

ECONOMICS WORKING PAPER

Labour Provisions in Trade Agreements with Developing Economies: The Case of TPPA and ASEAN Member Countries

Sanchita Basu Das

ISEAS – Yusof Ishak Institute
E-mail: sanchita@iseas.edu.sg

Rahul Sen

Auckland University of Technology
E-mail: rahul.sen@aut.ac.nz

Sadhana Srivastava

Auckland University of Technology
E-mail: sadhana.srivastava@aut.ac.nz

ISEAS Economics Working Paper No. 2017-1

March 2017

Abstract

Labour provisions have been increasingly included in bilateral and regional trade arrangements. One recent example was the Trans-Pacific Partnership Agreement (TPPA), signed by twelve countries in 2016 but abandoned by the US in early 2017. Even though the ratification of the TPPA remains uncertain, it has set a precedent in trade policy. This is likely to influence the formulation of trade agreements involving ASEAN countries in the future. This paper examines the implications of the TPPA labour chapter in the context of ASEAN countries that have participated in the agreement. It discusses the extent these countries need to undertake domestic reforms in terms of labour rights and standards.

Keyword: International Trade, Labour Provisions, TPPA, ASEAN

JEL Code: F15, F16, J88.

30 Heng Mui Keng Terrace, Singapore 119614

T 6778 0955

F 6778 1735

E admin@iseas.edu.sg

W www.iseas.edu.sg

Labour Provisions in Trade Agreements with Developing Economies: The Case of TPPA and ASEAN Member Countries

Sanchita Basu Das, Rahul Sen and Sadhana Srivastava

1. Introduction

In recent years, labour provisions as a trade policy tool to support the labour market in generating gains from trade and investment liberalization, have been increasingly included in bilateral and regional trade and investment arrangements by both developed and developing country members, largely outside the purview of the WTO. ILO (2016) defines trade related labour provisions in three ways; i) references to any standard that addresses labour relations or working terms or conditions, ii) mechanisms for monitoring or promoting compliance with labour standards, such as consultative groups, and/or iii) a framework for cooperation, that may include sharing of best practices, through seminars and policy forums.

Currently, 77 trade agreements (covering 136 economies) include labour provisions. Out of which nearly two thirds of them entered into force after 2008. While developed countries viz. US, Canada, EU, EFTA and New Zealand have taken the lead in including labour provisions in their trade agreements, with a range of different approaches, it is notable that one fourth of all trade agreements with labour provisions are between developing economy partners, involving countries in Latin America and Sub-Saharan Africa. Notwithstanding these developments, a number of developing countries continue to view labour as an issue to be negotiated unilaterally through international fora rather than bilaterally or regionally in trade agreements¹.

The objective behind the inclusion of such provisions has primarily to utilize it as a governance tools to promote compliance with core labour standards as defined by the ILO 1998 Declaration on Fundamental Principles and Rights at Work. These include 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 as part of the trade negotiations process. However, these provisions have also been included in trade agreements as policy instruments to promote co-operation, dialogue and exchange of information on a

labour issues between member countries, for example in case of developing countries such as China and Chile.

The need for including labour provisions assumes significance in the light of the fact that international trade in recent years involves global value chains (GVCs), with countries creating jobs that adds value to a product or service along its supply chain, many of them in developing countries. ILO (2015) in a recent study on 40 countries, estimated that the number of jobs linked to international trade involving GVCs has increased from 296 million to 453 million over 1995-2013, accounting a fifth of total employment globally. However, higher employment does not automatically translate to more benefits for workers in terms of wages. The World Employment and Social Outlook 2015 report on the changing nature of employment and observes that while trade tends to generate economic benefits for firms (in terms of higher productivity), it does not necessarily do so for workers (in terms of wages). This disparity is due partly to the asymmetric power dynamics between supplier and lead firms in GVCs, and partly to the weak capacity within governments to implement and monitor labour rights and working terms and conditions effectively.

While there is an increasing reference to ILO 1998 Declaration in labour provisions that are included in trade agreements, the language, commitments and implementation mechanisms differ widely. This implies an absence of a global coherence on the minimum labour standards that should be adhered to by all countries that participate in international trade. Nevertheless, attempts have been made in recent trade agreements involving twelve countries from both sides of the pacific to establish a Trans-Pacific Partnership Agreement (TPPA). This agreement aims to achieve some degree of coherence in labour provisions across a mix of developed and developing countries. The TPPA on labour includes provisions related to countries' commitments to labour rights, enforcement of labour laws, prohibition of forced labour, enhancement of transparency, capacity building exercise and other cooperation mechanisms. Brown (2016) observes that inclusion of a "social dimension" of labour in the TPPA through side agreements with developing countries in ASEAN (viz. Brunei, Malaysia and Vietnam), is a "game changer" and could define the future design of trade agreements, particularly involving the United States.

While the agreement was signed in February 2016, it was not ratified by the US. TPPA was a main issue during the 2016 US presidential election and both the party

candidates campaigned against the deal. On the first day in his office on 23 January 2017, President Donald Trump signed an executive order to withdraw the US out of the TPPA. While a 12-member TPPA may not be around for some time, there are significant policy discussion that the other 11 members will continue with the TPPA, under Japanese or Australian leadership. Despite the uncertainties around TPPA, it has definitely set a precedent in trade policy circles. There are high chances that similar trade agreements are likely to gain prominence among ASEAN countries, some of whom are members to the TPPA. Moreover, ASEAN-EU FTA is under consideration for a while now, which is also likely to include labour provisions.

Given the increasing importance of inclusion of labour provisions in trade agreements involving developing countries, there is a dearth of studies on how these new trade agreements involving labour provisions might impact on developing countries, and what are the implications for their labour market. This paper fills this important gap in the literature in the ASEAN context by providing an overview of the TPPA labour chapter, analysing the implications for the developing Southeast Asian members, primarily Brunei, Malaysia, and Vietnam², to understand how these countries have hitherto treated labour issues in their domestic economy, and how the TPPA or any potential trade agreement with similar labour provisions has the potential to change the impact of trade liberalization on their labour markets.

The rest of the paper is organized as follows. Section 2 briefly reviews the existing literature on labour provisions in trade agreements, presenting the current evidence on whether such provisions have had a significant impact on trade and the labour market in developing countries. Section 3 analyzes the treatment of labour in trade agreements involving the U.S and how the TPPA's labour provisions are similar or different from their existing agreements. Section 4 presents the current status of labour rights and standards in developing Southeast Asian countries that are members of TPPA (Brunei, Malaysia, and Vietnam). Challenges and policy implications for these countries are discussed in Section 5. The last section (section 6) concludes the paper.

2. Literature Review

2.1 Trade Liberalization and Impact on Labour Markets

When a trade agreement ensues liberalization, reduction of tariffs and non-tariff barriers among member countries are likely to have price effects in the goods market, which in turn have an impact on output, employment and wages in the affected industries. From the exporters' perspective, output and employment in exporting industries should expand due to liberalization, increasing wages. However, from the import competing firms perspective, lower tariffs or non-tariff barriers imply increase of cheaper imports and competition for domestic import-competing industries, which may downsize, restructure or exit, leading to unemployment and/or reduction in wages, especially if the same firm is not involved in exporting or importing intermediate inputs. This implies that any trade agreement is likely to have income distribution implications. Governments therefore have to devise institutional mechanisms such as trade adjustment assistance programs to ensure that the gains from trade in the export sector are evenly distributed across all individuals, so that the economy can overall gain from opening up to international trade.

However, in developing countries wherein the labour market is characterized by large scale informality, the capacity of governments to provide trade adjustment assistance for firms and workers may be limited. There could also be labour market impacts for the non-tradable sector, which is largely outside the purview of trade agreements.

