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The Global Economy and Sustainability - The Role of the European Union

Economic Security, Energy Trilemma, Global Economy and Sustainability: The Role of the EU

Values of Participatory Democracy & Transparency in Shaping EU Trade & External Energy Policies

Session on Book Presentations

Josephine Norris

EU GLOBAL VALUE CHAIN REGULATION - A PRACTICAL GUIDE

a commentary by

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Book presentation session

Josephine NORRIS: EU GLOBAL VALUE CHAIN REGULATION - A PRACTICAL GUIDE

- Why is this book so important and topical especially now?
- International and regional supply chains have been in the forefront of international trade for more than a decade as a consequence of globalization
- GVCs critical since the Trump administration upends the multilateral trading system
- Crucial to look at trade differently than through the lens of GDP and trade deficits and surpluses because it's more important to look at value added, jobs, FDI along the GVC chains
- What makes this book such a practical guide?
- Allows practitioners, compliance professionals, and above all businesses to navigate the EU approach to regulating supply chains thanks to clear and understandable explanations !
- Amazing that it's already published for instruments that entered into force very recently or are in the process of entering into force or being finalized – rare to have such a timely guide!
- Looks not only at EU-internal regulations but also EU-external impacts through trade, cooperation, development, investment and multilateral and cross-continental engagement
- Analysis of several instruments based on a common matrix of parameters including key principles, drivers, allocation of tasks, implementation, compliance and future evolution

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- Holistic conceptual definition of GVC and driving factors, benefits, risks and consequences
- Rise of cross-border production has been fueled by a confluence of factors including liberalization of trade and investment, rapid advancement in skilled labour, information and communication technology, decreasing transport costs, and innovative logistics solutions
- GVCs have driven globalised trade whilst opening new avenues for growth, especially in middle & low-income economies & among small and medium-sized enterprises (SMEs)
- GVCs are necessarily geographically spread out. This means jurisdictional multiplication and diversity leading to multiple regulatory differences and increased compliance costs
- GVCs present risks to highly regulated markets; their flexible structures can adapt to secure the greatest comparative advantage for each input, i.e., degree or depth of regulation, or number and diversity of societal regulatory objectives as a comparative (dis)advantage)
- This places pressure on domestic requirements aimed at achieving societal objectives such as social & labour standards, climate change mitigation by transitioning to greener business practices, as compliance with these rules are associated with higher costs of production

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- Rationales for the EU to regulate GCVs traverse policy domains: strong part of the book
- Given the complex and multi-jurisdictional nature of many GVCs, bilateral sustainability commitments often fail to fully address the risks, resulting in potential compliance gaps and exposure to “regulatory leakage”.
- Increasing societal awareness of GVCs is not isolated from socio-economic trends: globalization has negative externalities associated with economic development, risks of environmental harm and exacerbation of social inequalities
- GVC may offer opportunities and pose challenges for achieving SDGs
- Under the umbrella of the Green Deal and in pursuit of a circular economy, the EU has introduced autonomous (=unilateral) rules that set norms applicable to these GVC with a focus on environmental protection, labor standards and human rights.
- Deepening the EU-internal market cannot be divorced from the EU-external side: GVC regulations attempt to influence behavior of market participants (producers, traders, consumers) to embed core EU values in their activities and choices

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- It’s key that this book does adopt a broad notion of human rights: social, environmental, sustainability, climate change, SDGs (not only political/civil rights) which is indispensable for the research project ahead capturing and comprehensively addressing various dimensions
- The book covers not only the Global Value Chain Regulation in general in a conceptually profound, holistic, coherent and comprehensive ways, it also discusses key specific instruments:
- Although it begins with a bird’s view of key conceptual principles and rationales of GVCs, the book also addresses specifically…
- Corporate Sustainability Due Diligence Directive (CS3D) 2024: Member States (MS) ensure that very large companies conduct and implement due diligence along their chains of activities to identify and mitigate risks of adverse environmental and human rights impacts. In addition, climate change transition plans are drawn up to address corporate behavior, & improve accountability, and compliance is incentivized with new civil liability framework
- Deforestation-free Product Regulation (not 2024-2026-2027?): market access conditions being deforestation-free through due diligence and product tracing to reduce greenhouse gas emissions and biodiversity loss due to consumer demand driven deforestation

