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BRIEFING

The role of the OECD in shaping EU trade policy

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1 Introduction

The roots of the Organisation for Economic Cooperation and Development (OECD) date back to 1948 and the Organisation for European Economic Cooperation (OEEC), which played an important role in implementing the Marshall Plan.

The OECD is a policy forum that promotes 'better policies for better lives'.

The OECD currently brings together 34 members[2], which share the principles of democratic governance and a market economy. Its members 'account for 78 percent of world GDP, 94 percent of world official development assistance, over half of the world's energy consumption, and 18 percent of the world's population'.[3] In accordance with its motto 'better policies for better lives', this international organisation promotes 'policies that will improve the economic and social well-being of people around the world'.[4] In other words, the OECD is a policy forum

> *in which governments can work together to share experiences and seek solutions to common problems [...], to understand what drives economic, social and environmental change[, to] measure productivity and global flows of trade and investment[, to] analyse and compare data to predict future trends[, and to] set international standards on a wide range of things, from agriculture and tax to the safety of chemicals.*[5]

Dialogue, consensus, examination and peer pressure are key elements in

[1] This paper was drafted by Francesco TENUTA (intern) under the guidance of Susana MENDONCA.
[2] The current full members of the OECD are: Australia, Austria, Belgium, Canada, Chile, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States.
[3] 'Organisation for Economic Cooperation and Development', Office of the United States Trade Representative, retrieved 4 November 2015, https://ustr.gov/trade-agreements/wto-multilateral-affairs/oecd.
[4] 'About the OECD', OECD, retrieved 4 November 2015, http://www.oecd.org/about/.
[5] *Ibid.*

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It supports policymakers in addressing the challenges of globalisation.

the OECD's activities. The aim is to support policymakers in addressing the economic, social and governance issues that accompany globalisation. The OECD also produces a series of decisions and recommendations, known as the OECD *acquis*, which are adopted by its members. The goal of these norms is to promote a more 'open economy, a pluralist democracy and respect for human rights' and to achieve greater convergence in OECD members' public policies.[6]

Twenty-one EU Member States are OECD members. The EU has quasi-member status.

Although the EU is not officially a member of the OECD, it has obtained quasi-member status; OECD policies strongly influence European policies to such an extent that it could be argued that the OECD **indirectly**, or at times **directly**, shapes EU trade policy. Indeed, 21 of the 28 EU Member States are also members of the OECD, and are the main contributors to its budget. On the other hand, insofar as EU Member States and the European Commission take part in, and contribute to, discussions within the OECD, it can also be said that the EU itself, including its Member States, has an influence on the OECD agenda and the way decisions and recommendations are formulated.

Over the last few years, the OECD has also strengthened its cooperation with non-OECD G20 members such as China, India and South Africa.[7] Other countries have instead opted for a closer form of cooperation. This is the case for Brazil, which in June 2015 signed a cooperation agreement aimed at strengthening its cooperation with the OECD. This agreement provided for the launch of the Brazil-OECD Programme of Work (2016-2017), finalised at the beginning of November 2015, to support Brazil's current reform agenda.[8] Following a brief introduction to the way the OECD influences international trade policy, this analysis will focus on how the OECD influences EU trade policy.

2 How the OECD shapes international trade policy

The OECD shapes international trade policy through:

- research work;

The OECD plays an important role in shaping international trade policy. Its influence in this area is exerted in several ways. First of all, its role as the secretariat for the G7 and G20 enables it to have a direct influence on debates among the world's biggest economies. The fact that the OECD carries out research and analytical work on behalf of these two groups 'allows [it] to develop norms, which are diffused to a larger and more global audience'.[9]

Other important instruments through which the OECD influences global trade policy include the various OECD guidelines. Approved in 1976 and

[6] 'The European Union's Role in International Economic Fora – Paper 3: The OECD', European Parliament, June 2015, p. 20, retrieved 4 November 2015, http://www.europarl.europa.eu/RegData/etudes/STUD/2015/542192/IPOL_STU(2015)542192_EN.pdf.
[7] *Ibid*, p. 42.
[8] 'OECD: Brazil', OECD, retrieved 4 November 2015, http://www.oecd.org/latin-america/countries/brazil/.
[9] 'The European Union's Role in International Economic Fora – Paper 3: The OECD', *op. cit.*, p. 20.

