

New trends in trade and sustainable development: A revolution in the making?

*In early June, trade experts from government, academia, international organisations, and civil society met virtually at an LSE event to discuss new trends in the implementation and enforcement of trade and sustainable development provisions. **Jean-Baptiste Velut, Elitsa Garnizova and Riya Roy** from the LSE's Trade Policy Hub reflect on the discussion and the findings of an accompanying comparative study.*

All experts agree that there has been a constant evolution in trade and sustainable development provisions in free trade agreements. Recent developments in North America (the US-Mexico-Canada Agreement and its Rapid Response Mechanism) and Europe (EU free trade agreements, as well as those signed by European Free Trade Association (EFTA) countries) confirm that the scope, implementation and enforcement of trade and sustainability issues continue to be a learning process across the world.

The current discussions taking place around trade and sustainable development reform in the EU and elsewhere cannot be isolated from the wider geopolitical context. The war in Ukraine has already put its mark on the direction of reform. The trade and sustainable development agenda in the EU is an important aspect of its [Open, Sustainable and Assertive Trade Policy](#) and the need to ensure cooperation with trade partners and to strengthen linkages between the internal and external domains of policymaking.

The approach towards trade partners needs to be coherent and firmly grounded in international standards, not least since the dividing line between responsible trade and protectionism can be blurred. Moreover, the Covid-19 pandemic and the economic recovery are far from complete. Countries worldwide need all available resources to stimulate recovery and resources for implementation and enforcement can hardly be stretched further.

From theory to practice

In a [recent comparative study](#), we provide a comprehensive and critical review of different approaches to trade and sustainable development provisions in free trade agreements among a selection of non-EU countries. The aim of our study was to compare the scope, modalities and effects of each country's trade and sustainable development model. To accompany the study, we hosted a [virtual roundtable](#) on 8 June where trade experts discussed new trends in the implementation and enforcement of trade and sustainable development provisions.

One trend that is apparent in the countries we looked at is that the scope of trade and sustainable development provisions has gradually expanded for labour rights (e.g. references to migrant workers, the right to strike, protection against employment discrimination on the basis of sexual orientation or gender identity), environmental issues (e.g. biodiversity, forest governance, commitment to net neutrality) and human rights (e.g. indigenous rights).

With regard to labour provisions, while International Labour Organization (ILO) standards remain central in trade and labour linkages, some countries like Canada are seeking to extend labour provisions beyond the ILO framework, e.g. through the implementation of freedom of association rights or by extending the definition of forced labour. In addition, trade and sustainable development provisions in free trade agreements are no longer the main focus of trade and sustainability linkages, as civil society organisations are increasingly relying on alternative trade policy instruments to bypass the constraining terms of labour and environmental chapters.

One trade negotiator at the roundtable suggested that trade and sustainable development provisions might in fact be simply catching up with what is happening on the ground. In other words, trade policy is becoming less and less centred on free trade agreements, as witnessed by the proliferation of autonomous measures and sustainability initiatives in all countries, executive agreements, or '[mini-deals](#)' beside traditional free trade agreements.

Despite the expanding scope of trade and sustainable development provisions, several trade officials discussed the imperatives and the challenges of identifying and prioritising specific provisions to make implementation more cost-effective. This is not to say that there is a trade-off between scope and enforceability. However, budgetary constraints in the face of the rising number of trade agreements and the expanding sustainability agenda mean that trade agencies must tailor their trade and sustainable development strategy to each trading partner instead of holding on to an overly ambitious one-size-fits-all approach.

The road to inclusive trade policies

Engaging stakeholders across the board more effectively – whether international organisations, civil society organisations, private actors, parliaments, non-trade government agencies (e.g. labour, environment ministries), or embassies and High Commissions – remains a central objective for many trade officials concerned with sustainability issues, as illustrated by the current EU debates on the importance of civil society participation in implementation.

Transparent and inclusive implementation mechanisms not only help to ‘buy in’ stakeholders, as revealed by [a RESPECT study on the impact of ‘non-trade’ or trade and sustainable development provisions](#), but can also expand the pool of resources available for implementation. Several trade officials underlined the important role played by civil society and citizens in raising concerns and shaping the scope and implementation of trade and sustainable development provisions, whether this relates to the EFTA-Indonesia Comprehensive Economic Partnership Agreement’s clauses on sustainable palm oil in Switzerland, or Canada’s consultation of trade-and-gender and indigenous committees in the assessment of future free trade agreements.

Likewise, our study underlines the untapped potential of international organisations in monitoring not just labour but also environmental provisions. We stress the importance of stakeholder engagement at all stages of the trade policy process, not least the implementation and enforcement stages. Most trade experts concur that civil society organisations can play an important role in monitoring, not least with public submission processes for non-compliance. These mechanisms have been developed by the US, Canada and more recently by the EU with the [Single Entry Point](#), although the latter has been primarily used for complaints pertaining to trade barriers rather than sustainability issues.

An [EU-wide survey commissioned by the European Commission](#) revealed that there is strong support for strengthening the role of domestic advisory groups, a point that is likely to be part of the EU’s trade and sustainable development reform. Other questions raised during the discussion at the 8 June roundtable included the role that parliaments must play either at the pre-ratification stage (US) or in collective monitoring alongside trade and non-trade agencies as part of a whole-of-government approach to implementation (US, Canada, New Zealand).

Sanctions: the magic word?

Researchers and practitioners have long been divided on the use of trade sanctions. EU and EFTA officials posit that sanctions can undermine cooperation in trade and sustainable development enforcement. They tend to view sanction-based approaches as too intrusive for developing countries and, thus, hardly compatible with their conception of free trade agreements as equal partnerships.

By contrast, both US and Canadian negotiators argue that the potential use of sanctions acts as an incentive for countries to implement labour and environmental provisions and, thus, tends to foster, not deter cooperation. Interestingly, the EU has recently pointed to the possibility of adopting conditional sanctions within the framework of its action plan due to be released this month. In effect, this would build upon the introduction of rebalancing measures to enforce non-regression provisions in the EU-UK Trade and Cooperation Agreement.

The discussion at the 8 June roundtable went beyond the usual for-or-against trade sanctions debate in three notable ways. First, participants highlighted the prevalence of cooperation mechanisms in trade and sustainable development enforcement practices. Second, the discussion tackled the rise of firm-level enforcement and state-to-firm dispute settlements as witnessed in the United States-Mexico-Canada Agreement’s Rapid Response Mechanism or the EFTA-Indonesia Comprehensive Economic Partnership Agreement’s certification of sustainable oil. Third, participants discussed the extent to which enforcement mechanisms should be used in *demandeur* countries (e.g. the US and Canada in the United States-Mexico-Canada Agreement).

These lively exchanges revealed that the road toward the effective implementation and enforcement of trade and sustainable development provisions remains long and will require policy learning across governments and spheres of expertise.

This article draws on the authors’ [recent comparative study of Trade and Sustainable Development provisions commissioned by the EU’s DG Trade and conducted by LSE’s Trade Policy Hub](#).

Note: This article gives the views of the authors, not the position of EUROPP – European Politics and Policy or the London School of Economics. Featured image credit: [Kurt Cotoaga](#) on [Unsplash](#)
