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COM(2022) 409 final/2

#### **CORRIGENDUM**

This document corrects document COM(2022) 409 final of 22.6.2022.

Concerns the English language version.

Correction of footnote 9 on page 2.

The footnote mistakenly referred to the “elimination of non-discrimination in respect of employment and occupation”.

The text shall read as follows:

### **COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**The power of trade partnerships: together for green and just economic growth**

## 1. INTRODUCTION

**The EU is strongly committed to ensuring that its trade agreements foster sustainability**, so that economic growth goes together with the protection of human rights, decent work, the climate and the environment, in full adherence with the Union's values and priorities. In the current geopolitical context, marked by heightened instability, the EU must increase its engagement with third countries as a reliable partner. The EU's trade policy provides for a solid framework to cooperate with trading partners on trade-related sustainability issues. This approach is based on international labour and environmental rules through structured and transparent processes, with the involvement of civil society.

**This Communication sets out how to further enhance the contribution of trade agreements to sustainable development.** All modern EU trade agreements already include Trade and Sustainable Development (TSD) chapters. Since 2018, the 15-Point Action Plan has guided their enhanced implementation and enforcement.<sup>1</sup> In June 2021, the Commission launched **an in-depth review** with the objective of **strengthening the ability of trade agreements as a whole** – and not just their TSD chapters – **to champion sustainable trade, in cooperation with trade partners and in concert with other relevant EU policy instruments, including the European Green Deal**<sup>2,3</sup>.

As part of the review, the Commission requested an **independent comparative study** on TSD practices in third countries' trade agreements, which confirmed the EU as one of the pioneers and key front-runners in promoting sustainability via its trade agreements.<sup>4</sup> Additionally, in order to gather input from the widest possible range of citizens and stakeholders, the Commission conducted an **open public consultation**, which gathered numerous contributions from business and trade unions to environmental and human rights groups and social partners.<sup>5</sup> This was accompanied by an extensive exchange of views with Member States, the European Parliament and the European Economic and Social Committee.

Based on the inputs and recommendations received throughout the TSD review process, the Commission has identified a set of **policy priorities** and **key action points**, which will further enhance the effectiveness of the current engagement-based approach to TSD, grounded in the international framework and standards, with stronger enforcement rules. The new approach set out below includes a fully-fledged compliance stage and the use of trade sanctions in specific and well-defined cases.

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<sup>1</sup> Commission Services' non-paper 'Feedback and way forward on improving the implementation and enforcement of Trade and Sustainable Development chapters in EU Free Trade Agreements'. The 15-Point Action Plan includes actions to make the implementation of TSD chapters more effective and to improve their enforcement under four headings: (i) working together; (ii) enabling and civil society including the social partners to play a greater role in implementation; (iii) delivering; and (iv) transparency and communication. It is available at [https://trade.ec.europa.eu/doclib/docs/2018/february/tradoc\\_156618.pdf](https://trade.ec.europa.eu/doclib/docs/2018/february/tradoc_156618.pdf)

<sup>2</sup> COM(2019) 640, available at [https://eur-lex.europa.eu/resource.html?uri=cellar:b828d165-1c22-11ea-8c1f-01aa75ed71a1.0002.02/DOC\\_1&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:b828d165-1c22-11ea-8c1f-01aa75ed71a1.0002.02/DOC_1&format=PDF)

<sup>3</sup> See [https://policy.trade.ec.europa.eu/development-and-sustainability/sustainable-development/sustainable-development-eu-trade-agreements\\_en](https://policy.trade.ec.europa.eu/development-and-sustainability/sustainable-development/sustainable-development-eu-trade-agreements_en)

<sup>4</sup> Velut, J. *et al.*, *Comparative Analysis of Trade and Sustainable Development Provisions in Free Trade Agreements*, LSE Consulting, London, 2022, available at: [https://trade.ec.europa.eu/doclib/docs/2022/february/tradoc\\_160043.pdf](https://trade.ec.europa.eu/doclib/docs/2022/february/tradoc_160043.pdf)

<sup>5</sup> See [https://policy.trade.ec.europa.eu/consultations/open-public-consultation-trade-and-sustainable-development-tds-review\\_en](https://policy.trade.ec.europa.eu/consultations/open-public-consultation-trade-and-sustainable-development-tds-review_en)

