

# Sustainability provisions in EU free trade agreements

## Review of the European Commission action plan

### SUMMARY

Sustainability-related provisions are a key part of international trade negotiations. Since the free trade agreement (FTA) signed with South Korea in 2009, EU trade deals each include dedicated trade and sustainable development (TSD) chapters encompassing issues such as environment, labour rights, climate change and responsible business conduct. In an effort to step up implementation and enforcement of these chapters, in 2018 the Commission published a non-paper setting out a 15-point action plan. In the new trade strategy, the 2021 Trade Policy Review, the Commission signalled the early launch of a review of the action plan and held an exchange of views with the European Parliament in July 2021. Parliament has long been an advocate for stronger enforcement and implementation of TSD commitments.

In the three years since the action plan's launch, the Commission – in cooperation with Member States, EU institutions, stakeholders and international organisations – has advanced on many of the proposed actions. For instance, EU funding was mobilised to support civil society engagement and responsible business conduct. Assertive enforcement of TSD commitments materialised in the form of a concluded dispute with South Korea on labour issues. The establishment of the EU chief trade enforcement officer has strengthened the Commission's enforcement capabilities.

Provisions on climate change, including a reference to the Paris Agreement, and widened labour provisions are all part of recent trade negotiations. However, the action suggesting extending the scope of civil society input beyond the TSD chapters to trade agreements as a whole has so far mainly only been reflected in the Trade and Cooperation Agreement between the EU and the United Kingdom. Meanwhile, the objective of early ratification of the fundamental International Labour Organization conventions continues to be challenging with many partner countries.



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## Introduction

The global trading system has historically included provisions that seek to foster sustainable development. The preamble to the agreement establishing the World Trade Organization (WTO) ([WTO Agreement](#)) refers to the objective of sustainable development and to the need to protect and preserve the environment. Meanwhile, the [general exceptions](#) in the General Agreement on Tariffs and Trade (GATT 1947; predecessor to the WTO) ensure that countries can retain their capacity to protect human, animal, or plant life or health, and conserve exhaustible natural resources, as long as protective measures are not a means of arbitrary or unjustifiable discrimination. With its entry into force in December 2009, the [Lisbon Treaty](#) made the pursuit of sustainable economic, social and environmental development also a specific policy goal for the EU.

In EU trade agreements, as in the United Nations sustainable development goals, sustainable development is broadly understood to have three main facets: economic development, social development, and environmental protection. Pioneering obligations to abstain from lowering environmental, labour or social standards were introduced in the 2018 trade agreement between the EU and Caribbean countries ([EU-Cariforum Economic Partnership Agreement](#)), while the 2000 partnership agreement between African, Caribbean and Pacific (ACP) countries and the EU ([Cotonou Agreement](#)) included an early endorsement of the concept of sustainable development. Since the signature of the free trade agreement (FTA) between the EU and South Korea ([EU-South Korea FTA](#)) in 2009, the Commission has sought to include trade and sustainable development (TSD) chapters in EU trade agreements. In 2015, with the '[trade for all](#)' strategy, the Commission's approach to trade formalised a more values-based and inclusive trade agenda.

## Trade and sustainable development chapters

TSD chapters are a central element of trading partners' commitment to [sustainable development](#) within a trade agreement. These chapters contain binding provisions and establish principles and commitments related to fundamental labour rights and environmental protection, climate change and social justice. As a general rule, parties agree to implement or ratify fundamental International Labour Organization (ILO) conventions and multilateral environmental agreements such as the [Paris Agreement](#) on climate change.

TSD chapters include monitoring structures that involve civil society in the implementation of the commitments, and a dedicated dispute settlement mechanism. They also include [cross-cutting](#) (non-binding) commitments on thematic areas such as corporate social responsibility or responsible business conduct, and a prohibition on lowering environmental or labour standards with the objective of promoting trade and investment ([non-regression principle](#) to prevent a regulatory race to the bottom).

