

# Enforcing sustainable development standards in EU trade policy after 2022: towards unilateralism?

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# TSD chapters in EU FTAs

- EU FTAs after Lisbon Treaty → legal duty, Art 3(5) TEU, Art 21(1) TEU, Art 207(1) TFEU
- First EU FTAs post-Lisbon → EU-South Korea FTA 2010
- All new agreements have a Trade and Sustainable Development chapter (TSD)
  - Exception of CETA → Chapter on SD, Chapter on Labour, Chapter on Environment
- Enforcement → TSD has its own separate DSM → cooperation-based, non-binding results

# Leading up to Trade Policy Review

- TSD DSM got criticised over its real effectiveness to implement and enforce
- Growing requests for *more assertive* DSM with possibility of sanctions ≈ U.S. FTAs
- Trade Policy Review launched by the European Commission in 2020 → stakeholders consultations for TSD
- One of the objectives → assessing TSD enforcement mechanisms and implementation
- Constant comparison with the U.S. model in light of USMCA rapid response mechanism

# TSD review: results

- Single-Entry-Point for filing complaints
- Country-specific implementation priorities → being aware of specific situations in trading partner countries through impact assessments for clearer negotiations
- Mainstreaming SD through whole FTA
- Stronger role of civil society
- **Enforcement**
  - Compliance phase after state-to-state DSM
  - **Trade sanctions as last resort**

# Taking stock on TSD enforcement

- EU TSD DSM still very much rooted in cooperation
- Trade sanctions in EU are still seen as a tool of last resort
- EU TSD are still far from the USMCA RRM → *ever like that?*
- Increasing EU unilateral measures with  $\approx$  RRM aspects → shifting the enforcement onto economic operators

# TSD enforcement in EU unilateral measures

- Forced Labour Regulation
  - Companies' supply chains are targeted by enforcement actions
  - Economic operators must perform due diligence
- EU Deforestation Regulation
  - Due diligence performed by economic operators
  - Supply chains in the spotlight
- Corporate Sustainability Due Diligence
  - Economic operators must identify, prevent and mitigate externalities on human rights, labor rights, environment
  - Both main company, subsidiaries and supply chains
  - Possible sanctions against companies

# Is the unilateralist narrative correct?

- Answer: to a certain extent
- EU pursues both TSD chapters in FTAs and unilateral trade measures for sustainability at the same time
- Differences so far
  - FTAs → cooperation-based, sanctions at the very end, lot of focus on creating partnerships for SD with other countries without impositions
  - Unilateral measures → one-sided, sometimes seen as “imposition of EU standards” where the EU can take some decisions that would not go down well in bilateral negotiations very often