Parity in name alone? EU’s engagement with partner countries’ stakeholders on sustainable development chapters in trade agreements

Diana Potjomkina, United Nations University – CRIS, Vrije Universiteit Brussel & Ghent University

Kindly note that this paper reflects work in progress. Hence, I would appreciate if it was not quoted unless agreed with the author, but comments and suggestions are particularly welcome: dpotjomkina (at) cris.unu.edu

Introduction

In response to growing public interest in how the EU’s trading practices affect the rest of the world, the new generation of the EU’s free trade agreements – starting from the one with South Korea (2011) – includes chapters on trade and sustainable development (TSD chapters). The purpose is to ensure that trade relations do not have negative repercussions on environment, labour rights and long-term economic prospects of the partner countries. As one action towards this goal, the agreements stipulate establishment of civil society mechanisms – Domestic Advisory Groups (DAGs) and Civil Society Fora (CSF) – in both the EU and partner countries. While each agreement has certain specifics, the overall intent is to gather civil society for monitoring the implementation of the agreement and providing recommendations to policy-makers (albeit there is a lot of uncertainty about the purposes).

In principle, these civil society mechanisms are created equal. The DAGs on both sides are to be based upon equal principles: the participating stakeholders are independent business, labour and environmental representatives who are legally registered as civil society organizations (thus, in this paper, in general, “civil society” also includes business associations, although in some cases I specifically single out business as opposed to non-economic civil society stakeholders). They have equal rights to provide views and recommendations on the implementation of the TSD chapters. The DAGs can also ask their respective governments to initiate the specific dispute settlement mechanism foreseen in the TSD chapter, and to advise the Panel of Experts which deals with disputes that are not resolved by the governments. The CSF unites representatives of both the EU and partner’s civil society who are supposed to jointly deliberate and, again, jointly provide views and opinions to the Parties to the agreement (there is certain variation between different agreements, but the abovementioned points apply to most of them and in any case, equality is

---

1 The author gratefully acknowledges the suggestions from Dr. Lotte Drieghe and participants of the UACES Graduate Forum Conference 2018 ‘An Actor on Multiple Stages: The EU as a Local, Regional and Global Power.’

2 While each agreement includes a civil society mechanism established based on the same principles and fulfilling the same functions, the names of this type of mechanism differ between agreements. Depending on the case, it is called Civil Society Dialogue Forum, Joint Civil Society Dialogue Forum, Civil Society Forum, or Civil Society Public Session. For simplicity, “Civil Society Forum” is used to denote all of these mechanisms throughout the paper.


maintained within any individual agreement.\textsuperscript{5} This setup is logical if we think about the nature of an agreement between two sovereign parties\textsuperscript{6} who are equal under international law.

However, in practice, the civil society mechanisms are embroiled in diverse power relations, meaning there is no complete equality among stakeholders. Some of these relations exist on the macro level between the EU and partner countries and are caused by visible asymmetries in power, including, very often, the need for partners to adjust to the EU standards. These macro level inequalities percolate into the micro level of civil society dialogue, creating and reinforcing inequality. Other power relations appear to be less directly linked to macro level processes, surfacing instead at the level of each particular mechanism, and less “tangible.”

The aim of this paper is to problematize the EU’s engagement with its partner countries’ stakeholders on trade and sustainable development issues, exploring the diverse power relations which exist around and within civil society mechanisms. Specifically, it asks – do civil society representatives from third countries enjoy equal opportunities in the framework of the EU’s free trade agreements, and why? The paper begins with a brief theoretical insight into diverse facets of power which is largely inspired by Foucault, paying attention to both ideational and procedural aspects of the mechanisms. The paper proceeds by posing a series of tentative propositions indicating where one could search for manifestations of power, illustrated with some observations from desk research, participant observation and interviews conducted by the author. The tentative conclusion is that while, nominally, representatives of the EU and partner countries’ civil society are equal in standing, in practice, diverse manifestations of power often relegate partners’ voices to the background. This further hinders the already difficult task of promoting sustainable development through the EU’s trade policy.

Theoretical perspective: power relations in social interaction

Among a multitude of approaches to conceptualizing power, Foucault’s analysis stands out for pointing out, first, not only repressive but also productive nature of power, and second, turning away from the more formal and explicit understanding of power (especially the one associated with governmental powers of enforcement) towards the quotidian, micro-level, grassroots power operating in the “fine meshes” of everyday social relations.\textsuperscript{7} By relying on Foucault and his followers, it is possible to offer a broad outlook on what power relations exist and how biases are constructed and reconstructed in relations between the EU and third countries. Foucauldian approach is all the better suited for analysing the EU’s engagement with non-governmental stakeholders, taking into account it is a predominantly technical and micro-level process mainly concerned with knowledge-making not decision-making, which is at the same time enmeshed with broader tendencies in EU-partner relations. As Foucault says, power in his understanding is particularly visible in areas which are “low profile,” hitherto located “outside the field of political analysis” and “linked with a whole range of institutions, economic requirements and political issues of social regulation.”\textsuperscript{8}

To start with the distinction between repressive and productive power, Foucault believes that the former understanding of “power as repression” which identifies it with the law is “a wholly negative, narrow, skeletal conception of power.” For him, it doesn’t only weigh on us as a force that says no, but that it traverses and produces things, it induces pleasure, forms knowledge, produces discourse.