Provisions related to TSD have been included in EU trade agreements or 'agreements in principle' with [Canada](#) (provisional application since 2017); [Central America](#), i.e. Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua (provisional application since 2013) and Panama; [Andean Community](#), i.e. Colombia and Peru (provisional application since 2013) and Ecuador (joined in 2017); [Georgia](#) (provisional application since 2014); [Japan](#) (provisional application since 2019); [Mercosur](#), i.e. Argentina, Brazil, Paraguay and Uruguay (political agreement reached in 2019); [Mexico](#) (update to the 2000 global agreement is ongoing, new agreement in principle reached in 2018); [Moldova](#) (full entry into force in 2016); [Singapore](#) (entry into force in 2019); [South Korea](#) (provisional application since 2011); [Ukraine](#) (provisional application since 2016); [United Kingdom](#) (entry into force 2021); and [Vietnam](#) (entry into force 2020).

Furthermore, the agreement in principle on the EU-China Comprehensive Agreement on Investment (CAI) includes a section on [investment and sustainable development](#). The parties agree, inter alia, to: overarching principles; recognising the importance of responsible business practices; safeguarding the right to regulate; reiterating commitment to multilateral environmental

agreements the parties have consented to; investment favouring green growth; investment and climate; labour issues; and a mechanism to address differences.

[Economic partnership agreements](#) (EPAs) are trade and development agreements that seek to promote sustainable development. In the EU-Cariforum EPA, the [general dispute settlement mechanism](#) also applies to TSD provisions. The EU-Southern African Development Community (SADC) includes a short TSD chapter (Chapter II). The ongoing EU-Eastern and Southern Africa negotiations to deepen the EPA agreement aim at including a [full TSD chapter](#).

## Background to the Commission's 15-point action plan

In 2017, the Commission launched a [debate](#) on how to improve the implementation of sustainability provisions in trade agreements. The debate lasted some eight months and generated a large number of [submissions](#). The Commission engaged with the European Parliament, Member States and other stakeholders on a number of occasions during the debate. Parliament and civil society representatives urged the Commission to adopt a more [ambitious](#) approach, and expressed [concerns](#) over the hastiness and informality of the process, including the lack of an official [public consultation](#).

In February 2018, then-Commissioner for Trade, Cecilia Malmström, unveiled the EU's approach to trade and sustainability in EU trade agreements. In a non-paper, the Commission services put forward a [15-point action plan](#) to improve implementation and enforcement of TSD chapters in EU trade agreements. The Commission identified wide consensus on maintaining the broad scope of these chapters and leveraging them to implement global social, labour and environmental standards. The plan grouped 15 concrete actions under four broad thematic headings: working together; enabling civil society, including the social partners, to play their role in implementation; delivering; and transparency and communication (see more under 'Reviewing the action plan' below).

## Views on the enforceability and implementation of commitments

A key aspect of the TSD debate has been the [enforceability](#) of commitments (see text box below). Enforcement is [considered](#) effective when the mechanism results in the parties' compliance with the agreement's TSD commitments.

TSD chapters (but also, for instance, competition chapters and trade remedies provisions) are exempt from the **general dispute settlement mechanism**, which in EU FTAs is modelled on that of the WTO. This mechanism provides for consultations and arbitration by an independent panel, and allows parties temporary remedies (i.e. suspend obligations to the trading partner or receive compensation) in the case of non-compliance with the arbitration ruling.

Nevertheless, the TSD chapter contains a **dedicated dispute settlement mechanism**, which is in part modelled on the general dispute settlement mechanisms (e.g. as regards consultations and the setting-up of a panel), albeit with a few key differences.

- In the event of a dispute, a panel of experts makes recommendations, but the requesting party is not allowed **economic remedies (sanctions)** if the other party does not comply with the panel report.
- The TSD committee established under an FTA is in charge of monitoring the implementation of the panel report. In contrast to the general dispute settlement mechanism, **civil society** can contribute to this process at all stages, from government consultation and panel work, to monitoring implementation of the final recommendations in the panel report.

The Commission concluded in its non-paper that the question of enforceability of TSD chapters raised divergent perspectives and there was support for the existing EU model of not applying economic remedies. It noted that 'the absence of consensus on a sanction-based model makes it

impossible to move to such an approach'. To adopt sanctions, economic damage would need to be quantified, proportionate to the harm and possibly linked to trade flow impact, which the Commission considered would require narrowing down the scope and breadth of TSD provisions. The EU TSD text is broad, encompassing major principles, standards and rules enshrined in core international conventions.

