



Internationaal

From Negotiation to Implementation

How Parliamentarians can drive Sustainable Trade Practices

May 2024



Introduction

The European Union (EU) is one of the world's largest trading blocs. Its comprehensive trade policy shapes its economic interactions with both developed and developing nations. Sustainable development and civil society participation are part of the EU free trade agreements to foster economic development. This paper aims to provide a brief insight into the role the European Parliament and parliaments in EU Member States can play in shaping development through international trade.

EU Trade Policy: Foundation and Objectives

The EU's exclusive competence over trade matters is shaped through the Common Commercial Policy (CCP), which results in a wide range of trade agreements with countries and regions around the world. These agreements vary in scope and depth, covering aspects such as tariffs, trade in goods and services, investment, intellectual property rights, and regulatory cooperation.

The EU has negotiated Free Trade Agreements with several countries and regions worldwide, including Canada (Comprehensive Economic and Trade Agreement, CETA), Japan, South Korea, Singapore, and Vietnam. These agreements aim to reduce or eliminate tariffs and other barriers to trade in goods and services and promote investment and regulatory cooperation. Since 2011, with the EU–Korea trade agreement, all new-generation EU trade agreements have to contain a chapter on trade and sustainable development (TSD), which refers to labour and environmental standards that should be respected by the parties.

What role can (national) parliaments play?

Trade is an exclusive competence of the EU, but the trade flows impact its member states, including the Netherlands. The Council of the European Union (Member States) decides if negotiations can be opened. The final negotiated text of a free trade agreement must be approved by both the Council and the European Parliament. At the same time, a number of instruments (e.g. CETA, Association Agreements with the Andean Countries and Central America) have a broader scope beyond just trade, and these so-called mixed agreements require ratification of all EU Member States.

Beyond the formal role at the beginning of the negotiations, with the agreement of the negotiating directives and the final adoption, Member States can shape the negotiations through regular exchanges in which the Commission informs and consults the Council. Also, the European Parliament is increasingly influential as they are equally informed (but not consulted). The European Parliament can, however, signal key priorities throughout the negotiations by adopting resolutions, asking questions, and having exchanges, in which they can indicate what they like or would not like to see in the final text before finally having to adopt the agreement.

The role of national parliaments is, however, different. Since 2018, the Commission, with the support of the Council, has preferred a strategy of separating the trade and investment components from other issues such as for example political cooperation (a technique called splitting). However, this may not always be possible in practice. If a mixed agreement is envisaged, national parliaments can play a bigger role in shaping (or blocking) trade agreements (examples include CETA, TTIP, and the Association Agreements with Central America and the Andean countries) as individual member states will have to ratify with national procedures (e.g. referenda). In the case of pure Free Trade Agreements, the role of national parliaments is limited to an indirect influence on their government and their position within the Council. For example, during the CETA negotiations, the Dutch Senate (Eerste Kamer) was very critical and asked for guarantees on the commitments in the sustainability chapters. They influenced the Dutch government to take position. This resulted in a push for a strong Single Entry Point, the complaint mechanism for the enforcement of EU trade agreements and its sustainability commitments.

Agreements under negotiation

The EU is currently negotiating with a host of countries, from the Mercosur Agreement based on a 25-year-old mandate, to the recently initiated Critical Raw Material Agreement. An updated list of bilateral agreements can be found on the [Commission's website](#). For CNV Internationaal, the negotiations with Indonesia (CEPA) are of particular interest.

In 2016, negotiations started between the European Commission and the Indonesian government after the suspension of trade talks with the ASEAN. However, after the start of the negotiations (and thus after the original impact assessment) the Indonesian parliament adopted the deeply controversial Omnibus law, which includes the Job Creation Law. The new law has been controversial since its first introduction in 2020 as it reduces the role of trade unions in setting minimum wages and significantly weakens workers' rights perspectives on a permanent contract, decent wages and the ability to join a union.

The Omnibus law is incompatible with core ILO conventions, especially those related to Freedom of Association. Therefore, Indonesia is currently under review by the Committee on the Application of Standards of the ILO, the tripartite UN International Labour Organisation. It is, therefore, a question to what extent Indonesia and the EU are committing in good faith to strengthen international labour rights when Indonesia is taking an opposite course with the continued application of the Omnibus Law. [European and Indonesian trade unions have expressed their concerns](#). Given that this would undermine any future TSD chapter, the Unions call upon the Indonesian government to respect and ratify ILO conventions before further negotiations.