---


\textsuperscript{6} In the AA with Georgia, the EU “part,” in fact, legally consists of the EU itself, the European Atomic Energy Community and their Member States, but this does not contradict the underlying principle mentioned here.


\textsuperscript{8} Ibid, 109, 116.
It needs to be considered as a productive network which runs through the whole social body [...]9 It is important to remember that Foucault does not deny the existence of repression; he merely states it is not the only possible expression of power. In his words, “I don’t want to say that the State isn’t important; what I want to say is that relations of power, and hence the analysis that must be made of them, necessarily extend beyond the limits of the State.”10

Since power is so multifaceted, we can broaden our analysis and look not only at the formal “powers” accorded to the stakeholders, third countries and to the EU in the consultation process and limitations on their action, but also at the less formalized processes whereby the parties to the consultation process are defined, constructed and enabled. These less formalized processes can be quite far-reaching, with power “able to gain access to the bodies of individuals, to their acts, attitudes and modes of everyday behaviour.”11 As will be seen below, the EU’s approach to consultations with stakeholders indeed comes with a multitude of formal and less formalized rules which also (aim to) define acceptable attitude and behaviour.

It is also important to note that productive power is not “innocent”: while it enables certain forms of being, it at the same time disables others, making us stick by one option among a multitude of possibilities. Considering that the civil society mechanisms are primarily tasked with providing “soft” output, namely, knowledge and recommendations, it is particularly pertinent to mention Foucault’s views on power and truth. In his opinion, truth is contingent and socially constructed, and “each society has its regime of truth, its ‘general politics’ of truth.”12 Power both defines truth and is distributed by it: “‘Truth’ is linked in a circular relation with systems of power which produce and sustain it, and to effects of power which it induces and which extend it.”13 By implication, the views and attitudes that are not recognized as “truth” are rendered powerless and do not vest their holders with power. Asserting what is or is not “true” is, thus, not purely an academic endeavour but rather a re-enactment or contestation of power relations. “There is a battle ‘for truth’, or at least ‘around truth’ – it being understood once again that by truth I do not mean ‘the ensemble of truths which are to be discovered and accepted’, but rather ‘the ensemble of rules according to which the true and the false are separated and specific effects of power attached to the true’, it being understood also that it’s not a matter of a battle ‘on behalf’ of the truth, but of a battle about the status of truth and the economic and political role it plays.”14 This is the reason Foucault felt so strongly in favour of “reactivation of local knowledges,” emancipation and opposition to the “coercion” of predominant discourses.15 For him, “It’s not a matter of emancipating truth from every system of power (which would be a chimera, for truth is already power) but of detaching the power of truth from the forms of hegemony, social, economic and cultural, within which it operates at the present time.”16 Thus, we can ask whether and how third country representatives are (en)able(d) to challenge the dominant discourse coming from the European Union.

Power is present in all social interaction. As already mentioned above, Foucault advocated looking at the power operating at the grassroots and local levels, “concretely and in detail – with its specificity, its techniques and tactics.”17 Power not only defines behaviour but also subjects themselves, their role in the society and position with relation to others.18 It is omnipresent in individual’s daily life, from desires and knowledge to standards one should look like and the most minute details of

9 Ibid, 119.
10 Ibid, 122.
11 Ibid, 125.
12 Ibid, 131.
13 Ibid, 133.
14 Ibid, 132.
15 Ibid, 85.
16 Ibid, 133.
17 Ibid, 115-6.
behaviour accepted or not accepted in the society: “nothing is more material, physical, corporal than the exercise of power.”19 This means that beyond formal powers we must also pay attention to the realm of the informal where the roles of different actors, their relative influence and their personal qualities all are enmeshed into power relations.

Is there a link between power relations existing at the macro and micro level? Foucault is not a classical critical theorist and has explicitly differentiated himself from “both the Marxist and para-Marxist perspectives”20; he argues that “primary or real relations” of power that exist in the society “cannot always be superposed” upon “formation of relations that makes discursive objects possible” as well as discursive relations.21 This, by the way, also means that changes in official policy do not automatically change everything that happens at the micro level: “nothing in society will be changed if the mechanisms of power that function outside, below and alongside the State apparatuses, on a much more minute and everyday level, are not also changed.”22 However, nor does Foucault altogether exclude the linkage between the macro and the micro; rather, this is a reminder that the official power cannot will into existence processes at the micro level simply by setting ambitious goals.

