

# Trade and sustainable development in EU trade agreements: Review of current approach

Fields marked with \* are mandatory.

## Introduction

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The trade policy of the European Union (EU) aims to promote trade while fostering sustainability in its economic, social and environmental dimensions. The two objectives are complementary and mutually reinforcing. In February 2021, the European Commission Communication on the [Trade Policy Review – An Open, Sustainable and Assertive Trade Policy](#) (TPR Communication) placed the nexus between open trade and sustainability at the centre of the EU's trade policy strategy.

Since 2011, EU free trade agreements (FTAs) (with Canada, Central America, Colombia/Peru/Ecuador, Georgia, Japan, Korea, Moldova, Ukraine, Singapore, United Kingdom and Vietnam) include trade and sustainable development (TSD) chapters. These chapters commit the parties to respect international rules and standards related to labour rights and environmental protection, including climate. EU TSD chapters stand out as compared to other countries' TSD approaches for the breadth of their provisions and for their high level of ambition.

In February 2018, after a debate involving the European Parliament, Member States and other stakeholders, the European Commission's services published a [15-Point Action Plan](#) to guide the implementation and enforcement of the TSD chapters in EU FTAs.

As announced in the TPR Communication, the European Commission is currently conducting a review of the 15-Point Action Plan: *"The review will cover all relevant aspects of TSD implementation and enforcement, including the scope of commitments, monitoring mechanisms, the possibility of sanctions for non-compliance, the essential elements clause as well as the institutional set-up and resources required"*.

As an essential part of this review, and in line with the EU's commitment to engage in a transparent way with citizens and stakeholders, the European Commission is launching an open public consultation to gather input on the key TSD aspects of the review.

The European Commission values consultation and input from all stakeholders: European institutions and bodies, Member States, social partners, civil society organisations, industry representatives, international organizations and citizens. The responses received in the course of the public consultation will inform the review process and help the European Commission to formulate the direction of EU TSD policy for the future.

This consultation will be available as of **July 2021** in English, French and Spanish. Other EU languages will

be added as they become available.

Stakeholders are invited to provide their responses to the questions set out below **by 05 November 2021 (midnight)**.

Only questions marked with a red asterisk are mandatory. You may **interrupt your session at any time and continue answering at a later stage**. If you do so, **please remember to keep the link to your saved answers as this is the only way to access them**. Once you have submitted your answers online, you will be able to download a copy of the completed questionnaire.

For reasons of transparency and openness, **the European Commission will publish the received contributions and views on the Europa website**, directly as received and in the form of a summary report, or included in a wider policy document. The identity of respondents together with their contributions will be disclosed only with their consent.

In parallel to the open public consultation, the European Commission's services launched at the end of May 2021 an independent study with the aim to map and compare the different approaches to TSD adopted by a number of EU trade partners.

## About you

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### \* Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
- Irish
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish

- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

\* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

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Masuda

\* First name

Yuko

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masuda@jbce.org

\* Organisation name

*255 character(s) maximum*

Japan Business Council in Europe (JBCE)

\* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

## Transparency register number

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Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

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## \* Country of origin

Please add your country of origin, or that of your organisation.

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- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
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- Gibraltar
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- Greenland
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- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar/Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
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- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey

- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
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- Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- Turkmenistan
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- Tuvalu
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- Uruguay
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- Uzbekistan
- Vanuatu
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- Zimbabwe

The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association, 'consumer association', 'EU citizen') country of origin, organisation name and size, and its**

**transparency register number, are always published. Your e-mail address will never be published.**

Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

### \* **Contribution publication privacy settings**

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

**Anonymous**

Only organisation details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

**Public**

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

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## **Trade and sustainable development chapters in trade agreements**

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The FTAs concluded by the EU contribute to sustainable development by creating economic opportunities, including [better-paid jobs](#), promoting trade and investment in green goods and services, promoting sustainable technologies and processes, and fostering the efficient use and allocation of natural resources. The core aspects of TSD underpin the preferential trade relationships of the EU.

