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Labour Rights Promotion in the Absence of Conditionality? How the EU and the US Engage China and India

Myriam OEHRI^{*}

Labour standards are one of the most contested issues in economic relations between developed countries and emerging markets. As attempts to codify such standards in the WTO have failed, the EU and the US have intensified their efforts to promote them in bilateral and regional Preferential Trade Agreements (PTAs). Whereas this practice has been quite consistent across the globe, the lack of corresponding PTAs with China and India restricts US and EU potentials. This article turns the question on its head and explores to what extent the EU and the US promote labour standards in China and India in the absence of conditional clauses, by focusing on more horizontal strategies of cooperation instead. Drawing on the analytical framework of institutional and substantive labour standards promotion in the absence of conditionality and on the supply and demand model of regulatory influence, the study reveals that while conditional approaches in the field of labour standards are highly contested by China and India, the US and the EU are able to engage them via technical cooperation, political dialogues, Memoranda of Understandings (MoUs), and other formal agreements. It furthermore shows that core labour standards are less consistently addressed in their bilateral cooperation than technical and governance labour standards.

1 INTRODUCTION

In public debates and scholarly literature, it is commonly agreed that the EU and the US constitute not only major trade and regulatory powers in the world,¹ but also important protagonists in the international spread of labour standards. In fact, since the entry into force of the North American Free Trade Agreement (NAFTA) with Canada and Mexico in 1994, the US has embraced labour rights conditionality in its bilateral and regional Preferential Trade Agreements (PTAs). On the other side of

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¹ D. Bach & A. L. Newman, *The European Regulatory State and Global Public Policy: Micro-institutions, Macro-influence*, 14(6) J. Eur. Pub. Pol'y 827–846 (2007); H. Horn, P. C. Mavroidis & A. Sapir, *Beyond the WTO? An Anatomy of EU and US Preferential Trade Agreements*, 33(1) World Economy 1565–1588 (2010).

the Atlantic, labour provisions were subsumed under human rights clauses in EU agreements since 1992 and later on referenced more explicitly. Despite some modifications in labour provisions over the years, the EU and the US seem to align in their overall strategies of a trade-labour linkage across the globe.²

With the rise of emerging markets such as India and China and the declining international influence of the West,³ the EU and the US at times are challenged in their policy making. As far as the foreign promotion of labour rights is concerned, they face difficulties in a dual way: not only do emerging countries traditionally feature systems of low wages, selective non-enforcement of labour regulations, limited protection of workers, and industrial relations regulated at the firm-level, but these countries also tend to oppose international influence regarding the highly sensitive issue of labour rights: 'In large emerging economies states claim discretion over the regulation of their workforce. Externally, they often reject international and transnational attempts to interfere in domestic labour relations.'⁴ In countries of East Asia in particular, international influence by the West, for instance through bilateral PTAs or international financial institutions, has been absent for the most part or hardly successful.⁵ So far, South Korea constitutes the only rising Asian economy with which the US and the EU recently concluded PTAs that reference international labour standards. These agreements establish mechanisms for labour-related cooperation, monitoring, and enforcement as do US and EU trade agreements with other (emerging) countries.⁶

Starting with the lack of pertinent PTAs with China and India, this article explores to what extent the EU and the US promote labour standards in these emerging markets. Drawing on a theoretical framework of labour rights promotion, featuring a continuum of institutional approach and substantive agenda, and inspired by determinants of the supply and demand concept, this article aims to illustrate and explain how the EU and the US engage India and China in the protection of worker rights. It is argued here that despite the lack of labour conditionality through bilateral or regional PTAs, the US and the EU have been surprisingly capable to involve China and India in various aspects of labour rights promotion (i.e. technical assistance, political dialogue, and formal agreements).

² International Labour Organisation (ILO), *Assessment of Labour Provisions in Trade and Investment Arrangements* (Geneva 2016).

³ J. Men & W. Shen, *Introduction*, in *The EU, the US and China: Towards a New International Order?* 1 (J. Men & W. Shen eds, Edward Elgar Publishing 2014).

⁴ A. Nölke, T. ten Brink, S. Claar & C. May, *Domestic Structures, Foreign Economic Policies and Global Economic Order: Implications from the Rise of Large Emerging Economies*, 21(3) *Eur. J. Int'l Rel.* 550–551, 544, 559 (2015).

⁵ T. L. Caraway, *Labor Standards and Labor Market Flexibility in East Asia*, 45 *Stud. Comp. Int'l Dev.* 225 (2010).

⁶ ILO, *supra* n. 2; M. Oehri, *US and EU External Labor Governance: Workers' Rights Promotion in Trade Agreements and in Practice* (Palgrave Macmillan 2017).

Nevertheless, there are still inconsistencies between actual domestic difficulties and bilateral substantive scopes, which the US and the EU supply side of regulatory power can partly account for.

The next chapter develops a conceptual model for the assessment of labour rights promotion in the absence of conditionality and presents relevant assumptions and data. Chapter 3 unveils US and EU labour-related cooperation in China and India whereas Chapter 4 provides reflections on its potentials and limits. In the conclusions, the major findings and their implications are discussed.

2 THEORIZING LABOUR RIGHTS PROMOTION IN THE ABSENCE OF CONDITIONALITY

The EU and the US have commonly been described as pioneers in attaching labour provisions to trade instruments. In order to assess the more horizontal supply strategies the US and the EU opt for in the absence of PTAs,⁷ I propose a concept of labour standards promotion beyond conditionality along the lines of institutional and substantial intensities. First, the institutional dimension identifies mechanisms through which labour provisions are promoted cooperatively, by drawing on the threefold distinction of organizational behaviour, namely talk, decision, and action,⁸ and the concept of network-based (labour) governance.⁹ According to Brunsson, '[t]he organization meets some demands by way of talk, others by decisions, and yet others by action', thereby encompassing communicative, decision-making, and material processes.¹⁰ Even though bilateral cooperation between countries is normally less institutionalized than is an organization, it can nevertheless feature all three forms of performance. In the context of this study, *action* takes place when the parties carry out concrete cooperative activities (e.g. technical assistance projects, exchange of best practices) to enhance the protection of worker rights, both bilaterally and through the International Labour Organisation (ILO), given the ILO's relevant role in the international promotion of labour standards and the EU's and US's function as significant ILO donors and development partners in Asia.¹¹ This form of engagement is listed at the bottom of the institutional continuum as it is of a technical rather than a political kind. More

⁷ The petitions filed by the AFL-CIO in 2004 and 2006 against China's labour standards comportment in the context of s. 301 of the US Trade Act of 1974 (amended in 1988) were declined by the Bush administration (Caraway, *supra* n. 5, at 237).

