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Policy report

Leveraging free trade agreements for sustainability

A review of the implementation EU's new approach to sustainable trade

Institute for European Environmental Policy



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EXECUTIVE SUMMARY

In June 2022, the European Commission published a communication on the new approach to Trade and Sustainable Development (TSD) Chapters in its free trade agreements (FTAs) aiming to address civil society's concerns regarding the contribution of economic growth from trade liberalisation to global sustainability challenges.

In general, the new TSD Chapter approach is considered a step in the right direction to improve the sustainability provisions of EU FTAs. Yet, gaps remain as some of the most significant parts of the TSD review will not apply to existing FTAs, thereby limiting the scope of the new approach to deliver sustainable trade.

Moreover, compared to enforcement mechanisms in place in other major trade agreements such as the United States-Mexico-Canada Agreement (USMCA) and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), the EU's new approach to TSD dispute settlement does not differ significantly. All three, have consultation processes, dispute settlement mechanisms and the possibility of sanctions, although the possible applicability of sanctions the latter differs depending on the language used in the provisions for labour and environment.

The EU's approach to TSD non-compliance could stand to benefit from both the CPTPP and USMCA approaches. On one hand, the CPTPP has a more consultative but broader scope for sanctions for non-compliance with environmental provisions, and on the other hand, the USMCA has a targeted and fast approach to non-compliance with labour provisions.

Since the publication of the new approach to TSD Chapters, two FTAs have been concluded following this new approach, namely the EU-New Zealand and EU-Chile trade agreements. Initial reviews of both agreements' TSD Chapters conclude a varied implementation of the Commission's new TSD approach.

Although the contents of the EU-Chile TSD Chapter show a positive evolution compared to older FTAs, it does not match the ambition of the EU-New Zealand FTA. There is no possibility of sanctions for non-compliance with the Paris Agreement and fewer ambitious provisions to tackle fossil fuel subsidy reform and trade-related transport emissions. The lack of commitments and provisions for environmental protection and climate action in sector-specific Chapters of the agreement is a key gap in addressing the negative impacts of trade on sustainability, especially considering the importance of the mining sector in Chile.

Yet, there is still a possibility to bolster the sustainability credentials of the EU-Chile agreement. The TSD Chapter's Article 26.23 "Review" obligates the TSD sub-committee to discuss how the effective implementation of the TSD provisions contributes to achieving the objectives of the Chapter, considering major policy developments and developments in international agreements.

There is still much to be done to develop trade agreements that embed and prioritise the protection of the environment and human rights. One option would be to push for further integration of sustainable trade practices throughout trade and investment agreements, such as the differentiated application of tariff and non-tariff barriers for environmentally friendly and harmful goods and services.

Another avenue could be to pursue trade and investment agreements in which sustainability objectives are embedded as core objectives, or "Trade and Environment Agreements" (TEAs). A starting point to negotiate TEAs would be to better integrate provisions for sustainability throughout the text of the agreement. This could begin with cementing the Paris Agreement as an essential element of each trade agreement, ideally also retroactively. Going further, such agreements could expand the scope of MEAs considered essential elements of the trade agreement.

One more ambitious route would be to push for a broader, system-wide change of the current trading system towards one which aligns with planetary health and delivers on well-being for all could be considered an ultimate endpoint for sustainable trade.

To support the advancement of sustainable trade best practices, the following **recommendations for the negotiation and implementation phase** of EU trade agreements are presented:

- Ambitiously implement the new TSD approach, along with accompanying implementation roadmaps to secure verifiable progress toward achieving environmental and climate targets.
- Extend the scope of sanctions for non-compliance with environmental objectives and allow for targeted actions, learning from the CPTPP and USMCA approaches.
- Expand the number of MEAs considered essential elements in FTAs.
- Mainstream the introduction of binding commitments to reduce and eliminate fossil fuel subsidies, and action to introduce and harmonise carbon pricing systems.

- Unbox sustainability provisions from the TSD Chapter into sector-specific chapters to encourage a high standard for environmental protection and sustainable, responsible business conduct.
- Leveraging the use of tariffs and non-tariff barriers to encourage trade in environmentally friendly goods and services, while discouraging trade in environmentally harmful goods and services.

At the multilateral level, the EU could pursue cooperation and mainstreaming of sustainable trade practices with like-minded countries by:

- Encouraging and improving access to green technologies and climate financing.
- Continue cooperation and participate in structured discussions on trade and environmental sustainability at the WTO, in particular at the Committee on Trade and Environment and the Trade and Environmental Sustainability Structured Discussions.
- Pursuing Trade and Environment Agreements, beginning with the Agreement on Climate Change, Trade and Sustainability (ACCTS).

1. INTRODUCTION

As a means to address civil society's concerns regarding the contribution of economic growth from trade liberalisation to global sustainability challenges (Lafortune et al., 2021; OECD, 2020), the EU has undertaken several efforts to improve the sustainability provisions of its trade agreements.

In 2020, the European Commission appointed a Chief Trade Enforcement Officer and launched the 'Single Entry Point', which provides EU stakeholders with the opportunity to submit cases of violations of the Trade and Sustainable Development (TSD) Chapters to the attention of the Commission. A year later, the European Commission announced it would publish an early review of its approach to the EU trade agreement's TSD Chapters (European Commission, 2022g), only a few years after publishing a 15-Point Action Plan for TSD Chapters.

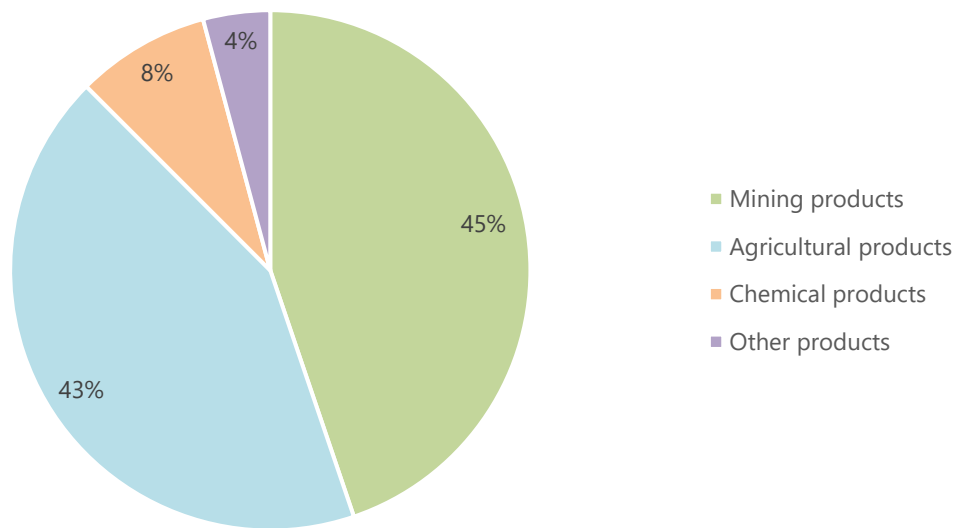
Since the publication of the European Commission's communication on a new approach to TSD Chapters, the EU has concluded two free trade agreements (FTAs) making use of this new approach. The new approach is meant to integrate the EU's commitment to "*ensuring its trade agreements foster sustainability*" (European Commission, 2022g).

