

## 自由貿易協定對於非貿易規範執行機制之發展趨勢：以歐 韓自由貿易協定與美墨加貿易協定之勞工條款為核心

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### 摘要

當自由貿易協定不斷探索非貿易議題的政策範疇和規範模式，此類規範在實務操作的成效極為關鍵。本文聚焦在歐盟與美國主導自由貿易協定的勞工條款發展，藉由此二經濟體於 2015 年至 2017 年發生的勞工條款爭議案件，探討自由貿易協定目前在非貿易議題發展出的多軌執行機制和不同執行機制背後隱含的政策邏輯與規範效益，並藉此反思國際貿易法過去建構在國家(政治實體)為主體的制度性邏輯，如何在美國與歐盟近期的勞工條款規範革新之下被加以挑戰與重構。具體討論的問題為：第一，貿易協定提供給非貿易政策多元且多軌的執行機制，是為避免政府的單方主義措施與對執行機制的政治力干預，還是提供政府更多介入國際貿易的機會？第二，貿易制裁的目的是平衡貿易協定受影響締約方的權利義務關係，或是維護特定政策的實踐？本文的目的並非否定 FTAs 的發展，而是希望藉由上述問題的提出，不斷地探問貿易協定的本質與目的，以確保手段與目的間的一致性。最後，本文從貿易連結性議題的制高點，提出以企業為核心的勞工快速反應機制可能產生規範外溢效果，並且凸顯貿易工具結合全球供應鏈管理和企業社會責任的新貿易規範趨勢。

關鍵字：勞工條款、永續發展與社會正義、歐韓自由貿易協定之勞工爭議、歐紐自由貿易協定、美墨加協定、特定廠場的快速反應勞工機制、全球供應鏈管理

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## Abstract

As FTAs continuously explore policy areas and regulatory models for non-trade issues, the practical effectiveness of such regulations is crucial. This article focuses on the labor provisions in the FTAs of the EU and the US, examining labor provision disputes in these two economies from 2015 to 2017. It explores the multi-track enforcement mechanisms currently developed for non-trade issues in FTAs, analyzing the policy logic and regulatory efficacy behind different enforcement mechanisms. This reflection considers how the institutional logic of international trade law, historically centered on nation-states (political entities), is being challenged and reconstructed by recent regulatory innovations in labor provisions by the US and the EU. The discussion points include: (i) Do the multiple and multi-track enforcement mechanisms provided by trade agreements for non-trade policies aim to avoid unilateral government measures and political interference in enforcement mechanisms, or do they offer governments more opportunities to intervene in international trade? (ii) Is the purpose of trade sanctions to balance the rights and obligations of the affected parties to the trade agreement, or to become the external mechanism for implementing domestic policies? However, this paper is not to negate the development of FTAs. Instead, it seeks to remind policymakers to continuously question the nature and purpose of trade agreements through these issues, ensuring consistency between means and ends. In conclusion, learning from the regulatory reform of labor clauses, this paper proposes observations on trade linkage issues, such as the regulatory spillover effects of labor-related enforcement mechanisms and the novel regulatory model combining global supply chain management, corporate social responsibility, and trade tools.

Keywords: Labor Clauses, Sustainable Development and Social Justice, EU-Korea FTA's Labor Dispute, the EU-New Zealand FTA, USMCA, Facility-Specific Rapid Response Mechanism, the t Global Supply Chain Management