The EU TSD chapters aim at fostering the improvement of workers' rights and environmental protection and preventing potential negative impacts of trade and investment. To this end, the EU TSD chapters commit the parties, in particular, to respect the fundamental principles and rights at work, to the effective implementation of International Labour Organisation (ILO) conventions as well as environmental and climate agreements that they have ratified, and to make continued and sustained efforts to ratify all ILO fundamental conventions. In addition, the most recent TSD chapters include commitments on promoting decent working conditions and social dialogue as well as implementing occupational safety and health and maintaining effective labour inspection. The European Commission has also committed to make the respect of the Paris Agreement on Climate Change an essential element in all future trade agreements. Furthermore, TSD chapters include provisions preventing a "*race to the bottom*" as parties commit not to weaken domestic labour or environmental protection to attract trade and investment.

TSD chapters also promote the sustainable trade and management of natural resources (notably via combatting illegal logging and fishing) and the fight against illegal trade in threatened and endangered species of fauna and flora. They also encourage trade that supports tackling climate change and promote responsible business conduct and corporate social responsibility.

TSD chapters form part of a broader efforts towards sustainability. The EU engages at the multilateral level to attain the goals of the UN 2030 Agenda for Sustainable Development. In this regard, the EU and its Member States are actively participating in discussions and negotiations to improve labour conditions, notably at the ILO. They are also at the forefront of pledging for an increase in the ambition in the fight against environmental degradation and climate change (e.g. during the UN Biodiversity Conference (COP-15) and the Climate Change Conference (COP-26)). The EU is also actively promoting a global transition to circular economy, notably in the context of the Global Alliance on Circular Economy and Resource Efficiency launched in February 2021. The EU is also working to mainstream and reinforce work on trade and environment in the World Trade Organization.

Furthermore, the EU is stepping up its autonomous measures in the pursuit of sustainability objectives. With the adoption of the European Green Deal in December 2019, the EU set the objective to become the world's first *"climate-neutral bloc"* by 2050. To achieve this goal, an ambitious package of legislative initiatives is being rolled out, notably the ["Fit for 55" package](#). It includes among others the Carbon Border Adjustment Mechanism (CBAM) to address carbon leakage. In addition, the European Commission is preparing legislation on sustainable corporate governance to introduce mandatory and horizontal environmental, and human and labour rights due diligence requirements in the supply chains of EU companies as well as a proposal to avoid or minimise the placing of products associated with deforestation or forest degradation on the EU market and to promote forest-friendly imports and value chains.

**Question 1: The EU addresses sustainability challenges with cross-border implications in dedicated multilateral fora (e.g. on climate change and biological diversity) and via its autonomous measures (including legislative ones). Against this background, what should be the contribution of the EU trade policy to promote the transition to a greener, fairer and more sustainable economy? How should the implementation and enforcement of TSD chapters in FTAs complement and support the EU's multilateral and autonomous initiatives?**

## **Assessment of the implementation of the 15-Point TSD Action Plan**

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The 15-Point Action Plan of February 2018 reflects the outcome of the 2017/2018 public debate that pointed to the need to promote close long-term engagement with FTA partners and capacity building, on the one hand, while stepping up implementation monitoring efforts and enforcement of the existing commitments on the other hand.

Under this plan the European Commission pursued actions in four main areas: (1) Working together, (2) Enabling civil society and social partners to play their role in the implementation of TSD chapters, (3) Delivering results, and (4) Transparency and communication.

The implementation of the Action Plan has brought important results in many areas, not just, in terms of how we work with our partners but also in terms of progress on sustainability in partner countries. The European Commission publishes information on the implementation of the TSD chapters, including deliverables under the 15-Point Action Plan, as part of the [annual reporting on the implementation of FTAs](#). The most recent information will be available in the forthcoming 2021 Annual Report on Implementation and Enforcement. Expected date for its publication is second half of September 2021. As announced in the TPR Communication, further actions may be considered in the context of this review.

### **1) Working together: partnering with the European Parliament, Member States, and working with international organisations**

The European Commission has stepped up efforts to inform and coordinate actions with key partners, with the European Parliament notably via the INTA Committee, and with the Member States, notably through meetings of the Expert Group on trade and sustainable development. The European Commission has also continued to build on the well-established working relations with the ILO. The early implementation of TSD commitments under EU-Vietnam FTA showed how such cooperation could make a difference. The European Commission and the ILO also launched the *Trade for Decent Work* project in January 2019 to improve the implementation of the ILO fundamental conventions for example in Vietnam, Colombia, Ecuador and Peru.

