



**The power of
trade partnerships:
together for green
and just economic growth**

COM (2022) 409

Summary

The European Commission presented its Communication “The power of trade partnerships: together for green and just economic growth”, COM(2022) 409 final, on 22.06.2022. The position of the Chamber of Labour (AK) on the Communication is as follows:

The Austrian Chamber of Labour (AK) welcomes the present Communication “[The power of trade partnerships](#): together for green and just economic growth”, in which the European Commission reflects on the approach to sustainability chapters in EU trade agreements that has prevailed to date. The Commission sees in particular the need for improvement with respect to procedural issues. It is new that the possibility to sanction violations of the sustainability chapters is included in these points. While the AK appreciates that the Commission has finally responded to what it has long been calling for, we also wish to point out some key weaknesses in the Commission’s considerations. For example, the ability to impose sanctions only applies to potential, future agreements and according to the Commission, sanctions should only be imposed for “serious” violations. This substantially limits the scope of application of this new approach.

Moreover, the Communication shows that the Commission is not willing to make any changes to the major weaknesses of EU trade agreements, such as the climate policy failings or the one-sided favouring of investor interests. All existing EU trade agreements are to remain untouched, despite the fact that these do not meet the requirements necessary for a socially just global economy, either in terms of working conditions or environmental standards. This will cement an imbalanced situation for years to come in which – not least because of the climate catastrophe – **rapid and decisive action** is needed to **reduce greenhouse gas emissions and for the social and environmental restructuring of the entire global economy.**

The AK therefore considers that the following should be cornerstones of the **reorientation of EU trade policy** in general and the sustainability agenda in EU trade agreements in particular:

- **Make globalisation fair** by prioritising social and environmental goals over the profit interests of transnational corporations.
- Require **ratification, implementation and application of all ten ILO core labour standards and multilateral environmental agreements** by existing and future trading partners and strengthen cooperation with the ILO.
- Address the environmental and **climate damage** caused by trade itself and, in particular, by the international transport of goods.
- **Establish rules allowing for sanctions to be imposed for breaches of sustainability chapters even in the case of existing agreements** and for the mandatory inclusion thereof in trade negotiations that are currently underway.
- **Grant trade unions and civil society organisations** the option to initiate **dispute settlement proceedings independently of the contracting parties.**

The position of the Chamber of Labour (AK)

The dark side of globalisation is not addressed

In the Communication, the European Commission begins by maintaining its basic assessment and adhering to the existing orientation of EU trade policy, which is based on neoliberal policies such as trade liberalisation, market opening and deregulation. In this context, one-sided reference is made to the positive effects of trade agreements on growth and employment. The dark side of globalisation is regrettably not addressed at all in the present Communication – in contrast, for example, to the “Reflection paper on harnessing globalisation” (2017) or the Communication on Trade Policy Review (2021). For decades, the EU has focussed on deregulation, liberalisation and privatisation, as well as the one-sided focus on the interests of export-oriented transnational corporations and industries. Doing so has favoured the relocation of parts of the value chain to countries with lower wages and lower labour, social and environmental standards, driven purely by cost considerations and the pursuit of profit. This has **by no means automatically led to greater prosperity and economic growth**; indeed, in many cases it has created structural problems and greater vulnerability to crises. For example, there has been a fundamental deterioration in the structure of employment (the key term here being precarious employment), the erosion of economic policy and welfare state options for action, as well as increasing inequality.

