



# OPINION

European Economic and Social Committee

## **A new framework for free trade agreements**

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**A new framework for free trade agreements, economic partnership agreements and investment agreements that guarantees the real involvement of civil society organisations and the social partners and ensures public awareness**  
(own-initiative opinion)

**REX/536**

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**EN**

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## 1. Conclusions and recommendations

- 1.1 The EESC endorses the new open, sustainable and assertive European trade policy, and considers that it is paramount that this strategy promote the competitiveness of European industry and economic players (large, medium-sized and small enterprises) and help promote European values and principles, with particular reference to democracy, human, social and gender rights, and labour and environmental law. This will make it possible to ensure that the European Union (EU) has the tools it needs to safeguard workers and businesses from unfair trade practices and consumers from harmful, unsustainable products, thus serving in tandem the interests of businesses, individuals/consumers and workers.
- 1.2 The EESC considers that there are a number of prerequisites for the implementation of the ambitious new EU trade strategy:
- **an innovative trade negotiation strategy (trade agreements, economic partnership agreements, investment agreements)** which gives civil society organisations and the social partners a seat at the table and thus ensures that the benefits of trade are genuinely distributed across all participants, both in the EU and in the partner countries;
  - **the mechanisms for monitoring, evaluating and implementing agreements – the domestic advisory groups (DAGs) – must be reformed.**
- 1.3 The EESC considers that this dual reform process – of both the negotiation tools and the DAGs – will generate real support and thus public awareness of the value of the signed trade, partnership, and investment agreements among all those affected by them (businesses, workers, consumers, etc.) and for both of the contracting parties (EU and partner countries).

## 2. General comments

- 2.1 In February 2021, the European Commission laid out a new open, sustainable and assertive trade policy<sup>1</sup>, intended to deliver on the following three EU objectives:
- i) supporting economic recovery and the green and digital transition;
  - ii) shaping global rules for more sustainable and fairer globalisation;
  - iii) increasing the EU's capacity to pursue its interests and enforce its rights.
- 2.1.1 This new trade strategy has been framed for several reasons. First and foremost is the COVID-19 crisis, which has triggered serious consideration about the new strategies on health and food security, the supply of raw materials and strategic goods and more generally about global supply chains.
- 2.1.2 There are a number of other factors which caused the Commission to propose a new trade strategy, related to: i) the crisis dogging the World Trade Organization (WTO); ii) the problematic relations with various countries and trade blocs, specifically China, Russia and the US; iii) the far from smooth negotiations with the United Kingdom; iv) and the fact that several trade agreements have

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<sup>1</sup> [COM\(2021\) 66 final](#).

stalled (such as the EU-Mercosur agreement, the Central Africa-EU EPA or the East African Community-EU EPA).

2.1.3 The Commission proposal mentions several times that the new European trade strategy must do more than just promote the competitiveness of European industry: it must also help promote European values and principles, with particular reference to democracy, human, social and gender rights, and labour and environmental law.

2.1.4 The European Parliament has welcomed the Commission's proposal and asked it to ensure that the Trade and Sustainable Development chapters (TSD chapters) in the agreements being negotiated contribute to ensuring that the benefits of trade are distributed to all<sup>2</sup>.

2.1.5 In its recent opinions, the EESC has set out its own views on EU trade policy and expressed strong support for the Commission proposal, pointing out that it is important, relevant and timely. The EESC has also clearly outlined its expectations and consequent recommendations for an ambitious review of trade and sustainable development (TSD)<sup>3</sup>.

2.1.6 Since the new strategy proposed by the Commission is quite rightly ambitious, we feel that there are a number of prerequisites for its implementation:

- **an innovative trade negotiation strategy (trade agreements, economic partnership agreements, investment agreements)** which gives civil society organisations and the social partners a seat at the table and thus ensures that the benefits of trade are genuinely distributed across all participants, both in the EU and in the partner countries;
- **the mechanisms for monitoring, evaluating and implementing agreements - the domestic advisory groups (DAGs) – must be reformed.**

2.1.6.1 This dual reform process – of both the negotiation tools and the DAGs – will generate real support and thus public awareness of the value of the signed (trade, economic partnership, and investment) agreements among all those affected by them (businesses, workers, consumers, etc.) and for both of the contracting parties (EU and partner countries).

