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**“EU Promotion of Human Rights and Democracy in
the World”**

Trading for Human Rights

**A Handbook on
Human Rights Clauses in EU Agreements with Non-
EU States**

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List of Abbreviations

AA	Association Agreement
AASM	Associated African States and Madagascar
ACP	African Caribbean Pacific
AFA	Advanced Framework Agreement
ASEAN	Association of Southeast Asian Nations
AU	African Union
CAI	Comprehensive Agreement on Investment
CARIFORUM	Caribbean Forum
CCP	Common Commercial Policy
CEPA	Comprehensive and Enhanced Partnership Agreement
CETA	Comprehensive Economic and Trade Agreement
CFR	The Charter of Fundamental Rights of the European Union
CFSP	Common Foreign and Security Policy
CIRCABC	Communication and Information Resource Centre for Administrations, Businesses and Citizens
CJEU	Court of Justice of the European Union
CVCE	Centre virtuel de la connaissance sur l'Europe
DRC	Democratic Republic of Congo
EAC	East-African Community
EBA	Everything-but-Arms Agreement
EC	European Community
ECHR	European Convention on Human Rights
ECOWAS	Economic Community of West African States
EEA	European Economic Area
EEAS	European External Action Service
EEC	European Economic Community
EEZ	Exclusive Economic Zone
EFTA	European Free Trade Association
ENP	European Neighbourhood Policy
EP	European Parliament
EPA	Economic Partnership Agreement
EPRS	European Parliament Research Service
ESA	Eastern and Southern Africa
EU	European Union
EU Charter	The Charter of Fundamental Rights of the European Union
FLEGT	Forest Law Enforcement, Governance and Trade
FTA	Free Trade Agreement
GSP	Generalised Scheme of Preferences
GSP+	Generalised Scheme of Preferences Plus
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
ILO	International Labour Organisation
IPA	Investment Protection Agreement
Lomé IV	Fourth Lomé Convention

MERCOSUR	Mercado Común del Sur – Southern Common Market
MTE	Mid-Term Evaluation of the EU GSP
OACP(S)	Organisation of African, Caribbean and Pacific States
PCA	Partnership and Cooperation Agreements
PDCA	Political Dialogue Cooperation Agreement
SAA	Stabilisation and Association Agreement
SADC	South African Development Community
SEP	Single Entry Policy
SFPA	Sustainable Fisheries Partnership Agreement
SIFA	Sustainable Investment Facilitation Agreement
SPA	Strategic Partnership Agreement
TCA	Trade and Cooperation Agreement
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
TSD	Trade and Sustainable Development
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCTAD	United Nations Trade and Development
US	United States (of America)
VCLT	Vienna Convention on the Law of Treaties
VPA	Voluntary Partnership Agreement
WTO	World Trade Organisation

Executive Summary

The European Union has a long-standing practice of integrating human rights clauses in its trade agreements with third countries, thus linking trade liberalization with the promotion and protection of human rights, democracy and the rule of law. This practice dates to the early inception of the European Union, then the European Economic Community, and early agreements of the latter with Sub-Saharan countries.

Initially, **human rights clauses were devised in response to serious human rights violations and the need to create the means for ending any funding or aid to foreign governments responsible for these violations**. Yet, recognizing that the termination or suspension of agreements may have adverse effects on the people suffering from serious human rights violations, the policy **gradually evolved overtime to include for the operationalization of human rights clauses through mechanisms for political dialogue, cooperation, and the imposition of restrictive measures for violations of human rights** included in the clause.

The EU's approach therefore became more comprehensive by incorporating human rights clauses into various types of agreements the organization concludes with third countries. These agreements include Partnership and Cooperation Agreements (PCAs), Economic Partnership Agreements (EPAs), Free Trade Agreements (FTAs) and Association Agreements (AAs).

Furthermore, **the EU has also addressed human rights issues through other instruments**, such as individual sanctions, the Generalised Scheme of Preferences (GSP), and the Sustainable Fisheries Partnership Agreements (SFPAs). These instruments highlight the importance of human rights in the EU's external relations and its commitment to enhancing these conditions on a global basis.

An **important milestone in the development of the human rights clause policy was the introduction of the 'Baltic Clause' in the early 1990s**; a clause included in the first trade and cooperation agreements with the Baltic States and Albania in 1992, which allowed for the immediate suspension of the relevant agreements with the EU in the event of human rights violations. **The 'Baltic Clause' later evolved into the more sophisticated 'Bulgarian Clause'** which contained more options for the operationalization of the human rights clause,

such as political dialogue, conciliation, and other restrictive measures, before resorting to the suspension of the agreement.

Under this new regime **suspension or termination of an agreement is reserved for the gravest violations of human rights**, thus creating a more nuanced and flexible method for addressing human rights issues.

As of 2014 most human rights clauses in the EU agreements adopted a similar basic structure. First, there is an obligation to comply with human rights and democratic principles, contained in an ‘essential elements’ clause, usually found in the first articles of an agreement. Non-proliferation is also contained as an essential element, though under a different article of the agreement. **Secondly, to enforce this obligation, there is a ‘non-execution’ or ‘non-fulfilment’ clause**. This is an operationalization clause **which allows a party to the agreement to take ‘appropriate measures’ when the other party violates the essential elements’ clause**. Even though this is a regular practice, the content of the essential clause as well as the types of measures, conditions and available mechanisms within the agreements vary significantly.

Today the EU still maintains a **Common Approach policy** whereby **a human rights (and democracy) clause is contained in the political framework agreements signed with third countries, to which sector specific agreements (such as Free Trade or Investment Agreements) should be linked through a so called ‘linkage clause’**. When such a framework agreement is absent, the clause may form part of the agreement containing free trade provisions or a more comprehensive agreement which includes free trade provisions alongside cooperation in various areas, like in the case of Association Agreements. Human rights clauses may also be present in some trade-related agreements that usually include trade cooperation yet not necessarily tariff liberalization.

Therefore, **the EU’s human rights clause policy has evolved to balance the need for immediate action against human rights violations with the importance of maintaining dialogue and cooperation**. This evolution demonstrates the EU’s commitment to integrating human rights into its international agreements and using its influence to promote these values globally.

Recent agreements adopt a similar basic structure to the above ‘Bulgarian Clause’, by including an essential elements clause and a non-execution clause which allows

for the adoption of appropriate measures in case of violations. Provisions on proportionality and consultations are also regularly contained.

The **most significant examples of the EU's Common Approach and linkage clauses** are those of the **EU-Canada** Strategic Partnership Agreement and the EU-Canada Comprehensive Economic and Trade Agreement; the **EU-Singapore** Partnership and Cooperation Agreement and the EU-Singapore Free Trade Agreement; and the **EU-Vietnam** Free Trade Agreement and the EU-Vietnam Investment Protection Agreement. The EU-Singapore agreements provide a clear link between the framework agreement and the sector-specific agreement, while the Vietnam sector-specific agreement references the framework agreement for the adoption of appropriate measures.

It should be noted that **'new generation' Free Trade Agreements regularly include sustainable development objectives, labour, environmental and gender equality standards** based on multilateral instruments.

The EU has also concluded **hybrid or comprehensive agreements which cover multiple areas that include *inter alia* trade and extend beyond the Common Approach remit** (i.e. framework agreement – sector specific agreement). **Examples of such agreements** are those concluded **with the Western Balkan countries, Eastern Neighbours** (such as the EU-Ukraine Association Agreement and the EU-Armenia Comprehensive and Enhanced Partnership Agreement) and the EU-UK Trade and Cooperation Agreement. These agreements contain essential elements clauses and provisions for appropriate measures in cases of violations, with suspension as a last resort option.

While there is a standard practice regarding the inclusion of a human rights clause, the final version of this clause and how violations are addressed varies from agreement to agreement. However, the Council of the European Union is always responsible for deciding on the suspension of an agreement in case of violations.

When examining the enforcement of human rights clauses, it should be noted that **the adoption of measures in practice are limited, yet three cases provide insight into how the European Council may react to egregious violations of human rights.** Coup d' état is the threshold for triggering the human rights clause in two cases, while in one case the European Council decided to suspend an agreement, without a human rights clause:

- **Case Study 1- Guinea-Bissau:** Following a mutiny in 2010 the EU engaged in political dialogue and consultations, leading to gradual resumption of development cooperation by 2015.
- **Case Study 2 – Burundi:** In 2016 the EU suspended financial support due to non-compliance with human rights, democracy and rule of law obligations. Appropriate measures were in place until 2022.
- **Case Study 3 – Syria:** In 2011, the EU partially suspended the Cooperation Agreement with Syria due to systemic human rights violations, based on United Nations positions and the agreement’s preamble referring to the principles of the United Nations Charter.

Given the limited enforceability of the human rights clause in practice and **keeping in mind cases where the human rights clause could have been triggered, begs the question whether the EU institutions have an obligation thereto.** According to the European Court of Justice in the *Mugraby* case, **there is no such obligation**, and, in any case, individuals may not invoke the human rights clause for the purpose of legal standing before the Court in search of reparations.

In contrast, **the trade and sustainability chapters of recent trade agreements, which aim to enforce labour, environmental and gender equality rights, may offer options for dispute settlement between the parties.** The practice of including labour rights is increasingly common, with the International Labour Organisation documenting through a relevant tool more and more Free Trade Agreements with labour dimensions. However, enforcement still remains weak, as demonstrated by the EU-Korea Free Trade Agreement dispute. Even though South Korea ratified the majority of core ILO Conventions, the human rights situation in the country was unaffected, highlighting the problematic nature of the trade and sustainability enforcement system.

As of 2022, the EU’s strategy introduces trade sanctions as a last resort for violations of sustainable trade obligations, including core labour standards, as reflected in the EU-New Zealand Free Trade Agreement.

Human rights clauses are not the only available means for sanctioning or addressing human rights violations by non-EU states.

The EU may impose **individual sanctions**, such as travel bans and asset freezes, under its Global Human Rights Sanctions Regime. These sanctions may be imposed unilaterally and

target the individuals responsible for serious human rights violations. Some countries have their own specific regimes such as Iran and Russia.

Within the context of the Generalised Scheme of Preference, the European Commission may decide the withdrawal of preferences and privileges from countries that fail to comply with labour, environmental, and human rights standards. Past examples include Belarus, Myanmar, Sri Lanka and Cambodia, where preferences were withdrawn due to non-compliance with these standards.

In 2020, the European Commission introduced **the Single Entry Point (SEP), a new complaints system designed to address market access barriers and breaches of Trade and Sustainable Development obligations**. This system allows various actors - as long as they are established in the EU - to submit complaints, providing a streamlined process for addressing certain human rights issues related to labour, environmental protection and gender equality. The SEP also covers complaints within the framework of the Generalised Scheme of Preferences.

Notably, in 2022, the first SEP labour related complaint was filed, highlighting the utility of the mechanism. More specifically, the Dutch NGO CNV Internationaal submitted a complaint on behalf of trade union organisations from Colombia and Peru, addressing an alleged violation of specific articles in the Trade Agreement between the EU, Colombia and Peru. This complaint was significant as it was the first to be filed under the SEP, calling for the investigation of potential violations related to decent work, fundamental labour rights, freedom of association and equality. Following consultations, in March 2024, the European Commission and the Peruvian government agreed on a list of technical cooperation activities to implement labour rights commitments under the agreement. The implementation will cover a two-year period, supported by an extensive technical and financial programme by the EU. Although the Dutch NGO expressed disappointment for not being consulted on the substance of the activities, it remained available for developing and implementing a final roadmap.

The above case also underscores the European Ombudsman's concerns on how non-EU actors can submit complaints through the Single Entry Point, potentially **opening the door for complaints related environmental law and gender equality from stakeholders in non-EU states**.

Furthermore, the EU engages in **human rights dialogues through various mechanisms, including trade agreements**. These dialogues, which have become more

institutionalized, were first envisioned by the Lomé Conventions with African, Caribbean and Pacific countries, before the 1990s, and were later formalized under the Cotonou Agreement which succeeded them in the 1990s. The Samoa Agreement, which is now in force, builds on the provisions of the Cotonou Agreement, providing for multi-stakeholder involvement, including civil society.

Human Rights Dialogues are a key part of the EU’s external human rights policy, as outlined in the EU Action Plan on Human Rights and Democracy (2020-27). These dialogues involve political, human rights, and sectoral policy discussions with third countries and regional organisations, as well as regular dialogue with civil society, human rights defenders, national human rights institutions, the business sector, and other relevant stakeholders.

