

Trade Union Rights, Democracy and Trade: An Industry-level Approach

Employment Policy Dept. Seminar

Leanne Roncolato (Franklin and Marshall College), David Kucera (ILO),

Mark Anner (Pennsylvania State University) and Dora Sari (ILO)

▶ Trade union rights, democracy and trade: Overview

- The debate on trade and labour standards
- Labour provisions in preferential trade agreements (PTAs)
- New indicators of freedom of association and collective bargaining (FACB) rights and Freedom House indicators of democracy
- Method and main results
- Policy options and the role of the ILO
- Concluding remarks

► The debate on trade and international labour standards (ILS)

The ILO Constitution, the “social clause” and labour provisions in PTAs

- “[T]he failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries” – Preamble to ILO Constitution, 1919
- Race to the bottom scenario calling for collective action
- 1990s debate on “social clause” in international trade agreements, linking access to global markets with compliance with “core” labour standards
- Renewed interest in trade and ILS debate because of growth of labour provisions in preferential trade agreements (PTAs)

► The debate on trade and international labour standards (ILS)

A common premise and North-South and gender dimensions

- Proponents: Race to the bottom
- Opponents: Disguised protectionism
- Common premise: Compliance with ILS can result in higher labour costs and lesser export competitiveness
- Disproportionate impact on developing countries given their greater reliance on labour-intensive, price-sensitive industries, e.g., textiles, apparel and footwear
- Disproportionate impact on women given their concentration in these industries, reflected in debates among feminist economists:

“International labor standards and tripartism” (Kucera) in *Handbook of Feminist Economics* (2021)

► The debate on trade and international labour standards (ILS)

ILO's 1998 Declaration on Fundamental Principles and Rights at Work (FPRW)

- Social clause set aside at WTO's first Ministerial Conference in Singapore in 1996, deferring to ILO
- 1998 Declaration obliges all ILO member States to “respect and promote” the “fundamental” Conventions underlying the FPRW by virtue of their membership in the ILO
 - (a) freedom of association and the effective recognition of the right to collective bargaining;
 - (b) the elimination of all forms of forced or compulsory labour;
 - (c) the effective abolition of child labour; and
 - (d) the elimination of discrimination in respect of employment and occupation.And in 2022, (e) a safe and healthy working environment

▶ The debate on trade and international labour standards (ILS)

Freedom of Association and Collective Bargaining (FACB) rights

- “[T]he right to join a union is the standard that appears to evoke the most intensively negative response among labor standards critics.” – Brown, Deardorff and Stern (2011)
- FACB rights define a process rather than an outcome, consistent with heterogenous outcomes among heterogenous countries in line with their levels of development
- Historically, FACB and democracy rights are linked
- ILO considers FACB rights as “enabling” rights contributing to compliance with other FPRW and ILS
- Embodied in UN SDG Indicator 8.8.2 on labour rights defined in terms of FACB rights

► The debate on trade and international labour standards (ILS)

Impact of FACB rights

- “What do unions do?” – Freeman and Medoff (1984): Raise wages for union members while reducing overall wage inequality
- Stronger FACB and democracy rights are associated with higher wages relative to labour productivity
- Alfred Marshall (1920) argued that workers’ bargaining power is likely to be weaker when elasticity of demand for labour is higher:
 - Share of labour costs in total costs is high
 - Price elasticity of demand is high
 - Workers are more readily and cheaply replaced by other workers or machines
- Expected impact of stronger FACB rights on exports depends on these same considerations, which vary systematically by industry

► The debate on trade and international labour standards (ILS)

A policy challenge

- If stronger FACB rights result in lesser exports, individual countries cannot act on their own to improve compliance
 - Collective action problem in which effective international enforcement needed to prevent a race to the bottom
- If stronger FACB rights result in greater exports or have no effect, individual countries can act on their own to improve compliance
- Theory suggests impact of FACB rights will vary across industries
- If so, then strategies to improve compliance with FACB rights should also vary across industries

► The debate on trade and international labour standards (ILS)

Prior empirical evidence back to 2000

Busse (2002)	Stronger FACB rights associated with less labour-intensive manufacturing exports
Maskus (2004)	Stronger FACB rights associated with more labour-intensive manufacturing exports
Dehejia and Samy (2004)	No statistically-significant relationship between unionization rates and total exports
Kucera and Sarna (2006)	Stronger FACB rights associated with more total and total manufacturing exports; Statistically-significant relationships of opposite sign between FACB rights and labour-intensive manufacturing exports depending on assumptions

