Non-trade issues in preferential trade agreements

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The following coding-scheme captures the degree of legalization of...

- ...CIVIL AND POLITICAL RIGHTS (CPR) that captures human dignity, the right to political participation, the right to free movement, women's and children's rights, minority protection, and the rule of law.

- ...ECONOMIC AND SOCIAL RIGHTS (ESR) that includes the right to work, rights at work (right to collective bargaining, the elimination of all forms of forced and compulsory labor, the effective abolition of child labor, the elimination of discrimination in respect of employment and occupation, minimum wage, and the right for leisure), right to education, the right to development, and the right to health.

- ...ENVIRONMENTAL PROTECTION (EP) that means to care for natural resources (water, soil, forest), to reduce waste and air pollution, and to protect wildlife and game.

The coding scheme

The idea behind the coding scheme is to capture the degree of legalization (Abbott et al., 2000). Three dimensions classify the mode of legalization: obligation, precision, and delegation. In the following is a description of the coding scheme. Note that the data-points are listed in square brackets.

Obligation

1. ***Conditionality:*** Is there a clause obliging members to respect non-trade issues as a precondition to trade or does violating NTIs imply trade sanctions? [conditionality_pre | conditionality_post]

2. ***High General Obligation:*** Is there a clause obliging members to respect non-trade issues, or to embrace NTIs as their principle? [obligation]

3. ***High Specific Obligation:*** Is there a clause obliging members not to conduct economic actions that imply a shortening of NTI's measures. [spec_obligation]

4. ***Hortatory Obligation with Recommendations:*** Is there a clause calling for concrete measures to improve non-trade issues or are there any cooperation or dialogue mechanisms foreseen in order to improve non-trade issues? [measure]

5. ***Hortatory Obligation:*** Is there a clause calling for the improvement of non-trade issues or are non-trade issues mentioned in the preamble or annexes?[promotion]

Precision

1. ***Determinate Rules:*** Is there a reference towards an international agreement that defines specific non-trade-issues[1] or is there a clause defining specific non-trade issues?

   (a) How many of such specific non-trade issues are regulated? [specific1 | specific2 | specific3 | specific4 | specific5 | specific 6 | specific7 |

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[1]Specific aspects of CPR: human dignity, the right to political participation, the right to free movement, women's and children's rights, minority protection, and the rule of law. Specific aspects of ESR: right to collective bargaining, the elimination of all forms of forced and compulsory labor, the effective abolition of child labor, the elimination of discrimination in respect of employment and occupation, minimum wage, and the right for leisure, right to education, the right to development, and the right to health. Specific aspects of EP: reduction of water pollution, reduction of soil pollution, reduction of air pollution, reduction of waste/waste-management, biodiversity, protection of wildlife, protection of plants.

specific8 | specific9 | specific10 | specific11 | specific12 | specific13 | specific14 | specific15 | specific 17]

2. **Broad Areas of Discretion:** Is there a clause referring to generally to non-trade issues? [general]

Delegation

1. Who monitors the process with regard to non-trade issues?
    (a) External Monitoring/Consultations (IOs, scientists, business, trade unions, NGOs; etc.) [consultation_io | consultation_business | consultation_unions | consultation_ngos |consultation_experts | consultation_public | consultation_academics]
    (b) Internal Monitoring (body established through PTA, member state organs) [monitoring_body]

2. Who files disputes with regard to non-trade issues?
    (a) Individuals coming from member states file disputes [individuals_file]
    (b) Member states' representatives file disputes [memberstates_file]

3. Who decides on the dispute with regard to non-trade issues?
    (a) Decision by independent tribunals [decision_tribunal]
    (b) Decision by ad hoc panel [decision_adhoc]
    (c) Decision by direct representatives of the states (states have veto) [decision_states]
    (d) Conciliation by direct representatives of the states [decision_conciliation]

4. Who implements the decision with regard to non-trade issues?
    (a) Domestic courts enforce international norms [implement_domestic_court]
    (b) International courts sanction and hence try to enforce international norms [implement_international_court]
    (c) No domestic legal enforcement [implement_none]

I code the here mentioned data-points for each issue area: CPR, ESR, and EP.[2] Each data-point is coded with *zero* (no mention) and *one* (mention) . In order to aggregate the text to mode of legalization indices [cpr_all_lta | esr_all_lta | ep_all_lta], I use latent trait analysis (Bartholomew et al., 2011; Rasch, 1980), which inductively assigns weights to individual data-points. For a more detailed description of the aggregation method see Lechner (2016). Alternatively, I simply aggregate all data-points [cpr_all_sum | esr_all_sum | ep_all_sum].

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[2]Note that the precision measure requires different coding scheme for each issue area. See footnote 1.

Reliability checks

Computer Coding: I translated the coding scheme into regular expressions (Munzert, 2015; Thompson, 1968). Based on these regular expressions, I was able to conduct automated text analysis (Meyer et al., 2008; Neuendorf, 2002). For instance would the data-point CPR_main_general (Number 1 in Table A-2) be searched via the regular expression 'respect.+human.+right|principle.+human.+right|respect. +humandignity|com\mitmentto.+human.+right|protect.+ofhuman.+right' When the computer found a respective regular expression in a PTA, the aspect is coded with 1, otherwise 0. Comparing the manual coding with the computer coding shows an inter-rater agreement as measured by Cohen's kappa of 0.60 on average.

Third Data: Beyond the computer coding, I performed several crosschecks with datasets covering similar variables. First, crosschecks with trichotomeous measures provided by Spilker and Böhmelt (2012, Cohen-Kappa of 0.52) and Kohl et al. (2016, Cohen-Kappa of 0.49) confirm the reliability of the data. Second, I cooperated with Morin et al. (2018) and Damian Raess and Dora Katalin Sari (2016). Morin and his team have been working on a more fine grained dataset on environmental protection in trade agreements and Raess and Sari have been developed a more sophisticated measure on labour rights in PTAs. We performed crosschecks on 18 dimensions[3] of environmental protection and arrived at an average Cohen-Kappa of 0.66 (range: 0.45 to 0.89). Together with the team of Raess and Sari, we conducted cross-checks on 13 dimension[4] of labour rights and reach an average Cohen-Kappa of 0.75 (range: 0.63 to 0.88).

The average Cohen-Kappa of all reliability checks is 0.60, which is recognized as substantive agreement. Random coding mistakes were corrected after each round of data-comparison. In this manner random coding mistakes were minimized and reliability maximized.

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[3]These 18 dimensions are: EP mentioned in preamble, call for domestic enforcement, private access to dispute settlement, EP Institutions, environmental experts as panellists, conciliation, suspension of benefits, Consult the public, waste, forest, air, chemical, soil contamination, forest, game, waste, water, and wildlife.

[4]These 13 dimensions are: right to unionise, prohibition of forced labour, prohibition of child labour, equal opportunity on the job market and at work, health and safety at work, working time, minimum wage, corporate social responsibility, technical assistance with respect to labour rights, measures to improve labour rights, labour rights institution, domestic implementation of labour rights, and reference to ILO.

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