

The sustainability of regional agreements in EU's effort to promote social
dimension in ACP countries

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Comments are most welcome!

Abstract

One of the worldwide goals is to make globalization a fairer and more suitable process for all. The international community currently favours an approach to sustainable development that stresses the linkage between global governance, and economic and social development. In this context, numerous international organizations have redefined norms and established new policies to integrate social and economical aspects and to promote social development.

The European Union has also highlighted the need to balance economic and social imperatives in its external actions. The EU promotes social rights as a positive element in fostering competitiveness and inter-regional integration. In this line, it is relevant to explore the role of the EU as an external actor and driving force in promoting social dialogue and core labour standards within ACP countries. Furthermore, the paper analyzes whether the regional agreements, namely the Economic Partnership Agreements, can foster economic and social integration within ACP countries.

Introduction

One of the worldwide goals is to make globalization a fairer and more suitable process for all. The international community currently favours an approach to sustainable development that stresses the linkage between global governance, and economic and social development. In this line, the Report ‘A Fair Globalization: Creating Opportunities for All’, published in 2004, presents a whole list of policy recommendations that should contribute to a better distribution of the potential benefits (and costs) of globalization. These recommendations target the different governance levels: national, regional and global. Policies and rules shaped at these different levels by different instances and actors should therefore be seen in the context of a multi-level governance reality.

This draft paper aims at highlighting the European Union’s role in relation to the social dimension of globalization. The relations between the European Union and the African, Caribbean and Pacific countries (ACP) represents an essential aspect of the EU trade and development cooperation policies. In this line, this paper wants to explore the role of the EU as an external actor and driving force in promoting social dialogue and core labour standards

(CLS) within the aforementioned regions. In the first part, the focal point will be on explaining what is the social dimension of globalization, and which is the position of the EU concerning the issue at stake. Consequently, in the second part the promotion of the CLS and social dialogue throughout the EU's trade relations will be highlighted, particularly looking at the relations with the ACP countries. In the last part, the aim is to explore whether the EU is succeeding in promoting core labour standards and social dialogue in its agreements and also if the Economic Partnership Agreements (EPAs), can foster social integration within ACP countries.

The social dimension of globalization and the role of the EU

Globalization is a multifaceted concept. In the literature the term of globalization is used and defined in different ways; for the purpose of this paper the globalization process is taken to mean 'the gradual integration of economies and societies driven by new technologies, new economic relationships and the national and international policies of a wide range of actors, including governments, international organizations, business, labour and civil society' (Gunter and van der Hoeven, 2004:1). Furthermore, the authors argue that the social dimension of globalization 'relates to the impact of globalization on the life and work of people, their families, and their societies' (ibid, 2004:1).

The World Summit for Social Development (1995) held in Copenhagen represents the first step in addressing the social dimension of globalization at the highest political level. The Copenhagen Declaration identified the challenge of managing the process of globalization to increase its benefits and mitigate its potential negative effects upon people (European Commission, 2001). Moreover, the Program of Action, structured in 5 chapters¹, calls for an enabling environment for social development, the eradication of poverty, the expansion of productive employment and reduction of unemployment, social integration and, implementation and follow up of activities. By adopting chapter 3, 'Expansion of Productive Employment and Reduction Unemployment', of the Program of Action, the Copenhagen Summit can be considered a pioneer in promoting labour standards and social

¹ For more information <http://www.un.org/esa/socdev/wssd/agreements/index.html>

dialogue at the highest level. Article 54 (b) makes explicit reference to respect for basic workers' rights, consisting of prohibition of forced labour and child labour, freedom of association and the right to organize collective bargaining, and equal treatment for men and women in employment.² Thus, it can be seen that the Summit identified for the first time the so-called core labour standards (CLS), fully endorsed by the International Labour Organization (ILO) in 1998. The emphasis on social dialogue is articulated in the framework of freedom of association and the right to bargain collectively and also the equal treatment of women and men and the elimination of discrimination regarding employment.

International organizations responded to the new challenges of globalization with consistent research projects. It is worth to mention the OECD research programme 'Empowering People to Meet the Challenges of Globalization', the World Bank publications 'Poverty in an Age of Globalization' (2000) and 'Managing the Next Wave of Globalization' (2006), the report of the World Commission on the Social Dimension of Globalization (WCSDG) 'A Fair Globalization: Creating Opportunities for All' (2004), the Communications of the European Commission 'Promoting Core Labour Standards and Improving Social Governance in the Context of Globalization' (2001) and 'The Social Dimension of Globalization – the EU's policy contribution on extending the benefits to all' (2004).