- guidelines;

updated in 2011, the Guidelines for Multinational Enterprises set out 'far reaching recommendations for responsible business conduct that 44 adhering governments [...] encourage their enterprises to observe wherever they operate'.[10]

Another instrument through which the OECD shapes international trade policy is the Service Restrictiveness Index (STRI). The STRI measures the extent to which domestic regulation and trade and investment barriers affect trade in services. It is constantly updated by OECD officials.

- assessing and measuring the impact of trade barriers.

The idea is that highlighting such barriers allows governments to modify them. A previous OECD initiative of 2009 on export restrictions on raw materials (subsequently mirrored by a similar initiative at EU level) is another good example of how the OECD's work can raise awareness of existing problems, facilitate dialogue and foster a will to find solutions.

OECD guidelines on officially supported export credit are an important standard-setting tool.

In the area of officially supported credit, which protects companies from non-payment for economic or political reasons in order to 'facilitate the exports of goods and services to high-risk markets', the OECD has released several sets of guidelines.[11] The Arrangement on Guidelines for Officially Supported Export Credits, established within the OECD framework in 1978, could be considered to constitute the basic set of guidelines in this area. The purpose of the Arrangement is 'to ensure that a level playing field is provided for exporters and a responsible approach is taken by the ECAs (Export Credit Agencies) globally'.[12] The Arrangement has subsequently been followed by four Sector Understandings dealing with various areas, namely ships, nuclear power plants, civil aircraft, and renewable energies and water projects.

A few years later, in 1999, the OECD members mandated the creation of new guidelines setting standards for environmental protection. As a result, new guidelines were issued: the Common Approach on Environment, revised in 2007. In light of these guidelines, which took the form of a non-binding recommendation, 'any project and/or project-related export business has to respect standards prevailing in the importing country'.[13] In 2000 and 2008, two new sets of guidelines relevant to export credit were released: the OECD Recommendation on Bribery and Officially Supported Export Credits, and the Principles and Guidelines to Promote Sustainable Lending Practices in the Provision of Official Export Credits to Low Income Countries. The latter was introduced to help low-income countries after the debt cancellation process, as part of the Highly Indebted Poor Countries

[10] OECD Guidelines for Multinational Enterprises, OECD, retrieved 4 November 2015, http://www.oecd.org/corporate/mne/oecdguidelinesformultinationalenterprises.htm.
[11] E. Bierbrauer, 'Officially supported export credits in EU Member States: An evaluation of the 2012 and 2013 annual reviews', European Parliament, March 2015, p. 1.
[12] *Ibid.*
[13] E. Bierbrauer, 'Application of certain guidelines in the field of officially supported export credits', European Parliament, June 2010, p. 8.

(HIPCs) initiative, with a view to preventing them from falling back into over-indebtedness.[14]

As export credit comes under EU competition policy, which is an exclusive European competence, the Arrangement, through **Regulation (EU) No 1233/2011**, and the four Sector Understandings have been fully integrated into EU law. This is a concrete example of the **direct** impact of OECD policy on EU export credit policy.

The other conventions, covering areas of shared competence, are implemented by the individual Member States.

This analysis will now focus on how the OECD influences EU trade policy.

3 Influence of the OECD on EU trade policy

As demonstrated above, the OECD exerts great influence on international trade policy. However, it provides even deeper inspiration for EU trade policy, as highlighted by the examples below.

3.1 OECD influence on EU foreign investment policy

EU investment policy is inspired by the OECD.

In 1995, the OECD was the first organisation to highlight the growing importance of foreign direct investment (FDI) as a tool to promote trade and development. It put forward the idea of drafting an agreement dealing with the regulation of global FDI flows. The objective of the Multilateral Agreement on Investment (MAI) was to 'provide a broad multilateral framework for international investment with high standards for the liberalisation of investment regimes and investment protection and with effective dispute settlement procedures'.[15] The agreement was not approved on account of criticism from civil society. Since the entry into force of the Lisbon Treaty, however, foreign direct investment and investment protection have become a central issue within the EU's external commercial policy. The European Commission, in its communication 'Towards a comprehensive European international investment policy', expressly states that in developing the common investment policy it will take into account 'the extensive analytical work performed by international organisations such as OECD',[16] In addition, it has expressly stated that in developing its investment policy it adheres to

> *principles and standards on responsible business conduct such as the OECD Guidelines for Multinational Enterprises, the reference*