⁸ N. Brunsson, *The Organization of Hypocrisy: Talk, Decisions, and Actions in Organizations* (Abstrakt forlag AS 2002).

⁹ Oehri, *supra* n. 6.

¹⁰ Brunsson, *supra* n. 8, at xiv, 168, 175.

¹¹ See http://www.ilo.org/wcmsp5/groups/public/-dgreports/-exrel/documents/genericdocument/wcms_350516.pdf and http://www.ilo.org/wcmsp5/groups/public/-dgreports/-exrel/documents/genericdocument/wcms_237562.pdf (accessed Oct. 2015).

political is the dimension on *talk* which involves bilateral political dialogues referring to labour rights (e.g. assessing and defining labour-related situations and difficulties, welcoming taken initiatives, and acknowledging improvements). Finally, *decisions* are taken when the parties formally agree (e.g. joint statements, action plans, Memoranda of Understandings (MoUs), treaties) on joint priorities and set out a common line of labour-related action in order to address existing challenges. This dimension is at the top of the institutional continuum as it is highly political and institutionalized.¹²

Second, the substantive agenda encompasses three sets of labour standards, which are defined along the lines of the ILO distinction of technical, governance, and fundamental conventions. *Technical labour standards* (TLS) include topics such as minimum wage, hours of work, occupational safety and health, social security, and labour migration. Very often, technical standards are comparatively cheap (e.g. equipping working spaces with fire extinguishers and sanitary kits)¹³ and therefore likely to be addressed in cross-national labour cooperation. More disputed by receiving countries might be measures aiming at the appropriate realization of ratified conventions and domestic labour laws, such as labour inspections and tripartite consultation. They belong to the *governance conventions* (GLS) defined in the 2008 ILO Declaration on Social Justice for a Fair Globalization and are identified as ‘priority’ instruments, being ‘most significant from the viewpoint of governance’. This second set of the substantive agenda are complemented by a convention on employment and measures directed at the implementation of labour regulations (e.g. enhancing capacities of officials or providing legal advice to workers). Finally, the promotion of labour standards can encompass fundamental conventions, also referred to as *core labour standards* (CLS) defined in the 1998 ILO Declaration on Fundamental Principles and Rights at Work. They comprise freedom of association, freedom from forced and child labour, and the prohibition of discrimination at the workplace. Even though they inaugurate ‘a new normative hierarchy’¹⁴ and claim for universality, CLS are anything but undisputed globally: they not only affect labour costs indirectly, but also question and challenge existing political systems (e.g. by giving workers more voice through freedom of association)¹⁵ or prevailing values (e.g. by providing equal rights to men and women at the workplace). Table 1 summarizes the continuum of labour rights promotion.

¹² Technical cooperation, political dialogue, and formal agreement can be interlinked and can occur in various chronological orders.

¹³ K. A. Elliott & R. B. Freeman, *Can Labor Standards Improve under Globalization?* 13 (Institute for International Economics 2003).

¹⁴ P. Alston, ‘Core Labour Standards’ and the Transformation of the International Labour Rights Regime, 15(3) Eur. J. Int’l L. 458 (2004).

¹⁵ Elliott & Freeman, *supra* n. 13, at 18.

Table 1 *Continuum of Labour Rights Promotion in the Absence of Conditionality*

<i>Institutional Approach</i>	Action <i>Technical Cooperation</i>	Talk <i>Political Dialogues</i>	Decision <i>Formal Agreements</i>
<i>Substantive Agenda</i>	Technical Labour Standards (TLS) Minimum wage Occupational safety and health Social security (inter alia)	Governance Labour Standards (GLS) Labour inspection Tripartite consultation Employment policy	Core Labour Standards (CLS) Freedom of association / collective bargaining Forced labour Child labour Discrimination at work

Moreover, in order to theorize US and EU labour rights promotion abroad, I focus on the US and EU supply side of regulatory power with a view on regulatory capacity, interest group pressure, and trade power.¹⁶ As far as US and EU *regulatory capacities* are concerned, there are several restrictions in the labour domain. American labour and employment law is constituted by federal and state acts which cover both individual and collective worker rights. However, these regulations are based on the English legal tradition which is more market- than state-oriented.¹⁷ US Supreme Court decisions have often been in favour of employers.¹⁸ Overall, the US labour market is considered incomplete when compared with other industrialized countries.¹⁹ Regarding international labour commitments, the US joined the ILO in 1934, withdrew from its membership from 1977 to 1980,²⁰ and ratified only few ILO conventions.²¹ In the EU, labour matters have always been subject to the national legislations of the Member States. Only parts of the labour regulation have been introduced at the supranational level over time. However, even those labour matters regulated through directives have rarely been implemented by EU Member States.²² Also internationally, ‘the implementation of ILO

¹⁶ S. Lavenex, I. Krizic & O. Serrano, *EU and US Regulatory Power under Strain? Emerging Countries and the Limits of External Governance*, 22 Eur. Foreign Affairs Rev. 1–18 (Special Issue 2017).

¹⁷ R. B. Freeman, *America Works: The Exceptional U.S. Labor Market* 17–18 (Russell Sage Foundation 2007).

¹⁸ E. Dannin, *The Future of US Labor Law and the Long Struggle for Labor Rights*, 21(2) Emp. Responsibilities & Rts. J. 141 (2009).

¹⁹ Freeman, *supra* n. 17, at 3.

²⁰ Elliott & Freeman, *supra* n. 13, at 95.

²¹ See http://www.ilo.org/dyn/normlex/en/?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102871 (accessed Jan. 2016).

²² M. Hartlapp & S. Leiber, *The Implementation of EU Social Policy: The ‘Southern Problem’ Revisited*, 17(4) J. Eur. Pub. Pol’y (2010).

norms within the Union was initially minimal and is still far from comprehensive'.²³ In conclusion, the US and the EU are institutionally restricted in the promotion of labour norms due to limited competences at the federal and supranational level, respectively. It can thus be assumed that the US and the EU are unable to promote labour standards in China and India in a consistent and comprehensive manner, covering the whole range of institutional and substantive labour rights engagement.

Despite limited regulatory power, the US and the EU face *internal pressure by sector-specific interest groups*. In essence, the American Federation of Labour and Congress of Industrial Organizations (AFL-CIO) and the European Trade Union Confederation (ETUC) jointly emphasized that '[t]he EU and the US carry special responsibilities in the governance of the global economy given our combined economic predominance and the long traditions of human rights and democracy we share'. EU and US leadership becomes all the more important '[w]ith the entry of China, India and the former Soviet Union into the global economy'.²⁴ Accordingly, it can be assumed that the US and the EU consistently and comprehensively address difficulties in China's and India's labour market as they are pressured by major labour representatives.