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- Forced Labour Regulation (2024-2027?): prohibits placing forced labour products on the internal market
- Carbon border tax adjustment mechanism CBAM (2023-2026): sets conditions on importers for placing certain goods on EU markets to prevent “carbon leakage” by requiring importers of CBAM goods to calculate & pay for embedded carbon in their products equivalent to obligations imposed on EU producers on same products under EU emission trading scheme
- EU Batteries Regulation (2023 onwards): sectoral product requirements covering the entire life-cycle of batteries in scope; aimed at excluding worst performing products from EU markets & shifting consumption patterns to a more circular economy
- Ecodesign for Sustainable Products Regulation ESPR (2024): setting a framework for the EU to adopt rules at product level ensuring that products are designed with sustainability in mind (includes product processes)
- Synergies between these tools: Does the EU really create them? Relevance of other EU instruments too is assessed beyond these five – but the EU’s patchwork approach is a challenge that this book surmounts through conceptual depth and a common structure for the analyses of all the GVC regulatory instruments
- The research looks at administrative overlap and double burdens of compliance & enforcement which are major weaknesses of the EU’s approach to GVC regulation: these challenges diminish its potential model character for other world regions and the requisite buy in by third countries to ensure compliance
- It’s visible that contracting out of compliance cost to private firms and those abroad occurs instead of governments doing more & the EU institutions & its MS doing their job
- EU’s recent simplification & rationalization initiative does not really solve that problem. Why? Because it is still too inward-looking, and not sufficiently outward-looking to address trading partners’ concerns

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- Comparison to global value chain regulations in other jurisdictions at national/international levels
- Australia on Carbon Credits; Netherlands and Canada on Forced & Child Labour and on Plastics; France on Recycling and on Vigilance Duties of Parent Companies & Subsidiaries; Germany on Due Diligence; Japan on Economic Security Promotion; Norway on Transparency; UK on Environment and Modern Slavery; US Countering Adversaries through Sanctions, Wall Street Reform & Consumer Protection; Overseas Rule of Law and Environmentally Sound Trade; Inflation Reduction Act; Uyghur Forced Labour; California on Transparency in Supply Chains
- International instruments, e.g. human rights; UNCLOS, Basle Convention on Control of Transboundary Movements of Hazardous Waste; Prior Informed Consent on Pesticides and Chemicals; Freedom of Association; UNESCO; Biodiversity; Organic Pollutants; CITES; Rights of the Child, Narcotic Drugs, Psychotropic Substances, various UN HR Conventions, ILO on Forced Labor; Right to Association and to Collective Bargaining, Discrimination; Child Labor; Minimum Age etc; Montreal Protocol on the Ozone Layer; Paris Agreement & UNFCCC; UN Against Desertification; UNECE on Access to Info and Participation on Environmental Matters;
- This is an impossible task: national and int’l instruments are fragmented, too diverse in scope and content, & thus hard to compare – but it’s a laudable attempt because EU GVC regulation cannot work in isolation from other global players and policymakers that also seem to operate with patchworks
- Key questions remain: What lessons can be learned from models & experiences of other jurisdictions?
- Which EU elements will work only if other jurisdictions adopt similar value chain regulations?

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- Conceptual approach, values, drivers and enforcement of EU GVC regulation:
- GVCs are cross-border economic processes or networks between structurally separate entities, entities in contractual relationships or common ownership that operate with coordination
- GVC regulation combines int'l, domestic administrative & private law concepts & matters
- GVCs can give rise to negative social & environmental & other human rights externalities
- Conditioning export of goods or placing foreign goods on the internal market on meeting requirements linked to the non-economic values pursued – such extraterritoriality is acceptable
- Are these EU-created societal values? or global non-economic values based on international law instruments? and to the extent they are, is the criticism of Euro-centrism unjustified?
- Much reliance on int'l instruments shows that the EU pursues global values, not only EU values
- Due to GVC complexity & multinational character, often merely soft law standards were used
- New EU approach is binding regulation of the internal market, coupled with mirror regulation externally for raw material producers, manufacturers, traders wanting to trade with the EU
- Issues of jurisdiction: multiplicity, need for coordination & harmonization, but not uniformization;
- Territoriality of regulation is difficult to sustain conceptually in a globalized economy: focusing on importers wanting to trade with the EU in regulation and in enforcement and monitoring
- Extraterritorial impacts of regulation and enforcement are inevitable for GVC participants collaborating to place products on the EU market (instead of dealing with exporting governments)