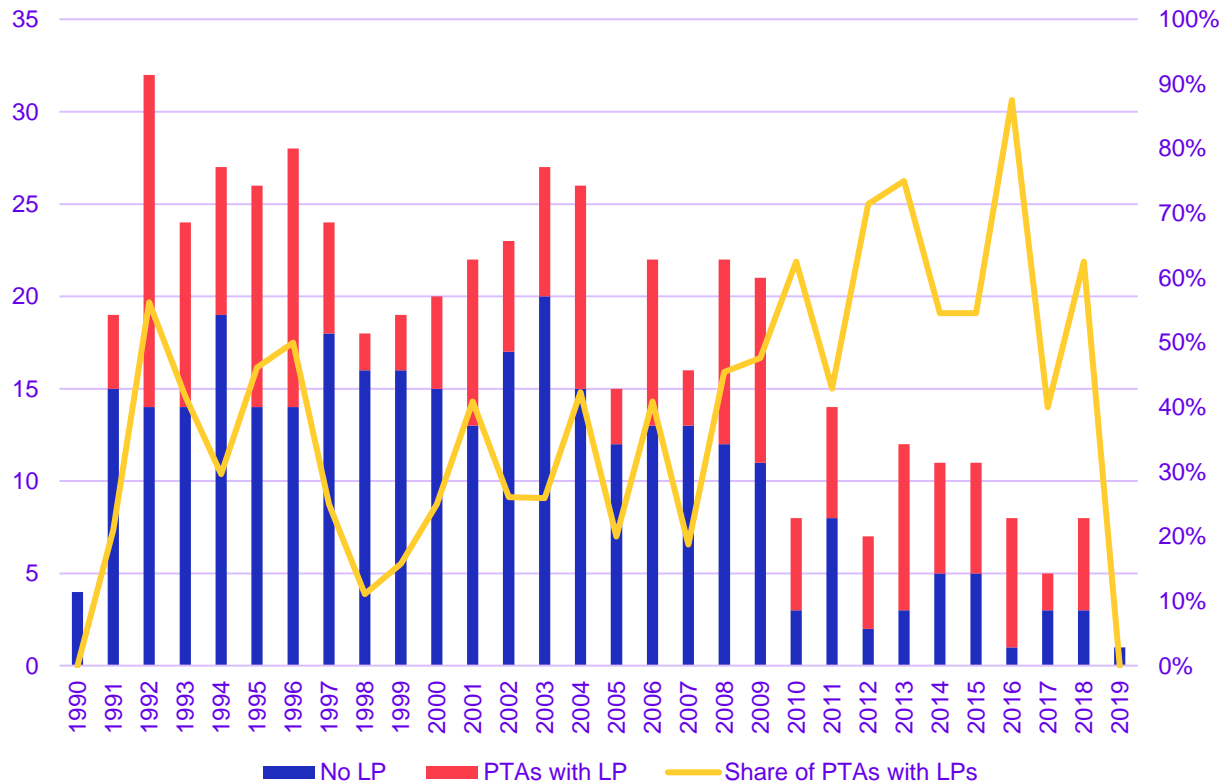
▶ The debate on trade and international labour standards (ILS)

Prior empirical evidence back to 2000

- Dies out in 2006
- Lack of credible country-level indicators of FACB rights than lack of relevance, suggested by growth of labour provisions in PTAs
- Survey of theoretical and empirical evidence on FACB rights and trade and FDI (both directions of causality):

“Globalisation and freedom of association and collective bargaining rights” (Kucera and Sari), in *Handbook on Globalisation and Labour Standards* (2022)

Labour provisions (LPs) in preferential trade agreements (PTAs)



Data source: LABPTA (Raess and Sari 2018 and 2021)

- Types of *substantive* commitments:
 - Effective enforcement of domestic laws (67) & non-derogation clauses (65)
 - 1998 ILO Declaration on FPRW (65)
 - Freedom of association (61)
 - Collective bargaining (61)
 - Prohibition of the worst forms of child labour (61)
 - Minimum age for admission to employment (61)
 - Elimination of all forms of forced labour (61)
 - Elimination of discrimination (59) and equal remuneration (59)
 - Health and safety (38), wages (25), working time (21)

