

# **Strengthening environmental sustainability dimensions of EU trade policy**

**Recommended Danish priorities and operational efforts**



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# 1. Introduction and background

## 1.1 Purpose and focus

This report was commissioned by the Danish Ministry for Environment and Food and produced by the Danish Ethical Trading Initiative (Dansk Initiativ for Etisk Handel (DIEH)). The report aims to serve as the foundation for a potential future Danish effort to strengthen focus on the environmental aspects of sustainability in free trade agreements (FTAs) of the EU. The recommendations in the report are the views of the authors and do not necessarily represent the view of the Ministry of Environment and Food.

While recognising the interdependency of social and environmental aspects of sustainability, this report will focus solely on the environmental aspects. Similarly, climate aspects are not in focus in accordance with the ministerial division of resort areas between the Ministry of Environment and Food and the Ministry of Climate, Energy and Utilities. However, this does not imply that a future Danish effort to strengthen sustainability in FTAs should not incorporate both climate, environment, economic or social aspects combined and a few cross cutting topics are mentioned in the report, e.g. a carbon border adjustment mechanism. Furthermore, the report includes recommendations on e.g. implementation and enforcement. Although this is moving beyond strictly environmental aspects, implementation and enforcement are included as they are closely linked to the selection of the environmental aspects that hold the most potential for a future effort.

## 1.2 The content and use of the report

The report suggests focus areas and operational recommendations to function as input for further discussions between relevant ministries, as well as contribute to the Ministry of Environment and Food's own focus on this agenda.

To reflect the different aspects, positions and approaches to environmental aspects of FTAs a summary of input from stakeholders consulted during the preparation of the report is enclosed.

The recommendations vary in terms of how easily they can be implemented and some might turn out to be unfeasible. Some recommendations aim to impose strong and enforceable regulation while others aim for softer approaches to achieve positive impact on environment through FTAs.

The recommendations of the report will also serve as the starting point for the preparation of input to the international agendas of the Ministry of Environment and Food, including the bilateral strategic sector cooperation, export promotion, the implementation of the Sustainable Development Goals and major events such as World Food Summit.

## 1.3 Background

Recent generations of EU FTAs have chapters on trade and sustainable development (TSD). The chapters and agreements most often focus on international conventions within human rights and labor rights and to a lesser extent on compliance with environmental standards.

The foundation of the provisions on environment are most often a common commitment to not lower national environmental regulation with the purpose of achieving competitive advantages or attract foreign investments. Some trade agreements also contain sections on common commitments to implement or enforce multilateral environmental agreements (MEAs), such as the

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The chapters on trade and sustainability are also used to promote voluntary partnership agreements with trade partners, e.g. to combat illegal logging.

In recent years the focus on environment in the EU FTAs has been strengthened. There are several reasons for this, amongst these the adoption of the Sustainable Development Goals and public debate on deforestation related to trade of soy and palm oil prevalent in several EU member states. The momentum of the climate agenda, focus and debate of implementation of the Paris agreement have also contributed to growing interest in the links between trade and sustainable development.

The increased interest has led to the incorporation of broader environmental agendas in trade agreements such as marine pollution, circular economy and responsible business conduct. The ambition is to use FTAs not only to uphold current standards and secure a level playing field in an increasingly globalised world, but also to be an effective lever for improvements amongst partner countries.

However, the chapters and provisions on trade and sustainability are often quite generic, loosely formulated and with limited options for enforcement. With increased opportunities for enforcement, there is a significant potential in using FTAs to promote implementation of MEAs.

Since most European businesses are already subject to some of the most ambitious environmental regulation in the world, stronger enforcement through FTAs will strengthen their global position by establishing a more level global playing field. From a Danish perspective, it could increase opportunities to promote Danish solutions to environmental challenges such as agri-food and environmental protection.

