



REX/529
A post COVID-19 emergency:
The design of a New Multilateral Matrix

OPINION

European Economic and Social Committee

A post COVID-19 emergency: the design of a New Multilateral Matrix

(Own-initiative opinion)

Rapporteur: **Emmanuelle BUTAUD-STUBBS**

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1. Conclusions and recommendations

COVID-19 and multilateralism

- 1.1 The profound and unprecedented economic, social and financial impact of the COVID-19 health crisis requires an unprecedented, long-term and unequivocal response. The EU needs to support the economy and international trade to prevent world trade from having to catch up, as in 1929, and to finance the recovery, while protecting businesses, workers of all kinds (including people with disabilities), vulnerable groups and citizens, in a spirit of solidarity and responsibility, leaving no one behind. All businesses, including social economy enterprises, as essential components of the solution, need full access to recovery measures.
- 1.2 Recovery after the "Great Lockdown" must be based on sustainability, and inclusive and green growth. Green Deal measures are therefore more relevant than ever (industrial strategy, carbon border adjustment and carbon neutrality by 2050).
- 1.3 The COVID-19 crisis has dealt a hard blow to a multilateralism already undermined by structural weaknesses such as overlapping organisations, an ageing functioning, and a unanimous decision-making process coupled with a large number of members, which was embodied in the demise of the Appellate Body of the Dispute settlement mechanism of the WTO and the frozen financial contribution and subsequent withdrawal of the United States (US) from the World Health Organization (WHO). In addition, national export restrictions on essential medical supplies and personal protective equipment, including from EU Member States, national egoism and some failures in solidarity and international cooperation negatively affect the most vulnerable countries, and delay the global economy's recovery.

A more holistic vision required

- 1.4 The European Economic and Social Committee (EESC) wishes to share its reflections on a "New Multilateral Matrix", building on the extensive list of former proposals (on WTO reform, the role of the International Labour Organisation (ILO) ...), and to present new solutions for the post-COVID-19 era¹.
- 1.5 Conducted during the crisis, this reflection aims to inspire new cooperation and more consistency in decisions taken by international, supranational and intergovernmental organisations, in matters of trade and investment, decent work, social and human rights, and climate change. It encourages countries to abide by the principle of loyal cooperation in these organisations and to boost synergies, rather than exploiting loopholes.
- 1.6 After each World War, people turned to international organisations to keep peace and prosperity. This global sanitary crisis is precisely the moment to rethink global governance rules

¹ Opinions REX/509 *Reforming the WTO to adapt to developments in world trade* (January 2019 - [OJ C 159, 10.5.2019](#)), REX/486 *The role of the EU's trade and investment policies in enhancing the EU's economic performance* (October 2019 - [OJ C 47, 11.2.2020](#)), REX/500 *Trade and sustainable development chapters (TSD) in EU Free Trade Agreements (FTA)* (July 2018 - [OJ C 227, 28.6.2018](#)), NAT/760 *Reflection Paper Towards a Sustainable Europe by 2030* (September 2019 - [OJ C 14, 15.1.2020](#))

and to incorporate part of the spirit of innovation that manifests itself in the face of unprecedented situations.

A set of concrete proposals

- 1.7 Several stakeholders from a wide range of backgrounds (see Appendix 1) assisted the rapporteur in identifying suggestions, taking into account legal, political and organisational constraints.
- 1.8 These proposals aim to ensure better coordination between:
 - global social standards and climate change and environmental protection commitments;
 - trade-related rules and climate change and environmental protection treaties; and
 - trade-related rules and global social standards.
- 1.9 They include greater access to observer status, funding for the promotion of studies, creation of new working groups, enhanced inter-secretariat coordination, common policies in the field of research, interpretation of some existing legal provisions and political commitments.
- 1.10 The EESC is aware that the changes must be initiated at a political level, and firmly believes that the EU, as one of the few global actors with a constitutional duty and mandate for good global governance, has a crucial role to play in shaping a more efficient multilateral matrix from within.