According to the Commission, intensive cooperation and consultation with the trade partner's government provides an appropriate framework to stimulate changes in the sensitive areas of social and workers' rights and environmental protection. In its view, enforcement of sustainability issues requires long-term and in-depth engagement, ranging from capacity-building to reinforcing civil society structures, involving a wide range of actors, beyond economic operators or trade ministries. To be effective, a major buy-in of multiple actors in the partner country is required. For instance, an optimal moment to stimulate change could be just before opening talks or during the negotiation phase when the EU can withhold the conclusion of the agreement until key ILO conventions are ratified.

Parliament, in a 2021 [resolution](#) on the EU biodiversity strategy for 2030, called for binding and enforceable TSD chapters, including safeguards and 'effective, proportionate and dissuasive sanctions for non-compliance, including the possibility of reintroducing tariffs'. [Academic commentators](#) and [labour representatives](#) have considered it problematic that possible disputes under the TSD chapter would not be enforceable in the same way as decisions in the framework of an FTA's general dispute settlement mechanism. In 2018, the European Economic and Social Committee (EESC) [called](#) on the Commission to further investigate existing sanctions mechanisms in trade agreements, not least to address and improve the effectiveness of an enforceable compliance mechanism in future TSD chapters. However, [business representatives](#) have argued that economic sanctions are not the most effective approach, because of shortcomings in triggering requirements, the scope of the economic counter-measures, and the impact on the EU's negotiating leverage. As it stands, in the event of a TSD dispute concluding, there is no [formal requirement](#) to follow up on the possible recommendations of a panel of experts.

Recently, the EU and the United Kingdom adopted a special approach in the EU-UK Trade and Cooperation Agreement ([EU-UK TCA](#)): remedies are possible for violations of the [non-regression](#) obligations regarding the level of protection of labour or environmental standards. Moreover, the TCA provides for the possibility to take rebalancing measures should there be significant divergences on certain level playing-field provisions, in particular as regards subsidy, labour and social, or climate and environment policy. It is not evident that the TCA can serve as a precedent, given that negotiations aimed at preserving the level playing-field and taking into consideration the proximity to the EU market, the ambitious level of tariff- and quota-free access provided, and the level of pre-existing economic and regulatory integration.

### Third countries' approach to TSD enforcement

Several EU trade partners, such as Canada, New Zealand and the US, have adopted a [sanctions-based](#) approach to TSD, whereby trade preferences can be suspended due to TSD breaches that affect trade. At the time of publication of the 15-point action plan, the only case involving TSD and sanctions was over US concerns regarding labour violations in [Guatemala](#). The panel could not confirm US claims that Guatemala's actions were 'sustained or recurring' and 'in a manner affecting trade'.

In 2020, the US-Mexico-Canada Agreement ([USMCA](#)) introduced new compliance mechanisms to address these shortcomings, such as the [rapid response labour mechanism](#). The USMCA includes a broader interpretation of what it means for labour rights violations to be 'in a manner affecting trade or investment between parties' ([Article 23.3](#)). This effectively constitutes a [reversal](#) of the burden of proof onto the respondent, helping avoid problems faced by the US in the Guatemala case.

Source: LSE Consulting, [Comparative analysis of TSD Provisions – Inception Report](#), September 2021.

## Reviewing the action plan

In its February 2021 [Trade Policy Review](#), the Commission noted that the forthcoming review of the 15-point action plan of TSD implementation and enforcement would be carried out in 2021. The review would cover all relevant aspects, including the scope of commitments, monitoring mechanisms, the possibility of sanctions for non-compliance, the 'essential elements' clause, and the institutional set-up and resources required. The section below lists the four thematic headings and the 15 actions included in the plan, each followed by examples of related initiatives implemented over the course of the past three years.

### A. Working together

#### 1. Partnering with Member States and the European Parliament

In the 15-point action plan, the Commission emphasised the need to strengthen interinstitutional coordination on TSD matters; hold regular meetings on TSD with Member State representatives and EU delegations and Member State embassies in partner countries; and invite Parliament to TSD expert meetings.

Between 2018 and 2021, the debate on TSD continued actively, not least in respect of the EU-UK Trade and Cooperation Agreement (which includes specific provisions on a level playing-field), the negotiations on the EU-Mercosur trade pillar, and the conclusion of the EU-Vietnam trade agreement. Since the action plan's publication, the Commission has held [TSD expert group meetings](#) with Member States about four times a year, and performed outreach activities with FTA partners on the ground through EU delegations and Member State embassies. The Commission has engaged with the European Parliament by regularly attending and holding exchanges of views, including on TSD matters, with Parliament's Committee on International Trade (INTA).