In February 2002, the ILO launched the World Commission on the Social Dimension of Globalization, aiming at analyzing the modalities in which national, regional and international institutions and organizations can contribute to a more inclusive globalization process that is more acceptable and fair for all. The core objectives of the Commission are (i) to identify policies for globalization that will reduce poverty, foster growth, employment and development; (ii) to identify policies that can make globalization a more fairer and inclusive process; (iii) to assist the international community building up greater policy coherence in order to promote economic and social goals in the global economy.³

The 2004 WCSDG report 'A Fair Globalization: Creating Opportunities for All' claims that the social dimension of globalization should include, among others, respect for human rights, poverty eradication, the achievement of the Millennium Development Goals

² Paragraph 54 (b) www.un.org/esa/socdev/wssd/agreements/poach3.htm

³ <http://www.ilo.org/public/english/wcsdg/commission/objectives.htm>

(MDGs)⁴, promotion of gender equality, health and education, and employment creation (WCSDG, 2004: 5). Furthermore, the report emphasises that globalization affects people through work and employment and an important global objective is decent work (ibid, 2004: 64-65). The idea of ‘decent work’ was launched by the International Labour Organization (ILO) in 1999 and comprises the following objectives: “fundamental principles and rights at work and international labour standards; employment and income opportunities; social protection and social security; and social dialogue and tripartism”. Moreover, the WCSDG stressed the importance of a generalized adherence to the 1998 ILO Declaration of Fundamental Principles and Rights at Work in order to protect and promote workers’ rights worldwide (ibid, 2004: 91). Although there are many types of labour standards, four of them have achieved consensus internationally as core labour standards. These are (i) freedom of association and the effective recognition of the right to collective bargaining (Conventions 87 and 98); (ii) the elimination of all forms of forced or compulsory labour (Conventions 29 and 105); (iii) the effective abolition of child labour (Conventions 138 and 182); and (iv) the elimination of discrimination in respect to employment and occupation (Conventions 100 and 111). The ILO’s Declaration refers to them as ‘enabling’ rights as they enable people to ‘claim freely and on the basis of equality, of opportunity their fair share of the wealth which they have helped to generate, and to achieve their human potential’ (DFID, 2004) However, even if the core labour standards represent fundamental rights they are not applied in many circumstances and for many reasons.

Increasing openness to global competition has imposed costs on unskilled labour in industrial countries through downward pressure on wages, the erosion of social security systems, the weakening of trade unions and labour standards. In developing countries, increasing openness has exacerbated child labour and other violations of core labour standards established by the ILO (Granger and Siroen, 2006).

⁴ At the Millennium Summit in 2000, the international community adopted the Millennium Declaration aiming at reducing extreme poverty. The targets related to the Declaration are comprised in eight Millennium Development Goals (MDGs): eradicate extreme poverty and hunger; achieve universal primary education; strengthen gender equality; reduce child mortality; improve maternal health; combat HIV/AIDS, malaria and other diseases; ensure environmental sustainability; developing a global partnership for development.

Moreover, the report claims that regional integration can contribute to a more equitable pattern of globalisation, but only if regional integration has a strong social dimension. According to the Commission, regional arrangements can achieve this by empowering people and countries to better manage the global economic forces, by helping to build capabilities needed to take advantage of global opportunities, and by improving the conditions under which people connect to the global economy (WCSDG, 2004:71). In addition, regional integration should be advanced through social dialogue between representatives of both workers and employers, and wider the dialogue with other relevant social actors (WCSDG, 2004: 73). Regional integration and labour rights are interconnected with respect to institutional space. Regional institutions can act as policy makers and bring effects of scale for the agreements and implementation of labour rights and more scope for their implementation.

The European Commission played an important role in the discussion and work of the World Commission on the Social Dimension of Globalization and the dissemination of the main findings of the report among the EU member states.

