

Using Trade Agreements to Address Non-Trade Issues

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How could we use **LABOR RIGHTS PROVISIONS IN PTAs** to promote trade and investment that is good for labor standards?

Dataset on NTIs in PTAs

Covered agreements

- Currently 660 PTAs coded.
- PDF source = DESTA
- These agreements were signed between 1945 and 2020.

WHICH NTIs?

- CIVIL and POLITICAL rights
- ECONOMIC and SOCIAL rights
- ENVIRONMENTAL protection issues
- SECURITY issues

...**54.43** % cover
CIVIL AND POLITICAL RIGHTS
human integrity
democracy
right to free belief
minority prot.
women rights
rule of law
prohib. human trafficking
good governance
food security
prohib. child labor

...**57** % cover
SECURITY ISSUES
national security
anti-corruption
anti-drug trafficking
fight against terror

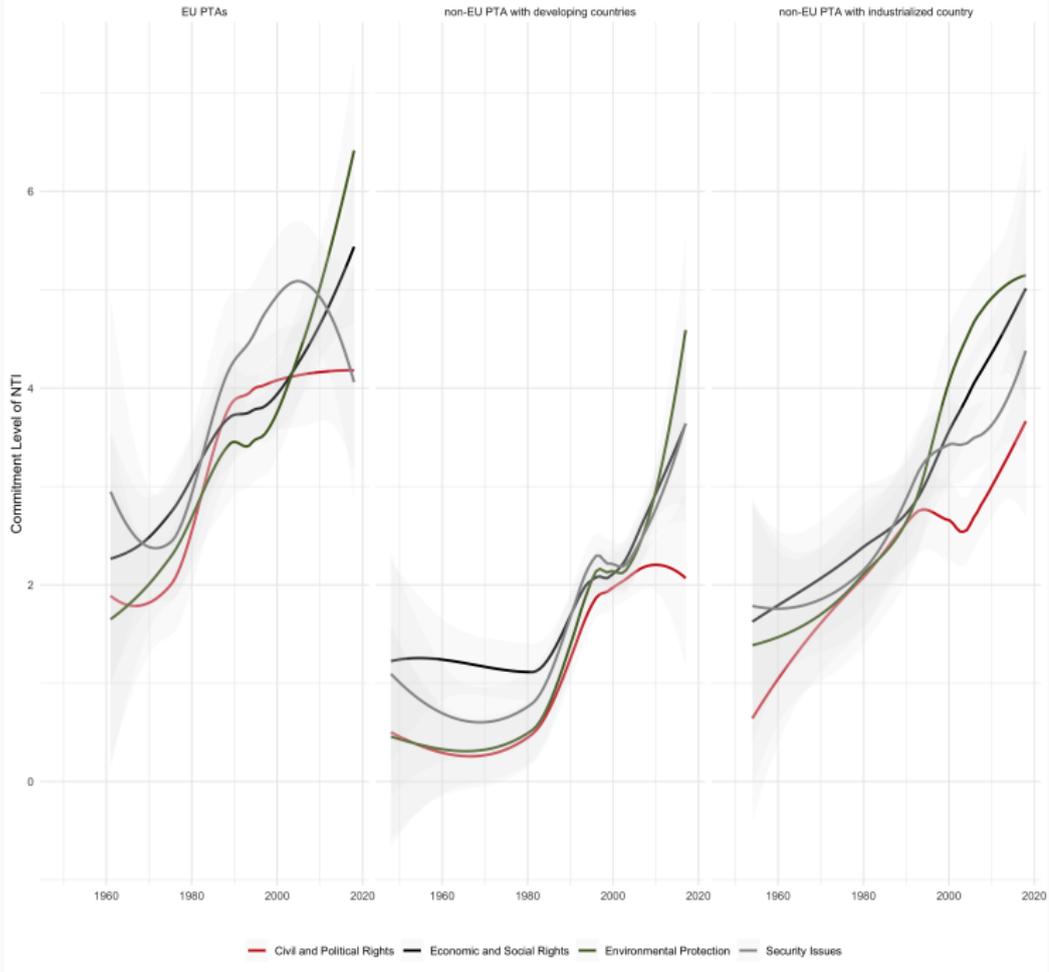
... **60.86** % cover
ECONOMIC AND SOCIAL RIGHTS