Given the above, the AK is critical of the Commission’s wish to leave all **existing EU trade agreements untouched**. The focus on procedural improvements to the sustainability chapters distracts from the fundamental problems with respect to the orientation of European trade policy. Even after more than ten years of sustainability chapters in EU trade agreements and despite all the promises, it has **not yet proven possible to correct** or at least mitigate the **social and environmental imbalances resulting from trade agreements**. Various [studies](#) show that the labour provisions enshrined in EU trade agreements are often unable to cushion or compensate for the negative effects on working conditions caused by increased competitive pressure. The orientation of trade agreements per se, which gives priority to the profit goals of transnational corporations over broadly shared prosperity, good working conditions and climate and

environmental protection, leads to a range of negative consequences for workers and the environment. In the aforementioned studies, there is clear evidence that workers in economic sectors that were opened up on the basis of EU trade agreements have experienced a deterioration in their working conditions or even lost their jobs. The alternative jobs promised in the economic pre-assessments of the trade agreements fell short of the announced level in many cases. [Negative environmental effects](#) of production practices along supply chains, to the detriment of the environment and climate, are also frequently documented.

Despite the empirical evidence and years of criticism, the Commission continues to fail to focus on the urgently needed revision of existing trade agreements, thereby **cementing the negative consequences of EU trade policy** in place for years to come. Not least because of the climate catastrophe, rapid and decisive action is needed to reduce greenhouse gas emissions and for the social and environmental restructuring of the entire global economy.

Take account of the impact of trade on the climate

With respect to the issue of climate change and the contribution of trade policy to combatting it, the Commission focuses in particular on the liberalisation of environmental goods and services and thus on the expansion of trade. However, the Communication does not address the environmental and **climate impact of trade** itself or of the international transport of goods. As a [study](#) recently published by the Commission shows, emissions from trade-related freight transport are considerable and should not be underestimated. Climate change has long since become reality, as evidenced by increased heat waves, droughts and severe weather disasters. That makes it all the more incomprehensible that the issue of greenhouse gas emissions associated with trade has so far not featured in the Commission’s position papers.

Furthermore, the question of the sustainability of trade must be considered in its entirety. Serious examination of this question also requires analysis of traded products in terms of how they contribute to

sustainability. For example, if implementation were to be consistent, the European Union would have to question whether the **traded products even comply with the principle of sustainability**. The fast fashion industry serves as an example to illustrate the problem. A trade agreement formed after the Communication may ensure that the product was produced under socially and environmentally friendly conditions, but has no influence on quality and meaningfulness. This means that millions of garments of inferior quality can still flood the European market. Yet this approach is in no way sustainable. On the contrary, it could even further entrench prevailing consumer behaviour, since the product is now considered “sustainable”. The critical examination of consumer behaviour that is necessary for a sustainable lifestyle would thus be shelved. Accordingly, the prevailing system must be questioned in its entirety – a “sustainably produced” disposable product remains a disposable product. In this case, sustainability degenerates into a cover for maintaining an economic system that is not sustainable per se.

Another important concern of the Commission is to ensure access to raw materials, such as lithium, cobalt or copper, via EU trade agreements. These are necessary for a green, decarbonised economy, as well as for the energy transition. If the Commission wishes to promote sustainable development through EU trade policy, however, it will also have to address the negative impacts of **resource extraction**, which frequently goes hand in hand with **environmental disasters, serious human rights violations, exploitation of workers and also often child labour**. Solutions are needed for this, as well as for the globally fair distribution of available raw materials. This is because the environmental transition must be implemented worldwide and should be understood as a joint, cooperative project. The sole focus on liberalisation of such raw materials thus fails to recognise the global component of the necessary raw materials transition and disregards the problems arising in the partner countries as a result of such an approach.

Do not limit trade sanctions to cases of serious violations

As stated in the Communication, sustainability issues should continue to be addressed in the framework of sustainability chapters in EU trade agreements. However, the Commission proposes improvements here in six points. In the AK’s opinion, point six is of particular importance: With regard to the enforceability of sustainability provisions, the Commission is now proposing to enshrine trade sanctions in future EU trade agreements to serve as a last resort in the event of serious violations of fundamental ILO core labour standards and the Paris Climate Agreement. These are

to be applied in accordance with the general dispute settlement mechanism.