In its external policies, the EU works together with multilateral institutions, such as the UN, the ILO to improve global social policies. Since the publication of the WCSDG report in 2004, and the UN Summit on the follow up of the Millennium Development Goals in 2005, the EU started to amplify its role as an external actor in social affairs. Moreover, from 2001 the cooperation of the Commission with the ILO has been strengthening. The Exchange of Letters between both institutions represents a step forward in reinforcing their collaboration which concluded in a joint EC-ILO policy framework (Orbie, 2007, Novitz, 2002). Given this new policy framework of collaboration, the Commission and the ILO have annual meetings. As pointed out by Orbie (2007), the EU-ILO cooperation can be seen as an external social objective of the EU, but there are some limits to what can be achieved. The European Commission has a non-voting observer role within ILO and therefore has no right to vote the adoption of ILO conventions and/or recommendations. The situation becomes even more complicated due to the fact that the EU can not ratify an ILO convention, this laying on the competence of the Member States. Furthermore, by introducing the social Generalized System of Preferences (GSP) incentives in 1998, especially the special incentive arrangements for the protection of labour rights, the EU does not ask the

developing countries to ratify or sign the core labour standards set up by the ILO, but the inclusion of these into national laws of the requesting country as well as measures taken in order to implement those laws.⁵ This situation is due to the fact that three Member States did not ratify the ILO Conventions 138 and 111⁶, regarding the minimum age for admission to employment and discrimination in respect of employment and occupation, when the GSP incentives were launched. This issue weakens the EU's legitimacy as a worldwide promoter of CLS (Novitz, 2005). However, at this moment, the EU-27 ratified all eight fundamental ILO Conventions, incorporated under the core labour standards umbrella. Ratification of the core conventions by all EU Member States might provide a greater legitimacy to the EU to help promote them in developing countries.⁷

The Commission Communication on 'The Social Dimension of Globalization-the EU's policy contribution on extending the benefits to all' underlined that the EU does not seek to export its own social model or to promote harmonization with its own social standards. However, in the WCSDG report the 'European social model', the Lisbon process and the Open Method of Coordination (OMC) are given as examples for international social governance (WCSDG, 2004). In addition, together with the World Commission, it strictly refuses any sanctions-based approach to labour standards in international trade agreements (European Commission, 2004). Instead, it relies on the expectation that its external partners should uphold their multilateral obligations that they have undertaken.

Almost all countries have ratified the UN Universal Declaration of Human Rights. Therefore, the EU believes that all countries, whatever their level of economic development, should uphold their obligation to protect CLS which are, in fact, universally recognized human rights.

⁵ "It is not required that the country has signed and ratified those conventions. It is sufficient that the substance of the standards concerned is incorporated in the domestic legislation."
(<http://ec.europa.eu/trade/issues/global/gsp/gspguide.htm>)

⁶ Convention 138 was ratified by Austria in 2000, Portugal in 1998, the UK in 2000; Convention 111 was ratified by Ireland in 1999, Luxembourg in 2001, the UK in 1999.

⁷ For more information on EU competences to promote CLS see Novitz, 2002

The EU's trade relations – the promotion of CLS and social dialogue

In its assessment of multilateral trade rules, the WCSDG stressed the importance of a generalized adherence to the ILO Declaration of Fundamental Principles and Rights at Work in order to protect and promote workers' rights worldwide as an essential aspect of 'fair trade' (WCSDG, 2004:82). Attempts by the international trade union movement and other civil society groups to establish a global, legally binding regime of social standards have not been successful. The multilateral approach to labour standards in the WTO was rejected at the Singapore Ministerial Meeting in 1996 and a similar political consensus was repeated in the Doha Declaration of 2001. Opposition to a multilateral regime for social standards came from developing countries' governments (but also business and economists) who feared that it would undermine their comparative advantage in low wage, labour-intensive industries (Dasgupta, 2000). However, the Singapore Ministerial Meeting set up the scene for a WTO working group aiming at looking at the relation between trade and labour standards. Consequently, at the Doha Round the Commission suggested the creation of permanent joint WTO ILO forum. The EU approach to labour standards supports the idea of incentive-based approach rather than sanction (Orbie, 2007).

The EU recognises that the incorporation of labour standards into free trade agreements (FTAs) with third countries or regional groupings is politically sensitive because developing countries fear that such provisions could be used as a form of protectionism (Dasgupta, 2000).

Since 1992, the EU has included a human rights clause in all agreements with third countries. The clause defines respect for human rights and democracy (as laid out in the Universal Declaration on Human Rights) as an "essential element". "A violation of human rights may allow the EU to terminate the agreement or suspend its operation in whole or in part" (Der-Chin, 2003).