First, the EU-New Zealand FTA sets a high bar by committing the Parties to effectively implement the Paris Agreement and their Nationally Determined Contributions (NDCs). Serious actions or omissions breaching this commitment would be subject to the agreement's dispute settlement mechanism with sanctions as a last resort. Moreover, the Parties reaffirm their commitment to reforming and reducing fossil fuel subsidies (Blot & Li, 2023b; European Commission, 2022c).

The anticipation surrounding the EU-Chile agreement was high, both regarding the further implementation of the new TSD approach and in the context of the European Critical Raw Materials Regulation, published in March 2023 (European Commission, 2023). Particularly, because Chile is a global supplier of both lithium and copper and with the modernisation of their existing trade agreement, the EU seeks to secure a stable supply of critical raw materials for the green and digital transitions (Blot & Li, 2023a).

Figure 1 presents the average EU imports from Chile over the period 2018-2021. It highlights the importance of Chile as a trade partner for the EU for the import of mining products, including lithium and copper. Moreover, Chile is also an important supplier of counter-seasonal products to the EU market, including fruit, vegetables and fish (Blot & Li, 2023a).

Figure 1: Average EU imports from Chile over the period 2018-2021



Source: Figure by the author using Eurostat trade data with Chile

In the above context, this policy report aims to take stock of the latest state of play regarding the sustainability of the EU's trade policy. Section 2 of this policy report briefly assesses the EU's new approach to the TSD Chapters and compares EU sustainability provisions and enforcement mechanisms with those utilised in other trade arrangements such as the United States-Mexico-Canada Agreement (USMCA), the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), the Regional Comprehensive Economic Partnership (RCEP) and the African Continental Free Trade Agreement (AfCFTA). Section 3 provides an in-depth case study on the sustainability provisions of the modernised EU-Chile agreement. Section 4 concludes and reflects on the main findings of this report and provides policy recommendations to further address sustainability through trade.

2. FRAMEWORKS FOR SUSTAINABLE TRADE PRACTICES

Section 2.1 assesses the main elements of the new TSD approach to be implemented in future EU trade agreements, in addition to the EU's dedicated contact point for submissions concerning the implementation of the TSD provisions. Then, section 2.2 conducts a brief review of sustainability-related provisions and practices applied in non-EU trade agreements, comprising significant global economic areas.

2.1 Assessing the EU's new approach to TSD Chapters and enforcement

Table X in the Annex presents the twenty action points from the new TSD approach (European Commission, 2022g) which can be classified into five categories: (i) leveraging FTAs for cooperation on sustainability, (ii) enhancing the sustainability credentials of FTAs, (iii) consulting broader civil society, (iv) targeted actions for the Domestic Advisory Groups (DAGs), and (v) strengthening enforceability of environmental and social commitments.

The first category, the leveraging of FTAs for cooperation on sustainability issues, reaffirms the EU's stance to utilise trade agreement frameworks for cooperation, including supporting trade partner compliance with international labour and environmental standards, capacity building in the trade partner country through technical and financial assistance, and using the trade agreements to facilitate dialogues the trade partner countries. Though these avenues for cooperation are not new in trade and cooperation frameworks, the Commission reaffirms the role of FTAs as a means for positive dialogue and cooperation aimed at promoting positive action for the environment and sustainable development.

The second category aimed at enhancing the sustainability credentials of FTAs includes action points to integrate tailor-made country-specific TSD Chapter provisions based on the findings of an improved sustainability impact assessment (SIA), to negotiate time-bound implementation roadmaps with targets and milestones for the implementation of sustainability commitments, and to prioritise the market access for environmental goods and services. The first element of tailored TSD provisions is especially critical to move away from the Commission's former "one-size-fits-all" approach to the TSD Chapter. Though the TSD Chapters of new FTAs such as those with New Zealand and Chile showcase a

positive evolution in the TSD provisions compared to their predecessors (Blot & Li, 2023a, 2023b), some stakeholders criticised the Commission's reluctance to commit to negotiating more binding sustainability provisions in the new TSD approach (Blot, 2023b). Another setback for the Commission regarding the implementation of the new TSD approach is the lack of an implementation roadmap accompanying the new FTAs with New Zealand and Chile. It has left some stakeholders wondering why, for example, the EU-Chile agreement was not supplemented with an implementation roadmap considering the country's mining sector which contributes to water scarcity impacting local communities (Blot & Li, 2023a).

The third category, consulting broader civil society, aims to improve the processes to better involve civil society, EU Delegations, and the European Parliament in the monitoring of the implementation of the TSD Chapters. This includes better consultations with civil society during the early stages of the SIAs, from the FTA lifecycle to the implementation phase. Moreover, the Operating Guidelines of the Single Entry Point (SEP) were revised to lower the barrier for stakeholders to file complaints regarding non-compliance to labour and environmental provision in an FTA. The revision of the SEP guidelines states that for a violation of non-compliance to be considered, the nature of the TSD violation must be systemic in nature, meaning it should not be an isolated case of non-compliance. The guidelines also clarify that systemic failures to apply laws or regulations aligned with TSD commitments would constitute a violation (European Commission, 2022f). At first glance, this could limit the scope of violations that could result in a suspension of trade arrangements.

The fourth category includes targeted actions for the DAGs, which is a small group of business, labour, and environmental stakeholders tasked with monitoring TSD Chapter implementation (Mazzola, 2018). These actions aim to reinforce the capacity, legitimacy, efficacy, and transparency of the DAGs, in addition to fostering cooperation between EU DAGs and the trade partner DAGs and extending the scope of DAG monitoring beyond TSD implementation to the entirety of the FTA. The strengthening of the DAGs is a good development, as EU DAGs have faced issues limiting their effectiveness such as insufficient time and resources to further investigate environmental and social concerns and an underrepresentation of environmental stakeholders (Blot & Kettunen, 2021; Blot, Oger, & Harrison, 2022).