In view of all the above, it is important to lay down **key points for consideration:**

- Labour rights, gender equality, and environmental rights are protected under the EU Charter of Fundamental Rights
- Fundamental rights should therefore trigger the same mechanisms reserved for labour rights, gender equality and environmental rights
- Human rights clauses in trade agreements have evolved to include various mechanisms to address violations
- Maintaining transparency and multi-stakeholder participation in human rights dialogue is critical for the enforceability of human rights clauses

The analysis delineates the evolution and the significance of human rights clauses within the EU trade agreements. It highlights the need for a standardized essential elements clause and explicit mechanisms for addressing violations of human rights, democratic principles and the rule of law. In 2022, the **European Ombudsman urged the European Commission to undertake human rights impact assessments prior to the finalization of agreements**, citing concerns over the absence of updated assessments in agreements such as those with Vietnam and MERCOSUR. **The Ombudsman proposed the establishment of a separate portal for human rights complaints** in order to enhance transparency and accessibility for stakeholders, particularly from partner countries, to effectively report issues.

In lieu of the above, human rights clauses in trade agreements remain relevant, as they are imperative for legitimising the European Commission’s efforts to establish such mechanisms, potentially through the existing Single Entry Point.

Furthermore, the **European Parliament has frequently advocated for actions predicated on human rights clauses**. In February 2024, it adopted its 2023 Annual Report on Human Rights, emphasizing the importance of coherent application and monitoring of human rights clauses in all EU international agreements. The report noted that, prior to 2014, the EU activated these clauses approximately two dozen times, but only once since then. The Parliament **insisted that the EU should respond decisively to persistent breaches**, including through the potential suspension of agreements if necessary.

The **Parliament even supported the European Ombudsman's recommendation for a complaint-handling portal within the EU's trade and financial frameworks**. It encouraged the European Commission to adapt the Single Entry Point, so as to facilitate the submission of complaints regarding compliance with human rights clauses, emphasizing that these mechanisms should also be citizen-friendly and transparent. EU institutions and Member States were called to collaborate with the European Ombudsman to protect and promote human rights through trade. Finally, the European Parliament's draft 2024 Annual Report, published in September 2024, reiterates the same call for human rights clauses, underlining their continued relevance and need for modernization to reflect current political developments and shifting priorities.

In conclusion, while human rights clauses have not been dismissed as a tool for promoting human rights, they require an update that will allow them to be an effective tool in the EU's external action.

1. Introduction

The European Union has been for years on the forefront of linking trade with human rights; creating an overarching network of multi-lateral and bilateral agreements, inherently linked with various human rights dimensions. What started as purely economic partnership project, evolved throughout the years. Championing fundamental human rights and affording them primary law status, made many question if the European Union has become a human rights organisation.¹

One of the most important human rights developments in EU history is undoubtedly the adoption of the EU Charter of Fundamental Rights,² which has the same legally binding value as the EU treaties. The Charter enshrines a full range of civil, political, economic and social rights based on the fundamental rights and freedoms recognised by the European Convention on Human Rights; the constitutional traditions of the EU Member States; the Council of Europe's Social Charter; the Community Charter of Fundamental Social Rights of Workers; and other international conventions to which the EU or its Member States are parties to.

Today the EU champions global efforts to promote human rights, sustainability and responsible business conduct in partnership with stakeholders as mandated by the EU Action Plan on Human Rights and Democracy 2020-2027.³ In recent years, several pieces of EU legislation of relevance to the advancement of business and human rights policies have entered

¹ A. von Bogdandy, *The European Union as a Human Rights Organisation? Human Rights and the Core of the European Union*, 37 *Common Market Law Review* 2000, pp. 1307-1338.

² EUR-Lex, [Charter of Fundamental Right of the European Union](#), Official Journal of the European Union, C 303, 14 December 2007, last accessed on 10.02.2025.

³ European Council, [EU Action Plan on Human Rights and Democracy 2020-2024](#), which was extended to 2027 as per EU Council, [EU Action Plan on Human Rights and Democracy 2020-2027](#), last accessed on 10.02.2025.

into force in relation to EU funding,⁴ for promoting sustainability in business,⁵ trade,⁶ artificial intelligence,⁷ etc. In the context of the above Action Plan the EU intends to promote human rights and democracy consistently and coherently in all areas of EU external action including trade.

The EU has developed a Common Commercial Policy (CCP) which is mainly carried out through the conclusion of trade agreements; a competence that was awarded to it even since the early years of the European Economic Community (EEC).⁸ Trade liberalisation schemes negotiated with third countries on a bilateral basis was and continues to be in the centre of the EU's CCP and given the inclusion of human rights as a core aspect of the EU's external action, it did not take long for human rights to become integrated in trade relations with non-EU states.

The inclusion of human rights clauses in trade agreements was met with scepticism.⁹ Critics held that human rights had no right to be included in purely trade arrangements. Nevertheless, the practice of linking human rights with trade liberalisation has gained ground among many trade partners and continues evolving due to the inevitable interaction of trade

⁴ While conditionalities have been a part of the European cohesion policy since the reform of the Structural Funds in 1988 which aimed to improve the accountability of EU Member-States for spending-related decisions (Council Regulation (EEC) No 2052/88), it was the 'ex-ante conditionalities' concerning inter alia fundamental human rights (anti-discrimination, gender equality and disability) within the EU cohesion policy reform, introduced for the 2014-2020 EU funding cycle and specifically for the proper and effective use of the ESIF-European Structural and Investment Funds (ESI Funds), that linked EU funding to human rights (Regulation No. 1303/2013 (Common Provisions Regulation). Currently, EU Regulation 1060/2021 laying down the common provisions on broader spectrum of EU funds set out 'enabling conditions' (horizontal and thematic). Under the new funding cycle 2021-2027, the EU extended the fundamental rights remit to include the entire EU Charter of Fundamental Rights. For more on this see: V. P. Karzi, [EU Fundamental Rights in practice and Charter conditionality](#), Country Research, FRA, December 2023, last accessed on 10.02.2025.

⁵ In recent years, several pieces of EU legislation of relevance to the advancement of business and human rights policies have entered into force: Due Diligence Legislation through [Corporate Sustainability Due Diligence Directive](#) and Transparency legislation which includes the [Sustainable Finance Disclosures Regulation](#) and the [Corporate Sustainability Reporting Directive](#), last accessed on 10.02.2025.

⁶ These include Sustainable products legislations such as the [Regulation on deforestation-free products](#) and the [Regulation on batteries](#) as well as Sustainable raw materials legislation such as the [Conflict Minerals Regulation](#) and the [Critical Raw Materials Act](#), last accessed on 10.02.2025.

⁷ In relation to Human rights in the digital sphere legislation includes the [EU Artificial Intelligence Act](#), the world's first comprehensive AI law and the [EU Digital Services Act](#), ensuring a safe and accountable online environment, last accessed on 10.02.2025.

⁸ N. Hachez, 'Essential Elements' Clauses in EU Trade Agreements: Making Trade Work in a Way that Helps Human Rights?, *53 Cuadernos Europeos de Deusto 2015*, pp. 81-106, p. 83.

⁹ E.U. Petersmann, Human rights and international economic law in the 21st century – The need to clarify their interrelationships, *4 Journal of International Economic Law 2001*, pp. 3-29; T. Cottier et al (Eds.), *Human Rights and International Trade*, OUP 2005; P. Alston, Resisting the Merger and Acquisition of Human Rights by Trade Law – A reply to Petersmann, *13 EJIL 2002*, p. 181.

globalisation with human rights. Today, apart from the EU, other important trade powers, such as the US and Canada, have embedded human and labour-rights provisions in their new trade agreements. The discussion of human rights clauses in trade agreements, especially at a time when the validity of core human rights is being challenged, even in traditionally democratic states, is as relevant as ever.

The present Handbook provides a comprehensive overview of the inclusion of human rights clauses in EU agreements with non-EU states, discussing their historical development, implementation, and challenges surrounding clauses in trade agreements.

The study begins by presenting the historical development of human rights clauses. It traces the evolution of human rights clauses from the early agreements with Sub-Saharan countries in the 1960s to the adoption of a Common Approach for including these clauses in trade agreements. It then proceeds to analyse the EU's 2009 'Common Approach' policy for including certain political clauses in agreements and how these clauses were used to implement the EU's external policy objectives such as respect for human rights, democracy, and the rule of law.

The study then proceeds with an analysis of specific categories of EU agreements, including Partnership and Cooperation Agreements (PCAs), Economic Partnership Agreements (EPAs), Free Trade Agreements (FTAs), and Association Agreements (AAs), as well as other type of partnerships, and how human rights are included within their frameworks.

This analysis is then followed by an in depth examination of the human rights clause, its elements, and whether there is uniform practice concerning the rights invoked, the mechanisms that can be triggered, their threshold and whether typology of agreements can affect the implementation of human rights clauses.

Through a comparative approach, the most effective or least effective clauses are identified. Next, it is noted that despite the standard policy of including human rights clauses in trade or trade related agreements, the enforceability of these clauses has been limited in practice, with limited instances of the EU invoking them to address grave human rights violations. Case-studies are presented and provide insight into the motivation for triggering human rights clauses and their outcome. It is noted that in most cases the EU triggered human rights clauses in agreements with African, Caribbean and Pacific States in the early 2000s within the framework of the respective partnership agreement, the Cotonou Agreement. The

presentation also includes an exceptional case where human rights violations were invoked for the suspension of an agreement that lacked a human rights clause.

The above analysis concludes by including an examination of other mechanisms employed by the EU to address human rights violations in partner countries. Such mechanisms include individual sanctions and the withdrawal of Generalised Scheme of Preferences (GSP), i.e. unilateral trade preferences benefiting non-EU countries, therefore highlighting the complexity and diplomatic considerations involved in enforcing (or not) human rights clauses.

Finally, the above is followed by a short description of human rights dialogues and their importance as a means of promoting human rights through trade agreements, with dedicated bodies established to engage in discussions on these issues.

The present Handbook concludes with final comments on the *status quo* and examines the utility of human rights clauses in agreements. It goes on to present recommendations, including of the European Ombudsman and the European Parliament, in an effort to reinstate the inclusion of human rights clauses as a useful tool for the promotion of human rights and democracy by the EU in its external relations.

2. Linking Human Rights to Trade

2.1.1. The Birth of a Human Rights Clause Policy

In order to gain better understanding of the European Union’s human rights clause policy, it is important to start from the beginning. After all every hero has an origin story.

Starting from the inception of a European Economic Community (EEC),¹⁰ the EU attempted to find a way to integrate a mechanism that would allow it to suspend international agreements concluded within its development aid policy in the event of ‘egregious’ violations of human rights, having specifically in mind the case of Uganda and the violent military dictatorship of the 1970s.¹¹ The EEC, following the accession of France, signed the first cooperation agreement with Sub-Saharan countries in 1963,¹² also known as the Yaoundé Convention.¹³ The Agreement itself stated in the Preamble:

“HAVING REGARD TO the Treaty establishing the European Economic Community ... WISHING to demonstrate their common desire for co-operation on the basis of complete equality and friendly relations, observing the principles of the United Nations Charter ... DETERMINED to pursue their efforts together with a view to the economic, social and cultural progress of their countries, DESIROUS of furthering the industrialization of the Associated States and the diversification of their economies, with a view to enabling them to strengthen their economic independence and stability”

¹⁰ F. Bindi, European Union Foreign Policy: A Historical Overview, pp. 13-40, in F. Bindi, *The Foreign Policy of the European Union, Assessing Europe’s Role in the World*, 2016, p. 18-20.

¹¹ I. Zamfir, [Human rights in EU trade agreements - The human rights clause and its application](#), *EPRS Briefing*, July 2019, last accessed on 10.02.2025, p. 3; G. Migani, [EEC/EU and Development Aid from Lomé to Cotonou](#), *Digital Encyclopedia of European History*, 22/06/20, last accessed on 10.02.2025; R. Ayadi & S. Ronco, [The EU-Africa Partnership and Development Aid – Assessing the EU’s actorness and effectiveness in development policy](#), *CEPS In-depth Analysis*, April 2023, p.20.

¹² The Convention associated 18 of the Associated African States and Madagascar-AASM with the EEC. The convention came into force on 1 June 1964 for a period of five years. It was renewed in 1969 with the signing of the second Yaoundé Convention and the accession of Mauritius to the agreement. See R. Ayadi & S. Ronco, [The EU-Africa Partnership and Development Aid – Assessing the EU’s actorness and effectiveness in development policy](#), *CEPS In-depth Analysis*, April 2023, p.20 and CVCE, [Yaoundé Convention](#), part of the subject file: Decolonisation: geopolitical issues and impact on the European integration process, 01.03.17, last accessed on 10.02.2025.

¹³ University of Pittsburgh, Archive of European Integration, [Convention of Association between the European Economic Community and the African and Malagasy States associated with that Community and annexed documents signed at Yaounde on 20 July 1963](#), last accessed on 10.02.2025.

Already the principles of the United Nations as included in the organisation's statute (UN Charter), are present and the aim is to support the economic, social and cultural progress of these newly emerged countries. In fact, the Yaoundé Convention echoed the commitments of the Rome Treaty¹⁴ itself, and specifically that of Article 131:

“The purpose of this Association shall be to promote the economic and social development of these countries and territories and to establish close economic relations between them and the Community as a whole ... This Association shall in the first place permit the furthering of the interests and prosperity of the inhabitants of these countries and territories in such a manner as to lead them to the economic, social and cultural development to which they aspire.”