Sustainable Development in EU Trade

Since the 2011 EU–Korea trade agreement, all negotiations have started with Sustainability Impact Assessments and the final trade agreements contain a chapter on Trade and Sustainable development (TSD), which refers to labour and environmental standards that the parties should respect. The TSD chapter also establishes civil society mechanisms to follow up on, give advice about and monitor the commitments made in this chapter: a Domestic Advisory Group (DAG) consisting of a business, trade union and NGO caucus for each party, and an annual transnational civil society meeting.



Trade and Sustainable Development Chapters

These TSD chapters signal the EU and trading partners' commitment to sustainable development, help prevent unfair competition on labour and environmental standards for EU-based producers, and assuage criticism of trade policy. All TSD chapters follow a similar blueprint, which has evolved considerably over time, and unlike the sections on tariffs or protection of intellectual property, these are often framed more generally. These chapters typically contain provisions aimed at promoting:

- **Environmental Protection:** EU trade agreements often include commitments to uphold environmental standards and combat deforestation, pollution, and climate change. This may involve provisions on sustainable resource management, biodiversity conservation, and promoting renewable energy.
- **Labour Rights:** The EU seeks to ensure that its trade partners respect fundamental labour rights, including the right to collective bargaining, safe working conditions, and the prohibition of child and forced labour. Trade agreements include references to the ILO Fundamental Principles and Rights at Work, including freedom of association, collective bargaining, forced labour and non-discrimination set by organisations such as the International Labour Organisation (ILO), while some go further.
- **Gender:** Recently, EU trade policy and agreements have begun to include explicit references to Gender, for example, by making visible the gendered impacts in Sustainable Impact Assessments and ex-post evaluations. This has culminated in including a dedicated chapter on trade and gender equality in the agreement with Chili.

Members of the (European) Parliament can advocate for these TSD chapters to be as precise and operational as possible. Where relevant, they should be accompanied by mutually agreed-upon, public, and time-bound roadmaps specifying how the objectives of the TSD chapters will be met.

Case in point: *how trade agreements can foster sustainable development*

As part of the EU - Vietnam Free Trade Agreements, Vietnam has committed to all fundamental ILO conventions by ratifying the collective bargaining convention and committing to a detailed concrete roadmap to ratify two outstanding conventions on forced labour and freedom of association and implementing the labour law. The roadmap, which was a demand from the parliament, contains a list of precise measures that must be implemented according to a mutually agreed time schedule, thus providing a strong instrument for detailed monitoring. However, in 2024, Vietnam still had a number of outstanding issues, including the ratification of the Convention on Freedom of Association, which it committed by 2023.

Domestic Advisory Groups

Next to the TSD chapter, the so-called new generation of Free Trade Agreements establishes civil society mechanisms to follow up on, give advice about and monitor the commitments made: a domestic advisory group (DAG) for each party and an annual transnational civil society meeting. The former is a closed, membership-based mechanism, while the latter is open for all interested parties. Unfortunately, the EU does not structurally involve civil society in the negotiations of a Free trade Agreement, thus missing an opportunity to include this expertise in tailoring the TSD chapter.

DAGs have been established under agreements with the Andean Community (Colombia, Ecuador, Peru), Canada, Central America (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama), Georgia, Japan, Korea, Moldova, Singapore, United Kingdom, Ukraine, and Vietnam.

The specific provisions establishing DAGs vary as not all agreements stipulate that DAG members should be independent, and some foresee that existing domestic mechanisms can be used as DAGs. Also, differences exist on whether DAGs may submit recommendations and whether they will be informed of the results. Unlike other parts of the agreements, they rely on dialogue between civil societies and governments and a soft dispute settlement mechanism that does not provide sanctions.

Recent developments

In recent years, the debate on strengthening the TSD chapters and DAGs has intensified. In 2018, Commission services published a non-paper on the TSD chapters containing a list of 15 actions intended to strengthen the TSD—including an extension of DAGs' monitoring mandate to the entire FTA.

More recently, in 2022, the European Commission published a communication on “The power of trade partnerships”, which sets out a new approach to strengthen the implementation and enforcement of those commitments. The new approach is based on six priorities.





