

Trade and sustainable development mechanisms - beyond window-dressing and talking shops?

The effectiveness of the institutional mechanisms in
EU trade and sustainable development chapters

Author: Verena Füller

Abstract

Labour and environmental provisions became a prominent feature in trade agreements nowadays. Since 2011, the European Union devotes a whole chapter in its trade agreements to these issues - the trade and sustainable development (TSD) chapter. This paper argues that an important aspect of the EU's approach are the institutional mechanisms which monitor the implementation of the TSD chapter. Applying the external governance approach to the mechanisms helps understanding how effective the EU's approach is in ensuring the export of rules. The effectiveness of the institutional mechanisms, consisting of intergovernmental and civil society bodies and their interactions, is the core of this research. By process tracing the effectiveness of the institutional mechanisms for the case of the EU-Korea free trade agreement, this paper shows that the mechanisms' contribution varied across labour, environmental and cross-cutting issues. Comparability across issues is restricted. However, it can be stated that for most issues the effectiveness was limited and the mechanisms led to dialogue and limited cooperation. The data was based on official meeting documents, interviews and reports. Possible factors for the variation are identified, among them political willingness, civil society engagement and the involvement of international organizations.

Key words: External Governance; Trade and Sustainable Development Chapters; Implementation of International Agreements; Environment and Labour Provisions; Korea

Words: 18747

Table of contents

1. ‘Modern’ trade agreements – combining trade with labour rights and environmental protection	5
2. Trade and sustainable development chapters – institutional mechanisms and provisions.....	11
2.1. The institutional mechanisms in the chapter	11
2.2. The provisions on labour rights, environmental protection and cross-cutting issues in the chapter	14
3. Conceptual framework - the external governance approach and its definition of effectiveness.....	17
3.1. Three modes of external governance.....	19
3.2. Effectiveness of external governance	20
4. Methodology – Process tracing, case selection and material.....	23
4.1. Process tracing as a method.....	23
4.2. The choice of Korea and the data on the case	26
5. Analysis – applying process tracing	29
5.1. Analysis on the labour provisions	29
5.1.1. The non-ratification of four fundamental ILO conventions.....	29
5.1.2. The implementation of the convention 111 on discrimination	36
5.2. Analysis on the environmental provisions	40
5.2.1. Emission trading schemes	40
5.2.2. Illegal harvested timber.....	42
5.2.3. Circular economy	43
5.3. Analysis on the cross-cutting issue of corporate social responsibility	45
5.4. Discussion of the results.....	49
6. Conclusions.....	54
Executive Summary	59
References	63
Appendix 1: Main interview questions to members of the EU domestic advisory group	70
Appendix 2: Main interview questions to the EU officials.....	71

List of abbreviations

CARIFORUM	Forum of the Caribbean Group of African, Caribbean and Pacific States
CSF	Civil Society Forum
CSO	Civil Society Organization
CSR	Corporate Social Responsibility
DAG	Domestic Advisory Group
DG Trade	Directorate General for Trade
EU	European Union
FTA	Free Trade Agreement
ILO	International Labour Organization
KCTU	Korean Confederation of Trade Unions
KORUS	South Korea–United States Free Trade Agreement
NAALC	North American Agreement on Labor Cooperation
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Co-operation and Development
TSD	Trade and Sustainable Development
TSDC	Trade and Sustainable Development Committee
TTIP	Transatlantic Trade and Investment Partnership
U.S.	United States of America
UN	United Nations
UNFCCC	United Nation Framework Convention on Climate Change
WTO	World Trade Organization

1. ‘Modern’ trade agreements – combining trade with labour rights and environmental protection

In the context of stagnating progress in the current World Trade Organization (WTO) Doha Round, the large trade powers, as for example the EU and U.S., seem to have lost their faith in multilateral approaches to global trade. In the absence of multilateral solutions, a competition takes place on which countries are setting the standards in global trade. The increase in bilateral trade agreements is an indication for this trend. Trade agreements can be used as a tool to agree on common standards or to even export the own standards to the trade partner. The potential to set global standards was especially highlighted in the context of the Transatlantic Trade and Investment Partnership agreement (TTIP) between the European Union and the United States. Besides the increase in bilateral trade agreements, another development has occurred. The provisions in the bilateral trade agreements cover increasingly more areas beyond the traditional trade in goods. The inclusion of services, intellectual property rights or public procurement are just some examples. Many other non-trade issues have found their way into agreements. Most interestingly, provisions on labour standards and environmental protection are increasingly more prominent. The United States as well as the European Union are among those states which include labour and environmental provisions in their trade agreements. This development started in the mid-90s. Since then, it became more and more established practice to include human rights, environmental protection and labour right in trade agreements (Horn *et al.* 2010, p. 1566).

Even though trade policy tends to be overlooked by foreign policy research, studies have targeted labour rights, human rights and environmental provisions in trade agreements. Scholars have compared the design of provisions, especially between EU and U.S. agreements (among others Leeg 2018). Furthermore, authors pointed at differences in the design and the reasons behind the set-up (among others Lechner 2016; Adriaensen and González-Garibay 2013) as well as the role of different actors, as for example parliaments, in the negotiation of the provisions. (among others Meissner 2016; Sicurelli 2015; Mckenzie and Meissner 2017). It has been further researched how the provisions are enforced in case the trade partner does not follow the provisions. The discussion is often linked to comparing the U.S.

enforcement model to the EU model. Whereas the EU model is regarded as ‘soft’ due to its reliance on co-operative enforcement mechanisms, the U.S. model is regarded as ‘hard’ due to the possibility of sanctions (among others Moore and Scherrer 2017; Bastiaens and Postnikov 2014). Recently, special attention has been given to the effectiveness of the provisions. Authors have highlighted the lack of literature on the impacts of the provisions on the trade partner and have started to research this field (Orbie *et al.* 2017). The results have been divergent. Some authors have found rather limited impact of EU provisions in the case of trade agreements with Korea (Roozendaal van 2017) and Peru (Orbie *et al.* 2017), whereas one of the first large-N studies suggests a positive effect of labour standards in EU and U.S. agreements (Bastiaens and Postnikov 2014).

Related to this academic challenge is a practical development in EU trade policy. Since 2011, the EU dedicates an own chapter for sustainable development to labour and environmental provisions in all its trade agreements. These trade and sustainable development (TSD) chapters are part of the ambition stated in the EU trade strategy ‘Trade for All’ “to ensure that economic growth goes hand in hand with social justice, respect for human rights, high labour and environmental standards, and health and safety protection” (European Commission 2014, p. 22). The introduction of an extra chapter on sustainable development is a new approach in EU trade policy. It belongs to the EU’s ‘modern’ ‘new generation’ trade agreements which are more comprehensive than EU trade agreements have been before. They cover a larger variety of issues beyond usual trade provisions. Sustainable development is one of the non-trade issues included in the agreements. A factor, which fostered the creation of sustainable development chapters, is the Lisbon treaty. Since the Lisbon treaty entered into force in 2009, trade policy is embedded in the general framework of the EU’s external objectives and the EU is obliged to promote values such as human rights and sustainable development in its external relations. The Parliament’s consent is necessary for the ratification of trade agreements. On this base, the Parliament made the inclusion of TSD chapters a precondition for its consent to trade agreements by stating in a resolution that it “[c]onsiders an ambitious sustainable development chapter to be an essential part of any agreement” (European Parliament 2007, para. 14). It further raised criticism about the effectiveness of the chapters in the case of the EU-Korea free trade agreement (European Parliament 18.05.2017). With the publication of a discussion

paper in July 2017 the European Commission addressed the ongoing discussion about the effectiveness of the TSD chapters and its mechanisms which was challenged by civil society and the European Parliament (European Commission 2017).

Recent research however has just started to investigate aspects of the TSD mechanisms such as civil society involvement and lacks an in-depth study of the effectiveness of the whole institutional mechanisms established by the chapters. Research has, for example, uncovered the varying degree of civil society involvement in EU agreements and has pointed at the lack of research on the actual functioning and effectiveness of civil society involvement (Martens et al. 2018). Another study concerned with the EU's model has called for more research on the actual functioning of the mechanisms (Kommerskollegium - National Board of Trade Sweden 2016). Furthermore, research has often focused on labour provisions and neglected environmental provisions and cross-cutting issues. This paper is contributing to this challenge in the literature by taking one step back from literature on the effectiveness of the provisions and looks at the institutional mechanisms behind the implementation of the provisions. It goes beyond researching the impact of civil society involvement and analyses the whole mechanisms of intergovernmental and civil society interactions.

Contributing to both the academic and practical debate this paper is going to research the question: How effective are the institutional mechanisms in EU trade and sustainable development chapters in contributing to the implementation of the chapters?

The TSD chapters set up three main institutional structures to monitor the implementation. These structures and their interactions represent the institutional mechanisms of the TSD chapters and are the core of the analysis in this paper. The monitoring is assigned to an intergovernmental committee which is overseeing the implementation and is advised by two civil society bodies. The intergovernmental body is usually called 'trade and sustainable development committee' (TSDC) or 'sub-committee on trade and sustainable development'. It is in the further referred to as the intergovernmental committee. The committee is supported in its monitoring function by civil society from the EU and the partner country. The civil society is supposed to meet regularly in so-called 'domestic advisory groups'

(DAGs) but also in a broader set-up as ‘civil society forum’ (CSF). The institutional mechanisms are outlined in detail in chapter two. In preparation for the later analysis, which traces the contribution of the mechanisms in the case of the EU-Korea agreement, the functioning of the mechanisms is described. Furthermore, the chapter describes the provisions in the Korean TSD chapter as a base for assessing effectiveness.

The research question is part of a bigger discussion on how effective the EU and also other countries are in exporting their rules and values. The ‘external governance’ approach is suitable to address this question because it looks at “the expansion of EU rules beyond EU borders” (Lavenex and Schimmelfennig 2009, p. 807). The approach has been applied for example in the context of EU enlargement but also to other countries as for example to the United States. In this paper, external governance is serving as a conceptual framework for analysing the institutional mechanisms which oversee the implementation of the trade and sustainable development chapters. The aim is to assess how effective they are in contributing to the implementation of the TSD chapter and thereby eventually to the successful export of rules. The focus lies on the last step of a rule transfer, which is the implementation. The institutional mechanisms are regarded as effective, when they contribute to a more consistent implementation of the chapters. The EU approach was categorized as network-based external governance in comparison to hierarchical governance which relies on binding rules, enforcement and in some cases sanctions (Oehri 2015). By applying the external governance framework to the TSD mechanisms, this paper can give further insights into the effectiveness of network-based governance. This is especially relevant since the EU’s approach represents the most comprehensive and institutionalised network-based governance when it comes to international trade agreements (Internationales Institut für Arbeitsfragen 2015).

The contribution of the institutional mechanisms is a process which unfolds over time and effects might not appear immediately. Process tracing represents a suitable method to follow up the changes initiated by the institutional mechanisms. The EU-Korea agreement represents an especially suitable case since it was the first agreement with a TSD chapter and served as a blueprint for the following agreements. By looking at the official meeting documents of the institutional

mechanisms and reports by the European institutions and by conducting interviews with the European participants in the meetings, the paper can assess in-depth the process of change. This allows to shed light on the question how effective the institutional mechanisms are and thereby adds substantially to the identified knowledge gap. The analysis of the TSD mechanisms in the EU-Korea agreement identifies the main issues which were raised by the institutional mechanisms and traces how they were followed up. The definition of effectiveness depends on what is understood as a consistent application. In this paper, a consistent application is defined based on the commitments in the agreement and can range from commitments to cooperate up to commitments to ratify and implement conventions. It has to be acknowledged that the mechanisms work in both directions and can also lead to the identification of shortcomings in the EU's implementation. However, the TSD are an EU invention. Therefore, the focus in this analysis lies on the export of the TSD provisions to Korea.

Due to the different nature of labour, environmental and cross-cutting issues the analysis is divided by six topics. The issues cover the ratification of ILO (International Labour Organization) conventions (freedom of association, collective bargaining and forced labour), the implementation of ILO convention 111 on discrimination, emission trading schemes, illegal logging, circular economy and corporate social responsibility. The results show a diverse picture. The institutional mechanisms contributed to dialogue on the ratification of fundamental ILO conventions which Korea had not yet ratified. However, due the lack of concrete cooperation and steps towards the ratification, the effectiveness was evaluated as rather limited. The mechanisms were more effective and led to cooperation on the implementation of the ILO convention 111 on discrimination. The convention has been ratified by Korea, but concerns had been raised on the implementation. The contribution is rated as effective in the case of emission trading schemes where the exchange in the mechanisms led to cooperation in a joint project. In the case of illegal logging the mechanisms led to dialogue but the EU side request to cooperate was not taken up. The mechanisms contributed further to dialogue and limited cooperation on circular economy. The intention to cooperate on corporate social responsibility was raised but has not been followed up yet. Since the mechanisms did not lead to cooperation, the effectiveness was rated as rather limited. The process tracing further uncovered intervening factors such as

politically sensitive issues, civil society engagement on an issue or the presence of representatives from international organizations. In total, the analysis helped to understand how effective the institutional mechanisms are and what factors might constrain or foster their effectiveness. This has implications for the general effectiveness of TSD chapters and their provisions which should be taken into account when assessing them.

In short, this paper is going to research the effectiveness of the institutional mechanisms by first outlining the set-up of the institutional mechanisms and the commitments connected to labour, environmental and cross-cutting issues. Then it will introduce the external governance approach and the definition of effectiveness based on the approach. Further, the paper explains how process tracing is applied as research method and which material is used for the tracing. Finally, the process tracing is conducted, the results are discussed and implications for future research identified.

2. Trade and sustainable development chapters – institutional mechanisms and provisions

Since 2011, the EU includes an extra chapter on trade and sustainable development in all its trade agreements. The trade and sustainable development (TSD) chapters cover provisions on labour standards and the protection of the environment. To ensure that these provisions are followed by both the EU and its trade partner, the chapters create committees to monitor the implementation. These institutional structures and their interactions are the centre of this paper and constitute the institutional mechanisms. This paper wants to assess the effectiveness of the institutional mechanisms. Therefore it needs to look at how the institutional mechanisms are contributing to the implementation. This requires to first describe the institutional mechanisms themselves. Second, it is also necessary to look at which provisions and commitments are covered by the chapter. This step is especially relevant for the later assessment of effectiveness. As mentioned before, Korea was the first country to have a TSD chapter in its trade agreement with the EU. The TSD chapter was used as a blueprint for following agreements. Considering this and in preparation for the later analysis the institutional mechanisms and provisions on labour and environment are described for the EU-Korea agreement. Keeping in mind that trade agreements are the outcome of a negotiation between the EU and its trade partners, major differences in the mechanisms or the set-up of the provisions compared to other agreements are highlighted. This allows for a better generalizability of the findings to other agreements with TSD chapters.