Regarding the *trade relationships* between the US and the EU and China and India, respectively, there is some variation, with the US being the main destination for China's and the EU for India's total exports, but not vice-versa.²⁵ Such asymmetrical trade relationships are conducive to international concessions and thus can account for more or less consistent and comprehensive labour rights cooperation. More specifically, it can be assumed that US-China and EU-India labour rights cooperation feature higher institutional and substantive intensities than US-India and EU-China engagement, respectively.

The assessment and theoretical reflections of US and EU labour standards promotion rely on evidence drawn from the analysis of official documents (e.g. project descriptions, joint statements, action plans, MoUs) and secondary literature.

²³ T. Novitz, *The European Union and International Labour Standards: The Dynamics of Dialogue Between the EU and the ILO*, in *Labour Rights as Human Rights* 217–218 (P. Alston ed., Oxford University Press 2005).

²⁴ ETUC & AFL-CIO, *Trans-Atlantic Cooperation for a Just and Sustainable Global Economy. Trade Union Statement to US-EU Summit* (30 Apr. 2007).

²⁵ <http://stat.wto.org/CountryProfile/WSDBCountryPFView.aspx?Language=E&Country=CN> (accessed Jan. 2017).

3 US AND EU LABOUR RIGHTS PROMOTION IN CHINA AND INDIA

3.1. US-CHINA LABOUR RIGHTS COOPERATION

Action: The US and China have not been shy to address labour-related challenges in China. Noteworthy is the US-China ‘Smoke-Free Worksites’ (CUSW) initiative, a public-private partnership taken up in 2013 with the aim to promote smoke-free policies at Chinese workplaces.²⁶ Moreover, the US promoted labour standards in China in cooperation with the ILO. The ‘United States-China Labor Law Cooperation Project’, carried out by the ILO between 2002 and 2007, addressed China’s labour law compliance by enhancing the capacity and awareness of the Chinese government, workers, employers, and academics.²⁷ The project ‘Responding to HIV/AIDS through Workplace Based Interventions’, executed by the ILO from 2006 until 2009, addressed the increasing rates of infection among people in the 15–44 age group, who often face, social stigmatization and workplace discrimination.²⁸ The US-funded ILO-project ‘Forced Labour and Trafficking: The Role of Labour Institutions in Law Enforcement and International Cooperation in China’ (2005–2008) aimed to strengthen the Chinese law and policy framework on forced labour and trafficking²⁹ (TLS, GLS, CLS).

Talk: There have been dialogues via summits and senior-level meetings on a broad range of policies, going back to Presidents Nixon’s visit to China in 1972. A policy of dialogue was inaugurated during the Clinton administration. It was further developed and institutionalized under President Bush³⁰ through the ‘Senior Dialogue’ with the aim to ‘discuss strategic, long-term issues in the U.S.–China bilateral relationship and in global affairs’.³¹ In 2009, the US-China Senior Dialogue was replaced by the ‘US-China Strategic and Economic Dialogue’.³² In the context of these dialogue venues, as the available documents show, the US and China also referred to labour-related topics. In 2013, 2014, and 2015 they

²⁶ <http://www.state.gov/r/pa/prs/ps/2013/07/211861.htm><http://www.state.gov/r/pa/prs/ps/2014/07/229239.htm> and <http://www.state.gov/r/pa/prs/ps/2015/06/244205.htm> (accessed Nov. 2015).

²⁷ http://www.dol.gov/ilab/projects/summaries/china_otla-rol.htm (accessed Nov. 2015).

²⁸ http://www.dol.gov/ilab/projects/summaries/china_otla.htm (accessed Nov. 2015).

²⁹ http://www.ilo.org/beijing/what-we-do/projects/WCMS_142261/lang-en/index.htm (accessed Nov. 2015).

³⁰ R. Foot, *Strategy, Politics and World Order Perspectives: Comparing the EU and US Approaches to China’s Resurgence*, in *Asian Security Studies: US-China-EU Relations. Managing the New World Order* (R. Ross, et al. eds, Routledge 2010); R. G. Sutter, *U.S.-Chinese Relations: Perilous Past, Pragmatic Present* 3–5 (The Rowman and Littlefield Publishing Group, Inc. Sutter 2010).

³¹ <http://iipdigital.usembassy.gov/st/english/texttrans/2005/12/20051202181222ajesrom0.2403681.html#axzz3pBphocfP> (accessed Nov. 2015).

³² Sutter, *supra* n. 30, at 166.

reviewed the launch of a joint project on safety and health at the workplace and discussed its continuation.³³

In addition to the US-China Strategic and Economic Dialogue, labour rights have also been addressed in their bilateral dialogue platform on human rights. The 'US-China Human Rights Dialogue' dates back to the 1990s. With the exception of the years from 2004 to 2008, it has been held yearly.³⁴ In 2015, the US Assistant Secretary of State described the dialogue as a 'chance for us to engage directly with the Chinese Government on human rights in an in-depth manner, focusing on specific issues and specific cases'.³⁵ While this dialogue addressed a range of human rights topics, according to available press releases also labour rights were on the agenda of meetings held in 2010, 2011, 2012, and 2013.³⁶ As an illustration, during the 2010 human rights dialogue, the parties met with officials of the Federal Mediation and Conciliation Service to discuss labour rights such as collective bargaining. They also held conversations about labour inspections: in this context, they noticed that there are not enough labour inspectors either in Chinese or American factories and thus identified this as a potential future priority for their cooperation.³⁷

In addition to these prominent dialogue fora, in 2010, the US and Chinese governments brought their cooperation on labour and employment to a new level by launching the first 'US-China Labor Dialogue'. This dialogue is intended to be held annually between the US Department of Labour and China's Ministry of Human Resources and Social Security. Topics that are currently discussed in the context of this dialogue setting include worker rights, labour law enforcement, and social safety net programs. In 2012, the US and China launched another annual dialogue, the 'US-China Workplace Safety and Health Dialogue', held between the US Department of Labour and China's State Administration of Work Safety³⁸ (*TLS, GLS, CLS*).

Decision: In addition to cross-national activities and dialogues, the US and China also agreed more formally on joint priorities in the promotion of labour standards. For example, in 1994, they concluded the 'US-China Statement of Cooperation Regarding the Prohibition of Import and Export Trade in Prison Labor Products'. In this document, they agree on cooperation in the field of prison

³³ <http://www.state.gov/e/eb/tpp/bta/sed/> (accessed Nov. 2015).

³⁴ Sutter, *supra* n. 30, at 264.