In last years, a lot of fascinating scholarship on EU’s external relations and engagement with stakeholders in particular has been influenced by Foucault. In the remaining part of this section, I would like to show how some of the authors have contributed to this debate conceptually and empirically. To begin with, Stephan Keukeleire and Sharon Lecocq have recently published a very valuable framework for decentring the Eurocentric research agenda and engaging more profoundly with non-European perspectives. The authors offer to conduct the decentring along six categories – spatial, temporal, normative, polity, linguistic, and disciplinary – and to take into account two cross-cutting dimensions: “‘provincialising’ (questioning Eurocentric perspectives) and ‘engagement’ (learning from other perspectives).”23 While Keukeleire and Lecocq admit that “conscious attempts to decentre cannot completely escape the asymmetrical international hierarchies in knowledge production” and Western scholars in particular are inherently limited by the paradigms they have been educated into,24 they argue it is possible and desirable to pay attention to alternatives existing in non-Western societies and the West itself. In principle, this fits well with the abovementioned Foucault’s desire for refocusing on the local perspectives. With some stretch, we could broaden the usage of Keukeleire’s and Lecocq’s argument, applying it not merely to research but to all social processes of producing “truth,” including the ones taking place within the civil society mechanisms. In other words, a framework for decentring research agenda can also be used as a framework for evaluating, and decentring, the EU’s approach to conducting actual relations with third countries.

To begin with, spatial decentring means paying attention to the specific geographical and technical features of non-European regions that may explain why certain policies are more or less successful (they mention as an example the EU’s call for general elections in DR Congo which has weak infrastructure, administration and low literacy levels).25 Temporal decentring means acknowledging that other regions of the world may not necessarily rely on the same temporal references in constructing their historical narratives and that these regions may also have different path of development and not progress towards European-style modernity (urbanization, industrialization,
secularization, individualism etc.), or at least not do so in a linear way.\textsuperscript{26} Normative decentring means that EU norms are “are not necessarily universal, nor of universal priority,” and can be interpreted in different ways by different societies. For instance, the EU tends to prioritize “first generation” civil and political rights while for other societies the “second generation” economic, social and cultural or “third generation” solidarity rights may be more important. The EU also does not take into account the influence of business interests over governments even if the latter are democratically elected, and may also ignore some norms that are important to its partners, such as mutual respect or stability.\textsuperscript{27} Polity decentring means that in different political entities, legitimacy may depend on provision of different benefits such as identity or security, loyalty may be horizontal (mutual solidarity) or vertical (loyalty towards the leaders), and the national government may not even be considered “the main point of reference as a legitimate authority structure and for providing identity, order, public goods and services” as it is in the West.\textsuperscript{28} Keukeleire and Lecocq also pertinently suggest to “examine how these polities – and their ability to provide identity, order, and collective goods and services – relate to structures supported or promoted by European actors. Such comparative analysis can help explain successes and failures of EU foreign policy in third regions and can make both scholars and EU practitioners pay attention to polities in a comprehensive way, beyond judgements about their ‘traditional’ or ‘illegitimate’ nature.”\textsuperscript{29} Linguistic decentring means paying attention to the overwhelming influence of English in the EU and understanding that the EU cannot only rely on information provided by foreign English-speaking analysts who “often adapt their language to western or European audiences, or represent a distinct socio-economic or political background that is not always representative of their country or society.” It also means realizing that European actors live in a world structured by certain linguistic / conceptual frameworks which do not necessarily fit the reality in partner countries.\textsuperscript{30} Finally, disciplinary decentring – which deals with epistemology and methodology – means that Western scientific disciplines drive and delimit EU’s understanding of its partner countries, for instance, Western positivism limits openness to difference in the partner countries.\textsuperscript{31} Thus, by using this framework in conjunction with Foucault’s work, we can identify some specific arenas and features of social interaction at the micro level where power manifests itself.

The book \textit{Expert Knowledge in Global Trade} edited by Erin Hannah, James Scott and Silke Trommer offers a highly valuable account of why expert knowledge in the field of trade is not politically neutral but rather embedded in the networks of power, driving and serving power relations. While their theoretical approach is somewhat eclectic, it is to a large extent influenced by Foucault’s work on the knowledge/power nexus and also parallels Keukeleire and Lecocq’s argument on the need for linguistic decentring. In particular, it is noted how “stylized historical accounts of global trade reflect and advance particular national interests. In this case, leading economists and policymakers enjoying reified positions as experts in trade matters have constructed an ideational imperative for continued openness by drawing on a questionable reading of economic history (the Smoot-Hawley myth) and by continually stressing the role of protectionism as a cause of the Great Depression.” The result is “silencing alternative policy narratives”\textsuperscript{32} and the fact that “political windows of opportunity strongly structure the direction and content of research activities.”\textsuperscript{33} While the explanation behind this particular argument is rather in line with the classical critical theory, it is important to consider both

\textsuperscript{26} Ibid, 280-2.
\textsuperscript{27} Ibid, 283-5.
\textsuperscript{28} Ibid, 285-6.
\textsuperscript{29} Ibid, 287.
\textsuperscript{30} Ibid, 287-8.
\textsuperscript{31} Ibid, 288-9.
the impact of macro-level power relations on discourse and the limitations created by unintended or unconscious use of certain paradigms at the micro level. The book also engages with the traditional focus on state expertise and private knowledge coming from the “global North,” pointing out that a valuable if less customary approach is to engage with “representatives of civil society and the global South” (realizing that these actors are in practice often still influenced by Western ideas). In short, it invites to problematize the Western expertise on trade and development and the ways in which it is produced.

