

# FACT SHEET

## Implementing TSD Provisions

Comparative Analysis of Trade and Sustainable Development (TSD) Provisions for Identification of Best Practices to Support the TSD Review

### Different TSD approaches, one watchword: cooperation

The comparative analysis of TSD provisions across the seven selected countries, namely Australia, Canada, Chile, Japan, New Zealand, Switzerland and the United States, sheds light on important dimensions of implementation mechanisms:



Even for sanction-based enforcement models like in Canada and the US, **cooperation remains the watchword** for the implementation of TSD provisions, as illustrated by the prevalence of cooperation provisions in the selected FTAs' labour and environmental provisions.



The most common implementation mechanism consists of **joint committees** and/or national contact points typically comprised of government officials at the cabinet or ministerial level. The creation of independent governmental bodies to monitor TSD provisions as in the NAFTA case is an exception to the rule.



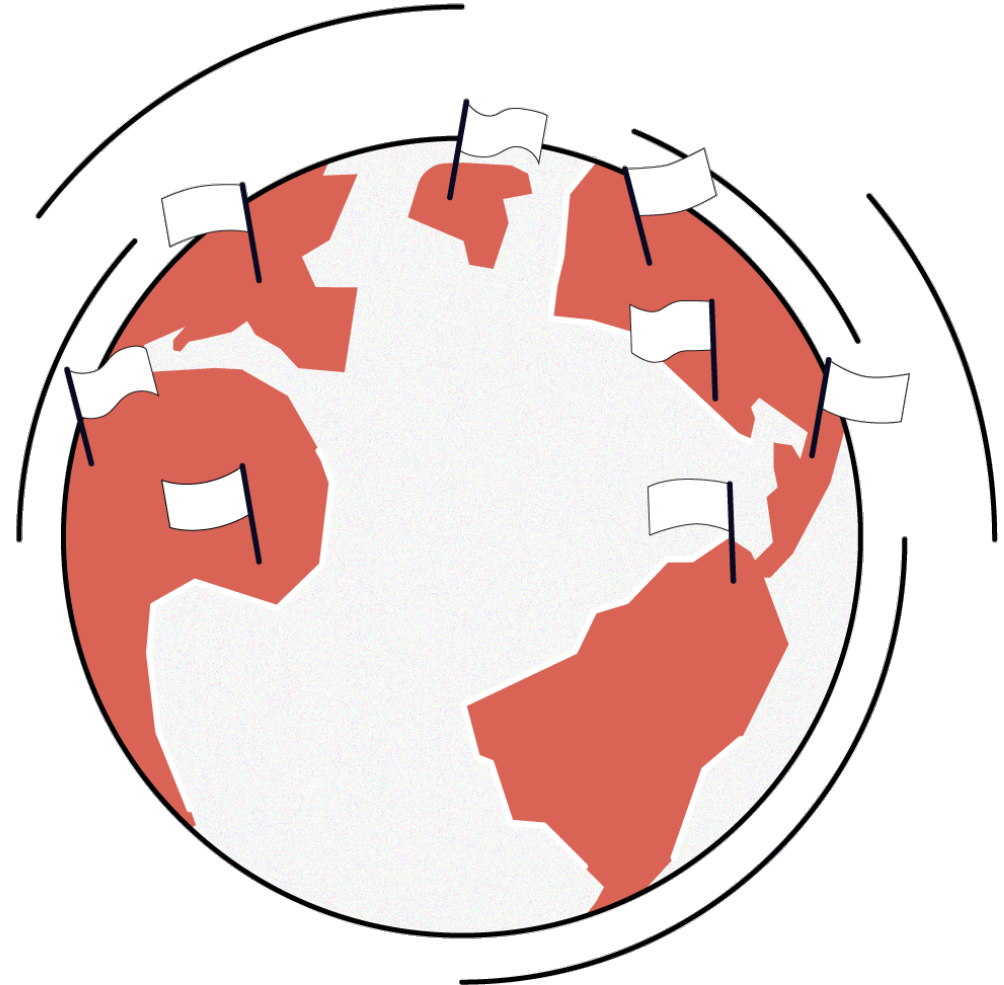
The **economic development level** of a trade partner country is not the only factor driving the inclusion of technical assistance and capacity-building provisions, to the extent that "North-North" FTAs can include such provisions (albeit with different objectives), whereas "North-South" FTAs may not always.



A **decompartmentalized or "whole-of-government" approach** to TSD, whereby third countries leverage institutional resources across government agencies, has allowed them to devote greater resources to the implementation and enforcement of TSD provisions than they would only with trade agencies.

## The role of international organizations in implementing TSD provisions

- ◆ References to international treaties are common for labour, social and environmental standards in most selected FTAs, but the most frequent international organization referred to remains the International Labour Organisation (ILO). The pre-eminence of the ILO for the implementation of labour standards contrasts with the environmental field, where no international organization fulfils a comparable advisory function.
- ◆ Engaging with the ILO on labour issues at the negotiation stage has delivered tangible outcomes like the ratification of ILO conventions. Concretely, ILO interventions through capacity-building, technical assistance and an independent, neutral monitoring mechanism provide impetus for reform in both developed and developing countries as witnessed in Vietnam, Mexico, South Korea, and Canada, among others.
- ◆ ILO technical assistance can also yield tangible results for monitoring processes. This includes targeted missions like scrutinizing union-level elections, as witnessed in the implementation of the USMCA. Thus, given its widely acknowledged authority on labour standards, the ILO can play a valuable role in monitoring, in collaboration with two or several FTA Parties, but also between multinational firms, NGOs, and local workers.
- ◆ While engagement with MEA secretariats has been much rarer than ILO technical assistance, the experience of the US-Peru FTA shows that TSD implementation can provide space for capacity building activities cosponsored by MEA Secretariats like CITES.



## The role for civil society

- ◆ Among the seven countries under study, **civil society participation is rarely institutionalized and harmonized.**

Although most countries actively support the participation of non-state actors in trade policymaking, they tend to resort to **ad-hoc consultations on the implementation of trade agreements** instead of formal civil society committees like EU domestic advisory groups.

- ◆ **Sustained collaboration with stakeholders requires commensurate funding**, as illustrated by the Canada-Colombia FTA or the US-Peru FTA.

**Cooperation remains the watchword for the implementation of TSD provisions**

### ***A multi-stage approach to civil society participation can maximize stakeholders' input at various stages of the trade policy process:***



#### ***Pre-negotiating & negotiating stage***

Social and environmental impact assessments paired with civil society consultations have helped countries identify specific problems and anticipate key questions related to TSD implementation.



#### ***Implementation stage***

Technical assistance and capacity building programmes with meaningful civil society engagement are more likely to bring tangible results than projects merely targeting government agencies, as revealed by the analysis of multiple trade-and-labour capacity building programmes across different regions.



#### ***Enforcement***

Public submissions for non-compliance can play an important role to improve labour, environmental standards as well as human rights.



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