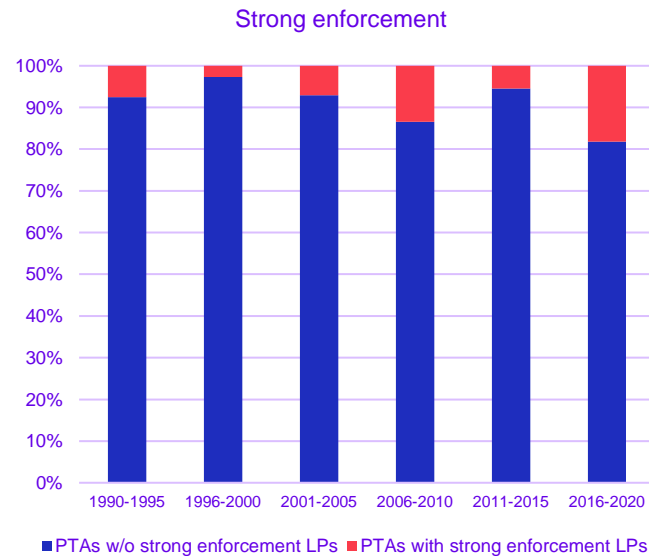
Labour provisions (LPs) in preferential trade agreements (PTAs)

▶ LABPTA – Labour Provisions in Trade Agreements (Raess and Sari, 2018 and 2021)

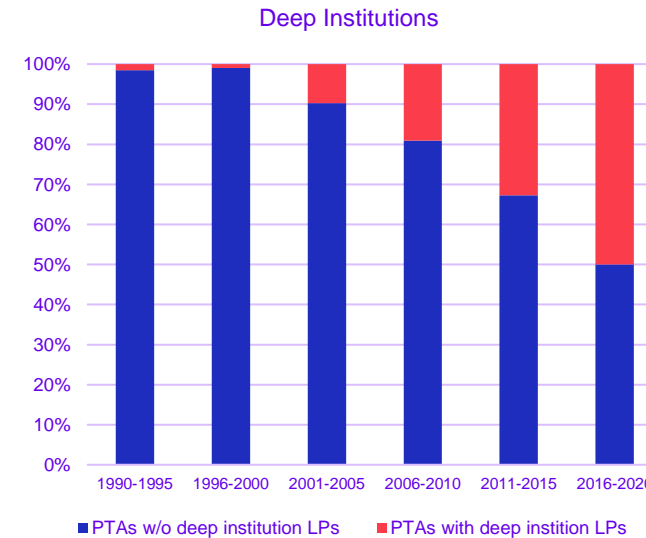
- 520 PTAs (1990-2020)
- Coding for 140 labour items - provisions protecting and promoting workers' rights and working conditions
- 6 categories: (1) aspirational statements; (2) Substantive commitments; (3) Obligations in relation to substantive commitments; (4) Enforceability of substantive commitments through dispute settlement; (5) Cooperation commitments; (6) Institutions overseeing the labor-related commitments
 - Scope of LPs: substance and cooperation
 - Stringency of LPs: obligation, enforceability and institutions
 - Degree of enforceability: obligation and enforceability of substantive commitments
 - Monitoring and softer means: institutions

Labour provisions (LPs) in preferential trade agreements (PTAs)

LABPTA



Data source: LABPTA (Raess and Sari 2018 and 2021)



- Strong enforcement provisions: dispute settlement through third-party adjudication and the possibility of sanctions
- Deeply institutionalized labour-related cooperation provisions: separate body in charge of monitoring and inclusiveness through participation of any third parties (social partners, NGOs, ILO, or other parties)

▶ New indicators of FACB rights

Labour rights indicators (Kucera and Sari 2019)

- Evolved from ILO's earlier country-level indicators of FACB rights (Kucera 2002, 2007)
 - “Kucera’s methodology stands as the leading effort to measure compliance with freedom of association and collective bargaining rights...in light of social scientists’ use of the methodology.”
– Study commissioned by U.S. Dept. of Labor (Barenberg 2010)
- Collaboration with Center for Global Worker Rights at Penn State University
 - <https://www.dept.psu.edu/liberalarts/WorkersRights/>
- Basis for UN’s SDG indicator 8.8.2 on labour rights (2018 ICLS Resolution)
 - “Level of national compliance with labour rights (freedom of association and collective bargaining) based on International Labour Organization (ILO) textual sources and national legislation, by sex and migrant status”