2.1. The institutional mechanisms in the chapter

The TSD chapter sets up three main institutional structures to monitor the implementation of the chapters. The monitoring is assigned to an intergovernmental committee which is overseeing the implementation and is advised by two civil society bodies. The intergovernmental body is usually called ‘trade and sustainable development committee’ or ‘sub-committee on trade and sustainable development’. It is in the further referred to as the intergovernmental committee. The committee

is supported in its monitoring function by civil society from the EU and the partner country. The civil society is supposed to meet regularly in so-called domestic advisory groups but also in a broader set-up as Civil Society Forum. In addition, both sides commit to assign an office as a contact point in their administration. These basic structures can be found in all TSD chapters negotiated so far.

The intergovernmental committee allows for a dialogue between the EU's trade department (DG Trade) and its partner countries' officials on the implementation of the chapter. How often the body meets varies from agreement to agreement. With Korea the agreement foresees the first meeting within one year after the entering into force and after that as seems necessary (Council of the European Union 2010, Art. 13.12). So far, the intergovernmental committee has alternately met in Brussels and Seoul six times in 2012, 2013, 2014, 2015, 2017 and 2018. It was co-chaired by officials from DG Trade and the Korean ministries for employment and labour and environment.

The concept of domestic advisory groups has been first introduced in an agreement (Economic partnership agreement) with the CARIFORUM, a group of Caribbean countries, in 2008. The main function of the DAG is as stated in the Korean agreement "advising on the implementation of the Chapter" (Council of the European Union 2010, Art. 13.12). In comparison to previous civil society engagement, the DAGs represent a more institutionalized form of engagement. As mentioned above the DAGs are build out of civil society representatives from each country. There is an individual DAG for the EU and another DAG for the trade partner. The DAGs mainly consist of three groups of representatives in the fields of labour, environment and business but might include also NGOs in other areas.¹ The selection criteria for members of the DAGs is left to the countries to decide (Orbie *et al.* 2016a, pp. 528–529). However, the Korean agreement specifies that representatives need to be independent whereas the Peru-Colombia-EU agreement does not mention such a requirement. The independence criteria has however not been respected for example in the case of Honduras (Martens *et al.* 2016, p. 5). In Korea, the EU DAG criticised the composition of the Korean DAG which led to a change in the composition in 2014. The EU side argued that the Korean DAG is not

¹ The DAGs may also include other relevant stakeholders or academics as it was the case for the EU-Korea agreement.

independent because it consisted to a large extent of academics which were associated with the Korean government and did not include the Korean Confederation of Trade Unions (KCTU) (Putte van den 2015, p. 229).

The Civil Society Forum is a transnational dialogue forum where the DAGs from each party can meet. With Korea, the DAGs choose 12 representatives from their own DAG members and other civil society representatives may participate as observers (CSF under the EU-Korea FTA 2013a). The EU-Korea Forum has been held so far six times in 2012, 2013, 2014, 2015, 2017 and 2018. It became established practice that a summary of the last intergovernmental meeting is presented to the forum (TSDC under the Korea-EU FTA 2013). Another modification is that the Co-Chairs of the Civil Society Forum are participating in the intergovernmental committee and present the outcomes of the last Civil Society Forum to the committee. Furthermore, it was decided to hold the meetings back-to-back which means first the Civil Society Forum and then the intergovernmental committee.² The TSD chapter does not specify in how far the opinions of the DAGs and the CSF need to be taken into consideration. However, the intergovernmental committee has committed to take the opinions into account and to report back on the follow up (Putte van den 2015, p. 229).

There is a formal procedure in the TSD chapter that can be initiated by the EU or its trade partner when the other side is not complying with the chapter. Triggering this procedure is one formal way how the institutional mechanisms can ensure a better implementation. In case a dispute on the implementation of the TSD chapter arises, the other government may request a formal government consultation. In a first step, the governments talk to each other and try to resolve the issues. If this is not successful, the intergovernmental committee can as a second step be commanded to come to a resolution of the issue. During the process the ILO and other international bodies as well as the DAGs may be consulted (Council of the European Union 2010, Art. 13.14). If the government consultation is still not successful, the governments may consult a panel of experts which advises on possible solutions to the dispute. The recommendations of the panel are however

² The meetings were held back-to-back in the years from 2012 until 2015 and in 2018. In 2017 a meeting back-to-back was not possible. The CSF meeting document in 2017 mentions technical explanations on the Korean side and the second EU DAG letter refers to complications from the Korean government. In the meeting minutes of the fifth intergovernmental it is stated that Korea would not see a problem in holding the meetings not back-to-back.

non-binding and there are no remedies to sanction non-compliance (Council of the European Union 2010, Art. 13.15). It is worth noting that the trade agreement has a general dispute settlement mechanism with the option for remedies. However, this mechanism does explicitly not apply to the trade and sustainable development chapter.

2.2. The provisions on labour rights, environmental protection and cross-cutting issues in the chapter

The TSD chapters include provisions on labour and environmental protection. In the Korean TSD chapter, the labour provisions refer to international standards of the International Labour Organization (ILO). The environmental provisions refer as well to international agreements, the Multilateral Environment Agreements they have signed. Furthermore, an annex to the TSD chapter identifies areas for cooperation which touch upon both labour and environmental issues.

When it comes to labour standards, the TSD chapter requires compliance with internationally recognised labour standards namely the ILO core labour standards. These core standards are covered by the eight fundamental ILO conventions. They refer to four principles:

- “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” (International Labour Organization (ILO) 1996-2018).

The EU and Korea “commit to respecting, promoting and realising, in their laws and practices, the principles concerning the fundamental rights”, “to effectively implementing” the already signed ILO conventions and to “make continued and sustained efforts towards ratifying the fundamental ILO Conventions as well as the other Conventions that are classified as ‘up-to-date’ by the ILO” (Council of the European Union 2010, Art. 13.4.3). These commitments towards ratifying core and up-to-date ILO conventions and to enforce them in practice are an essential part of

the labour provisions in the chapter. Scholars have referred to the core labour standards also as being “the heart of the EU’s model” (Harrison *et al.* 2018, p. 11).

The provisions on environment are less specific. Similar to the labour provisions, the chapter includes the commitment to effectively implement the multilateral environmental agreements which each side has signed so far. A reference is further made to the United Nations Framework Convention on Climate Change and its Kyoto Protocol where the chapter reinforces the commitment to reaching the framework’s objectives. Furthermore, it is aimed to cooperate multilaterally on the future international climate change framework in line with the Bali Action Plan. (Council of the European Union 2010, Art. 13.5). Further references are made in an annex to the chapter.

The environmental issues of emission trading schemes, illegal logging and circular economy and the cross-cutting issue of corporate social responsibility fall under the annex 13. The annex 13 outlines areas for cooperation on trade and sustainable development. It provides an “indicative list” which suggest exchange of information and cooperation on trade-related issues in the following areas (Council of the European Union 2010, Annex 13, p. 1335):

- 1) impacts of the agreement on sustainable development
- 2) cooperation on social and environmental issues in the international fora
- 3) promoting the ratification of fundamental and other ILO conventions and multilateral environmental agreements
- 4) corporate social responsibility
- 5) impacts of environmental provisions on trade
- 6) international climate change regime
- 7) biodiversity
- 8) sustainable fishing practices
- 9) deforestation and illegal logging
- 10) multilateral environmental agreements including customs cooperation
- 11) ILO Decent Work Agenda
- 12) Connection between multilateral environmental agreements and international trade rules
- 13) Other ways of environmental cooperation

The commitments under Annex 13 are restricted to dialogue and co-operation and do not, as it is the case for labour standards, include concrete commitments to ratify or implement conventions.

In regard to already existing domestic law, the TSD chapter includes the commitment to keep the level of protection and to effectively enforce the domestic law when it affects trade or investment (Council of the European Union 2010, Art. 13.7). These commitments ensure that lowering standards is not used for competitive advantage. However, the requirement that an action needs to affect trade or investment is narrowing the scope of the commitment. It allows for a lowering of standards as long as it does not affect trade or investment. Proving this effect on trade or investment might be very difficult.

3. Conceptual framework - the external governance approach and its definition of effectiveness

The External governance approach focuses on the export of rules beyond borders. The TSD chapters are portrayed as an example of external governance. The external governance framework allows to study how effective the institutional mechanisms of the chapters are in contributing to EU's External Governance on the stage of implementation. The following chapter specifies the external governance approach and its different levels of rules export, the modes in which rules are governed and how the effectiveness of the rule transfer can be assessed.

The term external governance consists of the notion 'external' which refers to beyond the borders and the term 'governance'. Governance is a widely used term in political science. Drawing on the definitions developed by Renate Mayntz and Fritz W. Scharpf, Tanja Börzel speaks of governance as "institutionalized modes of coordination through which collectively binding decisions are adopted and implemented" (Börzel 2007, pp. 3–4). According to Börzel, governance is a linkage of structures and processes whereas structures such as institutions and actors provide the framework for governance processes. This means that governance structures can support certain process or modes of coordination (Börzel 2007, pp. 3–6).

Originally applied in the EU context, external governance regards "the expansion of EU rules beyond EU borders" (Lavenex, Schimmelfennig 2009, p. 807). The EU has exported its rules in various policy areas and in different ways beyond its borders. These transactions of rules are the starting point of the external governance approach. Authors such as Miriam Oehri have argued that the approach can be applied not only to the EU but also to states and other entities. She emphasizes that the approach provides a good framework to analyse structures and processes in foreign policy-making (Oehri 2015, p. 732). Also Börzel argued that the EU's modes of external governance are not unique to the EU (Börzel 2007). The external governance approach can not only explain the EU's external activities but can be applied to other examples as well. The findings in this study might therefore be relevant to other examples of external governance and contribute to an even wider debate on governance. On a more detailed level, the study can be linked to research

on governance of labour or environmental provisions and sheds light on the perspective of a governance provider.

EU governance has been extensively researched. Literature has looked, for example, at decision-making structures, negotiation processes and multi-level structures behind European governance. However, studying governance inside the EU is only one side of the coin. Internal policies often come along with an external dimension in which the EU interacts with other countries. Via its external policies, the EU transfers rules to third countries. Exporting EU structures to candidate countries as part of EU enlargement used to be the main example of external governance in the EU context. Interdependencies in a globalised world but also external implications of internal policies are other driving forces behind the rule expansion (Lavenex and Schimmelfennig 2009, p. 793). A good example of an implied external dimension is the internal market. By building a common market with a custom union, the EU had to develop a common trade policy to the outside. This also led to a raising interest in the export of rules. The Commission's strategy 'Trade for All', reflects the EU's interest in exporting rules by shaping globalisation through bilateral trade agreements (European Commission 2014). Introducing, for instance, EU rules on product norms or safety standards in trade agreements might contribute to the competitiveness of European producers since they do not have to change their products when exporting them outside of the EU.

In the case of the sustainable development chapters in EU trade agreements, the EU is exporting labour and environmental provisions to its trade partners. The aim of this paper is not to study the effectiveness of labour and environmental provisions but to show how effective the institutional mechanisms established by the TSD chapters are in contributing to the implementation of the chapters. In more general words, how the institutional structures contribute to the effective export of rules.

The paper focuses on the contribution at the stage of implementation and only touches upon which rules are exported. The external governance framework is suitable for this analysis since it does not only cover the set-up of rules in the agreement ('rule selection') but also the transfer of rules into domestic law ('rules adoption') and their implementation in actual practices ('rule application') (Oehri 2015, p. 734). Due to the openness of the concept to study the implementation in

the partner country, it is suitable for analysing the institutional mechanisms and their effectiveness.

3.1. Three modes of external governance

Literature on external governance follows the general governance literature and identifies three ideal ways how rules are exported. These three modes of governance are governance through hierarchy, network and market. In the following section, the external dimension of these governance modes is portrayed, however keeping in mind that they can also be applied to internal governance. Governance through hierarchy implies legally binding rules which are monitored and can be enforced in case of non-compliance. Governance through hierarchy is associated with “precise rules, formal procedures, monitoring and sanctioning” (Lavenex and Schimmelfennig 2009, p. 797). Network governance on the contrary is based on cooperation, coordination and interaction. The latter builds on an equal relationship whereas governance through hierarchy is associated with more asymmetric power relations. Market governance leads to an export of internal market rules based on economic interdependencies and competition considerations. (Lavenex and Schimmelfennig 2009, pp. 797–799). The TSD chapters combine hierarchical and network-based modes of governments. Miriam Oehri proposes ideal modes of hierarchical and network governance especially for labour provisions. Governance through hierarchy, in her approach, implies “political and/or judicial” enforcement whereas political enforcement occurs in form of “ministerial consultations, conciliation and mediation” and judicial enforcement is related to a dispute settlement procedure (Oehri 2015, pp. 734–735). Network governance according to Oehri includes “co-operative mechanisms [which] can range from dialogue to technical assistance projects, joint workshops and studies” and might involve various stakeholders (Oehri 2015, p. 735). Schimmelfennig and Lavenex highlight the potential of network governance to influence via “socialization, social learning and communication” and stress the potential of “deliberative processes, co-ownership, and density of interaction” to contribute to the rule export (Lavenex and Schimmelfennig 2009, p. 798).

Oehri further emphasises that the use of governance modes can differ from what is outlined in the agreements (‘de jure’) to the governance mode in practice (‘de

facto’) (Oehri 2015, p. 732). She shows that U.S. and EU trade agreements with Mexico and Morocco include hierarchical and network-based governance, however both states the facto hardly use governance through hierarchy but rely to a large extent on network-based governance. In this paper the emphasis lies on the ‘de facto’ governance and only touches upon the provisions in the agreement.

3.2. Effectiveness of external governance

The definition of effectiveness is crucial to the outcome of the later analysis. In the context of external governance, effectiveness has been defined “as the extent to which EU rules are effectively transferred to third countries” (Lavenex and Schimmelfennig 2009, p. 800). The major shortcoming of this definition is that it uses the term ‘effectively’ to define effectiveness. However, Lavenex and Schimmelfennig provide a more convincing and precise definition when they differentiate between three levels for measuring the effective transfer of EU or joint rules. First, the degree of EU or joint rules in the agreement in comparison to international or third country rules indicates effectiveness on the level of rule selection. Second, the success of rule adoption can be traced by the number of EU or joint rules present in the law of the third country. Third and most relevant in this paper, the effective rule application can be measured by looking “[w]hether and to what extent EU or joint rules are not only incorporated into domestic legislation but also acted upon in political and administrative practice” (Lavenex and Schimmelfennig 2009, p. 801). The term of ‘joint rules’ indicates that EU rules are often part of international norms as for instance the ILO core labour standards (Lavenex and Schimmelfennig 2009, p. 800). The inclusion of joint or international rules is often related to network-based External Governance (Lavenex and Schimmelfennig 2009, p. 799). Joint rules are part of the analysis since TSD chapters are an EU initiative and the international rules overlap with EU rules and are promoted in EU policies.