#### 2. Working with international organisations

Action point 2 focused on the need to strengthen coordination with the ILO and other relevant bodies that are key to TSD implementation at the multilateral level. The objective was to avoid duplication of labour and environmental standards, and avoid undermining multilateral governance.

The joint EU-ILO 'trade for decent work' [project](#) was launched in 2019. In this context, the EU funded an ILO project to support [Vietnam](#) in the effective implementation of the TSD chapter in the EU-Vietnam trade agreement (January 2019 to December 2021). The Commission and the ILO have continued their trade-related dialogues, ad-hoc contacts with ILO offices in Brussels and Geneva, and regular annual [high-level meetings](#), which include TSD issues on the agenda. The EU participates in major ILO events, including the [Governing Body](#) meetings and the [International Labour Conference](#). Moreover, the Commission continues to fund ILO projects (including 'trade for decent work') implemented in partner countries such as Armenia, Georgia and Ukraine.

### B. Enabling civil society including the social partners to play their role in implementation

#### 3. Facilitate the monitoring role of civil society including the social partners

Following the identification of organisational and logistical challenges in action point 3, the Commission recommended steps to support domestic advisory groups (DAGs) in EU and partner countries, where relevant.

In the non-paper, the Commission noted that the launch of a [€3 million project](#) was to support civil society including social partners under the EU's Partnership Instrument. The project (extended to 2022) provided additional financial resources, logistics and technical support to all EU DAGs and to

the partner countries' parallel mechanisms under trade agreements with Georgia, Moldova and Ukraine, with Central America and with Colombia-Ecuador-Peru. The funding enabled, inter alia, civil society representatives' participation in Quito (2018) and allowed members of the Georgia DAG to attend meetings in Brussels (2019). It also facilitated the organisation of the first capacity-building workshop for DAGs in the margins of the TSD sub-committee meeting under the EU-Georgia Deep and Comprehensive Free Trade Area (DCFTA) (2019). Furthermore, the Commission attends EU DAG debriefing sessions, cooperates with the EESC to address key bottlenecks, and provides logistical and financial support to DAGs.

#### 4. Extend the mandate of civil society, including the social partners, to the whole free trade agreement

Civil society representatives and interlocutors of the parties to trade agreements, namely DAGs and civil society fora (CSFs), requested the broadening of their advisory mandate to cover the whole of an FTA, instead of being limited to the implementation of the TSD chapters. In action point 4, the Commission committed to extending the scope in this way with the EU-Mexico and EU-Mercosur trade agreements, which thereafter became standard negotiating practice. Key issues for civil society may be, for instance, contained under sanitary and phytosanitary (SPS) provisions or technical barriers to trade (TBT) provisions.

The EU-UK TCA has extended the scope of civil society participation to the implementation of the entire agreement and any supplementary agreement, beyond the TSD chapters, in particular through interaction with the DAGs and CSFs (Articles 12, 13 and 14). While the 2018 EU-Mexico trade [agreement in principle](#) does not contain a reference to the extended scope, the Commission noted that the establishment of mechanisms enabling civil society to raise issues related to the whole trade deal (i.e. beyond the TSD chapter) had been agreed with Mexico. Furthermore, the Commission had proposed the extension of scope in negotiations with Mercosur (and also Australia, Chile, Indonesia and New Zealand). However, the EU-Mercosur trade [agreement in principle](#) ultimately provides for civil society organisations' involvement on TSD matters only.

The [rationale](#) behind an extension of scope for DAGs under FTAs is to tackle cross-chapter issues, such as the impact of tariffs on job creation, economic issues, and environmental dimensions beyond the TSD chapter. On the other hand, an extended mandate can dilute civil society concerns and complicate issue prioritisation. As the range of issues to be monitored expands, civil society actors may require capacity-building in resources and expertise to address these issues. A possible way forward, also suggested by the [EESC](#), would be to expand the scope, but retain a focus on the agreements' effects on labour, social and environmental rights.

#### 5. Take action regarding responsible business conduct

In action point 5, the Commission noted interinstitutional and stakeholder calls to strengthen responsible business conduct and corporate social responsibility practices in the context of international trade.