## 2. HOW EU TRADE AGREEMENTS CONTRIBUTE TO THE SUSTAINABLE DEVELOPMENT AGENDA

**Trade agreements are an important driver for sustainable growth both in the EU and in partner countries.** An active trade agenda is crucial for Europe's economic prosperity and competitiveness. Trade agreements help create jobs, expand markets and boost economic growth and innovation.<sup>6</sup> By removing market access barriers, they also lower costs and facilitate the uptake and deployment of climate-friendly technologies, and associated goods and services that help reduce greenhouse gas emissions worldwide and adapt to a changing climate. Trade agreements also help secure supplies of the necessary raw materials, including those used in low-carbon technologies. At the same time, global trade may also have an impact on climate, biodiversity or working conditions. To ensure the positive effects of open trade, trade liberalisation and promotion of international labour standards as well as decisive climate and environmental action must go hand-in-hand. As instruments of privileged partnership, trade agreements provide a platform for policy dialogue and cooperation on sustainability with partner countries. This is vital because only global cooperation can address global challenges.

The **Trade Policy Review** has made the support for the green and just transition one of the pillars of the EU's trade policy along with openness and assertiveness.<sup>7</sup> This is in line with the **European Green Deal** and the **Decent Work Worldwide Communication**,<sup>8</sup> which put sustainable development at the heart of the EU's policymaking and action. Sustainable development priorities and objectives have been mainstreamed into all EU policies in accordance with the **United Nations' 2030 Agenda** and its **17 Sustainable Development Goals**, the **Paris Agreement on Climate Change**, and other **multilateral agreements for the protection of the environment and labour standards**. These multilateral agreements and conventions have become the global framework for international cooperation and action on sustainable development, and serve as a compass for sustainable development commitments in EU trade agreements too.

The EU's value-based approach to TSD seeks broader **commitments from partner countries than those in trade agreements of other international players**. Notably, TSD chapters of EU trade agreements require the **effective implementation** of the International Labour Organization (ILO) conventions and the Multilateral Environmental Agreements (MEAs) that each party has ratified, such as the Paris Agreement on Climate Change and the Convention on Biological Diversity.

TSD chapters in EU trade agreements also require the **respect of the core ILO principles** as set out in the 1998 ILO Declaration on Fundamental Principles and Rights at Work.<sup>9</sup> In this regard, the Commission welcomes the work of the ILO and its membership to strengthen and

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<sup>6</sup> EU exports support 38 million jobs (up two-thirds from 2000) and the importance of trade to generate prosperity for EU citizens will further increase in the future with 86% of global growth expected to be generated outside the EU by 2026.

<sup>7</sup> COM(2021) 66, available at [https://trade.ec.europa.eu/doclib/docs/2021/february/tradoc\\_159438.pdf](https://trade.ec.europa.eu/doclib/docs/2021/february/tradoc_159438.pdf)

<sup>8</sup> COM(2022) 66, available at [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_1187](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_1187)

<sup>9</sup> Namely: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation. On 10 June 2022, the ILO has amended the 1998 Declaration and added a new principle on occupational safety and health to the list of fundamental principles.

expand such core principles, most recently a decision to include occupational safety and health, and considers that the TSD chapters should also appropriately reflect such developments.

TSD chapters also **promote the ratification of the unratified fundamental ILO Conventions** and have a **broad range of commitments and cooperation provisions** on issues such as labour rights, social dialogue, decent working conditions including labour inspection, sustainable management of natural resources, forestry, fisheries, aquaculture, ocean governance and the promotion of responsible business conduct.<sup>10</sup> EU trade agreements now also promote cooperation to encourage the shift to a circular and resource-efficient economy or deforestation-free supply chains, and foster international environmental governance. Recent EU trade agreements also contain provisions regarding the relevant UN and ILO conventions advancing **women's economic empowerment and gender equality**, including promoting cooperation in international fora to advance these objectives, for example in the WTO.