### 3. A critical assessment of current trade agreements

3.1 While stressing its belief that multilateralism is fundamental for trade and that the WTO – once significantly reformed – must once again uphold that multilateralism, the EESC understands that, in this specific context, trade agreements can be pivotal. This is true for both the EU's bilateral trade relationships (which after all make up over 30% of the Union's trade in goods and services) and, most importantly, for the promotion of a model of development that is economically, socially and environmentally sustainable for the EU and its partners.

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<sup>2</sup> [European Parliament resolution of 26 November 2020 on the EU Trade Policy Review \(2020/2761\(RSP\)\)](#).

<sup>3</sup> [OJ C 105, 4.3.2022, p. 148](#); [OJ C 105, 4.3.2022, p. 40](#); [OJ C 364, 28.10.2020, p. 53](#); [OJ C 364, 28.10.2020, p. 160](#); [OJ C 159, 10.5.2019, p. 28](#).

- 3.2 Over the last few years, various negotiation tools used by the EU (trade agreements, economic partnership agreements, investment agreements) have been the subject of particularly critical assessments by the EESC<sup>4</sup>.
- 3.3 The EESC believes that these assessments must be taken as a starting point for considering whether the current negotiating tools need to be reformed in order to achieve the objectives of the new trade strategy proposed by the Commission.
- 3.3.1 One issue is the limited transparency during negotiations on trade agreements. While it is clear that confidentiality must be upheld when negotiating high-level agreements, the EESC believes that, within the framework of this confidentiality, trade negotiations must nonetheless be carried out transparently by providing a constant flow of information to the general public and stakeholders affected by the negotiations.
- 3.3.1.1 The Commission has always been vehemently opposed to making negotiations fully transparent, drawing on existing legislation<sup>5</sup> and various Court of Justice rulings<sup>6</sup>, and arguing that disseminating information in the course of the negotiations would undermine the EU's interests.
- 3.3.1.2 The EESC acknowledges that in recent years the Commission has demonstrated significant and encouraging openness, increasing the level of transparency by providing information on the various trade agreements regarding briefings on the various negotiating rounds, the negotiating mandate conferred upon it and the proposals, and by arranging meetings in the form of dialogue with civil society and the expert group on EU trade agreements.
- 3.3.1.3 Despite these improvements, the negotiating mandate conferred by the Council needs to be more ambitious and to give the Commission more options for involving civil society and the social partners, ensuring that they are genuinely involved in the negotiation process. The EESC has also called for the renewal of the expert group, which is no longer active<sup>7</sup>.
- 3.3.1.4 The EESC understands that there is a trade-off between transparency and confidentiality during negotiations, but points out that transparency is the key point of friction for stakeholders, civil society organisations and the social partners.
- 3.4 Another aspect which comes in for considerable criticism is the fact that the impact assessments on the sustainability of the agreements are limited in scope, published late when the negotiations have already been concluded, or sometimes completely absent in the partner countries concerned.

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<sup>4</sup> [OJ C 105, 4.3.2022, p. 148](#); OJ C 105, 4.3.2022, p. 40; REX/530, *Evaluation of the role of civil society in the participation structures under the EU/Colombia/Peru/Ecuador Agreement*, rapporteur: G. Iuliano. OJ C 364, 28.10.2020, p. 160. [OJ C 47, 11.2.2020, p. 38](#). REX/503 *Towards an EU-Mercosur Association Agreement*, rapporteur: J. Puxeu Rocamora, co-rapporteur: M. Soares.

<sup>5</sup> Article 4 of Regulation No 1049/2001.

<sup>6</sup> [Letter in which the Commission refuses to grant Friends of the Earth access to a document. 2019 \[bl\]. \[https://www.asktheeu.org/fr/request/7049/response/23196/attach/3/Signed%20letter.pdf?cookie\\\_passthrough=1\]\(https://www.asktheeu.org/fr/request/7049/response/23196/attach/3/Signed%20letter.pdf?cookie\_passthrough=1\) Access: 30/7/2020 p.2.](#)

<sup>7</sup> [OJ C 374, 16.9.2021, p. 73](#). Op. cit.