While the unambiguously positive welfare effects of trade liberalization are well documented in the orthodox country-based trade theories, their labour market impacts on wages and employment are often indirect, and therefore difficult to estimate both at an aggregate and sectoral level. There are interplay of factors that defines the complex relationship between trade liberalization and labour market impacts, which includes the depth and scope of trade agreements negotiated, relative price effects, market structure, efficiency of capital markets, global engagement in the value chain at a firm-level, informality in the labour force and the quality of laws and regulations governing them.

While theoretical evidence broadly points to gains for the exporting industry due to greater international market access, and possible adverse impacts on wages and employment

in the import competing industry due to increased competition, the empirical literature, often based on micro-level evidence of firm data, has provided mixed evidence so far, and country-specific characteristics have often played an important role in this outcome. Recent studies such as Amiti and Davis (2011) provide evidence in the Indonesian context that trade openness leading to job creation and higher wages in developing countries. Their study observes that a tariff reduction reduces wages of workers at firms that sell only in the domestic market, but raises wages of workers at firms that export. It also observes that a decline in input tariffs raises the wages of workers at firms using imported inputs, but reduces wages at firms that do not import inputs. Specifically, they estimate that a 10 percent decline in output tariffs decreases wages by 3 per cent in firms oriented exclusively toward the domestic economy, but increases wages by up to 3 per cent in exporting firms. A similar tariff reduction is found to have an insignificant effect on firms that do not import but increases wages by up to 12 per cent in firms that do import all inputs, compared to those who source inputs locally³.

However, empirical evidence also points to increase in the skill premium on wage inequality with increasing trade liberalization, attributed more to skill-biased technical change⁴. There is also scant evidence of sectoral labour reallocation across industries as part of the adjustment process of trade liberalization, which has been often attributed to presence of labour market regulations that prevent such mobility⁵.

The impact of trade liberalization on the informal sector in the labour market is also of significance for developing countries, including those in ASEAN. Munro (2011) cites a body of literature that argues that trade liberalization increases informal sector employment, although there is ambiguity on its effects on wages, which depends on country specific characteristics. In general, trade liberalization is likely to increase import competition for the formal sector. Firms are likely to respond to this by replacing permanent workers with part-time labour, or subcontracting with firms in the informal sector that can include home-based and self-employed micro- entrepreneurs. Another consequence of trade liberalization is that workers who lose jobs in the formal sector subsequently seek employment in the informal sector, at least temporarily in the short-run.

It is also important to note that the informal sector is more likely to have less innovative capacity due to less access to capital. Aleman-Castilla (2006) argues that informal firms

cannot achieve productivity gains from lower import tariffs as compared to formal firms as they cannot take advantage of cheaper imported machinery and equipment, and often avoid directly exporting and importing due to scrutiny at the customs border.

Third, informal firms often lack information about profitable opportunities as well as insurance against adverse events in the world economy, and increasing informality can therefore be adverse for macroeconomic stability and increase vulnerability in the event of a global crisis. Informal sector firms can avoid taxes and regulations, and stay in business despite lower productivity than their formal sector competitors, and therefore have an adverse effect on growth and trade compared to a situation of lesser informality.

However, informal economies can also generate positive economic effects on growth and trade. Munro (2011) notes that if the informal economy can produce cheap intermediate inputs, which can then increase the competitiveness of the formal sectors' exports, there are positive spill overs for growth and trade. There is limited empirical evidence to suggest this. In the case of Russia, Kim and Kang (2009) find empirical evidence that the informal economy supported growth of small enterprises during the transition period from 1992 to 1999. Over time, these informal enterprises tended to shift into the formal sector. Moreover, Dell'Anno (2008) finds empirical evidence that the informal economy helps to sustain economic growth in Latin American countries through pro-cyclicality.

The above analysis suggests that trade agreements, if implemented and utilized, provide both opportunities and challenges for the informal labour markets in developing countries, and the net effect could be ambiguous, and depend on the country's domestic labour market regulations, among other factors. There is a clear need for further research into improving data on informality, and more micro-level firm-based evidence on the lines of Paz (2014) is required across a number of developing countries to assess this relationship further.

The labour market impacts of trade within the informal sector are more profound and extend to that of other aspects related to i) gender based discrimination, ii) bargaining power of workers; iii) child labour and iv) minimum wage legislations, which has also been analysed in some detail in the literature.

Lennon (2014) in a comprehensive empirical and theoretical review of the literature, concluded that while trade agreements are likely to reduce gender based discrimination and incidence of child labour in the export sector, they may increase foreign competition, thereby reducing bargaining power of workers in the formal sector. It is also observed that minimum wage legislations in the formal sector are more likely to be effective for large exporting and multinational firms that are more productive.

2.2 Labour Provisions in Trade Agreements: The Theoretical Debate and Empirical Evidence

While empirical research is scant and largely inconclusive on the extent to which the labour market benefits from inclusion of labour provisions in trade agreements, the debate continues over the need to include labour standards to “level the playing field”, an argument often put forward by developed countries in favour of their inclusion. Opponents of labour provision in trade agreements argue that increased competition will lead to an improvement in labour standards in the long run, through a trickle down approach as economic growth leads to more jobs and improved decent work outcomes. However, the counter argument against this is that growth may not automatically lead to better work outcomes, as there are structural barriers that prevent workers from changing employers or sectors easily. Labour provisions must therefore be included to address such market failures in the labour market that arises from trade liberalization. Further, while there’s an argument that labour standards, by increasing the cost of labour, may undermine the low wage comparative advantage of developing countries in international trade, and particularly on their ability to export and attract foreign direct investment (FDI), the counter argument is that adhering to core labour standards promotes a framework for inclusive and sustainable growth, and therefore, violation of core labour standards cannot be used as a justification for legitimate comparative advantage (see Martin and Maskus 2001, ILO, 2016a).

Empirically, the link between labour provisions and their impact on trade and working conditions is complex and difficult to analyse, requiring detailed firm and industry level data. ILO (2016a) argues that for labour provisions to result in improved working conditions at the firm level, they need to have some impacts at the institutional level, by triggering changes in laws and regulations. These changes, in turn, are likely to then directly impact on working conditions at the firm level.

Among earlier studies, Mah (1997), Dehejia and Samy (2004) have confirmed the absence of any direct theoretical or empirical link between ratification of core labour standards and export performance, in the context of developing countries. It has been noted that there are implementation challenges after ratification, which cannot be easily modelled in analysing these empirical effects. Bazillier (2008), in a study of 104 countries observed that enforcement of core labour standards does tend to have a positive impact on long-term per capita GDP, suggesting that there are positive development spill overs from adherence to core labour standards as recognized in the ILO 1998 declaration.

In a recent country case study by López-Mourelo and Samaan (2014) the effect of the Cambodia-US Bilateral textile agreement (which also included labour provisions) was analysed on the gender wage gap in Cambodia, one of the newer ASEAN members, which is not a member of TPPA. Empirical findings observed a reduction in the gender wage gap in textiles sector from 30 per cent prior to the agreement to 6 per cent after its adoption and implementation, thereby improving working conditions, attributed in some way to the labour provision and its implementation programme, as gender wage gap in other manufacturing sectors remained unchanged. This has been finding of the very few studies and suggestive of the fact that sector specific agreements involving labour provisions might have had a positive impact on working conditions, and that the monitoring role played by the ILO under the better factory program, contribute to a better outcome for the labour market in that industry.