#### *Interaction with other policy tools*

EU trade agreements are not standalone instruments for the promotion and enhancement of the Union's sustainability agenda with third countries. The TSD commitments included therein work hand-in-hand with a **wider set of policy instruments, multilateral efforts and development cooperation tools** in an all-encompassing approach. Together with EU autonomous instruments, they help make the most of the positive impacts of trade on sustainable development and ensure that, conversely, negative impacts are contained.

By the end of the current Commission's mandate, the EU is expected to have an **ambitious set of additional autonomous instruments to support sustainable trade**. In 2021, the Commission put forward a proposal to establish a carbon border adjustment mechanism to prevent carbon leakage and strengthen the effectiveness of global climate action,<sup>11</sup> as well as a proposal on deforestation-free products to strengthen efforts to combat deforestation and forest degradation.<sup>12</sup> The same year, the Commission adopted a strategy putting forward an ambitious and comprehensive package of measures to help improve the flow of money towards financing the transition to a sustainable economy.<sup>13</sup> In early 2022, the Commission put forward a proposal on corporate sustainability due diligence, fostering sustainable and responsible business conduct throughout global value chains.<sup>14</sup> It also adopted a proposal for a framework aiming to make all products placed on the Union market more environmentally sustainable and circular.<sup>15</sup> As announced in the Decent Work Worldwide Communication, later this year the Commission will also present a new legislative initiative to effectively prohibit the placing on the EU market of products made by forced labour.<sup>16</sup>

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<sup>10</sup> In line with the relevant international instruments, such as the UN Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, and the UN Global Compact.

<sup>11</sup> COM(2021) 564, available at <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:52021PC0564>

<sup>12</sup> COM(2021) 706, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021PC0706>

<sup>13</sup> COM(2021) 390, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021DC0390>

<sup>14</sup> COM (2022) 71, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022PC0071>

<sup>15</sup> COM(2022) 142, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52022PC0142>

<sup>16</sup> See *supra* footnote 8.

In its proposal for a new **EU Regulation on the Generalised Scheme of Preferences**, the Commission has enhanced the contribution of the scheme for the promotion of sustainable development, *inter alia*, by adding a number of international instruments in the areas of human rights, good governance, labour and environmental protection. These additions include the Paris Agreement on Climate Change, the UN Convention against Transnational Organised Crime, two new ILO conventions, as well as cover orderly international migration contributing to sustainable development. The proposal also aims to render the export of goods made by internationally prohibited child labour and forced labour a ground for possible withdrawal of trade preferences.<sup>17</sup>

On the **multilateral front**, the EU has recently **co-sponsored three plurilateral WTO initiatives** on trade and environmental sustainability, plastic pollution and sustainable plastic trade, as well as the reform of fossil fuel subsidies.<sup>18</sup> At the 12th WTO Ministerial Conference the EU played a key role in achieving a first **multilateral fisheries subsidies agreement** disciplining harmful fisheries subsidies worldwide, with environmental sustainability at its heart. The EU will continue to press for broadening disciplines on subsidies by the next ministerial conference.<sup>19</sup> The EU has also actively supported the launch of the **Trade Ministers' Coalition for Climate** to give further political impetus to build a positive trade and climate agenda, particularly in the WTO.<sup>20</sup> As part of the reform of the WTO, the EU intends to favour dialogue on the interaction between trade and decent work, including through WTO-ILO cooperation. At the **OECD**, the EU is promoting amendments in the set of rules governing official **export credits** to foster alignment with climate goals. The EU also successfully obtained a ban on unabated coal-fired power plants.<sup>21</sup>

All these trade-related policy instruments and initiatives form part of a comprehensive response to global sustainability challenges and go hand-in-hand with trade agreements.

### **3. NEW POLICY ORIENTATIONS FOR SUSTAINABLE DEVELOPMENT IN TRADE AGREEMENTS**

The TSD review has proven the soundness of the EU's TSD model but has also identified scope for improvement in **six policy priorities**, which can be summarised as (1) the need to be more proactive in the cooperation with partners; (2) stepping up the country-specific approach; (3) mainstreaming sustainability beyond the TSD chapter of trade agreements; (4) increasing the monitoring of the implementation of TSD commitments; (5) reinforcing the role of civil society; and (6) enhancing enforcement by means of trade sanctions as a measure of last resort.<sup>22</sup>