## Abbreviations

|          |                                                                                     |
|----------|-------------------------------------------------------------------------------------|
| CETA     | EU-Canada Comprehensive Economic and Trade Agreement                                |
| CITES    | The Convention on International Trade in Endangered Species of Wild Fauna and Flora |
| CSF      | Civil Society Forum                                                                 |
| DAG      | Domestic Advisory Group                                                             |
| DG Trade | The Directorate General for Trade of the European Commission                        |
| DIEH     | Dansk Initiativ for Etisk Handel / Danish Ethical Trading Initiative                |
| EGA      | Environmental Goods Agreement – under negotiation by 46 members in WTO              |
| EU       | European Union                                                                      |
| FTA      | Free trade agreement                                                                |
| ILO      | International Labor Organisation                                                    |
| IMO      | International Maritime Organisation                                                 |
| MEA      | Multilateral environmental agreement                                                |
| OECD     | Organisation for Economic Co-operation and Development                              |
| SMEs     | Small and medium-sized enterprises                                                  |
| TSD      | Trade for Sustainable Development                                                   |
| UNEP     | United Nations Environment Programme                                                |
| WTO      | World Trade Organisation                                                            |

## 2. Methodology

The recommendations in the report are based on the following sources:

1. Recent FTAs of the EU, specifically with South Korea, Japan and Canada. The agreements themselves as well as available related documents such as impact assessments and evaluations.
2. Relevant literature on the topic of trade and sustainability.
3. Interviews with international experts from the EU Commission, UN Environment Programme and OECD, to capture their insights on current and future trends in environmental aspects of free trade agreements, as well as the political potential of strengthened efforts.
4. Involvement of Danish stakeholders through workshop and interviews.

First, a range of draft recommendations for the Danish Ministry of Environment and Food to strengthen environmental aspects of EU FTAs were compiled based on the first three sources above.

Second, the draft recommendations were discussed with selected Danish stakeholders at a workshop and bilateral interviews were conducted with stakeholders not able to attend. The stakeholders were selected by DIEH in consultancy with the Danish Ministry of Environment and Food, the Ministry of Foreign Affairs and the Ministry of Industry, Business and Financial Affairs.

The purpose of the workshop was not to arrive at specific conclusions, but rather to explore different aspects, positions and approaches to environmental aspects of trade policy to inform the work and priority of the Ministry of Environment and Food. In order to facilitate immediate reflections and insights, the input from the stakeholders is presented anonymously.

List of Danish stakeholders consulted:

- Confederation of Danish Industry,
- The Danish Chamber of Commerce,
- Dansk Fashion and Textile,
- Danish Agriculture and Food Council,
- Danish Shipping,
- Finance Denmark,
- FH - Danish Trade Union Confederation,
- SMEdenmark,
- Danish Consumer Council,
- The Danish 92 Group,
- World Wildlife Foundation Denmark
- Care Danmark,
- Ecolabelling Denmark,
- Copenhagen Business School.

Finally, the input from the stakeholders served to structure and prioritise the draft recommendations into the final set of recommendations. The draft recommendations used for the workshop are enclosed as appendix A.

### 3. Sustainability and free trade agreements - status

Recent generations of EU trade agreements have considerable focus on sustainability. Since the EU-South Korea FTA, applied in 2011 and ratified in 2016, all EU FTAs have a separate chapter on trade for sustainable development (TSD). Moreover, the importance of sustainable development is most often mentioned several times in the preamble, in the chapter on objectives as well as in specific chapters.

The approach to TSD is based on three pillars: 1) binding commitments by parties to a range of MEAs and ILO conventions, 2) structures to involve CSOs in the implementation of these commitments and 3) a dispute settlement mechanism to evaluate compliance if it is contested.<sup>1</sup>

#### FTAs with TSD-chapters in implementation:

9 FTAs with TSD chapters in implementation:

- S.Korea,
- Central America,
- Colombia/Peru/Ecuador,
- Georgia,
- Moldova,
- Ukraine,
- Canada (CETA),
- Armenia,
- Japan,
- Singapore
- others expected (Mexico, Vietnam, Mercosur)

#### 3.1 The interplay between policies for trade and environment

The European Green Deal adopted by the Commission in December 2019 lays out the strategy to “transform the EU into a fair and prosperous society, with a modern, resource-efficient and competitive economy where there are no net emissions of greenhouse gases in 2050 and where economic growth is decoupled from resource use. It also aims to protect, conserve and enhance the EU's natural capital, and protect the health and well-being of citizens from environment-related risks and impacts. “

It consists of nine strategies, plans or measures of which many focus on climate while the following focus on environment:

- “Biodiversity Strategy 2030” and follow-up to Deforestation Communication of July 2019
- “Circular Economy Action Plan” (e.g. on plastics, electronics and textiles)
- “Farm to Fork Strategy” on sustainable food along the whole value chain
- “Zero pollution strategy” (including chemicals and pesticides)



Within these environmental strategies, FTAs can be a tool and a lever to make trade:

1. do no harm,
2. raise environmental standards and promote MEAs,
3. promote green transition.