▶ New indicators of FACB rights

Labour rights indicators

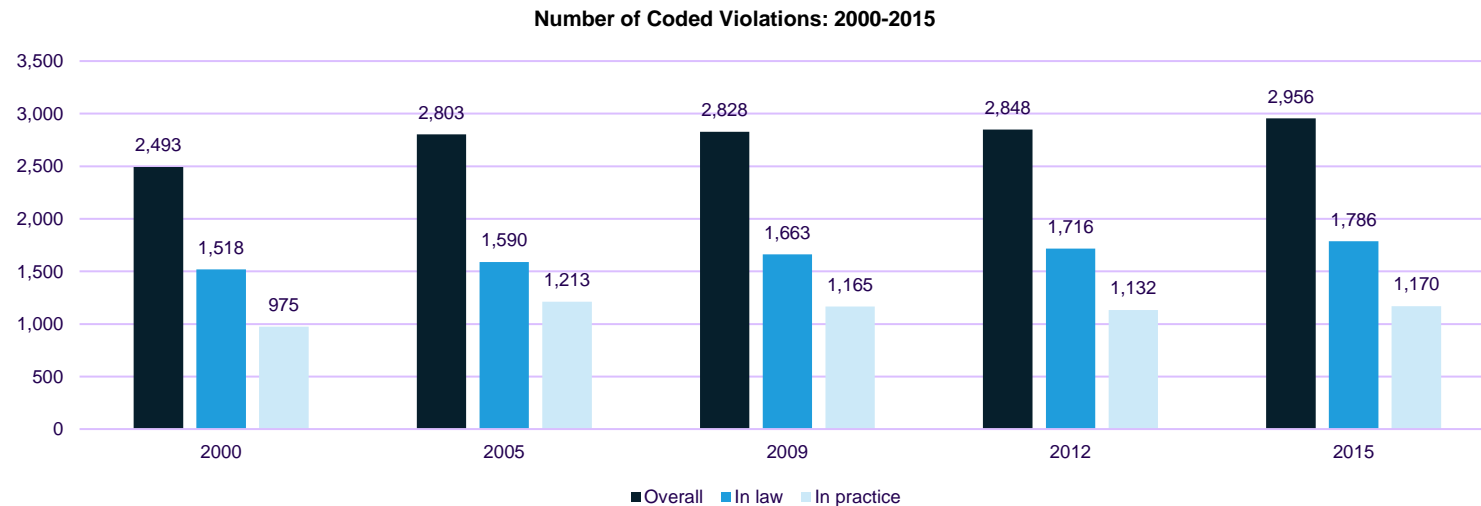
Key premises

- Definitional validity
- Inter-coder reliability
- Transparency
- 9 textual sources (6 from ILO's supervisory system; ITUC Annual Survey; US State Department Country Reports on HR practices; national legislation)
- 108 evaluation criteria: in law vs in practice violations
- 3 indicators: Overall, In Law and In Practice
- Weights are derived from the Delphi method of expert consultations
- All three indicators normalized to range 0-10

New indicators of FACB rights

Labour rights indicators

- Over 120,000 instances of non-compliances have been coded
- 2000-2015: 11,080 violations coded (8,273 in law; 5,655 in practice)