Many authors also deal with the power relations which drive the EU’s external trade policy at the macro level. Karin Ulmer, for instance, argues that the EU’s development objectives are subordinated to offensive trade liberalization interests and that the Union in fact “restrains itself from using its direct power on matters relating to social, environmental and human rights, resulting in subservient and vaguely defined development objectives” and “leaving trade objectives and regulations untouched while confining sustainable development objectives to chapters of limited competence without direct overriding power.” This is a very important observation if we recall that in the framework of the EU’s trade agreements, the best structured civil society participation mechanism is Domestic Advisory Groups which are solely focused on sustainability issues. In addition, she points out some fundamental biases in the EU’s “truth,” namely the fact that the EU’s development cooperation in itself does not fully correspond to the needs of the developing countries and that the EU lacks clear “development criteria, indicators and measurement” to assess the impact of its trade deals. In her opinion, more flexible methodology and clear quantitative and qualitative benchmarking instead of generic development indicators is needed to enable the local voices and make sure that reforms are implemented and actually benefit the populations. Similarly, Uma Kothari criticizes the “neoliberal agenda of development agencies” driven by the Western ideals of modernity and Fabienne Bossuyt, Jan Orbie and Lotte Drieghe point out that due to institutional and ideational reasons, there is no coherence between the EU’s trade and development objectives – and strong resistance to the idea of such coherence.

**Power imbalances in EU’s engagement with partner countries’ stakeholders**

The theoretical discussion above demonstrated the various ways in which power relations may manifest themselves in the processes at the micro level and explained why, even under the conditions of legal equality, we cannot necessarily expect equality between the EU and third country stakeholders in practice. Biases can appear in diverse ways, and while civil society mechanisms only deal with “soft” aspects of power (knowledge production), it is very important to look at the informal linkages between truth and power. To quote Jessica Lawrence, “Even where there is consent, and where there are no formal legal mechanisms of regulation and enforcement, governmental activity can still be taking place.” In this section, I formulate several tentative hypotheses / propositions and illustrate them with examples from the EU’s engagement with partner country stakeholders in the framework of free trade agreements. The list of propositions is by no means exhaustive. I begin with some general observations on macro-level imbalances which

34 Expert Knowledge in Global Trade, 11-3, 187.
36 Ibid, 304, 314-6, 325.
can percolate to the micro level: this part explains how the EU’s greater economic and political weight vis-à-vis its partners may directly translate into relatively greater influence of the EU’s stakeholders. We could also call these “hard” imbalances, more or less dictated by “objective” economic structures and even enshrined into law (and understandable from the point of view of classical critical theory). I continue by looking at the “soft” imbalances – manifestations of power arising at the grassroots level without an always clear link to the macro processes (as discussed by Foucault). This second part is structured along Keukeleire and Lecocq’s six points for decentring, applying them in order to analyse the patterns of actual interaction between the EU’s and partners’ stakeholders. It shows how implicit assumptions on the part of the EU and its representatives shape the operation of civil society mechanisms in a way that delimits the possibilities for partner country stakeholders to voice their concerns and be heard. The propositions are illustrated with examples obtained from conducting participant observation of meetings among the EU stakeholders and between EU and third country representatives, as well as desk research.

**Macro-level economic imbalances percolating to the micro level**

1. **Macro-level imbalances I: the EU is more economically influential than most of its trading partners and has the leverage to demand adjustments from the partners in line with its own interests and standards, which can translate into imbalances between the positions defended by the EU’s and partners’ stakeholders.**

Building on Foucault, Jessica Lawrence offers a very interesting account of how “the EU can simultaneously believe: a) that the agreement does nothing to affect the “regulatory sovereignty” of its trading partners; and b) that the agreement will have substantial effects in promoting “good governance” and “structural reforms” within their borders.”

Even though the official wording of the agreements imposes obligations to promote sustainability on both parties, in practice (at least until CETA) the reforms have been expected by the EU from its partners, not vice versa. This asymmetry has also been visible in relations with third countries’ stakeholders. As an EU DAG member pointed out, “this debate shows us why we need a partner on [Y] side, it’s the [Y] side that has to approximate their standards and everything. Our job is to watch them to do that and to watch our interest, if we don’t have a partner on the other side we cannot discuss.”

In practice, DAG-to-DAG meetings can even take the shape of a questions and answers session where the EU stakeholders interrogate their counterparts from the third country (and during the Joint Civil Society Fora also government representatives who report from the Trade and Development Subcommittee) on how reforms are being implemented. Both EU officials and EU stakeholders expect partner countries’ stakeholders to be an agent promoting the reforms demanded by the EU internally and providing them with feedback on the results. In practice, some partner country stakeholders do not support the reforms promoted by the EU, while others are too weak to enact lasting change.