Apart from this being a unilateral commitment made on the part of the then six EEC members and given the historical context of the time and the overall decolonisation of Africa, the contracting African States were not bound *per se* by any human-rights-related obligations.

In 1973, and following the expansion of the EEC when the United Kingdom became a member, bringing along its overseas countries and territories (i.e. English-speaking African, Caribbean and Pacific states), the EEC sought to better coordinate cooperation through the creation of an alliance of 46 states, known as the African, Caribbean and Pacific group (ACP) by signing the first significant aid and trade cooperation agreement between Europe and a large group of countries (the Lomé Convention¹⁵). The above spirit of the Yaoundé Convention, is repeated – though more extensively and urgently - in the preamble of the new convention:

“HAVING REGARD to the Treaty establishing the European Economic Community; ANXIOUS to establish, on the basis of complete equality between partners, close and continuing co-operation, in a spirit of international solidarity; RESOLVED to intensify their efforts together for the economic development and social progress of the ACP States; WISHING to demonstrate their common desire to maintain and develop the friendly relations existing between their countries, according to the principles of the United Nations Charter; RESOLVED to promote, having regard to their respective levels of development, trade co-operation between the ACP States and the Community and to provide a sound basis therefore in conformity with their international obligations;”

¹⁴ EUR-Lex, [Treaty Establishing the European Economic Community \(EEC\)](#), signed in Rome, 25.03.1957, last accessed on 10.02.2025.

¹⁵ Publications of the Office of the European Union, [ACP-EEC Convention of Lomé](#), last accessed on 10.02.2025.

The new convention now explicitly mentions conformity with international obligations, related again to the United Nations Charter. Following further expansion of the EEC, the Lomé Convention was regularly renewed. However, the first major development was recorded in 1989 with the fourth Lomé Convention¹⁶ (Lomé IV), where respect for human rights was explicitly included not only in the preamble but also in the body of the convention.

The Preamble stated:

“WISHING to demonstrate their common desire to maintain and develop the friendly relations existing between their countries, in accordance with the principles of the Charter of the United Nations; REAFFIRMING their adherence to the principles of the said Charter and their faith in fundamental human rights, in all aspects of human dignity and in the worth of the human person, as the central agent and beneficiary of development, in the equal rights of men and women and of nations, large and small; RECALLING the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights; recognizing the need to respect and guarantee civil and political rights and to strive to bring about full enjoyment of economic, social and cultural rights; WELCOMING the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe, the African Charter on Human and Peoples' Rights and the American Convention on Human Rights as positive regional contributions to the respect of human rights in the Community and in the ACP States;..”

Furthermore, Article 5 of Lomé IV contains now bilateral obligations, i.e. binding both sides of the parties, concerning human rights:

“1. Cooperation shall be directed towards development centred on man, the main protagonist and beneficiary of development, which thus entails respect for and promotion of all human rights. Cooperation operations shall thus be conceived in accordance with the positive approach, where respect for human rights is recognized as a basic factor of real development and where cooperation is conceived as a contribution to the promotion of these rights. In this context development policy and cooperation are closely linked with the respect for and enjoyment of fundamental human rights. The role and potential of initiatives taken by individuals and groups shall also be recognized and fostered in order to achieve in practice real participation of the population in the development process in accordance with Article 13.

2. Hence the Parties reiterate their deep attachment to human dignity and human rights, which are legitimate aspirations of individuals and peoples. The rights in question are all human rights, the various

¹⁶ EUR-Lex, Fourth ACP-EEC Convention [signed](#) at Lomé on 15 December 1989, OJ L 229, 17.8.1991, p. 3–286, last accessed on 10.02.2025.

categories thereof being indivisible and inter-related, each having its own legitimacy: non-discriminatory treatment; fundamental human rights; civil and political rights; economic, social and cultural rights. Every individual shall have the right, in his own country or in a host country, to respect for his dignity and protection by the law. ACP-EEC cooperation shall help abolish the obstacles preventing individuals and peoples from actually enjoying to the full their economic, social and cultural rights and this must be achieved through the development which is essential to their dignity, their well-being and their self-fulfilment. To this end, the Parties shall strive, jointly or each in its own sphere of responsibility, to help eliminate the causes of situations of misery unworthy of the human condition and of deep-rooted economic and social inequalities. The Contracting Parties hereby reaffirm their existing obligations and commitment in international law to strive to eliminate all forms of discrimination based on ethnic group, origin, race, nationality, colour, sex, language, religion or any other situation. This commitment applies more particularly to any situation in the ACP States or in the Community that may adversely affect the pursuit of the objectives of the Convention, and to the system of apartheid, having regard also to its destabilizing effects on the outside. The Member States (and/or, where appropriate, the Community itself) and the ACP States will continue to ensure, through the legal or administrative measures which they have or will have adopted, that migrant workers, students and other foreign nationals legally within their territory are not subjected to discrimination on the basis of racial, religious, cultural or social differences, notably in respect of housing, education, health care, other social services and employment.

3. At the request of the ACP States, financial resources may be allocated, in accordance with the rules governing development finance cooperation, to the promotion of human rights in the ACP States through specific schemes, public or private, that would be decided, particularly in the legal sphere, in consultation with bodies of internationally recognized competence in the field. Resources may also be given to support the establishment of structures to promote human rights. Priority shall be given to schemes of regional scope.”

The above article was also accompanied by a Joint Declaration on Article 5 proclaiming the contracting parties' determination to work effectively for the eradication of apartheid which according to the declaration itself, constitutes a violation of human rights and an affront to human dignity (Annex IV of Lomé IV). However, the article lacked any operationalising provision that would allow the suspension or denouncement of the agreement in the case of serious human rights or democratic principles violations. Furthermore, given that the wording of article refers to existing obligations and commitments under international law, this might imply that such obligations and their violation would likely fall under the scope of international law and not the convention itself.

In any case, it should be highlighted that the final text of the convention again reflected the current *status quo* and conducive historical events: both on international as well as European level, human rights gained more attention and were extensively elaborated through various legally binding instruments, such as those listed in the preamble of the convention above; Member-states of the EEC had already acceded to the European Convention on Human Rights and Fundamental Freedoms (ECHR) of the Council of Europe¹⁷; the international community was at the time troubled with the situation in South Africa and its apartheid regime (in fact, one day before the signature of Lomé IV, the General Assembly of the United Nations adopted the resolution “Declaration on Apartheid and its Destructive Consequences in Southern Africa”¹⁸ calling for negotiations to end apartheid and establish a non-racial democracy); and finally, the fall of the Berlin Wall in November 1989, signified geopolitical change in Europe and the gradual end of the Cold War.

In 1992, the Treaty of Maastricht,¹⁹ the foundation of the European Union, was signed between the then twelve Member-States of the European Communities, signalling a new era in EU relations. Upon its entry into force in 1993, the European Economic Community became the European Community (EC). Under Article J.1 of the Maastricht Treaty, the Member-States agreed on the objective of a common foreign and security policy (CFSP), *inter alia*, to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms. The Common Foreign and Security Policy replaced the previous European Political Co-operation previously codified through the Single European Act of 1986 (Article 30).²⁰

This change in the EU’s foreign policy could also explain the appearance of the first human rights clauses in European treaties concluded at the time with third countries, especially

¹⁷ Council of Europe, [Convention for the Protection of Human Rights and Fundamental Freedoms](#), ETS No. 005, last accessed on 10.02.2025.

¹⁸ United Nations General Assembly, Resolution [A/RES/S-16/1](#), 14.12.1989, last accessed on 10.02.2025.

¹⁹ EUR-Lex, [Treaty on European Union](#), OJ C 191, 29.7.1992, p. 1–112, last accessed on 10.02.2025.

²⁰ EUR-Lex, [Single European Act](#), OJ L 169, 29.6.1987, p. 1–28, last accessed on 10.02.2025.

with those emerging from dictatorships in South America and Central and Eastern Europe.²¹
As noted by the Commission in a relevant communication:²²

“A commitment to respect, promote and protect human rights and democratic principles is a key element of the European Community’s relations with third countries. These issues have been gradually incorporated into the Community’s activities over a period of time through a series of commitments culminating in the insertion of explicit references to human rights and democratic principles in the body of the Union Treaty. To help it meet those commitments the Community has a broad range of instruments at its disposal, including Union intervention in international forums and specific operations aimed at bolstering the rule of law and respect for human rights in the context of the Community’s relations with non-member countries. Taking account of human rights in contractual relations with third countries is one of those instruments.”

The Commission, after noting that Article 5 of Lomé IV and similar articles in other agreements do not provide a clear legal basis to suspend or denounce agreements in cases of serious human rights violations or interruptions of democratic process, considered it necessary to include a clause defining democratic principles and human rights as an “essential element” of the agreements with Brazil, the Andean Pact countries, the Baltic States and Albania in 1992.²³ The Commission continued by stressing that:

“This is a substantial innovation, in that:

- *it makes human rights the subject of common interest, part of the dialogue between the parties and an instrument for the implementation of positive measures, on a par with the other key provisions;*
- *it enables the parties, where necessary, to take restrictive measures in proportion to the gravity of the offence [...]. In the spirit of a positive approach, it is important that such measures should not only be based on objective and fair criteria, but they should also be adapted to the variety of situations that can arise, the aim being to keep a dialogue going; In the selection and*

²¹ L. Bartels, [The European Parliament's role in relation to human rights in trade and investment agreements](#), Study requested jointly by the European Parliament's Subcommittee on Human Rights and by the Committee on International Trade, February 2014, p. 6, last accessed on 10.02.2025.

²² EUR-Lex, European Commission, [Communication From The Commission On The Inclusion Of Respect For Democratic Principles And Human Rights In Agreements Between The Community And Third Countries](#), COM(1995) 216, last accessed on 10.02.2025.

²³ *Ibid.* COM(1995)216.

implementation of these measures it is crucial that the population should not be penalized for the behaviour of its government;

- *it allows the parties to regard serious and persistent human rights violations and serious interruptions of democratic process as a “material breach” of the agreement in line with the Vienna Convention, constituting grounds for suspending the application of the agreement in whole or in part in line with the procedural conditions laid down in Article 65. The main condition involves allowing a period of three months between notification and suspension proper, except in “cases of special urgency”, plus an additional period of grace if an amicable solution is being sought.”*

The Commission then reiterated the guidelines adopted under its Decision of 26 January 1993 (MIN (93)1137, point XIV), stipulating that draft negotiating directives for association agreements and economic cooperation agreements should incorporate the following: (a) in the body of the agreement: a clause specifying that relations between the Community and the Country concerned and all provisions of the relevant agreement are based on respect for the democratic principles and human rights which inspire the domestic and external policies of the Community and the country concerned and which constitute essential elements of the agreement; (b) in the preamble: general references to respect for human rights and democratic values; references to the universal and/or regional instruments common to both parties. An explicit suspension clause or a general non-execution clause was to be included in specific cases. The purpose of the guidelines introduced by the Commission was the implementation of a non-discriminatory and systematic approach.²⁴

At this point, it became clear that the European Community found a solution: the introduction of a clause in its agreements with other countries for safeguarding not only human rights but also democratic values. This clause, also known as the democracy clause,²⁵ would also be agreed as an ‘essential elements clause’ so that any violation thereof could be covered

²⁴ It should be noted that the Commission’s communication (COM(1995)216) also contains an assessment which highlighted the differences between the various treaties concluded at the time between the EEC and third countries. It distinguished between two formulas, the Baltic clause and the Bulgarian clause, stating that the use of these two different formulas in the same part of the world could be interpreted as a discriminatory practice, putting the Commission in a difficult position in its negotiations with third countries.

²⁵ I. Zamfir, [Human rights in EU trade agreements - The human rights clause and its application](#), *EPRS Briefing*, July 2019, last accessed on 10.02.2025, p. 3.

by Article 60(3) of the Vienna Convention on the Law of Treaties (VCLT)²⁶ which allows for the termination or suspension of a treaty in the event of a material breach under the procedure in Article 65 thereof.²⁷

This comes as no surprise, given that the bilateral treaties concluded between the EEC and third countries, are international treaties governed by the provisions of the VCLT, which are considered to reflect in their majority customary international law.²⁸ The aim of such a clause is simple and recalls the case of Uganda: it constitutes a means to stop any funding, aid or trade facilitations from benefiting a third-country government that violates human rights and democratic values. The foundations have been laid, and the European Community can move forward with this ‘innovation’ in its treaty negotiating arsenal.

2.1.2. Linking Human Rights to Trade: From Policy to Obligation

In the previous section, we saw how the need to include a human rights (or democracy) clause came into fruition. The Commission of the European Communities in 1995 dubbed this practice “a substantial innovation”²⁹. Indeed, it constituted an important innovation that had no match in the international agreements of other parties, since it made human rights subject to the mechanisms of political dialogue and cooperation, and created the legal possibility to adopt restrictive measures proportionate to the gravity of the violations.³⁰

In 1995, following the Commission’s communication displayed in the previous section, the EU Council formally adopted a Policy stating that henceforth, all EU international trade

²⁶ United Nations, [1969 Vienna Convention on the Law of the Treaties](#), 1155 UNTS 331, last accessed on 10.02.2025.