<sup>1</sup> European Commission Services, 2018: *Feedback and way forward on improving the implementation and enforcement of Trade and Sustainable Development chapters in EU Free Trade Agreements.*

In the light of EU's increased climate ambitions for 2030 and 2050, where EU envisions climate neutrality, the Commission foresees the need to introduce a carbon border adjustment mechanism – or a carbon border tax, to ensure a level playing field for European companies. The architecture of such a mechanism is at present unknown, but might serve as an inspiration to other environmental aspects.

### 3.2 Growing interests and debate on sustainability and trade policy

In its communication on a new trade strategy “Trade for All” from October 2015, the EU Commission pledged not only to ensure that any change to levels of regulatory protection from FTAs can only be upward, but also to use trade agreements as levers to promote sustainable development and improve the responsibility of supply chains globally.

However, the legitimacy of the FTAs has continuously been challenged based on critique of the impact of increased trade and investments on both economic, social and environmental sustainability, and lack of enforcement and utilization of the alleged potential of FTAs.

Along with being the world's largest trading block and the largest trading partner for 80 countries, come high expectations and demands for what EU trade policy should deliver. In the words of Madeleine Tiuninga, Head of Unit for Trade and Sustainable Development at DG Trade, trade policy has a convening power - for good and for bad. The negotiations on FTAs entail long-term joint engagement with trade partners on a positive agenda with systematic dialogue and cooperation on sensitive issues. Trade is indeed a platform and leverage but can also be overwhelmed with interests and expectations. Trade cannot fix all – but trade needs to fix something to maintain its legitimacy today and forward. This should be achieved by minimizing potential harmful impacts of trade and maximise the positive potential. Free trade should not lead to excess negative environmental impacts. While free, trade should still be equal and fair, and not relocate production-related environmental impacts from highly regulated to less regulated countries.

### 3.3 Better implementation and enforcement

Based on an inclusive process of discussions with member states, the European Parliament and CSOs, the Commission services released in February 2018 a 15-point action plan on improving the implementation and enforcement of TSD chapters in EU FTAs.<sup>2</sup> The 15 actions are categorised under four headings:

- **Working together**
  - Member States, European Parliament (1); international organisations (2)
- **Enabling civil society to play its role**
  - Monitoring role of civil society (3); responsible business conduct (5)
  - Extend the scope for civil society to the whole FTA (4)
- **Delivering**
  - Step up action throughout the cycle (negotiation to implementation): country priorities (6); early ratification of fundamental conventions (8); assertive enforcement (7)
  - Strengthen commitments on climate action (12) and labour (occupational health and safety; labour inspection) (13)
  - Capacity building: handbook (10); (financial) resources (11)
  - Regular evaluation: reviewing effectiveness of implementation (9)

<sup>2</sup> European Commission Services, 2018: Feedback and way forward on improving the implementation and enforcement of Trade and Sustainable Development chapters in EU Free Trade Agreements. 26.02.2018

- **Transparency and communication**
  - More transparency and better communication (14)
  - Time-bound response to TSD submissions (15)

In the light of the paralysis of the multilateral dispute settlement system in the World Trade Organization (WTO), the Commission has announced the creation of the position of Chief Trade Enforcement Officer along with amendments to make it possible for the EU to react towards trade partners based on panel reports, without awaiting the treatment of the dispute at the WTO Appellate Body, which is currently out of function.<sup>3</sup>

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<sup>3</sup> European Commission, 2019: Press release: Commission reinforces tools to ensure Europe's interests in international trade, 12.12.2019 available at: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_19\\_6748](https://ec.europa.eu/commission/presscorner/detail/en/ip_19_6748)

## 4. Summary of input from international experts and Danish stakeholders

DIEH interviewed a number of experts and convened Danish stakeholders for a discussion on how to strengthen environmental sustainability dimensions of FTAs and EU trade policy. Below is a summary of perspectives and opinions shared.