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<sup>17</sup> COM(2021) 579, available at [https://trade.ec.europa.eu/doclib/docs/2021/september/tradoc\\_159803.pdf](https://trade.ec.europa.eu/doclib/docs/2021/september/tradoc_159803.pdf)

<sup>18</sup> See [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_21\\_6882](https://ec.europa.eu/commission/presscorner/detail/en/IP_21_6882)

<sup>19</sup> See [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_22\\_3792](https://ec.europa.eu/commission/presscorner/detail/en/IP_22_3792)

<sup>20</sup> See [https://ec.europa.eu/commission/commissioners/2019-2024/dombrovskis/announcements/speech-executive-vice-president-valdis-dombrovskis-trade-climate-cop26\\_en](https://ec.europa.eu/commission/commissioners/2019-2024/dombrovskis/announcements/speech-executive-vice-president-valdis-dombrovskis-trade-climate-cop26_en)

<sup>21</sup> See [https://policy.trade.ec.europa.eu/news/ban-export-credits-coal-fired-electricity-projects-agreed-oecd-2021-10-22\\_en](https://policy.trade.ec.europa.eu/news/ban-export-credits-coal-fired-electricity-projects-agreed-oecd-2021-10-22_en)

<sup>22</sup> Following up and enforcing TSD chapters in trade agreements, including the possibility of a sanctions-based mechanism as a last resort, also feature among the 49 proposals included in the final report of the Conference on the Future of Europe, see 'Conference on the Future of Europe – Report on the Final Outcome', May 2022, Proposal no. 19(4), p. 63.

To optimise the effectiveness of its contribution, the Commission’s policy on sustainable development in trade agreements will focus on a number of **action points** per policy priority. These action points build on the implementation experience, evidence gathered as well as on the inputs received through the open public consultation. The action points complement and expand the action areas identified in the 15-Point Action Plan.

### 3.1 A comprehensive TSD approach anchored in multilateral agreements and cooperation

As set out above, **the interplay between trade and sustainable development must be addressed comprehensively**, putting trade policy in the wider context of other tools supporting sustainability. In this comprehensive approach, **trade agreements promote the global governance framework**, in particular by incorporating core international standards and commitments as well as by upholding their effective implementation, adherence and further enhancement through cooperative processes. The firm anchoring of bilateral TSD commitments in the multilateral context makes the EU’s TSD approach legitimate, credible and effective. It also seeks to avoid fragmentation and instead ensures that TSD commitments reinforce global efforts. By being founded on international standards, TSD commitments can also shield against protectionist reflexes.

An approach based on engagement and cooperation allows the EU and its partners to **jointly take ownership** of the contribution of trade agreements to promote a green and just transition and to achieve **sustainable development objectives**. It encourages a wider buy-in from a range of stakeholders, including local communities, non-governmental organisations (NGOs), employers and labour unions. All of these are essential to bring about change on the ground.

In this context, the Commission will make full use of the platforms provided by trade agreements **to facilitate dialogue on the EU’s trade-related autonomous sustainability instruments** and **to encourage trade partners to promote compliance with them**. The Commission also intends to improve the overall effectiveness of its cooperative efforts by building on the “Working Together” actions identified in the 15-Point Action Plan, and enhance the EU collective approach in situations where **technical or financial assistance is needed or can incentivise trade partners to further raise their levels of labour and environmental protection**.

#### **Action Points**

The Commission will:

1. **Step up engagement with** trade partners in a **cooperative process** to foster **compliance with international labour and environmental standards**.
2. When needed, provide **incentives and support** to trade partners for **reform processes** and **capacity building** through **technical and financial assistance**. Where appropriate, the EU should also develop a Team Europe approach in support of jointly agreed sustainable development priorities with partner countries.
3. Use trade agreements to facilitate dialogue with partner countries and, as appropriate, assist them in **meeting the sustainability requirements** of the **EU trade-related autonomous instruments**.

### 3.2 Identification of country-specific implementation priorities

The TSD review has revealed a clear expectation that TSD commitments in EU trade agreements should be more effective and expeditious in bringing change on the ground and that results are highly dependent on the specific situations of individual countries. These findings speak in favour of **stepping up the country-specific approach identified in the 15-Point Action Plan in a more tailored and targeted fashion.**

The EU's bilateral trade relations span the entire globe and include partners at various levels of development, facing different economic, social and environmental challenges and opportunities. While TSD chapters incorporate the same binding commitments for both the EU and partner countries, finding effective solutions for this diverse range of partners requires flexibility and prioritisation to better tailor the TSD objectives to the challenges, needs and capacities of each of them.