The final category concerns the strengthening of the TSD enforcement mechanism for future trade agreements. The EU's more assertive stance on tackling TSD violations was welcomed by stakeholders, in particular, the introduction of sanctions as a last resort and the clarification of the use of the SEP

by civil society (Blot, 2023b). Furthermore, the Commission now integrates the compliance stage of the state-to-state dispute settlement process in the TSD Chapter, meaning the Party found to be in non-compliance is expected to discuss actions or measures to be undertaken considering the expert panel's recommendations. These actions are expected to be implemented no later than three months after the expert panel's resolution is made public.

The European Commission considers the new TSD approach "*a major step in making EU trade greener, fairer and more sustainable.*" (European Commission, 2022a). Yet, gaps to achieve sustainable trade remain and some of the most significant parts of the TSD review will not apply to existing FTAs (Blot, 2023b), thereby limiting the scope of the new approach to deliver sustainable trade. Therefore, with the implementation of this new TSD approach, new FTAs are unlikely to be considered a gold standard for the environment. However, there is a possibility to review the contents of the TSD Chapter after an agreement has entered into force if that agreement includes a "Review" clause (more on this in section 3.1). However not all existing FTAs include this clause, therefore the possibility to revise an existing trade agreement, would likely come down to both Parties agreeing to update or modernise the FTA.

For instance, in the EU-New Zealand FTA, the possibility of sanctions would only apply to actions or omissions which materially defeat the object and purpose of the Paris Agreement and for the violations of the fundamental ILO conventions (European Commission, 2022c). While the scope of the fundamental ILO conventions is very clear, the same cannot be said for the Paris Agreement. Therefore, in practice, the enforceability for non-compliance with environmental commitments through sanctions in this FTA remains uncertain (Blot & Li, 2023b). Moreover, the EU-Chile agreement does not include the possibility of sanctions for non-compliance with the Paris Agreement or the fundamental ILO conventions (European Commission, 2022b). This would indicate that not all future EU FTAs would include the notion of sanctionable green provisions.

2.2 Enforcement of sustainability provisions in existing trade arrangements

The EU is far from the only major trading bloc that can influence global sustainability through trade. Other trade partners have rolled-out alternative sustainability-related provisions and practices in trade agreements to which the EU is not a beneficiary. Therefore, taking stock of such developments with other trade partners is beneficial to potentially increase the EU's ambition for future FTAs. Simultaneously, some trade arrangements are also lacking the ambition to

tackle sustainability issues, which could spur the EU to advance certain cooperation mechanisms with trade partners to address this gap in ambition.

This section reviews the enforcement mechanisms for sustainability commitments in EU trade agreements and those used by other trade partners such as the United States-Mexico-Canada Agreement (USMCA), the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), the Regional Comprehensive Economic Partnership (RCEP) and the African Continental Free Trade Agreement (AfCFTA).

The EU's Single Entry Point

The EU's Single Entry Point (SEP) is a contact point for EU stakeholders to file complaints regarding a trade partner's non-compliance with TSD Chapter commitments and market access issues. The platform is accessible to EU-based stakeholders, however, if clearly stated, EU-based organisations or citizens can file a complaint representing the interests of those outside the EU (European Commission, 2022f).

The European Commission is expected to deliver the preliminary assessment of the complaint within 120 working days following the receipt of the complaint. Furthermore, the nature of the TSD violation to which a complainant has filed must be systemic in nature, meaning it should not be an isolated case of non-compliance. At first glance, this could limit the scope of violations that could result in a suspension of trade arrangements. However, systemic failures to apply laws or regulations aligned with TSD commitments would also constitute a violation (European Commission, 2022f).

Since its inception, the SEP has received and is currently processing one submission regarding non-compliance with the TSD commitments compared to eight submissions related to market access. The disparity between TSD and market access submissions is most likely due to the difficulty of establishing a violation of TSD commitments versus market access infringements. A submission of the former requires substantiated information on the economic impact of the TSD violation for EU operators to which Henriot & Van den Berghe argue that "*TSD violations should not be conditioned upon an impact on trade*" (2021). To improve the accessibility of the SEP, the European Commission revised the Operating Guidelines (Blot, 2023a).

The first-ever TSD complaint was filed on 17 May 2022 by CNV Internationaal on behalf of trade union organisations in Peru and Colombia. The TSD violation concerns the right to trade union freedom, collective bargaining and the right to equality in Peru and Colombia (Van Beers, 2022). Not much information is

available regarding the case proceedings, however, in November 2022, the European Commission suspended the deadline for the preliminary assessment (POLITICO Pro, 2022). According to CNV Internationaal, the Commission shared a confidential version of the preliminary assessment in January 2023, however, there is no timeline for the public dissemination of the assessment (Francis, 2023).

Rapid Response Labour Mechanism and Submission on Enforcement Matters under the USMCA

The USMCA saw the introduction of a novel mechanism aimed at addressing workers' rights issues through a trade agreement. The agreement's Rapid Response Labour Mechanism (RRLM)¹ allows for the enforcement of workers' rights such as free association and collective bargaining (USTR, 2020a). In the RRLM process, a trade partner submits a request for review to determine whether there is a violation of workers' rights, which could lead to the possibility to penalise a targeted violating facility, for example with a denial of entry of goods (USTR, 2020b).

Since its inception, the RRLM has resolved seven cases concerning the violations of workers' rights in Mexican automotive manufacturing facilities. The resolutions were handled in a timely fashion and listed specific actions to be undertaken by the offending facility to address the violations and improve the facility's labour rights framework (USTR, 2021a, 2021b, 2022a, 2022b, 2022c, 2022d, 2023a), with one ongoing request for review (USTR, 2023b). Trade unions are imperative to protecting workers' rights and undertaking organised action to enforce their rights. While the introduction of the RRLM has demonstrated a positive track record enforcing targeted actions in the violating facilities, the USMCA's dispute settlement does not tackle environmental issues in the same manner. While environmental disputes fall under the agreement's dispute settlement chapter (Ch. 31) there is no mechanism to initiate an expedited review of potential violations of environmental commitments (Hart, 2021).

The USMCA's Chapter on Environment introduces the citizen-driven Submission on Enforcement Matters (SEM) for the public to file a submission contending against the USMCA trade partner's enforcement of environmental laws (USTR, 2020c). Since 2020, there have been eight submissions filed against Mexico, and one case for the US and Canada, however, due to criteria, some submissions may not lead to a factual report which documents the environmental, legal, and/or public health aspects of the situation (Commission for Environmental Cooperation, 2023). Unlike with the RRLM, the SEM's "designated" civil society

¹ See USMCA's dispute settlement chapter (Ch. 31 Annex A).

body such as a trade union for the environment is not as apparent. Providing resources for environmental non-governmental organisations (NGOs) to improve efforts to monitor environmental protection standards could improve the effectiveness of the SEM.