Between 2017 and 2020, the Commission, the ILO and the Organisation for Economic Co-operation and Development (OECD) jointly implemented a [€9 million project](#) on responsible supply chains vis-à-vis China, Japan, Myanmar, Philippines, Thailand and Vietnam, and implemented a project on responsible business practices in [Latin America](#) in cooperation with the Office of the High Commissioner of the United Nations for Human Rights (OHCHR). The '[responsible supply chains in Asia](#)' project deliverables included: research (mapping of policies, practices and improvements); outreach (establishing a platform for stakeholder dialogue); policy advocacy (addressing government and business labour practices in supply chains); and training courses (capacity-building).

In the meantime, the EU-wide debate on [responsible business conduct in supply chains](#) has gained momentum. The new EU trade strategy (2021 [Trade Policy Review](#)) includes a priority area to

support the green transition and to promote responsible and sustainable value chains. Within this priority area, the Commission is expected to update the GSP Regulation with an expanded list of conventions. In July 2021, the Commission and the European External Action Service (EEAS) issued new [guidance](#) on due diligence for EU companies to address the risk of forced labour in their operations and supply chains. The EU Conflict Minerals Regulation, which entered into force in January 2021, aims to address trade in tin, tantalum, tungsten and gold. In April 2021, the Commission issued a proposal for the Corporate Sustainability Reporting Directive, which would strengthen the social and environmental disclosure requirements for large companies. In late 2021, the Commission is expected to put forward a legislative proposal on a mandatory [due diligence system](#) for supply chains.

## C. Delivering

### 6. Country priorities

The Commission expressed its intention to identify and address priorities per partner country, from content-scoping exercises to the implementation of trade agreements. The prioritisation is carried out in cooperation with the Commission services responsible for different areas of sustainability.

In the course of the three years since the publication of the action plan, the Commission has identified TSD country priorities, shared them with Member States, and discussed them with DAGs. As the scope of civil society participation under the EU-UK TCA covers the agreement as a whole, the Commission has [noted](#) the possibility to have additional EU DAG meetings on an ad-hoc basis by creating subgroups dealing with specific areas.

[Commentators](#) have noted that country prioritisation has not progressed substantially, and suggest subdividing DAGs into different groups or creating several DAGs, each addressing e.g. environmental, social or labour aspects of sustainability. For instance, Canada has created two DAGs for labour and environment under the EU-Canada Comprehensive Economic and Trade Agreement (CETA), while the EU practice has been a single cross-cutting DAG.

### 7. Assertive enforcement

When the 15-point action plan was published, the dedicated TSD dispute settlement mechanism had never been triggered under an EU trade agreement, and the Member States, the European Parliament and stakeholders called for more assertive enforcement of TSD commitments. In action point 7, the Commission envisaged a combination of stronger monitoring actions (by TSD committees, trade committees, DAGs and CSFs), to resort swiftly to a panel proceeding when necessary, and to ensure the implementation of panel reports in cooperation with civil society organisations.

The Commission engaged in more assertive enforcement by launching the landmark TSD dispute against South Korea due to labour issues (see text box below). The appointment of the European Commission [chief trade enforcement officer](#) (CTEO) has further centralised trade enforcement measures on trade agreement implementation, TSD issues, international dispute settlement, trade barriers, and trade defence. The aim for the CTEO is to identify TSD shortcomings as early as possible and address them.

In a 2020 [non-paper](#) on trade, social and economic effects, and sustainable development, France and the Netherlands advocated a streamlined EU notification mechanism to respond to possible TSD violations. In [November 2020](#), the Commission launched the '[single entry point](#)', which aims to facilitate and enhance the way companies and organisations bring complaints related to both the TSD and the GSP and other market access barriers to the Commission's attention.

## 8. Encourage early ratification of international agreements

In action point 8, the Commission committed to enhancing its efforts to ensure early ratification of international agreements in the course of trade negotiations. The core labour and environmental international agreements include fundamental ILO conventions and core multilateral environmental agreements, such as the United Nations Framework Convention on Climate Change (UNFCCC), including the Paris Agreement; the Convention on Biological Diversity (CBD); and the Convention on International Trade in Endangered Species (CITES).

