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BRIEFING NOTE No. 119

Recommendations to strengthen civil society engagement in EU trade agreements

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The EU is a frontrunner in institutionalising the participation of civil society actors in trade agreements. Domestic Advisory Groups (DAGs) and joint civil society meetings can act as instruments to further sustainability dimensions of EU trade agreements. In practice, however, civil society mechanisms in EU trade agreements have received strong criticism. There is limited evidence of substantial outcomes achieved by these mechanisms, and stakeholders are increasingly disappointed with the lack of progress made.

This note presents concrete recommendations to enhance the effectiveness and added value of DAGs and joint civil society meetings, in terms of composition, scope, organisation and channels of input, as a contribution to the public consultation on the EU trade policy review.

The note is based on ECDPM Discussion Paper 276, which highlights key issues when it comes to the functioning of civil society mechanisms and offers a more extensive explanation of the recommendations presented.

Introduction

Civil society can contribute towards promoting sustainability dimensions of Free Trade Agreements (FTAs) between the EU and other countries. Domestic Advisory Groups (DAGs) and joint civil society meetings were established to do just that. However, given the lack of substantial outcomes, civil society actors and other stakeholders are increasingly critical of the usefulness of these mechanisms. A reform of civil society engagement in EU FTAs is necessary and particularly timely in the context of the ongoing review of the EU's trade policy.

This note provides concrete recommendations to enhance the effectiveness and added value of DAGs and joint civil society meetings.

Composition

While there is progress on the EU side in establishing rules and procedures for setting up DAGs, several challenges remain, particularly on the partner country side. Greater clarity on the selection procedure and ways to ensure independent and balanced membership can contribute to overcoming issues related to the composition of DAGs. Key recommendations include:

- The European Commission, in its non-paper on improving the implementation and enforcement of Trade and Sustainable Development (TSD) chapters, has stated that it will **promote best practices of establishment and functioning for DAGs and joint civil society meetings** (European Commission 2018). It appears that such guidelines or best practices are still to be made. The process can be accelerated, possibly with (more) involvement of DAG members.
- While promoting best practices or guidelines can be a useful starting point, it does not automatically ensure more representative and balanced civil society mechanisms. Keeping in mind the independent nature of these structures, the Commission could more **firmly persuade its trade partners on the need to facilitate the constitution of representative and balanced civil society mechanisms**.

Scope

The European Commission has decided to usefully **broaden the scope of DAGs to cover sustainability issues arising from the entire agreement**, rather than the TSD chapter only (European Commission 2018). The approach will be implemented in the forthcoming EU-

Mexico and EU-Mercosur FTAs and will henceforth become a standard negotiation approach. This requires **better prioritisation of issues** discussed within the DAGs, as well as further **strengthening the capacity of civil society actors to monitor** the wide range of issues arising from the entire agreement. Key recommendations include:

- To facilitate a more focused and tailored EU action, the European Commission has decided to **develop TSD country priorities for implementation** (European Commission 2018). Such action plans can help DAGs in streamlining their discussions and focus on specific issues that are considered to be the priority concerns for the trading partners. It appears that the process of developing TSD priorities has not achieved substantial progress. The European Commission in collaboration with trade partners can **strengthen efforts to identify TSD priorities and action plans**. DAGs can encourage the signatory parties more strongly to do so.
- Another suggestion to disentangle the broad scope of sustainable development is to **divide the DAGs into smaller sub-groups pertaining to different aspects of sustainability**. They may allow sufficient attention to be given to each of the pillars of sustainable development, and avoid diluting discussions. However, this solution does not in itself empower civil society actors, as even within sub-divided groups, organisations need to have the capacity to more effectively discuss proposals (discussed below).

Organisation

In the last few years, some of the organisational (logistical, financial and capacity-related) issues facing DAGs have been resolved, and may not be the top priority to further address. Nevertheless, many DAGs, more so on the partner country side, still face **organisational challenges** which hinders effective participation of member organisations. Key recommendations include:

- The EU has in recent years made more funding available to support non-state actor engagement in EU trade agreements, notably through a EUR 3 million project to help DAGs overcome organisational challenges (European Commission 2018). While this funding is considered useful to support the functioning of DAGs, in the long run **a more sustainable stream of resources could be created to support civil society participation**. The text of trade agreements could explicitly provide provisions for financing civil society bodies, both

by the EU and counterpart governments. A common fund pooling resources with the partner country may be an option.

- There is scope to **enhance synergies with development cooperation instruments**, specifically the civil society roadmaps developed by DG DEVCO for different partner countries. These roadmaps could reflect priorities of the European Commission with respect to supporting non-state actor engagement in EU trade agreements.
- Communication and coordination can be improved by conducting more frequent meetings and follow ups, also by using **virtual mediums**.
- A way to foster better coordination and communication among DAGs could be to **cluster different stakeholders across DAGs, on the EU side at least, in thematic groups**, for instance on labour or environmental issues. This could be done in addition to the meetings organised for each trade agreement. Additionally, DAG and joint meetings related to different FTAs could be organised one after another during a short period, making it more feasible for organisations to participate.

Channels of input

To allow civil society actors to effectively channel their inputs, it is imperative to **create structured reporting and feedback mechanisms** within the framework of the trade agreement. Key recommendations include:

- The **DAG chairs could be given the right to present their views** in Trade and TSD committee meetings, and gatherings of other intergovernmental bodies of FTAs. DAGs could also have the **right to a substantiated response** to their recommendations within a specified time frame.
- It could be ensured more consistently that DAG/joint civil society meetings take place just prior to meetings of intergovernmental bodies, so that non-state actor deliberations and statements can immediately feed into intergovernmental meetings.
- It would be valuable to create a **complaint procedure that is open to civil society actors**.
- **DAGs can play a more important role in providing input to the dispute settlement processes**. The EU-Canada FTA is already more advanced with provisions to consult civil society mechanisms during government consultations or

by the panel of experts, as well as involving them in the follow-up of the recommendations of the panel. It can serve as a source of inspiration for future trade agreements.

- **Communication between DAGs and EU institutions can be further enhanced**. Relevant **Directorate Generals** of the European Commission to engage with include Trade; International Cooperation and Development; Employment and Social Affairs; and Environment. It may also be valuable for DAGs to engage more regularly with the **European Parliament, the Council of the EU, and national parliaments in EU member states**. Additionally, **EU delegations** can engage more actively with civil society actors in trade partner countries.
- The recently created post of the Chief Trade Enforcement Officer (CTEO) can be considered a further step towards better monitoring and enforcement of the implementation of EU trade agreements. **A complaint procedure**, as recommended above, **could facilitate the work of the CTEO**. More generally, **the CTEO and his team can benefit from engagement with DAGs and civil society actors**.

Conclusion

The measures proposed in this paper can help empower civil society actors to more meaningfully contribute to the monitoring of the sustainability dimensions of trade agreements. As such, it can contribute towards the EU's commitment to promote more responsible and sustainable trade. A reform of civil society mechanisms in trade agreements is not just timely but necessary for actors to consider the engagement worth the investment.

References

European Commission. 2018. Non paper of the Commission services. [Feedback and way forward on improving the implementation and enforcement of Trade and Sustainable Development chapters in EU Free Trade Agreements](#).

All references to sources that inspired the recommendations can be found in the original ECDPM discussion paper:

Ashraf, N. and J. van Seters. 2020. [Making it count: civil society engagement in EU trade agreements](#). ECDPM Discussion Paper 276. Maastricht: ECDPM.

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