Setting such **country-based implementation priorities** requires an early **gap analysis** and integrating a **greater degree of granularity and specificity to the TSD dimension.** The key challenges, opportunities and priorities should be identified jointly and at the early stages of engagement with a specific partner. Such priorities should be developed involving civil society and already feature in the impact assessment preceding the launch of negotiations, but then be further refined during the sustainability impact assessment, and assessed in ex-post analysis during implementation. In line with the EU Biodiversity Strategy,<sup>23</sup> the impact of trade liberalisation on biodiversity will play an important role in these assessments. On that basis, the EU and partner countries should consider negotiating and focusing on the key **country-based implementation priorities** to ensure progress towards reaching the TSD objectives. These priorities should be realistic and targeted to help deliver results. They should also be sufficiently flexible to be adapted over time as the sustainability situation evolves.

The objective would be to strengthen, where needed, the implementation in a specific field, for example in terms of respect for an ILO principle or convention, or compliance with a ratified MEA. When necessary and where relevant, this can be achieved by agreeing on specific steps with a partner country in accordance with set timelines and milestones for the implementation phase (so-called **implementation roadmaps**) with appropriate follow-up, and including the support of international organisations and stakeholders in this process as appropriate.

Moreover, the EU will **continue to promote the ratification of fundamental ILO Conventions.** It will focus ratification efforts in support of the identified implementation priorities. This will need to be assessed on a case-by-case basis, concentrating on issues with a major impact on the effective implementation of fundamental rights.

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<sup>23</sup> COM(2020) 380, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020DC0380&from=EN>

### Action Points

The Commission will:

4. Pursue a **tailored approach** and conduct **better targeted impact assessments on TSD**, with a view to **identifying country-specific sustainability priorities** and **providing detailed analyses of impacts early on**.
5. Negotiate, where appropriate in light of specifically identified priorities in partner countries and on a case-by-case basis, **detailed and time-bound roadmaps** with **milestones**. Roadmaps should **recognise a role for civil society** in monitoring their implementation.

### 3.3 Mainstreaming sustainability throughout the entire trade agreement

All EU trade agreements already include several provisions that aim to preserve the right of countries to regulate in order to pursue legitimate environmental and labour objectives. In addition to respecting this necessary policy space, sustainability considerations should also be proactively mainstreamed in different parts of trade agreements.

Mainstreaming TSD objectives throughout trade agreements could include **prioritising liberalisation of environmental goods and services**, in particular those goods and services that contribute to reducing greenhouse gas emissions and promote resource efficiency and circularity. Furthermore, trade agreements should **ensure undistorted trade and investment in the raw materials and energy goods that are needed for the transition to climate-neutral, resource-efficient economies**.

This could be done, for instance, by addressing non-tariff barriers and promoting the use of international standards in fostering trade and investment in environmental protection, resource efficiency, and in renewable energy sources. In addition, trade agreements should encourage the use of non-discriminatory sustainability considerations in public procurement processes and seek to include provisions on sustainable food systems.

In order to extend the prioritisation of TSD objectives beyond the TSD chapters, impact assessments and sustainability impact assessments should look into the sustainability challenges and opportunities in all relevant areas of trade agreements. The country-specific approach mentioned in the previous section should apply throughout the whole trade agreement.

### Action Points

The Commission will:

6. Prioritise **market access for environmental goods and services**, in particular in the area of renewable energy and energy efficiency, for instance through addressing tariff and non-tariff barriers, as well as access to and investment into raw materials and goods needed for the green transition.
7. Ensure that **impact assessments** and **sustainability impact assessments** analyse all **relevant chapters** of trade agreements to identify which provisions and commitments are most likely to have an **impact on sustainability issues** as well as where the agreement opens **opportunities for achieving sustainability objectives beyond the TSD chapter**.