²⁷ The Commission sites the VCLT in its guidelines and noted in its COM(1995)216 communication.

²⁸ The International Court of Justice has recognized that article 60 of the VCLT is considered to codify existing customary law. See: ICJ, [Legal Consequences for States of the Continued Presence of South Africa in Namibia \(South West Africa\) notwithstanding Security Council Resolution 276 \(1970\) \(Advisory Opinion\)](#), 21 June 1971, para 94 and ICJ, [Gabčíkovo-Nagymaros Project](#) (Merits), 25 September 1997, para 100, last accessed on 10.02.2025.

²⁹ See above, COM(1995)216.

³⁰ I. Zamfir, [Human rights in EU trade agreements - The human rights clause and its application](#), *EPRS Briefing*, July 2019, last accessed on 10.02.2025, p. 3.

and cooperation agreements must include human rights clauses that will permit the suspension of these agreement, in appropriate cases.³¹

In 1997, the Treaty of Amsterdam³² was signed and entered into force on 01.05.1999, revising, *inter alia*, the Treaty of Europe's provisions related to the Common Foreign and Security Policy (CFSP).³³ Article J.1. became Article 11 of the TEU stating:³⁴

1. The Union shall define and implement a common foreign and security policy covering all areas of foreign and security policy, the objectives of which shall be:

- to safeguard the common values, fundamental interests, independence and integrity of the Union in conformity with the principles of the United Nations Charter;*
- to strengthen the security of the Union in all ways;*
- to preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter, as well as the principles of the Helsinki Final Act and the objectives of the Paris Charter, including those on external borders;*
- to promote international cooperation;*
- to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms.*

2. The Member States shall support the Union's external and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity.

The Member States shall work together to enhance and develop their mutual political solidarity. They shall refrain from any action which is contrary to the interests of the Union or likely to impair its effectiveness as a cohesive force in international relations. The Council shall ensure that these principles are complied with."

Furthermore, Article 228 para. 2 of the Treaty establishing the European Community was amended to include the possibility to suspend the application of an international agreement, virtue of a decision of the European Council:

*"56. Article 228 shall be amended as follows: [...] (b) paragraph 2 shall be replaced by the following:
'2. Subject to the powers vested in the Commission in this field, the signing, which may be accompanied by a decision on provisional application before entry into force, and the conclusion of the agreements shall be decided on by the Council, acting by a qualified majority on a proposal from the Commission.*

³¹ As reported in EU Bulletin, [1995/5](#), p. 9, last accessed on 10.02.2025.

³² EUR-Lex, [Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts](#), OJ C 340, 10.11.1997, p. 1–144, last accessed on 10.02.2025.

³³ For more on this see F. Bindi, European Union Foreign Policy: A Historical Overview, pp. 13-40, in F. Bindi, *The Foreign Policy of the European Union, Assessing Europe's Role in the World*, 2016, p. 34-35.

³⁴ EUR-Lex, [Treaty on European Union \(consolidated version 1997\)](#), OJ C 340, 10.11.1997, p. 145–172, last accessed on 10.02.2025.

The Council shall act unanimously when the agreement covers a field for which unanimity is required for the adoption of internal rules and for the agreements referred to in Article 238. By way of derogation from the rules laid down in paragraph 3, the same procedures shall apply for a decision to suspend the application of an agreement, and for the purpose of establishing the positions to be adopted on behalf of the Community in a body set up by an agreement based on Article 238, when that body is called upon to adopt decisions having legal effects, with the exception of decisions supplementing or amending the institutional framework of the agreement. The European Parliament shall be immediately and fully informed on any decision under this paragraph concerning the provisional application or the suspension of agreements, or the establishment of the Community position in a body set up by an agreement based on Article 238.’”

In 2003, the Treaty of Nice³⁵ entered into force and once again the CFSP provisions of the TEU were revised. However, the most significant development at the time related to human rights, was the signing of the Charter of Fundamental Rights of the European Union³⁶ on 07.12.2000 in Nice, which entered into force in 2009 with the Treaty of Lisbon (which also included the EU’s accession to the European Convention on Fundamental Rights and Freedoms - ECHR³⁷ under Article 6 para. 2 of the TEU).

Significant revisions to the provisions of the CFSP were carried out through the Treaty of Lisbon. The TEU was revised to include Title V on “General Provisions on the Union’s External Action and Specific Provisions on the Common Foreign And Security Policy”, new articles were added (namely, 10A, 10B, 10C), while Article 11 was amended, and Article 12 was replaced in its entirety.

The consolidated version of the TEU following the Treaty of Lisbon³⁸ now includes Article 11 in Article 21 of the TEU, which reads:

“1. The Union’s action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms,

³⁵ EUR-Lex, [Treaty of Nice amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts](#), OJ C 80, 10.3.2001, p. 1–87, last accessed on 10.02.2025.

³⁶ EUR-Lex, [Charter of Fundamental Right of the European Union](#), Official Journal of the European Union, C 303, 14 December 2007, last accessed on 10.02.2025.

³⁷ EUR-Lex, [Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community](#), signed at Lisbon, 13 December 2007, (2007/C 306/01), last accessed on 10.02.2025.

³⁸ EUR-Lex, [Consolidated version of the Treaty on European Union](#), OJ C 115, 9.5.2008, p. 1–388, last accessed on 10.02.2025.

respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law. The Union shall seek to develop relations and build partnerships with third countries, and international, regional or global organisations which share the principles referred to in the first subparagraph. It shall promote multilateral solutions to common problems, in particular in the framework of the United Nations.

2. The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to: (a) safeguard its values, fundamental interests, security, independence and integrity; (b) consolidate and support democracy, the rule of law, human rights and the principles of international law; (c) preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders; (d) foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty; (e) encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade; (f) help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development; (g) assist populations, countries and regions confronting natural or man-made disasters; and (h) promote an international system based on stronger multilateral cooperation and good global governance.

3. The Union shall respect the principles and pursue the objectives set out in paragraphs 1 and 2 in the development and implementation of the different areas of the Union's external action covered by this Title and by Part Five of the Treaty on the Functioning of the European Union, and of the external aspects of its other policies. The Union shall ensure consistency between the different areas of its external action and between these and its other policies. The Council and the Commission, assisted by the High Representative of the Union for Foreign Affairs and Security Policy, shall ensure that consistency and shall cooperate to that effect.”

Moreover, Article 207 of the Treaty on the Functioning of the EU (TFEU),³⁹ which also resulted from the Lisbon Treaty and was developed from the Treaty establishing the European Community, is significant as it states that “[t]he common commercial policy shall be conducted in the context of the principles and objectives of the Union’s external action”. This article together with Articles 3 para. 5 and 21 of the TEU establish the framework for the EU’s role in the international community: not only shall it respect the principles enshrined in Article 21 para. 1 of the TEU but it will also actively work “through common policies and actions” to improve the human rights situation through the measures proposed in Article 21 para. 2 of the TEU.⁴⁰ The inclusion of human rights clauses in the international agreements concluded by the EU with other countries, is but one way of carrying out this role.

³⁹ EUR-Lex, [Consolidated version of the Treaty on the Functioning of the European Union](#), last accessed on 10.02.2025.

⁴⁰ According to Bartels, this constitutes the basis of two separate obligations of the EU: a) a negative obligation, whereon the EU must refrain from worsening the human rights situation in third countries and b) a positive

The above signified a shift in the EU's motivations for including a human rights clause in trade agreements. No longer was it meant to suspend or terminate these agreements but also constituted a way of actively seeking to improve the human rights situation in the third country state.

Following the above developments, in 2009 the Council refined its policy, by adopting a 'Common Approach',⁴¹ whereby 'political clauses' will constitute a specific tool which the EU can use to implement its most important external policy objectives, including respect for human rights, democracy and the rule of law and non-proliferation.⁴² According to this Common Approach, in order to have a comprehensive framework with third countries covering the main areas of cooperation, including political cooperation, the EU preferred to enter into framework agreements prior to concluding sector-specific agreements which in principle do not include political clauses.⁴³

As noted by Bartels in his relevant 2014 Study:⁴⁴ *“the human rights clause has, in practice, been treated not as a human rights clause but rather as a political clause, with occasional human rights elements. Indeed, this view of human rights clauses is evident in the very title of the EU Council's 2009 policy document on these clauses, which, in a change from earlier practice, terms them 'political clauses'. Whether this new description of the human*

obligation, whereon the EU must endeavour to improve the human rights situation in third countries. See L. Bartels, [Assessment of the implementation of the human rights clause in international and sectoral agreements](#), In Depth Analysis, requested by the European Parliament's Subcommittee on Human Rights, p. 3, last accessed on 10.02.2025.

⁴¹ European Council, Reflection Paper on Political Clauses in Agreements with Third Countries, Doc 7008/09, 27 February 2009 (partially derestricted) as quoted in L. Bartels, [The European Parliament's role in relation to human rights in trade and investment agreements](#), Study requested jointly by the European Parliament's Subcommittee on Human Rights and by the Committee on International Trade, February 2014, p. 6, last accessed on 10.02.2025.

⁴² European Council, Partial Declassification of document: 10491/1/09 REV 1 RESTREINT UE, 2 June 2009 on [Reflection Paper on Political Clauses in Agreements with Third Countries](#), Annex, 25.03.2013, last accessed on 10.02.2025.

⁴³ L. Bartels, [The European Parliament's role in relation to human rights in trade and investment agreements](#), Study requested jointly by the European Parliament's Subcommittee on Human Rights and by the Committee on International Trade, February 2014, p. 6-7, last accessed on 10.02.2025.

⁴⁴ *Ibid*, p.12. In 2023, Bartels notes that it is not legally accurate to describe human rights clauses as 'political' even if they have mainly been applied in cases of political disruption (see J. Bartels, [Assessment of the implementation of the human rights clause in international and sectoral agreements](#), In Depth Analysis, requested by the European Parliament's Subcommittee on Human Rights, p. 3, footnote 8, last accessed on 10.02.2025)

rights clauses – which is in fact a misdescription – is a cause or an effect of the EU’s limited use of these clauses remains an open question.”

In practice, the 2009 policy introduced a preference for including human rights clauses in framework cooperation agreements and seeking to apply them to all other agreements concluded by the parties within their overall context.

In 2012, the European Council adopted a strategic framework and action plan for human rights and democracy.⁴⁵ Under the EU Strategic Framework on Human Rights, it pledged:

“The EU will place human rights at the centre of its relations with all third countries, including its strategic partners. While firmly based on universal norms, the EU’s policy on human rights will be carefully designed for the circumstances of each country, not least through the development of country human rights strategies. The EU will always seek constructive engagement with third countries; in this light, the EU will continue to deepen its human rights dialogues and consultations with partner countries and will aim to ensure that these dialogues lead to results. The EU will raise human rights issues vigorously in all appropriate forms of bilateral political dialogue, including at the highest level. In addition, the EU will work with partner countries to identify areas where EU geographic funding instruments can be used to support projects which bolster human rights, including support for human rights education and training. However, when faced with violations of human rights, the EU will make use of the full range of instruments at its disposal, including sanctions or condemnation. The EU will step up its effort to make best use of the human rights clause in political framework agreements with third countries.”

Indeed, since 2014 the EU adopted new policies on the inclusion of human rights clauses in partnership agreements as well as financing agreements with third countries⁴⁶ (more on this is analysed below).

In 2015, the European Commission issued guidelines for assessing the impact on human rights of trade-related policy initiatives.⁴⁷ The guidelines highlighted that the: *“Respect for the Charter of Fundamental Rights in Commission acts and initiatives is a binding legal*

⁴⁵ European Council, Human Rights and Democracy: EU Strategic Framework and EU Action Plan, 11855/12, 25.06.2012, last accessed on 10.02.2025.

⁴⁶ L. Bartels, [Assessment of the implementation of the human rights clause in international and sectoral agreements](#), In Depth Analysis, requested by the European Parliament's Subcommittee on Human Rights, p. 3, last accessed on 10.02.2025.

⁴⁷ European Commission, [Guidelines on the analysis of human rights impacts in impact assessments for trade-related policy initiatives](#), 2015, last accessed on 10.02.2025.

requirement in relation to both internal policies and external action. Checking compliance with the CFR is therefore an essential element of the analysis of human rights impacts in impact assessments of trade-related initiatives.”

Thus, the years passed and in a post-Lisbon era the EU has a clear policy for including human rights clauses in their texts; however, is it an obligation? This question has even been addressed to the European Court of Justice within the framework of the trade agreements with third countries.