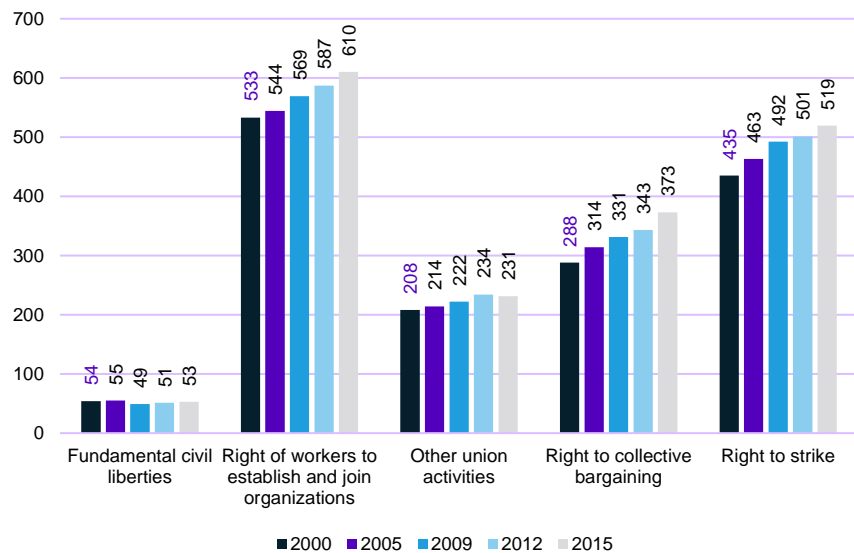


Data source: Labour rights indicators (Kucera and Sari 2019)

New indicators of FACB rights

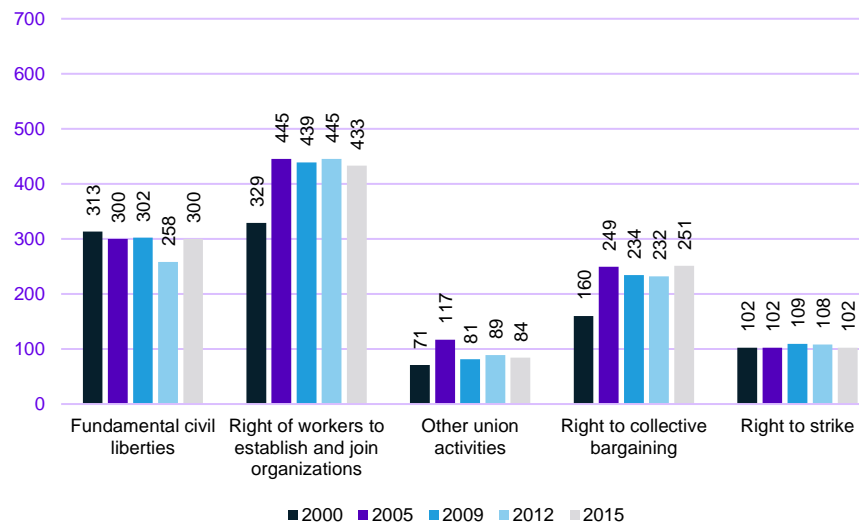
Labour rights indicators

**Number of Coded Violations In Law
by Main Categories of Violations: 2000-2015**



Data source: Labour rights indicators (Kucera and Sari 2019)

**Number of Coded Violations In Practice
by Main Categories of Violations: 2000-2015**



► Freedom House civil liberties and political rights indicators

- Democracy indicators widely used in empirical studies, including models of economic growth and FDI (e.g., Gerring et al. 2005, Kucera and Principi 2014)
- Civil liberties indicator
 - Set of questions in 4 categories (freedom of expression and belief; associational and organizational rights; rule of law; personal autonomy and individual rights)
 - “Are there free trade unions and peasant organizations or equivalents, and is there effective collective bargaining?”
- Political rights indicator
 - Set of questions in 3 categories (electoral process; political pluralism and participation; functioning of government)
- Range from 1 to 7 (lower values stronger rights)

Method and main results

Model

- Bilateral gravity panel data model (17 industries by years 2000-2017) with preferred specification (PPML estimator):

$$\mathit{trade}_{tijk} = c + \mathit{facb/dem}_{tj} + \ln(\mathit{GDP/cap}_{tj}) + \ln(\mathit{population}_{tj}) + \ln(\mathit{distance}_{jk}) + \mathit{regional\ trade\ agreement}_{tijk} + \mathit{contiguity}_{jk} + \mathit{common\ language}_{jk} + \mathit{colonial\ relationship}_{jk} + X_{tk} + \varepsilon$$

trade_{jti} is the value of trade (in billions of constant 2010 US\$) for industry i for country j exporting to country k

$\mathit{facb/dem}_{tj}$ is the FACB (overall, in law, in practice) or democracy rights (civil liberties, political rights) indicators for country j in year t, renormalized from 0-1, strongest to weakest rights

Method and main results

17 Industries

- Agriculture, forestry and fishing
- Mining and quarrying
- Food products, beverages and tobacco products
- **Textiles**
- **Wearing apparel, leather and related products**
- Wood and wood products
- Paper products and printing
- Chemicals and chemical products
- Rubber and plastics products, and other non-metallic mineral products
- Basic metals and fabricated metal products, except machinery and equipment
- Machinery and equipment n.e.c.
- Office, accounting and computing machinery
- Electrical machinery
- Communication equipment
- Medical, precision and optical instruments, watches and clocks
- Transport Equipment
- Manufacturing n.e.c.