³⁵ <http://www.state.gov/r/pa/prs/ps/2015/08/246092.htm> and <http://www.humanrights.gov/dyn/2015/08/19th-u.s.-china-human-rights-dialogue> (accessed Nov. 2015).

³⁶ <http://www.state.gov/r/pa/prs/ps/2010/05/141899.htm>; <http://www.state.gov/r/pa/prs/ps/2011/04/161492.htm>; <http://www.state.gov/j/drl/rls/rm/2012/195498.htm>, and <http://www.state.gov/r/pa/prs/ps/2013/07/212477.htm> (accessed Nov. 2015).

³⁷ <http://www.state.gov/r/pa/prs/ps/2010/05/141899.htm> (accessed Nov. 2015).

³⁸ <http://www.dol.gov/ilab/diplomacy/sed.htm> (accessed Nov. 2015).

labour, such as conducting investigations of suspected exports of prison labour products.³⁹

In 2011, as a result of the US-China Labor Dialogue, the US Department of Labour and the Ministry of Human Resources and Social Security of China signed an MoU on 'Cooperation on Labor Affairs'. In this document, both parties recognize the importance of cooperation on labour and employment issues and reaffirm their commitment to relevant international labour rights conventions, including the 1998 ILO Declaration on Fundamental Principles and Rights at Work and the 2008 ILO Declaration on Social Justice for a Fair Globalization. They also express their intention to cooperate on issues in the areas of employment promotion and skills development, social dialogue, minimum wage and working hours, retirement benefits, employment statistics, and unemployment insurance. To that end, they aim to rely on the annual US-China Labor Dialogue, technical cooperation, and other activities. Whenever considered appropriate, these activities can include representatives of workers, employers, or any other relevant stakeholders.⁴⁰

In the same year, the State Administration of Work Safety of China and the US Labour Department signed an MoU on 'Cooperation on Work Safety and Health'. The overall goal of this agreement is to improve workplace safety and health conditions and to create quality and efficient working environments. To that end, the two parties aim to develop wide exchange and cooperation in the respective areas. More precisely, they intend to continue dialogue and discussions between senior officials and to undertake technical cooperation and exchange activities, with the inclusion of civil society representatives such as workers, employers, and other stakeholders where deemed appropriate.⁴¹

In 2013, the US Department of Labour and the China National Coal Association endorsed an MoU on 'Cooperation on Coal Mine Safety and Health' to enhance China's coal industry's compliance with safety and health regulations. This agreement serves as a basis to further expand the bilateral cooperation on mine safety regulations, inspections, and enforcement which has existed for over a decade.⁴² In essence, the two parties aim to develop extensive exchange and cooperation in the area of occupational safety and health, by continuous discussions and dialogues between senior officials and technical cooperation and

³⁹ http://origin.www.uscc.gov/sites/default/files/Research/Staff%20Report_Prison%20Labor%20Exports%20from%20China_Final%20Report%20070914.pdf (accessed Nov. 2015).

⁴⁰ <http://www.dol.gov/ilab/diplomacy/PDF/2011-MOU-with-MOHRSS.PDF> (accessed Nov. 2015).

⁴¹ <http://www.dol.gov/ilab/diplomacy/PDF/2011-MOU-with-SAWS.PDF> (accessed Nov. 2015).

⁴² <http://www.dol.gov/ilab/diplomacy/sed.htm> (accessed Nov. 2015).

exchange activities upon mutual consent, encouraging representatives of workers, governments, and other stakeholders to participate⁴³ (*TLS, GLS, CLS*).

In summary, the US and China launched concrete cooperative projects (*TLS, GLS, CLS*), exchanged on labour-related aspects during several dialogue meetings (*TLS, GLS, CLS*), and agreed on joint scopes via a statement and MoUs (*TLS, GLS, CLS*).

3.2. EU-CHINA LABOUR RIGHTS COOPERATION

Action: The EU and China carried out concrete action in the promotion of labour standards: under the program of support for China's economic and social reform, in 2004 the leaders endorsed a financing agreement for the 'EU-China Social Security Reform Project' in order to develop a sustainable social security system in China.⁴⁴ Moreover, in 2005, China and the EU held a seminar on 'Employment Promotion and Vocational Training'.⁴⁵ The EU-project 'Safety and Health: Improving Environmental and Safety Performance in Electrical and Electronics industry in China' (2009–2013), carried out by the German Chamber of Commerce and Industry, was designed to promote economic prosperity and poverty reduction in China through occupational health and safety and corporate social responsibility practices, among other issues.⁴⁶ EU labour rights promotion in China, finally, occurred in cooperation with the ILO in the context of labour migration issues. To exemplify, with the 'EU-China Dialogue on Migration and Mobility Support', which was set up in 2015 for a duration of three years, the EU aims together with China, the ILO, and the International Migration Organization (IMO) to contribute to a better management of mobility and legal migration between the EU and China, and to reduce irregular migratory flows⁴⁷ (*TLS, GLS, CLS*).

Talk: Bilateral dialogue between the EU and China has been held since 1978 primarily through the EEC-China Joint Committee, established on the basis of their 1978 Trade Agreement.⁴⁸ In 1994 they upgraded their dialogue

⁴³ <http://www.dol.gov/ilab/diplomacy/PDF/2013-CNCA-MOU-both-language.pdf> (accessed Nov. 2015).

⁴⁴ http://www.eeas.europa.eu/china/sectoraldialogue_en.htm and http://eeas.europa.eu/delegations/china/projects/list_of_projects/3252_en.htm (accessed Nov. 2015).

⁴⁵ http://www.eeas.europa.eu/china/sectoraldialogue_en.htm; and http://europa.eu/rapid/press-release_IP-08-30_en.htm (accessed Nov. 2015).

⁴⁶ http://eeas.europa.eu/delegations/china/projects/list_of_projects/152569_en.htm (accessed Nov. 2015).

⁴⁷ http://www.ilo.org/beijing/what-we-do/projects/WCMS_421604/lang-en/index.htm. Another project which addressed irregular labour migration was carried out with the ILO between 2008 and 2010. http://www.ilo.org/gateway/faces/home/iloaction/projects/projectdetails?locale=EN&projectsymbol=WCMS_141650&cid=CHN&_adf.ctrl-state=5iwgth0ip_830 (accessed Nov. 2015).