In a more recent study, Viegelahn (2016) compared the impact on trade for countries that include labour provisions in their trade agreements with those that did not. Utilizing a standard gravity model of trade that explains bilateral exports between 170 countries from 1995 to 2014, the model includes 258 trade agreements, 71 of which include labour provisions. Trade agreements both with and without labour provisions were estimated to significantly increase trade flows. The study observes that trade agreements with labour provisions are not much different from trade agreements without labour provisions in respect to their impact on trade. The study finds that a trade agreement with labour provisions increases the value of trade by 28 per cent on average, while a trade agreement without labour provisions increased trade by 26 per cent. This study also found evidence that trade agreements that include labour provisions have a significantly stronger positive impact on trade flows for exports from developing to developing economies and from developed to developing economies. Further, there is evidence of export diversion, so that members of

trade agreements export less to non-member countries post-agreement, and this effect was found to be significantly stronger for trade agreements including labour provisions.

The possibility of labour provisions reducing the trade-promoting effect of a Regional Trade Agreement (RTA) is also observed by Kamata (2014) in a recent study involving 220 countries for the period 1995-2012. The study observed that intensive trade with the partners of a labour-provision-inclusive RTA may have a positive impact on labour earnings that concentrate on middle-income countries, but may reduce trade, especially when the RTA partner is a high-income country.

It is therefore observed that empirical research is scant and largely inconclusive on the extent to which the labour market benefits from inclusion of these provisions in trade agreements, and there's a need to analyse these at the country specific level. In the TPPA context, it is therefore important to understand at the outset, what changes in laws and regulations are expected with the enforcement of TPPA type labour clauses, and what implications it might have for its developing country ASEAN members.

3. Trade and Labour: U.S Perspective and the TPPA

3.1 Trade and Labour: The US Policy Positions

The US has followed two ways to incorporate labour provisions in its trade agreements: – unilateral; and bilateral or regional agreements. The unilateral route is the Generalised System of Preference (GSP) and its labour provisions set up by the US in 1984. The GSP is US trade policy of providing preferential duty-free entry for up to 5000 products from 122 designated countries.⁶ While the GSP itself is to give developing countries access to US market, thereby supporting economic development of poorer countries, the labour provision is to ensure fair labour standards for workers in those countries (Compa and Vogt 2001). The rationale behind this is to avoid trade based on unfair competition due to lower costs derived from coerced labour i.e. by denying workers of their rights, making small children work, discriminating against women, suppressing wages and ignoring workplace safety.

The US has promoted inclusion of labour provisions in its bilateral and the regional trade agreements, including the North American Free Trade Agreement (NAFTA) as well as

bilateral ones with Jordan, Bahrain, Chile, Singapore and Peru. Although US trade agreements have gradually evolved towards a more comprehensive reference to ILO standards, the country has also used its own definition of ‘internationally recognized workers rights’, by excluding certain Fundamental Conventions and adding minimum working conditions.

The NAFTA mentions labour under a separate agreement of the North American Agreement on Labour Cooperation (NAALC). NAALC lays down several goals and principles.⁷ The agreement, in general, expresses shared interests of the parties to cooperate so that the economic benefits emerging from NAFTA can be distributed equally among all groups of people. The nature of the agreement is tri-national rather than supranational, thereby respecting national sovereignty. Trade sanctions are applicable for issues related to child labour, health and safety at work and minimum wages, whereas the matter of collective rights is subject to ministerial consultation. It has been noted that although there have been several cases of cooperative consultation under NAALC, none of them have gone to the dispute process (Lazo Grandi 2009).

However, NAALC has received lot of criticism from the domestic US audience as they felt that many of the provisions mentioned in the agreement are not enforceable. Subsequently, in 2007, the Bush Administration and Democrats came up with a bipartisan deal, called the May 10th agreement or the New Trade Policy Template.⁸ The new deal aims at ensuring that participating members of a trade agreement are working towards improving labour conditions. It requires the member countries to adopt and enforce the basic labor standards set in the 1998 Declaration of the ILO (ILO 1998). It also makes sure that the labour provisions are subject to the dispute settlement procedures, implying that countries that violate labour rules could be subject to sanctions (Cho 2007). So any trade agreements signed around and after 2007 are subject to the US’ New Trade Policy Template. These included US’ bilateral trade agreements with Peru, Panama, Columbia and South Korea.

3.2. Labour Provisions in the TPPA

According to the US Trade Representative (USTR) website, ‘TPP has the strongest protections for workers of any trade agreement in history’ (USTR 2015a). It requires all TPP members to abide by the fundamental labour rights as recognized by the International Labour

Organization (ILO). These include the: right to free association and collective bargaining; elimination of forced or compulsory labour; abolition of child labour; and elimination of employment discrimination. All these are said to be fully enforceable and are backed up by trade sanctions.

The export processing zones of all TPP members have additional commitments regarding minimum wage rate, hours of work, and occupational safety and health. In terms of forced labour, the TPP discourages its parties to import goods that are produced or contain parts manufactured by forced labour regardless of whether the source country is a member of TPP or not. The labour chapter talks extensively of transparency while implementing labour commitments in national economies, including public participation and accommodating requests for information.

Acknowledging the importance and complexity of the labour provisions, the TPPA document proposes mechanisms for cooperation and coordination on labour issues (such as job creation, promotion of entrepreneurship, raising productivity, small and medium-scale enterprises (SMEs), discrimination against women and migrant workers) that will be jointly determined by the TPP member countries. Moreover, to resolve any labour issues among TPP countries, the labour chapter offers dialogue mechanism. This is in addition to dispute settlement provisions mentioned in the agreement.

Finally, in order to implement the labour measures and align domestic labour rights to international standards, the USTR has negotiated consistency plans with three Southeast Asian countries – Vietnam, Malaysia and Brunei. A consistency plan outlines the changes a country needs to make before the trade agreement becomes effective. This includes reforms in laws, regulations, institutions and practice. The implementation plan also ensures regular engagement, monitoring and reporting of progress with TPP compliance.

The lack of implementation of TPP labour provision may prohibit a member from using the agreement's tariff privileges or the country may face trade sanction. The US or any other TPP member country may take any of these three countries to a special dispute-settlement panel in case any firm or labour group complains. For Vietnam, if the US feels in two years assessment period (post five years of the grace period) that the country has missed its labour reform obligations, it will provide notification to Vietnam, and will subsequently

enter into consultation, eventually suspending the tariff-phase-outs that have not materialized by then (such as for apparel and footwear, canned tuna, brooms, glass etc, which will take more than seven years) (USTR 2015d).

It should be noted that the US in the past has been mindful about to signatory countries' extent of compliance with the promised measures. The country has taken Guatemala to a dispute-resolution panel over bad labour practices (Mauldin 2015). Another case is when Costa Rica was not able to meet its Intellectual Right commitments under the Central American Free Trade Agreement (CAFTA) and the US blocked sugar imports until the country had made the necessary amendments (Samuels 2016).

4. Trade and Labour: The ASEAN Perspective and the TPPA

For the Southeast Asian members, in general, labour provisions are included for FTAs that have been bilaterally or multilaterally signed with the US and the EU. As of 2015, Singapore had the maximum number of trade agreements enforced in ASEAN, followed by Malaysia and Thailand. As of August 2015, out of the 98 enforced FTAs, only 6 bilateral FTAs referred to labour as an area of negotiation in their agreement texts, prior to the TPPA (Table 1).

Apart from the TPPA, the US has only one bilateral agreement in the region, i.e. with Singapore. The US-Singapore Free Trade Agreement, signed in 2003, has a chapter on labour in the main text (Chapter 17). It refers to the 1998 ILO Declaration and covers issues like enforcement of national labour laws, public awareness, institutional arrangements and labour cooperation and consultation (IE Singapore 2016).