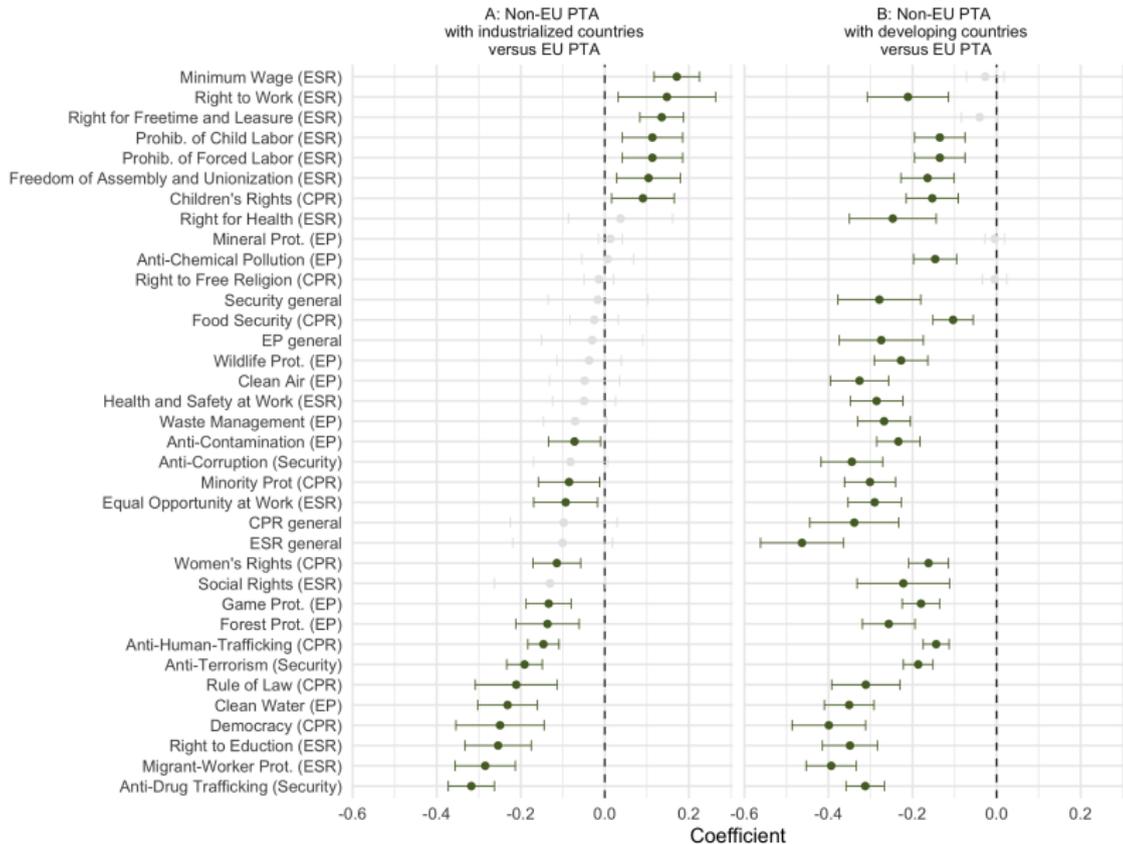
right to health
development
social protection
labor standards (general)
prohib. forced labor
health/safety at work
equal opportunity at work
prohib. child labor
to unionize
protect. migrant worker
to education
working time regulation
minimum wage