2. The timid results of our long-standing call for coherence in multilateral rules

2.1 A plea from key actors of civil society

- 2.1.1 Many stakeholders have asked repeatedly for more coherence in policy-making by international, supranational and intergovernmental organisations.
- 2.1.2 For the business community, the International Chamber of Commerce (ICC) notably pointed out that "*one of the underlying tension points in the current debate on globalisation is the perceived dissonance between trade, labour and environmental standards*"².
- 2.1.3 The G7-L7 summit in 2019 also declared that "*The global governance should better take into consideration current social challenges, including the need for new skills, to ensure decent work according to international standards and the conditions for business to support productivity, higher wages, and create good jobs*" (paragraph 3).

² ICC WTO reform, October 2019.

2.2 A bird's eye view of former steps

2.2.1 Understanding the complexity of globalisation

2.2.1.1 The United Nations (UN) plays a major role as the overarching international organisation able to produce rules and standards with the widest geographical coverage. That is the reason why the EESC supports UN reform that must lead from a procedurally-centred approach to a results-based approach. In September 2015, the UN adopted 17 Sustainable Development Goals (SDGs) capturing humanity's most universal challenges. While the SDGs are not legally binding, governments, including EU institutions, are expected to take ownership and establish domestic frameworks for their achievement.

2.2.1.2 In 2017, the Organisation for Economic Cooperation and Development (OECD) flagged that we *"need[ed] to fix globalisation but we [didn't] fully know how to do so"*³. The policy paper listed accompanying policies (social and labour market, education and skills, social and environmental responsibility of firms), and referred to *"the urgent need to increase public consultation and civil society stakeholders' engagement"* in international organisations' standard-setting activities.

2.2.2 Global social standards and multilateral trade rules: the story of a missed opportunity

2.2.2.1 Right after the failed attempt at inserting a social clause in its rules, in 1996⁴ the WTO clarified that the ILO was the *"competent body to set and deal with [core labour] standards"*. Since then, the ILO has adopted several keynote instruments. Section 5 of the ILO's 1998 Declaration recognised *"that labour standards should not be used for protectionist trade purposes, and that nothing in this Declaration and its follow-up shall be invoked or otherwise used for such purposes; in addition, the comparative advantage of any country should in no way be called into question by this Declaration and its follow-up."*

2.2.2.2 In its 2019 Centenary declaration, the ILO leads the way, committing to *"reinforcing its cooperation and developing institutional arrangements with other organisations to promote policy coherence in pursuit of its human-centred approach to the future of work, recognizing the strong, complex and crucial links between social, trade, financial, economic and environmental policies"* (Section IV, paragraph F).

2.2.2.3 While living separate lives, the ILO and WTO nonetheless collaborate in a number of areas, and notably produce interesting joint publications on trade and employment, trade and informal employment, making globalisation socially sustainable and the importance of skills development policies in helping workers and firms harness the benefits of trade.

2.2.2.4 This cooperation policy never crossed the red line of the 1996 Singapore WTO Ministerial Declaration that stated: *"We reject the use of labour standards for protectionist purposes, and*

³ <http://www.oecd.org/about/sge/fixing-globalisation-time-to-make-it-work-for-all-9789264275096-en.htm>, p. 9.

⁴ [WTO Singapore Ministerial Declaration](#) 1996, paragraph 4.

agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question. In this regard, we note that the WTO and ILO Secretariats will continue their existing collaboration".

2.2.3 The gradual integration of climate and environment commitments in the multilateral landscape

2.2.3.1 Since 1994, when the UN Framework Convention on Climate Change (UNFCCC) entered into force, governments have gathered regularly to monitor progress via a robust transparency and accountability system. It was however only in late 2015 when the Paris Agreement, the first universal, legally binding climate change agreement, was adopted, prescribing a system of nationally determined contributions that are to be monitored.

2.2.3.2 With its observer status in UNFCCC and a mandate to advance on decent work and just transition, the ILO made substantial contributions to the work of the Improved Forum on the impacts of the implementation of response measures (2015-2018). The Forum notably investigated *"the effects arising from the implementation of mitigation policies, programmes and actions, 'in-jurisdiction' and 'out-of-jurisdiction' or cross-border impacts, taken by Parties under the Convention, the Kyoto Protocol and the Paris Agreement to combat climate change"*.