### 3.4 Collective monitoring of the implementation of TSD commitments

One of the lessons from the application of the 15-Point Action Plan is that **results are achieved through continuous engagement with the trade partner concerned**. This approach is resource-intensive but achieves lasting results on the ground. The **Commission intends to continue to pull together the expertise and available instruments and programmes at its disposal in a comprehensive EU approach across services**. This includes, for instance, bilateral labour and environmental policy and regulatory dialogues and, when warranted, development cooperation and financial support.

The role of **EU Delegations** in monitoring the implementation of TSD commitments is particularly relevant. They have direct contact with both governments and administrations as well as local stakeholders, including Domestic Advisory Groups (DAGs).<sup>24</sup> EU Delegations also have the opportunity to engage on trade-related sustainable development concerns first-hand. Together with Member States, they are not only the eyes and ears on the ground, but form a collective network of European diplomats, which jointly contribute to anticipating and addressing sustainability concerns in their respective geographical and areas of expertise.

This all-encompassing approach should be complemented by enhanced cooperation with **Member States** in capitals as well as on the ground, through their embassies and missions in third countries. The objective should be to ensure that the relevant Commission and national instruments interact together and reinforce each other, enabling the EU to achieve economies of scale and enhanced impact on the ground.

It is also important to reinforce the involvement of the **European Parliament**. Through its Members' missions and field visits, the European Parliament could further contribute to monitoring and implementation of TSD commitments. Interactions between the European Parliament and parliaments in partner countries may prove particularly effective when legislative reforms are required. Field visits by European and national parliaments also offer opportunities to communicate the EU sustainability objectives abroad, interacting not only with local officials but also with local civil society representatives, local DAGs and businesses.

The **Monitoring Groups** established by the INTA Committee have also played an important role during negotiations and implementation of trade agreements. This dimension could be further enhanced, for instance through regular country-specific discussions on trade and sustainable development. Together with EU Delegations, the Commission would stand ready to assist the European Parliament in this effort.

A collective monitoring of the implementation of TSD commitments in trade agreements also implies a **stronger role for civil society, including social partners. Both the EU and each of its trade partners should strive to engage with civil society organisations** on both sides and encourage structured and material contributions.

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<sup>24</sup> Domestic Advisory Groups are bodies established under the trade agreements and composed of independent representatives of civil society groups, including non-governmental organisations, business and trade unions, in a balanced representation of different economic, social, human rights, environmental and other interests. DAGs monitor the implementation of the sustainable development commitments in trade agreements, and provide advice and opinions to the respective contracting parties.

The creation in 2020 of the **Chief Trade Enforcement Officer** (CTEO) function and of the **Single Entry Point** (SEP) constitutes an important step in reinforcing the implementation and enforcement of TSD commitments.<sup>25</sup> The SEP provides a centralised contact point for all EU-based stakeholders who want to **lodge a complaint** on, among others, **violations of TSD commitments**.<sup>26</sup> The Operating Guidelines and the accompanying complaint form have been developed to help stakeholders (e.g. trade unions, industry associations, NGOs) make the best use of the new system. The handling and follow-up of TSD complaints is an important part of the role of the **CTEO** in the implementation and enforcement of trade agreements.<sup>27</sup>

Nevertheless, to date stakeholders' reach out to the SEP concerning TSD has been limited. The SEP system has been designed to allow early contacts on particular problems and the Commission confirms its willingness to engage on potential TSD issues and, beyond the detailed information posted online, to explain how the system can be used and what information may be required. The Commission will provide further clarifications and assistance to enhance its use. To that end, in parallel to the TSD review it has updated the Operating Guidelines to make clear that **DAGs can also submit collective complaints** and that an **EU-based complainant can represent the TSD-related concerns of an entity located in a partner country**. The update includes greater transparency and clarity on how and within what timeframes the SEP can handle the initial stages of a complaint on TSD violation.

#### **Action Points**

The Commission will:

8. Develop a **comprehensive EU approach across services**, using all available instruments to monitor the implementation of TSD commitments, and involving EU Delegations, as well as actively cooperating with Member States' capitals, embassies and field offices.
9. Work together with **EU Delegations** in their support and definition of best practices as trade partners set and start working with their local DAGs.
10. Support continuous **involvement of the European Parliament** in TSD implementation in the framework of its inter-parliamentary contacts, and stand ready to assist it in its effort for regular country-specific discussions on trade and sustainable development.
11. In parallel to the TSD review, **revise the Operating Guidelines for the Single Entry Point** to increase transparency and predictability for stakeholders, while clarifying who can bring complaints, how they will be handled and the applicable timeframes. The Guidelines will also make clear that DAGs **can file collective complaints** on violations of TSD commitments and represent the interests of a party located in a partner country.