### 4.1 The political legitimacy and environmental impact of free trade agreements.

Some stakeholders pointed to the fact, that it is not politically feasible to conclude further major FTAs without increased political legitimacy from civil society. So far, NGOs – at least the Danish ones involved in this study - are very sceptical of the alleged positive environmental impact of FTAs. They see prospects in the concrete measures of FTAs – e.g. specific provisions on sustainable fisheries or illegal logging. However, NGOs have not seen enough positive examples for them to support or invest significant capacity in FTAs.

Others argued that FTAs are not to be seen as deregulation. It is regulated free trade and an opportunity to promote political interests of EU and Denmark. FTAs are used to push for reforms in partner countries and can strengthen progressive actors, who work to strengthen rights and environmental protection. FTAs are also part of the wider arena of international politics and play a role in whether partner countries choose to orient themselves towards the EU or other major markets such as USA or China.

One example is the mechanisms of dialogue on implementation of the Paris Agreement in the EU-Mercosur trade agreement, which might be a lever for strengthened commitment to the agreement. However, it remains to be seen, whether EU will utilize the provisions in Mercosur to e.g. limit deforestation in Brazil.

### 4.2 Policy coherence or “contaminated” trade policy

Care should be taken that FTA negotiation positions are not based on EU-priorities being imposed on trade partners to a degree that makes partners withdraw from negotiations. The force of consumer demand might be stronger than regulations on free trade. European consumers are generally positive towards international free trade, but they care about the traded content. The need of consumers for clear, relevant and reliable information on the environmental credentials of products was discussed. This can be supported by eco-labelling as well as policies for and regulation of environmental claims.

Some stakeholders argued that if environmental aspects are not integrated in FTAs in accordance with the objective of policy coherence, consumers and NGOs will keep raising objections against them. One example is the campaigns against unsustainable palm oil. The massive use and demand for palm oil and the related environmental consequences is directly related to the fact that EU's own rape seed oil has largely been used as biofuels as a result of EU climate policy.

Synergies should be sought between the work with the green national accounts and Danish efforts for environmental aspects of FTAs.

Some stakeholders are sceptical towards further environmental requirements in FTAs as it can be used to create trade barriers for third countries. There is a difference in the interest of countries and sectors relying on imports and those who produce products that are in competition with third countries.

### **4.3 Multilateral environmental agreements**

The efforts and targets of the work with different MEAs and different trade partners must vary. Effective implementation of MEAs that FTA partners have already committed themselves to, is relatively easy to achieve. It can be more difficult and more expensive in terms of political capital to work on the integration of MEAs that the partner country has not signed up to, but which are of political priority for DK/EU into FTAs.

Stakeholders stressed the importance of integrating the upcoming *Post-2020 Biodiversity Framework* into FTAs.

### **4.4 The interest of Danish companies, level playing field, commercial opportunities and carbon border tax**

Most environmental requirements promoted in trade policies overlap with commercial interests of Danish companies as they are frontrunners when it comes to green solutions.

Enforcement of international environmental regulation is also in the interest of Danish companies when it comes to ensuring a level playing field, e.g. within shipping, where IMO sulphur regulation could preferably be incorporated into FTAs in order to ensure national enforcement. A closer cooperation between the EU and IMO is also generally desired.

The work on an EU carbon border tax was discussed and the point was raised that though it can be a means to ensure a level playing field, it can also result in further complication of imports and export which is not desirable.

FTAs have significant impact on sectors with heavy duty costs. It can be difficult for small and medium-sized enterprises (SMEs) to make advantage of FTAs if it is too complicated and involves administrative burdens to register imports through the FTA. This should not become further complicated.

### **4.5 Enforcement, measures, sanctions and incentives**

Stakeholders also discussed the option that awarding free trade status to partner countries could be a process rather than a one-off-mechanism. Gradual benefits could be given contingent on for instance progress on implementation of MEAs or national environmental regulation.

More gradual and targeted enforcement was also discussed, e.g. temporal requirements and minor sanctions to be imposed at minor non-compliances.

Others expressed reluctance towards such scattered sanctions and incentives. They argued that the objective of FTAs is to oblige and capacity build partners to enforce environmental regulations in order to create a level playing field for Danish/EU corporations. They argued that the proper approach to this objective is cooperation between governments and authorities of partner countries, e.g. through technical assistance, strategic sector cooperation and technology transfer.