In this paper effectiveness is defined in the following way: The institutional mechanisms are effective when they contributed to a more consistent application of the TSD chapter. The definition of a consistent application is based on the commitments in the agreement and is identified for every issue in the analysis.

It is important to remember that this study does not measure the effectiveness of labour and environmental standards in the agreement but aims to assess the effectiveness of the institutional mechanisms monitoring the implementation.

In order to assess the degree of effectiveness of the institutional mechanisms, this paper creates ideal types of possible outcomes and places them on a continuum. The ideal types are based on a model of Jan Orbie, Deborah Martens and Lore Van den Putte which outlined the following degrees of responsiveness for the reaction of government officials to civil society organizations (CSOs): “government officials can (i) make a statement without listening to the CSOs (one-way communication, no responsiveness), (ii) listen to civil society and vice versa (two-way communication, low responsiveness), (iii) take the input of civil society into account (high responsiveness), and (iv) implement the advice by the mechanism in concrete policy (full responsiveness)” (Orbie *et al.* 2016b, p. 24).

Slightly modified to this paper’s definition of effectiveness and extended beyond civil society, effectiveness can be indicated the following way:

- i. no dialogue on an issue (no effectiveness)
- ii. dialogue on an issue (low effectiveness)
- iii. cooperation on an issue (high effectiveness)
- iv. concrete steps or action on an issue (full effectiveness)

In the first case an issue might have been raised by civil society or in the intergovernmental meeting but was not followed up in discussions. If there was discussion as for example information exchange but there was no concrete cooperation on the issue, it indicates low effectiveness. Cooperation in form of projects or studies indicates high effectiveness. Full effectiveness is achieved when the mechanism led to concrete steps and action on an issue. It has to be kept in mind that this differentiation is only indicative and does not represent a comparable measurement. Differentiation are further possible between different degrees of dialogue, cooperation and action. However, the model is suitable to give a first indication of the degree of effectiveness.

It is important to note that it cannot be assumed that the institutional mechanisms were the only factor that contributed to a more consistent application of the chapters. External pressure from outside of the institutional mechanisms can foster the implementation Other trade agreements, for instance with the U.S., include

similar provisions on labour or environment. A triggering of the dispute settlement process foreseen in the KORUS (Korea-U.S.) agreement, might, for instance, influence the implementation of similar provisions. Another factor could be the work of the ILO which issues reports and visits on the implementation of the ILO conventions. Public or external pressure arising due to these reports or visits could lead to a better application of the labour provisions in the TSD chapter. The external governance literature suggests that factors such as existing institutionalization, power structures and domestic structures might promote or constrain the effectiveness of external governance (Dimitrova and Dragneva 2009, p. 854; Lavenex and Schimmelfennig 2009).

4. Methodology – Process tracing, case selection and material

To identify how effective the TSD mechanisms are in contributing to a consistent application of the TSD chapters, process tracing is applied as a method. In the following the method of process tracing is described, reasons are given for choosing the method, different kinds of process tracing are explained, limitations of the method are highlighted and it is described how process tracing can be conducted. Furthermore, the case selection of the EU-Korea agreements is motivated and the data for the analysis is presented.

4.1. Process tracing as a method

Process tracing is understood as “an analytical tool for drawing descriptive and causal inferences from diagnostic pieces of evidence” (David Collier 2011, p. 824). The method is building on an analysis of a change and the causalities behind this change. In this paper, process tracing helps to understand how institutional mechanisms contributed to the implementation and allows to assess the effectiveness of the mechanisms. Process tracing implies “searching for evidence [...] about the decisional process by which the outcome was produced” (King et al. 1994, p. 227). The outcome is defined in this case as a consistent application of the TSD chapter. The paper studies evidence on the process from an issue being raised by civil society or officials in the intergovernmental committee to a better implementation of the TSD chapter. If the TSD mechanisms were able to contribute to a consistent application of the chapters, they can be seen as an effective mechanisms of EU external governance.

Due to the limited research conducted on TSD mechanisms, an in-depth study with process tracing is especially beneficial. It helps to identify the mechanisms which lead to a more consistent application of the chapter and allows to assess the effectiveness of their contributions. The steps leading to an effective contribution cannot be captured by a study of many cases since the factors and mechanisms are not well enough researched. A large n-study depends on good knowledge of the independent variables and is therefore more beneficial when an in-depth study has

identified the mechanisms and factors at work beforehand. In addition, process tracing can uncover unknown causal mechanisms and might show that the committees contribute in yet not discovered ways. Causal mechanisms are hereby defined as “a complex system, which produces an outcome by the interaction of a number of parts”. (Beach, Pedersen 2011, p. 4). The understanding of causal mechanisms as a system means to not only look at which factors have caused an outcome but also to look at how those factors are linked (Beach and Pedersen 2013, pp. 36–39). Single case studies have been criticised for being of little use to theory development due to the limited amount of observations. Critics have called for an increase of observations in single case studies and suggested process tracing as a mean to increase the number of observations (King *et al.* 1994, p. 227). However, process tracing is more than just producing a high number of observations. It is also necessary to link the observations plausibly. Other authors, most prominently George and Bennett, have defended single case studies. They agree that process tracing can provide a useful method for theory developing and testing (George and Bennett 2005, p. 207).

Beach and Pedersen differentiate between three different kind of process tracing namely theory-testing, theory-development and explanations of historical cases (Beach and Pedersen 2011, pp. 2–3). Theory-testing as the names implies tests whether the causal mechanisms suggested by a theory can be found in a case. Beach and Pedersen highlight the difference between theory-testing and -development as testing requires “theory before fact” and is based on “fact before theory” (Beach and Pedersen 2013, p. 16). Since theory on the contribution of the TSD committees to the implementation of the chapter is underdeveloped, this paper is adding mainly in the area of theory development. By looking at the evidence theories on the causal mechanisms at work can be developed. George and Bennett highlight, for instance, the special ability of process tracing to take account of alternative explanations and to identify non-discovered variables (George and Bennett 2005, p. 215). The third option aims at explaining a historical case and its outcome (Beach and Pedersen 2011, pp. 2–3). This option focuses on the specific mechanisms in one case and does not necessarily produces generalisable findings (Beach and Pedersen 2013, pp. 18–21).

However, they also acknowledge problems related to requiring detailed information and the lack of access to key information in the process. (George and Bennett 2005, p. 221). In the following case study of Korea, the lack of information is a problem to an extent. Especially information on the work of the governmental bodies is difficult to access. The paper tries to overcome this limit by conducting interviews with participants of the bodies. Further limits to the approach include the need to show the process as “an uninterrupted causal path” and the existence of other explanations to the same chain of evidence (George and Bennett 2005, p. 222). These limits are overcome by a rich amount of information consisting of interviews with relevant actors, publications and statements of the committees and secondary literature. However, it is not possible in this study to eliminate all other explanations which might have led to a more consistent application of the TSD chapters. Taking into account the limits, process tracing still represents the most suitable approach since it allows to capture the causal mechanisms and variables behind the outcome which, for instance, large-n studies would possibly overlook.

As Collier outlines process tracing allows to look at the development of a process over time and includes pinpointing key steps in the process (David Collier 2011, p. 824). There are different ways of how process tracing can be conducted. George and Bennett outline different forms of process tracing which include the use of narratives, hypotheses, analytical and more general explanations (George and Bennett 2005, pp. 210–212). In this thesis, a narrative/story with a timeline of the observations is used to show how issues raised in the DAGs and the TSD committee were followed up. Key steps in the story are highlighted and hypotheses on the causal mechanism at place are tested. Collier suggests beginning the process tracing by looking at the story and generate hypotheses on the causalities. The hypotheses can then be tested by one of these four tests: Straw-in-the-Wind, Hoop, Smoking-Gun, and Doubly Decisive test. The Straw-in-the-Wind test reveals a tendency of whether a hypothesis is more or less likely to be true. It is not possible to eliminate or approve a hypothesis based on this test but many Straw-in-the-Wind tests which show the same tendency can be an important indicator. The Hoop test requires a hypothesis to ‘jump through the hoop’. Even if the hypothesis is able to fit the criteria to pass the hoop, alternative explanations can be still possible. Nevertheless, it allows to eliminate certain hypotheses which do not pass the hoop. The Smoking Gun test builds on the idea that someone holding a smoking gun is very likely to

have just fired it. However, other explanations are still possible. The Doubly Decisive test is the strongest among the four tests. It is a combination of different tests which lead to the confirmation of one hypotheses by falsification of all other explanations. The challenge is to identify all possible explanations. (David Collier 2011, pp. 825–829) Background knowledge is key in this case and essential for choosing and interpreting the observations in the right way (David Collier 2011, p. 825). The following analysis relies therefore on the chapter on TSD chapters.

4.2. The choice of Korea and the data on the case

The TSD mechanisms of the EU-Korea agreement was selected for the single case study. Other possible options would have been agreement where the institutional mechanisms have been already built. The institutional mechanisms have been established under the agreements: EU-Korea, EU-Central America and EU-Peru-Colombia and more recently the agreements with CARIFORUM, Georgia, Moldova and Ukraine. Due to the very limited number of meetings hold (often just two meetings) with Georgia, Moldova and Ukraine, these cases do not qualify for an analysis due to the lack of data and chance to develop effective mechanisms. The CARIFORUM is a special case since the agreements do not include a TSD chapter but an article containing similar sustainable development provisions. Also, the establishing of committees is not obligatory but has happened in practice. The EU-Korea agreement provides the most suitable case since it was the first agreement with a TSD chapter and served as a blueprint for the following agreements.

To capture the causal mechanisms and processes leading to an effective contribution of the committees, a single case study was chosen. It gives the opportunity to discover how the mechanisms work in practice and how effective their contribution is. Since the TSD chapters have been criticised as “window dressing” or “talking shops”, it is also from political relevance to show how effective their mechanisms have been and what factors constrained their effectiveness (Orbie *et al.* 2016b, p. 46). A large-N study might miss out certain causal mechanisms and is of more value as soon as the committees have been researched more extensively.

The material for the process tracing consists of reports, official statements by the committees and representatives and interviews with participants in the institutional mechanisms. Appendixes one and two portray the main interview questions asked to civil society (appendix one) and to EU officials (appendix two). The interview questions were phrased very open in order to get non-biased evidence and to uncover unknown evidence. The analysis relies to a large extent on official documents of the European side and interviews were conducted with EU officials and EU civil society. This choice of mainly European material has been made deliberately, since the TSD chapters and its institutional mechanisms are an EU initiative and the EU side is the main driving force behind the mechanisms. In this way, an assessment of the effectiveness of the institutional mechanisms is more fruitful than relying on Korean material which might be based on a different understanding of the purpose of the chapters. In addition, there is more material accessible in the EU, not only due to language barriers. The EU had a special interest in monitoring the Korean TSD chapter closely, since it was used as a blueprint for following trade agreements and could be also viewed as a test case of the TSD chapters. A limitation is that the paper does not look at every single DAG meeting. The agenda of the EU DAG is published. However, meeting minutes of the DAG meetings are not available. Therefore, it is not possible to reconstruct the DAG meetings. This is not a strong limitation since the DAGs discuss the main topics at the civil society forum.

The official documents published on the webpages of EU institutions include statements of the intergovernmental committee, the EU DAG, the civil society forum, annual reports on the implementation of the trade agreement and a progress report on the implementation. After the meetings of the intergovernmental committee a joint statement on the meetings outcomes is presented to the civil society forum and published online. The civil society forum publishes conclusions on their meetings which are usually presented to the intergovernmental committee. The EU DAG has so far published four opinions on the issues of green growth, labour rights, emission trading system and corporate social responsibility. Furthermore, the EU DAG wrote two letters to the trade commissioner asking for a government consultation on labour issues. DG Trade publishes annually a report on the implementation of the whole agreement which includes a sub-section on the TSD chapter. In addition, an inception and interim report was published evaluating

the implementation of the whole agreement in 2017. Reports of joint projects, workshops and dialogue with EU civil society are regarded as well. Analysing only the meeting summaries and reports risks to miss out at important evidence that was not mentioned and sheds only light on the official version of events. Therefore, the analysis was supported by interviews.

The interviews were partly conducted in person in Brussels and via phone. From DG Trade three officials were interviewed, from which one representative agreed to be cited in this paper. Furthermore, four members of the EU DAG were interviewed covering two labour representatives, one business representative and one representative of the third group consisting of diverse interest sub-groups and NGOs. The identity of the interviewees is kept anonymous.

5. Analysis – applying process tracing

As outlined in the previous chapter on process tracing, the analysis is going to start with describing how issues raised in the meetings were followed up. Hypotheses on the causal mechanisms at place are generated. Since the TSD mechanisms cover a variety of issue, the analysis is divided by main issues which each represent a sub-case and are traced starting with the first time they have been raised in a meeting. Based on the conclusions and statements of the intergovernmental and civil society meetings, the following issues are identified as having been raised in the meetings. These subcases represent labour, environmental and cross-cutting issues in order to achieve a broad coverage and best assessment of the institutional mechanisms.

5.1. Analysis on the labour provisions

In the area of labour provisions, the non-ratification of ILO conventions 87 & 98 on freedom of association and collective bargaining and ILO conventions 29 & 105 on forced labour and abolition of forced labour are assessed together. The other labour topic is the implementation of ILO convention 111 on discrimination in employment and occupation. The environmental issues are emission trading schemes, illegal logging and circular economy. Corporate social responsibility represents the cross-cutting issues which can cover both labour and environmental issues.

5.1.1. The non-ratification of four fundamental ILO conventions

On labour standards, an often-raised issue is the non-ratification of fundamental ILO conventions. As has been outlined in the chapter on the TSD chapter, the ratification is an essential commitment. The non-ratification of the following conventions has been addressed frequently in the meetings: ILO 87 & 98 Freedom of Association and Collective Bargaining and ILO 29 & 105 Forced Labour and Abolition of Forced Labour. Since the four conventions are often addressed together, the process tracing is conducted together as well. The following process tracing aims at answering the sub-question, how effective the institutional mechanisms are in contributing to the ratification of the fundamental ILO

conventions 29, 87, 98 and 105 by Korea. A consistent application is achieved when the conventions are ratified and effectively implemented by Korea. Ratification is seen as a first step towards a consistent application.

The non-ratification of fundamental ILO conventions by Korea was raised in the first intergovernmental meeting and in the civil society meeting in 2012. In the intergovernmental meeting, Korean and EU officials agreed to exchange information and work towards the ratification of the fundamental conventions. They further asked the DAGs during the first civil society forum to advice on the issue with an opinion on fundamental rights at work (TSDC under the Korea-EU FTA 2012, p. 2). In the civil society forum, the members of the DAGs agreed to prepare advice for the next meeting and planned to organize a seminar. Furthermore, they discussed ratification and implementation of fundamental ILO conventions and agreed that “there were still some problems regarding compliance with international standards in Korea” (CSF under the EU-Korea FTA 2012, p. 1). It is assumed that the raising of the non-ratification of the four fundamental conventions as a topic in the first intergovernmental meeting started the chain of events by paving the way for a future discussion and cooperation on the issue (H1). Indications are that Korea agreed to exchange information and to work on the issue. Furthermore, the request for advice to the DAGs indicates the intention to continue dialogue on the issue. These ‘straws in the wind’ show the same tendency. However, it has to be taken into account that the first intergovernmental meeting was also concerned to a large extend with setting up the details of the mechanisms (European Commission 25.02.2013, p. 8; Putte van den 2015, p. 228).