Labour and environment provisions and Public Submissions in the CPTPP

Following the Trump administration's withdrawal from the Trans-Pacific Partnership (TPP) Agreement in 2017 (USTR, 2017), the CPTPP was signed in 2018 by eleven countries: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam. On March 31 2023, it was announced that the negotiations on the UK's accession to the CPTPP had positively concluded (Australian Government, 2023).

The CPTPP text includes dedicated Chapters on Environment and Labour, which are considered to be on par with USMCA and new EU FTAs counterparts (Velut et al., 2022). Moreover, the CPTPP dispute settlement approach integrates a consultative enforcement procedure for environmental and labour disputes. Disputes under the Labour Chapter are expected to resolve the issue through consultations at the state government level. Only after all attempts at consultation under this Chapter have been exhausted, can the matter be handled under the CPTPP's Dispute Settlement Chapter (New Zealand Government, 2018a).

Remarkably, disputes arising under the Environment Chapter, have a larger emphasis on the role of consultations, e.g., a three-tiered approach, to resolve the dispute before the matter can be handled under the Dispute Settlement Chapter. In case of a dispute, first, environmental consultations must be triggered between the involved Parties. If unsuccessful, the dispute is escalated to respectively senior representative consultations and ministerial consultations. If the dispute remains unresolved then the consulting Party may launch consultations under the CPTPP's Dispute Settlement Chapter (New Zealand Government, 2018b), which could then be subject to sanctions such as raising tariffs, compensation payments or suspension of trade concessions (Velut et al., 2022).

The CPTPP Environment and Labour Chapters also foresee the possibility of "Public Submissions" from civil society in the CPTPP member area regarding the implementation of the respective Chapters (New Zealand Government, 2018a, 2018b). Furthermore, concerning environmental public submissions, a Party may request the convening of the Committee on Environment to discuss the best course of outcome to resolve the submission if it claims that "a Party is failing to effectively enforce its environmental laws" and the submission has received a written response from the responding Party (New Zealand Government, 2018b).

However, this Public Submission mechanism has not yet seen a submission on the implementation of the CPTPP's Environment Chapter, therefore its efficacy cannot be judged. Yet, its approach is somewhat similar to the EU's SEP, in its more generalist approach rather than the USMCA's RRLM targeted approach.

The absence of labour and environmental provisions in the RCEP

Signed in 2020, the membership of the RCEP slightly overlaps with the CPTPP, including 15 members: Australia, Brunei, Cambodia, China, Indonesia, Japan, Laos, Malaysia, Myanmar, New Zealand, Philippines, Singapore, South Korea, Thailand, and Vietnam (New Zealand Government, 2020). Yet, unlike the CPTPP, the RCEP does not include dedicated chapters on labour, environment or sustainable development (Armstrong & Drysdale, 2022; Australian Government, 2020).

Covering another significant economic area, the lack of environment, labour, or sustainable development commitments in the RCEP is unfortunate. However, the RCEP is considered a "living agreement" and is therefore subject to a general review every five years, the first expected for 2027. Moreover, the agreement establishes a committee dedicated to discussing emerging issues, such as climate change, environment and green transformation (Thangavelu, Urata, & Narjoko, 2022). Therefore, considering the political will of the Parties, it could be possible that members of RCEP, such as New Zealand, push to adopt a similar approach to the CPTPP in the future (Malingrey & Duval, 2022).

A missed opportunity for green growth through the AfCFTA

Launched in 2021, the AfCFTA creates the largest free trade area consisting of 54 African Union member states, of which 46 members have ratified the agreement (tralac, 2023). While the potential of the AfCFTA to boost intra-African economic growth and progress the achievement of the SDGs are substantial (Signé, 2020; World Bank, 2020), the trade and environment nexus is largely absent from the agreement (Perron-Welch, 2021; van der Ven & Signé, 2021) which is a missed opportunity to promote green growth in the African Union.

The AfCFTA text does include some environmental provisions, specifically, that the Parties may not compromise environmental protections to further trade in services and reserving the right of Parties to adopt measures for environmental protection provided the measures non-discriminatory or disguised protectionism (van der Ven & Signé, 2021). However, such environmental provisions are among the most general and unlikely to facilitate more sustainable trade. Moreover, due to the absence of a dedicated chapter on the environment, there is a lack of binding environmental provisions.

Intermediate conclusions on enforceable sustainability provisions

The EU's new approach to TSD dispute settlement does not significantly differ from those featured in the USMCA and the CPTPP. All three have consultations processes, dispute settlement mechanisms and the possibility of sanctions, although the latter has differing enforceability depending on the language used for labour and environment in the trade agreement. In the case of the CPTPP, environmental disputes must follow a three-tiered consultation process before sanctions are possible.

Each agreement also features a citizen-driven submissions mechanism for environmental concerns which can also initiate consultations between the trade partners. In the case of the USMCA, utilises the RRLM which can target facility-level labour violations in an expedited manner, with concrete actions to resolve these violations. The contribution of civil society organisations such as trade unions and environmental NGOs is essential to support governments in the monitoring of labour and environmental regulations.

The EU's approach to TSD non-compliance could benefit on one hand from the CPTPP's more consultative but broader scope for sanctions for non-compliance with environmental provisions, and on the other hand, the USMCA's targeted and fast approach to non-compliance with labour provisions. Still, some significant trade arrangements such as the RCEP and AfCFTA, lack sustainability provisions which underpin the enforceability of environmental commitments. It is possible that over time the RCEP "living agreement" will incorporate provisions and commitments reflecting global sustainability issues, however, this will remain up to the will of the 15 members involved.

Moreover, the omission of sustainability commitments in the AfCFTA, save the general provisions on environmental protection, is a substantial missed opportunity to foster sustainable development over the continent. There may be an opportunity for the EU to implement its carrot approach to sustainable development through future renewals of the existing economic arrangements with African countries such as the Economic Partnership Agreements or the Generalised Scheme of Preferences. Yet, deeper cooperation, both technical and financial, and dialogue to further common objectives regarding the green transition could be another viable pathway for the EU to focus on.

3. CASE STUDY: EU-CHILE ADVANCED FRAMEWORK AGREEMENT

This section discusses the content of the EU-Chile TSD Chapter, comparing it to the EU-New Zealand FTA following the new TSD approach, in addition to comparing it to older EU FTAs. Then the environmental provisions in the EU-Chile's Chapter on Energy and Raw Materials are assessed.

The EU and Chile concluded the negotiations for their modernised trade agreement in December 2022 which revamped the existing agreement to better address the political, economic, and technological changes over the past twenty years. The modernised EU-Chile agreement is split into an interim FTA and the Advanced Framework Agreement. The ratification of the former is an exclusive EU competence, whereas the latter agreement will also be ratified by the Member States (European Commission, 2022b).

