

Trade and Sustainable Development Chapters in EU Trade agreements – How to make a real impact?

Summary of main messages

The conference on "Trade and Sustainable Development Chapters in EU Trade agreements – How to make a real impact?", co-organised by the European Commission (DG Trade) and the European Economic and Social Committee (EESC), took place at the EESC on 12 July with the participation of representatives of the EESC, the European Commission, members of the Domestic Advisory Groups under different free trade agreements and other stakeholders.

The main messages that were put forward by the participants during the conference were the following:

A timely moment for discussion

- The debate on implementation the sustainable development provisions in trade agreements has been launched at a timely moment, 6 years after the first new generation free trade agreement, i.e. the EU-Korea Free Trade Agreement which entered into force in 2011
- Today the civil society's expectations are high, with a big emphasis on the implementation of high social and environmental standards, not least as a result of the Paris Agreement, at a moment when traditional multilateral tools are perceived as less efficient
- It is a common responsibility to make sure that the Trade and Sustainable Development chapters, based on internationally agreed conventions and obligations for protection of social rights and the environment, can be effective and contribute to the improvement of workers' rights, the environmental protection, the fight against climate change, the strengthening of responsible business conduct, the promotion of fair trade practices and an increased trade in environmentally friendly goods in the EU and in the EU partner countries.

On the role of civil society

- Civil society plays a prominent role in the context of TSD chapters, which has to be considered as a very positive development: without the contribution of civil society sustainable results cannot be reached, and this applies equally to the partner countries
- For Domestic Advisory Groups (DAGs) in third countries the contacts with European DAGs often constitute the first experience of Europe. This civil society mechanism, currently foreseen in the TSD chapters of most of the trade agreements is the main, if not the only, space for the representation of European civil society in trade agreements vis-à-vis the co-signatory countries
- There is clear potential for free trade agreements (FTAs) signed by the EU to create space for civil society to discuss trade and sustainable development ; this also provides an important channel for dialogue, capacity building and cooperation with civil society from partner countries
- The FTAs are an incentive to promote universal values through market access, and the potential of the TSD mechanism is an expression of these values
- The civil society role in the TSD chapters has a strong potential for empowering CSOs in third countries, not least through exchanges of best practices with partner countries
- DAGs play a unique role in facilitating the involvement of different stakeholders, parliaments and governments from both sides in a two-way, structured dialogue with CSOs
- The contribution of the EESC – representing European civil society and providing both its members' participation and the secretariat for the DAGs – to the active involvement of civil society organisations in international relations is extremely valuable.

On the issue of sanctions related to non-compliance of sustainable development provisions

- The scope of the TSD chapter might be too broad to make sanctions a useful instrument
- It is possible to address issues of trade relevance under the chapter, but it would be difficult to put in place a system with sanctions that are based on factual, proven impact of trade
- With a system based on sanctions, there is a risk that the role of the civil society is diminished
- As it stands today, civil society is a trigger for actions when there are issues with trade relevance
- Incentives seem to be more constructive than sanctions.

Achievements

- The establishment of an institutional framework, both at government and at civil society level, for the monitoring of sustainable development
- The creation of platforms for dialogue between civil society organisations (CSO) in the EU and the partner countries, for exchange of good practices or delivery of joint projects
- An independent representation of CSOs in the DAGs
- A regular and rather focussed dialogue
- Discussions on sensitive issues with the aim of improving specific situations
- Increased awareness among CSOs in third countries on advocacy possibilities offered to them through DAG mechanisms
- Common projects, i.e. the EU-Korea Joint Project on ILO Convention 111 (non-discrimination in employment or occupation).

Shortcomings

- DAGs are working relatively well on the EU-side, but there is a mixed set of results achieved in the partner countries
- Lack of resources in the EU and in partner countries to tackle financial and organisational needs of the DAGs
- The lack of political will from some partner countries to create DAGs on their side
- The limited number of meetings of DAGs and in some cases the absence of joint meetings of EU and partner countries DAG, which allow them to have structured discussion on problems identified
- Insufficient transparency to outsiders as far as the agenda of the DAGs, the issues discussed and the outcomes of the meetings as well as the response of authorities to issues raised by civil society
- Insufficient use of monitoring and evaluation mechanisms foreseen in the agreements in order to tackle deficiencies already identified by the DAGs
- Lack of sufficient understanding of the TSD chapter by civil society, in particular in partner countries
- Overlapping competences for different civil society bodies established within the same agreement (the case of association agreements)
- Lack of balance in the representation of the three different interests required in the agreements (economic, labour, environment) in some third countries
- Lack of experience in some third-country governments when it comes to establishing representative CSO bodies
- Limited mandate of DAGs – they should be able to monitor the whole FTA, not only the TSD chapter.
- Unclear procedures on how to deal with complaints – lack of response from the European Commission and the partner countries' governments concerning the situation of labour rights.
- Lack of a clear procedure on the conditions or steps leading to launching the Government consultations. There should be a procedure or a threshold enabling the DAG and / or the Civil Society Forum (CSF) to effectively request the Parties to start that procedure