- 3.4.1 A number of non-governmental organisations indeed lodged a complaint with the European Ombudsman<sup>8</sup> on the grounds that the Sustainability impact assessment (SIA) for the EU-Mercosur agreement was published late. In March 2021, the European Ombudsman criticised the European Commission as follows: "*The European Commission failed to ensure the finalisation of the sustainability impact assessment in good time, notably before the end of the EU-Mercosur trade negotiations. This constitutes maladministration*"<sup>9</sup>.
- 3.4.2 The EESC points out that impact assessments of the agreements' economic, social and environmental sustainability must be published in good time – at the start of the negotiations – and updated throughout the negotiations, as well as contributing on a regular basis to the ex post assessment of the agreements while they are being monitored. These assessments must focus on both parties to the negotiations: the European Union and its Member States, and the partner countries<sup>10</sup>.
- 3.5 Another criticism levelled against the trade agreements has focused on their inability to effectively enforce human rights, social rights, the fundamental conventions of the International Labour Organization or environmental and safety standards. The agreements also fail to guarantee a level playing field for all market players (particularly as regards small and medium-sized enterprises and certain industrial sectors)<sup>11</sup>.
- 3.6 In addition to these problems, the trade agreements sometimes fail to allow for features specific to developing countries or asymmetries between the EU and the partner countries, with the result that disparities may not be resolved and can on occasion even be exacerbated (such as equal access to life-saving medication or vaccines). They also fail to account for the fact that multinationals can become very powerful once the trade agreements have been signed.
- 3.7 To ensure an effective and broad involvement of the organised civil society a widespread implementation of DAGs is not only necessary in all future trade negotiations, but especially in the current EPAs in Africa, where DAGs are completely missing. Ongoing and upcoming revision processes and the implementation of the new EU-OEACP agreement can offer an effective opportunity in the introduction of DAGs into existing trade agreements lacking this instrument (e.g. the revision of the EPA between the European Union and the Southern African Development Community (SADC) EPA Group).
- 3.8 Civil society and social partner involvement in the negotiations on and monitoring of agreements signed by the EU has evolved to some extent from what it was initially. The EESC acknowledges the efforts made in this respect, and indeed in many cases the Committee was part of the process.

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<sup>8</sup> ClientEarth, Fern, Veblen Institute, *La Fondation Nicolas Hulot pour la Nature et l'Homme* and the International Federation for Human Rights.

<sup>9</sup> Decision in case 1026/2020/MAS concerning the failure by the European Commission to finalise an updated "sustainability impact assessment" before concluding the EU-Mercosur trade negotiations.

<sup>10</sup> [OJ C 47, 11.2.2020, p. 38](#) Op. cit.

<sup>11</sup> [OJ C 105, 4.3.2022, p. 148](#); REX/532: Op. cit; [OJ C 364, 28.10.2020, p. 160](#) Op. cit.

- 3.9 The EESC notes the findings of the recent *Study Reviewing the DG Trade Civil Society Dialogue*<sup>12</sup> assessing dialogue with civil society at European and national level. Although it endorses some of its findings, the EESC considers that a quantum leap is needed in terms of genuine civil society and social partner involvement in EU trade policy.
- 3.10 The EESC has on a number of occasions called for genuine and stronger involvement by civil society and the social partners throughout the negotiations on trade agreements, on both sides of the table (the Commission and the partner countries)<sup>13</sup>.
- 3.11 The EESC therefore believes that the time has come to devise a new, more effective negotiating strategy, with new standards and procedures for ensuring that civil society organisations and the social partners are truly, effectively involved. This would help deliver on the objectives of the EU's new trade strategy, ensuring that the trade agreements concluded will contribute to a form of development that is sustainable in economic, social and environmental terms for both of the parties to the negotiations: the EU and the partner countries.

#### 4. A new framework for negotiating trade agreements

- 4.1 The EESC considers that the EU's new trade policy opens the door to assessing and improving the rules, procedures and criteria for making organised civil society and social partner involvement much more effective, transparent and inclusive, both during the negotiations and subsequently, during the monitoring, evaluation and delivery of the agreements.
- 4.2 The EESC considers that a new negotiating methodology is needed, one able to establish a new roadmap which will ensure that civil society organisations and the social partners are genuinely involved throughout negotiations. This methodology must be used by both the EU and the countries comprising the other party to the negotiations.
- 4.3 The first step on the negotiating roadmap should be the signing of a **memorandum of understanding** between the negotiating parties (which is to say, the Commission and the countries comprising the other party to the negotiations) which will guarantee that both parties undertake to:
- i) comply with the various stages of the negotiations, and to
  - ii) involve civil society organisations and the social partners throughout the negotiations as observers, meeting in a special "joint consultative committee of stakeholders" (JCCS).
- 4.3.1 The stages of the negotiations laid down in the **memorandum of understanding** will apply both to the main round of negotiations and to any technical negotiating rounds which might be set up.
- 4.3.2 **Joint consultative committees of stakeholders** should be set up following the **partnership principle** approach which applies to cohesion policy.

