

Dealing with EU imported biodiversity loss – the gaps and overlaps between the negative impact of trade on biodiversity and environmental provisions in EU Free Trade Agreements

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Webinar: Looking for Sustainability in the Global Economy: The New Generation of EU Free Trade Agreements



Research question and methodology

Are the biodiversity-related clauses found in EU Free Trade Agreements' Trade and Sustainable Development chapters serving the right purpose?

1/ Define the negative impact of trade on biodiversity

2/ Extract the core provisions related to biodiversity in EU FTAs' TSD chapters and identify the gaps and overlaps between the impact of trade on biodiversity and the core provisions

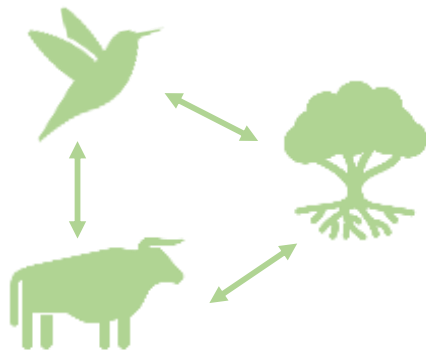
3/ Propose a new rationale for biodiversity provision in EU FTAs

What is biodiversity?

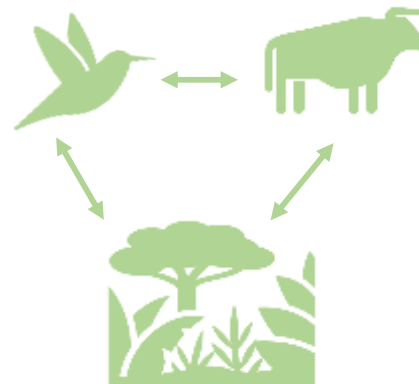
Genetic



Between Species



Ecosystems



Convention on Biological Diversity, article 2:

"Biological diversity" means the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.

The negative impact of trade



Direct impact

- Trade in endangered or overexploited species
- Transport
- Alien invasive species

Indirect impact

Biodiversity loss caused by all processes necessary for the production of a traded good

Enhanced by EU Free Trade Agreements

Including biodiversity protection in EU FTAs- Legal basis

EU's value-based trade policy¹

- Article 3(5) TEU
- Article 21 TEU
- Article 207(1) TFEU

European Commission's objective²

'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.'

1. Marco Bronckers and Giovanni Gruni, 'Retooling the Sustainability Standards in EU Free Trade Agreements' (2021) 24 Journal of International Economic Law 25. At p.1

2. Commission Communication, 'The power of trade partnerships: together for green and just economic growth', COM(2022) 409 final, at p. 1

Scope of the study

- EU bilateral trade agreements signed since 2010
- Focus on their environmental clause or Trade and Sustainable Development chapters (TSD)

3 types of biodiversity-related clause	EU FTAs' partners
Biological Diversity	CPE – Georgia –Moldova – Armenia – Japan – Mexico – MERCOSUR - Vietnam
Trade in Forest Products	CPE – Georgia –Moldova – Armenia – Japan – Mexico – MERCOSUR – Vietnam - Central America – Ukraine – Canada - Singapore
Trade in Fish Products	CPE – Georgia –Moldova – Armenia – Japan – Mexico – MERCOSUR – Vietnam - Central America – Ukraine – Canada - Singapore

Biodiversity-related provisions' core provisions

Biological diversity clause

- Importance of conservation and sustainable use of biodiversity
- Conserve and sustainably use biodiversity in accordance with MEAs
- Promote the inclusion of species in CITES' appendices
- Adopt and implement effective measures to reduce illegal trade in wildlife
- Encourage trade in natural resource-based products obtained through sustainable use of biodiversity
- Promote access to genetic resources and the fair and equitable sharing of benefits arising from their utilisation
- Exchange information and cooperate at bilateral, (regional) and multilateral levels on matters of relevance to the biodiversity clause