**Question 2: What have been the main benefits of closer collaboration of the European Commission with the European Parliament, with the Member States, other relevant EU institutions and bodies and international organizations on the implementation and enforcement of TSD chapters? How should these partnerships be shaped going forward?**

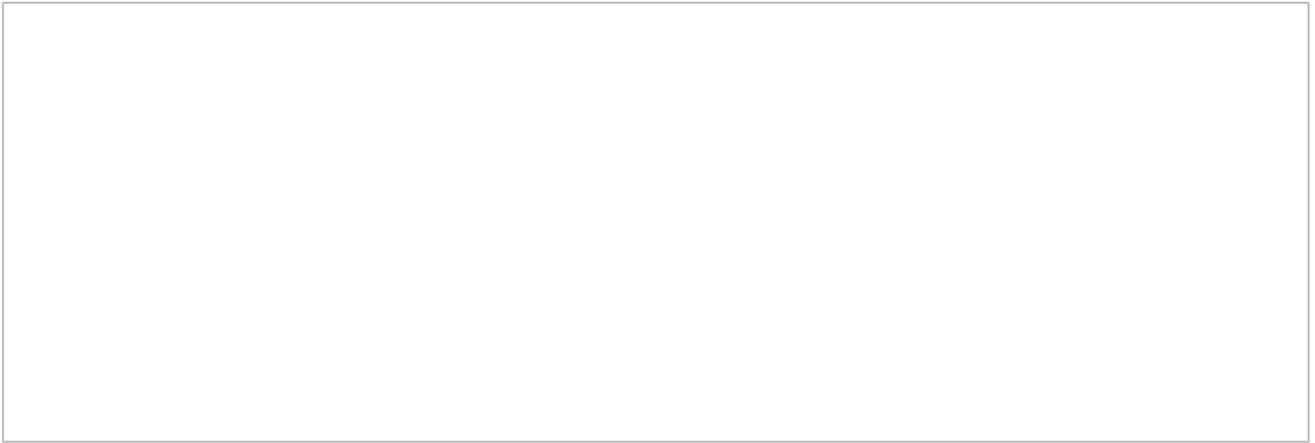


## **2) Enabling civil society and social partners to play their role in the implementation of TSD chapters**

The Domestic Advisory Groups (DAGs) are key actors for the monitoring of the implementation of TSD chapters. The European Commission participates regularly in the meetings of EU DAGs to update them on relevant developments and seek advice. To enable DAGs to perform their functions, the European Commission set up a project funded by the Partnership Instrument that allocates EUR 3 million until the end of 2022 to provide logistics and technical support to DAG members to attend meetings and set up workshops on relevant issues. This project benefits the EU DAG members but also DAGs of some trade partners .

To mobilise the business engagement and contribution to sustainable development, all recently concluded FTAs include provisions to promote and support the uptake of Corporate Social Responsibility/Responsible Business Conduct (CSR/RBC), building on international guidelines and principles. In January 2019, the Commission launched a EUR 9 million Partnership Instrument project on responsible business conduct with the ILO, the OECD and the Office of the United Nations High Commissioner for Human Rights (OHCHR) to enable outreach and capacity building activities in Latin America. This initiative complements the EUR 9 million Responsible Business Conduct Partnership Instrument project in Asia launched in early 2018 with the ILO and the OECD.

**Question 3: How do you see the role and contribution of DAGs and/or other representatives of employers, trade unions, environmental and other non-governmental organisations in the monitoring of the implementation of TSD chapters? How can they better contribute to the monitoring of the implementation of TSD chapters?**



### 3) Delivering results

- *Implementation of TSD chapters*

The identification of priorities per partner country has allowed the EU to pursue a more focused approach to the implementation of TSD chapters and produce better results. The European Commission regularly informs on its TSD activities and outcomes in the annual reports on the implementation of FTAs. A few examples below illustrate the results of the implementation of TSD chapters.