EU case-law has shown that under Article 3 para. 5 of the TEU, the EU must contribute to the strict observance and the development of international law. Consequently, when it adopts an act, it is bound to observe international law in its entirety, including customary international law, which is binding upon the institutions of the EU.⁴⁸ To this end, even though international human rights customary law remains undefined, the core human rights of the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) are generally considered to reflect international customary law.⁴⁹

Moreover, these human rights are not only contained in the ECHR, yet also in the EU Charter of Fundamental Rights, which the EU institutions and Member States are bound to respect even within the framework of the EU’s external action, given that “*international agreements entered into by the Union must be entirely compatible with the Treaties and the constitutional principles stemming therefrom*”.⁵⁰ Virtue of Article 6 para. 1 of the TEU, the Charter has the same legal value as the Treaties.

The General Court has even found that within the external action framework, the European Council “*must examine, carefully and impartially, all the relevant facts in order to*

⁴⁸ CJEU, [Case C-366/10](#), ATAA, para. 101. See also [Case C-286/90](#), *Poulsen and Diva Navigation* [1992] ECR I-6019, paras. 9 and 10 and [Case C-162/96](#) *Racke* [1998] ECR I-3655, paras. 45 and 46.

⁴⁹ In fact, recently the EU submitted a Written Statement before the International Court of Justice, in the framework of a request for an Advisory Opinion on the Obligations of States in Respect of Climate Change, which noted that: “222. *The chapeau of the questions referred to the Court mentions human rights instruments among the instruments to which the Court should have regard when replying to the questions. These are the Universal Declaration on Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR). In addition, the Request refers to the United Nations Charter, the provision of which refer to human rights. 223. The provisions of these instruments are generally accepted as reflecting customary international law [...].*”, see ICJ, Obligations of States in Respect of Climate Change, Request for an Advisory Opinion, [Written Statement of the European Union](#), 22.03.2024, last accessed on 10.02.2025.

⁵⁰ See CJEU, [Opinion 1/17](#), CETA, 30.04.2019, para. 165, last accessed on 10.02.2025.

ensure that the production of goods for export is not conducted to the detriment of the population of the territory concerned, or entails infringements of fundamental rights, including, in particular, the rights to human dignity, to life and to the integrity of the person (Articles 1 to 3 of the Charter of Fundamental Rights), the prohibition of slavery and forced labour (Article 5 of the Charter of Fundamental Rights), the freedom to choose an occupation and right to engage in work (Article 15 of the Charter of Fundamental Rights), the freedom to conduct a business (Article 16 of the Charter of Fundamental Rights), the right to property (Article 17 of the Charter of Fundamental Rights), the right to fair and just working conditions and the prohibition of child labour and protection of young people at work (Articles 31 and 32 of the Charter of Fundamental Rights)”.⁵¹ This was the General Court’s way of introducing an obligation for an *ex ante* human rights impact assessment.

An obligation for an *ex ante* human rights impact assessment for trade agreements has even been supported by the European Parliament, as well as the European Ombudsman, who in the event of the negotiation of an agreement with Vietnam, has held that even though there is no express and legally binding requirement to carry out a human rights impact assessment concerning a relevant trade agreement, such an obligation could be derived from the spirit of Article 21 paras. 1 and 2 of the TEU in conjunction with Article 207 of the TFEU.⁵²

In light of all the above, perhaps it is incorrect to say that Articles 3 para. 5 and 21 of the TEU and Article 207 TFEU established the framework for the EU’s *role* in the international community. Instead, this also constitutes a framework for determining *the obligations* of the EU during its external action: a) a negative obligation, whereon the EU must refrain from worsening the human rights situation in third countries and b) a positive obligation, whereon the EU must endeavour to improve the human rights situation in third countries.⁵³ Therefore, the inclusion of human rights clauses in trade agreements, is not an obligation *per se* but a means for the EU to fulfil these obligations.

⁵¹ CJEU, [T-512/12, Front Polisario v. Council, Judgement of the General Court](#), 10.12.2015, para. 228, last accessed on 10.02.2025.

⁵² European Ombudsman, [Decision in Case 1409/2014/MHZ on the European Commission's failure to carry out a prior human rights impact assessment of the EU-Vietnam free trade agreement](#), para. 11.

⁵³ See L. Bartels, [Assessment of the implementation of the human rights clause in international and sectoral agreements](#), In *Depth Analysis*, requested by the European Parliament's Subcommittee on Human Rights, 2023, p. 3, last accessed on 10.02.2025.

This brings us to the next section of the present Chapter, which examines the type of treaties that so far have included human rights clauses in their texts.

2.2. International EU Agreements and their relationship with human rights

Article 47 of the TEU and Article 216 of the TFEU with regards to the EU's external action allow the EU to conclude agreements with one or more third countries or with international organizations. The EU can negotiate international agreements under three different types of competences: exclusive competences, competences to 'support, coordinate or supplement' the actions of the Member States, and shared competences.⁵⁴ Agreements negotiated by the EU that include provisions outside its exclusive competences should be concluded as 'mixed' and must be ratified following not only the procedures set out in the EU treaties (Article 218 TFEU), but also the national ratification procedures of the Member States.

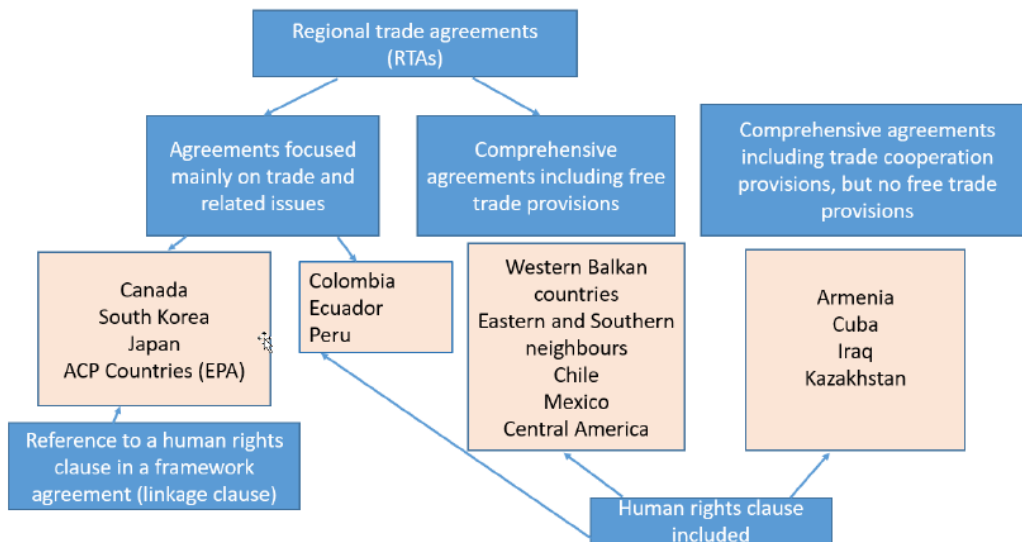
The EU has entered into trade agreements with various countries and regions around the world. Currently, there are agreements in force with 78 countries, while as of January 2025 there are pending negotiations for Free Trade Agreements with various regions and countries, including the USA, Canada, ASEAN States, India, Australia and Latin American States (MERCOSUR).⁵⁵ Economic Partnership Agreements are also pending with African, Pacific and Caribbean States.⁵⁶ The European Parliamentary Research Service (EPRS) had prepared the below graph to demonstrate the types of trade agreements and human rights clause they include:⁵⁷

⁵⁴ P. Conconi, C. Hergheliegu & L. Puccio, EU Trade Agreements: To Mix or Not to Mix, That Is the Question, EU Trade Agreements: To Mix or Not to Mix, That Is the Question', *55 Journal of World Trade* 2021, pp.231–260, p. 231-232.

⁵⁵ European Commission, DG Trade, [Negotiations and agreements](#), last accessed on 10.02.2025.

⁵⁶ European Commission, [Overview of Economic Partnership Agreements](#), last accessed on 10.02.2025.

⁵⁷ EPRS, [Types of trade agreements and the human rights clause](#), 2019, last accessed on 10.02.2025.



Data source: EPRS.

The above chart demonstrates that there are Regional Trade Agreements that can be distinguished into two categories: those that are focused mainly on trade and related issues and those that are comprehensive agreements including free trade provisions. Of these regional agreements, some contain reference to a human rights clause within a framework agreement while others include a human rights clause within a stand-alone agreement. Human rights clauses are also noted within comprehensive agreements that include trade cooperation but no free trade provisions.

The EU itself classifies trade agreements between the EU and third countries based on their content as Economic Partnership Agreements (EPAs), Free Trade Agreements (FTAs), Association Agreements (AAs).⁵⁸ As noted in the previous sections, since the adoption of the ‘Common Approach Policy’, human rights clauses have been regularly included in framework cooperation agreements, also known as Partnership and Cooperation Agreements (PCAs) or Strategic Partnership Agreements (SPAs), with ‘linkage’ clauses to various agreements between the EU and its partners, including on trade and investment, i.e. a clause referencing the human rights clause within the framework agreement or *vice versa*.⁵⁹ Below is a analysis on the type of agreements that have been concluded by the EU with third countries.

⁵⁸ European Commission, Trade, [Non-EU Markets](#), last accessed on 10.02.2025; European Council, [EU Trade Agreements](#), last accessed on 10.02.2025.

⁵⁹ I. Zamfir, [Human rights in EU trade agreements - The human rights clause and its application](#), *EPRS Briefing*, July 2019, p. 4-5, last accessed on 10.02.2025.

2.2.1. Partnership and Cooperation Agreements (PCAs) or Strategic Partnership Agreements (SPA)

The EU has entered into political agreements with an intention to provide a basis for political dialogue, to provide support to countries in order to strengthen their democracies and develop their economies, to ease their transition to a market economy, encourage trade and investment. In some cases, the partnership allows for cooperation in the legislative, economic, social, financial, scientific, civil, technological and cultural fields. These partnership agreements appear under a variety of names, with the most common being ‘Partnership and Cooperation Agreements’ or ‘Strategic Partnership Agreements’ or even ‘Comprehensive and Enhanced Agreements’.

The EU has concluded the following PCAs, SPAs or even enhanced partnership agreements with Southern Caucasian and Central Asian countries: Armenia,⁶⁰ Azerbaijan,⁶¹ Kazakhstan,⁶² Kyrgyzstan (Kyrgyz Republic),⁶³ Russia,⁶⁴ Uzbekistan⁶⁵ and Tajikistan.⁶⁶ A

⁶⁰ EUR-Lex, [Comprehensive and enhanced Partnership Agreement](#) between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Armenia, of the other part (OJ L 23, 26.1.2018, pp. 4-466), last accessed on 10.02.2025.

⁶¹ EUR-Lex, [Partnership and Cooperation Agreement](#) between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part (OJ L 246, 17.9.1999, pp. 3-51), last accessed on 10.02.2025.

⁶² EUR-Lex, [Enhanced Partnership and Cooperation Agreement](#) between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part (OJ L 29, 4.2.2016, p. 3-150), last accessed on 10.02.2025.

⁶³ EUR-Lex, [Partnership and Cooperation Agreement](#) establishing a partnership between the European Communities and their Member States, of the one part, and the Kyrgyz Republic, of the other part (OJ L 196, 28.7.1999, pp. 48-89), last accessed on 10.02.2025.

⁶⁴ EUR-Lex, [Agreement](#) on partnership and cooperation establishing a partnership between the European Communities and their Member States, of one part, and the Russian Federation, of the other part (OJ L 327, 28.11.1997, pp. 3-69), last accessed on 10.02.2025.

⁶⁵ EUR-Lex, [Partnership and Cooperation Agreement](#) establishing a partnership between the European Communities and their Member States, of the one part, and the Republic of Uzbekistan, of the other part (OJ L 229, 31.8.1999, pp. 3-52), last accessed on 10.02.2025.

⁶⁶ EUR-Lex, [Partnership and Cooperation Agreement](#) establishing a partnership between the European Communities and their Member States, of the one part, and the Republic of Tajikistan, of the other part (OJ L 350, 29.12.2009, pp. 3-51), last accessed on 10.02.2025.

number of the above countries are also partners in the EU's Neighbourhood Policy (ENP) for which the agreements provide the basis for its implementation.⁶⁷

These agreements share common characteristics and similar formats including the following provisions on:⁶⁸

- General principles: concerning respect for democracy, the principles of international law and human rights. The market economy is also an objective set out in all the agreements. Other principles outlined as central to the agreements are the rule of law and good governance; the fight against corruption and different forms of transnational organised crime and terrorism; the promotion of sustainable development; and effective multilateralism.
- Establishment of bilateral political dialogue: aiming to encourage converging positions on international issues of mutual concern and to cooperate for stability, security and compliance with democracy and human rights.
- Justice, freedom and security: with priorities that include consolidation of the rule of law and strengthening institutions at all levels of administration in general, law enforcement and the administration of justice in particular; increasing dialogue and cooperation on migration, asylum and border management; combating organised crime and money laundering.
- Trade and trade-related matters: the EU and the respective country accord one another most favoured nation treatment. Protection of intellectual, industrial and commercial property is also foreseen.
- Economic and sectoral cooperation: can cover a wider range of fields and sectors with the goal of a gradual alignment with EU laws and practices and, where relevant, with international norms and standards. Sectors may include, *inter alia*, the environment, cooperation in employment, social policy and equal opportunities, civil society cooperation, etc.