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- Conceptual approach, values, drivers and enforcement of EU GVC regulation
- Norm-setting: who are the players – also trading partners? International instruments?
- Through cooperation or unilaterally? International norm setting is slow & often at the lowest common denominator & often lacking teeth in enforcement
- Unilaterally by importing/exporting country is faster but whose societal values are pursued?
- Regulatory burden sharing between domestic and foreign economic actors; regulatory requirements cause compliance costs which are not evenly shared along the GVC; high vs low levels of regulation become part of the comparative cost advantages along a GVC
- Regulatory burden & compliance costs are relatively higher for lower- & middle-income countries which confirms the EU's intended or inadvertent outsourcing of compliance costs
- Higher social & environmental harm risks being "outsourced" to lesser regulation countries through carbon leakage or lessening social standards to attract FDI and more GVC steps & tasks
- The book also shows how initially int'l soft law instruments by UN or OECD targeting responsible business conduct of transnational & multinational enterprises are substituted by hard law

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- EU shifted from soft-law international approaches to EU hard-law approaches with extraterritorial impact on exports to the EU & imports to the EU: usurping regulatory space?
- Why did the EU want & had to regulate along GVCs connected to its internal market
- How have these instruments developed? Which imperatives were at work?
- Participation Imperative: due to high EU integration in GVCs & EU consumer interest in eco-friendly & socially responsible products & production processes
- Values Imperative: value-based EU system linking market integration & non-economic aims
- Harmonization Imperative: EU & MS & international legal instruments should be harmonious in pursing non-economic objectives to avoid risks for internal market integration
- Externalization Imperative: EU promotes multilateralism, but also tries to set models for other countries in pursuing societal values (are they EU values or are those on int’l treaties)?
- EU self-perception as “first mover” or “world leader” on environment protection, climate change mitigation, labour rights and social corporate responsibility: raising the global bar or exporting EU regulatory models to third countries with different values & compliance costs
- Avoid carbon leakage, “social” dumping; externalized compliance cost; privatizing them to companies, but autonomous, unilateral approaches undermine the EU as model for others

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- Existing and complementary legal tools and instruments at national/international levels:
- Multilateral relations & negotiations of treaties
- Bilateral Trade and Cooperation Agreements
- Generalized System of Preferences (GSP) schemes
- Restrictive (sanctions) measures
- Key Elements of the EU Approach to GVC Regulation:
- Market conditionality: degree of inevitable extraterritoriality
- Product (Sector) or Commodity Centricity: not extremely risk-targeted, not incentive-creating to gradually improve as individual players or products/commodities are either in or out
- A risk-based due diligence model (RBDDM): need to define due diligence; advantages for the regulators; risk-based due diligence prevalent in second-generation GVC Regulations
- Implementation support and private sector onboarding through multi-stakeholder platforms
- Shared enforcement: EU GVC regulation contains detail for EU & MS levels, but less clear on the external side by private sector abroad; this is key as well as transborder consultation and inclusiveness given that buy in to EU GVC regulation is insufficient

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- EU GVC regulation: Compatibility with international trade law? What are the key issues?
- Non-discrimination & the likeness dilemma regarding (non-)product-related production processes
- WTO DS practice facilitated considering sustainability and SDGs and effectiveness of measures
- …especially under General Exceptions, but the challenge of meeting the introductory clause remains
- Is the catalogue of exceptions under GATT/GATS/TRIPS sufficient?
- No arbitrary or unjustifiable discrimination between countries where the same conditions prevail or disguised restriction on international trade – does this clause allow for risk-based liability approaches?
- Issues relating to the TBT Agreement:
- Non-discrimination based on likeness, but differentiation through legitimate regulatory distinction test and recognition of relevance of at least product-related production processes & voluntary standards
- Proportionality test is built into TBT Article 2.2 which is open to pursuit of diverse societal values
- How could these GVC regulation instruments be made more WTO-compatible (where necessary)?
- Limits and outdated elements of current WTO Subsidies Rules that need reform
- Compatibility with Paris Agreement on Climate Change & nationally determined contributions
- Unilateral approaches & jurisdiction; divergence from international standards & definitions
- The book would have gained from an overall chapter on WTO-law compatibility of EU GVC regulation but understandably the discussion is instrument-specific which allows for in-depth targeted analysis