## 4.6 Standards, circular economy and environmental goods agreement

Incorporating specific certifications into the FTAs might be an effective way to award trade benefits to those who are environmentally sustainable. Care should be taken to ensure availability of certificates to SMEs in developing countries. Transparency requirements could be another approach which could also benefit those SMEs who do not have the resources to be certified.

In working with **eco-labels**, focus should be on ISO type 1 eco-labels, as these are third-party certified and based on life-cycle considerations that address multiple environmental criteria. Requirements for both product performance and production / manufacturing process should be considered. Hopefully a framework to assess raw materials standards can also be established.

Stakeholders called for standards within **circular economy**, both for secondary raw materials and processed / manufactured products. Some pointed to the risk of a one-sided focus on circular economy risks compromising other environmental concerns.

Stakeholders were keen on global promotion of any **EU standards or taxonomy for investments**.

The **Ecodesign Directive** was highlighted as effective in making foreign producers live up to European standards. This approach and framework can be applied to circular economy, e.g. with requirements regarding disassembling of products.

The negotiations regarding an **Environmental Goods Agreement** in WTO are stalled, but some stakeholders expressed aspirations for them to be revived by new proposals and supported with standards and labelling schemes.

## 5. Priorities and recommendations

### 1. Catalogue of recommendations for Danish priorities

#### **Brief description:**

Create the basis for a strategic and prioritised Danish approach to strengthening environmental considerations through trade policy via development of a catalogue of Danish priority areas.

#### **Operational recommendations:**

- a) Establish and maintain a list of Danish priorities for environmental issues to be incorporated in the work with different FTA partner countries respectively (e.g. deforestation and biodiversity for the Mercosur agreement),

The list could be based on an analysis of:

- Danish interests and leverage/potential influence
- EU priorities and leverage/potential influence
- Trade impacts on environment in FTA partner countries (both negative and positive).
- Feasibility

The list could be made publicly available to allow stakeholders to be informed and give input – or alternatively developed in liaison with stakeholders.

- b) Use the Danish list of priorities to influence the EU list of EU priorities being developed.

### 2. Enhance the link between environment and trade policy in EU

#### **Brief description:**

Ensure close coordination between objectives of environment policy and trade policy at EU level through incorporation of trade policy aspects in the development of new EU environment policy and vice-versa.

#### **Operational recommendations:**

- a) Use the opportunities in EU working groups and council meetings to ensure that key EU council conclusions and policy documents includes a reference to the use of trade policy to meet the objectives of EU environment policy. This could include (but is not limited to):
  - The EU 2030 Biodiversity strategy
  - The EU Circular Economy Action Plan (see also separate slide)
  - The EU Farm to Fork strategy – with particular focus on sustainable food value chains
  - The EU Zero pollution strategy, incl. the use of chemicals and pesticides in the production of traded goods.
- b) Ensure right to regulate
  - *In investment provisions:* Work for affirmation of the states' right to take regulatory or other measures to ensure sustainable development – to avoid curbing of regulatory space by investors resorting to Investor State Dispute Settlements.
  - *In trade provisions:* Confirm the parties' right to prefer sustainable goods/services in public procurement.

### 3. Strengthen implementation and enforcement of FTAs

**Brief description:**

Use EU's FTAs to meet environment policy objectives through strengthened implementation and enforcement.

**Operational recommendations**

- a) Work to ensure relevant institutions of both parties exist to ensure enforcement of FTAs. Do they have a clear mandate, budget and capacity?
  - E.g. CETA Committee on TSD.
- b) Work for the inclusion of clear procedures and capacity for reviewing and monitoring implementation and enforcement of FTAs.
  - Work for a clear functionality plan – e.g. Regular meeting dates and process to create a work plan.
- c) Consider if trade benefits in FTAs can be introduced more gradually, contingent on implementation of provisions, whilst minor sanctions can be imposed gradually in response to setbacks – thus making FTAs a more flexible instrument. Benefits can also be technical assistance.
- d) Evaluate the need and opportunity for cooperation and capacity building with government bodies of FTA parties, as some developing countries lack the capacity to implement and enforce environmental provisions in the FTAs. Consider the opportunity of using the "Strategic Sector Cooperation" programme and/or technical development aid assistance in this regard.