⁶⁷ EEAS, [European Neighbourhood Policy](#), last accessed on 10.02.2025. The ENP was launched in 2004 to foster stability, security and prosperity in the EU's neighbouring regions, both in the South and in the East. In 2015, the High Representative and the European Commission adopted the ENP Review, which brought a change to the cooperation framework and proposed ways to build more effective partnerships in the neighbourhood. This partnership is based on shared values, the promotion of democracy, rule of law, respect for human rights and social cohesion. The reviewed ENP also adds 3 joint priorities for cooperation on economic development for stabilisation; security; and migration and mobility.

⁶⁸ EUR-Lex, Summary of EU Legislation, [Partnership and Cooperation Agreements \(PCAs\): Russia, the Southern Caucasus and Central Asia](#), last accessed on 10.02.2025.

The EU has also concluded PCAs with India (1994),⁶⁹ the Andean Community (1998),⁷⁰ Yemen (1998),⁷¹ Iraq (2012),⁷² Central America (2014),⁷³ and Cuba (2016).⁷⁴ In lieu of the EU's new 'Common Approach' which put forward a preference for including human rights and democracy clauses in 'framework' cooperation agreements with third countries, framework agreements were also concluded with South Korea (2013),⁷⁵ Canada (2016),⁷⁶ Vietnam (2016),⁷⁷ New Zealand (2016),⁷⁸ Afghanistan (2017),⁷⁹ Australia (2017),⁸⁰ Mongolia

⁶⁹ EUR-Lex, [Cooperation Agreement between the European Community and the Republic of India on partnership and development - Declaration of the Community concerning tariff adjustments - Declarations of the Community and India](#), OJ L 223, 27.8.1994, p. 24–34, last accessed on 10.02.2025.

⁷⁰ EUR-Lex, [Framework Agreement on Cooperation](#) between the European Economic Community and the Cartagena Agreement and its member countries, namely the Republic of Bolivia, the Republic of Colombia, the Republic of Ecuador, the Republic of Peru and the Republic of Venezuela (OJ L 127, 29.4.1998, pp. 11-25), last accessed on 10.02.2025.

⁷¹ EUR-Lex, [Cooperation Agreement](#) between the European Community and the Republic of Yemen (OJ L 72, 11.3.1998, pp. 18-29), last accessed on 10.02.2025.

⁷² EUR-Lex, [Partnership and Cooperation Agreement](#) between the European Union and its Member States, of the one part, and the Republic of Iraq, of the other part (OJ L 204, 31.7.2012, pp. 20-130), last accessed on 10.02.2025.

⁷³ EUR-Lex, [Political Dialogue and Cooperation agreement](#) between the European Community and its Member States, of the one part, and the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, of the other part (OJ L 111, 15.4.2014, pp. 6-28), last accessed on 10.02.2025.

⁷⁴ EUR-Lex, [Political Dialogue and Cooperation Agreement](#) between the European Union and its Member States, of the one part, and the Republic of Cuba, of the other part (OJ L 3371, 13.12.2016, pp. 3-40), last accessed on 10.02.2025.

⁷⁵ EUR-Lex, [Framework Agreement](#) between the European Union and its Member States, on the one part, and the Republic of Korea, on the other part (OJ L 20, 23.1.2013, pp. 2-24), last accessed on 10.02.2025.

⁷⁶ European Council, [Strategic Partnership Agreement between the European Union and its Member States, of the one part, and Canada, of the other part](#), 5368/2/16 REV 2, 05.08.2016, last accessed on 10.02.2025.

⁷⁷ EUR-Lex, [Framework Agreement](#) on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Socialist Republic of Viet Nam, of the other part, OJ L 329, 3.12.2016, pp. 8–42, last accessed on 10.02.2025.

⁷⁸ EUR-Lex, [Partnership Agreement](#) on Relations and Cooperation between the European Union and its Member States, of the one part, and New Zealand, of the other part, OJ L 321, 29.11.2016, pp. 3–30, last accessed on 10.02.2025.

⁷⁹ EUR-Lex, [Cooperation Agreement on Partnership and Development between the European Union and its Member States, of the one part, and the Islamic Republic of Afghanistan, of the other part](#), OJ L 67, 14.3.2017, p. 3–30, last accessed on 10.02.2025.

⁸⁰ EUR-Lex, [Framework Agreement](#) between the European Union and its Member States, of the one part, and Australia, of the other part, OJ L 237, 15.9.2017, pp. 7-35, last accessed on 10.02.2025.

(2017),⁸¹ The Philippines (2017),⁸² Japan (2018),⁸³ Singapore (2018),⁸⁴ the UK (2021),⁸⁵ Malaysia (2022),⁸⁶ Thailand (2022),⁸⁷ Chile (2023)⁸⁸ and the Organisation of African Caribbean and Pacific States - OACPS (the Samoa Agreement of 2023⁸⁹ which replaced the Cotonou Agreement).

All the above agreements mention human rights in their preambles as well as in their text, though not in a uniform way. This will be analysed in the following Chapter. The above framework agreements also pave the way for the signing of Economic Partnership Agreements, Free Trade Agreements, Investment Agreements, etc.

⁸¹ EUR-Lex, [Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and Mongolia, of the other part](#) (OJ L 326, 9.12.2017, pp. 7–35), last accessed on 10.02.2025.

⁸² EUR-Lex, [Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and the Republic of the Philippines, of the other part](#) (OJ L 343, 22.12.2017, pp. 3–32), last accessed on 10.02.2025.

⁸³ EUR-Lex, [Strategic Partnership Agreement between the European Union and its Member States, of the one part, and Japan, of the other part](#), OJ L 216, 24.8.2018, pp. 4–22, last accessed on 10.02.2025.

⁸⁴ EUR-Lex, [Proposal for a Council Decision on the signing, on behalf of the Union, of the Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Singapore, of the other part](#), COM/2014/070 final - 2014/0036 (NLE), as adopted by [Council Decision \(EU\) 2018/1047 of 16 July 2018 on the signing, on behalf of the Union, of the Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Singapore, of the other part](#), ST/7322/2018/INIT, last accessed on 10.02.2025.

⁸⁵ EUR-Lex, [Trade and cooperation agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part](#) (OJ L 149, 30.4.2021, pp. 10-2539), last accessed on 10.02.2025.

⁸⁶ EUR-Lex, [Framework Agreement on Partnership and Cooperation between the European Union and its member states, of the one part, and the Government of Malaysia, of the other part](#) [pending publication]. See also Council Decision (EU) [2022/1987](#) of 13 October 2022 on the signing, on behalf of the Union, of the Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and the Government of Malaysia, of the other part (OJ L 273, 21.10.2022, pp. 1–2), last accessed on 10.02.2025.

⁸⁷ EUR-Lex, [Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Kingdom of Thailand, of the other part](#), ST/11910/2022/INIT, OJ L 330, 23.12.2022, p. 72–108, last accessed on 10.02.2025.

⁸⁸ EUR-Lex, [Advanced Framework Agreement between the European Union and its Member States, of the one part, and the Republic of Chile, of the other part](#), ST/11670/2023/INIT, OJ L, 2024/1759, 30.7.2024 (has not yet entered into force), last accessed on 10.02.2025.

⁸⁹ EUR-Lex, [Partnership Agreement between the European Union and its Member States, of the one part, and the Members of the Organisation of African, Caribbean and Pacific States, of the other part](#), ST/8372/2023/REV/1, OJ L, 2023/2862, 28.12.2023, last accessed on 10.02.2025.

2.2.2. Economic Partnership Agreements – EPAs

Economic Partnership Agreements are trade and development agreements negotiated between the EU and African, Caribbean and Pacific countries and regions, the ACP. They focus mainly on development taking into account their socio-economic circumstances and providing assistance for these countries to benefit from the agreements.

The previous section examined how the fourth Lomé Convention introduced a human rights clause. Since the Lomé Convention, the EU has granted non-reciprocal trade preferences to ACP countries. The Lomé Convention was replaced by the Cotonou Agreement⁹⁰ which introduced Economic Partnership Agreements (EPAs); a new scheme that took effect in 2008. The Cotonou provided for reciprocal trade agreements. This means that not only does the EU provide duty-free access to its markets for ACP exports, but that ACP countries reciprocate by also providing duty-free access to their own markets for EU exports.

Given the individual situation and developmental level of each ACP country, the Cotonou Convention provided a differentiation principle whereby not all ACP countries were obliged to open their markets to EU products after 2008. The Convention allowed the group of least developed countries to either continue cooperation under the arrangements made in Lomé or the “Everything But Arms” Regulation.⁹¹ In essence, the ACP countries benefited from long transition periods to partially allow access to EU imports while providing protection for sensitive sectors. However, to benefit from the lower import duties into the EU the products were required to fulfil the rules of origin in the agreement.⁹²

EPAs were negotiated after the signing in 2000 of the Cotonou Partnership Agreement and as of April 2020, the ACP Group of States became the Organisation of African, Caribbean and Pacific States (OACPS). After two years of negotiations a renewed partnership agreement

⁹⁰ EUR-Lex, [2000/483/EC: Partnership agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 - Protocols - Final Act](#) –, OJ L 317, 15.12.2000, p. 3–353, last accessed on 10.02.2025.

⁹¹ EUR-Lex, [Regulation \(EU\) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation \(EC\) No 732/2008](#), last accessed on 10.02.2025. The EBA trade preferential scheme was adopted in 2001 for the 49 least developed countries. It grants duty- and quota-free access for almost all products, except arms and ammunition and is currently regulated by Regulation (EU) 978/2012.

⁹² European Commission, Trade, [Economic Partnerships](#), last accessed on 10.02.2025.

was drafted in April 2021 and on 15.11.2023 the Samoa Agreement⁹³ was signed taking effect as of 01.01.2024.⁹⁴

According to the European Commission⁹⁵ the EPAs are ‘tailor-made’ to suit specific country and regional circumstances; are WTO-compatible, but go beyond conventional free-trade agreements, focusing on ACP development, taking account of their socio-economic circumstances and including co-operation and assistance to help ACP countries benefit from the agreements; provide scope for wide-ranging trade co-operation on areas such as sanitary norms and other standards; have joint institutions that monitor the implementation of the agreements and address trade issues in a cooperative way; and are designed to be drivers of change that will contribute to reform and good economic governance, thereby helping ACP partners attract investment and boost their economic growth.

Seven Economic Partnership Agreements are in force with 32 out of 79 ACP countries⁹⁶ (i.e. Central Africa,⁹⁷ West Africa,⁹⁸ Eastern and Southern Africa (ESA),⁹⁹ East-African Community (EAC),¹⁰⁰ South African Development Community (SADC) EPA Group,¹⁰¹ EU-

⁹³ EUR-Lex, [Partnership Agreement between the European Union and its Member States, of the one part, and the Members of the Organisation of African, Caribbean and Pacific States, of the other part](#), ST/8372/2023/REV/1, OJ L, 2023/2862, 28.12.2023, last accessed on 10.02.2025.

⁹⁴ See for a history of the ACP-EU partnership: OACPS-EU Joint Parliamentary Assembly, [History](#), last accessed on 10.02.2025.

⁹⁵ European Commission, Trade, Development and Sustainability, [Economic Partnerships](#), last accessed on 10.02.2025.

⁹⁶ CIRCABC, [Overview of Economic Partnership Agreements](#), updated 15.01.2025, last accessed on 10.02.2025.

⁹⁷ Cameroon signed the EPA between the EU and Central Africa as the only country in the region on 15.01.2009.

⁹⁸ EPAs with Côte d’Ivoire and Ghana provisionally apply. A regional EPA is still under negotiation.

⁹⁹ In 2009 Mauritius, Seychelles, Zimbabwe and Madagascar signed an interim Economic Partnership Agreement (EPA). The Agreement is applied provisionally since 14.05.2012. The European Parliament gave its consent on 17.01.2013. The provisional application for Comoros started on 07.02.2019.

¹⁰⁰ On 01.09.2016, Kenya and Rwanda signed the Economic Partnership Agreement between the East African Community and the EU. All EU Member States and the EU have also signed the Agreement. All EAC members need to sign and ratify the EPA for the agreement to be implemented. In February 2021, the EAC leaders decided to give green light to its members wishing to engage with the EU with a view to implementing the EAC-EU EPA based on the principle of variable geometry. Kenya submitted a formal request to implement this agreement bilaterally. The EU-Kenya EPA entered into force on 01.07.2024.