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<sup>12</sup> March 2021, European Union, *Study Reviewing DG Trade Civil Society Dialogue*. Tetra Tech – Deloitte.

<sup>13</sup> [OJ C 105, 4.3.2022, p. 40](#); [OJ C 105, 4.3.2022, p. 148](#); [OJ C 159, 10.5.2019, p. 28](#).

4.3.2.1 Under this partnership, each cohesion policy programme takes shape in a collective process involving European, regional and local authorities, the social partners and civil society organisations. This partnership applies to every stage of the planning process: design, management, implementation, monitoring and assessment. This approach helps ensure that the measures are suited to the local and regional needs and priorities of all stakeholders.

4.3.3 The fundamental criterion of representativeness, independence and equal distribution between stakeholders must govern the choice of observers from among representatives of civil society organisations and the social partners. As regards representativeness and independence, the social partners should abide by the criteria adopted by the workers' group and employers' group within the ILO, while the other civil society organisations should keep to the rules set by international bodies. Observers appointed to the **joint consultative committee of stakeholders** must undertake to abide by a specific **code of conduct**.

4.3.4 Along with civil society organisations and the social partners, relevant international institutions should also be appointed to the **joint consultative committee of stakeholders** as **external observers**. Relevant international institutions include the International Labour Organization (ILO), the Organisation for Economic Co-operation and Development (OECD) and the Multilateral Environmental Agreements Secretariat of the United Nations Environment Programme.

4.3.4.1 The **code of conduct** should set out:

- i) the rights and duties of observers appointed to the **joint consultative committee of stakeholders** and participating in the negotiations on behalf of civil society and the social partners. Provision must be made within the **code of conduct** for an appropriate **confidentiality protocol** stipulating compliance with the confidentiality principle, whereby those involved may not divulge information disclosed during the "confidential" or "early warning" stages of negotiations;
- ii) the principles governing the appointment of observers to the joint consultative committee of stakeholders: the appointment procedure must be transparent and ensure that they are genuinely independent, as well as representative of and equally distributed across civil society and the social partners (see point 4.3.3);
- iii) the rules and procedures for the various stages of negotiation set out in the roadmap for negotiations.

The **code of conduct** must be signed by all those participating in the negotiations in the capacity of observers appointed to the joint consultative committee.

4.4 The **roadmap for negotiations** must comprise the subsequent stages through which the talks will cycle until the end of the negotiations.

4.4.1 **The confidential stage of negotiations**. This involves both the parties to the negotiations (the Commission and the countries in the region which is party to the negotiations) and the representatives of civil society and the social partners in their capacity as observers who, by signing the confidentiality protocol attached to the code of conduct, undertake to keep any

information to which they may have access during this stage strictly confidential. During this stage, the ILO should submit a pre-negotiation report on the state of play of ratification and implementation of the fundamental conventions in the third country, to be made available to all the parties around the negotiating table (negotiating parties and observers). This report would not be binding but would help demonstrate whether the countries that are party to the agreement uphold social standards.