### 4. Strengthen ratification and enforcement of MEAs

**Brief description:**

Use EU's FTAs to ensure ratification and enforcement of MEAs in partner countries.

**Operational recommendations**

- a) Work for integration of relevant MEAs in FTAs with targets and timeframes for implementation – subject to sanctions.

Specific MEAs highlighted as important by stakeholders:

- The new IMO regulations on maximum sulphur content in marine fuels
- The Paris Agreement on climate change
- The Global Biodiversity Framework to the Convention on Biological Diversity.

Work for EU efforts to monitor implementation and prioritise resources to follow-up with FTA partner.

## 5. Strengthen democratic influence and legitimacy

### **Brief description:**

Enable and encourage the participation of civil society organisations in the work with FTAs to make

### **Operational recommendations**

- a) Create conditions that enables involvement of Danish civil society in environmental aspects of FTAs – both in the negotiation and implementation phase – e.g. through targeted economic support to Danish civil society.
- b) Support the mechanisms in the FTA for democratic influence such as the Domestic Advisory Group and Civil Society Forum.
- c) Work to ensure sufficient financial resources for the effective functioning of Domestic Advisory Groups and Civil Society Forum with relevant participants
  - at DG Trade, which organises the DAGs and CSFs,
  - with Danish stakeholders and/or their representatives at the European level.

## 6. Promote green products through trade policy

### **Brief description:**

Promote the market for green products through trade policy – via standards, eco-design and eco-labels.

### **Operational recommendations:**

- a) Include and utilize provisions in FTAs to promote certification and labelling schemes, with preference given to type 1 product labels and selected raw material labels.
- b) More knowledge about the potential of using labeling schemes in trade policy is needed. Thus, it is recommended to carry out further analysis in this field.
- c) Work to confirm the parties' right to prefer sustainable goods/services in public procurement in FTAs.
- d) Consider the opportunities of providing technical assistance to FTA partners (e.g. through the Danish development aid) to enable implementation of officially recognized certification and labeling schemes (e.g. the EU eco-label and the Nordic Swan) in companies supplying Danish businesses. This could also include support in measuring Product Environmental Footprint.
- e) Support EU efforts to conclude an Environmental Goods Agreement and include this in FTAs.
- f) Work to promote the criteria from EU taxonomy and Green Bond Standards on a global investment level.
- g) Explore the possibility of drawing on the EU taxonomy for sustainable finance to promote green products through trade policy.
- h) Work to broaden the practical scope of the EU eco-design directive to new product categories and to non-energy related environmental issues (e.g. material use, water and waste).

## 7. Promote circular economy

### **Brief description:**

Use FTAs and trade policy to promote the market for Promote the transition to a circular economy through trade policy.

### **Operational recommendations:**

- a) Conduct further analysis to create more knowledge of the potential of promoting circular economy through trade policy.
- b) Support and follow EU-analysis of the links between circular economy and trade policy.
- c) Make it a Danish priority that trade policy is an integrated part of EU's Action Plan for the Circular Economy. ([https://ec.europa.eu/environment/circular-economy/index\\_en.htm](https://ec.europa.eu/environment/circular-economy/index_en.htm))
- d) Contribute to developing standards to promote the market for secondary raw materials through Danish engagement in selected ISO working groups.

## 8. Promote environmentally friendly textile production

### **Brief description:**

Promote the production of more environmentally friendly textiles through FTAs and trade policy.

### **Operational recommendations:**

- a) Explore opportunities of using FTAs to make textile-production and recycling sustainable.
- b) Promote green standards on textile products.
- c) Consider using the Strategic Sector Cooperation programme to promote this area.
- d) Consider how Danish technological solutions can be promoted through trade policy.
- e) Work for eco-design regulation on textile products, e.g. through the EU eco-design directive.

## 9. Protect biodiversity (e.g. in relation to deforestation, agriculture and fisheries)

### **Brief description:**

Utilize relevant chapters and provisions of FTAs to protect and promote biodiversity.

