small letters correspond to 'low'.¹⁵ The results in QCA terms are reported below

$$Y = (a + b + C + D) + (A + b + c + D) + (a + B + C + D) + (a + b + c + d) + (a + b + c + D) \quad (1)$$

There is one sufficient condition that involves the four variables $(A + b + c + D)$, two sufficient conditions containing three variables – $(A + b + c) + (A + c + D)$ – and one with two variables – $(A + c)$. A condition is defined as a specific combination of variables. When a condition is sufficient, it means that every time the condition appears, labour standards have improved. It is difficult to draw generalizations however as these sufficient conditions only occurred in one case (Colombia). There are no necessary conditions to determine improvement of labour standards in the countries analysed. We acknowledge that we had limited diversity, but this is an exploratory study and we have decided not to disregard the Colombian case. The analysis of consistency and coverage of the conditions shows a more nuanced picture. Consistency 'provides a numerical expression for the degree to which the empirical information deviates from a perfect subset relation' (Schneider and Wagemann, 2012: 129). Coverage refers to the extent to which the outcome is covered by a certain condition, 'thus expressing the empirical importance of X for explaining Y' (Schneider and Wagemann, 2012: 129). Consistency and coverage can be combined to have an index suggesting the explanatory power of the variable(s). The index is from 0 to 1, where 1 is perfect explanatory power and 0 is not explanatory power.

We have looked at both consistency and coverage for both sufficient and necessary conditions. Consistency for sufficient conditions is above 0.5 in 11 combinations of the independent variables as shown in Table 4.

The consistency is equal to 1 for the sufficient conditions, but the coverage test does not allow for strong generalization. For instance, the consistency is 1 for $A + c$, but there is only one case out of five recurrences that results in a positive labour standard trend (Colombia). Conditions $(A + b + c) + (A + c + D)$ and $(A + b + c + D)$ are supersets of the case of Colombia. This explains why coverage for such conditions is only at 0.2, meaning that the relations would explain only 20% of the cases. Coverage is higher for condition $(c + D)$ because for the cases of Colombia and Oman, the combination results in labour standards improvements. The same coverage exists for another condition $(b + c + D)$, which results in labour standards improvements in two out of three recurrences (Colombia and Oman, but not in Singapore).

The relations between individual variables and their dichotomous combinations

We now look at subsets of fewer independent variables in order to assess both their consistency and coverage to verify whether other relations exist. We limit our analysis to the

Table 4. Consistency and coverage for LABSTA.

No.	1	2	3	4	5	6	7	8	9	10	11
	A + c	A + D	c + D	A + b + c	A + c + D	b + c + D	B + C + D	A + b + c + D	a + b + c + D	a + B + C + D	A + b + D
Cons	1	0.5	0.5	1	1	0.67	0.5	1	0.5	0.5	0.5
Cov	0.2	0.2	0.4	0.2	0.2	0.4	0.2	0.2	0.02	0.2	0.2
Com	0.444972	0.1	0.141421	0.444972	0.444972	0.374166	0.1	0.444972	0.1	0.1	0.1
Cases	Colombia	Colombia Panama	Bahrain Colombia Oman Singapore	Colombia	Colombia	Colombia Oman Singapore	Canada Mexico	Colombia	Oman Singapore	Canada Mexico	Colombia Panama

LABSTA: labour standards.

Table 5. Consistency and coverage for the four independent variables; effect on LABSTA.

			LABSTA						
Freq # Freq %			Freq #	Low	Freq #	High	Consistency	Coverage	Combined
AGREECON									
Low	16	84.21	12	63.16	4	21.05	0.25	0.8	0.089443
High	3	15.79	2	10.53	1	5.26	0.333333	0.2	0.044721
SAL									
Low	14	73.68	10	52.63	4	21.05	0.285714	0.8	0.089443
High	5	26.32	4	21.05	1	5.26	0.2	0.2	0.044721
DEM									
Low	9	47.37	6	31.58	3	15.79	0.333333	0.6	0.07746
High	10	52.63	8	42.11	2	10.53	0.2	0.4	0.063246
ECODEV									
Low	8	42.11	7	36.84	1	5.26	0.125	0.2	0.044721
High	11	57.89	7	36.84	4	21.05	0.363636	0.8	0.126491