In the second intergovernmental meeting the EU and Korea committed to work on the ratification and to continue the information exchange. The EU side suggested to Korea to cooperate with the ILO whereon Korean officials answered that they were already cooperating with the ILO. Korea further informed about a discussion at its national assembly on the ratification of fundamental conventions (TSDC under the Korea-EU FTA 2013, pp. 2–4). A joint seminar was held by the DAGs ahead of the next civil society forum in 2013 and addressed especially issues regarding forced labour, freedom of association and collective bargaining. The civil society forum suggested to organize similar workshops in the future (CSF under the EU-Korea FTA 2013b, p. 1). The civil society forum itself discussed especially the

opinion on 'Fundamental Rights at work in the Republic of Korea, identification of areas for action' issued by the EU DAG. The opinion stressed that Korea still had not ratified the four fundamental conventions and pointed at the lack of efforts towards the ratification. It called for "urgent steps to ratify and effectively implement" the remaining conventions (EU DAG under the EU-Korea FTA 29.05.2013, p. 15). By referring to the ILO, the opinion outlined areas where the freedom of association and the right to collective bargaining are restricted by legislation and practices in Korea. It recommended changes in the legislation on freedom of association, such as excluding peaceful industrial action from the application of criminal law and requested solving freedom of association cases raised by the ILO. Regarding forced labour, the opinion criticised the Korean anti-trafficking law (EU DAG under the EU-Korea FTA 29.05.2013). In total, the opinion touched upon issues which had been raised by the ILO. As a result of the discussion of the opinion, the civil society forum asked "the Korean government to take the necessary measures and remove hindrances to enable the ratification of the remaining ILO Fundamental Conventions" (CSF under the EU-Korea FTA 2013b, p. 2). In addition, the civil society forum stressed the importance of social dialogue and cooperation with the ILO in its conclusion.

The evidence supports the hypothesis that the institutional mechanisms have led to continued dialogue on the outstanding ratification (H2). The exchange of information and the commitment to continue the information exchange and work towards the ratification support this assumption. The discussion at the Korean national assembly indicates that it also led to dialogue on the issues in Korea (H3). The civil society forum and its opinion on labour rights might have had a pressuring effect by pointing out shortcomings in the implementation and thereby led to further dialogue. The discussion of the opinion at the civil society forum and the joint DAG seminar on the non-ratified fundamental conventions, showed that the civil society forum has given considerable attention to the issue.

In a special letter to the EU commissioner Karel De Gucht in the beginning of 2014, the EU DAG stressed that the Korean government had not acted upon the recommendations of the civil society forum and that Korea was breaching Art. 13.4.3 namely its commitments towards the fundamental rights at work. By pointing at three main labour rights violations, the letter requested the Commission

to start the formal consultation procedure of the TSD chapter on these issues. The violations regarded the freedom of association and right to collective bargaining in the cases of the Korean Government Employee's Union, the Korean Teachers and Educators Union and the Korean Railway Workers. The letter further criticised a police operation at headquarter of the Korean Confederation of Trade Unions (EU DAG under the EU-Korea FTA 2014b).

During the third intergovernmental meeting, the fundamental ILO conventions were discussed and the discussion was supported by a presentation of the ILO. Korea stated that it would keep up the dialogue with the ILO and work towards ratifying more conventions. Korea further committed to outline progress and future plans for the ratification of the four fundamental conventions in a 'text' which would be presented to the civil society forum as well (TSDC under the Korea-EU FTA 2014). The third civil society forum discussed the ratification of the fundamental conventions as well with the ILO. The EU DAG and the labour section of the Korean DAG asked to set out a timeline for the ratification and to make use of the ILO expertise. Furthermore, the DAGs requested to contribute to the 'text' (CSF under the EU-Korea FTA 2014).

Based on the observations it is assumed that the institutional mechanisms led to continued dialogue within the mechanism as well as with the ILO (H4). Even though the Commission did not follow the EU DAGs request to initiate formal consultation, the matter was further discussed on an informal level (EU official 18.04.2018; Industry representative 11.04.2018) and in the intergovernmental meeting. Furthermore, the commitment to present a 'text' outlining steps towards the ratification in the next intergovernmental meeting, indicates that the issue is going to be followed up further. The presence of an ILO representative at the meetings provided an opportunity for information exchange and dialogue with the ILO.

The ratification of the remaining four fundamental conventions was a topic in the fourth intergovernmental meeting. "The EU invited Korea to speed up efforts to ratify the fundamental ILO conventions that it hasn't yet ratified" (TSDC under the Korea-EU FTA 2015, p. 2). The Korean government explained that they were assessing the conformity of their domestic law with the ILO conventions. They stated which conventions they are "seriously considering" to ratify due to their high

similarity with domestic law (TSDC under the Korea-EU FTA 2015, p. 2). None of the fundamental conventions was among them. However, they emphasized changes in the Trade Union and Labour Adjustment Act which was based on ILO recommendations. As in the previous meeting, Korea committed to present “texts setting out additional intended concrete steps towards removing remaining obstacles for ratification of the core ILO Conventions” (TSDC under the Korea-EU FTA 2015, p. 3). The fourth civil society forum was not satisfied with the text presented and criticised “the lack of progress and concrete steps in particular regarding ratification and effective implementation of the ILO fundamental conventions” (CSF under the EU-Korea FTA 2015, p. 2). As in previous meetings the civil society forum emphasized in their conclusions the importance of social dialogue and further suggest to Korea to have social dialogue on legal and administrative deficits. With the ILO the civil society forum discussed obstacles to the ratification of the fundamental conventions and recommended to Korea the use of ILO technical expertise (CSF under the EU-Korea FTA 2015).

In a second letter to trade commissioner Malmström, the EU DAG repeated its request for a government consultation since the issues raised in the first letter had not been resolved. The letter referred to reports on labour violations issued by the UN Special Rapporteur on Freedom of Assembly and Association and the UN Working Group on Business and Human Rights (EU DAG under the EU-Korea FTA 2016b).

Based on the presented evidence it is assumed that the institutional mechanism led to dialogue and small steps towards the ratification on the Korean side (H5). The assessment by Korea of the conformity of its domestic law with the ILO conventions is an indicator that they took the issue into account and might take steps towards the ratification. The changes of domestic labour law based on ILO recommendations indicate that the institutional mechanism may have led to actions on the Korean side. Furthermore, that Korea has again committed to provide ‘text’ with concrete steps supports the hypothesis. However, the civil society forum claimed in its statement that the text which was presented so far did not line out concrete steps. This was acknowledged as well in the interview with an EU official (EU official 18.04.2018). This line of argumentation is further supported by the explicit call of the EU side to speed up efforts towards the ratification and the

criticism from the civil society forum that there is a lack of progress and concrete steps.

In the fifth civil society forum the members stressed deficits in the implementation of fundamental conventions in the EU especially regarding the freedom of association and right to collective bargaining and highlighted that the commitment to ratify the four ILO fundamental conventions had still not been fulfilled by Korea. The forum further pointed out that Korea had not shared any texts ahead of the meeting as was agreed and repeated its wish to involve the DAGs in the creation of the text and its advice to make use of ILO technical expertise. It further stated that trade union activities should not entail arrests (CSF under the EU-Korea FTA 2017). During the fifth intergovernmental meeting EU officials emphasized the relevance of making progress on labour issues which were a serious concern of European stakeholder, member states and European institutions. Korean officials emphasized that the ratification of ILO conventions “depended on examining the need to amend existing legislation, the democratic process and tripartite dialogue, as well as the social context” (TSDC under the Korea-EU FTA 2017, pp. 2–3). Korea did not present concrete steps to ratify the conventions on freedom of association and collective bargaining. The officials explained the origins of the restrictive law towards unions and the application of criminal law against trade unions whereby the EU officials stated the need for further dialogue on these issues. On the two fundamental conventions on forced labour, Korea stated that conversation have been hold with the ministries and the ILO and that a consensus for the ratification could be established to ratify in two to three years (TSDC under the Korea-EU FTA 2017; European Commission 02.05.2018).

The European Parliament called in a resolution on the implementation of the EU-Korea FTA for triggering the formal consultation procedure due to limited progress and continuous violations of the freedom of association and the right to collective bargaining in Korea (European Parliament 18.05.2017).

The evidence presented suggests that the institutional mechanisms have led to dialogue but not to concrete steps towards the ratification (H6). This assumption is supported by the evidence that Korea did not share any text on concrete steps towards ratification and stressed that the ratification depends on many different factors. Other indicators are that the European Parliament resolution highlighted the

limited progress made and EU officials emphasized in the statement the importance of making progress on labour standards. The fact that Korea had conversations with relevant ministries and the ILO on the ratification of the conventions on forced labour and stated that a ratification might be possible in the next two to three years, indicates that the mechanisms led to dialogue in Korea and with the ILO and might have lead to concrete steps towards ratification in the case of the forced labour conventions.

Important to note for the sixth civil society meeting, is “that the CSF could not agree on common conclusions due to the differences in opinion on guaranteeing and promoting freedom of association” and therefore published a joint statement of the chairs of the EU and the Korean DAG (CSF under the EU-Korea FTA 2018, p. 4). In the statement the two DAG chairs repeated the ratification request for the fundamental conventions. Especially emphasized is the statement of the last meeting that trade union activities should not lead to arrests. The statement made references to international bodies such as the UN Human Rights Council and the ILO which had pointed at violations of the freedom of association in Korea. The interviewed labour representatives highlighted that there was a big dispute between trade union representatives and employer representatives. The labour representatives wanted to refer to major freedom of association cases in Korea but could not agree with some of the employer representatives on mentioning the issue in the opinion. This led to the publication of a joint statements of the DAG chairs instead of an opinion by the whole forum (Labour Representative 1 17.04.2018; Labour Representative 2 20.04.2018).

There was no statement available for the sixth intergovernmental meeting at the time of writing. The interviewed EU official highlighted that in the meeting the Commission focused on the ratification of the fundamental conventions and put pressure on Korea. According to the interviewee, Korea was pressured to present concrete steps towards the ratification. Ahead of the meeting the Commission had sent concrete questions to the Korean officials and requested written replies to them. However, at the meeting Korea did not present and were not prepared to answer the questions. In general, it was highlighted that the Korean officials were taking a defensive position on labour issues. The interviewee highlighted further that the Korean officials had not understood the gravity of the situation and that the

commission expects them to present a concrete plan (EU official 18.04.2018). One of the labour representative stated that Korea did not expect that they actually have to ratify the conventions and that it lacked the political will (Labour Representative 1 17.04.2018). Another aspect emphasized in the interviews was the factor of the new government in Korea. The interviewed industry representative pointed out that the Commission is waiting for the new government to start working. Since the new president had announced to address some of the labour issue, it has to be seen what policies follow the announcement (Industry representative 11.04.2018). This was confirmed by the interviewed Commission representative which said that they had decided to give some time to the new government (EU official 18.04.2018).

The evidence supports the previous hypothesis (H6) that the institutional mechanisms led to dialogue on the issue but did not lead to concrete steps. Evidence supporting this assumption are that the Korean officials did not present a plan how they will work towards the ratification and that the EU side continued to put more pressure. The recent election and change of government is an intervening factor which could have slowed down the process due to the time it takes to set-up the government but could also contribute since the new government was regarded as more open towards labour issues. The dispute in the civil society forum is another intervening factor which might decrease the ability of the forum to pressure and pinpoint shortcomings.

In total, the process tracing on the non-ratified conventions has shown that the institutional mechanism led to intergovernmental and social dialogue as well as dialogue with the ILO. Even though commitments to work towards the ratification were stated by Korea, the process tracing did not reveal cooperation and any concrete steps towards the ratification.

5.1.2. The implementation of the convention 111 on discrimination

The convention ILO 111 on discrimination (Employment and Occupation) has been ratified by Korea, however concerns were raised towards the implementation of the convention. The following process tracing aims at answering the sub-question, how effective the institutional mechanisms are in contributing to the implementation of the convention 111 by Korea. In terms of the definition of effectiveness, a consistent application of the chapter is given when the convention is implemented.

In the first intergovernmental meeting, the EU and Korea encouraged the DAGs to give advice on the implementation of fundamental conventions and Korea informed about the conventions it had ratified. The ILO 111 convention on discrimination is part of the fundamental conventions but was not explicitly mentioned in the report on the meeting (TSDC under the Korea-EU FTA 2012). The Civil society forum talked about issues when it comes to the implementation of fundamental conventions and pointed at problems. Furthermore, a seminar was planned ahead of the next meeting.

The EU DAG opinion on fundamental rights at work identified cases of discrimination in employment in Korea. The opinion raised areas in which the convention is not effectively implemented. It pointed at the discrimination of women, irregular workers and migrant workers. The opinion suggested to host an international forum on the gender pay gap (EU DAG under the EU-Korea FTA 29.05.2013).

It is assumed that raising issues of effective implementation of fundamental ILO conventions during the first intergovernmental meeting and in the EU DAG opinion promoted future discussions and dialogue on the convention 111 (H1). Indications for this hypothesis include that Korea informed about its ratified convention and the DAGs were encouraged to give advice. The EU DAG opinion had potentially pressured for further dialogue and cooperation by pinpointing problems in regard to discrimination.

The second intergovernmental meeting discussed the ratification of ILO fundamental conventions. The EU side recommended to cooperate with the ILO on the ratification and implementation and to use ILO technical expertise. Other than that no reference was made to the implementation of the convention 111 (TSDC under the Korea-EU FTA 2013). The second civil society forum asks both Korean and the EU to effectively implement the fundamental conventions they had ratified (CSF under the EU-Korea FTA 2013b).

The EU DAG letter called for an effective implementation of all ratified conventions but did not specifically refer to convention 111 (EU DAG under the EU-Korea FTA 2014b).

The evidence suggests a slight modification of the first assumption (H1). It is assumed that the institutional mechanism did lead to a general dialogue on the

effective implementation of ILO fundamental conventions but did not promote an in-depth discussion of ILO convention 111 (H2). Clues for this hypothesis are that the convention had not been mentioned directly in the second meetings and the EU DAG letter.

In the third intergovernmental meeting the ILO hold a presentation on the ratification of ILO conventions and offered as well technical cooperation and advice on how to effectively implement the conventions on discrimination (TSDC under the Korea-EU FTA 2014). The third civil society forum made general references to the fundamental conventions and encouraged Korea to use ILO expertise and to promote social dialogue to effectively implement the fundamental conventions (CSF under the EU-Korea FTA 2014).