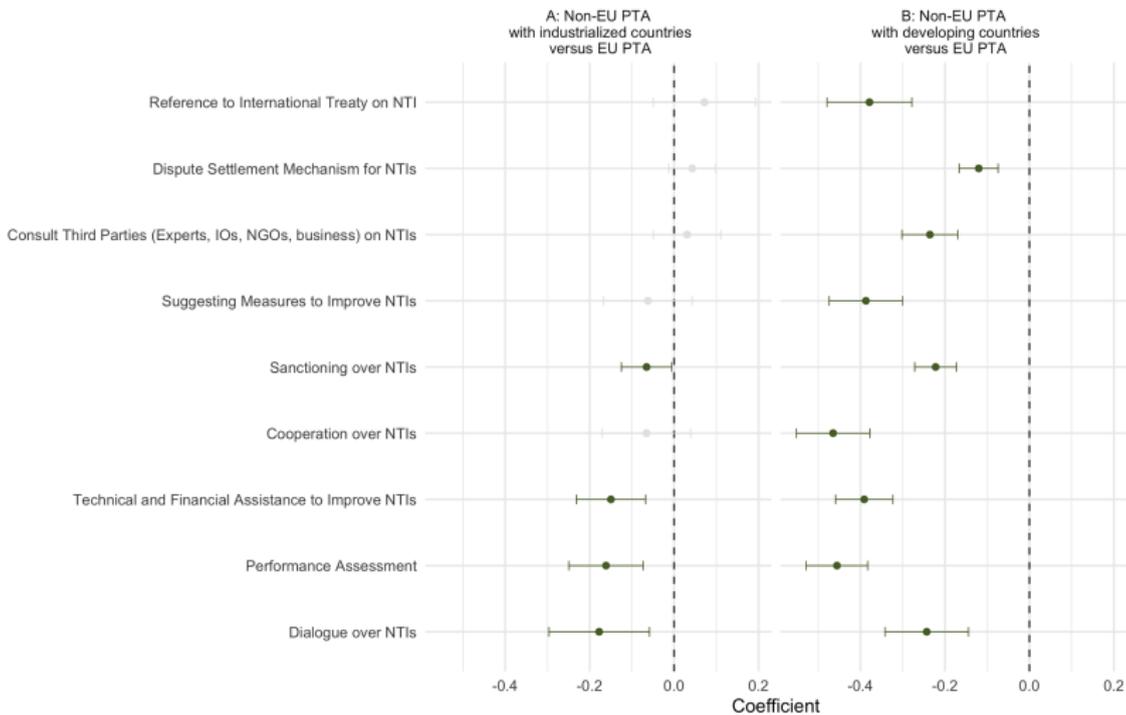
... **57.71** % cover
ENVIRONMENTAL PROTECTION
environ. prot. (gen.)
prot. wildlife
reducing air pollution
reducing water pollution
waste management
forest protection
reducing contamination
regulating game
regulating chemical waste
protecting minerals

1. Manual coding of 262 data points in MAXqda
2. Reliability check
 - Manual coding again (check reliability)
 - Translation of coding-scheme to regular expressions (check reliability)

Some insides from the dataset







Things to think about

How should labor right provisions look like?

Interesting Case: From CAFTA to updated NAFTA

505. In sum, the facts as we have found them fail to establish a breach of Article 16.2.1(a), because whichever way they are viewed, one of the prongs of an Article 16.2.1(a) claim has not been met.

¶ When Guatemala's law enforcement failures are looked at collectively, they show (on an *arguendo* basis) a sustained or recurring course of action or inaction, but not conduct in a manner affecting trade. When the one law enforcement failure that we found to be in a manner affecting trade is looked at by itself, there is no sustained or recurring course of action or inaction. Under these circumstances, given the cumulative nature of the elements of Article 16.2.1(a), we are unable to find that provision to have been breached based on the factual matrix before us.

USMCA Protocol of Amendment: Key Labor Changes

Some Members of Congress criticized the original text of the USMCA chapters on labor and dispute settlement (DS) and negotiated with the Administration to amend the agreement. Key changes include the following:

- **Prevention of panel blocking in dispute settlement.** Ensures the formation of a panel in dispute cases where a party refuses to participate in the selection of panelists.
 - **"In a Manner Affecting Trade and Investment."** Shifts the burden of proof by stating that an alleged violation affects trade and investment, unless otherwise demonstrated.
 - **Rapid Response Mechanism.** Adds a new rapid response mechanism to provide for an independent panel investigation of denial of certain labor rights at "covered facilities," as opposed to a government inspection.
 - **Mexico's Labor Reform Monitoring.** USMCA implementing legislation creates a new interagency committee, labor attachés, and reporting requirements to Congress on Mexico's implementation of labor reforms.
 - **New or amended provisions on Rules of Procedure for DS, forced labor, and violence against workers.**
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Which PTAs should be most ambitious in terms of labor rights provisions AND how to review performance?

Compliance with Environmental and Social
Standards in Preferential Trade Agreements
and the Moderating Effect of Firms

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Enforceable NTIs in PTAs have a positive effect on outcomes, if moderated by...

- ...trade dependency
- ...uniquely exported products
- ...FDI outflows

Strong commitments (examples):

- EU Vietnam (2016)
- Canada EU (CETA, 2016)
- Colombia Peru EU (2012)

Weak commitments (examples):

- Older agreements, like EU Israel, EU Turkey, or EU with EFTA states
- EU Mexico (2000)
- EU Pacific States EPA Fiji Papua New Guinea (2009)

Interesting Case: Strong Commitments in EU-Vietnam Free Trade Agreement (EVFTA), but weak compliance



<https://indianexpress.com/article/world/european-union-vietnam-labor-rights-7199902/lite/>

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Looking forward to a vivid discussion!

References

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