AGREECON: agreement conditions; SAL: salience; DEM: democracy; ECODEV: economic development; LABSTA: labour standards.

search of sufficient and necessary conditions that explain a positive trend in labour standards and we do not attempt to explain the causal factors that cause a worsening of labour standard. We begin with individual variables and we discover that consistency and coverage are not significant. Table 5 contains the frequency of each independent variable in absolute and relative terms (percentage) in columns 1 and 2. Then, columns 3–6 describe the correlation between each independent variable and the dependent variable of labour standards. Once again, this is done by focusing on both absolute and relative terms. Finally, columns 7–9 report the consistency, coverage and combined values for each combination of independent and dependent variable. The most frequent correlations are with low AGREECON. In these instances, LABSTA is negative in 63% of the cases. When SAL is low, LABSTA is negative in 52% of the cases. Counter intuitively, both DEM and ECODEV do not seem to provide strong indications regarding improvements in labour standards conditions. DEM has a consistency of 0.2 and ECODEV of 0.36. Table 5 illustrates the relations between each variable and the dependent variable.

The dichotomous combinations of two independent variables show interesting results. There are six possible intersections between two independent variables and the dependent variable. This creates 24 possible combinations given the fact that the independent variables are dichotomous, but a dominant pattern does not emerge. The highest consistency is of 0.5 for high AGREECON/high ECODEV and for low DEM/high ECODEV. However, the latter has a coverage of 0.4 (explaining Colombia and Oman) compared to the former's 0.2 (explaining Colombia only); therefore, their combined value is not higher than 0.14.

Finally, the analysis with possible combinations of three independent variables does not provide better results. There are 32 possible combinations and the highest combined value (0.44) is given by two sets explaining the case of Colombia: high AGREECON, low SAL and low DEM, and high AGREECON, low DEM and high ECODEV. Another condition with 0.6 consistency and 0.4 coverage, which gives a combined value of 0.38, is low SAL, low DEM and high ECODEV, which is associated positively with the cases of Colombia and Oman, while the case of Singapore has a low LABSTA despite the conditions having been met.

Conclusion

Labour standards have become a part of US FTAs. However, the motivations behind this differ. For some, improving labour standards was seen as important and over time stricter labour clauses were added to US FTAs. For others, the aim was not to improve labour standards, but to get approval of US Congress for trade agreements. The inclusion of labour clauses would pressure signatory states to work towards better labour standards either to avoid the economic costs due to lack of compliance or to benefit from the economic incentives provided for better labour standards. This article intended to verify if and under what conditions labour clauses contribute to improve labour standards by looking at the experience of 19 countries. The data were analysed with QCA.

The main finding is that stricter agreement conditions are not correlated with labour standards improvement. In fact, agreement conditions were less strict in four out of five cases in which we have recorded an improvement in labour standards. The only case with a combined high AGREECON and LABSTA improvement is Colombia and this case does warrant further investigation. In general, the conclusion points into the direction that stricter labour standards' clauses in FTAs do not lead to better outcomes, unless other conditions are met. However, as the data on labour rights' improvement ended in 2011 and the effects measured of three of the newer agreements are limited to the negotiation phase, future research is needed.

The QCA approach allows adding complexity to the causal chain and we have tested the salience of the FTA, the level of democracy and the economic development of the signatory state. There have been at least two relevant conclusions. The first is that ECODEV is almost necessary to improve labour standards. This occurred in four out of five instances. The outlier is Morocco, which is an interesting case as it showed an improvement in labour standards even though being classified low in the four independent variables. The second is that the level of democracy does not seem to be relevant to determining whether a country improves its labour standards, both individually and in combination with other independent variables. However, it is important to keep in mind that the countries that we categorized as 'non-democratic' vary greatly, and are in some cases even assessed differently by the two indexes used (this is the case for Colombia, Guatemala and Nicaragua). Therefore, further analysis may show that it is useful to make finer distinctions within the so-called 'non-democratic' group and to look more at political orientation of governments, regardless of the level of democracy. That economic development is more important than democracy is an interesting result, given the fact that the CIRI database gives a more prominent role to the labour standards that have less

of a connection to economic development – the right of association and the right to organize and bargain collectively. Finally, the outcome of our study is a negative one, meaning that finding strong explanatory variables for labour standards is a task yet to be completed.