It is assumed that the ILO offer to provide advice and technical assistance on the effective implementation of conventions on discrimination led to further dialogue on the issue (H3). The evidence does however only include the mentioning of the offer in the intergovernmental statement.

During the fourth intergovernmental meeting the ILO hold a presentation on the implementation of the convention 111. Korea and the EU agreed to initiate a project under the partnership instrument on the topic. The project meant to show the current state of implementation in Korea and the EU and to discuss difficulties, best-practice and experiences (TSDC under the Korea-EU FTA 2015). The fourth civil society forum welcomed the initiative and showed their interest in participating in the project. Similar projects were suggested for other fundamental ILO conventions with the inclusion of workers' and employers' representatives into the projects (CSF under the EU-Korea FTA 2015).

The previous hypothesis that the ILO offer led to further dialogue on convention 111 (H3) is strengthened by the fact that the topic was discussed in the fourth meetings in an ILO presentation and that the EU and Korea agreed to cooperate in a partnership project.

Similar to the first EU DAG letter, the second EU DAG letter pointed at the commitment to effectively implement ratified ILO conventions. Discrimination of female workers was mentioned in the annex to the letter in a report of the United Nations Working Group on Business and Human Rights (EU DAG under the EU-Korea FTA 2016a).

The fifth civil society forum criticised that fundamental conventions were not effectively implemented in Korea and called for actions especially on issues identified by the ILO. Again, the importance of social dialogue for the implementation was emphasized. In regard to the project on the convention 111, the civil society forum asked to include more Korean stakeholders and hoped for independent conclusions (CSF under the EU-Korea FTA 2017). The project on the convention 111 was concluded with a final seminar in March 2017. The study examined the implementation of the convention in the EU and in Korea. Workshops were organized in Seoul and in Brussels (European Commission 09.11.2017, p. 27). During the fifth intergovernmental meeting, the project on the convention was evaluated. On the Korean side the project was evaluated as “meaningful and helpful in gaining a better understanding of each other’s situation” (European Commission 02.05.2018, p. 4). The EU side evaluated the project as well as meaningful also in paving the way for future cooperation on sensitive topics. Discrimination based on gender was identified as a common issue. The EU officials suggested to discuss possible follow-ups of the project in the next meeting (TSDC under the Korea-EU FTA 2017).

The co-chairs of the sixth civil society forum called for concrete action to combat the gender pay gap. The joint statement criticised that the project on the convention did not fulfil ILO standards.

It is assumed that the institutional mechanisms led to dialogue and cooperation on convention 111 resembled by the launching of a joint project. The explorative character of the project is indicated by the EU statement that the project was as well meaningful for future cooperation on sensitive topics. Criticism on the side of labour representatives describes the project as not so meaningful since the final study was ‘watered down’ (Labour Representative 1 17.04.2018).

To summarize the findings of the process tracing, the outcome showed that the institutional mechanisms led to dialogue and cooperation on the convention 111. The launching of a joint project investigating the implementation of the convention was identified as being the result of interaction and dialogue in the institutional mechanisms.

5.2. Analysis on the environmental provisions

The commitments in the TSD chapter on environment are less specific than the labour commitments. The definition of effectiveness needs to be adjusted to the environmental provisions in the chapter. The provisions regard the effective implementation of the multilateral environmental agreements which each side has signed so far. The annex outlines areas of cooperation among them climate change and illegal logging. Based on the provisions the process tracing aims at answering the sub-question how effective the institutional mechanisms are in contributing to dialogue and cooperation in the area of emission trading schemes, illegal logging and the circular economy. In regard to the definition of effectiveness, a consistent application of the provisions is defined as dialogue and cooperation on the issues. The three issues are analysed separately starting with emission trading schemes.

5.2.1. Emission trading schemes

The future introduction of an emission trading system by Korea was mentioned in the first intergovernmental meeting (TSDC under the Korea-EU FTA 2012). In the context of discussing developments in environmental policies, the second intergovernmental meeting touched upon initiatives on emission trading schemes (TSDC under the Korea-EU FTA 2013). The civil society forum did not mention the issue in its first and second meeting where it made references only generally to green growth (CSF under the EU-Korea FTA 2013b; CSF under the EU-Korea FTA 2012).

This evidence suggests that the interaction in the intergovernmental meetings had not lead to immediate dialogue but fostered dialogue in the future (H1). Indications for this assumption are that the topic was only mentioned in the two intergovernmental meetings. The mentioning of Korea's intention to introduce a system might have encouraged future dialogue.

Ahead of the third meetings the EU DAG released a discussion paper explaining the EU's emission trading scheme. It highlighted the EU's ambition to promote global solutions to climate change such as the UN framework convention on climate change (UNFCCC). Due to the Korean plans to launch its own scheme, the

discussion paper presented the EU's emission trading scheme and discussed the composition of a well-functioning emission trading scheme. Should the Korean scheme work well, it was hoped that other countries would follow the model (EU DAG under the EU-Korea FTA 2014a). The interviewed industry representative highlighted that the Korean DAG members were interested in learning from the European system. Therefore, the focus lay on presentation, peer review and exchange of practice (Industry representative 11.04.2018).

The evidence presented suggests that the interaction in the mechanisms led to the presentation of best practice and information by the EU side and promoted further cooperation (H2). This assumption is based on the presentational nature of the DAG opinion which focuses on the European system. The Korean interest to learn from the European system in light of launching a new system supports the assumption further.

During the intergovernmental meeting the European system was presented which was highlighted as the "flagship of the EU climate policy" (TSDC under the Korea-EU FTA 2014, p. 2). Korea outlined involvement in setting up its scheme planned for the following year in 2015. In this context cooperation was highlighted as important (European Commission 26.03.2015). Until the end of 2015, the EU and Korea planned to launch a project on ETS under the partnership instrument to learn from the EU's experience. In general, to talk about future projects on environment and labour, the committee agreed to have a meeting of the EU's delegation in Seoul with Korean ministries. The third civil society forum discussed the emission trading schemes in both countries and the experience of the European implementation. It also welcomed further cooperation on climate change issues also related to emission trading schemes (CSF under the EU-Korea FTA 2014).

The evidence supports the previous assumption (H2) in so far as the meetings included presentations of the EU practice and that it was agreed to launch a project on emission trading schemes to learn from the EU example. The assumption can be further developed as the evidence suggests that the interaction in the mechanisms led to dialogue in form of providing expertise, best practice experience and advice by the EU side and to cooperation in a project (H3).

Emission trading schemes were not mentioned in the conclusions of both the intergovernmental and the civil society fourth meetings in 2015 (CSF under the EU-Korea FTA 2015; TSDC under the Korea-EU FTA 2015).

During the fifth intergovernmental meeting, the ongoing cooperation project was discussed and regarded as functioning well. Korea took into account the recommendation to involve the Ministry of Industry Trade and Energy into the project (TSDC under the Korea-EU FTA 2017).

The previous assumption (H3) that the institutional mechanisms led to dialogue and cooperation is supported due to the realisation of a project in which the EU supports Korea on the implementation of its scheme.

The fifth and the sixth civil society forum did not mention emission trading in its conclusion (CSF under the EU-Korea FTA 2017; CSF under the EU-Korea FTA 2018).

In regard to effectiveness, the process tracing discovered that the institutional mechanism led to dialogue and cooperation on the emission trading scheme and can therefore be regarded as effective. As in previous examples the process is still ongoing and it would need to be assessed in future research how far Korea has taken the advice into account when implementing its own system.

5.2.2. Illegal harvested timber

Illegal logging of timber (cutting down of trees) was the first time discussed in the second intergovernmental meeting where the EU presented its policy on combatting illegal logging and suggested to discuss the issue further (TSDC under the Korea-EU FTA 2013). The civil society fora did not mention the issue directly in any of the following meetings.

The evidence points at that the issue was introduced by the EU side in the intergovernmental meeting. It is assumed that the raising of the issue led to further dialogue on the issue (H1). This is supported by the evidence that the EU suggested to discuss it further in the second intergovernmental statement. However, the statement does not mention a contribution on Korean side. This suggests that it might not have led to dialogue immediately in the same meeting.

The conclusion of the third intergovernmental meeting mentions that information was exchanged on the topic (TSDC under the Korea-EU FTA 2014). This evidence supports the previous assumption that the interaction in the intergovernmental meeting led to further dialogue (H1).

During the fourth meeting the EU presented its projects in Asia and suggested to cooperate. Korea informed about a proposal which was in process and agreed to exchange experience on developments. In the fifth intergovernmental meeting, the EU side voiced the wish to cooperate on the issue.

The evidence on the topic suggests that there has been dialogue on the issue (H1). This is indicated by the exchange of information and that the EU side voiced the wish to cooperate on the issue.

To conclude, the evidence presented indicated that the interactions in the intergovernmental meeting have led to further dialogue in the next meetings. Even though the wish to cooperate was voiced on the EU side and areas of cooperation were presented, the evidence suggests that it did not lead to concrete cooperation. Therefore, the institutional mechanisms are regarded as having had limited effect. As mentioned before, the ongoing process makes final conclusions on the effectiveness difficult. The process tracing was based on a small amount of evidence in comparison to the other issues. This is due to the small scope of the topic and the non-mentioning of the issue in the civil society forum.

5.2.3. Circular economy

The circular economy was the first time mentioned in the statement of the third intergovernmental meeting whereas the third civil society meeting did not raise the issue. In the intergovernmental meeting Korea and the EU talked about their policy developments on green growth and the circular economy. In the EU's presentation, the Korean companies were invited to join an initiative on environmental footprints and Korea presented their main initiatives which covered also upcycling industries the Korean Act on resource circulating society. The EU side suggested to organize a forum in Korea on eco-innovations which they agreed to further discuss (TSDC under the Korea-EU FTA 2014; CSF under the EU-Korea FTA 2014). As suggested in the meeting, an eco-innovation forum took place in October 2015 in Seoul. The

forum discussed new innovations and their business opportunities as well as innovation in circular economy (European Economic and Social Committee 18.10.2017, p. 12).

It is assumed that the institutional mechanism led to dialogue and cooperation on the circular economy (H1). A strong indicator is that the forum on eco-innovation which was proposed by the EU side took place. Another indicator is the presentation of initiatives by both sides in the meetings. Since the civil society forum did not mention the issue in its meeting, it can be assumed that the intergovernmental meeting was the starting point.

Also in the fourth intergovernmental meeting, the EU and Korea exchanged information on their flagship initiatives on recycling and the circular economy (TSDC under the Korea-EU FTA 2015). The fourth civil society forum stated the ambition to continue dialogue on climate change and environmental policy and wanted to discuss further chemicals and waste management by consulting experts in the fields (CSF under the EU-Korea FTA 2015).

The exchange of information on flagship initiatives and the intention of the civil society forum to continue dialogue presents evidence which supports the first assumption (H1) in so far as it suggests that the institutional mechanism did contribute to dialogue on the issue. Evidence for further cooperation was however not present.

In the fifth intergovernmental meeting, it was stated that, “both the EU and Korea considered that, while there was no formal dialogue on environment, the exchange in the CTSD as valuable” (European Commission 02.05.2018, p. 2). In the meeting, the EU officials pointed out that the circular economy is a priority and presented measures on waste management as part of the EU’s circular economy initiatives. The EU officials suggested to cooperate on circular economy and to organize a mission on circular economy to Korea. The Korean officials said that they would consider this and presented their actions on waste management. They further voiced the wish to cooperate further on the circular economy as for example discussing political and legislative measures. The fifth civil society forum did not touch upon the issue.

In line with the first assumption (H1), it is assumed that the institutional mechanisms led to dialogue and cooperation. The continued exchange of measures

on the circular economy and the voiced willingness to cooperate are indicators which support this hypothesis.

The sixth civil society forum recommended that sectors with high emissions should make use of the circular economy model (CSF under the EU-Korea FTA 2018). The interviewed business representative highlighted the need for a multi-stakeholder approach since issues such as chemical waste management are implemented by companies and good practice needs to be shared (Industry representative 11.04.2018).

The evidence so far suggests that the institutional mechanisms led to exchange of information on the circular economy and to a limited degree to cooperation. The proposed cooperation mission has so far not been realised which however might happen in the future.

In total, the process tracing revealed a limited effectiveness of the mechanisms. The mechanisms supported the exchange of information about initiatives on circular economy. Concrete cooperation was not going beyond the organization of a forum in Korea. However, the evidence suggests that the organization of a circular economy mission to Korea might be realised in the future.

5.3. Analysis on the cross-cutting issue of corporate social responsibility

Corporate social responsibility (CSR) is part of annex 13 which outlines areas of cooperation. The annex provides for exchange of information and cooperation on CSR. It does however not include concrete commitments. Therefore, the definition of effectiveness as a consistent application of the chapter needs to be adjusted. The institutional mechanism can be regarded as effective when they contributed to dialogue and cooperation on CSR. The process tracing aims at answering the sub-question how effective the institutional mechanisms are in contributing to dialogue and cooperation on CSR.

CSR was raised as a topic during the first intergovernmental meeting in which the EU and Korea discussed possible cooperation on CSR. The EU side proposed to cooperate and to create initiatives together. Korea was open for cooperation and both sides agreed to discuss the issue further in the next meeting (TSDC under the

Korea-EU FTA 2012). CSR was not mentioned in the summary of the first civil society meeting (CSF under the EU-Korea FTA 2012).

Based on this evidence a causal link between the interaction in the intergovernmental committee and future dialogue on the topic is assumed. The underlining assumption (H1) is that raising the issue in the first intergovernmental meeting by the EU officials led to further dialogue on CSR. This hypothesis is supported by the agreement of both sides to discuss the issue further in the next meeting. CSR was not a main topic in the civil society forum since it was not mentioned in the summary of the meeting. This indicates that the chain of events started in the intergovernmental meeting.

In the second intergovernmental meeting, Korea and the EU presented current initiatives. Korea informed about ISO 26000 and the EU about initiatives on UN principles for Business and Human Rights and initiatives related to public procurement. Possible cooperation in CSR related to labour rights was discussed as well. Furthermore, the EU officials suggested to involve the DAGs on the topic (TSDC under the Korea-EU FTA 2013). Again, the civil society forum did not mention CSR in its conclusions (CSF under the EU-Korea FTA 2013b).

The evidence supports the first hypothesis as far as dialogue on CSR was continued in the second intergovernmental meeting. Furthermore, the evidence suggests that the exchange in the intergovernmental meetings encouraged further dialogue and cooperation on CSR not only in the intergovernmental meeting but also in the civil society forum and the DAGs (H2). Indications which point toward this hypothesis are the exchange of information, the intention to involve the DAGs and to cooperate. A further weaker indication towards the assumption is that the first two civil society fora did not mention CSR in their conclusions.