With its proposal to provide for trade sanctions in future trade agreements in order to enforce labour, social and environmental standards, the Commission is responding to a long-standing demand of trade unions, social partners and civil society organisations. In the AK’s opinion, it is essential to give priority to international protection standards with regard to labour law, social law and environmental protection in EU trade policy, and to safeguard these standards by means of deterrent and effective sanctions. This is the only way to ensure that **international trade does not come at the expense of employees** and that they do not have to shoulder the sometimes massive negative effects in their working lives and everyday lives. The current [2022 ITUC Global Legal Index](#) once again highlights sometimes catastrophic working conditions and violations of fundamental labour and trade union rights.

However, the Commission’s approach to the issue of sanctions is very narrow. For example, sanctions are only to be imposed in the event of serious violations of ILO core labour standards or the Paris Climate Agreement. This restriction is neither justified nor comprehensible, since the **core labour standards**, for example, constitute **the international minimum protection under labour law, for which there are no degrees of severity in terms of violations**. This raises the question of what the Commission would consider to be, for example, a non-serious case of forced labour or of repression against trade union involvement. The wording alone reveals that the Commission has no serious interest here in systematically punishing and sanctioning violations.

In addition, sanction mechanisms for sustainability chapters are only to be included in future trade agreements. The considerable number of existing or already finalised bilateral trade agreements, which span broad parts of the world and include countries such as [Egypt or Colombia](#) – with catastrophic human rights and labour conditions in some cases – are to remain untouched. In its Communication, the Commission also leaves open the question of whether this new approach will be applied to negotiations already underway. In this respect, the question arises as to whether the approach can be effective at all if sanctions for violations of fundamental social, labour and environmental standards are considered solely for future negotiating partners. Given the above, the AK sees an urgent need for action to **establish rules allowing for sanctions to be imposed even in the case of existing agreements** and for the mandatory inclusion thereof in trade negotiations currently underway. It is crucial that existing imbalances and a deficit in international protection standards are not cemented in place.

Above all, however, it is not just a question of how the dispute settlement process is structured in the event of non-compliance or violations of sustainability obligations. From the outset of trade negotiations, sustainability issues must be pivotal and social and environmental goals prioritised over economic interests. Accordingly, **all ten ILO core labour standards** must be **ratified, transposed into national law and applied by all contracting parties before negotiations begin**. The same applies to the “Up-to-date Conventions and Recommendations”.

Further requirements are, for example, the ratification, implementation and application of multilateral environmental agreements and the enshrinement of human rights as an “essential elements” clause in a separate article of the agreements.

In connection with the ILO core labour standards, one gap is particularly striking: the Commission makes no mention in its Communication of the need to strengthen **cooperation with the ILO**, especially in the field of labour rights compliance. If the European institutions were to work together more closely with the ILO, this could lend the ILO’s work greater political weight and thus improve working conditions more effectively. Moreover, it would not require the creation of any unnecessary and costly duplicate structures.

Need for improvement in the process of enforcing sustainability standards

The need for improvement with regard to the process of implementing and enforcing sustainability standards is acknowledged in the Communication. Dialogue forums with trading partners are to be strengthened and sustainability chapters are to include different social and environmental goals depending on the country. These are to be based on the level of development of the respective trading partner. All in all, monitoring of the implementation of the sustainability chapters is to be improved and civil society strengthened in the process.

In principle, it is to be welcomed if civil society organisations, including social partners, are to be given a stronger role in the implementation of sustainability chapters. In the AK’s opinion, transparency and access to comprehensive information are fundamental prerequisites for the strong involvement of trade unions, civil society and the public. Reporting obligations for contractual partners on the implementation status of environmental and labour standards must therefore be set out in all sustainability chapters. In addition, civil society organisations, and trade unions in particular, must be granted a right of complaint in the event of violations. It is crucial to oblige governments to respond to complaints officially filed by social partners and civil society organisations

by taking appropriate measures and launching investigations. Complaints must be addressed within a specific time frame by the government concerned and be part of a permanent monitoring and follow-up process. This would ensure that governments have to take effective action following complaints. However, should that not be the case, **trade unions and civil society organisations** must be able **to initiate dispute settlement proceedings – independently of the contracting parties**.