Regarding non-core labour standards, the EU takes a more flexible approach and encourages countries to adopt those standards according to their socio-economic level of development. Many countries have already adopted multilateral obligations concerning ILO labour standards but frequently fall short of proper implementation in their domestic economies. To encourage better implementation and monitoring, the EU offers special

incentives arrangements through its unilateral Generalized System of Preferences (GSP). The Community GSP scheme provides market access on a preferential basis to developing countries. As stated in the Commission 2001 Communication 'Promoting Core Labour Standards and Improving Social Governance in the Context of Globalization' the GSP mechanism addresses the issue of core labour standards by 'providing a positive incentive scheme. Within this scheme, effective compliance with core labour standards qualifies for additional trade preferences'- the ILO Conventions on freedom of association and the right to collective bargaining and those on child labour – and 'allowing for a withdrawal, in whole or part, where beneficiary countries practice any form of slavery or forced labour (European Commission, 2001). Moreover, the Communication states that in a future review of the GSP scheme, a priority would be to enhance the possibilities to use the GSP incentives to promote core labour standards. The revised GSP scheme (GSP+) came into force in 2004, when the Commission issued the Communication 'Developing countries, international trade and sustainable development: the function of the Community's generalised system of preferences (GSP) for the ten-year period from 2006 to 2015'. The novelty is that the Commission proposes a new incentive for sustainable development and good management of public affairs by replacing the separate drugs, social and environment special arrangements with a single new category: GSP+. The new scheme will provide special incentives for countries which have signed up to the main international agreements on social rights, environmental protection, governance, and combating the production of and trafficking in illegal drugs.⁸ The developing country willing to apply to GSP+ has to comply with the international labour rights conventions, including the core labour standards endorsed in the 1998 ILO Declaration Fundamental Principles and Rights at Work.

The promotion of core labour standards and social dialogue are foreseen in all the most recent EU's bilateral and regional trade agreements with the developing countries. The agreements signed with Chile, the Africa, Caribbean and Pacific (ACP) countries are examples in this sense. However, even these agreements make ILO's standards a reference, this is not a matter of dispute (Granger and Siroen, 2006). The EU-South Africa agreement in 1999 refers to the ILO standards as the point of reference for the development of social rights.

⁸ <http://europa.eu/scadplus/leg/en/lvb/r11016.htm>

The relations between the European Union and the ACP countries represent an essential aspect of the EU trade and development cooperation policies, especially an important step forward in including the promotion of CLS. In 2000, the Member States of the European Union and the African, Caribbean and Pacific states signed the Cotonou Agreement as a replacement of the Yaoundé Agreements and Lomé Conventions. The main aims of the Agreement are poverty eradication, sustainable development and the gradual integration of the ACP countries into the world economy. The Cotonou Agreement refers to internationally recognized social rights, labour standards as those defined by the ILO and UN Conventions. Article 50 of the Agreement, 'Trade and labour standards', makes explicit commitment to the internationally recognized core labour standards, as those defined by the ILO. There is clear reference to the Conventions regarding the freedom of association and the right to collective bargaining, the abolition of forced labour, the elimination of worst forms of child labour and non-discrimination in respect to employment.⁹ Nevertheless, the CLS should not be used for protectionist trade purposes. Moreover, it establishes the areas of cooperation, which include among others exchange of information on legislation and work regulation and the formulation of national labour legislation and strengthening of existing legislation. Regarding the endorsement of social dialogue, Article 25 reaffirms the commitment of both parties to encourage 'the promotion of participatory methods of social dialogue as well as respect for basic social rights.' The EC considers the Cotonou Agreement as 'an important step forward in promoting core labour standards in bilateral agreements' and a model for further trade cooperation agreements (European Commission, 2001).

The Cotonou Agreement, under Article 25, places the development objective in a social context that aims to fight against poverty, to improve the level of education and training, to strengthen the labour policies, to promote participatory social dialogue, human and social rights. Social dialogue has a key role to play in improving conditions for development in ACP countries at the local, national and regional levels.

The institutions and bodies involved in the EU-ACP cooperation are the ACP-EU Council of Ministers, the ACP-EU Joint Parliamentary Assembly, the European Commission, the European Economic and Social Committee's ACP-EU Follow-up

⁹ <http://www.acpsec.org/en/conventions/cotonou/accord1.htm>

Committee, the ACP Secretariat, the European Investment Bank and, the Centre for the Development of Enterprise.