⁴⁸ S. Finamore, *Norms, Instruments and Strategy: Comparing EU and US Engagements of China*, in Men & Shen (eds), *supra* n. 3, at 119; Foot, *supra* n. 30, at 215–216.

and established structured political dialogue aiming to exchange views on issues of common concern.⁴⁹ In 1998, the dialogue got a new form when the Heads of State or Government held their first bilateral summit meeting and agreed to do so on an annual basis. While the EU's and China's interests are clearly dominated by economic and commercial policy as well as bilateral rather than international issues,⁵⁰ labour-related topics, even though addressed to a different extent at different times, were not absent in these annual high-level dialogues.⁵¹ More precisely, the EU and China explicitly addressed labour-related topics during various summits: to illustrate, they exchanged on China's progress made in its social reform; emphasized their interest for a dialogue on employment, labour and social affairs, and on occupational safety and health; expressed hope for regular dialogue between the China Economic and Social Council and the European Economic and Social Committee; welcomed initiatives on cooperation mechanism on employment and social affairs, labour law, and on occupational safety and health; endorsed an MoU on labour, employment, and social affairs and encouraged to sign one on health and safety at work; and reaffirmed their support for the ILO decent work agenda.⁵²

In addition to the annual summits held as part of the EU-China political dialogue, Chinese and European delegations convened for the 'EU-China Human Rights Dialogue' for the first time in 1996. The dialogue has been held twice a year since 1997 with the aim to discuss the EU's and China's human rights understandings, exchange their views, and look for better ways to communicate on this matter.⁵³ It has been observed that labour-related aspects were hardly addressed.⁵⁴ More precisely, the EU has given priority to civil and political rights, whereas China has emphasized dialogue, exchange, and cooperation on citizens' social rights.⁵⁵ Exceptions of labour-related topics in the EU-China Human Rights Dialogue are the EU mentioning of re-education through the labour system and

⁴⁹ Y. Devuyt & J. Men, *Political Dialogue as an Instrument of EU Diplomacy: The Case of China*, in *Cahiers du Collège d'Europe: European Union Diplomacy: Coherence, Unity and Effectiveness* 184–186 (D. Mahncke & S. Gstöhl eds, Peter Lang 2012); H. Yuan & J. Orbie, *The Social Dimension of the EU-China Relationship: A Normative and Pragmatic European Approach?* 20(3) *Eur. Foreign Affairs Rev.* 343 (2015).

⁵⁰ J. Holsag, *The Elusive Axis: Assessing the EU-China Strategic Partnership*, 49(2) *J. Com. Mkt. Stud.* 296–298 (2011).

⁵¹ Yuan & Orbie, *supra* n. 49, at 344.

⁵² http://eeas.europa.eu/china/previous_summits_en.htm and http://eeas.europa.eu/china/summits_en.htm (accessed Nov. 2015).

⁵³ http://eeas.europa.eu/delegations/china/eu_china/political_relations/humain_rights_dialogue/index_en.htm (accessed Nov. 2015); Devuyt & Men, *supra* n. 49, at 185–186; K. Kinzelbach & H. Thelle, *Taking Human Rights to China: An Assessment of the EU's Approach*, 205 *China Q.* 61 (2011).

⁵⁴ Yuan & Orbie, *supra* n. 49, at 347.

⁵⁵ Kinzelbach & Thelle, *supra* n. 53, at 63.

acknowledging progress in China's social security system, and China raising concerns about the EU's social rights situation⁵⁶ (TLS, GLS).

Decision: In addition to cross-national talks, China and the EU agreed on joint approaches towards labour standards. As an illustration, during the 2005 summit, China and the EU endorsed an MoU on 'Labour, Employment and Social Affairs'. In this MoU concluded by the European Commission and the Ministry of Labour and Social Security of China, the two sides expressed the desire to strengthen and consolidate joint relations and to promote and enhance mutual understanding and awareness in the context of labour, employment, and the social sector. To that end, the DG for Employment, Social Affairs and Equal Opportunities of the European Commission and the Ministry of Labour and Social Security of China agreed to develop a joint structured dialogue on labour, employment, and social affairs, with the aim to hold it annually and to include relevant stakeholders such as representatives of workers and employers. In addition to this dialogue, the parties also agree to organize specific events addressing these issues as deemed appropriate.⁵⁷

In 2009, when Chinese and EU leaders convened for their 11th annual summit, the DG for Employment, Social Affairs, and Equal Opportunities of the European Commission and the State Administration of Work Safety of China endorsed an MoU relating to labour provisions. In this MoU, they stress the wish to strengthen and consolidate joint ties, by setting up a policy dialogue and cooperation in the field of health and safety at work. The parties agree to reconvene annually in order to review the developments. They may also decide to invite relevant public or private stakeholders to participate in the dialogue.

During their EU-China summit in 2013, the EU and China agreed on a guiding document for their relations, the 'Strategic Agenda 2020'. In the chapter on 'Social Progress', it is crucial to the parties to '[r]einforce dialogue on social policies, promote social security and social cohesion, full and quality employment, occupational safety and health, and decent work'. Moreover, the EU and China endorse specific labour-related programs to be jointly implemented: they refer to the EU-China Social Protection Reform Project and the EU-China Occupational Safety and Health Project in High Risk Industries. Finally, the two parties are keen to further promote the decent work agenda. To that end, they agree to enhance cooperation with the ILO⁵⁸ (TLS, GLS).

⁵⁶ Yuan & Orbie, *supra* n. 49, at 349.

⁵⁷ http://europa.eu/rapid/press-release_IP-05-1091_en.htm?locale=en, and http://www.eeas.europa.eu/china/sectoraldialogue_en.htm, and http://europa.eu/rapid/press-release_IP-08-30_en.htm (accessed Nov. 2015); see also F. Snyder, *The European Union and China, 1949–2008: Basic Documents and Commentary* 821–822 (Hard Publishing 2009); Yuan & Orbie, *supra* n. 49, at 345.

⁵⁸ http://eeas.europa.eu/china/docs/20131123_agenda_2020_en.pdf (accessed Nov. 2015).

Accordingly, there is EU-Sino engagement in terms of cooperative activities regarding the protection of worker rights (*TLS*, *GLS*, *CLS*), dialogue (*TLS*, *GLS*), and MoUs and a Strategic Agenda (*TLS*, *GLS*).