Chile's economy is geared towards supplying international markets with primary materials. From 2018 to 2021, the average EU imports from Chile consisted 43% of mining products such as copper and lithium, and 41% of agricultural products such as counter-seasonal fruits, and fish (European Commission, 2022d).

The conclusion of the modernised EU-Chile agreement comes at a time when the EU is seeking to secure a stable supply of critical raw materials (CRMs), both domestically and with strategic trade partners to deliver the green and digital transitions (European Commission, 2023). In this context, Chile is a strategic trade partner for the EU, not only for their longstanding partnership but particularly for its reserves of raw materials such as lithium and copper.

In March 2023, the European Commission published its proposal for a European Critical Raw Materials Regulation (ECRMR) which sets targets for the supply of CRMs. These targets include ramping up domestic extraction, domestic processing, and recycling to respectively meet 10%, 40% and 15% of the EU's annual consumption of CRMs. The remainder of the EU's annual consumption can be supplied by trade partners, but the EU aims to diversify their sourcing of CRMs. This includes a new target to not rely on a single trade partner for more than 65% of the supply of one CRM (European Commission, 2023). To promote a diversified supply of CRMs, the European Commission underlines the need to pursue "Strategic Partnerships" with key trade partners, in addition to dedicated Chapters on raw materials in newly concluded FTAs.

With Chile supplying up to 84% of Europe's demand for lithium (Lorca et al., 2022), this new external supply target for CRMs would see the imports of lithium from Chile decline, despite the future ratification of the new EU-Chile trade agreement. Nonetheless, as Chile is estimated to house approximately half of the world's lithium reserves, new mining projects are expected to continue.

With this context, the ECRMR also introduces "Strategic Projects" which can be founded abroad or in the EU, for the extraction, processing, or recycling of CRMs. Strategic projects are considered to be of public interest which would allow for the streamlining of permitting, processing and financing of new mining projects at the potential detriment of sound environmental and social impact assessments (Oger & Watkins, 2023). Thus, the ECRMR may include provisions that may be relevant to the EU-Chile trade agreement's TSD Chapter and/or Energy and Raw Materials Chapter.

3.1 New TSD approach in the EU-Chile trade agreement

A preliminary assessment of the EU-Chile agreement's TSD Chapter concluded that, although many of the main articles concerning the right to regulate, levels of protection, transparency and cooperative activities remain largely the same compared to older TSD Chapters (Blot & Kettunen, 2021; Blot & Li, 2023a).

The room for improvement to include more concrete and binding provisions in the TSD Chapter was for the articles for specific environmental areas (i.e., climate change, forests, biodiversity, and fisheries).

On **climate change**, most older agreements saw the Parties "reaffirm their commitment to effectively implementing the Paris Agreement" (Blot & Kettunen, 2021). Now, both the EU-Chile and EU-New Zealand agreements commit the Parties to effectively implement the Paris Agreement and their respective Nationally Determined Contributions (NDCs).

However, the EU-Chile agreement does not apply the same obligation as in the EU-New Zealand agreement that the Parties must "refrain from any action or omission which materially defeats the object and purpose of the Paris Agreement" (European Commission, 2022b, 2022c). The reason for the omission of this exact wording is likely due to the negotiating Parties. During the EU-New Zealand negotiations was reported that New Zealand sought out sanctionable green provisions while the EU was more reserved (Voituriez & Cremers, 2021). In the case of EU-Chile, both Parties agreed to not include this specific commitment. This is a missed opportunity to not have further embedded the achievement of the objectives of the Paris Agreement, however, the commitment to effectively implement the Paris Agreement and NDCs is still a positive step forward.

Regarding the article on **forests**, older FTAs were found to include provisions focused on cooperating on the implementation of existing commitments to combat illegal logging, though not mandatory. Moreover, the reviewed agreements failed to explicitly mention the risk of continued or expanding deforestation under the FTA (Blot & Kettunen, 2021). Yet, since the publication of the new TSD approach, both agreements with New Zealand and Chile include the requirement of the Parties to implement measures to combat illegal logging, in addition to the requirement to cooperate and exchange information on initiatives to tackle deforestation and forest degradation, including on the development of deforestation-free supply chains (Blot & Li, 2023a; European Commission, 2022b). Still, the article on forests does not often reference international frameworks to set a standard for environmentally sustainable forest management, with the most likely referenced initiative being the EU FLEGT (Blot & Kettunen, 2021).

Of previously assessed FTAs, the article on **biodiversity** was the most commonly featured in the TSD Chapter, covering the Parties' commitments to tackling illegal wildlife trade and the conservation and sustainable use of biological resources linked to the Parties' obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Convention on Biological Diversity (CBD). The biodiversity articles often also include specific provisions to encourage the trade of biodiversity-friendly products and cooperation between the Parties on trade and biodiversity issues (Blot & Kettunen, 2021).

Biodiversity issues such as tackling illegal wildlife trade and the spread of invasive alien species have been taken up in both the EU-New Zealand and EU-Chile TSD Chapter in an obligatory manner, indicating that these are biodiversity-related issues that have been more seriously considered in the context of the trade agreements. Additionally, these newer FTAs also recognise the role of indigenous and local communities' lifestyles in contributing to biodiversity conservation, which was unacknowledged in older TSD Chapters (European Commission, 2022b, 2022c).

The sustainable management of **fisheries and aquaculture** in previous TSD Chapters largely covers the commitment to combat illegal, unreported, and unregulated (IUU) fishing, complying with long-term fish stock conservation measures, promoting sustainable aquaculture, and cooperation and information exchange. Even in older FTAs, the fisheries-related article makes many references to international frameworks such as relevant UN Conventions and FAO agreements and standards. More concretely, some older agreements (with the Andean region, Canada, Japan, and Singapore), now also New Zealand and Chile,

have included provisions to ensure monitoring and surveillance measures are undertaken to prevent illegal fishing and/or overfishing.

Yet, the EU-Chile and EU-New Zealand agreements' articles on fisheries and aquaculture are not completely similar. Firstly, the EU-New Zealand agreement is the first to explicitly acknowledge the role of fisheries subsidies in the inadequate management of fisheries and confirm the need to end such subsidies. Conversely, the EU-Chile agreement does not acknowledge the malpractice of fisheries subsidies. Still, with the conclusion of the Agreement on Fisheries Subsidies at the WTO in June last year, it is possible that this multilateral agreement can be implemented once two-thirds of WTO members accept the Agreement. As of June 2023, eight WTO members including the EU, the US and Canada have accepted the agreement (WTO, 2023).

The EU-Chile agreement integrates a new provision to ensure that "Parties shall take into consideration social, trade, developmental and environmental concerns and the importance of artisanal or small scale fisheries to the livelihoods of local fishing communities" when developing and implementing conservation and management measures. To what extent these considerations are subject to a hierarchy is unclear, e.g., in what cases will environmental concerns be prioritised over trade?