- 4.4.2 **The early warning stage with the joint consultative committee.** This is when the observers identify sensitive issues arising during the negotiations, on which the negotiations are not finding solutions which civil society and the social partners would deem satisfactory. This stage is also private, and observers must keep all information strictly confidential.
- 4.4.3 **The open communication stage.** Both the Commission and the countries in the region which is party to the negotiations submit a public, joint briefing on the state of play of negotiations on a regular basis. During this stage, the observers may voice their assessment in line with the Chatham House Rule<sup>14</sup>, setting out the sensitive issues identified during the preceding early warning stage with the consultative committee. This stage is public, and sets out the preliminary results of the negotiations. It increases public awareness of the state of play.
- 4.4.4 **The stage for the presentation of the preliminary independent report assessing the impact of the trade agreement.** During this stage, both parties (the Commission and the countries in the region which is party to the negotiations) present *the preliminary independent assessment of the impact of the agreement*. This is when civil society organisations and the social partners give their views of the economic, social and environmental impact of the agreement, using their own analysis. The external observers make a key contribution in the form of a report to be made available to all the parties and publicly disclosed.
- 4.4.5 Once the stage for the presentation of the preliminary impact report is complete, the negotiation cycles round to the confidential negotiating stage, followed by the early warning stage with the consultative committee, followed by the open communication stage and lastly the stage for the presentation of the final report assessing the impact of the trade agreement. The negotiating cycle will continue until it is concluded when the agreement is or is not signed by the representatives of the Commission and the countries in the region which is party to the negotiations.
- 4.4.6 If the agreement is signed by both parties, they, together with the civil society and social partner observers in the consultative committee, will **prepare a specific protocol establishing the Domestic Advisory Groups (DAGs)** (for the EU and for the partner countries) and laying down the rules governing their working methods (see point 5.5.2).
- 4.4.7 The EESC considers that the proposed framework for negotiations would be a challenge for all those involved in the negotiations: every single stakeholder (the Commission, civil society organisations, the social partners, external observers) would need to be fully aware of its role and a very high level of professional behaviour and preparation would have to be guaranteed for all

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<sup>14</sup> Whereby "When a meeting, or part of it, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity or affiliation of the speaker(s), nor that of any other participant may be disclosed".

of them. The EESC considers that the European Parliament's role should be bolstered: it should play a stronger role during the negotiating and monitoring stages. The EESC is quite convinced that this is the only way to ensure that everyone, including civil society and the social partners, is genuinely involved in trade negotiations, and thus supports the resulting agreement.

## 5. A proposal to reform the domestic advisory groups responsible for monitoring, evaluating and implementing the agreements

5.1 The EU is currently faced with increasing demand from civil society and the social partners for inclusive and democratic dialogue, both while trade agreements are being devised and when they are being implemented<sup>15</sup>. The EESC appreciates the Commission's efforts to open up forums for dialogue and participation, but feels that it is crucial to improve the procedures for monitoring, evaluating and implementing these agreements.

5.2 The EESC considers that the consultative mechanisms – the domestic advisory groups (DAGs) – set up to monitor the implementation and enforcement of the commitments set out in the TSD chapters of the trade agreements, and, in future, the trade agreements in their entirety, do not really correspond to the objectives set. The DAGs have a number of shortcomings in terms of both the criteria for establishing them and the lack of clear rules governing how they function.

5.3 Following the policy recommendations set out in the non-paper of the EU DAGs<sup>16</sup> and the recent analysis carried out on EU and partner country DAGs<sup>17</sup>, DAGs can be evaluated using four levels of success based on their ability to:

- 1) *function*;
- 2) *share information*;
- 3) *monitor the agreements*;
- 4) *deliver political impact*.

5.3.1 As regards their **ability to function**, the EESC provides the secretariat for the DAGs and so they are set up on the EU side, but they are in place in only some of the partner countries<sup>18</sup>. In the partner countries where they are in place, the DAGs have clear organisational problems due to insufficient funding<sup>19</sup> as well as problems in terms of representativeness, equal distribution of stakeholders, and independence of the member organisations<sup>20</sup>.

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15 [Non-paper from the Netherlands and France on trade, social economic effects and sustainable development.](#)

16 [Non-paper: Strengthening and Improving the Functioning of EU Trade Domestic Advisory Groups.](#)

17 [Martens, D., Potjomkina, D., Orbie, J., 2020, Domestic Advisory Groups in EU trade agreements - Stuck at the Bottom or Moving up the Ladder? Friederich Ebert Stiftung – Ghent University.](#)

18 For instance Peru: since the government did not choose to establish a suitable DAG, civil society organisations set up a "shadow" DAG which unfortunately is not recognised by the EU. Martens et al., 2020 Op. cit.

19 "The EESC provides the secretariat of all EU DAGs. Some 78 per cent (36/46) of EU DAG respondents consider that DAG meetings are well prepared by the secretariat. Most non-EU DAGs, however, do not have similar support to help them organise and prepare their work. The bulk of their work is often carried out by their president (and sometimes vice-presidents), who are limited in their capacity to dedicate a lot of time to these activities". Martens, D., et al. Op. cit. p. 16.