3.3. US-INDIA LABOUR RIGHTS COOPERATION

Action: US-India labour standards engagement features various cooperation projects. To illustrate, during their meeting in early 2012, the Indian Minister of Labour and Employment and his delegation visited the Occupational Safety and Health Administration Training Institute Education Center at the University of Texas, Arlington, the National Labor College, and a Job Corps Center in Long Beach, California.⁵⁹ Only few months later, in August 2012, the US Department of Labour and the Indian Ministry of Labour and Employment launched a joint project to be executed by the University of Texas at Arlington. The three-year project ‘India Occupational Safety and Health Modernization Project’ addressed the challenge of a largely untrained and vulnerable workforce that is exposed to new occupational hazards due to India’s rapidly expanding sectors.⁶⁰ The US-supported project ‘Community based Innovations to Combat Child Labor through Education I and II’ (2002–2008) aimed to launch community-based projects to reduce and prevent child labour as well as to document best practices.⁶¹ A more recent project on child labour, namely the ‘Research on Children Working in the Carpet Industry of India, Nepal, and Pakistan’ was realized between 2007 and 2012.⁶² Child labour in India constitutes also a major issue of US cooperation with the ILO. To exemplify, the project ‘Converging against Child Labor: Support for India’s Model’ from 2008 until 2013, aimed to contribute to the prevention and elimination of hazardous child labour.⁶³ Finally, the project ‘HIV/AIDS Prevention in the World of Work: A Tripartite Response’ (2002–2013), carried out by the ILO, focused on HIV/AIDS as an employment and labour problem, as people living with HIV/AIDS face discrimination at the workplace and stigmatization, and are in constant fear of losing their jobs⁶⁴ (*TLS*, *GLS*, *CLS*).

Talk: While there has been cooperation between the two countries for many decades, since 2009 the ‘US-India Strategic Dialogue’ has been the major forum ‘to advance shared objectives in regional security, economic cooperation, defense,

⁵⁹ <http://www.dol.gov/ilab/diplomacy/india.htm> (accessed Nov. 2015).

⁶⁰ <http://www.dol.gov/ilab/projects/summaries/India-OSH.pdf> (accessed Nov. 2015).

⁶¹ http://www.dol.gov/ilab/projects/summaries/CIRCLEI-II_Winrock_CLOSED.pdf (accessed Nov. 2015).

⁶² http://www.dol.gov/ilab/projects/summaries/SouthAsia_CarpetsResearch_CLOSED.pdf (accessed Nov. 2015).

⁶³ http://www.dol.gov/ilab/projects/summaries/India_ConvergenceModel.pdf (accessed Nov. 2015).

⁶⁴ <http://www.dol.gov/ilab/projects/summaries/IndiaHIVandAIDS.pdf> (accessed Nov. 2015).

trade, and climate challenges'.⁶⁵ In 2015, President Obama and Prime Minister Modi expanded this dialogue to the 'US-India Strategic and Commercial Dialogue', reflecting the parties' shared priorities of generating economic growth, creating jobs, improving the investment climate, and strengthening the middle class in both countries. It brought together high-level officials from both sides.⁶⁶ Among the broad range of topics discussed, as the available documents reveal, labour rights were tackled, for instance in 2012 by the parties noting a joint MoU on youth development, occupational safety and health, and mine safety and health. In 2015, they embraced recent cooperative agreements to enhance collaboration in the field of occupational health and injuries prevention and control, among other issues (*TLS*).⁶⁷

Decision: In addition to political conversations in the field of labour standards, the US and India formally agreed on joint scopes and lines of actions. To illustrate, the MoU on 'Labor Cooperation', concluded between the Indian Ministry of Labour and Employment and the US Department of Labour in 2012, is an outgrowth of a 2010 meeting between the US Secretary of Labour and the Indian Minister of Labour and Employment following a conference of the G20 labour and employment ministers. The US Secretary of Labour referred to it as a 'new program to share valuable information that will ensure that workers' rights are respected'.⁶⁸ In this agreement, more precisely, the US and India express their wish to establish cooperation on labour matters of mutual interest. They aim to conduct dialogue and cooperative activities in the areas of skills development, youth employment, occupational safety and health, and mine safety and health.⁶⁹

Furthermore, India and the US have addressed labour rights aspects in the context of health policies. In 2000, they signed the 'Indo-US Joint Statement on Environmental and Occupational Health, Injury Prevention and Control'. This agreement was renewed in 2002 and in 2006 until 2011, and expanded to the 2015 MoU on 'Environmental and Occupational Health and Injury Prevention and Control'.⁷⁰ Among the main areas of cooperation, a few also refer to workers' rights, such as the development and use of improved tools, technologies, and methods for enhancing occupational public health, the prevention of illness and injury related to hazards at the workplace and related research, as well as research on occupational causes of illnesses⁷¹ (*TLS*, *GLS*).

⁶⁵ <http://www.state.gov/p/sca/ci/in/strategicdialogue/index.htm> (accessed Nov. 2015).

⁶⁶ <http://www.state.gov/p/sca/ci/in/strategicdialogue/index.htm> (accessed Nov. 2015).

⁶⁷ <http://www.state.gov/p/sca/ci/in/strategicdialogue/> (accessed Nov. 2015).

⁶⁸ <http://www.dol.gov/ilab/diplomacy/india.htm>, and <http://www.dol.gov/opa/media/press/ilab/ILAB20120220.htm> (accessed Nov. 2015).

⁶⁹ <http://www.dol.gov/ilab/diplomacy/2012IndiaMOU.pdf> (accessed Nov. 2015).

⁷⁰ <http://www.icMnrc.in/guide.htm>, and <http://www.state.gov/r/pa/prs/ps/2014/07/230051.htm> (accessed Nov. 2015).

⁷¹ <http://www.asiatimes.com.au/india-usa-sign-mous-to-strengthen-cooperation-in-health-sector/> (accessed Nov. 2015).

In sum, the US has engaged India in the field of labour rights through various channels, including initiatives on the ground (*TLS*, *GLS*, *CLS*), political dialogues (*TLS*), and MoUs (*TLS*, *GLS*).

3.4. EU-INDIA LABOUR RIGHTS COOPERATION

Action: Labour standards have constituted an agenda item of EU-India cooperative activities. To exemplify, in 2006, the parties organized a first tripartite visit from India to the EU. They also held their first seminar on employment and social issues. In 2007, they carried out the second EU-India seminar on employment and social policy which provided a high-level policy forum for tripartite discussion on major challenges and further cooperation on social security and social protection.⁷² The sixth EU-India Seminar held in 2013 enabled the exchange of experiences and good practices in the area of social protection by dealing with the adoption of the 2012 ILO recommendation on social protection floors, among other things.⁷³ In 2011 the EU launched the project ‘Capacity Building for the Promotion of Labor Rights for Vulnerable Groups of Workers’ for a duration of two years⁷⁴ and the project ‘Sustainable Livelihoods for Small Tea Growers’, for a planned duration of five years.⁷⁵ Between 2012 and 2015, the EU carried out the project ‘Sustainable Solutions in the Fight against Child Labour in Home-based Craft Production’.⁷⁶ With the project ‘Impacts of the EU-India FTA on Human and Social Rights Issues’, implemented between 2012 and 2015, the parties aimed at strengthening the capacity of Indian civil society organizations in protecting and promoting human rights in relation to the proposed EU-India PTA.⁷⁷ Finally, the EU funded projects in cooperation with the ILO: the projects ‘Promoting Decent Work Across Borders: A Project for Migrant Health Professionals and Skilled Workers’ (2011–2014) and ‘Promoting the Effective Governance of Labour Migration from South Asia through Actions on Labour Market Information, Protection during Recruitment and Employment, Skills and Development Impact’ (2013–2016) deal with labour migration and aim to protect Indian labourers in destination countries⁷⁸ (*TLS*, *GLS*, *CLS*).