2. **Macro-level imbalances II: civil society participation mechanisms in the EU’s trade agreements are centred around development objectives which play a subordinate role in the**

---


41 See as an example “Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part."

42 Participant observation, April 2018.

EU’s external trade policy, meaning decreased policy influence for stakeholders interested in sustainable development (primarily those from partner states).

Both Domestic Advisory Groups and Civil Society Fora are established under sustainable development chapters; although in the future, the EU plans to extend the scope of these mechanisms to oversee the entire agreement, at present, they deal solely with labour, environment and economic sustainability issues which are not a high priority within the EU trade policy. The EU does demand adherence to sustainable development from its partners, but in practice sometimes ignores specific concerns arising in the partner states in favour of maintaining good business and political relations with the partner countries. As a result, stakeholders on both the EU and partners’ sides have complained about low policy impact which can be partly explained by the overall low priority of sustainable development in the EU’s trade policy: in a recent survey of EU DAG members conducted by the Ghent University, Vrije Universiteit Brussel and United Nations University – CRIS, only 12% respondents believed that the DAGs have impact. As Erin Hannah concludes from her research on NGOs in the EU’s trade policy, “NGOs have succeeded only when their attempts to achieve more democratic, sustainable, and equitable policies have conformed broadly to the dominant episteme. When they seek to overrule that episteme, they fail.” The dominant episteme for Hannah is economic liberalism, which corresponds to the interests of many businesses, but does not necessarily lead to sustainable outcomes in partner countries. Taking into account that partner countries’ stakeholders are more likely to be directly interested in sustainable development of their countries, it leaves them in a disprivileged position. As a Georgian stakeholder lamented, “The mechanism is not efficient, [at the DAG-to-DAG meeting] we spent time not really doing anything. [...] right now maybe it’s too much effort to put three sentences in one statement.” For them, there is also not much access to the DG TRADE responsible for external trade policy: “Brussels is big, each DG works by itself, and it’s hard to find your way.” The EU has on multiple occasions ignored sustainable development challenges in its partner countries in line with the predominant focus on economic liberalisation:

to quote a stakeholder, “people working in towns, villages, social sector [in third countries] are desperate, say how does the EU uphold this relationship, this is not normal. How we can continue to converse with a country without taking into account the situation there.” Thus, the structural conditions tend to favour a certain “regime of truth” that does not include sustainable development as a top priority.

3. Macro-level imbalances III: for the same reason, EU business interests have better access and more influence on the EU’s trade policy.

Multiple authors have pointed out the strong influence of business on the EU’s trade policy, and there are some indications that business interests indeed also have a strong influence on the operation of the civil society mechanisms. In the debate on the EESC opinion on “Trade and sustainable development chapters in EU Free Trade agreements,” a business representative called

46 Confidential interview, Tbilisi, 22 March 2018.
47 Participant observation, January 2018.
on his colleagues from Group I (Employers) not to support introduction of sanctions since this “may kill not only trade and sustainable development but possibility of meaningful trade agreements as such.” As a result, the opinion included a very ambiguous wording on sanctions, despite many other stakeholders being in favour. Partner countries’ business representatives are not always so successful in lobbying their interests. One Georgian interviewee told how the EU could not understand the specifics of low-price local production and mistook it for dumping, while another (a business representative) complained about the EU refusing to seek individualized approach to Georgia and relax the tough regulations: “our companies cannot get to [the EU] market, we needed to give it 10-15 years [...] [toughening the demands] means to eliminate business, there will only be Western business.”

Operationalizing Keukeleire & Lecocq’s decentring agenda (“soft” inequalities)

4. Spatial decentring I: not all third countries have necessary features (such as strong administrations, developed civil society and economic resources) needed to promote sustainable trade.

As described by Evita Schmieg, the reason partner countries have problems with promotion of sustainability is “limited institutional and financial capacities and weak institutions.” In her opinion, “often it is not good to demand change because of conditions that are there, demands should be complemented by support.” Domestic conditions also help explain why civil society in many partner countries is so weak; for instance, if almost 60% of Ukrainian citizens live below poverty line, we can hardly expect them to donate to civil society initiatives like it happens in the West, or indeed to be concerned about these initiatives. However, while the Commission also provides some support to partner countries to implement reforms and has recently promised an increase, at present these are still insufficient. Lack of resources is of course just one of the reasons why the sustainable development models and civil society mechanisms proposed by the EU do not always take root, but it merits consideration. The EU making assumptions about the partner countries being able to provide conditions for EU-style management is also an example of a biased power/knowledge relationship.

5. Temporal decentring: not all third countries share the EU’s interest in sustainable development or see it in exactly the same way.

As mentioned above, the EU itself tends to prioritize trade over sustainable development interests when the two come into conflict. However, it still insists on sustainable development to be prioritized by partner states. To quote the Association Agreement with Georgia, “The Parties reaffirm their commitment to pursue sustainable development and recognise that economic development, social development and environmental protection are its interdependent and mutually reinforcing pillars. They underline the benefit of considering trade-related labour and environmental issues as part of a global approach to trade and sustainable development.”