The early ratification of all fundamental ILO conventions is a priority during trade negotiations. Under standard EUTSD provisions, the parties commit to making 'continued and sustained efforts to ratify the fundamental ILO conventions if they have not yet done so' (e.g. [TSD chapter](#) of EU-Mercosur agreement in principle). Among ongoing trade and investment negotiation partners, [Australia](#), [Brazil](#) and [China](#), in particular, all have unratified ILO fundamental conventions. In the past, enhanced engagement in the negotiation stage to encourage ratification of labour reform bore fruit, as Vietnam ratified the ILO conventions on the right to collective bargaining in 2019 and on abolition of forced labour in 2020. However, in spite of efforts to achieve early ratification, among recently concluded EU trade agreements, [Japan](#) and [Singapore](#) have not yet ratified two fundamental ILO conventions, while [Vietnam](#) has not yet ratified one. Indeed, the September 2021 [inception report](#) on the 15-point action plan review found that countries that have FTAs with the EU are more likely to enhance their environmental performance during the implementation phase. By contrast, the US sanctions-based approach appears to be more conducive to greater ex ante results.

## 9. Reviewing TSD implementation effectiveness

In action point 9, the Commission noted the need to improve TSD implementation. TSD implementation is reviewed in the Commission's [annual reports on FTA implementation](#) and by in-depth ex-post evaluations of FTAs. Review clauses are included in trade agreements to enable future updates to bilateral commitments.

The [fourth annual implementation report](#) noted that TSD chapters present specific challenges, such as gaps with regard to the ratification of the fundamental ILO conventions. The Commission recommends a long-standing perspective on implementation, supported by enforcement activities and civil society participation. Vietnam is [considered](#) a positive example of a trade partner that has ratified the ILO convention on collective bargaining. The country then ratified the ILO fundamental convention on forced labour in 2020, and is working on the implementing legislation. The convention on freedom of association is [yet to be ratified](#).

In 2019, the [ex-post evaluation on the EU-South Korea FTA](#) included a case study on the implementation of the TSD chapter's institutional mechanisms, including an analysis of the meetings of the TSD committee, the DAGs and the CSFs. The report concluded that the institutional mechanisms were implemented during the evaluation period, but identified issues with regard to the composition of the DAGs and communication issues on both sides. In their TSD-focused 2020

### EU-South Korea labour dispute

At the end of 2018, the EU requested consultations with South Korea with respect to workers' rights. In 2019, a panel of experts was composed. In 2021, after prolonged proceedings due to the pandemic, the panel confirmed that South Korea was in breach of its labour commitments under the EU-South Korea FTA. The panel held that the violation of core labour standards need not be directly connected to trade to be considered unlawful, indicating that EUTSD chapters may be in a better position than those of the US. Nevertheless, it remains to be seen to what extent South Korea will implement the panel recommendations.

Source: Zamfir, I., [Labour rights in EU trade agreements: Towards stronger enforcement](#), EPRS, European Parliament, forthcoming.



[non-paper](#), France and the Netherlands proposed that effective TSD implementation should be encouraged by rewarding partner countries, introducing staged tariff reductions linked to TSD implementation, and clarifying what conditions need to be met to benefit from these reductions. An exchange of views with France and the Netherlands on their non-paper was held in Parliament's INTA committee on [15 October 2020](#).

## 10. Handbook for implementation

In action point 10, the Commission found that there was a need to step up the partners' awareness about the content of TSD chapters early on, for instance through a handbook on implementation of TSD chapters. As regards labour issues, the Commission and ILO developed a handbook on labour provisions in trade agreements.

In 2019, the National Board of Trade of Sweden published a [TSD handbook](#) based on the experiences of the EU-Ecuador trade agreement in the context of a joint pilot project with the Commission. The handbook included practical steps to prepare for TSD implementation, a procedural timeline on TSD disputes, and clear monitoring and reporting practices. The 2017 [ILO handbook](#) on the assessment of labour provisions in trade and investment arrangements, co-funded by the European Commission and the Flemish Government in Belgium, provided an overview of design, implementation and impact of labour provisions.

## 11. Step up resources

Following calls to increase the resources available to implement TSD chapters, the Commission considered that funding opportunities should be improved (e.g. through the €9 million responsible supply chain project and the €3 million project in support of civil society, including the social partners, mentioned respectively in points B.5 and B.3 above). The Commission committed to better connecting existing projects to TSD issues, and designing new 'aid for trade' projects to maximise TSD chapters' potential. Moreover, the Commission contributed to the G7 countries' [Vision Zero Fund](#), and noted projects and initiatives with Colombia and Ecuador that could strengthen aspects of TSD implementation.