2.2.3.3 Following a 2016 Memorandum of Understanding, the ILO worked closely with UNFCCC staff and experts to increase mutual understanding: training on the role of social actors, capacity-building to measure the impact of climate change measures, regional workshops on Just Transition and a biannual global forum.

2.2.3.4 The ILO's main channel of action on environment is a joint consortium with UNEP, UNDP, UNIDO and UNITAR, called Partnership for Action on Green Economy (PAGE).

2.2.3.5 A variety of Multilateral Environment Agreements (MEA) adds to the picture. Predominantly used by the UN, they cover a wide range of environmental themes under Biodiversity, Land, Seas, Chemicals and Hazardous Waste or Atmosphere. The EU is party to around 30 such agreements.

2.2.3.6 Aside from the UN network, the WTO Trade and Environment Committee provides a forum for information-sharing, events and exchange of views on trade and sustainability (i.e. circular economy, voluntary initiatives in standards, reform of fossil-fuel subsidies, plastic, etc.).

2.2.3.7 According to WTO case law, members can put in place measures to improve citizens' health, environment protection or biodiversity conservation as long as they comply with set criteria to ensure compliance with WTO rules and disciplines. These derogations, based on GATT Article XX, are considered as compatible if they are proportionate and non-discriminatory. The application of such measures must not constitute a *"means of arbitrary or unjustifiable discrimination"* or a *"disguised restriction on international trade"*.

2.2.3.8 Renato Ruggiero, WTO Director-General, stated very clearly in a conference in Bonn (9 December 1997) the limits of what a government may or may not do: *"Governments can use*

any type of trade restriction, including import and export quotas and prohibitions, or the imposition of taxes or other charges at the border, for the purpose of environmental protection or resource conservation within their jurisdiction - as long as basic requirements relating to non-discrimination and least-trade- restrictiveness are met. [...] What a country cannot do under WTO rules, however, is apply trade restrictions to attempt to change the process and production methods - or other policies - of its trading partners. Why? Basically because the issue of production and process methods lies within the sovereign jurisdiction of each country".

2.2.3.9 This limit, which prevents interference with process and production methods (PPMs), is a clear obstacle to the establishment of incentives for the production and the trade of durable goods.

2.2.4 Bilateral remedies for greater coherence between economic, social and environmental rules

2.2.5 Merits and limits of the Trade and Sustainable Development chapters (TSD)

2.2.5.1 The EU created TSD chapters in Free Trade Agreements (FTAs) to ensure that trade and investment liberalisation would not lead to a deterioration in environmental and labour conditions.

2.2.5.2 In 2017, the European Court of Justice (ECJ) recognised the "*essential role*" of sustainable development provisions in an agreement⁵.

2.2.5.3 In 2018⁶, the EESC called for greater ambition and increased enforceability of TSD chapters, which ought to carry equal weight to those covering commercial, technical or tariff issues.

2.2.5.4 In 2016, the ILO⁷ reported that 63% of agreements with labour provisions were adopted after 2008, indicating an acceleration, and 46.8% of FTAs with labour provisions involved the EU, the US or Canada. The reference texts are, in descending order, the 1998 Declaration on principles and fundamental rights, Convention No 182 (Child Labour), the Decent Work Agenda, and the Declaration on Social Justice.

⁵ Opinion 2/15 of 16 May 2017, [EU:C:2017:376](#).

⁶ REX 500 *Trade and sustainable development chapters (TSD) in EU Free Trade Agreements (FTA)* (July 2018 – [OJ C 227, 28.6.2018](#)) point 2.4.

⁷ ILO *Labour-related provisions in trade agreements: Recent trends and relevance to the ILO*, [GB.328/POL/3](#), paragraph 9.