To date, the EU has concluded two trade agreements in the Southeast Asian region – Singapore in 2013 and Vietnam in 2015. It has also been pursuing negotiations with Malaysia since 2010 and Thailand since March 2013, though these agreements have failed to make significant progress. The Singapore-EU FTA includes labour provisions in Chapter 13 of trade and sustainable development⁹ and is binding in nature under the agreement's dispute settlement mechanism. In addition to the reference of the 1998 ILO labour principles, the agreement includes reaffirmation of commitments under the 2006 Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work.¹⁰

Table 1: Number of trade agreements by individual ASEAN members, August 2015

Country Name	Total FTAs (includes under negotiation, signed, and in effect)	FTAs in Effect	Bilateral in effect	FTAs with reference to labour
Brunei Darussalam	12	8	1	0
Cambodia	8	6	0	0
Indonesia	17	9	2	0
Lao PDR	10	8	1	0
Malaysia	21	14	7	1
Myanmar	10	6	0	0
Philippines	10	7	1	1
Singapore	30	20	11	4
Thailand	21	12	6	0
Vietnam	15	8	2	0
Total	154	98	31	6

Source: Author's calculations based on FTA Database available at <https://aric.adb.org/fta>

For the EU-Vietnam FTA, labour is again included under the Trade and Sustainable Development chapter (Chapter 15) and is binding in nature. The two broad objectives of the chapter are to promote mutual supportiveness between trade, investment and labour policies and to ensure that increased trade and investment do not come at the expense of workers' protection. Under the FTA, both the EU and Vietnam recognises the multilateral international standards and agreements on labour, including ILO labour standards.¹¹ In general, the EU FTAs in Southeast Asia do not introduce any new measures under labour provisions but only reaffirms prior international commitments.

Under the ASEAN Community, labour is not dealt in a separate chapter. The ASEAN Economic Community (AEC) talks about skilled labour/ professionals under facilitating the movement of skilled labour and business visitors. However, this is more to do with recognition of education and skills among member economies to facilitate foreign investment in the region. Migrant labour, women and children are discussed broadly in the context of building resilience of the region under the ASEAN Socio-Cultural Community (ASCC).

4.1. Policy Positions of ASEAN TPPA members

It is essential to understand how the labour issue has been treated at domestic level for each of the three ASEAN TPPA members, viz. Vietnam, Malaysia and Brunei Darussalam. This is helpful in understanding the extent of reforms the countries need to undertake in the future, which has implications in terms of impact of trade liberalization on domestic labour markets.

4.1.1 Vietnam

Currently, Vietnam has limited labour rights. It is one of the countries listed in the US' Department of Labour (DOL), where export-manufacturing goods, particularly garments, are produced at low-cost using suppressed wages, poor working condition and other subpar labour standards (US Department of Labour 2014a). The government prohibits independent trade unions outside the ones affiliated with the Communist Party's Vietnam General Confederation of Labour (VGCL) which controls the union registration process (US Department of State 2014a). The VGCL is a poor representation of protecting or legitimising interests of the workers, as the union barely discusses or organises demonstrations on issues of workers' welfare, insurance or depressed wages (Massmann 2016). This is because, at the factory level, it is the managers who serve in the position of union leaders and workers are not permitted to meet in the absence of the management (Worker Rights Consortium 2013). Furthermore, while strikes are not permitted in Vietnam, 'wildcat strikes' – organised by workers outside the union structure – occur regularly, leading to the leaders of such strike to be fired, blacklisted or even suffer imprisonment (AFL-CIO 2016).

Vietnam also suffers from issues of forced and child labour. It has been reported that drug offenders are detained in rehabilitation centres that function as sources of cheap labour for several industries, including garments. Under the disguise of 'labour therapy', these centres punish the detainees when they refuse to work or are not able to meet their daily quota of production. During 2000 to 2011, the number of drug detention centre increased from 56 to 123. Around 309,000 people have been estimated to be detained in these centres over the same period (Zensius 2011). The US DOL finds child labour prevalent in the manufacturing business of bricks and garments (US Department of Labour 2014a). Human trafficking as source of forced labour is also frequent in the garment industry and other informal sectors, like construction, fishing, agriculture mining, logging, manufacturing activities etc (U.S. Department of State 2015)

In addition, women workers in Vietnam face pregnancy-based discrimination. Factory workers are often at risk from blocked fire exits and failure to provide safeguard instruments. Garment factory workers are reported to work for long hours with inadequate wages. Workers on short-term contract or third party labour contractors are also rampant in manufacturing sectors (Worker Rights Consortium 2013).

It should be noted that Vietnam is the second-largest source of apparel and textile imports to the US, totalling around US\$10 billion in value and generating more than 2 million jobs (ITA 2016). Many of the apparel and textile products manufactured in Vietnam are sub-contracted to small workshops, who frequently use forced labour and misuse their rights.

As part of the TPPA, the Vietnam Consistency Plan, known as US-Vietnam Plan for the Enhancement of Trade and Labour relations, needs the country to enact a range of legal reforms with workers organizing themselves in independent unions outside the Communist Party's control, workers having the right to elect their own union leaders as well as increasing protection against work-place discrimination and penalty charges for forced labour. One key commitment for Vietnam is cross-affiliation, which implies that the country has to allow local unions in one specific factory to affiliate with the workers of factories in the same sector and to form a broader national federation with unions from other sectors. Vietnam will not be able to join the TPPA until and unless it satisfies the US with its progress in meeting the labour rights' requirements outlined in the consistency plan. However, Vietnam has a five year grace period to permit workers to unionize. It has another two years when the US will assess whether the country has complied with the cross-affiliation obligation (USTR 2015d; World Trade Online 2015). Thus, the TPPA Vietnam Consistency Plan is expected to bring in positive changes to the labour environment in Vietnam.

4.1.2 Malaysia

Malaysia has problems with respect to forced labour and human trafficking. The US DOL lists forced labour as one of the pervasive factors in the electronics and garment industries, while the palm oil sector also uses child labour (US Department of Labour 2014b). Many estimates indicate that there are 3-4 million migrant workers in Malaysia, which constitutes 20-30 per cent of country's workforce (ILO 2016b).

In the last few years, there have been multiple reports documenting the mistreatment of migrant labour and human trafficking. A study by Verite in 2014 found that nearly 30 per cent in a sample of 500 migrant workers in the electronics industry are forced labour. Another 70 per cent of the workers can be categorised under forced labour as they reported coercion in form of outsourcing, debt from recruitment fees, restricted movement, isolation and document retention (Verite 2014). Another study by Finnwatch in 2014 reported violation of labour rights among many of the interviewed migrant workers. These included wages below statutory minimum, lack of overtime pay, restriction of freedom of association, gender discrimination, document detention and imposition of debts (Finnwatch 2014). The US Department of State in its 2015 Trafficking in Persons Report mentioned that migrant workers in agriculture, palm oil plantations, construction sites and the electronic industry are subject to labour practices (such as seizing of passports, restricting movement, withholding wages, violating contracts, debt bondage with employers or recruitment agencies) that can be denoted as forced labour (US Department of State 2015).

Freedom of association is limited in Malaysia and is controlled by the Director General of Trade Unions (Ministry of Human Resource). There are legal restrictions on industrial action and police permission is needed for public gatherings of more than five people. Collective bargaining is also restricted in certain industries, such as electronics and the public sector. Moreover, there is exclusion of certain matters from collective bargaining such as wages or hours of working. There are reports employers often terminate or penalise workers for expressing their dissatisfaction with employers or arrange demonstrations (ITUC 2015a). ILO, in one of its reports, states that most of these policies are introduced to create a stable environment in Malaysia, keeping in mind the interest of economic development and foreign capital (Mohamad 2016).