The Cotonou Agreement foresees cooperation between the EU and ACP countries until 2020. Under the umbrella of this agreement a WTO compatible Economic Partnership Agreement (EPA) was designed. The EPAs originate from the need to transform the trade chapter, Articles 36 and 37, of the Cotonou agreement as these trade preferences obtained from the EU are a violation of Article 1 of WTO, the Most Favoured Nation Principle (MFN), by favouring some countries, selected on the basis of their colonial past at the cost of other developing countries. The main cooperation areas of the EPAs are (i) the economic development, (ii) social and human development, (iii) regional cooperation, (iv) trade cooperation, (v) financial cooperation through development funds (Gonzales, 2007). The EPAs represent 'a major turning point in the EU-ACP relations' (Van Langenhove, Costea, 2007).

The EPAs negotiations started in 2004 when the EU launched discussions with six ACP sub-regions, namely East and Southern African states, the Caribbean, the Southern African Development Community and the Pacific islands. The intention was to conclude the EPAs negotiations by the end of 2007. For various reasons, the EC and the ACP representatives in most of the cases had not reached a common agreement and approach on issues concerning the key principles of EPAs (ODI, ECDPM, 2008).

The European Economic and Social Committee ACP-EU Follow-up Committee recommended that development in ACP countries should take into consideration the strengthening of social policies and the reduction of poverty. The document assessed that there is still a lot to be done to effectively implement a social dimension within the Cotonou Agreement. In addition, the recommendations tackle also the EPAs and the inclusion of social dimension next to trade and finance issues. It refers also to the fundamental social rights enshrined in the ILO Conventions (EESC, 2006).

The social aspects of the EPAs are highlighted under Chapter 5 endorsing the commitment of both parties to the internationally recognized ILO core labour standards. Moreover, the cooperation between EU and ACP is considered to be a tool in accomplishing the social and labour objectives of the agreement. This cooperation should take the form of exchanging of information on social and labour legislation as well as the necessary measures

that has to be taken. Support from the EC in the formulation of national social and labour legislation, including measures aimed at promoting the Decent Work Agenda of the ILO should also be encompassed. Nonetheless, there is no clear specification on how these measures should be accomplished, or which is the explicit role of the EU in this matter. Greven (2005) argue that no clear action on labour standards has been taken and that the labour movements ask for more provisions in the EPAs.

The problems today are related to the actual implementation of the Cotonou Agreement. The EPAs have been fiercely criticised by some international NGOs and some countries within the ACP groups as imposed unilaterally by the EU and as dangerous for the economic reality of the developing countries.

Conclusions

The EU is committed to improving economic and social coherence through its external policies. It has moved beyond the traditional approach of labour standards to a broader understanding of social policy, which incorporates the qualitative aspects of decent work for all. Since 2001, the EU further strengthens its capacity to promote CLS by strong cooperation with the International Labour Organization (ILO). The decent work agenda of the ILO became a priority in the external social policies of the EU. Moreover, the European Commission was actively involved in the ILO World Commission of the Social Dimension of Globalization, and the European social model, the Lisbon process, and the Open Method of Coordination (OMC) are given as examples for international social governance. Additionally, by advancing the Communication on 'The Social Dimension of Globalization – the EU's policy contribution on extending the benefits to all', the EU is progressively developing support for social development worldwide. Most of its bilateral and regional agreements include a social chapter. However, there is still needs to fully make use of the social provisions stipulated in these chapters. Orbie (2007) points out that the social initiatives represents part of the development agenda, while core labour standards are still subordinated to trade policy goals.

Even though the Cotonou agreement and the EPAs make explicit reference to core labour standards and the promotion of social dialogue, there is no specific connection

between the social/labour provisions and incentives/sanctions (Orbie, 2007, Greven, 2005). Another position is stated by the Head of Economic Trade and Regional Integration Section, Tom Vens, who declared in December 2007 that in its trade policies ‘the EU promotes the effective application of core labour standards through positive instruments and incentive-based approach. The EU is firmly opposed to sanction-based approaches and initiatives to use labour rights for protectionist purposes.’¹⁰

However, there is a clear need to explore further, how the EU can enhance the effectiveness of social provisions in its agreements with the developing countries, especially with the ACP countries. The EPAs should provide an opportunity to launch dynamic social development programmes to accompany and buttress trade liberalisation (EESC, 2006).

¹⁰<http://www.deluga.ec.europa.eu/en/docs/Speech%20at%20NOTU%20event%20December%202007.doc>

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