### **Operational recommendations:**

- a) Work for integration of trade policy into EU Work for inclusion and implementation of CITES – and measures that support the aim of CITES. (For inspiration see <https://www.iisd.org/toolkits/sustainability-toolkit-for-trade-negotiators/3-environmental-provisions/3-4-specified-relationship-to-meas/#jump>)
- b) Make it a Danish priority, that trade policy is an integrated part of the EU 2030 biodiversity strategy.
- c) Measures to fight illegal logging and associated trade.
- d) Measures to ensure sustainable fisheries.

# List of literature and resources

United Nations Environment Programme, 2015: *Sustainable trade and investment: achieving the sustainable development goals*. 01.09.2015

OECD Trade and Environment Working Papers, 2018: *Assessing Implementation of Environmental Provisions in Regional Trade Agreements*. By Clive George and Shunta Yamaguchi.

OECD Trade and Environment Working Papers, 2018: *International Trade and the Transition to a More Resource Efficient and Circular Economy: A Concept Paper*. By Shunta Yamaguchi

OECD, 2019: *Trade and the environment. Trade policy brief*.

European Commission, 2015: Trade for all Towards a more responsible trade and investment policy. COM(2015) 497.

European Commission, 2019: COMMISSION STAFF WORKING DOCUMENT Individual reports and info sheets on implementation of EU Free Trade Agreements Accompanying the document REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS on Implementation of Free Trade Agreements 1 January 2018 - 31 December 2018. 14.10.2019  
European Commission, 2019

European Commission Services, 2017: *Trade and Sustainable Development chapters in EU Free Trade Agreements - Non-paper of the Commission services*. 11.07.2017

European Commission Services, 2018: *Feedback and way forward on improving the implementation and enforcement of Trade and Sustainable Development chapters in EU Free Trade Agreements*. 26.02.2018

## Free trade agreements with South Korea, Canada and Japan

Free trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part. Official Journal L 127, 14.5.2011.

COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT (CETA) between Canada, of the one part, and the European Union and its Member States, of the other part. Official Journal L 11, 14.1.2017.

Agreement between the European Union and Japan for an Economic Partnership. Official Journal L 330, 27.12.2018.

## Useful resources

*A Sustainability Toolkit for Trade Negotiators*. Web-based tool-kit from International Institute for Sustainable Development and UNEP. Available at: <https://www.iisd.org/toolkits/sustainability-toolkit-for-trade-negotiators/>

*TREND (Trade and Environment Database) Analytics*. Database of environmental provisions in more than 600 regional trade agreements from German Development Institute and Jean-Frédéric Morin, Professor at Laval University, Canada. Available at: <https://klimalog.die-gdi.de/trend/index.html>

# Appendix A: Draft recommendations discussed with stakeholders

## Categories

1. **Environmental issues** where trade is a relevant factor
2. **Elements of FTA's** where environment can be considered
3. Elements of **monitoring and enforcement**
4. **Alliances / partnerships** to strengthen the environmental effort / impact
5. **Trade policy beyond trade agreements** to strengthen the environmental effort / impact
6. **Other efforts**

## 1. Environmental issues where trade is a relevant factor



## 1.1 Consider trade aspects of EU environmental priorities – to be addressed through FTA's

- 2030 Biodiversity strategy
- Circular Economy Action Plan (see also separate slide)
- Farm to Fork strategy – sustainable food value chains
- Zero pollution strategy (incl. Chemicals and pesticides)
- Digital agenda
- Just transition instrument
- Sustainable Europe Investment Plan
- Green Financing Strategy
- EU Climate Law – climate neutral by 2050? – while still being competitive

## 1.2 Circular economy



**FTA phase:** negotiations and implementation

**Suggested Danish effort**

1. Engage in WTO-efforts to map the role of international trade in the transition to a circular economy.
2. Support and follow EU-analysis of the links between Circular economy and trade policy
3. Make it a Danish priority that trade policy is an integrated part of EU's Action Plan for the Circular Economy. ([https://ec.europa.eu/environment/circular-economy/index\\_en.htm](https://ec.europa.eu/environment/circular-economy/index_en.htm))
4. Develop standards to promote the market for secondary raw materials