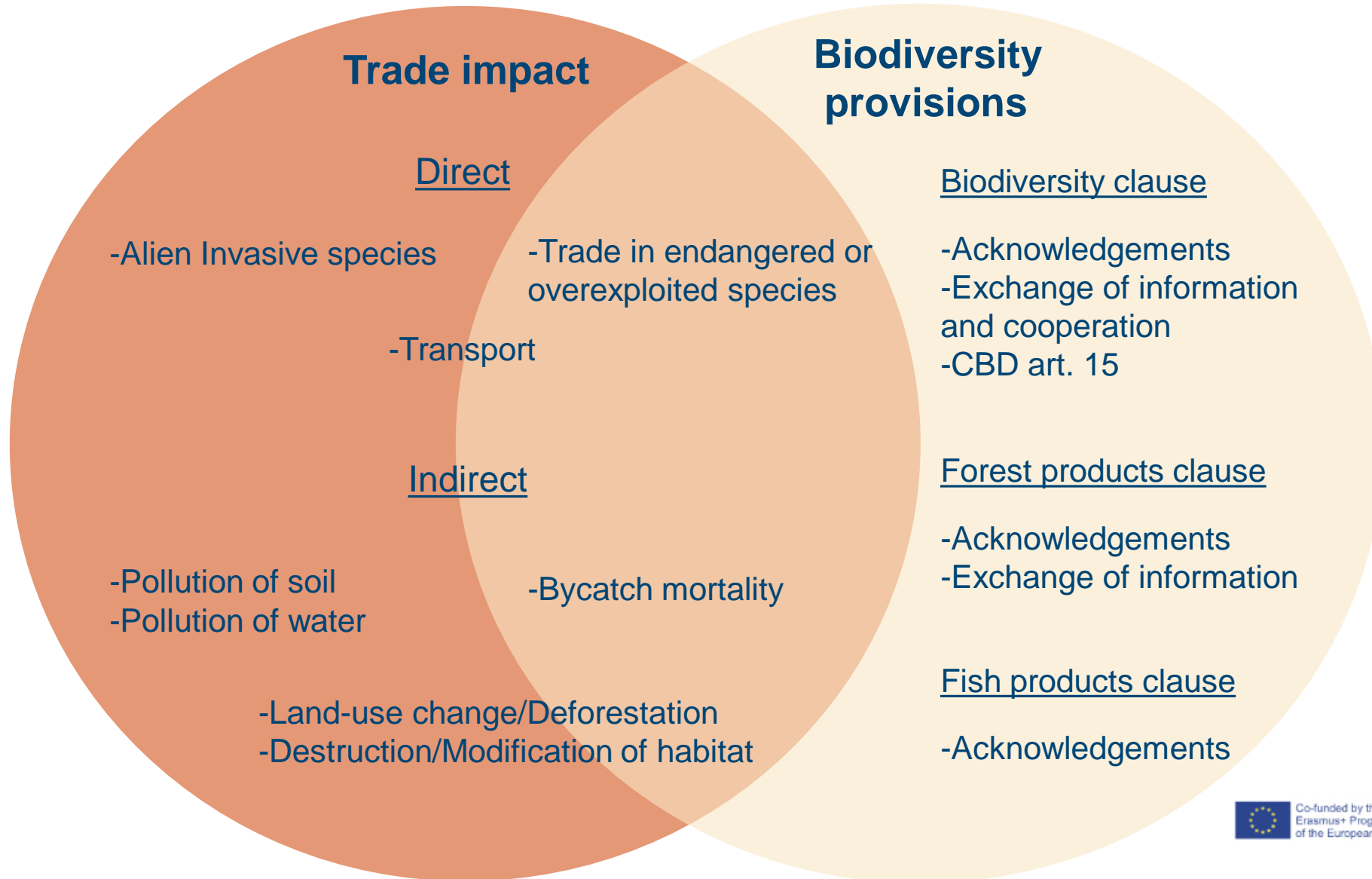
Trade in Forest Products

- Recognition of the importance of and cooperation in the conservation of forests
- Improve forest law and governance
- Combat illegal logging and trade in illegal forest products
- Effective implementation of CITES
- Promote and exchange information on trade in timber and timber products from sustainably managed forests

Trade in Fish Products

- Recognition of the importance of conserving and sustainably managing marine resources
- Cooperate in the context of RFMOs and promote good governance
- Combat IUU fishing and exclude its products from trade
- Take effective measures to monitor and control fishing activities

Gaps and overlaps between trade impact on biodiversity and biodiversity provisions



Reframing biodiversity protection as a trade objective in EU free trade agreements

Current rationale:

- Trade agreements deal with issues of trade between two or several partners.
- The objective of the EU is to promote sustainable development through its trade agreements (Trade for All communication).

= inclusion of provisions on trade and sustainable development in special chapters. Provisions are focused on the effective implementation of international commitments and cooperation. Tackling biodiversity issues is considered to be a Non-Trade Policy Objective (NTPO)

Proposed rationale:

- Trade agreements deal with issues of trade between two or several partners.
- The objective of the EU should be to deliver sustainable trade (EESC proposal).

= inclusion of provisions that aim to mitigate the direct and indirect impact of trade between the partners. Tackling biodiversity issues that are linked to trade should be considered a trade policy objective.

Many thanks!