Lately, Malaysia have been planning to undertake labour reforms and trying to make amendments to issues that the TPPA requires the countries to enforce¹². In 2014, the government consulted with civil society stakeholders to draft and propose amendments strengthening the existing anti-trafficking laws. The TPPA labour chapter and the Malaysia Consistency Plan have some helpful directions. According to the Consistency Plan for Malaysia, the country needs to lift restrictions on workers forming unions and improve the labour rights of the migrant workers, including requiring employers to give workers' contracts and removal of practice that employers keep the passport of migrant workers (Dong

2016). Malaysia also needs to follow through its anti-trafficking laws. The Consistency Plan states that the US and Malaysian governments will meet annually for seven years after the date of entry into force of the Agreement to observe the progress with implementation of the labour reform in the country (USTR 2015c).. Accordingly Malaysia needs to amend eight of its labour laws on forced labour and freedom of association (Mohamad 2016).¹³ These are expected to have a profound effect on the labour market, if properly implemented.

4.1.3 Brunei

In order to comply with the labour standard as stated in the ILO declaration, the labour rights situation in Brunei needs to be improved. The country is implementing the Sharia Penal Code (SPC) since May 1 2014 in parallel with the existing common law-based criminal law system. Although SPC implementation in Brunei starts with offences punishable by fines and imprisonment, it subsequently extends to extreme punishment of dismemberment and death by stoning for crimes like adultery and alcohol consumption (US Department of State 2014*b*). The country has been often criticized in the West for its Shariah-based laws and potential impact on religious minorities (Mauldin 2015).

Freedom of speech is limited in Brunei, thereby making it difficult to develop freedom of association (US Department of State 2014*b*). Activists considered anti-government in nature can be detained without trials indefinitely, renewable on two years period (Amnesty International 2015). The formation of trade unions is subject to government approval (UN General Assembly 2014). The majority of labour laws apply to the Bruneian citizens, failing to cover skilled and unskilled migrant workers (ITUC 2015*b*). Although Brunei prohibits all forms of forced labour, female migrant workers, who form most of the household domestic workers, are vulnerable to be forced labour. Withholding salaries of migrant domestic help and retention of travel documents of migrant workers by employers or agents are generally accepted in the country (US Department of State 2014*b*).

The US-Brunei labour Consistency Plan in the TPP addresses some of these issues like ending document detention or employment discrimination. Brunei is in process to allow the ‘right to collective bargaining’ and the ‘right to strike’ (ITUC 2015*b*). Specifically, the TPPA Brunei consistency plan addresses the issues related to: trade union registration; child-

labour protection; transparency in documentation; and job discrimination. The plan requires Brunei to implement a minimum wage for the first time (USTR 2015b).

It is observed from the above analysis that TPPA's labour provisions are unprecedented, especially for most of the Southeast Asian countries, as it requires significant changes in domestic labour laws to be compliant with that of all TPPA members, including the U.S.

5. Policy Implications

The TPPA is said to have 'the strongest protections for workers of any trade agreement in history'. Indeed, on paper the TPPA lays down labour provisions that are much more than the ones currently exist in the developing countries, especially the Southeast Asian ones. It can be said that if implemented in any form in the near future, TPPA should have favourable labour market implications for developing countries.

The above observation notwithstanding, the challenges for converting the opportunities from trade agreements into a favourable outcome for the labour market are profound. First, a number of ASEAN member countries (notably Indonesia, Thailand, Philippines and Vietnam, among others) involve a significantly high share of informal employment in their labour force (Table 2), which according to ILO-WTO (2009) has the potential to reduce firm size, and limit opportunities for export diversification in these economies. This could also have adverse consequences in terms of reducing productivity of exporting firms in these countries. The empirical literature also points out to the fact that if linkages can be created with the formal sector so that the informal economy produces cheap intermediate inputs, for the formal sectors' exports, or the formal sector subcontracts some part of export production to the informal sector, there is a possibility of generating a positive spill over for growth and trade. Further, following Paz (2014), if TPPA is able to bring about a substantial tariff reduction both in the home country and in their trading partners, the informal sector workers may benefit. However, it is also important that labour market regulations are made flexible over time, which should be the case for Vietnam, Malaysia and Brunei if their TPPA Labour consistency plans were to be implemented.

Table 2: Employment in the informal economy in non-agricultural activities in selected Asia economies

	persons in informal employment		persons employed in the informal sector		persons in informal employment outside the informal sector	
	millions	% of non-agricultural employment	millions	% of non-agricultural employment	millions	% of non-agricultural employment
Indonesia (2009)	3.2	72.5	2.6	60.2	0.5	12.2
Philippines (2008)	15.1	70.1	15.7	72.5	2.5	11.5
Thailand (2010)	9.6	42.3	NA		NA	
Vietnam (2009)	17.2	68.2	10.9	43.5	6.3	25.2

Source: ILO (2012)

Second, in spite of increases in real wages and in minimum wages in several ASEAN economies over the years, there exists sectoral level disparities in the levels of minimum wage set in these countries, and there also exists gender wage gaps among ASEAN members. Table 3 shows the unadjusted gender wage gaps for a few ASEAN member countries. It is noted that while high gender wage gaps in higher income ASEAN members (Singapore) is a reflection of more part-time work by women due to childcare duties, gender wage gaps in newer ASEAN members such as Cambodia and Vietnam are more likely due to greater proportion of women in low pay occupations, such as domestic workers, most of whom are often not covered by minimum wage legislations, and face discrimination in the labour market. While there has been some progress in improving the coverage for minimum wages for domestic workers in developing countries, there is a need for greater institutional intervention in this area for a more favourable labour market outcome.

ASEAN has initiated the creation of an ASEAN Economic Community (AEC) in 2015, which aims to be a single market and production base, leading to the free flow of goods, services, investment capital and skilled labour among the 10 ASEAN member countries. ILO-ADB (2014) notes that such an integration initiative will face significant challenges in the labour market, related to job gains and losses, skills development, wages and productivity, as well as labour migration and social security. It notes that while greater integration among ASEAN countries will enhance output and create nearly 14 million job

opportunities in low to medium and high skilled occupations by 2025, these employment gains will not be distributed evenly across ASEAN member countries or sectors, or across genders. ILO-ADB (2014) estimates that by 2025, more than half of all high-skill employment in Cambodia, Indonesia, Lao PDR, Philippines, Thailand and Vietnam could be filled by workers with insufficient qualifications.

Table 3: Unadjusted Gender Wage gaps in selected ASEAN member countries
(%)

Country Name	Average Wage Difference (women compared to men in %)
Cambodia (2010)	-23.3
Malaysia (2013)	-4.5
Philippines (2013)	6.1
Singapore (2013)****	-26.1
Thailand (2013)	-1.4
Vietnam (2013)	-9.4

Note: Data presents the unadjusted gender wage gap, defined as difference between average wages of women compared to men

