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European Commission Review of Trade and Sustainable Development

Ireland position paper



Summary

- Ireland welcomes the opportunity to outline its priorities for the review of Trade and Sustainable development.
- Trade can contribute positively to solving global sustainability challenges and creating a better future for the next generations. We also see greater scope for FTAs to support gender equality, as highlighted by Ireland in a number of earlier papers to the Commission.
- FTAs should leverage and reinforce what has already been agreed internationally in multilateral fora and not seek to replace or dilute international standards. The Commission should explore ways to enhance cooperation and coordination with international organisations in the implementation of FTAs.
- Ireland advocates for an incentive-based approach that could link additional tariff reductions to the fulfilment of TSD commitments. Ireland prioritises a cooperative approach to dispute settlement. We are highly cautious about financial penalties or sanctions for breaches of TSD commitments as we believe they may risk lowering ambitions or watering down of commitments by partners on TSD.

Introduction

Ireland warmly welcomes the Commission's review of the implementation and enforcement of Trade and Sustainable Development chapters (TSD) in trade agreements. It is clear that the sustainability agenda is growing in importance and that trade policy must play its part. The Irish Government has recently launched its new trade and investment strategy *Value for Ireland: Values for the World*. The strategy emphasises trade as a powerful driver of prosperity, well-being and improved living standards while recognising in parallel that civil society demands an increased focus on environmental, social and governance dimensions of trade.

Ireland is open to a more assertive approach to trade and sustainable development (TSD) in our EU Free Trade Agreement (FTA) negotiations. Our position retains a strong core belief in open and fair rules-based trade. Ireland is generally supportive of autonomous, bilateral and multilateral TSD measures and initiatives as long as they are fair, transparent, non-discriminatory, World Trade Organisation (WTO) compatible, deliver on objectives and do not unnecessarily impact or overburden trade. We seek to encourage and reinforce and not impose. We prioritise a cooperative approach with trade partners to TSD issues.

Ireland would like to set out its priorities for the TSD review by addressing the scope of TSD commitments; the need for enhanced transparency, monitoring and implementation; the requirement to exercise maximum leverage to get commitments to TSD goals and the need to cooperate with international organisations which will support the multilateral rules based system. Ireland would ask the Commission to prioritise incentive-based models to achieve

TSD outcomes; and highlights the benefits of sustainability impact assessments to identify the major economic, social and environmental impacts of FTAs.

1. Scope of TSD commitments in FTAs

The United Nations (UN) Sustainable Development Goals (SDGs) explicitly recognise economic growth as a key pillar of sustainable development along with social inclusion and environmental protection. In this regard, the SDGs do not envisage a trade-off between environmental, social and economic dynamics. Instead, sustainable development is about how they can be harmonised. Trade, therefore, is clearly part of the solution to sustainable development and can contribute positively to solving global sustainability challenges and creating a better future for the next generations. The question for trade policy is how trade can best play its part.

Ireland is in favour of comprehensive TSD provisions in FTAs. Ireland believes that the balance of TSD provisions can be improved to extend their scope to emphasise the positive contribution that trade can make to sustainable development on the one hand as well as ensuring strong commitments and enforcement on the other. These positive impacts include (although are not limited to):

- More efficient allocation of resources between trade partners, capitalising on comparative advantages and reducing inefficient production;
- Promoting the circular economy and reducing waste through more open markets. This works best at international level, benefitting from larger economies of scale;
- Liberalising trade and investment in environmental goods and services which can help to reduce emissions;
- Increasing availability and diffusing of sustainable technologies and associated knowledge spillovers;
- Promoting green standards within procurement provisions of trade agreements;
- Cooperating with trade partners on environmental and labour standards (including internationally agreed standards), carbon pricing and reducing fossil fuel subsidies;
- Cooperating on sustainable food systems and opportunities for improving food security;
- Providing a central role in delivering the UN SDGs such as Poverty Reduction, Zero Hunger, Good Health and Well Being, Gender Equality, Decent Work, Industry and Innovation, Reduced Inequalities and Life Below Water.
- Cooperating with trade partners regarding differing capacities to implement TSD provisions e.g. developing and Least Developed Countries.