The 'responsible supply chains in Asia' [project](#) was launched in 2018 with a critical €9 million in support from the European Partnership Instrument. EU development cooperation supported the implementation of TSD-related reforms in Georgia, as set out in the 2018-2020 [TSD work plan](#). For example, the Vision Zero Fund focuses on fostering collective action for safe and healthy supply chains in Colombia, Ethiopia, Honduras, Mexico, Laos, Madagascar and Myanmar, inter alia through EU development funding, albeit not all beneficiaries are parties to bilateral trade agreements with the EU that include TSD chapters.

## 12. Climate action

In action point 12, the Commission recognised the need to enhance the nexus of climate and trade, noting that recent agreements, starting with Japan, Singapore and Vietnam, include stronger provisions on climate change (e.g. references to the Paris Agreement). The Commission put forward joint actions on trade and climate change, such as promoting business opportunities for clean technologies (with a focus on small and medium-sized companies); facilitating trade and investment in climate change mitigation (e.g. renewables and energy efficient goods and services); promotion of international standards for climate-friendly goods; and cooperating on trade-related aspects of the international climate change regime.

The Commission has continued proposing strengthened climate change provisions in TSD chapters in ongoing trade negotiations (e.g. with Australia, Chile, Mercosur and New Zealand). The TSD chapter in the EU-Mercosur agreement in principle includes, for instance, a dedicated [article](#) on trade and climate change, reaffirming the commitment to implementing the UNFCCC and the Paris Agreement. On the other hand, for many environmental non-governmental organisations (NGOs) and international organisations (e.g. [International Union for Conservation of Nature](#)), the EU-

Mercosur agreement's climate provisions are insufficient. In 2021, the [EU-Japan Green Alliance](#) was launched, in which the parties committed to intensifying cooperation on non-discriminatory trade and investment in safe and sustainable low-carbon energy technologies. In the 2021 [Trade Policy Review](#), the Commission put forward climate neutrality as a goal for trade agreements with G20 members, and made compliance with the Paris Agreement an 'essential element' of FTAs.

While not explicitly mentioned as a separate action point, environmental provisions in trade agreements have gained prominence in recent years. In particular, trade agreements address biodiversity issues through provisions on sustainable forestry and fisheries. For example, the [EU-Japan](#) Economic Partnership Agreement and the [EU-Vietnam](#) trade agreement contain provisions recognising the role of trade in ensuring biological diversity.

### 13. Trade and labour

The Commission supported the inclusion in trade agreements of a widened number of labour-related themes, such as occupational safety and health, working conditions, labour inspection, access to remedy, and responsible supply chain management. CETA's trade and labour chapter was cited as a forerunner of this practice that the Commission hoped to expand to ongoing negotiations, for example, those with Indonesia, Mercosur and Mexico.

The [EU-Mercosur](#) agreement in principle includes such commitments on labour inspection and health and safety at work. The Commission has also put forward widened labour provisions in its draft texts for the [EU-Chile](#) and [EU-Indonesia](#) FTAs. Meanwhile, [Georgia](#), with which the EU has a DCFTA, adopted a new labour code in September 2020 that approximates to international standards and labour law.

## D. Transparency and communication

### 14. More transparency and better communication

Under action point 14, the Commission envisaged the wide publication of inter-governmental TSD bodies' agendas, minutes and meeting information, and to work together with the EESC to ensure better publication of DAG and CSF meeting agendas, minutes and results. The Commission committed to keeping the TSD website up-to-date with country- and region-specific information, and to brief the DAGs on average four times a year per trade agreement.

The Commission updates the dedicated [TSD website](#) with relevant information, in particular press releases about important events and activities. The Commission has also continued to hold [civil society meetings](#) allowing for real-time questions and answers on specific topics. There is no publicly available information on the annual number of Commission DAG meetings, however.

### 15. Time-bound response to TSD submissions

In the last action point, the Commission noted the need to have an efficient system to respond to TSD-related stakeholder submissions in a structured and transparent way within defined time limits. The Commission committed to acknowledging receipt within 15 working days and responding within two months with possible follow-up, although an exception is envisaged for complex cases.