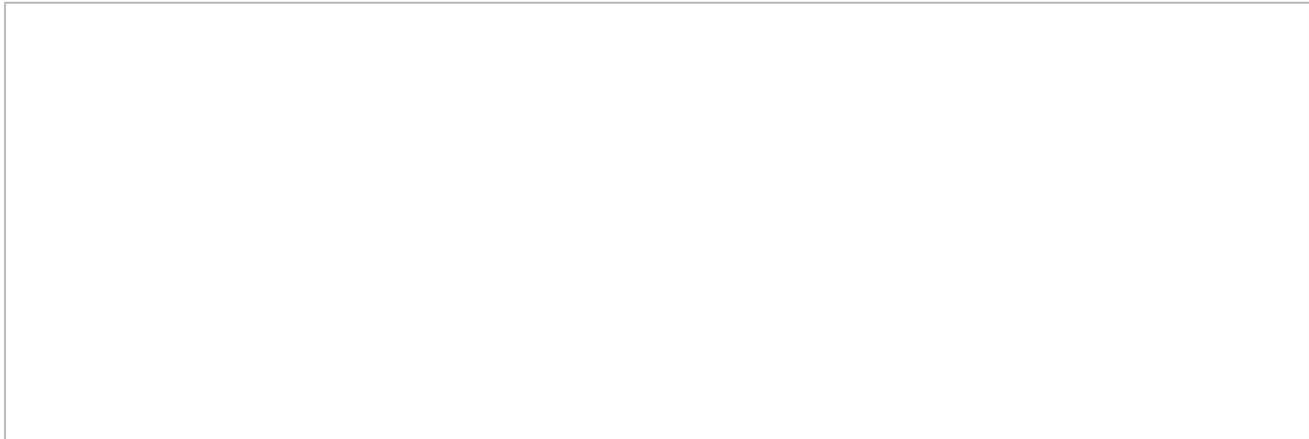
With Vietnam the EU has been engaging intensively in the promotion of core labour standards that resulted in far-reaching labour reforms including the ratification of two ILO fundamental conventions and adoption of a new Labour Code by Vietnam before the entry into force of the EU-Vietnam FTA.

The labour inspection capacity in FTA countries has also been a priority given that it is key for the effective implementation of labour rights. This was the key area of engagement with Georgia which led to the adoption and implementation of a new Labour Inspections Law. Another example is the ILO technical assistance project that the EU financed in 2019-2020 in Colombia with a view to improve labour inspection tools and train labour inspectors focusing on the needs of rural areas.

In the area of environment and climate, the European Commission has used the implementation of the Comprehensive Economic and Trade Agreement (CETA) with Canada to enhance the contribution of trade and investment to climate objectives. Based on the *Recommendation on Trade and Climate*, the CETA parties brought together stakeholders, including businesses, in particular small and medium sized enterprises and fostered regulatory discussions on green aspects. Also, an important increase of bilateral trade in environmental goods has been noted under CETA.

Development cooperation projects are important for successful implementation of the TSD chapters, and to ensure that regulatory and institutional capacity challenges in partner countries are addressed.

**Question 4: In the last years the EU has focused its implementation efforts on specific priorities/partner countries. What would you highlight as the main achievements and/or shortcomings and what improvements could be considered in this regard?**



## **Question 5: How can synergies between TSD implementation and development cooperation be further explored? What type of supporting measures for developing partner countries would be needed?**

The Japan Business Council in Europe (JBCE) welcomes this opportunity to provide feedback to the review of the 15-Point Action Plan on TSD Chapters. To note, the JBCE's input on this question is solely limited to the perspective of Responsible Business Conduct in trade and sustainability. Below, please find JBCE's input on question 5 of this consultation.

**A5 – How can synergies between TSD implementation and development cooperation be further explored?**  
The trade agreements and TSD chapter must deliver inclusive economic growth, and promote sustainable business behaviour in direct trade relations, including with third countries. Furthermore, JBCE believes that dialogue and engagement with stakeholders is the best solution for driving collaboration across different cultures and systems, in order to create value for business and society. To enhance development cooperation, we find have the opinion that the EU governments and associated partner countries must together lead a stronger action-oriented multi-stakeholder collaborative approach, and provide infrastructure and incentives for companies to promote practical collaboration on the ground with international organisations. JBCE believes that conducting dialogue amongst business, government and stakeholders is an important tool in fostering RBC. The implementation of TSD provisions must be based on best practices, and on a sound impact assessment.

**A5 – What type of supporting measures for developing partner countries would be needed?**  
The EU and its associated partner countries must act in closing the governance gap between countries and regions, in order to address fundamental issues and create an environment in which companies are encouraged to nurture responsible supply chains. Supporting measures such as training and capacity building are necessary in order to ensure effective governance across developed and developing countries.