### 3.5 Reinforcing the role of civil society

The Commission regularly and frequently consults interested parties through a well-established horizontal structure of **Civil Society Dialogues**, where trade and sustainable development issues are routinely raised and discussed. The Commission is also making increased efforts to

<sup>25</sup> See [https://policy.trade.ec.europa.eu/enforcement-and-protection/chief-trade-enforcement-officer\\_en](https://policy.trade.ec.europa.eu/enforcement-and-protection/chief-trade-enforcement-officer_en)

<sup>26</sup> See [https://trade.ec.europa.eu/doclib/docs/2021/november/tradoc\\_159907.pdf](https://trade.ec.europa.eu/doclib/docs/2021/november/tradoc_159907.pdf)

<sup>27</sup> 'Operating guidelines for the Single Entry Point and complaints mechanism for the enforcement of EU trade agreements and arrangements', available at [https://trade.ec.europa.eu/access-to-markets/en/form-assets/operational\\_guidelines.pdf](https://trade.ec.europa.eu/access-to-markets/en/form-assets/operational_guidelines.pdf)

reach **civil society more effectively in Member States**, including by increasing the number of dedicated events and high-level discussions. In addition, EU trade agreements provide specifically for civil society's involvement during the implementation of TSD commitments, including through the **DAGs**. Civil society can also have an active role in the enforcement phase by submitting TSD-related complaints to the **Single Entry Point** (see *supra*) and *amicus curiae* briefs before the panel.

The input from civil society organisations, through well-substantiated and evidence-based contributions, is essential for the Commission to identify, prioritise, and act upon TSD matters. The **cooperation and exchanges between the EU stakeholders and their partner organisations abroad** are also essential in this respect. Such contribution could be then better valorised for **targeting and priority setting**. For instance, during the impact assessment phase (both impact assessments and sustainability impact assessments), civil society consultation could help identify gaps and challenges, and help setting priorities to tackle during the negotiation process and anticipate possible key questions related to implementation. After an agreement has entered into force, timely and pertinent submissions to the TSD committees under the trade agreements based on on-the-ground knowledge and expertise can inform the joint monitoring of TSD compliance and **steer the bilateral implementation efforts**.

The Commission will also continue to engage with the **DAGs** established under the trade agreements, offering logistical support and **support to capacity building and expertise**. The Commission has also **increased transparency** by publishing the agendas and minutes of existing TSD Committees. Going forward, the Commission will continue strengthening the DAGs by monitoring closely their establishment in line with the terms agreed in trade agreements and support the **interaction between the EU's and partner countries' DAGs**. Recognising the importance of their contribution and further valorising their experience and expertise, the Commission will also seek to **extend the remit of the DAGs beyond TSD** in order to cover the entirety of trade agreements, as it is already foreseen in the EU-UK Trade and Cooperation Agreement.

#### **Action Points**

The Commission will:

12. Ensure an **inclusive consultation process** with civil society throughout **all stages** of the lifecycle of trade agreements, from gap-analysis to implementation, including priority identification.
13. Further strengthen the role of EU **DAGs** by providing resources for their logistical support, capacity building and functioning.
14. Invite **EU DAG's representatives** to **TSD Member States' Expert Groups** led by the Commission, where they will be able to contribute specific expertise, and **closely associate DAGs** in preparing the **TSD Committee meetings**, in particular on the identification and the monitoring of implementation priorities.
15. Promote and facilitate the **interaction between EU and partner countries' DAGs**.
16. Foster **transparency on the composition of DAGs**.
17. **Exchange views with EU DAGs** on EU TSD-related **technical assistance projects**.
18. Ensure that the **remit of the DAGs extends beyond TSD** in order to cover the entirety of trade agreements.