3. New thinking to design a New Multilateral Matrix

3.1 General premises

3.1.1 Any new proposals for greater cohesion should respect four principles:

- **specialisation:** *"International organisations only have competences in so far as these have been conferred upon them by their Member-States"*⁸;
- **decision-making capacity:** organisations have clear internal rules and processes allowing governance bodies (technical committees or general assemblies) to act;
- **transparency:** any functional change such as introducing joint groups, new statutes or common declarations must be communicated transparently both internally and externally;
- **evaluation:** the establishment of an evaluation culture on internal functioning should be encouraged.

3.1.2 The EESC inherently supports more open communication and consultation with civil society on international organisations' policies, and calls for the gradual setting-up of permanent dialogue processes. In view of its experience, the EESC is ready to play a pilot role as a facilitator in setting up such procedures. Much like the UNFCCC and the OECD who nurture a rich dialogue with a wide range of partners, the WTO has recently boosted its engagement with civil society, beyond its annual public forum. These contacts can contribute significantly towards greater effectiveness and democracy in the multilateral trade system. The EESC is grateful for the EC's support in increasing the voice of civil society at multilateral level, and welcomes Action 6 of the recent Ottawa Group 6-point action plan⁹.

3.1.3 The social partners' negotiating capacity also calls for greater recognition. The tripartite declaration of social partners at international level and the array of multinational framework agreements contain useful practical rules and tools (social standards, relationships with suppliers, social dialogue, fight against child and forced labour).

3.2 The multilateral tool box

Integrate the WTO into the UN system from a functional point of view

3.2.1 The UN system is the pillar of the international order with its network of specialised agencies such as the ILO, UNESCO, the WHO, the IMF, the World Bank and regional development banks. While trade rules must contribute to achieving the SDGs, the WTO has been set up as a "stand-alone" organisation and remains outside the UN system. The WTO director-general (DG) does, however, take part in the UN Chief Executives Board (CEB) with all the directors-general of the specialised agencies and other main UN bodies. The EESC suggests that the CEB be kept

⁸ Jan Wouters, Cedric Ryngaert, Tom Ruys and Geert De Baere, *International Law: A European Perspective* (Oxford, Hart Publishing, 2018), p. 259.

⁹ Canada leads a group of WTO members, known as the [Ottawa Group](#), in order to address specific challenges to the multilateral trading system. [June 2020 Statement of the Ottawa Group: Focusing Action on Covid-19, June 2020](#).

informed by the WTO on any trade rules system achievement that would help deliver on the SDGs.

3.2.2 The explicit reference to "*sustainable development*" in the Preamble of the 1994 WTO Agreement must be construed as covering the SDGs, which are the new universally agreed embodiment of sustainability in international law. The WTO seems to accept it already as it proclaims itself on its website as "central to achieving the SDGs".

Further connecting separate sets of rules

3.2.3 Tighter social and environmental rules

3.2.3.1 In 2018, the ILO produced several studies on the overall potential impact of the Paris Agreement, on the issue of ecological transition and skills¹⁰ or on skills for a greener future and the impact of warming on working conditions¹¹.

3.2.3.2 The EESC asks for a wider dissemination of these reports and favours the organisation of EC funded regional workshops in developing countries, notably Least Developed Countries and insular and vulnerable economies that are the most impacted socially by the brutal effects of global warming.

3.2.3.3 In 2015, ILO published *Guidelines for a just transition towards environmentally sustainable economies and societies for all*. The EESC suggests greater use of these Guidelines across Commission services in their standards-setting activities. In addition, the updating of these Guidelines should be on the agenda of the ILO Governing Body.

3.2.4 Further links between trade rules and social standards

3.2.4.1 As a matter of reciprocity, the EESC would like the WTO to grant the ILO formal observer status at the meetings of its main bodies and committees. Beyond official ILO participation in the WTO ministerial conferences (MC), it would boost ILO involvement in internal WTO bodies and could contribute to integrating as part of the WTO Trade Policy Review Mechanism (TPRM) respect for international labour standards. The EESC suggests that a dedicated temporary working group between WTO and ILO secretariats be set up to develop and present guidelines by June 2021.