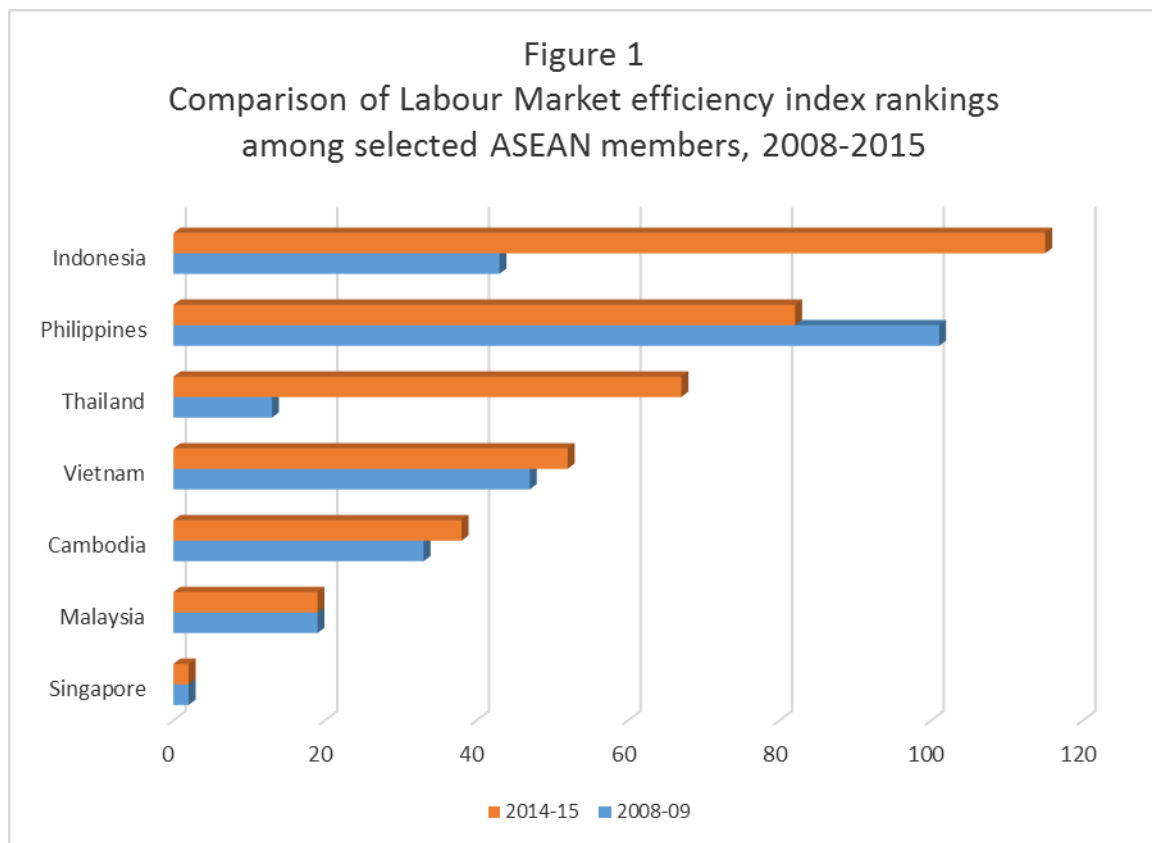
***** Based on data from Central Provident Fund (CPF) Board*

Source : Compiled from ILO (2014)

This implies that ASEAN members need to devise policies to facilitate movement up the skills ladder and addressing skills gaps by improving the education system. Concomitantly, in order to attract and retain skilled workers wages have to be improved to link it with higher productivity. ILO-ADB (2014) recommended that AEC focuses on three areas of labour market reforms so that trade liberalization can benefit its workers. These include ratifying, implementing and enforcing international conventions; extending the coverage of social security; and implementing the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers to facilitate intra-ASEAN labour mobility due to trade integration (ILO-ADB, 2014).

The TPPA consistency plan, provides opportunities for Vietnam, Malaysia and Brunei to be able to reform their labour market in a way so that workers benefit from trade liberalization. The effect of the labour market on ASEAN non-TPPA members is likely to be much more uncertain as they differ markedly in terms of their labour market regulations and efficiency, measured by the labour market efficiency index, the 7th Pillar of the Global

Competitiveness Index as measured by Schwab (2009) and Schwab and Sal-i-Martin (2015). Figure 1 compares the changes in rankings in this index which is measured by 10 sub-components that measures cooperation in labour-employer relations, flexibility of wage determination, hiring and firing practices, redundancy costs, pay and productivity, country capacity to retain talent, and female participation in the labour force, among other aspects of the labour market. An increase in the ranking suggests a deterioration in labour market efficiency, and Indonesia and Thailand (both non-TPP ASEAN members) seems to have witnessed a sharp decline in this index over 2008-2015.



Source: Schwab (2009) and Schwab and Sal-i-Martin (2015).

It is important to note that in spite of TPPA consistency plans to reform labour market in the developing country members to ensure trade liberalization generates a favourable labour market outcome, there are criticisms, especially in the US, discussing the loopholes and implementation and monitoring. For example, the Brunei Consistency Plan talks about

ending document confiscation and public outreach to inform and educate people, but does not talk about high fees levied on migrant workers by recruitment agencies. For Malaysia, the Consistency Plan does not specifically mention the right to bargain in all sectors. It also does not clearly hold employers fully accountable for forced labour. In the case of Vietnam, the plan mentions prohibition on discrimination, but does not specify religion, political opinion, or immigration status as protected categories. Despite the requirements of the right to strike or right to have unions to be independently managed, there is no clear mention of penalties for employers violating those rights.

For all of these countries, the consistency plan fails to include any evaluation mechanism to monitor the progress in implementation of the needed legal and regulatory changes. Moreover, critics complain that these countries have little incentive to undertake domestic reforms in a timely manner as the countries can avail of market access privileges soon after the agreement is ratified among the participating members (AFL-CIO 2016).

6. Conclusions

Labour provisions as a trade policy tool to support the labour market are gaining prominence in bilateral and regional trade arrangements involving developing countries. One such attempt has been made in the Trans-Pacific Partnership Agreement (TPPA), signed in 2016, although with the US quitting the TPPA in early-2017. Uncertainty exists on the fate of this agreement, and the labour provisions agreed therein. Nevertheless, it has definitely set a precedent in trade policy circles, with chances that similar trade agreements will gain prominence among ASEAN countries in the future¹⁴.

Notably, the TPPA labour provisions requires all its members to adopt and prepare their labour laws recognizing the ILO's fundamental labour rights and practices. It provides bilateral consistency plans between the US and the three Southeast Asian countries - Vietnam, Malaysia and Brunei - placing additional requirements on the three to avail of the trade privileges in the agreement. The three consistency plans are developed according to domestic culture and needs and hence differ in content, scope and enforcement mechanism.

Such labour provisions in trade agreements have hitherto been unprecedented, especially for most of the Southeast Asian countries. Countries such as Vietnam, Malaysia and Brunei have to undertake significant reforms to comply with the TPPA labour

commitments, although there are flexibilities too. For example, the TPPA provides Vietnam a five-year grace period to implement its labour provisions and following that, there is an assessment period of two-years. In case of any labour dispute, the TPPA offers a dialogue mechanism before the dispute turns to the agreement's dispute settlement provision. That way, Vietnam has around 10 years from the time TPPA comes into play and a labour dispute escalates to the dispute settlement panel. Nevertheless, TPPA's labour chapter has the potential to be a pathfinder for future trade agreements that wish to explore the labour market outcomes of trade liberalization.

The TPPA labour provisions therefore come up as a test case for middle income developing countries, and its impact on the labour market has the potential to lead the outcomes of future regional trade agreements involving the ASEAN member countries. For the developing countries in Southeast Asia, it provides guidelines to undertake improvements in their labour conditions, as it embarks on deeper economic integration. In the end, political will and implementation integrity of the TPPA ASEAN member economies will be crucial to ensure that the labour market reforms complement trade liberalization for these economies.

References

AFL-CIO. *The Gold Standard for Workers? The State of Labour Rights in Trans-Pacific Partnership Countries*. Washington, D.C.: AFL-CIO, 2016. Available at: http://www.aflcio.org/content/download/174525/4153892/1628_TPPLaborRightsReport.pdf >.

Aleman-Castilla, B. “The Effect of Trade Liberalization on Informality and Wages: Evidence from Mexico”. CEP Discussion Papers, Centre for Economic Performance. London: London School of Economics, 2006.

Amiti, M. and Davis, D. R. “Trade, Firms, and Wages: Theory and Evidence”. *The Review of Economic Studies* 79, no.1 (2012): 1-36.

Amnesty International. *Amnesty International Report 2014/2015: The State of the World’s Human Rights*. London: Amnesty International, 2015. Available at: https://www.amnestyusa.org/pdfs/AIR15_English.PDF>.