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- GVCs, trade, sustainable development from the perspective of the Global South:
- Facilitating development of LDCs and developing countries through partaking in a GVC is easier than building up an entire value chain from raw material to consumer products
- But some emerging economies built their success on industrial policies based on import substitution and diversification through export orientation
- Energy transition from fossil fuels to green energy increases the importance of new critical minerals along with information technology advancement
- When GVCs outsource because of cheap low-skilled labour and lower social rights, then human rights and social & labour standards are on the line
- GVCs for critical minerals extraction have strong environmental spillovers and local processing of these raw materials and value-added production are key for development
- From a developing country perspective, all this is closely linked to economic diversification and green technology transfer and sustainable investment with equitable benefit sharing

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- GVCs trade, sustainable development and the Global South
- EU Due Diligence Directives: A paradigm shift in regulating GVC networks
- Does the EU end up deciding what the environmental and human rights standards should be in other countries, which may not fit those countries' own societal priorities.
- If suppliers cannot meet EU standards, they may lose business contracts, which can hurt jobs, income, and economic growth in developing & least developed countries.
- Companies might avoid buying from high-risk countries to make compliance easier, instead of helping specific local suppliers improve their practices. Is this then not an incentive system for change?
- Greater control by European downstream companies over their suppliers may limit suppliers' chances to grow and move up the value chain, increasing power imbalances.
- Meeting stricter EU standards can raise production costs in developing countries and make imported goods more expensive in Europe, creating political and economic difficulties for EU trade and development cooperation policy.

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- Global South perspective on the Corporate Sustainability Due Diligence Directive (CSDDD)
- The responsibility to implement the CSDDD is likely to be passed down from lead firms to small-scale Global South suppliers, who often lack the knowledge and resources to meet complex European standards.
- Small suppliers may face substantial new costs for education, administrative systems, and sustainable practices, making continued trade with the EU financially difficult and potentially pushing them toward alternative markets with lower requirements.
- The CSDDD places full responsibility for human rights and environmental violations on private business suppliers, ignoring the broader social and institutional context in which these negative impacts occur; are they letting off governments and policymakers?
- Fear of legal sanctions may encourage multinational corporations to terminate contracts with suppliers rather than work together on context-specific solutions, worsening conditions for workers through job and income losses, instead of creating incentives to improve
- Imposing standards alone does not create the capacity to meet them; without strong multi-stakeholder collaboration & local involvement, CSDDD risks placing disproportionate burdens on suppliers who cannot alone address systemic issues absent government action

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- EU's Eco-design for Sustainable Products Regulation (ESPR), including Digital Product Passports (DPPs), will likely significantly impact exports from DC & LDC:
- Compliance Burdens & Costs: Exporters, especially SMEs and firms in developing & least developed countries may face high costs from product redesign, new materials, different inputs, labelling changes, and complex conformity assessments, which many of these countries may lack the resources or technical capacity to meet.
- Regulatory Divergence & Trade Disruptions: EU-specific sustainability rules create regulatory divergence, forcing manufacturers to comply with multiple standards; non-compliant products risk losing EU market access, causing trade disruptions and fragmented markets.
- Global Value Chain & Competitiveness Impacts: Overlapping international requirements may strain global supply chains, increase costs, and disadvantage producers in countries with weaker environmental regulations, putting developing countries at risk of losing competitiveness and export opportunities.

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- EU Forced Labour Regulation EU (FLR):
- Universal scope of legislation: Although initially seen as targeting only China's Xinjiang region, the FLR applies globally, including corporate- or state-driven forced labour across South and Southeast Asia. Many South Asian exports involve raw materials or components imported from other countries (e.g., China, Myanmar), making it difficult for local businesses to fully trace and verify supply chains.
- Pressure on local businesses: Companies, especially SMEs, may face increased pressure to map and monitor their supply chains to meet EU compliance requirements.
- Capacity challenges: Small, micro and medium enterprises may lack the resources, expertise, or infrastructure to investigate and certify their supply chains as free from forced labour.
- Retroactive enforcement: EU authorities will investigate products after they arrive, placing the burden of proof on EU member states or civil society organizations, which complicates compliance monitoring.
- Integration with other EU regulations: Businesses are already adapting to other EU environmental and sustainability rules; the FLR adds another layer of compliance complexity unless rules are harmonized.
- Structural vulnerabilities: Factors like poverty, displacement, and informal labour markets contribute to forced labour risks, which the regulation alone cannot address.
- Need for support and capacity building: Effective implementation requires communication, training, on regulatory frameworks in exporting countries to help businesses comply sustainably & protect workers