- More active cooperation with trade partners, including through technical and financial assistance, to assist them in meeting the sustainability requirements;
- Applying a country-specific targeted approach and setting implementation priorities, including through implementation roadmaps with timelines and milestones;
- Mainstreaming sustainability beyond TSD chapters by prioritising market access for environmental goods and services and assessing the sustainability impacts of all relevant chapters of trade agreements;
- Collective monitoring of the implementation of TSD commitments, including through the Single Entry Point (SEP) and the Chief Trade Enforcement Officer (CTEO);
- Enhanced civil society engagement, including through inclusive consultation processes, strengthening and expanding the role of EU Domestic Advisory Groups (DAGs) beyond TSD provisions;
- Strengthened enforcement of TSD commitments by extending the general state-to-state dispute settlement mechanism, including its remedies, to TSD chapters and imposing trade sanctions in case of non-compliance.

Members of (European) Parliament can actively monitor the alignment with this new strategy.

See also:

- [The Non-paper: Strengthening and Improving the Functioning of EU Trade Domestic Advisory Groups](https://cnvinternationaal.nl/dag) (cnvinternationaal.nl/dag)
- CNV Internationaal's position on the new TSD review: [Afspraken over arbeidsrechten in handelsakkoorden moeten beter nagekomen worden](#)

In May 2022, CNV Internationaal [filed the first CSO complaint to the Single Entry Point \(SEP\)](#) on behalf of trade union organisations from Colombia and Peru, to address an alleged violation of specific TSD chapters of the Trade Agreement between the European Union, Colombia and Peru. Drawing extensively on the relevant International Labour Organisation (ILO) Conventions that have been ratified by Peru and Colombia as well as the relevant reports and recommendations of the ILO Committee on Freedom of Association (CFA), CNV Internationaal raised issues in law and practice in the mining sector related to fundamental labour rights, freedom of association and the right to equality. In 2024, the Commission and Peru launched a high-level list of agreed activities with Peru.



What CNV Internationaal wants

1. **Transparency:** CNV Internationaal calls for all EU trade agreements to be negotiated through transparent, democratic and inclusive processes, with a role for trade unions in the EU and partner countries. Such inclusion should already start at the negotiation phase and extend to the monitoring and evaluation of the agreement. Furthermore, the role of the DAGs should also be strengthened.
2. **Insight into effects of trade agreements on human rights:** Human Rights Impact Assessments should be updated when the situation of the negotiating partner changes, like in the case of Indonesia and its Job Creation Law.
3. **Update the existing agreements:** The new EU policy to incorporate sanctions on labour and environmental standards is welcome. However, existing agreements should be modernised to live up to this standard, and the litmus test will be the agreements with Central America and the Andean countries.
4. **Ensure labour rights:** Ratification and implementation of ILO Core Labour Standards and compliance with up-to-date conventions and instruments must be a precondition for entering into negotiations.
5. **Effective implementation:** The EU must strengthen implementation, investigate labour rights violations effectively, and guarantee redress and access to justice for victims. If a partner country has deficiencies, it must demonstrate how these will be corrected through a binding and enforceable roadmap.

Contact

Anne Wehkamp | Strategic Policy Advisor | a.wehkamp@cnvinternationaal.nl | + 31 6 835 94 085

Who we are and what we do

CNV Internationaal, for 100% fair work

100% Fair work, that is what CNV Internationaal is working for every day in Africa, Asia and Latin America. We do this by working together closely with local partner trade unions and by investing in good cooperation with other partners, such as companies and governments. Fair work means that people can work safely and in all freedom, earning a living wage. Freedom of association and social dialogue are important conditions for achieving this.

100% Fair Work means that women and young people have the same opportunities on the labour market as everyone else: no discrimination in working conditions, on wages, etc.

100% Fair Work also entails that we investigate the safety, health and freedom of workers. For this, CNV Internationaal and its partner trade unions make use of innovative tools such as accessible, digital surveys. To know exactly what is going on with workers strengthens our position at the negotiating tables. Moreover, it enables us to measure improvements and the impact of our work.



CNV Internationaal

Postbus 2475, 3500 GL
Utrecht Tiberdreef 4, 3561 GG
Utrecht

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