To what extent is the TSD Chapter enforceable?

The starting point for a better enforceable TSD Chapter is to ensure the language is unambiguous and binding. In theory, if a dispute would arise concerning a section in the TSD Chapter utilising obligatory language, then that provision could be enforced through the agreement's TSD dispute settlement mechanism. Yet, the extent to which provisions are negotiated to be obligatory or voluntary is up to the will of the Parties involved.

In theory, the EU-Chile's TSD Chapter is potentially more enforceable than older TSD Chapters, because the EU-Chile agreement has more provisions using obligatory language, compared to relatively older FTAs. In practice, while the TSD dispute settlement mechanism has been successful at enforcing the labour commitments made by the Parties in the case of the EU-Korea FTA (Blot, Oger, & Harrison, 2022), it has been criticised as being ineffective at enforcing the Parties' environmental commitments. This is often due to the environmental provisions being not as binding and including fewer references to international frameworks that have measurable objectives (e.g., with labour provisions, the ratification of an ILO convention is easily verifiable).

Going further, the TSD dispute settlement mechanism does not incorporate any kind of penalty such as a suspension of trade concessions if at the end of a dispute the appointed expert panel rules that a Party is found to be non-compliant with their TSD commitments (Blot & Kettunen, 2021). In response to criticism received by civil society on the toothlessness of the TSD dispute settlement mechanism, going forward, the European Commission confirms it will extend the compliance stage of the general state-to-state dispute settlement (SSDS) to the TSD dispute settlement mechanism to upcoming FTAs under negotiation, potentially including trade agreements with Australia, India, and Indonesia.

This is present in the EU-Chile agreement, where the Party found to be in non-compliance is expected to “inform its [DAG] and the other trade partner of its decisions on any actions or measures to be implemented no later than three months after the report has been made publicly available.” (European Commission, 2022b). This extension addresses the possibility of a non-compliant Party not amending the cause of dispute in a time-appropriate manner.

Still, the EU-Chile dispute settlement mechanism does not allow for any kind of penalty in cases of non-compliance. This is in stark contrast with the EU-New Zealand agreement which introduces the possibility of sanctions if a trade partner is found to have “failed to refrain from any action or omission that materially defeats the object and purpose of the Paris Agreement” (European Commission, 2022c).

Compared to older FTAs, the EU-Chile agreement makes advancements in improving the contents of the TSD Chapter, including its civil society and dispute settlement mechanisms. Yet, compared to the EU-New Zealand FTA’s sanctionable non-compliance with the Paris Agreement, the EU-Chile agreement falls behind.

However, there is still a possibility to bolster the sustainability credentials of the EU-Chile agreement. The TSD Chapter’s Article 26.23 “Review” obligates the TSD sub-committee to discuss how the effective implementation of the TSD provisions contributes to achieving the objectives of the Chapter. The sub-committee may request to review the provisions of the TSD Chapter, taking into account major policy developments and developments in international agreements (Blot & Li, 2023a).

In the EU-Chile joint statement on TSD, the Parties confirm that once the interim FTA enters into force, a formal review process will be launched per the Review Article to consider the incorporation of additional TSD provisions (European Commission, 2022e). These additional provisions could potentially strengthen the TSD enforcement mechanism or introduce other environmental commitments, such as the Paris Agreement as an essential element of the FTA, or new MEAs such as the WTO Agreement on Fisheries Subsidies and the Agreement under the United Nations Convention on the Law of the Sea (Aubert, Blot, Chartier, & Oger, 2023).

3.2 Chapter on Energy and Raw Materials

With Chile being a key supplier of raw materials such as copper and lithium, the conclusion of the EU-Chile agreement came at a particularly relevant time as the EU announced its forthcoming act on critical raw materials. In March 2023, the Commission published the ECRMR which plans to secure a stable internal and external supply of critical raw materials. Regarding the external supply, the ECRMR aims to establish Strategic Partnerships with resource-rich, like-minded countries, such as Chile.

In this context, it is relevant to review the Chapter on Energy and Raw Materials to assess potential alignments or conflicts with the TSD Chapter. The articles in the Chapter relevant to the environment include “assessment of environmental impact”, and articles on cooperation in the context of energy and raw materials (European Commission, 2022b).

Article on the environmental impact assessment of new projects

In Chile, lithium mining projects do not require the involvement or consultation of indigenous populations when it interferes with their environment (European Commission, 2019). Therefore, the article on “assessment of environmental impact” is a first step to cementing the principles of the environmental impact assessment in the partner’s bilateral cooperation.

Any activity relating to energy or raw materials that can have an impact on “population; human health; biodiversity; land, soil, water, air or climate; and cultural heritage or landscape” must conduct an environmental assessment before authorising a new project relating to energy or raw materials. Moreover, to improve public participation in the assessment process, the Parties are expected to publish relevant information and provide adequate time and opportunities for the public to comment. Finally, the Parties are expected to consider the findings of the assessment before authorising the project.

For the EU, such provisions could be considered a bare minimum of good practice for the authorisation of new mining projects. However, the provisions do not provide sufficient environmental safeguards. For example, the extent to which the environmental findings are considered in the authorisation of the project could be minimal in practice. Moreover, there is no mention of the application of the precautionary principle in the context of authorising new mining projects.

Articles on cooperation on energy and raw materials

The article “cooperation on standards” aims to prevent, identify, and eliminate unnecessary technical barriers to the of trade energy and raw materials. The Parties are expected to promote cooperation between their respective regulatory and standardisation bodies in areas such as energy efficiency, sustainable energy, and raw materials. In this context, the harmonisation of international standards is a key avenue to promote the trade of environmentally-friendly products (Barrie et al., 2022). This article goes further stating the need to cooperate on “the promotion of standards on raw materials, [...], including through product design and labelling” which will inevitably be necessary in the context of the Ecodesign for Sustainable Products Regulation (ESPR) (Blot, Oger, & Watkins, 2022; European Commission, 2022h).

Next to regulatory cooperation, the Parties commit to cooperate on “research, development and innovation” to improve efficiency, sustainability and competitiveness of the energy and raw materials sectors. Such cooperation involves promoting R&D, dissemination, capacity building and value addition.

The next article “cooperation on energy and raw materials” commits the Parties’ work together to promote the expansion of renewable and low-carbon energy sources, and the responsible sourcing and sustainable production of raw materials. One element of such cooperation entails identifying and reducing trade- and investment-distorting measures affecting energy and raw materials which could be technical, regulatory, or economic in nature. Though not explicitly stated, the identification and elimination of certain technical or regulatory barriers with significant environmental dimensions should be considered with care.