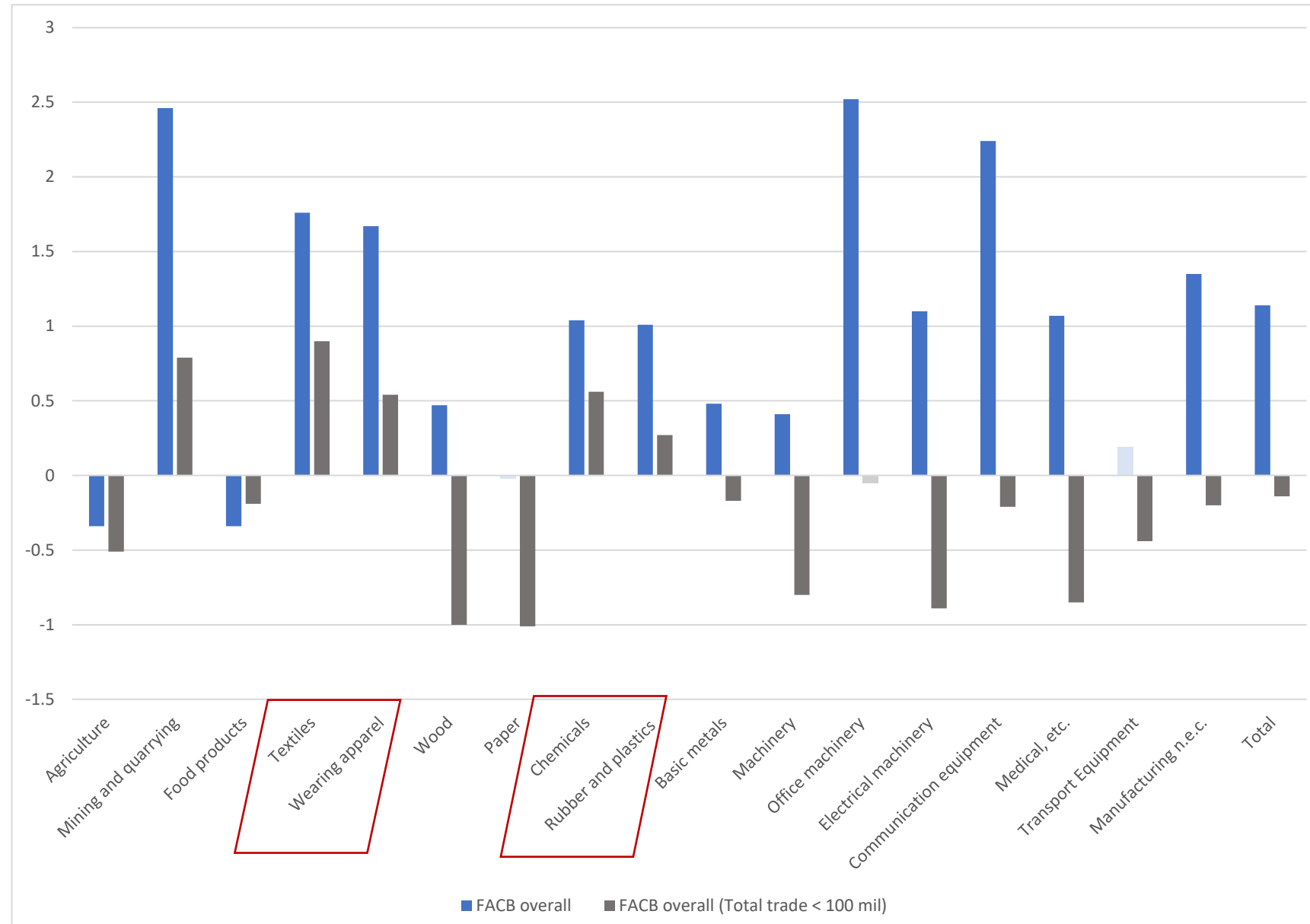
Method and main results

Main aggregate-level results

- In preferred specification with full sample, stronger FACB rights (overall, in law and practice) and stronger democracy rights (civil liberties and political rights) are negatively associated with trade (1% statistical significance)
- E.g., increase in (weakening of) overall FACB rights by 0.1 on a scale of 0-1 associated with an increase of 114 million USD in exports
- No statistically significant difference between FACB rights in law and in practice or civil liberties and political rights
- But results are not robust:
 - Reversal of sign (1% statistical significance) by excluding largest trade values: Above 100 million for FACB rights (largest 15% of observations) and above 1 billion for democracy rights (largest 5% of observations)
 - Loss of statistical significance with exporter fixed effects
 - Reversal of sign (1% statistical significance) with OLS estimator