3.2.4.2 In addition, the ILO World Commission on the social dimension of globalisation should be reinvigorated in light of the impact of COVID-19 on Global Value Chains (GVCs). *Building on its opinion on the UN Binding treaty*¹², the EESC advocates *during the German presidency of the EU* for an effective regulatory framework to ensure respect for human rights and decent work in GVCs that would include a European Action Plan with legislative instruments and

¹⁰ [World employment social outlook 2018 - Greening with jobs](#), Geneva ILO, 2018.

¹¹ [Working on a warmer planet: The impact of heat stress on labour productivity and decent work](#), Geneva, ILO, 2019.

¹² [REX 518 Binding UN treaty on business and human rights](#) (December 2019 – [OJ C 97, 24.3.2020, p. 9](#))

tangible achievements, and ambitious and effective normative actions at global level. Both the ILO and the WTO need to contribute in their respective roles.

3.2.4.3 In the process of examining regional and bilateral trade arrangements, the number and geographical coverage of which are constantly increasing, the WTO must play a new role in the field of labour provisions. Because a majority of new FTAs contain labour provisions, the WTO secretariat should collect, compare and monitor this new corpus. Such monitoring work could be shared with the ILO, in the framework of the ILO Action Plan on decent work in global supply chains, and lead to further cooperation between the ILO and WTO.

3.2.5 Further links between trade and climate rules and policies

3.2.5.1 A WTO climate waiver, already debated in academic and business circles, could define "climate measures": characteristics, general interest goals and criteria for compatibility with WTO rules. Such a waiver would enable WTO members to introduce climate measures domestically (Emission Trading System) or at their borders ensuring that these measures will not constitute disguised protectionist measures.

3.2.5.2 A WTO ministerial declaration on trade and environment recognising the role of trade, trade policy and the multilateral trading system in supporting the international community's efforts towards achieving the SDGs and other shared international environmental commitments such as the Paris Agreement should be prepared for MC 12 in 2021 by an informal WTO Working Group. The EESC encourages the Commission to continue its efforts to this effect.

3.2.5.3 The EESC asks the European Commission to clarify its position on the phasing out of fossil-fuel subsidies in the EU and to support fully any emerging initiative at plurilateral level within the WTO.

3.2.5.4 The EESC calls for a swift relaunch of WTO plurilateral negotiations on an Environmental Goods Agreement. This should be more directly linked to the Paris Agreement, e.g. the Chinese Taipei 2019 proposal for a Paris Accord-Related Environmental Goods and Services Agreement relying on the elimination of tariffs on goods and services related to carbon reduction. *"Initiation of a brand new negotiation like the PAEGSA, aimed at tackling such topically relevant issues as climate change and international trade liberalisation, will be a key achievement for the multilateral trading system"*¹³.

3.2.5.5 For greater coherence, MEA secretariats should have observer status in a wide range of WTO committees, not just the Trade and Environment Committee (the committees dealing with Technical Barriers and Sanitary and Phytosanitary Measures, for instance).

3.2.5.6 The EESC recommends the creation of a joint working group for the UN Environment Programme, UNFCCC and WTO. It would deal with greenhouse gas emissions and international trade issues and deliver measurement methodologies or compensation systems

¹³ Non Paper JOB/TE/19 19 January 2018.

within FTAs (by reforestation, for example). Nationally Determined Contributions under the Paris Agreement should take into account such compensation systems agreed with third countries.

4. **EU contribution to a new model of sustainable multilateralism**

4.1 To fight carbon leakage, the EESC supports a WTO-compatible carbon adjustment mechanism at the EU borders, levelling the playing field for CO₂-intensive sectors¹⁴. The EESC asks the European Commission to adhere to its original timetable with a legislative proposal in Spring 2021. The recent inception impact assessment (roadmap) demonstrated support, in particular from sectors such as steel, cement, chemicals and electricity.

4.2 The EESC stresses the importance of having a comprehensive social and environmental conditionality for recipient countries in the next Generalised System of Preferences (GSP) (Regulation (EU) No 978/2012).