Ahead of the third meetings, the EU DAG published an opinion on corporate social responsibility. The opinion states the aim to initiate a discussion on corporate social responsibility in the civil society forum. It outlines concrete initiatives as well as international cooperation by the UN, the OECD (Organisation for Economic Co-operation and Development) and the ILO. The EU DAG further proposed to study the Korean National Contact Point established under the OECD framework and to encourage the creation of a national action plan in Korea (EU DAG under the EU-Korea FTA 2014c).

The publication of the EU DAG opinion could be connected to the intention of the intergovernmental meeting to involve the DAGs on CSR. The stated aim of the opinion to initiate a discussion in the civil society forum together with the not-mentioning of CSR in the civil society statements so far are hints that support the previous assumption (H2).

The EU DAG opinion was presented to the third intergovernmental meeting. The EU and Korea discussed international principles and guidelines on CSR and stated the intention to discuss this issue further. The EU officials raised the conduct of European and Korean companies and the OECD National Contact Points as areas for further discussion and cooperation. Furthermore, the committee suggested to the civil society forum to give further advice on CSR (TSDC under the Korea-EU FTA 2014). In the third civil society forum, the DAGs gave presentations on current CSR practices. The importance of international initiatives was highlighted and further cooperation and learning from each other aspired. They agreed to share their experiences and lessons learned. The Korean DAG is asked to organize a workshop on CSR ahead of the next meeting to exchange best-practices (CSF under the EU-Korea FTA 2014).

The evidence outlined suggests that the dialogue in the intergovernmental and civil society forum led to further dialogue and cooperation on the issue (H3). This is indicated by the voiced intention to discuss, for example, international principles and guidelines and the suggestion of further areas of cooperation and discussion by the EU side. The intergovernmental committee further encouraged the DAGs to advice on CSR and the civil society forum stated its intention for further dialogue and cooperation. The exchange of best-practice, international initiatives and lessons-learned from own initiatives could lead to actions on CSR.

Experiences were also exchanged in the fourth intergovernmental meeting such as initiatives in Bangladesh. Another topic was the commitments to responsible business conduct which was highlighted as a potential area of cooperation. It was discussed to start a project on CSR under the partnership instrument. The ambition was stated to decide on the project until the next meeting (TSDC under the Korea-EU FTA 2015). As in previous civil society meetings, the DAGs gave presentations on CSR initiatives and agreed to continue exchange of information and best-practice in the next meeting. The organization of a workshop on CSR ahead of the

next meeting was considered. It was suggested to Korean companies to engage into an initiative in Bangladesh. As a result of a presentation about the Korean National Contact Point under the OECD Guidelines for Multinational Enterprises, the civil society forum acknowledged the importance of engaging with the National Contact Points.

The consideration of a joint project and the outlining of possible areas of cooperation indicate the intention to further cooperate and continue dialogue. This evidence supports the previous hypothesis 3. The civil society forum might promote cooperation on CSR by providing discussions and exchanging best-practice (H4).

The fifth civil society forum suggested to launch joint projects on the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises and to further discuss these issues. The forum intended to strengthen cooperation on CSR, especially on the issues just named and further on CSR and the environmental and on the performance of National Contact Points. The forum called for actions to respond to tragedies such as the tragedy with humidifier sterilizers which had recently happened (CSF under the EU-Korea FTA 2015). During the fifth intergovernmental meeting the EU presented their own initiatives whereas Korea acknowledged that initiatives are mainly in the private sector and that there are few government-led initiatives. Korea brought up the discussion of the civil society forum on humidifier sterilizers and the diesel emission scandal (TSDC under the Korea-EU FTA 2015; European Commission 02.05.2018).

The evidence of the fifth meetings does not strengthen hypothesis 4 since there was no further intergovernmental cooperation beyond dialogue on the initiatives. Based on the evidence so far, it can only be said that the institutional mechanism led to dialogue on CSR (H1). This is indicated by the exchange of information on initiatives in both the intergovernmental as well as civil society meetings. Even though no evidence for concrete cooperation is presented, the voiced intention to engage in cooperation might lead to a joint project in the future.

In the statement of the co-chairs of the sixth civil society forum, CSR is not mentioned. The EU official interviewed, pointed at good discussions on CSR in the sixth intergovernmental meeting and said that the aim is to have deeper cooperation in the future (EU official 18.04.2018). As a business representative from the EU

DAG pointed out in the interview, there can be different perspectives on CSR since there is no internationally agreed definition and the EU and Korea had rather different ideas of it (Industry representative 11.04.2018).

This evidence supports the previous assumption that the interaction in the institutional mechanisms led to dialogue on CSR (H1). The process tracing on CSR indicates a limited degree of effectiveness since it uncovered that the interaction in the institutional mechanisms led to dialogue on CSR but not to concrete cooperation.

5.4. Discussion of the results

The process tracing has revealed how effective the institutional mechanisms have been so far in contributing to the implementation of the specific TSD provisions. This chapter discusses the results. It summarizes the main findings, discusses possible explanations for the outcomes and acknowledges limitations.

Due to the various issues raised during the meetings and in order to achieve a broad coverage and best assessment of the institutional mechanisms, the analysis was divided into sub-cases which represent labour, environmental and cross-cutting issues. The labour provisions represent the most concrete commitments since they require the ratification and implementation of ILO fundamental conventions namely the conventions 87, 98, 29, 105 & 111 on freedom of association, collective bargaining, forced labour and discrimination. The environmental issues in the analysis, emission trading schemes, illegal logging and circular economy, are covered by the annex 13 of the chapter and aim for cooperation on the issues. Similar in this respect is the issue corporate social responsibility which is included in annex 13 providing for the exchange of information and cooperation. The definition of an effective institutional mechanism as contributing to the consistent application of the chapter needs to take into account the different nature of the commitments. In case of the environmental issues and corporate social responsibility a consistent application means the achievement of cooperation on the issues. For labour standards a consistent application is based on the commitment to ratify and implement the ILO conventions.

In the case of the non-ratified ILO conventions on freedom of association, collective bargaining and forced labour, the process tracing has shown that the institutional mechanisms contributed to dialogue but not to cooperation and concrete steps which suggests that the mechanisms' effectiveness was limited. The contribution was to a degree more effective in the case of the forced labour conventions. This is indicated by the Korean statement that ratification might be possible in the next two to three years. For the conventions on freedom of association and collective bargaining, Korea only committed to work towards the ratification but did not make a similar statement and did not present concrete steps. For the convention 111 on discrimination the institutional mechanism was more effective since it led not only to dialogue but also to cooperation in a joint project. However, concerns were raised by civil society in regard to the content and execution of the project (Labour Representative 1 17.04.2018).

For environmental issues, the process tracing followed the developments in the area of emission trading schemes, illegal logging and circular economy. The institutional mechanisms have promoted dialogue and cooperation on emission trading schemes, dialogue and limited cooperation on the circular economy and dialogue on illegal logging. This means the contribution on emission trading schemes is regarded as effective. The evidence on illegal logging showed that the request of the EU side to cooperate was not followed up and that the mechanism promoted exchange of information and experience. It needs to be considered that illegal logging was not mentioned in the statements of the civil society fora. Similar to the case of illegal logging, the mechanisms led to the exchange of information about initiatives on circular economy. Concrete cooperation was not going beyond the organization of a forum in Korea. However, the evidence suggests that the organization of a circular economy mission to Korea might be realised in the future.

In the case of corporate social responsibility, the intention to cooperate was voiced and possible areas for cooperation and projects suggested. However, there was no evidence for the initiating of concrete steps towards cooperation. It has to be acknowledged that it is an ongoing process and assessing effectiveness at this point does not take into account future developments. Due to the voiced intention to cooperate and the statement of the EU official that the Commission aims for deeper cooperation, future developments are possible.

The analysis revealed differences when it comes to the possible causes of effectiveness. The factors identified provide a base for theory development and future research. An interesting aspect is the role of political willingness to address an issue and political sensitive issues. The dispute in the last civil society forum and the reluctance of the previous Korean government towards labour issues, showed the political contestation on labour issues. This hindered dialogue and cooperation on the issues in the intergovernmental meetings. It had influenced the ability of the civil society bodies to make concrete statements especially on the freedom of association and collective bargaining. Emission trading schemes represented almost the opposite case. The Korean side showed big interest in receiving advice from the European counterparts. The Korean interest to learn from the European emission trading system was highlighted in the interviews and was revealed in the meeting documents. The nature of the cooperation was focused on Korea learning of the EU example. This is a possible explanation for the especially successful interactions on emission trading schemes in the institutional mechanisms. This findings resonate to some degree with the external governance literature, which suggests that similar “domestic rules, tradition and practices” foster the application of rules (Lavenex and Schimmelfennig 2009, p. 804).

Another factor is the degree of civil society engagement which differed depending on the issue. Previous research had suggested that a link between the foreseen involvement of civil society in the agreement and the effectiveness of the provisions exists (Orbie *et al.* 2017). The findings in this paper support this thesis when it comes to the link between the effectiveness of the mechanisms and the engagement of civil society. It adds further to previous research by shedding light on the de-facto involvement of civil society. On labour issues, the activity of civil society was to a large extent based on pinpointing shortcomings in the implementation and to a less degree on the exchange of information on practices. This was the opposite for emission trading where the European civil society was giving mainly advice how the European system functions. The non-mentioning of corporate social responsibility in the first two civil society meetings and the explicit suggestion to involve the DAGs in the third intergovernmental meeting are indications for the limited engagement at the beginning. This factor might explain to some degree the limited effectiveness of the mechanisms in the area of corporate social responsibility. Illegal logging was not at all mentioned in the statements of the civil

society forum. A possible explanation for the non-involvement in this area could be that it was not regarded as an important topic by the members of the civil society forum. The EU DAG comprises of only one environmental NGO which has not been a member right from the beginning. The Korean DAG comprises of professors in the environmental segment and does not include environmental NGOs. This could be a possible explanation of the little engagement. In total, the findings suggest that civil society involvement in the mechanisms depends on various factors among them the representativity of civil society organizations in the meetings.

Another aspect is the role of the civil society mechanisms in providing social dialogue. With the large divisions on labour issues in the civil society, social dialogue on labour is difficult and the institutional mechanisms provide a forum for social dialogue. The effects of providing for social dialogue could not be assessed in the scope of this research.

Another identified factor is the involvement of international organizations. The ILO presence in the intergovernmental and civil society meetings as well as the suggestions to Korea to work with the ILO contributed to dialogue with the ILO. The dialogue can foster the ratification and implementation of conventions by providing technical assistance and pinpointing obstacles and solutions. In the case of ILO convention 111, the presence of the ILO representative contributed with information on the implementation and by offering technical assistance. The ILO was the international organizations with the deepest and most frequent involvement in the institutional mechanisms. However, the OECD's national contact point in Korea was, for example, invited for a presentation which contributed to a better understanding of the OECD initiatives on corporate social responsibility.

Relating the findings to the external governance approach, an interesting point is the request of the EU DAG and the European parliament to change from network governance to hierarchical governance by initiating the formal consultation process on labour issues. The reluctance of the commission to start the process supports previous research which showed that the EU relies de facto mainly on network governance when it comes to trade and sustainable development (Oehri 2015). In general, it can be said that the de-facto modes of governance were network-based and relied on co-operative mechanisms such as exchange of information,

experience and best practice, joint studies and suggestion of joining international and domestic initiatives.

The conducted research is constrained by some limitations. It has to be noted that the comparability of the findings is limited by the varying degree of commitments on the issues, the different timelines of events with some issues having been raised in the beginning and others at a later point and different densities in the coverage and scope of an issue. Furthermore, the research cannot identify all intervening factors which influence the effectiveness. As highlighted earlier, external factors such as other trade agreements with similar provision could affect the outcome. Also process such as social learning or empowerment of civil society through the mechanisms could not be assessed in the scope of this paper. Due to the focus on official documents, the paper could have overlooked informal dialogue which was not mentioned in the interviews. As pointed out earlier, the analysis did focus on main issues addressed during the meetings and disregarded smaller issues as well as issues which have not been addressed in the meetings. Finally, the analysis was based on an ongoing process which makes a final assessment of effectiveness difficult and only allows for preliminary conclusions.

6. Conclusions

This paper researched the effectiveness of institutional mechanisms in trade and sustainable development (TSD) chapters in EU trade agreements. The institutional mechanisms in the TSD chapters consist of three main structures, an intergovernmental committee which is overseeing the implementation and is advised by two civil society bodies. The structures have the task to contribute to the implementation of the labour and environmental provisions in the TSD chapter. For the case of the EU-Korea free trade agreement, the blueprint case for TSD chapters, this paper process traced the contribution of the institutional mechanisms. By assessing the effectiveness of the mechanisms through the lens of the external governance framework, this paper found out that the mechanisms' contribution to the implementation and its effectiveness varied across policy issues. Due to the different nature of labour, environmental and cross-cutting issues the analysis was divided by six topics. The issues covered the ratification of ILO conventions (freedom of association, collective bargaining and forced labour), the implementation of ILO convention 111 on discrimination, emission trading schemes, illegal logging, circular economy and corporate social responsibility. Differences were found across and within policy areas. The analysis further revealed possible factors for the differences which provide promising areas for theory development and future research.

The analysis uncovered that, when it comes to the ratification of conventions, the effectiveness was rather limited. The chapter includes the commitments to ratify and implement the eight ILO fundamental conventions. The ratification of ILO fundamental conventions was raised frequently in the institutional mechanisms, but the outcome did not reach beyond initiating dialogue on the issue. The mechanisms were more effective and led to cooperation on the implementation of the ILO convention 111 on discrimination. The convention has been ratified by Korea, but concerns have been raised on the implementation. The institutional mechanisms led to dialogue and to cooperation in a joint study about the state of the implementation in Korea and the EU.

The environmental issues and the cross-cutting issue of corporate social responsibility are covered by the annex 13 of the TSD chapter and aim for

information exchange and cooperation on the issues. In this respect, the commitments are less concrete in comparison to the labour provisions. For these issues, the contribution of the institutional mechanisms was regarded as effective when it led to cooperation. This was the case for emission trading schemes. A possible factor which might have fostered the contribution of the mechanisms was the strong Korean interest to learn from the European system for emission trading. In the case of illegal logging the mechanisms led to dialogue but the EU side request to cooperate was not taken up. The mechanisms contributed further to dialogue and limited cooperation on circular economy. The intention to cooperate on corporate social responsibility was raised but has not been followed up. Since the institutional mechanisms contributed by initiating dialogue on illegal logging and circular economy, but no cooperation they can be regarded as effective to a limited degree on these issues.

It has to be considered that it is still an ongoing process and the assessment of effectiveness is not a final result. Furthermore, the issues raised had different timelines and degrees of commitments which makes it difficult to compare the effectiveness across issues.

The differences in the functioning of the institutional mechanisms calls into question the EU's approach of having one blueprint model of the institutional mechanisms in its trade agreements. It further emphasizes that the academic debate needs to focus more on the stage of implementation of agreements and consider the effects of institutional mechanisms, the variations in its functioning and the causes of the variations.