It should also be borne in mind that – as the Commission itself states in its Communication – monitoring implementation of the commitments is a time-consuming and resource-intensive process. While the Commission is now offering help in developing civil society structures, this cannot hide the striking imbalance in both human and financial resources between corporate interests on the one hand and trade unions and civil society on the other. Quite apart from this, trade unions and civil society organisations of (potential) trading partners – if such organisations exist at all – are not infrequently subjected to state repression, in addition to suffering from a lack of resources.

Enshrining sustainability as a fundamental approach

Last but not least, the sustainability chapters – even in the form now proposed – cover only a small part of the obligations arising from trade agreements. **Even if these were effective** and included appropriate labour, environmental, and climate-related commitments and sanctions mechanisms, **trade agreements would remain highly problematic in other areas**. For example, the chapters on technical barriers to trade, sanitary and phytosanitary standards, liberalisation of services, regulatory cooperation, and investment protection need to be questioned in their entirety. This is because the one-sided favouring of investor interests has not been eliminated. Regulatory cooperation takes place in the framework of undemocratic structures that jeopardise our labour, health, consumer and environmental systems. Moreover, the European precautionary principle, which aims to ensure a high level of protection for our health and the environment, is not enshrined in EU trade agreements. Furthermore, exemptions for key public services and utilities are lacking.

Against the backdrop of the climate crisis, the EU must also include the issue of adaptation to climate change in its trade agreements. Appropriate **support** and measures in this area could safeguard long-term trade relations. This is particularly relevant for **countries in the Global South**, which are disproportionately affected by climate-related natural disasters and have a much lower carbon footprint than industrialised

countries. Accordingly – based on the principle of common but differentiated responsibilities – both future and existing trade agreements should be expanded to include corresponding chapters, with measures, guidelines and fair financing proposals for tackling the consequences of the climate crisis. Otherwise, ignoring the consequences or failing to support adaptation measures could lead to serious supply and production problems in the future. This is not least also a question of global responsibility and justice. To date, at the expense of countries in the Global South, the EU has externalised costs and thus contributed significantly to the climate crisis. For reasons of justice alone, it is necessary for the EU to support the countries of the Global South in combatting the consequences of the climate crisis.

If the European Commission does not wish merely to pay lip service to EU trade policy playing its part in the necessary social and environmental transformation, it will not be enough just to make minor changes with respect to the sustainability chapters. **A complete reorientation of EU trade policy** is needed in order to reflect the social and environmental costs of international trade. This includes, above all, placing the reduction of greenhouse gases, the social and environmental restructuring of national economies and considerations of prosperity for all at the centre of trade policy. None of the existing bilateral trade agreements meet the requirements necessary for a socially just global economy, either with regard to working conditions or environmental standards.

AK reform proposal concerning the narrower focus of the sustainability chapters

While the AK welcomes the Commission's wish to tackle reforms, these do not go far enough in the AK's opinion. The AK has already stated in its [earlier position papers](#) which requirements EU trade agreements would have to meet, and wishes to recall these here:

- **Human rights must be** enshrined in a separate article of the agreement in the **form of an “essential elements” clause**. A reference in the Preamble is not binding and is therefore insufficient to protect human rights.
- Prior to the commencement of trade negotiations, but no later than the provisional application or entry into force of the trade agreement, **all of the ten ILO core labour standards must be ratified by all contracting parties, transposed into national law and applied**. They refer to the freedom of association and the right to collective bargaining, the prohibition of child labour, the prohibition of forced and prison labour and the prohibition of

discrimination in employment. The implementation of and compliance with these core labour standards are currently not fulfilled by many current and potential contractual partners of the EU (e.g. China, Mercosur and the USA).