4.3 **Stronger sustainable development provisions in FTAs**

4.3.1 Trade and Sustainable Development (TSD) chapters in EU trade and investment agreements should be strengthened:

- As recommend by the European Parliament, TSD chapters should require both partners to ratify and implement core international instruments on human rights (i.e. the International Bill of Rights), ILO core conventions, including the Occupational Safety and Health Convention, and the Paris Agreement and other international environmental agreements.
- The EESC Follow-up Committee on International Trade considers that Sustainable Impact Assessments should review the *"computable general equilibrium (CGE) model [...] against alternative models and include a broader set of indicators measuring impacts on human and labour rights, climate change, biodiversity, consumers and FDI. A broader set of indicators, with an open-minded look into alternative models, is required"*.
- The EESC calls for a revamping of the panel mechanisms where trade lawyers, but also labour, climate or human rights experts, could investigate complaints under TSD chapters. Should such panels find violations, it should trigger a treaty State-to-State dispute settlement mechanism, with possibilities for financial penalties or sanctions, and remedies for the aggrieved party.

4.3.2 Future EU FTAs should include a reference to the Paris Agreement and must provide incentives such as zero duty for environmental goods or services. CETA Article 22.3, where parties undertake to promote economic and trade flows that will help to foster decent work and environmental protection, should be used with other trading partners (New Zealand, Australia). Future EU FTAs should also expand the Domestic Advisory Groups' monitoring role beyond environmental, employment and social fields.

¹⁴ Opinion CCMI/167 *The sectoral industrial perspective of reconciling climate and energy policies* (July 2019 – [OJ C 353, 18.10.2019](#)).

4.3.3 Any investment treaty negotiated by the EU, notably with China, must contain comprehensive provisions on:

- sustainable use of natural resources;
- the precautionary principle approach to human health, natural resources and ecosystems;
- the principle of public participation and access to information and justice; and
- the principle of integration and interrelationship, in particular in relation to human rights and social, economic and environmental objectives.

4.3.4 The upcoming appointment of a EU Chief Trade Enforcement Officer will help to ensure effective implementation of trade agreements including labour rights, environmental commitments and the role of civil society.

4.4 **A leading role for the EU in the design of a New Multilateral Matrix**

4.4.1 The Union is one of the few global actors with a constitutional duty and mandate to "*promote an international system based on stronger multilateral cooperation and good global governance*" (Article 21(2)(h) of the Treaty on European Union (TEU)).

4.4.2 As a regional integration organisation, however, the EU has not been able to participate fully in the work of many bodies, organs and organisations of the United Nations (UN) system, because it must rely on Member States to defend Union positions and interests. More than ten years after the entry into force of the Lisbon Treaty, which committed the EU to "*promote multilateral solutions to common problems, in particular in the framework of the United Nations*" (Article 21(1) TEU), it is high time that the Union, together with its Member States, develops an integrated strategy for obtaining a more enhanced position within the UN system.

Brussels, 15 July 2020

Luca JAHIER

The president of the European Economic and Social Committee

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N.B.: Appendix overleaf.

Appendix 1 – Preparatory meetings held

Name	Organisation	Role
Elina BARDRAM	EC	Head of Unit International Relations (CLIMA.A.1)
Daniele BASSO	ETUC	Advisor
John BRYAN	EESC	Member Group III
Cinzia DEL RIO	EESC	Member Group II
Dimitru FORNEA	EESC	Member Group II
Alan HERVÉ	Sciences Po Rennes	Professor in International public law
Emmanuel JULIEN	ILO	Deputy Director Enterprises Department
Bernd LANGE	EP	INTA Committee chair
Jürgen MAIER	Forum Umwelt & Entwicklung	Director
Jean-Marie PAUGAM	French government	French Permanent Representative to the WTO
Christophe PERRIN	ILO	Director Multilateral Cooperation Department
Denis REDONNET	EC	Director WTO, Legal Affairs & Trade in Goods (TRADE.DGA2.F)
Lutz RIBBE	EESC	Member Group III
Victor VAN VUUREN	ILO	Director Enterprises Department
Lieve VERBOVEN	ILO	EU Bureau director
Jan WOUTERS	University of Leuven	Professor of International Law and International Organisations