Experience to build on

Regarding TSD chapters (recommendations)

- Need to underline that the rationale of the chapter is to not lower standards on important issues like labour rights and environment; it is not possible to impose EU standards in the partner countries. There is a need to achieve a respectful and open debate between the EU and the counterpart and to stress the importance of linking trade to sustainable development as the respect of labour and environmental standards also guarantees a level playing field, in which both sides respect the same standards and where competition is not based on lowering those standards on one or the other side
- Need to realize that the expectations on the TSD chapters are high and justified, but they cannot be met immediately given the innovative nature of the TSD chapters and the important institutional and capacity building efforts that they require. It is also important to remember that the mechanism includes contacts with one or more partners. Sometimes it is necessary to negotiate, and there is a need to have a respectful dialogue with the counter partner in order to build up mutual long term trust
- Need to ensure capacity building and better promotion – both with partner countries and with local civil society – before the entry into force of new agreements, in order to encourage independent, representative organisations to take part, especially where the model of civil and social dialogue differs from the EU model
- Need to engage and foster local ownership of changes required by the implementation of the TSD chapters
- Need to establish an action plan for the implementation of TSD chapters with operational recommendations, short and long term priorities; roadmaps could be an idea to explore in this respect;
- Need to improve the implementation of TSD and to better use existing enforcement and monitoring mechanisms
- Need to introduce measurable targets in order to enable to monitor the commitments in the TSD chapters

Regarding DAGs (recommendations)

- Accept that DAGs are a new kind of body and that it takes time to understand how it shall function and how to build up its competence – it is a time demanding exercise with a huge learning curve, especially for third countries
- Recognise that sometimes different social and cultural systems in the EU and the partner countries, as well as a different perception of what civil society is, make the process laborious
- Improve preparatory work before the entry into force of new agreements, developing relations with key players that could become members of future DAGs; the EESC's preparatory meetings with Canadian, Japanese and Moroccan CSOs are clear examples of best practices here
- Elaborate guidelines to civil society in the EU and in the partner countries to help to understand the provisions of TSD chapters and the functioning of the DAGs
- Ensure a balanced representation of economic, labour and environmental organisations, and raise representation issues at an early stage
- Make clear that independency of DAGs is a key issue; it should be made clear that the DAGs cannot be formed by government-appointed members and there is also a need to be able to identify the counterpart DAG members and have access to their contact details
- Guarantee adequate financial and logistic support both for the EU and partner countries DAGs in order to allow them to ensure to fulfil their commitments
- Include joint meetings of DAGs in the institutional provisions of the agreement as they allow civil society to focus jointly on identified problems, work together and send joint recommendations to the parties..

- Improve functioning of EU DAGs in terms of in-advance planning of meeting, regular publication of agendas and outcome documents by the Secretariat and via improving DAG's relations with civil society organisations not represented in the DAGs both at EU level and in the Member States
- Ensure continued regular contacts between the EU DAGs and the European Parliament
- Ensure regular contacts and reporting on DAGs activities to EU Member States in order to improve transparency and visibility
- Facilitate joint work of EU and partner country DAGs via organisation of preparatory meetings by video conference as this would help to build trust and relations and to create a joint understanding on discussed matters, as well as to move forward on the cooperation agenda and preparation of joint meetings
- Involve the ILO and other relevant international organisations in the work of the DAGs and in the joint meetings
- Establish and keep interaction between DAGs and TSD Committees in order to maintain a dialogue between the governments and the civil society. Ensure a follow-up by the governments to the civil society recommendations; otherwise the DAG meetings seem to be a useless exercise
- Extend the monitoring function of CSOs to the whole agreement with trade relevance
- Avoid the multiplication of civil society bodies in association agreements; it would be preferable to give a strong mandate to one single body that would tackle all aspects of the association agreement/FTA, including the TSD chapter

FINAL COMMENTS

The achievements made so far constitute a valuable basis for further steps and improvements can be made. The good working relations between the EESC and the European Commission were underlined, and the cooperation concerning the DAGs can be further developed. The proposal made by the European Commission to start an inclusive stakeholder dialogue on the trade and sustainable development chapters was welcomed.