- A prerequisite for the start of trade negotiations must also be **application of the “Up-to-date Conventions and Recommendations”** by all contracting parties (in accordance with the level of development of the future trading partner). They concern the following topics, for example: Labour Inspection 81, Employment Policy 122, Labour Inspection (Agriculture) 129, Tripartite Consultation 144, Social Security 102, Migrant Workers 143, Occupational Safety and Health 152, Minimum Wage Fixing 131, Weekly Rest 14, 106, Maternity Protection 183. In the longer term, compliance with the “Decent Work Agenda” of the ILO, which also encompasses social security and social dialogue, should also be aimed for.
- **Multilateral environmental agreements must also be ratified, implemented and applied**. Agreements recognised by the EU under the Generalised System of Preferences should be used as sensible environmental templates, such as the Montreal Protocol (ozone), the Basel Convention (hazardous waste), the Stockholm Convention (persistent organic pollutants), the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Convention on Biological Diversity and the Rotterdam Convention (hazardous chemicals and pesticides).
- In addition, **ratification and implementation of the commitments under the Paris Climate Agreement, as well as non-withdrawal, should be set out as an “essential elements” clause** in all trade agreements. That means providing for sanctions in the event of a violation of the obligations arising from the Paris Agreement or even a withdrawal from the Agreement. It should not solely concern “serious violations” as proposed by the Commission. In addition, the environmental and climate impact of trade must not be underestimated. Impact assessments and impact analyses of the environmental and climate damage of a given trade agreement must be made a mandatory prerequisite for the start of negotiations. Passages contradicting climate protection ambitions should be deleted.
- **Governments** must be required to **respond to complaints officially filed by social partner and civil society organisations by taking appropriate action and launching investigations**. Complaints must be addressed within a specific time frame

by the government concerned and be part of a permanent monitoring and follow-up process. This would ensure that governments have to take effective action following complaints.

- If the government concerned does not give a satisfactory response to complaints, this must be **examined by experts in labour and environmental law** (rather than experts in trade and investment law) who are **independent of the government** and who must put forward **recommendations**. The recommendations of the experts are intended to help governments rectify possible violations of human rights, workers' rights and environmental protection within their own borders and prevent their recurrence in future. Trade unions may nominate labour and environmental law experts and must be allowed to have a say in their selection.
- As the European Commission now proposes, the sustainability chapters – like all other provisions in trade agreements – are to be placed under the general dispute settlement procedure, which ulti-

mately provides for sanctions at the conclusion of the envisaged procedure. Civil society organisations (including **trade unions and environmental, health, consumer and human rights organisations**) **must be given the opportunity to initiate dispute settlement proceedings independently of the contracting parties**.

- In the event, that during the consultation procedure between governments and social partners and civil society organisations and even following the recommendations of independent experts, no positive changes result in terms of labour law obligations after a reasonable period, **finances should be imposed at the end of the dispute settlement procedure**. These should be high enough to act as a deterrent. The resulting financial resources could be used to improve problematic human rights, labour and environmental conditions in the sectors and fields under complaint. However, care must be taken here to ensure that this does not become or is used for the purpose of business support for "labour law violators".



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About Us

The Austrian Federal Chamber of Labour (AK) is by law representing the interests of about 3.8 million employees and consumers in Austria. It acts for the interests of its members in fields of social-, educational-, economical-, and consumer issues both on the national and on the EU-level in Brussels. Furthermore, the Austrian Federal Chamber of Labour is a part of the Austrian social partnership. The Austrian Federal Chamber of Labour is registered at the EU Transparency Register under the number 23869471911-54.

The main objectives of the 1991 established AK EUROPA Office in Brussels are the representation of AK vis-à-vis the European Institutions and interest groups, the monitoring of EU policies and to transfer relevant information from Brussels to Austria, as well as to lobby the in Austria developed expertise and positions of the Austrian Federal Chamber of Labour in Brussels.