---

50 Participant observation, January 2018.
51 Confidential interview, Tbilisi, 22 March 2018.
53 Participant observation, April 2018.
56 “Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part.”
practice, however, “usually partner countries do not work sustainably in labour and environment.”

Moving towards sustainability may even have its costs in the short term; as Trancrède Voituriez noted, “why disrupt some sort of social contract to move from 10% MFN to 4% [tariff]?” In other words, partner countries, and some non-governmental stakeholders therein, do not necessarily share sustainable development interests, nor are they able or interested to do so. Notably, the EU stakeholders’ response to this is to exercise power – either by suggesting sanctions (“hard” power) or by socializing partners and effecting a “cultural revolution” (“soft” power).

In some cases, it can be that stakeholders do support sustainable development, but apply the concept to their country in a different manner. As a Georgian stakeholder noted, “if we speak about Georgia as a frontrunner, it is really in terms of deep and sustainable democracy and here it even goes before Moldova, but when you go into particular issues which are much more important for the people such as access to labour rights, healthcare etc., Georgia is not in the best positions.” This refers us back to the general observation made above that the EU prefers first generation rights to second generation rights, even though in partner societies priorities may be arranged differently. As a result, in conditions of asymmetry, it is likely that arguments put forward by partner countries’ lose out.

6. **Normative decentring:** even democratically elected governments in partner countries may not share the norms and values which the EU associates with sustainable development, in particular, they may be controlled by business interests and prioritize them over the needs of the labour force, the environment or social security of the population.

While the EU expects its partner governments to be committed to sustainable development ideals, in practice this is not always the case. As Mirela Barbu et al. write, “Government officials from trading partners with responsibility for engaging with labour issues within the institutions of the TSD chapters often do not see the issues as their responsibility and/or are not the most appropriate representatives for the task in hand. Such officials are often not based in labour ministries or other relevant governmental departments. This poses problems for achieving appropriate follow-up on relevant issues.” For instance, in Ukraine, the parliament is procrastinating on the labour inspection reform (which, interestingly, is not stipulated in the Association Agreement but nonetheless appears on the Association Agenda): “decision making in the parliament is chaotic, labour code has been drafted for ten years, removed from parliament’s plenary because they said they have bigger issues but has not been put back on the agenda and no one knows when it will be put back on the agenda.” High prevalence of corruption and influence of oligarchic interests is a credible explanation. Consequently, those stakeholders in partner countries who do support reforms find themselves in an unwelcoming environment.

7. **Polity decentring I:** non-governmental stakeholders in third countries may not necessarily be interested in confronting (or cooperating with) their governments on trade and sustainability issues.

While the EU does tend to see civil society as a “watchdog” which can help it promote reforms, the situation in practice is often different. In Georgia, business representatives hardly take part in the

---

60 Participant observation, March 2018 (author’s italics).
62 Participant observation, April 2018.
work of their DAG and believe that “tough regulation is a mistake of both sides.” They also condemn Georgian NGOs that do advocate sustainability: “Tired of listening to NGOs that scream that we need to toughen the demands, on employers etc. [...] our so called NGOs that exist for grants are unacceptable for Georgia.” In both Georgia and Ukraine, business representatives are against such EU-promoted reforms as strengthening the labour inspection, fearing this would increase production costs. In Ukraine, some trade unions have been accused of being “in conspiracy with the government and creating impression that there is social dialogue” instead of acting as independent players. It must be remembered that DAG members are not fully independent in several other partner countries as well (and the EU’s attempts to influence their recruitment poses a whole different set of challenges).

8. Polity decentring II: third country governments may not necessarily be interested in cooperating with non-governmental stakeholders.

In many partner countries, dialogue between the government and the society has not yet become a norm: “We [the EU] negotiated with Singapore, and this [TSD] chapter was a very nasty thing for them, because they don’t even recognize, they don’t have a notion of civil society. We decided to add this chapter because we believe we have values we want to share with them, not all countries have these values, but we want to incorporate, to put civil society on the map. To offer the chapter is the first step, to make them sign it is the second step, but the most difficult starts afterwards... "Technocrats want to manage the country like a company, they are not interested in civil society..." In other cases, the non-governmental organizations may be seen by the government as a nuisance or a source of problems. For instance, about Ukraine it has been said that in addition to absence of efficient cooperation between the government and civil society, certain players in the government are resisting reforms and making it “difficult for civil society to do its job.” A Domestic Advisory Group is still not formed on the Ukrainian side, which is explained by some stakeholders as artificial delay on the side of the administration. In Georgia, the Ministry of Economics, the main responsible body for implementation of the Deep and Comprehensive Free Trade Area (part of the Association Agreement) which also recruited Georgian DAG members, refuses to talk to them. A Georgian DAG representative also complained that the government is corrupt and not interested in true cooperation with the business. Even worse, in Korea, trade union representatives from an organization that is also represented in the DAG were incarcerated until recently. If third country stakeholders do not enjoy influence with their own governments, they can hardly be expected to serve as efficient monitors, watchdogs and reform advocates.