20 For instance the South Korea DAG: it has made considerable progress but still has shortcomings in terms of representativeness and independence. Martens, D., et al., 2020 Op. cit.

- 5.3.2 As regards the ability of DAG stakeholders to **share information**, here too there seems to be a clear difference between EU and partner country DAGs. Other than a few disagreements, EU DAGs generally exchange information effectively between those involved in the dialogue, whereas in partner country DAGs there are tensions between business and non-business members. On both sides, the relationship between the governments and their DAGs (vertical dialogue) is certainly not ideal. There is a call for more structured and in depth cross-border dialogue between EU and partner country DAGs, particularly during the annual cross-border civil society meeting and by setting up specific meetings between the DAGs within the framework of the agreement in question.
- 5.3.3 As regards **monitoring** the agreements, although this is the main purpose of the DAGs, it must be acknowledged that in practice it is no easy task. The inability to monitor the implementation and enforcement of the TSD chapter is primarily the result of a lack of specific resources which can be used for monitoring and a lack of willingness and accountability on the part of the governments. Praise is therefore due for the Commission and the EU DAGs which have brought pressure to bear on partner country governments to persuade them to be more open during the monitoring stage<sup>21</sup>. A non-binding information report submitted to the DAGs by the ILO and the OECD would constitute a trustworthy basis for assessing the trade agreement.
- 5.3.4 There can be no doubt that to date, the **political impact** delivered by the DAGs – which is to say influence exerted on the implementation of the TSD chapter – has been utterly insufficient. The Commission should establish more ambitious criteria aimed at ensuring that governments take account of the DAGs' recommendations; moreover, although the DAGs' obligations are binding, there is a lack of effective enforceability and permanent involvement of the DAGs in the dispute process<sup>22</sup>.
- 5.4 In view of the above, the EESC feels that the DAGs need to be thoroughly reformed in order to correct the shortcomings listed (in points 5.3.1 to 5.3.4).
- 5.5 The EESC would point out that no time must be lost in establishing, for every type of agreement negotiated, a single body through which civil society and the social partners can be involved. This **reformed domestic advisory group** would be able to monitor the implementation and enforcement of the agreements and evaluate their results<sup>23</sup>.
- 5.5.1 This body must be common to both parties to the agreement (EU and partner countries) and function perfectly. It must also cover all aspects of the agreement, prioritising all elements of the agreement that have an impact on the implementation of the TSD chapter.
- 5.5.2 The EESC believes that every agreement signed must comprise a **protocol on the functioning of the domestic advisory groups** establishing a sound institutional framework for the rules

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21 In the EU-Korea Agreement, political pressure led to an official complaint and the panel of experts concluded that the country did not abide by ILO conventions.

22 [OJ C 105, 4.3.2022, p. 40.](#)

23 [OJ C 159, 10.5.2019, p. 28.](#)

governing the DAGs which apply to both parties to the agreement (EU and partner countries). Specifically, this protocol would:

- a) lay down the criteria for selecting DAG members, with a view to ensuring that they are both representative, equally distributed among stakeholders and independent (see point 4.3.3);
- b) stipulate the requirement to give a seat as external observers on the DAGs to both the *International Labour Organization (ILO)* and the *Organisation for Economic Co-operation and Development (OECD)*. Giving the ILO a seat would enable it to monitor the enactment of ILO conventions in free trade agreements, using the internal supervisory mechanism and providing the parties to the negotiations with a specific report focusing on any problems in the implementation of the social standards of the TSD Chapter. The OECD's involvement would enable it, through the National Contact Points and the relevant governments, to monitor the implementation of the guidelines for multinationals, particularly downstream of the supply chain. The assessments drawn up by these bodies would not be binding upon the DAGs;
- c) give the DAG a proactive role in triggering dispute settlement proceedings relating to all areas of the agreement and brought by the DAGs to the *Chief Trade Enforcement Officer (CTEO)*;
- d) establish a timeframe for devising binding roadmaps for the commitments set out in the agreement, setting clear deadlines for ratifying them;
- e) update the guide for implementing the commitments set out in the agreement, establishing a set of qualitative and quantitative indicators for monitoring the agreement on an in itinere and ex post basis;
- f) set the date for submission of the independent ex post impact assessment of the agreement by each of the parties to the agreement (EU and partner countries) if the parties deem it appropriate to bring forward the five-year deadline;
- g) establish the number of meetings to be held by each DAG during the year for each of the parties to the agreement (EU and partner countries);
- h) stipulate the requirement to hold an annual meeting between the EU and partner country DAGs;
- i) stipulate the requirement to hold an annual meeting between the EU and partner country DAGs in Brussels with the active participation of all DAG members;
- j) stipulate the requirement to set up an online platform where DAG participants can grasp the importance of learning from each other; exchange all necessary information, for example on specific topics (labour rights, human rights, trade impact of organic farming rules, etc.); share possible best practices; and set up dedicated online training courses for DAG participants;
- k) establish a meetings schedule which will enable the Commission, the European Parliament and the Council to take stock of the state of play of the DAG's proceedings;
- l) ascertain the financial resources needed for the DAGs to function;
- m) stipulate the requirement to draw up an annual report on the activities of each DAG. In this report, the DAGs will be able to establish their priorities and recommendations for the implementation of the TSD Chapter and the European Commission will be required to incorporate these priorities and recommendations into the EU priorities for the implementation of the TSD Chapter, or explain why they are not being taken on board;
- n) stipulate the requirement that the EESC be entrusted with organising the EU's DAG and providing technical assistance for the cross-border meeting of the EU and partner countries

DAGs. The EESC secretariat will provide technical assistance with identifying counterparts in the partner countries (on the basis of the criteria set out in point 4.3.3), and assist the DAG chairs in establishing the agenda, managing the meetings, drafting meeting reports, presenting reports to the EU institutions and civil society and taking responsibility for providing the necessary information.

5.5.3 The in itinere monitoring indicators will be pivotal: they will ensure that the parties abide by the commitments set out in the agreement and focus on economic/trade, social, environmental and health security issues.

5.5.4 The EESC considers that the reform of the DAGs will give the EESC a key role, requiring appropriate additional human and financial resources. The EESC therefore asks the budgetary authorities, once the DAGs have been reformed, to provide additional funding in line with the expenditure anticipated by the Commission, in order to help the domestic advisory groups to perform all the activities planned to the standards required.

Brussels, 23 March 2022

Christa SCHWENG

The president of the European Economic and Social Committee

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FIGURE 1: The various stages of negotiations (the roadmap)

## **1. THE "CONFIDENTIAL" STAGE OF NEGOTIATION**

The principle of confidentiality applies, exchanges of information are not disclosed externally

Composition of the negotiating round:

- **by the negotiators of the two parties (Commission – Partner Countries);**
- **by observers (CSOs and Social Partners);**
- **by external observers: ILO + OECD + MEAs Secretariat UNEP.**

**The external observers signed a confidential protocol that provides for the respect of confidentiality in the closed negotiation phases.**

## **2. EARLY WARNING STAGE WITH THE CONSULTATIVE COMMITTEE**

**In the various rounds of meetings with the negotiators the observers identify sensitive issues for which the negotiations are not finding satisfactory solutions.**

**This stage is confidential, and observers must keep all information strictly confidential.**

## **3. THE OPEN COMMUNICATION STAGE "OPEN WINDOW STAGE"**

**Both parties (Commission and other partner countries) present an informative report on the status of the negotiations**

and observers can express their evaluations by following the "Chatham House Rule" ("When a meeting, or part of it, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity or affiliation of the speaker (s), nor that of any other participant, may be disclosed").

**In this phase, observers highlight the sensitive issues identified in the Early Warning Phase.**

**This stage is public.**

FIGURE 2: The various stages of negotiations (the roadmap)

#### **4. THE STAGE FOR THE PRESENTATION OF PRELIMINARY INDEPENDENT IMPACT ASSESSMENTS OF THE TRADE AGREEMENT**

Both parties (Commission – Partner countries) present **an independent preliminary impact assessment of the trade agreement.**

In this phase CSOs and SPs are expected to clearly express their position on the statements of the pre-impact evaluations.

The Negotiation Cycles will include:

- ✓ Confidential negotiating stage
- ✓ Early warning stage
- ✓ Open communication stage
- ✓ The stage for the presentation of the final report assessing the impact of the trade agreement

The negotiation cycle will continue....until the conclusion with an agreement or not.