Bazillier, R. “Core Labor Standards and Development: Impact on Long-term Income”. *World Development* 36, no. 1 (2008): 17-38. Available at https://www.researchgate.net/publication/4918637_Core_Labor_Standards_and_Development_Impact_on_Long_term_Income> (accessed 23 Oct. 2016).

Brown, R. “Labour Implications for TPP”. Working Paper, East-West Centre Workshop on Mega-regionalism- New Challenges for Trade and Innovation, 2016. Available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2745524

Cho, S. “The Bush Administration and Democrats Reach a Bipartisan Deal on Trade Policy”. *ASIL Insights*, American Society of International Law 11, no. 15 (2007). Available at <https://www.asil.org/insights/volume/11/issue/15/bush-administration-and-democrats-reach-bipartisan-deal-trade-policy>>.

Compa, L.A. and J. S. Vogt. “Labour Rights in the Generalised System of Preferences: A Twenty Year Review”. *Digital Commons@ILR*. New York: Cornell University ILR School, 2001.

Dehejia, V.H and Samy Y. “Trade and Labour Standards: Theory and New Empirical Evidence”. *The Journal of International Trade & Economic Development* 13, no.2 (2004): 179-198. (Accessed at DOI:10.1080/0963819042000218692).

Dong, Vivian. “Enforcing Labour Standards Under the Trans-pacific Partnership”. *OnLabour*, 29 February 2016 <https://onlabor.org/2016/02/29/enforcing-labor-standards-under-the-trans-pacific-partnership/>>

Dell’Anno, R. “What is the Relationship between Unofficial and Official Economy? An analysis in Latin American countries”. *European Journal of Economics, Finance and Administrative Sciences* 12 (2008).

Finnwatch. “The Law of the Jungle: Corporate Responsibility of Finnish Palm Oil Purchases”, May 2014. Available at <http://www.finnwatch.org/images/palmoil.pdf>>.

Government of Canada. “North American Agreement of Labour Cooperation”, 1993. Available at <<http://www.labour.gc.ca/eng/relations/international/agreements/naalc.shtml>>.

Grandi, P. L. “Trade Agreements and their Relation to Labour Standards: The Current Situation”. *ICTSD Programme on EPAs and Regionalism*, International Centre for Trade and Sustainable Development, Issue Paper no. 3, November 2009.

Hoekman, B. and Winters, A. “Trade and Employment: Stylized Facts and Research Findings”. Policy Research Working Paper 3676. Washington, DC: World Bank, 2005.

IE Singapore. “Free Trade Agreements”, 2016. Available at: <<http://www.iesingapore.gov.sg/~media/IE%20Singapore/Files/FTA/Existing%20FTA/US%20Singapore%20FTA/Legal%20Text/United20StatesSingapore20FTA20Legal20Text.pdf>>

ILO. *Declaration of Fundamental Principles and Rights at Work*. Geneva: International Labour Organization, 1998. Available at: <<http://www.ilo.org/declaration/lang--en/index.htm>>.

———. “Statistical Update on Employment in the Informal Economy”. Department of Statistics, International Labour Organization, 2012. Retrieved from: http://laborsta.ilo.org/informal_economy_E.html

ILO-ADB. *ASEAN Community 2015: Managing Integration for Better Jobs and Shared Prosperity*. Bangkok: International Labour Organization and Asian Development Bank, 2014.

ILO. “Wages in Asia and the Pacific: Dynamic but Uneven Progress”. Supplement to the *Global Wage Report 2014/15*. Geneva: International Labour Organization, 2014. Available at: <http://www.ilo.org/asia/whatwedo/publications/WCMS_325219/lang--en/index.htm>.

———. *World Employment and Social Outlook 2015: The Changing Nature of Jobs*. Geneva: International Labour Organization, 2015.

———. “Assessment of Labour Provisions in Trade and Investment Agreements”, in *Studies on Growth with Equity Series*. Geneva: International Labour Organization, 2016a.

———. *Review of Labour Migration Policy in Malaysia*. Geneva: International Labour Organization, 2016b. Available at <http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_447687.pdf>.

ILO-WTO. *Globalisation and Informal Jobs in Developing Countries*. Geneva: International Labour Organization and World Trade Organisation, 2009

International Trade Administration [ITA]. “Major Shippers Report”. Office of Textiles and Apparels, 31 May 2016. Washington, D.C.: International Trade Administration, 2016. Available at <<http://otexa.trade.gov/msrcty/v5520.htm>>.

ITUC [The International Trade Union Confederation]. “Survey of Violations of Trade Union Rights”, 2015a. Available at <<http://survey.ituc-csi.org/Malaysia.html?lang=en#tabs-2>>.

———. Survey of Violations of Trade Union Rights, 2015b. Available at <<http://survey.ituc-csi.org/Brunei-Darussalam.html?lang=en#tabs-2>>.

Kamata, I. “Regional Trade Agreements with Labor Clauses: Effects on Labor Standards and Trade”. RIETI Discussion Paper Series 14-E-012, 2014.

Karmakar, S. “Political Economy of India’s Trade Negotiations: Economic Significance of FTA”. Retrieved from <http://www.etsg.org/ETSG2013/Papers/406.pdf> (Accessed November 25, 2015).

Kim, B-Y and Kang, Y. “The Informal Economy and the Growth of Small Enterprises in Russia”. *Economics of Transition* 17, no. 2 (2009): 351-376

Lazo Grandi, P. “Trade Agreements and Their Relation to Labour Standards: The Current Situation”. Issue Paper no. 3, ICTSD EPAs and Regionalism Series. Geneva: International Centre for Trade and Sustainable Development, 2009.

Lennon, C. “Globalization and Labour Standards: A Review of the Literature”. Report prepared for the Canadian-Swiss Cooperation Project on Improving Worker Rights in Globalising Economies (mimeo), 2014.

Leo, Kasim. “Labour Reforms Needed under TPP”. *The Brunei Times*, 10 February 2016 <<http://www.bt.com.bn/business-national/2016/02/10/labour-reforms-needed-under-tpp>>.

López-Mourelo E. and Samaan, D. “The Effectiveness of Labour Provisions in Reducing the Gender Wage Gap”. ILO Discussion Paper. Geneva: International Labour Organization, 2014.

Mah, J. S. “Core Labour Standards and Export Performance in Developing Countries”. *The World Economy* 20, no. 6 (1997): 773-785.

Mauldin, William. “TPP Gives US Increased Power to Push Nations to Improve Labour Practices”. *The Wall Street Journal*, 5 October 2015 <<http://www.wsj.com/articles/pacific-trade-deal-gives-u-s-increased-power-to-push-nations-to-improve-labor-practices-1444058329>>

Massmann, Oliver. “The TPP: A Win for Vietnam’s Workers”. *The Diplomat*, 20 April 2016 <<http://thediplomat.com/2016/04/the-tpp-a-win-for-vietnams-workers/>>.

Martin, W. and K. E. Maskus. “Core Labor Standards and Competitiveness: Implications for Global Trade Policy”. *Review of International Economics* 9, no. 2 (2001): 317-328.

Mohamad, Jutia. “Labour Policy Revamp under TPP”. *The New Straits Times*, 23 February 2016 <http://www.isis.org.my/attachments/commentaries/2016/JM_NST_23Feb2016.pdf>.

Munro. “A Literature Review on Trade and Informal Labour Markets in Developing Countries”. OECD Trade Policy Working Papers, no. 132. OECD Publishing, 2011. Available at <<http://dx.doi.org/10.1787/5kg3nh4xwxr0-en>>.

Paz, L.S. “The Impacts of Trade Liberalization on Informal Labour Markets: A Theoretical and Empirical Valuation of the Brazilian Case”. *Journal of International Economics* 92, no.2 (March 2014): 330-348. Available at <<http://dx.doi.org/10.1016/j.jinteco.2013.12.002>>.