In closing, the JBCE wishes with the TSD revision, there is an opportunity to build better relations with countries that uphold the same values. An opportunity remains to explore further synergies between TSD implementation and development cooperation, and to introduce impactful supporting measures for developing countries. JBCE is following with interest this review of the 15-Point Action Plan and welcomes the future opportunity to participate, along with other industry and stakeholders, in fostering sustainable development, and in developing appropriate solutions to issues that may arise.

- *Enforcement of TSD chapters*

The enforceability of the commitments in TSD chapters featured prominently in the 2017/2018 debate. Stakeholders expressed varied views on effectiveness of different approaches to enforcement but the majority considered the existing dedicated dispute resolution mechanism (for TSD chapters in EU FTAs) to be adequate to meet objectives of the broad TSD provisions and bring the required expertise including from the relevant international organisations. Given the broad and ambitious set of TSD provisions in EU FTAs, effective compliance can be hampered by a mix of political, social, development and economic issues.

Notably in case of FTA partners with developing status, shortcomings often result from a lack of regulatory and administrative capacity to enforce labour and environmental laws. Overcoming these issues to achieve change on the ground requires long-term and in-depth engagement with partners, based on a relationship of trust and supported by development cooperation.

In addition to stepping up implementation efforts, the European Commission has since the adoption of the 15-Point Action Plan taken a more assertive stance on enforcement. This includes the [dispute settlement case initiated in 2018 on the non-compliance by Korea with labour commitments under the TSD chapter of the EU-Korea FTA](#). The case has prompted Korea to ratify three out of the four ILO fundamental conventions that it had not ratified and to amend its domestic trade union legislation to bring it into compliance with international standards.

The appointment of the Chief Trade Enforcement Officer (CTEO), and the establishment within DG Trade of the [European Commission's Single Entry Point \(SEP\) for complaints](#) in 2020, have further strengthened the EU's capacity to enforce TSD commitments.

**Question 6: In view of the objectives and the broad scope of the provisions of TSD chapters of EU FTAs, how do you evaluate the suitability and effectiveness of the current dedicated dispute settlement mechanism for TSD?**

**Question 7: The European Commission has created the Chief Trade Enforcement Officer and the Single Entry Point in 2020. What in your opinion is their distinct contribution to the implementation and enforcement of the EU's TSD chapters?**

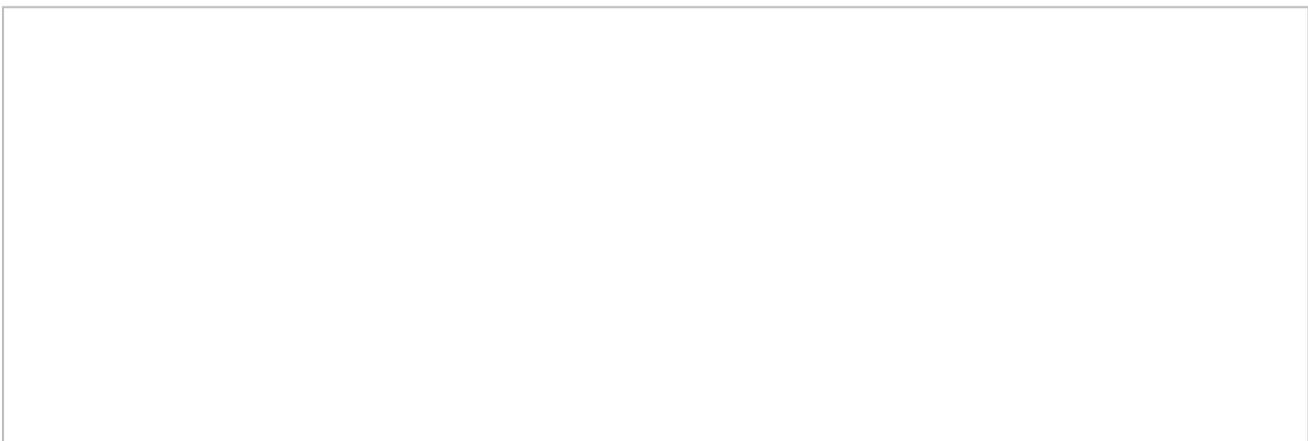


#### **4) Improving communication and transparency**

Clear communication and transparency is key in TSD implementation. The European Commission is fully committed to ensure that civil society stakeholders are fully informed on the implementation and enforcement of TSD chapters. A key deliverable for this is the [publication of minutes and reports of the meetings set up under the FTAs institutional arrangements to monitor progress on implementation](#).