Main industry-level results for overall FACB rights

Textiles and Wearing apparel are relatively labour-intensive and price-sensitive, but Chemicals and Rubber and plastic products are not



Policy options and the role of the ILO

- **Findings: stronger FACB rights in the Textiles and Wearing apparel, leather and related products (including footwear) industries are generally associated with lower exports (= higher export, weaker FACB rights)**
- Market dynamics alone do not provide adequate mechanism for improving FACB rights
- What policy options are available for improving FACB rights?
 1. Co-governed binding agreements involving lead firms in global supply chains
 - *Bangladesh Accord*
 2. Multi-stakeholder compliance programs that incentivize suppliers to improve labour standards
 - *Better Work Program*
 3. LPs in PTAs

Policy options and the role of the ILO

- **Bangladesh Accord**
- Established in the aftermath of the 2013 Rana Plaza building collapse
- Agreement between labor organizations and more than 200 global garment brands and retailers (H&M, Inditex, UNIQLO)
- Coverage: 1,645 factories and majority of garment export workers
- Accord steering committee: 3 representatives chosen by trade union signatories, 3 representatives chosen by the company signatory, **ILO neutral chair**
- Binding nature (para. 5) – binding arbitration if non-compliance by the brand is not remedied through steering committee
- Transparency: publicly available information in 6 major areas
- 36,892 fire safety issues, 64,561 electrical issues, and 18,593 building structural safety issues

Policy options and the role of the ILO

- **Better Work**
- 2007: joint initiative of the ILO and IFC (International Finance Corporation) of the WB
- Ensure compliance with FPRWs and national laws in the apparel industry
- Improve competitiveness through impact assessment to support transformations that contribute to sustainable improvements in business practices (high-road path to competitiveness)
- Coverage: top apparel exporters in Bangladesh, Cambodia, Egypt, Ethiopia, Haiti, Indonesia, Jordan, Nicaragua, Pakistan, Vietnam
- Management group (2 ILO officials, 2 IFC officials); Advisory board (tripartite + academics); Project Advisory Committee (PAC, country-level, tripartite)
- Worker-management discussions, feedback to factory owners, pressure by brands on suppliers

Policy options and the role of the ILO

- **LPs in PTAs**
- No solid evidence for the effectiveness of LPs in PTAs
- CAFTA-DR Guatemala case (2017): US – Guatemala dispute (**FACB**), US failed to prove that failure to enforce labor laws affected trade between the two countries
- Few studies find positive impact: Dewan and Ronconi (2018), Raess and Sari (2020)
- EU-Korea labor dispute: Panel of Experts found that South Korea failed to uphold its labor obligations (**FACB**)
- Ratification of ILO Conventions (87 & 98) in relation to labor commitments under PTAs (Canada, Mexico, Viet Nam, El Salvador)
- Increasing reference to **ILO** in PTAs among third party participation
- New developments
 - USMCA Facility-Specific Rapid Response Labor Mechanism
 - EC June 2022 communication – proposal for trade sanctions in its TSD chapters

▶ Concluding remarks

- Policy debates on trade and ILS debate often presented as a dichotomy: Is there or is there not a race to the bottom? Is there or is there not a collective action problem?
- Lack of robust evidence of impact of FACB or democracy rights on aggregate-level trade
- More robust evidence that the impact of stronger FACB and democracy rights on trade is positive for some industries and negative for others, though this does not vary systematically by labour-intensity and price sensitivity
- Theory and evidence suggests that strategies to improve compliance with FACB rights should vary across industries
- Yet targeted industry approaches are complementary to universalist approaches:
 - Commitment of ILO member States to the 1998/2022 Declaration on FPRW
 - Global monitoring of FACB rights through SDG indicator 8.8.2 on labour rights