Another element entails the Parties’ willingness to cooperate to promote responsible business conduct and the sustainable sourcing and production of raw materials. This includes cooperating on “responsible mining practices and raw materials value chains sustainability, including the contribution of the raw materials value chains to the fulfilment of the [SDGs].”

In the article “energy transition and renewable fuels” the trade partners recognise the importance of renewable fuels such as “renewable hydrogen, including their

derivatives, and renewable synthetic fuels, in reducing greenhouse gas emissions to address climate change” and aim to cooperate to promote their bilateral trade and use accordingly. This would include cooperation on the development of international standards, regulatory cooperation, and certification schemes for renewables to prevent a rise of “unjustified barriers to trade.”

Finally, the Sub-Committee on Trade in Goods is made responsible for the implementation of this Chapter, meaning this Chapter does not establish a dedicated committee or working group to discuss the contents of this Chapter. However, such a dedicated means of cooperation could be established if agreed upon by the Parties, which would also involve relevant stakeholders or experts.

A dedicated forum such as a raw materials working group established under the trade agreement could facilitate the objectives of the energy and raw materials Chapter. Fortunately, the EU is pursuing a Strategic Partnership on Critical Raw Materials with Chile (Simon, 2023). This upcoming partnership would provide a forum for cooperation specifically on the sustainable and future-proof use of critical raw materials.

Potential overlaps between the EU-Chile agreement and the ECRMR concerning environment

The ECRMR sets out rules to lower the environmental footprint of critical raw materials, including a certification scheme for raw materials placed on the EU market. Moreover, the Regulation aims to pursue closer cooperation through Strategic Partnerships with resource-rich countries, which would cover dialogue on strengthening supply chain monitoring and resilience.

Yet, the environmental provisions regarding raw materials in the EU-Chile trade agreement are limited to impact assessments and cooperation. On one hand, the provisions on environmental impact assessments will likely not be inconsistent with the ECRMR, as the provisions are rather standard to the process of permitting. On the other hand, the provisions on cooperation in the EU-Chile agreement likely stand to reinforce the EU’s efforts to pursue an EU-Chile Strategic Partnership on raw materials.

Unfortunately, the provisions do not spur the Parties to tackle sustainability issues related to the mining of critical raw materials. However, the ECRMR plans to reduce the environmental footprint of critical raw materials by enhancing circularity aspects to increase the recycling of products with high recovery potential of critical raw materials (Oger & Watkins, 2023).

3.3 Sustainability throughout the agreement

Upon review of both the TSD Chapter and the energy and raw materials Chapter, this assessment concludes that neither Chapters includes provisions that would adequately address the mining sector's role in water use and quality, impacting not only local biodiversity but also communities.

The TSD Chapter, which remains largely cooperative and thus non-enforceable, includes some provisions which could be relevant to the implementation of the energy and raw materials Chapter. For example, provisions maintaining levels of environmental protection in the context of (new) mining projects, and provisions that may hinder the development and implementation of measures to protect the environment.

The mainstreaming of sustainability provisions throughout the agreement text is rather limited, with some exceptions such as the cooperation-focused Sustainable Food Systems Chapter and the Chapter on Gender Equality (Blot & Li, 2023a). However, other Chapters remain deafening silent regarding their contribution to sustainability issues.

One example is the role of investment and financing flows as a contributor to GHG emissions through fossil-fuel-related financing. At the same time, investment can significantly contribute to climate action through financing adaptation and mitigation efforts. The 2022 IPCC reports find that progress in reducing environmentally harmful financing has not progressed sufficiently (Kreibiehl et al., 2022). It is estimated that by 2025, global fossil fuel subsidies will increase to over 6 trillion USD or 7.4% of global GDP (IMF, 2022).

Despite its significant role in both accelerating and addressing climate change, the investment liberalisation Chapter in the EU-Chile agreement only references environment and climate change regarding their right to regulate. The Chapter does not refer to responsible business conduct or the promotion of sustainable investment (European Commission, 2022b).

Moreover, measures taken to implement multilateral environmental agreements can fall under the general exceptions Article, covering both the energy and raw materials Chapter and the investment liberalisation Chapter. However, Parties would have to prove that such measures are not a means of arbitrary or unjustifiable discrimination and also are either related to the conservation of living and non-living exhaustible natural resources or are necessary to protect human, animal or plant life or health (European Commission, 2022b). The latter conditions create a higher burden of proof to justify an environmental measure,

which was not present in the EU-Vietnam trade agreement (European Commission, 2020).

For these reasons, the EU-Chile trade agreement cannot be considered a “gold standard” for the environment, despite the implementation of the new approach to the TSD Chapters.

The lack of provisions for environmental protection and commitments for climate action and environmental protection in sector-specific Chapters in the EU-Chile agreement text is a key gap in addressing the negative impacts of trade on sustainability. Moreover, there is still much to be done to develop trade agreements that embed and prioritise the protection of environmental and human rights. The following section explores what such trade agreements could entail.

4. CONCLUSIONS AND RECOMMENDATIONS FOR GOLD STANDARD FREE TRADE AGREEMENTS

This section discusses the potential for trade agreements to further sustainability globally through the inclusion of certain principles to shape a gold standard trade agreement for sustainability.

The EU's new TSD approach is a step in the right direction. It includes dedicated provisions for sustainability (some binding, while others are focused on cooperation), it aims to increase market access to environmental goods and services, and it provides civil society with the opportunity to participate in the monitoring of the TSD implementation through the SEP, in addition to the DAGs.

Yet, there is room for improvement for EU FTAs regarding the enforcement mechanisms when compared to the USMCA and the CPTPP. The former's RRLM allows for an effective, timely and targeted approach to workers' rights violations in specific facilities. The latter's three-tiered consultation process with the possibility of sanctions applies a broader scope than the EU's commitment to enforcing the implementation of the Paris Agreement with sanctions as a last resort.

On its own, the implementation of the EU's new TSD approach is likely to be insufficient to significantly improve sustainability worldwide because it only covers trade flows with EU trade partners. Moreover, the most ambitious sections in the new TSD approach to tackling sustainability issues do not apply to existing trade agreements. Even for the newly concluded EU-Chile agreement, the implementation of the new TSD approach falls short to tackle major sustainability issues such as the sustainable use of water in the mining sector. Moreover, the mainstreaming of sustainability provisions outside the TSD Chapter, such as the energy and raw materials and investment liberalisation Chapters, is lacking.

In this light, what future is there for sustainable trade practices? One option would be to push for further integration of sustainability provisions and principles throughout trade and investment agreements. For example, the quality of the environmental impact assessments (e.g., SIAs and FTA ex-post assessments) underpinning the FTA negotiations should systematically utilise the new methodology which assesses the impact of an FTA on biodiversity (IEEP, Trinomics, IVM, & UNEP-WCMC, 2021).