¹⁰¹ On 15.07.2014, the EPA negotiations were successfully concluded in South Africa. The agreement was signed by the EU and the SADC EPA group on 10.06.2016 and the European Parliament gave its consent on 14.09.2016. Pending ratification by all EU Member States, the agreement came provisionally into force as of 10.10.2016. The provisional application for Mozambique started on 04.02.2018. On 26.07.2022, the EU-SADC EPA Joint Council adopted the decision on Angola’s Accession to the EU SADC EPA, enabling Angola to start negotiations for accession to the EU-SADC EPA

Angola SIFA,¹⁰² Caribbean,¹⁰³ Pacific,¹⁰⁴ African Union¹⁰⁵). These include 14 Caribbean countries, 14 African countries and four Pacific countries. Another 21 countries have concluded regional EPA negotiations that are yet to be implemented and accession to existing regional EPAs remains open to other countries.¹⁰⁶

A 2017 study, carried out in light of the expiration of the Cotonou Agreement in 2020, examined human rights provisions in the EPAs.¹⁰⁷ The study found that all EPAs referred to the human rights clause of the Cotonou Agreement, albeit in different ways with the exception of the Central Africa EPA, which did not cite the Cotonou¹⁰⁸ and EPAs with Côte d'Ivoire and Ghana which included in the recital '*reaffirm [...] the [parties'] commitment to the respect of human rights, to democratic principles and to the rule of law, which constitute the essential elements of the Cotonou Agreement*'. On the other hand, all the EPAs and interim EPAs referred to 'appropriate measures' adopted under the Cotonou Agreement, albeit again in different ways.

The above study is crucial, especially in light of the Samoa Agreement - which replaced the Cotonou agreement - and its Article 50 para. 6 which states that "*The Parties to the*

¹⁰² The European Union concluded negotiations with Angola on a Sustainable Investment Facilitation Agreement on 18.11.2022. The agreement was concluded on 04.03.2024 and entered into force on 01.09.2024.

¹⁰³ The EU-CARIFORUM EPA was signed in October 2008 and approved by the European Parliament in March 2009. The countries that have signed are: Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Saint Lucia, Saint Vincent and the Grenadines, Saint Kitts and Nevis, Suriname, Trinidad and Tobago, and the Dominican Republic. However, Bahamas, Jamaica, Haiti, Suriname and Trinidad and Tobago have yet to ratify the agreement (as has Hungary from the EU side).

¹⁰⁴ The EU and Papua New Guinea (PNG) signed the interim EPA on 30.07.2009 and Fiji on 11.12.2009. Samoa and Solomon Islands acceded to the EPA on 21.12.2018 and 17.05.2020, respectively. Accession processes are underway with Federated States of Micronesia, Niue, Timor-Leste, Tonga, Tuvalu and Vanuatu.

¹⁰⁵ Currently under negotiation. At the EU-African Union (AU) Commission-to-Commission meeting that took place in Brussels in November 2022, both Commissions agreed to set up a High-Level Dialogue (HLD) on economic integration with a view to strengthening trade relations and sustainable investment between the two continents. The first meeting of the HLD took place on 14.10.2024 in Addis Abeba and a second meeting should be held during the second half of 2025.

¹⁰⁶ For more information see European Commission, Trade, Development and Sustainability, [Economic Partnerships](#), last accessed on 10.02.2025.

¹⁰⁷ L. Bartels, [Human rights provisions in Economic Partnership Agreements in light of the expiry of the Cotonou Agreement in 2020](#), requested by the European Parliament's Committees on Development (DEVE) and on International Trade (INTA), 17.03.2017, last accessed on 10.02.2025.

¹⁰⁸ The Recital does however mention: "*CONSIDERING the importance attached by the Parties to the principles of the United Nations Charter, particularly the observance of human rights;*", see European Council, [Economic partnership agreement between the West African States, the Economic Community of West African States \(ECOWAS\) and the West African Economic and Monetary Union \(UEMOA\), of the one part, and the European Union and its Member States, of the other part](#), 13370/14, Interinstitutional File: 2014/0265 (NLE), 03.12.2014, last accessed on 10.02.2025.

respective EPAs agree that the references contained therein to the provisions on appropriate measures in the Cotonou Agreement are understood as references to the corresponding provisions in this Agreement.” The next Chapter will examine how the human rights clause of the Cotonou Agreement has been explicitly or implicitly included in EPAs so far.

2.2.3. Free Trade Agreements (FTAs)

The Free Trade Agreements (FTAs) concluded by the EU are usually bilateral agreements aimed to a) remove or reduce tariffs and other obstacles for import and export of goods and b) improve conditions for the import and export of services and investments. Currently, the EU has a significant number of FTAs, while new ones are under negotiation. Rules of origin apply through FTAs meaning that in order for the preferences of a free trade agreement to apply, the products need to originate in the countries that are part of the agreement.

The following FTAs have been concluded by the EU:

EU-Canada CETA;¹⁰⁹ EU-Central America;¹¹⁰ EU-Chile Interim Trade Agreement;¹¹¹ EU-Colombia-Peru-Ecuador Trade Agreement;¹¹² EU-Japan EPA;¹¹³ EU-Mexico Global

¹⁰⁹ See European Commission, Trade, [EU-Canada Comprehensive Economic and Trade Agreement \(CETA\)](#), last accessed on 10.02.2025. Provisionally in force since 2017, meaning that most of its provisions are applied.

¹¹⁰ The trade pillar of the EU-Central America Association Agreement has been provisionally applied since 01.08.2013 with Honduras, Nicaragua and Panama, since 01.10.2013 with Costa Rica and El Salvador, and since 10.12.2013 with Guatemala. It reduces tariffs and increases the efficiency of customs procedures. EUR-Lex, [Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other](#), OJ L 346, 15.12.2012, p. 3–2621, last accessed on 10.02.2025.

¹¹¹ Enters into force on 01.02.2025. See European Commission, Trade, [EU-Chile: Text of the agreement](#), last accessed on 10.02.2025.

¹¹² EUR-Lex, [Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part](#), OJ L 354, 21.12.2012, p. 3–2607, last accessed on 10.02.2025. The EU’s comprehensive trade agreement with Colombia and Peru has been provisionally applied with Peru since 01.03.2013 and with Colombia since 01.08.2013. On 01.01.2017, Ecuador also joined the agreement. See also: European Commission, Trade, [Andean Community](#), last accessed on 10.02.2025.

¹¹³ EUR-Lex, [Consolidated text: Agreement between the European Union and Japan for an Economic Partnership](#), last accessed on 10.02.2025. Even though the agreement is named ‘economic partnership agreement’ it is in fact categorized by the EU as an FTA, due to the tariff related provisions. The EU and Japan’s Economic Partnership Agreement entered into force on 01.02.2019. The EU-Japan Economic Partnership Agreement reduces trade barriers that European firms face when exporting to Japan and helps them to better compete in this market. See also: European Commission, Trade, [EU-Japan agreement chapter-by-chapter](#), last accessed on 10.02.2025.

Agreement;¹¹⁴ EU-New Zealand FTA;¹¹⁵ EU-Singapore FTA;¹¹⁶ EU-South Korea FTA;¹¹⁷ EU-UK Trade and Cooperation Agreement;¹¹⁸ EU-Vietnam Free Trade Agreement;¹¹⁹ Switzerland;¹²⁰ and the Western Balkans.¹²¹

Usually, individual FTAs contain a link to their broader political framework agreements and the human rights clause contained therein. This will be extensively analysed in the next section. It should be noted however, that the FTA between the EU and Colombia/Ecuador/Peru is an exception, as a stand-alone agreement with a human rights clause, given that it is directly incorporated within the agreement itself without any link to a framework agreement.

¹¹⁴ EUR-Lex, [Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and its Member States, of the one part, and the United Mexican States, of the other part - Final Act – Declarations](#), OJ L 276, 28.10.2000, p. 45–80, last accessed on 10.02.2025. In 2016, the EU and Mexico decided to modernise the EU-Mexico Global Agreement. On 17.01.2025, the EU announced the conclusion of negotiations on a modernised Global Agreement with Mexico. See European Commission, EU Trade relationships by country/region, [Mexico](#), last accessed on 10.02.2025.

¹¹⁵ EUR-Lex, [Free Trade Agreement between the European Union and New Zealand](#), OJ L, 2024/866, 25.3.2024, last accessed on 10.02.2025. The EU-New Zealand Free Trade Agreement was signed on 09.07.2023 and entered into force on 01.05.2024.

¹¹⁶ EUR-Lex, [Free Trade agreement between the European Union and the Republic of Singapore](#), ST/7972/2018/ADD/5, OJ L 294, 14.11.2019, p. 3–755, last accessed on 10.02.2025. The EU-Singapore FTA was signed on 19.10.2018 and entered into force on 21.11.2019.

¹¹⁷ EUR-Lex, [Free trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part](#), OJ L 127, 14.5.2011, p. 1–1426, last accessed on 10.02.2025, provisionally applied since July 2011 and formally ratified in December 2015. The FTA was the EU's first with an Asian country and the first to include a chapter on trade and sustainable development. To complement the FTA, the EU and the Republic of Korea launched negotiations for a digital trade agreement on 31 October 2023, see European Commission, Trade, EU Trade relationships by country/region, [South Korea](#), last accessed on 10.02.2025.

¹¹⁸ EUR-Lex, [Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part](#), Replaces ab initio 22020A1231(01), OJ L 149, 30.4.2021, p. 10–2539, last accessed on 10.02.2025.

¹¹⁹ EUR-Lex, [Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam](#), ST/6051/2019/INIT, OJ L 186, 12.6.2020, p. 3–1400, last accessed on 10.02.2025. The FTA entered into force on 01.08.2020.

¹²⁰ EUR-Lex, [Consolidated text: Agreement between the European Economic Community and the Swiss Confederation](#), last accessed on 10.02.2025. First signed in 1972, the EU-Switzerland FTA is the cornerstone of EU-Swiss trade relations.

¹²¹ Since the launch of the Stabilisation and Association Process, the EU has progressively concluded bilateral FTAs –referred to as "Stabilisation and Association Agreements" (SAAs) with each of the Western Balkan partners: Albania (2009), North Macedonia (2004), Montenegro (2010), Serbia (2013), Bosnia and Herzegovina (2015) and Kosovo (2016). The SAAs established a free-trade area for a transitional period, ended for all but Kosovo (which ends in 2026). See: European Commission, Trade, EU Trade relationships by country/region, [Western Balkans](#), last accessed on 10.02.2025.

2.2.4. Association Agreements (AAs)

Association agreements cover many policy areas, foremost of which is that of economic cooperation. The EU generally enters into such agreements on the basis of Article 217 of the TFEU with countries that belong to any of the following three categories:¹²²

- countries that have a special historical bond with EU member states
- members of the European Free Trade Area (EFTA)
- prospective members of the European Union

Specifically, since the launch of the Stabilisation and Association Process (2000),¹²³ the EU has progressively concluded bilateral ‘Stabilisation and Association Agreements’ (SAAs) with each of the Western Balkan partners:¹²⁴ Albania (2009), North Macedonia (2004), Montenegro (2010), Serbia (2013), Bosnia and Herzegovina (2015) and Kosovo (2016).

Apart from the above, the following AAs have also been concluded:¹²⁵ EU-Algeria Association Agreement (2005); EU-Egypt Association Agreement (2004); EU-Faroe Islands Free Trade Agreement (1997); EU-Israel Association Agreement (2000); EU-Jordan Association Agreement (2002); EU-Lebanon Association Agreement (2002); EU-Palestine Interim Association Agreement (1997); and the EU-Tunisia Association Agreement (1995). Association agreements are commonly stand-alone agreements.

In this context, there also is the European Economic Area (EEA) Agreement¹²⁶ between 27 EU member states and three European Free Trade Association (EFTA) nations: Iceland, Liechtenstein, and Norway, which are brought into the EU’s internal market, guaranteeing the

¹²² European Parliament, Library Briefing, EU Association Agreements: [Common patterns and specific characteristics](#), 19.07.2012, last accessed on 10.02.2025.

¹²³ EUR-Lex, [Communication](#) from the Commission to the Council and the European Parliament on the stabilisation and association process for countries of South-Eastern Europe - Bosnia and Herzegovina, Croatia, Federal Republic of Yugoslavia, former Yugoslav Republic of Macedonia and Albania, COM/99/0235 final, 26.05.1999, last accessed on 10.02.2025.

¹²⁴ For a list of the agreements: EUR-Lex, Summaries of EU Legislation, [The stabilisation and association process](#), last accessed on 10.02.2025.

¹²⁵ European Commission, Access2Markets, [Association Agreement](#), last accessed on 10.02.2025.

¹²⁶ EUR-Lex, [Agreement on the European Economic Area](#) - Final Act - Joint Declarations - Declarations by the Governments of the Member States of the Community and the EFTA States - Arrangements - Agreed Minutes - Declarations by one or several of the Contracting Parties of the Agreement on the European Economic Area, OJ L 1, 3.1.1994, p. 3–522, last accessed on 10.02.2025.

freedom of movement for goods, services, people and capital, as well as unified related policies (competition, transport, energy, economic and monetary cooperation).¹²⁷ The same rules and conditions apply to all businesses within the EEA. EU legislation relating to the internal market is part of EEA countries' legislation. It does not contain a human rights clause; however, it does refer to human rights in its first recital.