This article sheds new light on FTAs practice and opens new venues for research towards explaining labour standards improvement/worsening. For instance, more in-depth investigation is required regarding the economic structure that characterizes signatory states. Also, whether the nature of the economic dependency matters, such as the size of the economic agents and the markets for which they produce, can lead to interesting results. Another line of research could link the type of conditions included in FTAs with the political and social traditions of signatory states, such as the role of trade unions. Whereas stricter measures such as strong sanctions could be appropriate under certain circumstances, lighter measures or even rewards could be more conducive to labour standards improvement in other situations. Further investigation of cases such as Colombia, Panama and Morocco would greatly advance the understanding of labour standard conditions. Colombia is the only case where we found a configuration of independent variables that was present only with labour standards improvement (in QCA jargon also called *sufficient condition*); therefore, it would be interesting to test whether these conditions hold in future other cases of labour standards improvements. Panama is interesting because it scored high in AGREECON, DEM and ECODEV, but labour standards have not improved. Finally, Morocco's labour standards have improved despite the fact that AGREECON, SAL, ECODEV and DEM were low, which makes it a very interesting case to analyse. Such a study could lead to identifying specific variables to explain under what conditions labour standards improve. Finally, FTAs by their very nature might undermine the protection of workers. Therefore, it is worth exploring whether adding labour standards to FTAs can really make a difference at all.

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Notes

1. See, for an elaborated discussion on the US debate on labour standards in FTAs, Destler (2005, 2007).
2. The unit of analysis is a country; therefore, the term 'case' refers to 'country'. The only FTA not included in this study is the one with Israel, as it contains no labour provisions. The data for this study were collected between February 2014 and June 2015.

3. This study is limited to developments taking place in the partner countries of the United States, and not in the United States itself, since it is obvious that the driving force behind the inclusion of labour standards is the United States. This, however, does not mean that the United States is not targeted with the help of the FTAs as a number of complaints have been filed by Mexico and Canada under the labour side agreement of the North American Free Trade Agreement (NAFTA) (ILAB 2015).
4. The Jordan agreement has already similarities to the later agreements when it concerns the application of sanctions in case of a violation of international labour rights; however, any effect of this was diminished by a side letter in which Jordan and the United States agreed never to resort to the means of sanctions (Van Roozendaal and Voogsgeerd, 2011: 336–337).
5. This difference is explained by the pressure that the Democrats exercised in the US Congress, demanding the enforcement of core labour standards (CLS) in FTAs to deal with countries where labour standards are considered to be weak (Destler, 2007: 7).
6. As the negotiations for the NAFTA side agreement started in the same years as it was signed, here the 4-year period has not been taken into account.
7. Past research of Hafner-Burton (2009) has used a statistical approach which could only be conducted in a limited way because of lack of data (pp. 163–164).
8. The argument Greenhill et al. (2009: 684–685) make is that if the importing country has stronger labour rights than the exporting country, this will affect the labour rights in the exporting country. The reason for the improvement of labour rights is that through supply chains, importing companies are confronted with the demands from pressure groups and shareholders, which are mediated by the willingness of the exporting governments to improve their labour standards.
9. Compa and Vogt (2001) found that with respect to Generalized System of Preferences (GSP), in the decision on whether a case was pursued political considerations were often more important than the extent to which labour rights were violated.
10. The selection of these four variables is not meant to suggest that there are no other variables that can be taken into consideration. Literature review shows that more variables could be included, such as pressure of social norms of peers (Baccini and Koenig-Archibugi, 2010), the nature of the standards (politically sensitive or not), resources available, involvement of human rights groups (for overview, see Salem and Rozental, 2012: 17), the political orientation of a government, importance of veto players in a political system, the importance of organized labour, and the supply of appropriate workers (Mosley, 2008). However, in our opinion the selected variables are the most promising and measurable.
11. When necessary, this source was complemented with data from the World Bank (World Integrated Trade Solution [WITS], n.d.).
12. The democracy data covers the period of 4 years before signing until 2014.
13. Polity IV is a database that codes the authority characteristics of states in the world system. For the detailed overview of the project, see Marshall et al. (2014).
14. Despite being a second generation agreement, Korea scores low because the agreement has no pre-ratification condition (see International Labour Organization [ILO], 2013).
15. For simplicity, we will use letters instead of the acronym when showing the conditions that were recurrent in the dataset.

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