Another example could include the use of tariff and non-tariff barriers, which are found to benefit carbon-intensive goods compared to "clean industry" goods (Shapiro, 2020). The EU-New Zealand FTA already includes a non-exhaustive list

of environmental goods and services in the annex of the TSD Chapter (European Commission, 2022c) to promote the uptake of these environmental goods and services. However, the use of tariffs to disincentivise trade in environmentally harmful goods and services could be contested by some EU trade partners as an unjustified measure disrupting trade. Consequently, this idea of disincentivising trade in environmentally harmful goods and services through tariffs is likely to be an uphill battle.

Simultaneously, the EU will need to determine a consistent approach for the design and implementation of non-tariff barriers. With the EU's planned implementation of the ESPR, it would be beneficial to leverage its trade frameworks to cooperate with trade partners on the design and implementation of sustainability standards such as for product design, and programmes for eco-labelling.

Another avenue could be to pursue trade and investment agreements in which sustainability objectives are embedded as core objectives, or "Trade and Environment Agreements" (TEAs), coined by Voituriez and Cremers (2021). A starting point to negotiate TEAs would be to better integrate provisions for sustainability throughout the text of the agreement. This could begin with cementing the Paris Agreement as an essential element of each trade agreement, ideally also retroactively. Going further, such agreements could expand the scope of MEAs considered essential elements of the trade agreement (Aubert et al., 2023).

Agreement on Climate Change, Trade and Sustainability

One example of an agreement that places trade and the environment on equal footing is the Agreement on Climate Change, Trade and Sustainability (ACCTS). In 2019, several export-oriented countries – New Zealand, Costa Rica, Fiji, Iceland, Norway, and Switzerland – launched the ACCTS initiative which looks to further climate and environmental objectives through economic cooperation and trade.

The ACCTS is still under negotiation but the scope is set to cover the liberalisation of environmental goods and binding commitments for environmental services, provisions to end fossil fuel subsidies, and the development of guidelines for the design and implementation of eco-labelling programmes (New Zealand Government, 2022).

More ambitiously, pushing for a broader, system-wide change of the current trading system towards one which aligns with planetary health and delivers on well-being for all (Uehara, 2023) could be considered an ultimate endpoint for sustainable trade.

Recommendations

To support the advancement of sustainable trade best practices, the following recommendations for the negotiation and implementation phase of EU trade agreements are presented:

- Ambitiously implement the new TSD approach, along with accompanying implementation roadmaps to secure verifiable progress toward achieving environmental and climate targets.
- Extend the scope of sanctions for non-compliance with environmental objectives and allow for targeted actions, learning from the CPTPP and USMCA approaches.
- Expand the number of MEAs considered essential elements in FTAs.
- Mainstream the introduction of binding commitments to reduce and eliminate fossil fuel subsidies, and action to introduce and harmonise carbon pricing systems.
- Unbox sustainability provisions from the TSD Chapter into sector-specific chapters to encourage a high standard for environmental protection and sustainable, responsible business conduct.
- Leveraging the use of tariffs and non-tariff barriers to encourage trade in environmentally friendly goods and services, while discouraging trade in environmentally harmful goods and services.

At the multilateral level, the EU could pursue cooperation and mainstreaming of sustainable trade practices with like-minded countries by:

- Encouraging and improving access to green technologies and climate financing.
- Continue cooperation and participate in structured discussions on trade and environmental sustainability at the WTO, in particular at the Committee on Trade and Environment and the Trade and Environmental Sustainability Structured Discussions.
- Pursuing Trade and Environment Agreements, beginning with the Agreement on Climate Change, Trade and Sustainability (ACCTS).

ANNEX

Table 1: The TSD Chapter Action Points and their categorisation

Categorisation	TSD Chapter Action Points
Leveraging FTAs for cooperation on sustainability	(1) Step up cooperation with trade partners on compliance with international labour and environmental standards.
	(2) Support and incentivise reform processes and capacity building in trade partner countries through technical and financial assistance, when needed.
	(3) Use trade agreements to facilitate dialogue with partner countries.
Enhancing the sustainability credentials of FTAs	(4) Tailored approach to TSD Chapters, identifying country-specific sustainability priorities, and early and better targeted impact assessments.
	(5) Negotiate detailed and time-bound roadmaps with milestones, where appropriate, with a clear role for civil society for the monitoring and implementation.
	(6) Prioritise market access for environmental goods and services.
	(7) Ensure (sustainability) impact assessments analyse all relevant FTA chapters, and identify which provisions and commitments are most likely to have an impact on sustainability issues.
Consulting broader civil society	(8) Develop a comprehensive EU approach across services, using all available instruments to monitor the implementation of the TSD commitments.
	(9) Work with EU Delegations in their support and definition of best practices, as trade partners work with their local DAGs.
	(10) Support continuous involvement of the European Parliament in the implementation of TSD Chapters and assist it in its effort for regular country-specific discussions on trade and sustainable development.
	(11) Revise the Operating Guidelines for the Single Entry Point to increase transparency and predictability for stakeholders.

	(12) Ensure an inclusive consultation process with civil society through all stages of the lifecycle of FTAs.
Targeted actions for the DAGs	(13) Further strengthen the role of EU DAGs by providing resources for their logistical support, capacity building and functioning.
	(14) Increase involvement of EU DAG representatives in TSD Member States' Expert Groups and TSD Committee meetings.
	(15) Promote and facilitate interaction between EU and partner countries' DAGs.
	(16) Foster transparency on the composition of DAGs.
	(17) Exchange views with EU DAGs on EU TSD-related technical assistance projects.
	(18) Ensure that the remit of the DAGs extends beyond TSD in order to cover the entirety of the FTA.
Strengthening enforceability of environmental and social commitments	(19) Further strengthen enforcement of TSD commitments in future agreements:
	(a) Extend the general state-to-state dispute settlement (SSDS) compliance stage to the TSD Chapter.
	(b) Involve DAGs in monitoring the compliance stage.
	(c) Extend the possibility to apply trade sanctions in cases of failure to comply with obligations that materially defeat the object and purpose of the Paris Agreement or in serious instances of non-compliance with the ILO fundamental principles.
	(20) Prioritise the enforcement of TSD cases based on the importance of the nature of the commitments at issues, the seriousness of the violation and the impact on the environment or workers.

Source: Blot, E. (2023a). Green horizons – Towards more sustainable trade after the TSD Review. *Perspectivas Journal of Political Science*. Vol. 27: Special Issue on New Globalization Challenges and EU Trade Policy. ISSN: 2184-3902.

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