⁷² http://eeas.europa.eu/delegations/india/documents/eu_india/021_eu_india_res_8th_summit1_en.pdf (accessed Nov. 2015).

⁷³ <http://ec.europa.eu/social/main.jsp?langId=en&catId=87&eventsId=853&furtherEvents=yes> (accessed Nov. 2015).

⁷⁴ http://eeas.europa.eu/delegations/india/projects/list_of_projects/232126_en.htm (accessed Nov. 2015).

⁷⁵ https://ec.europa.eu/europeaid/projects/sustainable-livelihoods-small-tea-growers_en and https://ec.europa.eu/europeaid/case-studies/sustainable-livelihoods-small-tea-growers_en (accessed Nov. 2015).

⁷⁶ https://ec.europa.eu/europeaid/projects/sustainable-solutions-fight-against-child-labour-home-based-craft-production_en (accessed Nov. 2015).

⁷⁷ https://ec.europa.eu/europeaid/projects/impacts-eu-india-fta-human-and-social-rights-issues_en (accessed Nov. 2015).

⁷⁸ http://www.ilo.org/manila/projects/WCMS_173607/lang-en/index.htm (accessed Nov. 2015); http://www.ilo.org/newdelhi/whatwedo/projects/WCMS_426164/lang-en/index.htm (accessed Nov. 2015).

Talk: The 1994 Cooperation Agreement between India and the EU builds the legal framework for current dialogue and cooperation regarding a variety of policy fields.⁷⁹ In the context of this agreement, annual summits were held since 2000.⁸⁰ During their early summits, for instance in 2003 and 2004, the EU and India referred to social rights and their commitment to the full realization thereof. In 2006, the parties furthermore welcomed the finalization of an MoU on EU-India Dialogue and Cooperation on Employment and Social Policy and expressed their joy to sign it. In the following year, they embraced the strengthening of EU-India dialogue and cooperation on employment and social policy in the context of the MoU and highlighted the importance of civil society involvement in this dialogue.⁸¹

The dialogues at the annual summits were furthermore complemented by the 'EU-India Human Rights Dialogue': it constitutes a local dialogue that is held at the level of the head of the EU delegation in India.⁸² The EU has emphasized the need to hold discussions also on labour-related aspects as part of this dialogue. More precisely, the European Commission expressed the desire to 'engage India on topics, such as ... gender discrimination, child labour, labour rights, [and] Corporate Social Responsibility'.⁸³ This claim is mirrored to some extent only in the topics discussed during the EU-India human rights dialogue, which included, among other issues, decent work⁸⁴ (*TLS*, *GLS*).

Decision: As part of their labour cooperation, India and the EU defined joint scopes and lines of action. In 2004, as an illustration, they established a 'Strategic Partnership', in the context of which they agreed on a joint action plan in 2005. This plan includes an agenda on 'Employment and Social Policy', in which the two parties commit themselves 'to promote full, freely chosen and productive employment with full respect for fundamental principles, fair wages and rights at work'. They furthermore emphasize their common interest to develop a policy dialogue on employment and social security.⁸⁵

Referring to the ambitious action plan of 2005, the European Commission and Indian Ministry of Labour and Employment signed an MoU in 2006. In this agreement, they wish to strengthen and consolidate their relations and to

⁷⁹ D. Gupwell & N. Gupta, *EU FTA Negotiations with India, ASEAN and Korea: The Question of Fair Labour Standards*, 7 Asia Eur. J. 84 (2009).

⁸⁰ http://eeas.europa.eu/india/index_en.htm (accessed Nov. 2015).

⁸¹ http://eeas.europa.eu/delegations/india/eu_india/political_relations/strategic_partnership/index_en.htm (accessed Nov. 2015).

⁸² Devuyt & Men, *supra* n. 49, at 179.

⁸³ European Commission, *An EU-India Strategic Partnership*, COM(2004) 430 final (2004).

⁸⁴ http://europa.eu/rapid/press-release_MEMO-13-44_en.htm (accessed Nov. 2015).

⁸⁵ http://eeas.europa.eu/delegations/india/documents/eu_india/joint_action_plan_en.pdf (accessed Nov. 2015).

promote and enhance mutual understanding and awareness of their labour-related policies and legislations. To that end, they agree to initiate a structured dialogue on employment and social policy and to hold annual seminars, workshops, and expert meetings, among other channels. The parties, finally, agree to set up a rolling work program, to review its implementation, and to discuss future cooperation annually⁸⁶ (*TLS*, *GLS*, *CLS*).

In summary, the EU has been able to engage India in labour right cooperation, including projects and seminars (*TLS*, *GLS*, *CLS*), bilateral conversations (*TLS*, *GLS*), and a joint Action Plan and MoUs (*TLS*, *GLS*, *CLS*).

Table 2 summarizes US and EU labour rights promotion in China and India. It shows that overall the US and the EU have made use of labour-related activities, dialogue, and agreements. While *TLS* and mostly also *GLS* have been part of all types of engagement, *CLS* were hardly referred to in political dialogues and joint agreements.

Table 2 US and EU Labour Rights Promotion in China and India

	<i>US-China</i>			<i>EU-China</i>			<i>US-India</i>			<i>EU-India</i>		
Action	Bilateral Activities / through the ILO			Bilateral Activities / through the ILO			Bilateral Activities / through the ILO			Bilateral Activities / through the ILO		
	<i>TLS</i>	<i>GLS</i>	<i>CLS</i>	<i>TLS</i>	<i>GLS</i>	<i>CLS</i>	<i>TLS</i>	<i>GLS</i>	<i>CLS</i>	<i>TLS</i>	<i>GLS</i>	<i>CLS</i>
Talk	Strategic and Economic Dialogue / Human Rights Dialogue / Specific Dialogues			Annual Summits / Human Rights Dialogue			Strategic and Commercial Dialogue			Annual Summits / Human Rights Dialogue		
	<i>TLS</i>	<i>GLS</i>	<i>CLS</i>	<i>TLS</i>	<i>GLS</i>		<i>TLS</i>			<i>TLS</i>	<i>GLS</i>	
Decision	1994 Statement			2005 MoU			2012 MoU			2005 Joint Action		
	2011 MoU			2009 MoU			2015 MoU (based on Joint			Plan		
	2011 MoU			2013 Strategic			Statement)			2006 MoU		
	2013 MoU			Agenda								
	<i>TLS</i>	<i>GLS</i>	<i>CLS</i>	<i>TLS</i>	<i>GLS</i>		<i>TLS</i>	<i>GLS</i>		<i>TLS</i>	<i>GLS</i>	<i>CLS</i>

⁸⁶ http://europa.eu/rapid/press-release_IP-06-1630_en.htm; and <http://164.100.154.224/upload/uploadfiles/files/EU0001.pdf> (accessed Nov. 2015).