### 3.6 More assertive enforcement, including through trade sanctions

**TSD commitments are legally binding and enforceable** through a dedicated state-to-state dispute settlement mechanism,<sup>28</sup> with an independent and transparent review by a panel of experts, and the active involvement of civil society.<sup>29</sup> This approach is based on engagement and addresses emerging concerns through dialogue and cooperation.

Until now, this mechanism had not included specific rules on how to **monitor the implementation of the report issued by the panel of experts** (the so-called compliance stage). The Commission now proposes to further align TSD enforcement with the general state-to-state dispute (SSDS) settlement and to extend the compliance stage to disputes under the TSD chapter. This means that the party found in violation of its TSD commitments will have to promptly inform how it will implement the panel report, and carry this out within a certain period of time. This will be subject to panel review. Civil society will be able to submit observations to the panel also at this stage.

Equally, the EU's approach to TSD did not contemplate the use of sanctions in the case of non-compliance with the panel report. The Commission now proposes the **possibility of trade sanctions** as a matter of last resort, in instances of serious violations of core TSD commitments, namely the ILO fundamental principles and rights at work, and of the Paris Agreement on Climate Change. In such instances, trade sanctions would be appropriate as a means to foster compliance. In the case of the Paris Agreement, the intention would be to capture failure to comply with obligations that materially defeats the object and purpose of the agreement. With regard to the ILO fundamental principles and rights at work, trade sanctions would be warranted in serious instances of non-compliance with the principles, and rely on the fact that the ILO monitors developments in all members. This approach will build on and reinforce the respect of core labour rights and of the Paris Agreement as essential elements of our trade agreements.<sup>30</sup>

The application of trade sanctions for violations of dedicated TSD provisions will follow the general dispute settlement rules. Accordingly, trade sanctions will be temporary and proportionate and may take the form of suspension of trade concessions. They will be possible only in the event that a panel finds a party in breach of its TSD commitments, and the latter does not bring itself into compliance within the arranged time period. In that context, the parties may also reach a mutually agreed solution to the dispute at any time.

Introducing for the first time in EU trade agreements trade sanctions for core TSD commitments, in conjunction with the cooperation-based approach, will enable the EU to carry out a more assertive enforcement of its TSD chapters. In doing so, the EU will enhance the

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<sup>28</sup> The dedicated TSD dispute settlement follows the procedure of the state-to-state enforcement mechanism applicable to other parts of the trade agreement with some adjustments (such as required expertise on trade, labour and environment for the panellists), but without possibility to resort to sanctions in case of non-compliance with the panel report.

<sup>29</sup> For instance, by making *amicus curiae* submissions or attending open hearings.

<sup>30</sup> Building on the development of the future robust Global Biodiversity Framework, in particular with regard to setting biodiversity targets and appropriate mechanism for international reporting and monitoring, the Commission will evaluate the possibility of including the Convention on Biological Diversity in this new approach.

tools at its disposal to pursue sustainability objectives and the contribution of trade agreements towards these objectives.

#### **Action Points**

The Commission will:

19. Further strengthen the enforcement of TSD commitments in future agreements by proposing to EU trading partners to:
  - a. **Extend the general state-to-state dispute settlement compliance stage to the TSD chapter.**
  - b. Involve the **DAGs** in **monitoring the compliance stage.**
  - c. **Extend the possibility to apply trade sanctions** in cases of failure to comply with obligations that materially defeats the object and purpose of the **Paris Agreement on Climate Change** or in serious instances of non-compliance with the **ILO fundamental principles and rights at work.**

The application of trade sanctions will follow the general state-to-state dispute settlement rules.

20. Prioritise **the enforcement of TSD cases** based on the importance of the nature of the commitments at issue, the **seriousness of their violation** and the **impact on the environment or workers.**

#### **4. CONCLUSION**

**Several of the identified action points**, notably the majority of those that relate to the implementation of TSD commitments and the reinforcement of the role of civil society, can be immediately **deployed**, including in **trade agreements already in force**.

Going forward, the outcome of the TSD review will be proposed for all **future negotiations** and reflected in the **ongoing negotiations as appropriate**. The Commission will duly integrate the identified action points early on in its pre-negotiation activity.

The Commission invites the European Parliament and the Council to endorse the approach set out in this Communication and to work together to implement its action points.