Peels R. and Fino, M. “Improving Worker Rights in Globalising Economies: Assessment of Labour Provisions in Trade Arrangements”. International Labour Organization (mimeo), 2014.

Rosli, Firdaos. “How Differently Would You Reform Malaysia?”. *The New Straits Times*, 15 March 2016 <<http://www.nst.com.my/news/2016/03/132766/how-differently-would-you-reform-malaysia>>

Samuels, Alana. “The TPP’s Uneven Attempt at Labour Protection”. *The Atlantic*, 22 January 2016.<<http://www.theatlantic.com/business/archive/2016/01/tpp-mexico-labor-rights/426501/>>.

Schwab, K., ed. *The Global Competitiveness Report 2009-2010*. Geneva: World Economic Forum, 2009.

Schwab, Klaus and Sala i Martin, Xavier. *The Global Competitiveness Report 2015-2016*. Geneva: World Economic Forum, 2015. Available at <<http://reports.weforum.org/global-competitiveness-report-2015-2016>>. (Retrieved 28 November 2015).

United Nations General Assembly. “*Report of the Working Group on the Universal Period Review: Brunei Darussalam*”, 7 July 2014.

U.S. Department of Labour. “List of Goods Produced by Forced Labour or Child Labour”. Washington, D.C.: United States Department of Labour, 2014a. Available at <<https://www.dol.gov/ilab/reports/child-labor/list-of-goods/countries/?q=Vietnam>>.

———. “List of Goods Produced by Forced Labour or Child Labour”. Washington, D.C.: United States Department of Labour, 2014b. Available at: <<https://www.dol.gov/ilab/reports/child-labor/list-of-goods/countries/?q=Malaysia>>

U.S. Department of State. *Vietnam 2014 Human Rights Report*. Washington, D.C.: U.S. Department of State, 2014a. Available at: <<http://www.state.gov/documents/organization/236702.pdf>>.

———. *Brunei 2014 Human Rights Report*. Washington, D.C.: U.S. Department of State, 2014b. Available at <<http://www.state.gov/documents/organization/236638.pdf>>.

———. *Trafficking in Persons Report 2015*. Washington, D.C.: U.S. Department of State, 2015. Available at <<http://www.state.gov/documents/organization/243562.pdf>>.

USTR. “Labour”, in *Trans-Pacific Partnership Full Text*. Washington, D.C.: Office of United States Trade Representative, 2015a. Available at: <<https://ustr.gov/sites/default/files/TPP-Chapter-Summary-Labour-1.pdf>>.

———. “Brunei-United States Labour Consistency Plan”, in *Trans-Pacific Partnership Full Text*. Washington, D.C.: Office of United States Trade Representative, 2015*b*. Available at <<https://ustr.gov/sites/default/files/TPP-Final-Text-Labour-US-BN-Labor-Consistency-Plan.pdf>>.

———. “Malaysia-United States Labour Consistency Plan”, in *Trans-Pacific Partnership Full Text*. Washington, D.C.: Office of United States Trade Representative, 2015*c*. Available at <<https://ustr.gov/sites/default/files/TPP-Final-Text-Labour-US-MY-Labor-Consistency-Plan.pdf>>.

———. “United States-Vietnam Plan for the Enhancement of Trade and Labour Relation”, in *Trans-Pacific Partnership Full Text*. Washington, D.C.: Office of United States Trade Representative, 2015*d*. Available at <<https://ustr.gov/sites/default/files/TPP-Final-Text-Labour-US-VN-Plan-for-Enhancement-of-Trade-and-Labour-Relations.pdf>>.

Viegelahn, C. “Do Labour Provisions in Trade Agreement Harm Trade? Evidence from a Gravity Model”. Geneva: International Labour Organization, 2016. (Forthcoming).

Verité. “Executive Summary”, in *Forced Labour in the Production of Electronics Goods in Malaysia: A Comprehensive Study of Scope and Characteristics*. Massachusetts: Verité, 2014. Available at: <https://www.verite.org/sites/default/files/images/VeriteForcedLaborMalaysianElectronics2014_ExecutiveSummary.pdf>.

Worker Rights Consortium. “Labour Rights Violation in Vietnam’s Export Manufacturing Sector”, May 2013. Available at <http://www.usfashionindustry.com/pdf_files/WRC-Report-Vietnam.pdf>.

World Trade Online. “Tentative US-Vietnam Consistency Plan Links Tariff Benefits to Labour Compliance”, 4 October 2015. Available at <<http://www.bilaterals.org/?tentative-u-s-vietnam-consistency>>.

Zensius, Adeline. “Forced Labour in Vietnam: A Violation of ILO Convention 29”. *International Labour Right Forum*, 7 September 2011: <http://laborrightsblog.typepad.com/international_labor_right/2011/09/forced-labor-in-vietnam-a-violation-of-ilo-convention-29-.html>.

NOTES

¹ See Karmakar (2013) in the Indian context.

² Singapore is excluded as a case study as the country does not have a separate consistency plan in the TPPA.

³ The data in this study covered the period from 1991 to 2000, when average output tariffs in Indonesia reduced from 21% to 8%, and average input tariffs declined from 14% to 6%.

⁴ See Hoekman and Winters (2005).

⁵ *Ibid.*

⁶ Refer to the Office of the US Trade Representative website on Generalised System of Preference (GSP) at <<https://ustr.gov/issue-areas/trade-development/preference-programs/generalized-system-preference-gsp>>

⁷ NAALC goals are to a) improve working conditions and living standards, b) promote labour principles to the greatest extent, c) encourage co-operation to promote innovation, d) promote the publication and exchange of information, data development and coordination, as well as joint studies for promoting mutually-beneficial understanding of the laws and institutions covering labour in the territory of each of the signatories, e) pursue cooperative labor-related activities on the basis of mutual benefit, f) promote compliance with labor law by each party and g) foster transparency in the administration of labour law.

Labour principles in NAALC include: liberty of association and protection of the right to organise; the right to collective bargaining; the right to strike; the prohibition of forced labour; restrictions on child labour; minimum standards for working conditions; elimination of discrimination in employment; equal remuneration for men and women; prevention of accidents at work and occupational illnesses; compensation in the event of accidents at work and occupational illnesses; and protection of migrant workers. Refer to “North American Agreement of Labour Cooperation” under Labour Program of the Government of Canada’s website at <[http://www.labour.gc.ca/eng/relations/international/agreements/naalc.shtml](http://www.labour.gc.ca/eng/rerelations/international/agreements/naalc.shtml)>

⁸ The New Trade Policy Template reflects Democrats’ long-standing position on trade, such as strengthening labor and environmental standards. It consists of trade-related issues in labor, environment, investment, government procurement, intellectual property, and port security.

⁹ In the context of FTA, the EU deals with labour and environment matters in integrated manner and puts it under the trade and sustainable development chapter.

¹⁰ Refer to the website of the European Commission on EU-Singapore FTA at <http://trade.ec.europa.eu/doclib/docs/2013/september/tradoc_151766.pdf>

¹¹ Refer to the website of the European Commission on EU-Singapore FTA at <http://trade.ec.europa.eu/doclib/docs/2016/february/tradoc_154229.pdf>.

¹² See Rosli (2016); Leo (2016)

¹³ The eight laws will be – the Employment Act of 1955, The Trade Union Act 1959, Child and Young Persons Employment Act 1966, Passport Act 1966 (implementing regulations), Industrial Relation Act 1967, Sabah Labour Ordinance 1967, Sarawak Labour Ordinance, Private Employment Agencies Act 1981 and Workers’ Minimum Standards of Housing and Amenities Act 1990.

¹⁴ Notably, Australia and New Zealand have signalled an intent to carry on with a “TPP12 minus one” agreement even if the US is no longer a member to the TPPA, see <http://www.bbc.com/news/business-38725807>