The process tracing revealed possible intervening factors which might explain the outcome and offer interesting areas for future research. A possible factor is the political sensitivity of an issues as for example the high sensitivity of labour issues in Korea. The divide between trade unions and employers was especially visible during the last civil society meeting in April 2018. The forum could not agree on a joint conclusion due to a dispute on mentioning freedom of association cases in its meeting conclusion. Political willingness was raised as a possible variable in the conducted interviews. The interviewees pointed at the impact of national elections and the government's attitude towards issues. This might point at the relevance of

domestic politics in the partner countries. Future research should take political willingness and sensitivity of issues into account as an intervening variable.

The process tracing further revealed differences when it comes to the engagement of civil society. For some issues, civil society was mainly pinpointing shortcomings in the implementation, whereas in other cases it was mostly providing information and advice on initiatives. In addition, there was a high variation in the level of civil society engagement. Whereas labour issues have been discussed frequently in the meetings other issues have been just addressed after a request of the intergovernmental committee or not at all as in the case of illegal logging. Further research could explore the link between civil society engagement and the effectiveness of the mechanisms in more detail and investigate, for instance, the relevance of interest representation in the DAGs.

Another interesting aspect in regard to the external governance approach were the requests by civil society and the European Parliament to change the modes of governance from network to hierarchical governance and the reluctance of the commission to do so. This observation was in line with previous research which showed that the EU tends to rely mainly on network-based governance (Oehri 2015). In this context it would be interesting to compare the de-facto use of network-based and hierarchical governance across chapters in trade agreements.

An area for future research is the question to which extent the interactions on corporate social responsibility have led to a more similar understanding of the issue. The presence of different perspectives on CSR and the absence of an international definition were highlighted by an interviewee. This could be researched in the bigger context of EU TSD chapters and their impact on the understanding of CSR internationally. A possible question to discover is in how far the institutional mechanisms led to an export of the EU's perspective on CSR to its trade partner. Furthermore, it was beyond the scope of this paper to assess how far the exchange of information and best-practice led to an adjustment of initiatives and in how far it has triggered new initiatives in the private sector. As was mentioned in the fifth meeting, CSR initiatives in Korea are mainly carried out by the private sector. The effect on private sector-led initiatives would present an interesting area for future research. Further consideration should be given to the relevance of market governance in this context.

The presence of a representative of the International Labour Organization was identified as a contributing factor since it provided for information and technical assistance by the ILO. Furthermore, it led to dialogue between Korea and the ILO. The degree how far the EU is fostering engagement with international organizations through institutional mechanisms like the ones in TSD chapters is an area for future research.

In total, it can be said that the process tracing contributed to the understanding of the functioning of the institutional mechanisms and its effectiveness and further outlined factors for further theory testing.

When it comes to the generalizability of the findings, it has to be acknowledged that the results are to a degree specific to the EU-Korea trade agreement. The TSD chapters are constantly under assessment, adjusted to experiences and developed further by the European Commission. However, the basic institutional mechanisms have very similar structures in all EU TSD chapters. For example, the involvement of civil society differs across TSD chapters when it comes to the rules of procedure or frequency of the meetings (Martens *et al.* 2018) but all TSD chapters foresee advising civil society bodies. Especially, the suggested intervening factors might apply to TSD chapters in general. As was highlighted in previous research, even though the EU and U.S. approaches differ when it comes to the enforcement mechanisms, in practice both rely on network-based governance (Oehri 2015). Therefore, the findings can be applied to a certain degree to the U.S. model but also to other network-based models. The engagement of civil society is also foreseen in the U.S. model, for example in the North American Agreement on Labor Cooperation (NAALC) which shares similarities with the EU intergovernmental TSD committee (Campling *et al.* 2016, p. 376). The findings suggested that the effectiveness of network-based governance varied across policy issue. Different factors were identified whose significance needs to be further tested for other agreements.

To conclude, the findings in this paper suggest that improvements of the institutional mechanisms might be necessary to increase the effectiveness. Since it is an ongoing process, it remains to be seen how the mechanisms evolve over time and what the long-term effects will be. The relevance of the topic in a globalised world was emphasized by trade commissioner Malmström: “Ensuring our

agreements address the environment, labour rights, human rights and corruption is important. It is how we shape globalisation, so that it doesn't shape us" (European Commission 16 April 2018, p. 3).

Executive Summary

The European Union has started in 2011 to add an additional chapter in its trade agreement which includes provisions on environmental protection and labour standards. This so-called chapter on trade and sustainable development (TSD) is part of the EU's 'new generation' 'modern' trade agreements. The effectiveness of these kind of provisions has been questioned in academia as well as in the political sphere. However, this paper does not directly assess the effectiveness of the labour and environmental provisions in the TSD chapter. It starts from an earlier step in the process namely at the point of the implementation. It assesses the effectiveness of the institutional mechanisms created by the TSD chapter to monitor the implementation. The TSD chapters set up institutional structures to monitor the implementation. These structures and their interactions represent the institutional mechanisms of the TSD chapters and are the core of the analysis. Contributing to both the academic and practical debate the paper researched the question: How effective are institutional mechanisms in EU trade and sustainable development chapters in contributing to the implementation of the chapters? The relevance of the questions is emphasized, when considering that well-functioning institutional mechanisms can lead to a better implementation of the chapter which in the end might affect the labour conditions and environmental situation on the ground.

The institutional mechanisms in the TSD chapter consist of three main structures, an intergovernmental committee which is overseeing the implementation and is advised by two civil society bodies. The intergovernmental body is usually called 'trade and sustainable development committee' (TSDC) or 'sub-committee on trade and sustainable development'. The committee is supported in its monitoring function by civil society from the EU and the partner country. The civil society meets regularly in so-called 'domestic advisory groups' (DAGs) as well as in a broader set-up as 'civil society forum' (CSF).

The research question is part of a bigger discussion on how effective the EU and also other countries are in exporting their rules and standards. The 'external governance' approach is serving as a conceptual framework for analysing the institutional mechanisms which oversee the implementation of the trade and sustainable development chapters. The aim is to assess how effective they are in

contributing to the successful export of provisions in the TSD chapter. The focus lies on the last step of a rule transfer, which is the implementation. The institutional mechanisms are regarded as effective, when they contribute to a more consistent implementation of the chapters.

For the case of the EU-Korea free trade agreement which represents the blueprint case and first agreement with a TSD chapter, this paper process-traces the functioning of the institutional mechanisms in the TSD chapter and assesses its effectiveness. By looking at the official meeting documents of the institutional mechanisms and reports by the European institutions and by conducting interviews with the European participants in the meeting, the paper can assess in-depth the process of change.

Due to the different nature of labour, environmental and cross-cutting issues the analysis was divided by six topics. The issues covered the ratification of ILO conventions (freedom of association, collective bargaining and forced labour), the implementation of ILO convention 111 on discrimination, emission trading schemes, illegal logging, circular economy and corporate social responsibility. The results show a diverse picture. The institutional mechanisms contributed to dialogue on the ratification of fundamental ILO conventions which Korea had not yet ratified. However, due the lack of concrete cooperation and steps towards the ratification, the effectiveness was evaluated as rather limited. The mechanisms were more effective and led to cooperation on the implementation of the ILO convention 111 on discrimination. The convention has been ratified by Korea, but concerns have been raised on the implementation. The contribution is rated as effective in the case of emission trading schemes where the exchange in the mechanisms led to cooperation in a joint project. In the case of illegal logging the mechanisms led to dialogue but the EU side request to cooperate was not taken up. The mechanisms contributed further to dialogue and limited cooperation on circular economy. The intention to cooperate on corporate social responsibility was raised but has not been followed up yet. Since the mechanism did not lead to cooperation, the effectiveness is evaluated as rather limited.

The process tracing further uncovered intervening factors which might foster or constrain the effectiveness such as politically sensitive issues, civil society engagement or the presence of representatives from international organizations at

meetings. The relevance of political willingness to address an issue and contested nature of labour issues in Korea was revealed in a dispute in the last civil society forum and the reluctance of the previous Korean government to discuss labour issues. Since labour issues are politically sensitive in Korea, dialogue and cooperation in the intergovernmental meetings and the ability of the civil society bodies to make concrete statements especially on the freedom of association and collective bargaining was hindered. Emission trading schemes represented almost the opposite case. The Korean side showed big interest in receiving advice from the European counterparts. The nature of the cooperation was very different than for labour issues and focused on Korea learning of the EU example.

Furthermore, the degree of civil society engagement was identified as a possible intervening factor since it differed largely depending on the issue. On labour issues, the activity of civil society consisted mainly of pinpointing shortcomings in the implementation and to a less degree of the exchange of information on practices. This was the opposite for emission trading where the European civil society was giving mainly advice how the European system functions. Civil society was only limited engaged on corporate social responsibility issues and not at all on illegal logging. In total, the findings suggest that civil society involvement in the mechanisms itself depends on various factors among them the representativity and interest of civil society organizations. Another aspect is that the civil society mechanisms provide an opportunity for social dialogue which is normally not given in some countries.

Another identified factor is the involvement of international organizations. The ILO presence in the intergovernmental and civil society meetings as well as the suggestions to Korea to work with the ILO contributed to dialogue with the ILO. The ILO was the international organizations with the deepest and most frequent involvement in the institutional mechanisms. However, the OECD's national contact point in Korea was, for example, invited for a presentation which contributed to a better understanding of the OECD's initiatives on corporate social responsibility.

Relating the findings to the external governance approach, an interesting point is the request of the EU DAG and the European parliament to change from network governance to hierarchical governance by initiating the formal consultation process

on labour issues. In general, it can be said that the de-facto modes of governance were network-based and relied on co-operative mechanisms such as exchange of information, experience and best practice, joint studies and suggestion of joining international and domestic initiatives.

The conducted research is constrained by some limitations in relation to comparability, intervening and external factors and the challenge of studying an ongoing process which makes a final assessment of effectiveness difficult and only allows for preliminary conclusions.

In total, the process tracing contributed to the understanding of the functioning of the institutional mechanisms and its effectiveness and further outlined factors for further theory testing.

References

- Adriaensen, J., and González-Garibay, M., 2013. The illusion of choice: The European Union and the trade-labor linkage. *Journal of Contemporary European Research*, 9 (4), 542–559. Available from: <https://www.jcer.net/index.php/jcer/article/view/459> [Accessed 17 April 2018].
- Bastiaens, I., and Postnikov, E., 2014. Does dialogue work? The effectiveness of labor standards in EU preferential trade agreements. *Journal of European Public Policy*, 21 (6), 923–940. Available from: <https://www.tandfonline.com/doi/abs/10.1080/13501763.2014.910869> [Accessed 16 March 2018].
- Beach, D., and Pedersen, R.B., 2011. What is process tracing actually tracing? The three variants of process tracing methods and their uses and limitations. *Conference Papers -- American Political Science Association*, 1–34. Available from: <http://eds.a.ebscohost.com.ludwig.lub.lu.se/eds/pdfviewer/pdfviewer?vid=4&sid=057d6658-4531-4043-8625-a2276b23f1e9%40sessionmgr4007> [Accessed 25 April 2018].
- Beach, D., and Pedersen, R.B., 2013. *Process-tracing methods. Foundations and guidelines*. Ann Arbor: University of Michigan Press.
- Börzel, T.A., ed., 2007. *European Governance – Negotiation and Competition in the Shadow of Hierarchy*. Montreal, Canada.
- Campling, L., et al., 2016. Can labour provisions work beyond the border? Evaluating the effects of EU free trade agreements. *International Labour Review*, 155 (3). Available from: <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1564-913X.2015.00037.x> [Accessed 5 April 2018].
- Council of the European Union, 2010. Council decision of 16 September 2010 on the signing, on behalf of the European Union, and provisional application of the Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part. (2011/265/EU). Available from: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=OJ:L:2011:127:TOC> [Accessed 4 April 2018].
- CSF under the EU-Korea FTA, 2012. The Civil Society Forum under the EU-Korea Free Trade Agreement 1st meeting. Communication to the Parties to the EU-Korea FTA. Available from: https://www.eesc.europa.eu/sites/default/files/resources/docs/eu-korea-csf_communication-to-the-parties_2012.pdf [Accessed 2 May 2018].
- CSF under the EU-Korea FTA, 2013a. Rules of procedure of the civil society forum under the EU-Korea FTA. Available from: https://www.eesc.europa.eu/sites/default/files/resources/docs/eu-korea-csf-rules-of-procedure_en.pdf [Accessed 5 April 2018].
- CSF under the EU-Korea FTA, 2013b. The Civil Society Forum under the EU-Korea Free Trade Agreement 2nd meeting. Conclusions issued by the two co-chairs Mr Eom, Hyeon Taek and Mr Thomas Jenkins. Available from: <https://www.eesc.europa.eu/en/agenda/our-events/events/2nd-meeting-eu-korea->

- civil-society-forum-under-eu-korea-free-trade-agreement/documents [Accessed 2 May 2018].
- CSF under the EU-Korea FTA, 2014. The Civil Society Forum under the EU-Korea Free Trade Agreement 3rd meeting. Conclusions issued by the two co-chairs, Mr Thomas Jenkins and Mr Youngki Choi. Available from: https://www.eesc.europa.eu/sites/default/files/resources/docs/eu-korea-csf-conclusions_december-2014_final_en.docx [Accessed 2 May 2018].
- CSF under the EU-Korea FTA, 2015. The Civil Society Forum under the EU-Korea Free Trade Agreement 4th meeting. Available from: https://www.eesc.europa.eu/sites/default/files/resources/docs/eu-korea-csf-conclusions_september-2015_en_final-version.pdf [Accessed 2 May 2018].
- CSF under the EU-Korea FTA, 2017. The Civil Society Forum under the EU-Korea Free Trade Agreement 5th meeting. Conclusions. Available from: <https://www.eesc.europa.eu/sites/default/files/resources/docs/eu-korea-csf-final-conclusions.pdf> [Accessed 2 May 2018].
- CSF under the EU-Korea FTA, 2018. Joint Statement by the Chairs of the Korea DAG and the EU DAG Mr. Lee Ho-Geun and Mr. Georgi Stoev. Available from: https://www.google.de/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwiqkqyLrfHaAhWN0qYKHV4pDIoQFggzMAA&url=https%3A%2F%2Fwww.eesc.europa.eu%2Fsites%2Fdefault%2Ffiles%2Ffiles%2Feesc-2018-02011-00-00-decl-ciap_gfev.docx&usq=AOvVaw1C19_U_4Hk_iCmvQrLne62 [Accessed 6 May 2018].
- David Collier, 2011. Understanding Process Tracing. *The Teacher*, 823–830. Available from: <http://polisci.berkeley.edu/sites/default/files/people/u3827/Understanding%20Process%20Tracing.pdf> [Accessed 5 April 2018].
- Dimitrova, A., and Dragneva, R., 2009. Constraining external governance: interdependence with Russia and the CIS as limits to the EU's rule transfer in the Ukraine. *Journal of European Public Policy*, 16 (6), 853–872. Available from: <https://www.tandfonline.com/doi/abs/10.1080/13501760903087894> [Accessed 15 March 2018].
- EU DAG under the EU-Korea FTA, 2013. Opinion on the Fundamental rights at work in the Republic of Korea, identification of areas for action. Available from: <https://www.eesc.europa.eu/en/documents/opinion-fundamental-rights-work-republic-korea-identification-areas-action> [Accessed 2 May 2018].
- EU DAG under the EU-Korea FTA, 2014a. Discussion Paper on the European Union's Emissions Trading Scheme (ETS). Contribution of the EU Domestic Advisory Group to the EU -Korea Civil Society Forum. Available from: <https://www.eesc.europa.eu/en/documents/eu-dag-discussion-paper-ets> [Accessed 7 May 2018].
- EU DAG under the EU-Korea FTA, 2014b. Letter to Commissioner Karel De Gucht: Serious Violation of Chapter 13 of the EU-Korea FTA. Available from:

- http://www.finunions.org/files/225/Letter_to_Mr_Karel_De_Gucht_Art_13-Korea_-FTA.pdf [Accessed 2 May 2018].
- EU DAG under the EU-Korea FTA, 2014c. Opinion on the European Union's vision and practice of Corporate Social Responsibility (CSR). Contribution of the EU Domestic Advisory Group under the EU-Korea FTA. Available from: https://www.eesc.europa.eu/sites/default/files/resources/docs/eu-dag-opinion-on-csr_en.pdf [Accessed 7 May 2018].
- EU DAG under the EU-Korea FTA, 2016a. Annexes to the second EU DAG letter on Korea. Available from: <https://www.epsu.org/sites/default/files/article/files/Annexes%20to%20EU%20DAG%20letter.pdf> [Accessed 2 May 2018].
- EU DAG under the EU-Korea FTA, 2016b. EU DAG Letter to Commissioner Malmström, Brussels, 16. December 2016. Government Consultations Pursuant to the EU-Korea FTA. Available from: <https://www.epsu.org/sites/default/files/article/files/Annexes%20to%20EU%20DAG%20letter.pdf> [Accessed 5 April 2018].
- EU official, 2018. *Interview with an EU official from Directorate General for Trade of the European Commission on 18.04.2018.* via phone.
- European Commission, 2013. Report from the Commission to the European Parliament and the Council. Annual Report on the Implementation of the EU-Korea Free Trade Agreement. Available from: http://trade.ec.europa.eu/doclib/docs/2013/february/tradoc_150647.pdf [Accessed 5 May 2018].
- European Commission, 2014. Trade for all. Towards a more responsible trade and investment policy. Available from: http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf [Accessed 5 November 2017].
- European Commission, 2015. Report from the Commission to the European Parliament and the Council. Annual Report on the Implementation of the EU-Korea Free Trade Agreement (http://trade.ec.europa.eu/doclib/docs/2015/march/tradoc_153275.pdf) [Accessed 6 May 2018].
- European Commission, 2017. Non-paper of the Commission services. Trade and Sustainable Development (TSD) chapters in EU Free Trade Agreements (FTAs). Available from: <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1689> [Accessed 5 November 2017].
- European Commission, 2017. Report from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on Implementation of Free Trade Agreements. 1 Januar 2016 - 31 December 2016 {SWD(2017) 364 final}. Available from: <https://ec.europa.eu/transparency/regdoc/rep/1/2017/EN/COM-2017-654-F1-EN-MAIN-PART-1.PDF> [Accessed 7 May 2018].
- European Commission, 2018. The Minutes of the 5th meeting of the Committee on Trade and Sustainable Development under the EU-Korea FTA, 24 March 2017, in

- Brussels. Available from: http://trade.ec.europa.eu/doclib/docs/2018/may/tradoc_156839.pdf [Accessed 7 May 2018].
- European Commission 16 April, 2018. Speech by EU Commissioner Cecilia Malmström in Uppsala, Sweden, 16 April 2018, 1–4. Available from: http://trade.ec.europa.eu/doclib/docs/2018/april/tradoc_156719.pdf [Accessed 15 May 2018].
- European Economic and Social Committee, 2017. Opinion European Economic and Social Committee. EU-Korea Free Trade Agreement - Trade and Sustainable Development Chapter REX/479. Available from: <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/eu-korea-free-trade-agreement-trade-and-sustainable-development-chapter> [Accessed 7 May 2018].
- European Parliament, 2007. European Parliament resolution of 13 December 2007 on the trade and economic relations with Korea. (2007/2186(INI)). Available from: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P6-TA-2007-0629> [Accessed 4 April 2018].
- European Parliament, 2017. Implementation of the EU-Korea Free Trade Agreement: European Parliament resolution of 18 May 2017 on the implementation of the Free Trade Agreement between the European Union and the Republic of Korea. P8_TA(2017)0225. Available from: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2017-0225+0+DOC+XML+V0//EN> [Accessed 3 May 2018].
- George, A.L., and Bennett, A., 2005. *Case studies and theory development in the social sciences*. Cambridge, Massachusetts, London, England: The MIT Press.
- Harrison, J., *et al.*, 2018. Governing Labour Standards through Free Trade Agreements. Limits of the European Union's Trade and Sustainable Development Chapters. *JCMS: Journal of Common Market Studies*, 9 (4), 1–18. Available from: <https://onlinelibrary.wiley.com/doi/abs/10.1111/jcms.12715> [Accessed 20 April 2018].
- Horn, H., Mavroidis, P.C., and Sapir, A., 2010. Beyond the WTO? An Anatomy of EU and US Preferential Trade Agreements. *The World Economy*, 33 (11), 1565–1588. Available from: <https://onlinelibrary.wiley.com/doi/epdf/10.1111/j.1467-9701.2010.01273.x> [Accessed 15 April 2018].
- Industry representative, 2018. *Interview with an industry representative and member of the EU Domestic Advisory Group (EU DAG) for the EU-Korea FTA on 11.04.2018*. Brussels.
- International Labour Organization (ILO), 1996-2018. *Conventions and Recommendations* [online]. Available from: <http://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm> [Accessed 4 April 2018].
- Internationales Institut für Arbeitsfragen, 2015. *Social dimensions of free trade agreements*. Geneva: ILO.

- King, G., Keohane, R.O., and Verba, S., 1994. *Designing social inquiry. scientific inference in qualitative research*. Princeton, N.J.; Chichester: Princeton University Press.
- Kommerskollegium - National Board of Trade Sweden, 2016. Implementation and enforcement of sustainable development provisions in free trade agreements – options for improvement, 1–30. Available from: <https://www.kommers.se/Documents/dokumentarkiv/publikationer/2016/publ-implementation-and-enforcement-of-sustainability-provisions-in-FTAs.pdf> [Accessed 5 November 2017].
- Labour Representative 1, 2018. *Interview with a labour representative and member of the EU Domestic Advisory Group (EU DAG) for the EU-Korea FTA on 17.04.2018.* via phone.
- Labour Representative 2, 2018. *Interview with the second labour representative and member of the EU Domestic Advisory Group (EU DAG) for the EU-Korea FTA on 20.04.2018.* via phone.
- Lavenex, S., and Schimmelfennig, F., 2009. EU rules beyond EU borders. Theorizing external governance in European politics. *Journal of European Public Policy*, 16 (6), 791–812. Available from: <https://www.tandfonline.com/doi/abs/10.1080/13501760903087696> [Accessed 27 March 2018].
- Lechner, L., 2016. The domestic battle over the design of non-trade issues in preferential trade agreements. *Review of international political economy*, 23 (5), 840–871. Available from: <https://www.tandfonline.com/doi/abs/10.1080/09692290.2016.1231130> [Accessed 2 April 2018].
- Leeg, T., 2018. Negotiating sustainable trade: explaining the difference in social standards in US and EU preferential trade agreements. *Contemporary Politics*, 1–20. Available from: <https://www.tandfonline.com/doi/full/10.1080/13569775.2017.1422093> [Accessed 5 April 2018].
- Martens, D., *et al.*, 2016. Civil society meetings in EU trade agreements. Recommendations and lessons for EPAs. *European Center for Development Policy Management* (93), 1–10. Available from: <http://ecdpm.org/publications/civil-society-meetings-eu-trade-agreements/> [Accessed 6 April 2018].
- Martens, D., *et al.*, 2018. Mapping Variation of Civil Society Involvement in EU Trade Agreements. A CSI Index. *European Foreign Affairs Review*, 23 (1), 41–62. Available from: <http://www.kluwerlawonline.com.ludwig.lub.lu.se/toc.php?area=Journals&mode=bypub&level=5&values=Journals%7E%7EEuropean+Foreign+Affairs+Review%7EVolume+23+%282018%29> [Accessed 20 February 2018].
- Mckenzie, L., and Meissner, K.L., 2017. Human Rights Conditionality in European Union Trade Negotiations: the Case of the EU-Singapore FTA. *Journal of Common Market Studies*, 55 (4), 832–849. Available from:

- <https://onlinelibrary.wiley.com/doi/abs/10.1111/jcms.12522> [Accessed 8 March 2018].
- Meissner, K.L., 2016. Democratizing EU External Relations: The European Parliament's Informal Role in SWIFT, ACTA, and TTIP. *European Foreign Affairs Review*, 21 (2), 269–288. Available from: <https://www.kluwerlawonline.com/abstract.php?area=Journals&id=EERR2016017> [Accessed 20 March 2018].
- Moore, M., and Scherrer, C., 2017. Conditional or Promotional Trade Agreements - Is Enforcement Possible? How International Labour Standards can be enforced through US and EU Social Chapters. *Core Labour Standards + Linking trade and decent work in global supply chains*, 1–27. Available from: <http://www.fes-asia.org/news/conditional-or-promotional-trade-agreements-is-enforcement-possible/> [Accessed 4 April 2018].
- Oehri, M., 2015. Comparing US and EU labour governance ‘near and far’ – hierarchy vs network? *Journal of European Public Policy*, 22 (5), 731–749. Available from: <https://www.tandfonline.com/doi/abs/10.1080/13501763.2014.966743> [Accessed 30 April 2018].
- Orbie, J., *et al.*, 2016a. Promoting sustainable development or legitimising free trade? Civil society mechanisms in EU trade agreements. *Third World Thematics: A TWQ Journal*, 1 (4), 526–546. Available from: <https://www.tandfonline.com/doi/full/10.1080/23802014.2016.1294032> [Accessed 5 March 2018].
- Orbie, J., Martens, D., and Putte van den, L., 2016b. Civil Society Meetings in European Union Trade Agreements. Features, Purposes, and Evaluation. *CLEER Papers* (3), 1–48. Available from: http://www.asser.nl/media/3044/cleer16-3_web.pdf [Accessed 21 February 2018].
- Orbie, J., Putte van den, L., and Martens, D., 2017. The Impact of Labour Rights Commitments in EU Trade Agreements: The Case of Peru. *Politics & Governance*, 5 (4), 6–18. Available from: <https://www.cogitatiopress.com/politicsandgovernance/article/view/1091> [Accessed 18 April 2018].
- Putte van den, L., 2015. Involving Civil Society in the Implementation of Social Provisions in Trade Agreements. Comparing the US and EU Approach in the Case of South Korea. *Global Labour Journal*, 6 (2). Available from: <https://mulpress.mcmaster.ca/globallabour/article/view/2331/0> [Accessed 5 May 2018].
- Roosendaal van, G., 2017. Where Symbolism Prospers. An Analysis of the Impact on Enabling Rights of Labour Standards Provisions in Trade Agreements with South Korea. *Politics and Governance*, 5 (4), 19. Available from: https://econpapers.repec.org/article/cogpoango/v_3a5_3ay_3a2017_3ai_3a4_3ap_3a19-29.htm [Accessed 15 April 2018].
- Sicurelli, D., 2015. The EU as a Promoter of Human Rights in Bilateral Trade Agreements: The Case of the Negotiations with Vietnam. *Journal of Contemporary European*

- Research*, 1 (2), 230–245. Available from: <https://www.jcer.net/index.php/jcer/article/view/655> [Accessed 8 April 2018].
- TSDC under the Korea-EU FTA, 2012. Joint statement to the Civil Society Forum on the outcomes of the 1st Trade and Sustainable Development Committee. Available from: http://trade.ec.europa.eu/doclib/docs/2014/january/tradoc_152047.pdf [Accessed 2 May 2018].
- TSDC under the Korea-EU FTA, 2013. Joint statement of the 2nd Meeting of the Committee on Trade and Sustainable Development under the Korea-EU FTA. Available from: http://trade.ec.europa.eu/doclib/docs/2014/january/tradoc_152048.pdf [Accessed 2 May 2018].
- TSDC under the Korea-EU FTA, 2014. Joint Statement of the 3rd meeting of the Committee on Trade and Sustainable Development under the Korea-EU FTA. Available from: https://www.eesc.europa.eu/sites/default/files/resources/docs/joint-statement-of-ctsd_2014.pdf [Accessed 2 May 2018].
- TSDC under the Korea-EU FTA, 2015. Joint statement of the 4th meeting of the committee on Trade and Sustainable Development under the Korea-EU FTA. Available from: http://trade.ec.europa.eu/doclib/docs/2015/september/tradoc_153802.pdf [Accessed 2 May 2018].
- TSDC under the Korea-EU FTA, 2017. Report 5th meeting of the committee on Trade and Sustainable Development under the Korea-EU FTA. Available from: <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=32849&no=4> [Accessed 2 May 2018].

Appendix 1: Main interview questions to members of the EU domestic advisory group

1. Can you tell me about the last meetings in Korea? What were the main issues being discussed? Was there progress in some areas?
2. How are issues raised in the DAGs? Is it difficult to agree on an opinion together?
3. What are the main concerns when it comes to the implementation of the TSD chapter in Korea? Were these issues raised by the DAGs and CSF? Did the Korea government act upon the issues? What has so far been the biggest success?
4. How far did the TSD committee take DAG and CSF recommendations into account? What happened to the issues raised in the EU DAG letter to Commissioner Karel de Gucht and Malmström? Why has there been no formal government consultation?
5. What happened in 2016? Why was there no CSF and CTSD?
6. Would you say the TSD mechanisms are effective in ensuring that the TSD provisions are implemented by Korea?

Appendix 2: Main interview questions to the EU officials

1. What were the main issues in the last TSDC and CSF meetings in Seoul?
2. What has so far been the biggest success/achievements/biggest process in the TSD committee?
3. What are the main concerns when it comes to the implementation of the TSD chapter in Korea? Were these issues raised with Korea in the TSD committee meeting and did Korea act upon the issues?
4. The EU DAG and the European Parliament requested the starting of a governmental consultation on labour issues. Why did the Commission not start a formal consultation?
5. What happened in 2016? Why was there no CSF and CTSD?
6. How often do you interact with Korea on TSD issues outside of the formal meetings?
7. Would you say the TSD committees (DAG, CSF, CTSD) are effective in ensuring that the TSD provisions are implemented by Korea?