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- Conclusions and future perspective for EU GVC Regulation at large & specific instruments
- GVCs trade, sustainable development and the Global South
- Low degree of consultation and participation of DC/LDC stakeholders & companies before EC GVC Regulation were designed, enacted and now when they are simplified or rationalized
- Is there rregulatory hyperactivity and excessive information and compliance costs?
- Strategic autonomy-driven industrial policies overtake green transition and development
- Need for finance to support social responsibility & sustainability in GVCs
- Digitalization & technology transfer to make compliance digital, user-friendly, interoperable, less costly, between jurisdictions along GVCs especially for SMEs (digital product passport)
- Need for more graduation in terms of the extent of obligations and compliance costs for LDCs, developing countries and emerging economies staggered by technical capacity (like the model of the Trade Facilitation Agreement)

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- From a jurisdictional & regulatory perspective, GVCs present significant challenges due to highly individualized nature, general absence of common governance structures and particular vulnerability to policies that increase barriers to trade (tariffs and non-tariff barriers)
- The current geopolitical landscape witnesses shifting away from sustainability and human rights to supply chain resilience, supply security and national security (if not economic autonomy) concerns and industrial policies linked to raw materials and access to critical minerals
- These trends foster extensions of GVC regulation to other policy objectives than merely trade
- Trend towards regional solutions, trading blocks, reshoring, friends-sourcing to reduce dependency on geostrategic rivals, political “enemies”, uncertainty of critical minerals supplies
- constant GVC flux due to changing comparative & regulatory advantages as factor endowments change like moving capital, investment, labor, skills, technology, innovation “choke points”
- Proliferation of “clubs” dialogues and other soft law instruments, e.g Climate Club launched at COP28; Minerals Security Partnership; plurilaterals at the WTO like DTA, IFD
- These uncertainties lead to many GVC being intra-corporate MNE value chains
- GVC vulnerabilities may need shifting from limited “linear” to “spider” or “snake” supplier networks, thereby making them more complex, probably not cheaper but less vulnerable

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- Ultimately, what are key geostrategic challenges for the EU approach to GVC regulation?
- The essential rationale for the EU being able to put pressure on third countries to upgrade their social, labour & sustainability standards is the EU internal market's attractiveness for countries who accept upgrading standards as a precondition for market access to the EU
- The monopsony/oligopsony power of the EU vis-à-vis countries seeking to place their products on the EU market is key for the EU to effectuate change (this was not always true, e.g. insufficient EU world import share in products under the Deforestation Regulation)
- But China ("belt & way) procures the same products without asking human rights questions
- The US Trump administration openly fights climate mitigation action, forcing fossil fuel purchases & cares only about social/labour standards when trading partners gain an "unfair" comparative advantage vis-à-vis US manufacturers and workers
- Right-wing populist parties in the EU crusade against EU GVC regulation as too burdensome for EU businesses, farmers, etc…EU & MS delay, simplify, weaken, backtrack on standards
- EU/MS themselves cave in to US demands not compatible with EU GVC regulation rationales
- Is support, credibility and legitimacy of the EU approach to GVC regulations fading?

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- ***In sum, why should you buy J. Norris' book on EU GVC regulation?***
- It is very topical as it covers EU social responsibility & sustainability regulation instruments that just entered into force, or are in the process of finalization, refinement & implementation
- It features conceptual depth and explains why and which compelling analytical parameters have been developed to structure the overview and analysis of the key EU GVC instruments
- Additionally, it gives a structured overview of these specific instruments, combining detail with relating them to GVC rationales and conceptual parameters used for the evaluation
- While legal analysis is prioritized, economic and political science rationales and dimensions are also covered which makes the book impressively interdisciplinary in its approach
- The book is also comparative in its analysis, by looking at national and other international approaches to GVC regulation to identify trends, model clauses & regulation, and explore options for coherence with other global and regional instruments
- The book addresses most recent trends, paradigm shifts and geostrategic changes affecting GVCs, how GVCs are adapting and what parameters should be introduced to develop VC regulation further in the light of these trends and challenges