## 1.3 Biodiversity (eg. in deforestation, agriculture and fisheries)



FTA phase: negotiations and implementation

### **Suggested Danish effort:**

1. Work for integration of trade policy into EU Work for inclusion and implementation of CITES – and measures that support the aim of CITES (<https://www.iisd.org/toolkits/sustainability-toolkit-for-trade-negotiators/3-environmental-provisions/3-4-specified-relationship-to-meas/#jump>)
2. Make it a Danish priority, that trade policy is an integrated part of the EU 2030 biodiversity strategy.
3. Measures to fight illegal logging and associated trade.
4. Measures to ensure sustainable fisheries
5. Intellectual property rights: The Nagoya Protocol to the Convention on Biological Diversity is aimed at fleshing out the Convention's provisions on what is called access and benefit sharing: the state obligations on access to their genetic resources, and obligations on those using that material to share the benefits derived from it. The ultimate objective of those provisions is to better protect biological diversity by providing powerful incentives to preserve it.



## 1.4 Green standards, eco-labels,

FTA phase: negotiations and implementation

### **Suggested Danish effort**

- Include and utilize provisions in FTA's to cooperate on promotion of certification and labelling schemes.
- including green public procurement.

## 2. Elements of FTA's where environment can be considered

### 2.1 Overview of non-environmental provisions with relations to the environment



**FTA phase:** negotiation

**Suggested Danish effort:**

- Use "A Sustainability Toolkit for Trade Negotiators" offered by International Institute for Sustainable Development (Canada) and UNEP's Environment and trade hub - to get an overview of treaty text that are not explicitly environmental, but which may have significant environmental impacts: investment, government procurement, services and intellectual property rights.
- Consider the recommended options for approaches to a given issue – including example texts from existing FTA's

## 2.2 Ratification and enforcement of multilateral environmental agreements (MEAs)

**FTA Phase:** Negotiations and implementations

**Suggested Danish effort:**

- Work for integration of relevant MEAs in FTAs with targets and timeframes for implementation – subject to sanctions.
- Work to monitor implementation and have resources to follow-up with FTA party.



## 2.3 Ensure right to regulate

FTA Phase: negotiation

**Suggested Danish efforts:**

- *In investment provisions:* Work for affirmation of the states' right to take regulatory or other measures to ensure sustainable development – to avoid curbing of regulatory space by investors resorting to Investor State Dispute Settlements.
- *In trade provisions:* Confirm the parties' right to prefer sustainable goods/services in public procurement

## 3. Elements of monitoring and enforcement

### 3.1 Implementation and enforcement



FTA Phase: negotiation

**Suggested Danish efforts:**

- Ensure **relevant institutions of both parties exist to ensure enforcement?** Do they have a clear mandate, budget and capacity?
  - Eg. CETA Committee on TSD
- Does it have a clear functionality plan? – eg. Regular meeting dates and process to create a work plan,
- Ensure a clear procedure and capacity for **reviewing and monitoring** implementation and enforcement.

## 3.2 Strengthen democratic influence and legitimacy



FTA Phase: negotiation and implementation

### **Suggested Danish efforts:**

- Ensure involvement of Danish civil society in environmental aspects – both in the negotiation and implementation phase
- Support the mechanisms in the FTA for democratic influence such as the Domestic Advisory Group and Civil Society Forum.



## 4. Alliances / partnerships to strengthen the environmental effort / impact

## 4.1 Cooperation and capacity building between government bodies of the parties.



FTA Phase: Negotiation & Implementation

### **Suggested Danish efforts:**

- Evaluate need and opportunity for cooperation and capacity building with government bodies of FTA parties.
- Some developing countries lack the capacity to implement and enforce environmental provisions in the FTAs



## 5. Trade policy beyond trade agreements to strengthen the environmental effort / impact

## 5.1 Coordinate environment and trade policy



FTA phase: Beyond FTA

### **Suggested Danish effort**

Maintain close cooperation and coordination between trade and environment at EU level.

## 5.2 Environmental goods agreement



FTA phase: negotiations and beyond

### **Suggested Danish effort:**

- support EU efforts at the WTO to conclude an Environmental Goods Agreement
- Include EGA's in FTA's



## 6. Other efforts

## 6.1 Danish Country/issue priorities



**FTA phase:** negotiations and implementation

**Operational steps:**

- Establish and maintain a list of priorities for environmental issues with FTA partner countries.
- The list should be based on an analysis of Danish interests, trade impacts on environment in FTA partner countries (both negative and positive), EU priorities and leverage / potential influence