9. Polity decentring III: stakeholders in third countries may have different organizational forms and operating procedures than expected by the EU.

As Holly Jarman and several other authors note, the EU is able to influence the way in which it is lobbied, incentivizing “all actors in the trade policy community to behave in similar ways, regardless of group type.” The EU also sets certain standards for its interlocutors. To quote the criteria set out

63 Confidential interviews, Tbilisi, 22 March 2018.
64 Confidential interview, Tbilisi, 22 March 2018.
65 Participant observation, March 2018 and April 2018.
66 Participant observation, April 2018.
68 Participant observation, January 2018.
69 Participant observation, April 2018.
70 Participant observation, April 2018.
71 Confidential interview, Tbilisi, March 2018.
72 Confidential interview, Tbilisi, 22 March 2018.
in the Association Agreement between the EU and Georgia, the participants of both Domestic Advisory Group and the Joint Civil Society Dialogue Forum on both sides are expected to “comprise independent representative organisations of civil society in a balanced representation of economic, social, and environmental stakeholders, including, among others, employers and workers organisations, non-governmental organisations, business groups, as well as other relevant stakeholders.” These criteria are relatively easy to fulfil for the EU with its highly developed and independent civil society, but even on the EU side there have been difficulties in recruiting the necessary number of members for some DAGs and ensuring balance among different groups. However, the situation is much more problematic in the case of many EU’s partners where civil society is underdeveloped or outright repressed. For instance, Korea’s nominations of civil society for its first DAG have been politely described as “weird”; the DAG mostly consisted of academics not independent civil society. Later the situation was somewhat rectified as a result of pressure applied by DG TRADE, but only in part. In Central American countries, there is lack of trade union representation and, in some cases, the groups include governmental representatives, while in Peru, the government has decided to use an existing structure as a DAG although it does not consist of independent organizations, which has provoked criticism from EU representatives. In this case, we observe the EU’s disciplinary power affecting stakeholders on both sides, but especially the partners’ representatives who are further from the EU’s standards.

10. Polity decentring IV: stakeholders in third countries may have insufficient financial and reputational resources in absolute terms (to enable them to take part in dialogue with the EU counterparts, the EU and national government) or in relative terms (lesser capabilities to defend their interests in comparison to EU representatives).

Until now, stakeholders neither in the EU nor in third countries have received remuneration for participating in the consultation mechanisms. There has also been no financial support for partner country representatives to travel to meetings that take place in Brussels or (in case of regional agreements) in another country different from their own, and moreover, partner countries (unlike the EU) do not provide their stakeholders with secretarial support. As a Georgian interviewee noted, “last time only two people could participate [in a meeting in Brussels], my organization could pay for my trip and I convinced the EU side to pay for one more, they can’t really finance 5 or 6, I just selected one person who would be best to have with me. […] other organizations cannot sponsor their representatives, it’s not necessarily something integrated in their projects and other activities.” The situation with travel grants will be rectified by the new Commission-funded project Democracy in European Governance,” European Law Journal Vol. 21, No. 6 (2015), 804, and Guillaume Courty and Hélène Michel, “Interest Groups and Lobbyists in the European Political Space: The Permanent Eurocrats” in The Field of Eurocracy: Mapping EU Actors and Professionals, eds. Didier Georgakakis and Jay Rowell (Houndmills, Basingstoke, Hampshire; New York: Palgrave Macmillan, 2013), 176-7.

74 “Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part.”

75 Confidential interview, Brussels, 5 March 2018.

76 Participant observation, Brussels, April 2018.

77 Participant observation, Brussels, May 2018.

78 Opinion of the European Economic and Social Committee on EU-Korea Free Trade Agreement – Trade and Sustainable Development Chapter, Rapporteur: Dumitru Fornea, REX/479, 18 October 2017.


81 Confidential interview, Tbilisi, 22 March 2018.
for support of civil society mechanisms, but this does not resolve the broader issue of stakeholders not having resources to conduct thorough preparation for participating in these mechanisms, such as studies, member surveys or field visits, and not having administrative support to help organize their work and maximize their impact. It must be mentioned that in principle, the EU tends to support project activities not day-to-day operation of civil society organizations, and stakeholders face even greater challenges fundraising in partner countries compared to the EU.

11. **Linguistic decentring I: overwhelming reliance on English and preference for dealing with English-speaking partners limits the EU’s ability to understand and engage with third country stakeholders.**

While Civil Society Fora are often translated into several languages, meetings between Domestic Advisory Groups sometimes take place in English, and overall English seems to be the lingua franca of the civil society mechanisms. In practice, this likely poses a significant limitation on participation of third country stakeholders, taking into account that – unlike the established members of the “Brussels bubble” – not all of them are fluent. Participant observation has also shown that third country stakeholders sometimes spontaneously conduct discussions among themselves in their national language during the meetings with the EU counterparts, leaving the latter puzzled and excluded from the debate.