In Ireland's view the TSD chapters should reinforce international commitments and conventions in areas such as the environment, labour standards, human rights, responsible business conduct and due diligence. Internationally agreed standards are transparent and tangible, and clearly set expectations for trade partners. FTAs should leverage what has already been agreed internationally in multilateral fora such as the UN, Conference of the Parties (COP), International Labour Organisation (ILO) or Organisation for Economic Cooperation and Development (OECD). While ambitions should always remain high and, in

some instances, the EU and its trade partners may wish to go beyond international benchmarks, TSD provisions should not seek to override agreed international standards or they risk being diluted or undermined. Alignment with international sustainability standards helps to ensure a level playing field through global rules and avoid fragmentation which can be both costly for companies and confusing for stakeholders. Ireland supports securing robust commitments with trade partners in relation to implementing the UN SDGs, the Paris Agreement and the five ILO fundamental principles and rights at work (and associated conventions). These should be fundamental priorities for the EU in negotiations with all trade partners.

Ireland has been pleased to support recent initiatives on trade and gender, including the paper led by the Netherlands *Promoting Gender Equality through Trade Policy* and the paper led by Sweden *Ten Points on Trade and Sustainable Development for the Trade Policy Review* which sought the Commission to take further steps to maximise the benefits of trade for women by ensuring that trade policy provides opportunities for women leaders and entrepreneurs, by promoting decent and gender equal working conditions, and by increasing women's influence in the negotiation and implementation of trade agreements. Ireland supports the development of a standalone chapter within FTAs on trade and gender equality, drawing from recent experience under the EU-Canada Trade Agreement (CETA) Joint Committee on Trade and Gender and reinforcing multilateral commitments such as Sustainable Development Goal 5 to achieve gender equality and empower all women and girls; the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); and the Joint Declaration on Trade and Women's Economic Empowerment on the Occasion of the WTO Ministerial Conference in Buenos Aires in December 2017; together with relevant ILO conventions.

Ireland also welcomes the recent development of FTA chapters on Sustainable Food Systems which are all the more critical in the context of global concerns on food security. The Irish agri-food sector's current 10 year strategic plan, Food Vision 2030, seeks to place Ireland's agriculture production sector as a world leader in sustainable food systems development. We are therefore fully committed to driving this agenda at EU and international level with our key trading partners in the new EU FTA negotiations and at multilateral level in WTO, UN FAO and OECD fora.

2. Transparency, monitoring and implementation

Ireland appreciates recent progress made on continuing to enhance the monitoring and implementation of FTAs. This includes the appointment of the Chief Trade Enforcement Officer (CTEO); the Single Entry Point complaints mechanism; and continuing active engagement with stakeholders through the DG Trade Civil Society Dialogue. Ireland also welcomes that the Commission's FTA implementation reports now have an enhanced focus on TSD. We can go further here, and Ireland believes that FTAs could be supplemented with agreed roadmaps and workplans for the implementation of TSD provisions, further enhancing our ambition to yield meaningful outcomes from FTAs on sustainability.

To support public trust and to demonstrate the benefits of FTAs, the communication of agreed TSD provisions should receive particular attention to ensure they are well understood, both from the perspective of how the trade agreement actively contributes to sustainable development and with regard to commitments, enforcement and dispute settlement. There also needs to be sufficient visibility of the Single Entry Point complaints procedure and of the role which the CTEO has in ensuring commitments are met.

Ireland supports the institutional approach to monitoring TSD provisions in FTAs through Domestic Advisory Groups (DAGs), enabling formal engagement by civil society. The DAGs have a significant role in monitoring and advising on the implementation of TSD provisions. The Commission could explore ways to further enhance their role, including frequency of meetings, making the DAGs more target oriented, and encouraging greater evaluation and sharing of best practice between DAGs regarding their impact, including between EU and non-EU DAGs, especially with developing countries.

It is important to recognise that not all EU FTA partners are at the same level of development or have the same capacity to implement TSD provisions. The EU should always demonstrate a value-based starting point to trade negotiations, however, Ireland does not believe that a one-size-fits-all approach can be taken by the EU in relation to negotiations on TSD provisions, particularly regarding different levels of partner development. We need to tailor our approach accordingly. At the same time, a balance is needed to ensure that TSD commitments remain ambitious and comprehensive. Where trade partners clearly demonstrate willingness to act and commit to international standards in areas such as the environment, labour, human rights, and responsible business conduct, but lack the necessary capacity to drive implementation, the EU should assess ways to appropriately tailor the FTA; and provide technical assistance and capacity building measures as required. This can form part of the agreed roadmap for implementing the FTA.