In 2017, a group of European and Peruvian civil society organisations [complained](#) to the Commission about breaches by Peru of labour, environmental and human rights under the EU-Peru trade agreement. In 2019, in a response to the complaint, the Commission pointed to progress on a variety of issues, noting that a shared understanding with the Peruvian government on existing challenges had been reached. However, a coalition of European civil society organisations have [criticised](#) the EU response, specifically the lack of serious commitments from the Peruvian authorities to establishing objectives and indicators to monitor progress. In 2021, the Commission restated that it had [engaged](#) intensively with Peruvian civil society, and agreed with Peru on how to

put TSD implementation back on track. The Commission has accompanied the dialogue with [capacity-building activities](#).

The single entry point is likely to help in the facilitation of stakeholder feedback. The Commission has published [key criteria](#) for the prioritisation of issues, namely 'the likelihood of resolving the issue, the legal basis, and the economic/systemic impact for market access barriers, and the seriousness of TSD/GSP issues'.

## European Parliament position

The European Parliament has consistently advocated stronger enforcement and implementation of TSD commitments for years. In a 2010 [resolution](#) on human rights, social and environmental standards in international trade agreements, Parliament called for TSD dispute settlement to be brought onto an equal footing with the other parts of the agreement, with the possibility of fines or temporary suspension of trade benefits in the event of an aggravated breach. Following the Commission's non-paper on the 15-point action plan, Parliament's INTA committee organised a [workshop](#) on the future of sustainable development chapters in EU trade agreements in June 2018. On 15 October 2020, the INTA committee held an [exchange of views](#) with French and Dutch ministers on the France-Netherlands non-paper on sustainable trade, which notably proposed staged tariff reduction liberalisation for TSD implementation. Subsequently, INTA [discussed](#) the implementation and further development of the 15-point action plan with the Commission on 1 December 2020.

Most recently, in a 2021 [resolution](#) on trade-related aspects and implications of Covid-19, Parliament elaborated on its position on TSD. Parliament welcomed the incorporation of the Paris Agreement as an essential element in future trade, investment and partnership agreements. It stressed that ratification of ILO core conventions and respect for human rights are prerequisites for concluding trade agreements. Parliament called for the inclusion of animal welfare, fair trade and circular economy provisions in TSD chapters. Parliament also called on the Commission to speed up its review of the 15-point action plan in 2021 and implement the updates in ongoing negotiations, and expects the review to address enforceability issues. Parliament urged the Commission to consider further means of enforcement, such as unilateral sanctions as a last resort, the introduction of tariffs or quotas on certain products, or suspension of other parts of an agreement.

The call for stronger TSD enforcement was echoed in Parliament's June 2021 resolution on the trade-related aspects of the EU biodiversity strategy for 2030, which highlighted the need to include safeguards or the possibility of reintroducing tariffs. In March 2021, Parliament also adopted a [resolution](#) with recommendations to the Commission on corporate due diligence and corporate accountability.

In [presenting](#) its programme to the Parliament's INTA committee on 13 July 2021, the Slovenian Presidency of the Council commented on the enforceability of TSD chapters. In particular, the presidency noted that a system of economic counter-measures ('sanctions') could be envisaged under TSD chapters, which might include a 'carrot and stick' approach.

During the same meeting, Parliament's INTA committee held an exchange of views on the review of the 15-point action plan on TSD, where the Commission recalled that sustainability is at the core of EU trade policy as confirmed by the Trade Policy Review. For instance, in addition to TSD chapters in bilateral agreements, the EU is increasingly preparing autonomous measures – such as the carbon border adjustment mechanism and legislation on sustainable corporate governance – that seek to enhance sustainability in trade. The Commission also noted that the review would focus on issues such as scope, monitoring and enforcement, and question of remedies.

## Advisory committees

In an [own-initiative opinion](#) of October 2021, the European Economic and Social Committee welcomes the early review of the 15-point action plan, and expects it to overcome its limited and

'siloed' framework set up in 2018. TSD chapters which do not fully live up to their legally binding commitments leads the EESC to propose an ambitious review, featuring a revamped enforcement approach including possible sanctions and with stronger civil society monitoring, using innovative instruments and enhancing the leverage for TSD. This 'next generation TSD' must be an integral part of the EU trade strategy, applying to current and future negotiating mandates alike.

## Next steps

The Commission has requested a comparative study to identify TSD commitments and provisions in trade agreements of other countries, analyse their scope, and review the implementation and enforcement mechanisms in a bid to learn from third-country experience. An [open public consultation](#) to support the 15-point action plan review ended on 31 October 2021.

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