12. **Linguistic decentring II: partner countries’ stakeholders are not always treated as reliable and valuable sources of expertise and lack the means needed to prove themselves as such.**

On the side of the EU, there are very diverse appraisals of their third country counterparts. While some are positive, such as “very vibrant” and “useful,” others are derogatory, for instance, criticizing a certain Civil Society Forum because it attracts “participation of God knows who.” To some extent, this could be consequence of sceptical attitude towards the partner countries as a whole: “[X] is two countries: one, with the main cities, is like Bulgaria, and the rest is like Afghanistan.” In addition, multiple authors have described in great detail the unwritten rules that operate in the “Brussels bubble” and determine whose opinion is or is not taken seriously. EU stakeholders are a priori in a better position, since they are normally already part of the “Brussels bubble” and have a much better understanding how to lobby the EU institutions. In turn, many organizations from partner countries do not have previous experience of dealing with the EU and thus may not always understand the implicit standards for behaviour accepted in the European environment; even those who work with the EU for many years still can find it “a bit hard to understand.” Whatever the reason, partner country representatives are not always treated as equals by the EU side. For instance, it seems rather common for the EU representatives to criticize their third country counterparts for not being professional enough, for instance, “our [X] friends try

---


83 See e.g. Opinion of the European Economic and Social Committee on EU-Korea Free Trade Agreement – Trade and Sustainable Development Chapter.


87 Participant observation, partner country, March 2018.

88 Participant observation, partner country, March 2018.


90 Confidential interview, Tbilisi, 22 March 2018.
to insert quite contradictory opinions in the draft statement, every five minutes we are getting new versions” (followed by a dismissive discussion of the various partners’ suggestions).  

13. **Disciplinary decentring: predominantly positivist methodologies used by the EU for impact assessment affect the results and limit possibility for stakeholders to engage in the assessment process.** According to some academics, the EU’s tendency to use quantitative methods – especially computable general equilibrium (CGE) – for impact assessment has provided “dubious” results and “serves to sideline alternative economic perspectives, particularly those that question the benefits of ever greater liberalization.”  

This opinion has been mirrored by the European Court of Auditors which has concluded that “policymakers, stakeholders and European taxpayers are therefore insufficiently informed of the main advantages and disadvantages of the different trade policy options and of whether the implemented policy delivered its intended results.” As mentioned above, development stakeholders have also called for more flexible approach to impact assessment. The fact that many stakeholders in the partner countries and the EU itself still share general uneasiness about EU’s trade agreements proves the importance of this point.

**Conclusions**

While formally the EU creates equal conditions for partner country stakeholders to participate in the debate on trade and sustainable development, in practice much remains to be changed before we can truly talk about “reactivation of local knowledges” advocated by Foucault. In many cases, the EU stands as a de facto hegemon who, in various formal and less formal ways, limits third country representatives’ possibilities to contest its policies and its “regime of truth” – predefined ideas on what is sustainable development, to what extent it matters and how exactly it should be achieved. Some imbalances are linked to the broader asymmetries existing between the EU and its partners on the political and economic level. For instance, since normally the partner countries have to unilaterally adjust their policies to the EU standards, their stakeholders are often expected to assist with the reforms and report on their implementation to the EU – regardless of whether the stakeholders on the “other side” actually have the willingness or capacity to do so. In other cases, the link to macro-level processes is less clear cut, but power relations do operate quite visibly on the micro level. For instance, the EU expects partner countries’ stakeholders to deliver as if they were fully independent, well-financed and influential vis-à-vis their national governments, while in reality the other party cannot even master the funds to participate in civil society meetings outside their own borders. Thus, while the very fact of establishing civil society mechanisms is a major step towards empowering third country stakeholders, in practice the EU has not been able to “will into existence” effective and balanced representation of partner countries’ interests.

Admittedly, this paper paints a rather pessimistic picture of the EU’s engagement with partners’ stakeholders. In practice, there are positive examples of cooperation among third party representatives and EU stakeholders and institutions, meaning that instead of rectifying asymmetries, power balance between EU and non-EU interests has improved. The Commission is also looking for new ways to empower partner representatives, such as the new project in support of the civil society mechanisms. Still, if the EU truly wanted to listen to the diverse opinions of partners’ stakeholders, it would have to conduct a more fundamental review of how it approaches the DAGs and CSFs and even trade relations more generally: “The problem is not changing people’s consciousnesses – or what’s in their heads – but the political, economic, institutional regime of the

---

91 Participant observation, partner country, March 2018.
92 *Expert Knowledge in Global Trade*, 10-1.
production of truth. It’s not a matter of emancipating truth from every system of power (which would be a chimera, for truth is already power) but of detaching the power of truth from the forms of hegemony, social, economic and cultural, within which it operates at the present time.\textsuperscript{94}

\textsuperscript{94} Michael Foucault, \textit{Power / Knowledge: Selected Interviews and Other Writings 1972-1977}, 133.