Ultimately, transparency, monitoring and implementation measures – whatever form they may take - should demonstrate ‘on the ground’ outcomes and impacts from TSD commitments. The FTA implementation report is useful in that regard. At the same time, given the growing prominence of the TSD agenda, a specific regular implementation report for TSD may be warranted which may involve contributions from the DAGs.

3. Negotiation phase

Ireland is supportive of the Commission using the negotiation phase of FTAs to secure key TSD commitments as this phase offers opportunities to apply leverage on TSD issues and agree roadmaps for their implementation. For example, the negotiation phase can be used to secure commitments for the ratification of core ILO standards, as successfully demonstrated in recent negotiations with Vietnam and China, or regarding Sustainable Food Systems. Country-specific environmental, climate change or human rights issues with trade

partners may also require specific enforceable guarantees which can be addressed in the negotiation phase.

4. Cooperation with international organisations in the implementation of TSD provisions

Cooperation and collaboration with international organisations regarding multilateral labour and environmental standards can improve the effectiveness and implementation of TSD provisions. Ireland is open to enhanced cooperation between the EU and its trade partners, and international organisations such as the UN, the ILO and OECD, in the implementation of TSD provisions. There may also be a role for enhanced cooperation or consultation in developing EU trade arrangements such as the EU-US Trade and Technology Council under work strands such as clean technologies, supply chains, forced labour, human rights, trade and the environment and trade and labour.

International organisations possess the expertise underpinning their standards and, on this basis, the Commission could explore measures to enhance consultations with relevant international organisations in the implementation of TSD provisions, including the possibility for expert opinions regarding matters of enforcement or dispute. For certain disputes, such as those relating to labour standards, the Commission could consider options such as referral of the complaint to the ILO or for the ILO to formally become part of the dispute resolution. Most importantly, it is crucial that the FTAs do not dilute or replace the core functions of international organisations who should always be held as the primary guardian and interpreter of their own standards. FTAs can therefore assert and reinforce the role of multilateral regimes and, in parallel, international organisations can enhance FTAs by becoming part of the architecture where appropriate to do so.

5. Enforcement and dispute settlement mechanisms

Ireland prioritises a cooperative approach to the enforcement of TSD provisions in EU FTAs. Every effort should be made within a reasonably short timeframe to resolve issues before formal dispute settlement procedures are initiated. However, recognising that trade partner policies can change over the lifetime of an FTA, for urgent and egregious suspected breaches of TSD commitments, FTAs should have in-built flexibility to initiate the dispute settlement mechanism without delay.

Ireland would agree with other Member States that have called for an incentive-based approach that could link additional tariff reductions to the fulfilment of TSD commitments, with the potential that these could be temporarily withdrawn depending on the outcome of a dispute settlement procedure. Such an incentive-based model would encourage a cooperative approach to TSD.

Ireland strongly encourages the Commission to consider these incentive-based approaches rather than pursuing models based on imposition of financial penalties or other sanctions as part of dispute settlement procedures in FTAs. The EU has demonstrated capability to introduce sanctions for grievous actions of international partners independently of FTAs. If we try to overload FTAs with all of the responsibility for sustainability issues, trade partners may simply seek to replace EU trade with agreements with other partners who may have less ambition in the areas of climate change, environmental and labour standards, and human rights, thereby losing the potential to make progress on sustainability issues that could be made through a more cooperative and incentive-based approach. This would not help with addressing global challenges such as climate change and labour standards. We also believe that financial penalties or sanctions may risk lowering ambitions or watering down of commitments by partners on TSD. FTAs should be primarily viewed as part of the mix of policy options available to the EU on trade and sustainable development along with autonomous measures and initiatives in multilateral forums, such as the WTO joint initiatives on the environment. Sanctions should only be considered the last resort when a cooperative approach is thoroughly exhausted, and they should be carefully targeted.

6. Sustainable Impact Assessments

Sustainability Impact Assessments can help identify the major economic, social and environmental opportunities and challenges of FTAs. Ireland views the Commission's Impact Assessment handbook as practical and comprehensive, and we have adopted the methodology for our national assessments. On timing, Ireland supports the development of impact assessments (even if preliminary), prior to the conclusion of negotiations, so that Member States can assess the range of potential sustainability opportunities and impacts along with final and more comprehensive impact assessment on the agreed text. Impact assessments should give particular attention to monitoring of environmental impacts such as carbon costs and savings of EU FTAs. If feasible, Ireland would also welcome the possibility for country specific data sets to be released by the Commission to Member States to inform their own assessments.