

WHAT'S NEW WITH

# TSD CHAPTERS

JANUARY/FEBRUARY 2021



#MDPD NOTES

MULTINATIONAL DEVELOPMENT POLICY DIALOGUE KAS BRUSSELS

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# SUMMARY

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#MDPD PAPER:  
"CAN EU TRADE FOSTER SUSTAINABLE DEVELOPMENT?"



#MDPD CLIP:  
WHAT'S NEW WITH TSD CHAPTERS?



- Since 2014, all of the EU's comprehensive trade agreements systematically include a separate chapter on Trade und Sustainable Development (TSD).
- TSD chapters establish basic principles and frameworks for cooperation on sustainable development issues. Those notably include human rights, social justice, labour and environment, which are relevant to trade.
- TSD chapters ensure that trade liberalization is not achieved at the expense of labor and environmental standards, therefore preventing a "race to the bottom".
- TSD chapters also promote sustainable public procurement and encourage trade that supports tackling climate change.
- The inclusion of TSD chapters are a clearly mirror the EU's ambition to use trade policy – an exclusive EU competence - as a tool to promote other "European principles and values".



# EU TRADE AGREEMENTS THAT CURRENTLY INCLUDE A TSD

Canada, Central America, Colombia, Peru, Ecuador, Georgia, Japan, Mexico, Moldova, Singapore, South Korea, Ukraine, Vietnam.

# OTHER IMPORTANT EU TRADE AGREEMENTS CURRENTLY NEGOTIATED

Indonesia (negotiation launched in 2016), Australia (negotiation launched in 2018), New Zealand (negotiation launched in 2018), the Mercosur countries (Brazil, Argentina, Paraguay and Uruguay, negotiation launched in 2000).



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# WHAT ARE THE PILLARS TO THE TSD APPROACH?





## 1 Binding commitments

Both trading parties agree to effectively implement a number of multilateral environmental agreements (MEAs) and conventions of the International Labour Organisation (ILO).

## 2 Thematic & cross-cutting commitments to cooperation

These non-binding commitments include trade related areas such as corporate social responsibility, responsible business conduct, trading of natural resources, and others.

## 3 Institutional structures

In order to facilitate implementation of the TSD commitments, the partners agree to involve civil society in the implementation process.

## 4 A dedicated dispute mechanism

TSD do not fall under the general dispute mechanism of the trade agreement. They hence have their own mechanism to resolve disputes arising from the commitments, involving independent experts to investigate compliance.





# HOW DO TSD CHAPTERS WORK?

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- The trading parties regularly meet to update each other on the status of implementation of the TSD commitments.
- The European member states receive their updates by a Trade and Sustainable Development expert group, a group set up to provide specialist advice from various sources from the public and/or the private sector.
- The European Commission's Chief Trade Enforcement Officer (CTEO) is in charge of steering TSD implementation and enforcement actions both for market access and sustainable development issues.







- The Domestic Advisory Group (DAG) is another expert group involved in the process. Each of the trading parties has their own DAG. Their task is to provide advice on the implementation of the TSD and ensure a balanced representation of civil society, business organizations and trade unions. The experts of a DAG meet multiple times each year to discuss observations and advice on TSD implementation. Once a year, the two DAGs of both trading parties meet for an exchange. The External Relations Section of the European Economic and Social Committee (EESC) acts as secretariat of EU DAGs.
- In a Joint Open Session Meeting, civil society stakeholders and non-DAG members get the opportunity once a year to share their input on TSD implementation with the DAGs.





# TSD MILESTONES

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## JULY 2011

Provisional application of the [Free Trade Agreement](#) between the EU and the Republic of Korea. It is the first EU Trade Agreement including a TSD (chapter 13).

## 2015

Establishment of the [UN's Agenda 2030](#), a set of 17 Sustainable Development Goals and 169 targets. With the Agenda 2030, the EU commits to implement the sustainable development goals into its external policies.

## OCTOBER 2015

Publication of the new EU trade and investment strategy "[Trade for All](#)", which underlines the Union's ambition as an active supporter of policies in sustainable development implementation through trade.





## FEBRUARY 2018

Presentation of the [15 Point-Action Plan](#) through Commissioner Malmström. The plan suggests 15 concrete actions to support the implementation of sustainable development chapters in trade agreements.

## JULY 2019

The EU initiates a dispute settlement procedure under a trade agreement to challenge violations of TSD obligations for the first time ever. By submitting a [written request](#), the EU requests the establishment of an expert of panel to investigate “certain measures [...]”, which appear to be inconsistent with South Korea’s obligations elated to multilateral labour standards and agreements under the EU-Korea FTA”.

## DECEMBER 2019

The panel of experts is formally established and starts it investigation. The EU appointee is Professor Laurence Boisson de Chazournes, Professor of Law at University of Geneva and South Korea’s appointee is Professor Jaemin Lee, Professor of Law at Seoul National University. The two experts agree on Thomas Pinansky, an attorney at Barun Law LLC to become the Chairperson of the Panel of Experts.





## MAY 2020

The Netherlands and France publish a joint non-paper calling for the inclusion of a possibility to impose rebalancing duties against non-compliant third countries in the context of TSD obligations.

## JULY 2020

Appointment of Denis Redonnet as Chief Trade Enforcement Officer at the European Commission, a newly created high-ranking post at the Directorate-General for Trade.

## JANUARY 2021

The established panel of experts confirms that South Korea is in breach of the labour commitments under the trade agreement. Correspondingly, South Korea is asked to adjust its labour laws to comply with the principle of freedom of association and commit to take further steps to ratify fundamental ILO Conventions. The panel further confirmed that these commitments are legally binding.



# EXTERNAL LINKS

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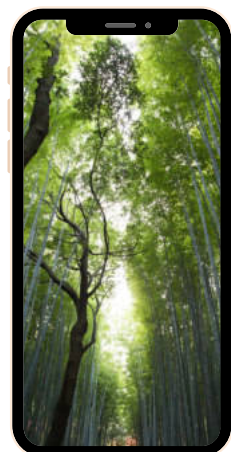
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