4 REFLECTIONS ON POTENTIALS AND LIMITS OF US AND EU LABOUR RIGHTS PROMOTION

The current analysis revealed that China is receptive to labour-related cooperation with the US and the EU. While the US-China engagement is slightly more comprehensive regarding the different sets of labour standards than the EU-China engagement, there are noteworthy inconsistencies in both approaches: China features infractions of fundamental labour principles such as child labour or the denial of freedom of association, among others, that are excluded from the bilateral cooperation with the US and the EU. Similarly, India is receptive to horizontal labour-related engagement with the US and the EU. Here, it is the EU-India engagement which is slightly more comprehensive in substantive terms. However, not only bilateral cooperation with the US but also with the EU feature inconsistencies, as topics such as independent trade union activism or labour inspections, respectively, are not part of their joint undertakings. Without claiming completeness, these conclusions corroborate that the limited regulatory capacities prevent the US and the EU from consistently and comprehensively promoting labour standards abroad, despite the internal pressure they face from their key trade union confederations. They furthermore suggest that the countries' asymmetrical trade relationships are mirrored in the substantive intensities of labour rights cooperation.

At the same time, there are indications that labour standards cooperation with China and India might also be demand-driven: history has shown that the extent to which labour friendly policies are welcomed and implemented in China and in India strongly depends on the governments' and parties' priorities. Also, major reforms within China and India in the last two decades have primarily taken place in the fields of TLS and GLS, such as China's 2004 'Minimum Wage Law', the 2008 'Labor Contract Law', and the 2008 'Law on Mediation and Arbitration of Employment Disputes', and India's 1996 'Building and Other Construction Workers Act' and the 2004 'Unorganized Sector Workers' Bill'.⁸⁷ This reflects to some extent the substantive priorities in China's and India's cooperation with the US and the EU. Moreover, China's and India's domestic interest groups are likely to influence the demand side. While in China the dominant mass-organization for labour, the All-China Federation of Trade Union, is funded and supervised by the Chinese Communist Party and thus primarily reproduces state

⁸⁷ M. Blecher, *Globalization, Structural Reform, and Labour Politics in China*, 1(1) *Global Lab. J.* 104–105 (2010); C. K.-C. Chan, P. Ngai & J. Chan, *The Role of the State, Labour Policy and Migrant Workers' Struggles in Globalized China*, 1(1) *Global Lab. J.* 143–144 (2010); R. Hensman, *Labour and Globalization: Union Responses in India*, 1(1) *Global Lab. J.* 116–120 (2010).

interests,⁸⁸ major trade unions in India have expressed strong opposition towards external influence into their labour practices, for instance by accusing a trade-labour linkage of protectionist measures by the West.⁸⁹ Internal opposition in China and India thus can furthermore account for the limits of US and EU labour standards promotion.

5 CONCLUSIONS

The way the EU and the US promote labour standards in China and India is certainly different to their approaches in many other countries in the world. Most noteworthy is the absence of conditional labour rights clauses set out in joint PTAs. The history of China-signed PTAs so far shows that no high priority has been given to labour rights clauses as they are mostly absent or limited to labour rights cooperation, such as with Chile, Switzerland, and New-Zealand.⁹⁰ A US PTA with India covering labour norms seems also far away: while its prospect raises various concerns in India in general, 'rules for labor and environmental standards are viewed with particular alarm'.⁹¹ The negotiations on an EU-India PTA which started in 2007 as part of the 2006 EU Global Europe Strategy slowed down due to India's opposing position towards the essential element and the sustainable development clause,⁹² constituting 'a potential deal breaker'.⁹³

With the lack and cautious prospects of an enforcement framework through PTAs, the US and the EU cannot react punitively if India and China fail to comply with labour rights. However, to date neither the US nor the EU have fully exhausted enforcement mechanisms in practice elsewhere. Instead, they have more strongly relied on a cooperative approach.⁹⁴ Accordingly, labour rights promotion in China and India does de facto not depart as strongly from the traditional US and EU norm as one might assume at first glance. While these two Asian giants are reluctant to top-down approaches, fearing infringement in their sovereignty and Western protectionism, they welcomed horizontal labour rights engagements. Therefore, the assumption that emerging powers such as China and India tend to reject external influence in their domestic labour

⁸⁸ Blecher, *supra* n. 87, at 105.

⁸⁹ Hensman, *supra* n. 87, at 122.

⁹⁰ ILO, *supra* n. 2, at 23.

⁹¹ R. Z. Lawrence & R. Chada, *Should a U.S.-India FTA Be Part of India's Trade Strategy?*, in *India Policy Forum 2004* 45 (B. Sunman, B. Bosworth & A. Panagariya eds, Brookings and National Council for Applied Economic Research 2004).

⁹² M. González-Garibay, *The Trade-Labour Linkage from the Eyes of the Developing Countries: A Euphemism for Protectionist Practices*, 14 *Eur. Foreign Affairs Rev. Special Issue* 780–781 (2009).

⁹³ S. Khorana & M. Garcia, *European Union-India Trade Negotiations: One Step Forward, One Back?* 51(4) *J. Com. Mkt. Stud.* 694 (2013).

⁹⁴ ILO, *supra* n. 2; Oehri, *supra* n. 6.

relations⁹⁵ is to be taken with a pinch of salt. Admittedly, there is still room for more coherence in the labour-related engagement with the EU and the US, for instance by exhausting the potentials of the institutional settings (e.g. labour rights on dialogues' agendas more regularly, MoUs that go beyond TLS and feature a more binding character) and addressing CLS more comprehensively (e.g. independent trade union activism, forced and child labour). Also, by coordinating talk, decision, and action to a greater extent, potential 'hypocrisy'⁹⁶ can be avoided.

⁹⁵ Nölke et al., *supra* n. 4.

⁹⁶ Brunsson, *supra* n. 8.