[14] E. Bierbrauer, 'Officially supported export credits in EU Member States: An evaluation of the 2012 and 2013 annual reviews', *op. cit.*, p. 9.
[15] 'Multilateral Agreement on Investment', OECD, retrieved 4 November 2015, http://www.oecd.org/investment/internationalinvestmentagreements/multilateralagreementoninvestment.htm.
[16] 'Towards a comprehensive European international investment policy', European Commission, 7 July 2010, p. 4, retrieved 5 November 2015, http://trade.ec.europa.eu/doclib/docs/2010/july/tradoc_146307.pdf.

document on corporate social responsibility intended to balance the rights and obligations between investors and host states.[17]

These statements demonstrate the deep ties between EU investment policy and OECD policies in this area.

3.2 OECD influence on the EU strategy on responsible sourcing of minerals from conflict zones

The OECD Due Diligence Guidance is the basis for the EU initiative on responsible sourcing of minerals.

Another example of the intersection between OECD and EU policies can be found in the EU initiative to control trade of minerals originating in countries and regions affected by armed conflict or the risk of conflict, it being suspected that exports of these 'conflict minerals' illicitly finance the army or other military groups.[18] In line with the five steps set out in the OECD Due Diligence Guidance, the European Commission has proposed 'a draft Regulation setting up an EU system of self-certification for importers of tin, tantalum, tungsten and gold who choose to import responsibly into the Union'[19], which is currently being discussed.

3.3 OECD influence on EU policy on trade in waste

The OECD has directly influenced EU initiatives on the control of waste shipments.

According to the European Commission, '[c]ontrol of waste shipments is necessary to ensure an environmentally sound management of waste as well as safeguarding trading rights'.[20] Given that several types of waste are potentially harmful for human beings, thorough regulation is necessary in order to reduce risks stemming from unregulated waste management. Once again, the influence of OECD policies is very significant. The European Commission expressly recalls the OECD Control Mechanism for Trade in Waste as the regulation applicable to shipments towards OECD countries. Waste shipment towards non-OECD countries, on the other hand, is regulated by Regulation (EC) No 1418/2007. This regulation expressly states that it must be enforced in respect of shipments towards 'countries to which the OECD Decision on the control of trans-boundary movements of wastes does not apply'.[21] It may therefore be argued that the OECD has **directly** influenced EU trade policy in this area, as evidenced by the regulatory differentiation between OECD and non-OECD countries.

There are also other areas in which the relationship and complementarity

[17] 'Investment', European Commission, retrieved 5 November 2015, http://ec.europa.eu/trade/policy/accessing-markets/investment/.
[18] 'EU proposes responsible trading strategy for minerals from conflict zones', European Commission, 5 March 2014, retrieved 4 November 2015, http://trade.ec.europa.eu/doclib/press/index.cfm?id=1032.
[19] *Ibid*.
[20] 'Waste shipment', European Commission, retrieved 5 November 2015, http://ec.europa.eu/trade/import-and-export-rules/export-from-eu/waste-shipment/.
[21] *Ibid*.

The EU often goes further than the OECD and explores more ambitious solutions through its bilateral trade policy.

between OECD work and EU trade policy are apparent. In particular, this is the case as regards the 'Singapore issues'[22] (procurement, trade facilitation, and trade and competition, as well as the trade and investment issue mentioned above) and issues such as aid for trade and sustainable development. While the OECD permits discussion on these issues to proceed at a broader international level, the EU often explores more ambitious solutions via its bilateral trade policy.

4 Conclusion

The OECD and the EU influence and complement each other in the area of trade policy.

The above analysis clearly shows that OECD policies, which the EU and/or its Member States themselves help to shape, have a profound impact on EU trade and investment policy. In most cases this impact is **indirect**, since the EU draws up its own legislation in accordance with OECD principles. In other cases, the influence is **direct**, as the EU integrates OECD regulations into EU law; EU regulation of supported export credit is one such example. Accordingly, as former Commission President José Manuel Barroso once argued, 'it is difficult to find two organisations closer in their goals and missions than the OECD and the European Union'.[23]

[22] Issues put forward for discussion at the 1996 Singapore Ministerial Conference for inclusion in the Doha Development Agenda. In the absence of a consensus, only trade facilitation was eventually included.
[23] J. M. Barroso, 'Europe united, open and stronger: a story of interdependence and resilience', speech to the OECD, 2014.