The European Commission is also committed to treat input received from civil society in a transparent way. For instance, following the first ever complaint from civil society (received in October 2017) with allegations of non-compliance with TSD commitments by Peru, the Commission engaged intensively with the Peruvian authorities and with civil society representatives in the EU and in Peru. Information about the agreement reached with Peru on how to address the implementation challenges was shared with civil society.

**Question 8: Is the level of transparency and available information on the implementation and enforcement of TSD chapters sufficient for civil society to follow and to contribute to these processes? Where do you see gaps? Do you have suggestions to address them?**



### **Potential additional elements for future TSD policy**

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#### **Enforcement tools**

Given the broad scope and ambitious set of TSD provisions in EU FTAs, their effective implementation /compliance requires long-term and in-depth engagement with partners, based on a relationship of trust and supported by cooperation, in particular with developing FTA partners. This has been the EU's approach so far.

In this context, the question arises whether the introduction of remedies (including the withdrawal of trade concessions) under TSD enforcement would be effective to complement this approach when addressing violations of TSD commitments and whether it would affect the EU capacity to negotiate the broad commitments and ambitious objectives that characterise the current TSD chapters.

A comparative study running in parallel to this open public consultation should identify and analyse the practices of other countries.

In addition to TSD chapters, the EU pursues sustainability via multilateral agreements, and through autonomous legislative initiatives. Therefore, a reflection on how to ensure that FTA partners comply with sustainability commitments should also focus on how these different strands complement each other.

**Question 9: Do you think EU TSD chapters need additional remedies to ensure enforcement? If so, what type of remedies would be effective in contributing to sustainable development? Would there be a need for a targeted approach (i.e. adapted to the nature of commitments or for specific sustainability priorities)?**

**Question 10: Do you see any disadvantages with the introduction of additional remedies for the enforcement of TSD chapters, including their impact on the cooperation and engagement on the ground?**

**Question 11: Are there remedies used by other countries that you think should be considered?**

**Green agenda**

The TPR Communication calls for trade policy to become a pillar of the EU green agenda and proposes concrete steps to take this forward, including by promoting climate and sustainability considerations in the WTO, seeking climate neutrality commitments from G20 partners, and making the respect of the Paris Agreement on Climate Change an essential element in all future agreements. The TPR Communication also highlights other aspects of the European Green Deal such as biodiversity - the European Commission has developed a new methodology for assessing the impacts of trade liberalisation on biodiversity and ecosystems, which will contribute to further improve the sustainability impact assessments and ex-post evaluations of the EU trade agreements - and circular economy, and the important role of the implementation and enforcement of TSD chapters to support the green transition and promote responsible and sustainable value chains. The review will explore how to make this contribution the most effective.

**Question 12: Are there any key additional environmental or climate commitments that should be covered by TSD chapters? What areas should the EU prioritise in TSD implementation, and what actions do you think should be pursued to make progress on those priorities?**

**Decent work agenda**

The promotion of respect for core human and labour rights, as reflected in the fundamental conventions of the ILO, is a key part of TSD chapters, reflecting EU priorities like zero tolerance for child labour.

The EU is also strengthening labour provisions in the most recent trade agreements to reflect the Decent Work Agenda by including commitments beyond the ILO core labour standards covering working conditions, social dialogue, labour inspection and health and safety at work. The EU has also proposed gender commitments in recent negotiations.

**Question 13: Are there any key additional labour rights that should be covered by TSD chapters? What areas should the EU prioritise in TSD implementation, and what actions do you think should be pursued to make progress on those priorities?**

### **Post COVID-19 economic recovery**

The COVID-19 pandemic and global health and economic crisis that followed have had important social impacts felt severely in some of the most vulnerable FTA partners. It has also highlighted the need to enhance resilience of supply chains. As the EU works on promoting a fairer and greener recovery for a sustainable and more resilient economy, there is an opportunity to reflect how the TSD chapters of the EU trade agreements could contribute to this process.

**Question 14: How can the implementation of EU TSD chapters contribute to a greener, socially just and more resilient post-Covid-19 global economic recovery? What areas should the EU prioritise in TSD implementation and what actions do you think should be pursued to make progress on those priorities?**

## Additional topics

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**Question 15: Are there any other important topics not covered by the questions above that the TSD review should address?**

If you would like to upload any documents (such as position papers), please do so here.

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### Contact

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