In light of the above, it is also important to note the pan-Euro-Mediterranean system which allows for diagonal cumulation (i.e. cumulation between two or more countries) between the EU, EFTA countries, Turkey, the Western Balkans, the Faroe Islands, Ukraine, Moldova, Georgia and any country that signed the Barcelona Declaration of 1995 (the founding act of a comprehensive partnership between the European Union (EU) and twelve countries in the Southern Mediterranean).¹²⁸

The system was originally based on a network of Free Trade Agreements with identical origin protocols. These individual origin protocols have been progressively replaced by a reference to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (PEM Convention),¹²⁹ which was established in 2011 to provide a more unified framework for origin protocols (though human rights are not included in the convention).

With two exceptions, all the Euro-Mediterranean association agreements include a clause which refer to the full spectrum of human rights and principles set out in the Universal Declaration of Human Rights. The exceptions are the agreements with Algeria and Morocco, which do not refer to this Declaration.

2.3. Human Rights in other Agreements

Since 2014 the EU has also adopted new policies for the inclusion of human rights clauses in Sustainable Fisheries' Partnership Agreements and related protocols, even in investment and financing agreements with third countries:

¹²⁷ European Commission, Access2Markets, [European Economic Area \(EEA\) Agreement](#), last accessed on 10.02.2025.

¹²⁸ EUR-Lex, Summaries of EU legislation, [Barcelona Declaration and Euro-Mediterranean partnership](#), last accessed on 10.02.2025.

¹²⁹ EUR-Lex, [Regional Convention on pan-Euro-Mediterranean preferential rules of origin](#), O.J. L54/5, 26.02.2013, last accessed on 10.02.2025.

2.3.1. Investment Agreements

Since 2009 the EU handles foreign direct investment policies on behalf of EU members, as part of the EU Common Commercial Policy. In 2012, the EU adopted a regulation establishing transitional arrangements for bilateral investment agreements between individual EU Member States and non-EU countries, to make sure that those agreements do not conflict with the EU competences and are consistent with the EU's investment policy.¹³⁰ The EU negotiates or implements investment rules either in trade agreements or in self-standing investment agreements. These investment rules cover:

- allowing the setting up of enterprises by making sure investors can access the market and do not face discrimination between EU and non-EU investors;
- creating a favourable regulatory framework, both when the investor enters the market and when the investor does economic activities in the country, and;
- protecting established investments/investors through commitments to non-discrimination, fair treatment for investors or guarantees of compensation in case of expropriation.

Investment agreements between the EU and other countries include: the EU-Angola Sustainable Investment Facilitation Agreement (SIFA), the EU-China Comprehensive Agreement on Investment (on hold since 2020),¹³¹ the EU-Singapore Investment Protection Agreement, the EU-Vietnam Investment Protection Agreement.¹³² Currently, negotiations are still pending for the conclusion of an Investment Protection Agreement with India.¹³³

From the above agreements, the EU Singapore and EU-Vietnam IPAs reference human rights clauses in their corresponding framework agreements, while the EU-Angola SIFA is

¹³⁰ EUR-Lex, [Regulation \(EU\) No 1219/2012](#) of the European Parliament and of the Council of 12 December 2012 establishing transitional arrangements for bilateral investment agreements between Member States and third countries, OJ L 351, 20.12.2012, p. 40–46, last accessed on 10.02.2025.

¹³¹ European Commission, Trade and Economic Security, [EU-China agreement in principle](#), last accessed on 10.02.2025.

¹³² European Commission, Trade and Economic Security, [Negotiations and agreements](#), last accessed on 10.02.2025.

¹³³ European Commission, Trade, [EU-India Free Trade Agreement, Investment Protection Agreement and Geographical Indications Agreement](#), last accessed on 10.02.2025.

linked to the Cotonou Agreement.¹³⁴ The EU-China CAI, is a stand-alone agreement however, there is no human rights clause.

2.3.2. Sustainable Fisheries Partnership Agreements and related protocols

Sustainable fisheries partnership agreements (SFPAs) with non-EU countries are negotiated and concluded by the Commission on behalf of the EU.¹³⁵ They are regulated by the Common Fisheries Policy Regulation¹³⁶ which states that:

“The Union shall ensure that Sustainable fisheries partnership agreements include a clause concerning respect for democratic principles and human rights, which constitutes an essential element of such agreements.”

(Article 31(6) of EU Regulation 1380/2013)

SFPAs have gained recognition as a benchmark for good fisheries governance. While SFPAs allow EU vessels to fish for surplus stocks in the exclusive economic zone (EEZ) of third countries, they ensure equal rules, scientific management and social empowerment, with a focus on environmental sustainability, local growth, human rights and shared accountability. These agreements also focus on resource conservation and environmental sustainability, ensuring that all EU vessels are subject to the same rules of control and transparency. At the same time, a clause concerning respect for human rights has been included in all protocols to fisheries agreements.

There are two types of SFPAs: tuna agreements which allow EU vessels to pursue migrating tuna stocks as they move along the shores of Africa and through the Indian Ocean,

¹³⁴ See para. 8 of the Recital and Article 8.3 of the EU-Angola SIFA. As Bartels notes not only are the references a result of poor drafting but they might prove problematic in light of the Samoa Agreement. See L. Bartels, [Assessment of the implementation of the human rights clause in international and sectoral agreements](#), In Depth Analysis, requested by the European Parliament's Subcommittee on Human Rights, 2023, p. 9, last accessed on 10.02.2025.

¹³⁵ See European Commission, Food, Farming, Fisheries, [Sustainable fisheries partnership agreements \(SFPAs\)](#), last accessed on 10.02.2025.

¹³⁶ EUR-Lex, [Regulation \(EU\) No 1380/2013](#) of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC, OJ L 354, 28.12.2013, p. 22–61, last accessed on 10.02.2025.

as well as in the Pacific Ocean; and mixed agreements which provide access to a wide range of fish stocks in the partner country’s exclusive economic zone.

The EU has currently 11 SFPA protocols in force with third countries; 7 tuna agreements with Cabo Verde, Gabon, Kiribati, Seychelles, Mauritius, Madagascar and Gambia (with a hake component for the last two); and 3 mixed agreements with Greenland, Guinea Bissau and Mauritania. It has 9 ‘dormant agreements’ (i.e. fisheries’ partnership agreement which is still in force yet no implementing protocol in force) with Cook Islands, Equatorial Guinea, Liberia, Micronesia, Morocco, Mozambique, São Tomé and Príncipe, Senegal and Solomon Islands.

List of fisheries agreements:¹³⁷

Cabo Verde Expires in 2029.	Mauritania Expires in 2026.
Comoros Protocol expired in 2016 and the Agreement was denounced	Mauritius Expires in 2026.
Cook Islands Protocol expired in 2024.	Micronesia Protocol expired in 2010.
Côte d'Ivoire Protocol expired in 2024. Negotiations ongoing for new protocol.	Morocco Protocol expired in 2023.
Equatorial Guinea Protocol expired in 2001.	Mozambique Protocol expired in 2015.
Gabon Expires in 2026.	São Tomé and Príncipe Protocol expired in 2024.
Greenland Expires in 2030.	Senegal Protocol expired in 2024.
Guinea-Bissau Expires in 2029.	Seychelles Expires in 2026.
Kiribati Expires in 2028.	Solomon Islands Protocol expired in 2012
Liberia Protocol expired in 2020.	Gambia Expires in 2025.
Madagascar Expires in 2027.	

From the above agreements and protocols, those that have been concluded with ACP countries that are parties to the Cotonou Agreement, as of 2014 refer to the human rights clause of that agreement. As of 2021, SFPAs and Protocols with Gabon, Mauritania, Kiribati, and Mauritius provide a solution to the expiration of the Cotonou agreement by referring to the agreement that will succeed it (Samoa Agreement). The recent Protocols with Cabo Verde and Guinea-Bissau make direct reference to the Samoa Agreement. Moreover, Protocols with the Cook Islands, Côte d’Ivoire, São Tomé and Príncipe and Senegal which referred to the Cotonou

¹³⁷ See European Commission, Food, Farming, Fisheries, [Sustainable fisheries partnership agreements \(SFPAs\)](#), for a full list of agreement, expenditure and links to the individual agreements and protocols, last accessed on 10.02.2025.

have expired. The Protocols with Madagascar, Seychelles and Gambia may need some workarounds for the Samoa Agreement and its human rights clause to apply.¹³⁸

Finally, the SFPA Protocol with Greenland¹³⁹ allows the suspension thereof “*where either one of the Parties ascertains a breach of fundamental rights as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*”.

2.3.3. Generalised system of preferences (GSP)

Established in 1971, the GSP is the oldest EU trade regime contributing to the promotion of human rights. The 1994 GSP Regulation included the possibility of suspending trade preferences because of forced labour for the first time.¹⁴⁰ The revised GSP Regulation (2001) made reference to the eight fundamental Conventions of the International Labour Organization (ILO).¹⁴¹ In 2005, the scheme was overhauled after the 2003 WTO Appellate Body found the special arrangement rewarding certain countries for their efforts to fight trafficking in drugs to be discriminatory and thus contrary to WTO rules.¹⁴²

A new regulation (EU) No 978/2012 was adopted in 2012 with effect from 01.01.2014.¹⁴³ The three-layered structure of the GSP comprises of: Everything but Arms (EBA); Standard GSP; and GSP+ introduced in 2005. In November 2023, the existing

¹³⁸ L. Bartels, [Assessment of the implementation of the human rights clause in international and sectoral agreements](#), In Depth Analysis, requested by the European Parliament's Subcommittee on Human Rights, 2023, p. 14, last accessed on 10.02.2025

¹³⁹ EUR-Lex, [Protocol](#) on the implementation of the Sustainable Fisheries Partnership Agreement between the European Union, of the one part, and the Government of Greenland and the Government of Denmark, of the other part (2025–2030), ST/14781/2024/INIT, OJ L, 2024/3203, 30.12.2024, last accessed on 10.02.2025.

¹⁴⁰ I. Zamfir, [Human rights in EU trade policy Unilateral measures applied by the EU](#), *EPRS Briefing*, May 2018, p. 2, last accessed on 10.02.2025.

¹⁴¹ The eight core or fundamental conventions of the ILO refer to forced labour, child labour, discrimination, freedom of association, and the right to collective bargaining (i.e. ILO Conventions nos. 29, 87, 98, 100, 105, 111, 138, and 182). See ILO, International Labour Standards, [Conventions, Protocols and Recommendations](#), last accessed on 10.02.2025.

¹⁴² *Ibid.*, I. Zamfir (2018), p. 2.

¹⁴³ EUR-Lex, [Regulation \(EU\) No 978/2012](#) of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008, OJ L 303, 31.10.2012, p. 1–82, last accessed on 10.02.2025.

Generalised Scheme of Preferences (GSP) Regulation was amended, in order to extend the GSP scheme for the period 2024-2027.¹⁴⁴

All three GSP layers include human rights and labour rights conditionality. In fact, there are two levels of conditionality:¹⁴⁵

- All GSP countries must comply with the principles laid down in core human rights and labour rights conventions listed in an annex to the regulation. They are subject to negative conditionality: according to Article 19(1)(a) of the 2012 Regulation, all three GSP arrangements can be withdrawn in case ‘of serious and systematic violation of principles laid down in the conventions listed in Part A of Annex VIII’ (UN and ILO Conventions, on core human rights and labour rights, respectively). If the European Commission establishes violations justifying the suspension, it issues a note about the initiation of a withdrawal procedure. In a first stage, it monitors the situation for six months in the country concerned; during this time the GSP beneficiary country can submit its observations. Within a further six months, if no remedial measures have been taken by the third country, it can withdraw the trade preferences by delegated act. When considering the possibility of suspending preferences, the Commission must assess all available evidence. Preferences withdrawal is thus a gradual process that aims to provide enough time to the country under investigation to answer to the concerns related to human rights and labour rights violations and possibly to remedy them.
- The GSP+ in addition contains a positive and much more elaborate conditionality mechanism, also including environment and good governance treaties, which rewards the GSP+ beneficiary countries with additional trade preferences for compliance with international norms. This compliance provides the necessary justification under WTO rules. The scheme is conceived to assist vulnerable developing countries to assume the ‘*special burdens and responsibilities resulting from the ratification of core international conventions on human and labour rights, environmental protection and good governance as well as from the effective implementation thereof*’ (recital 11 of the 2012 Regulation).

¹⁴⁴ European Commission, Trade and Economic Security, [Generalised Scheme of Preferences](#), last accessed on 10.02.2025 ; See also: UNCTAD, [Generalized System of Preferences: Handbook on the Scheme of the European Union](#), Geneva 2022, last accessed on 10.02.2025.

¹⁴⁵ *Ibid.*, I. Zamfir (2018), p. 3.

The European Commission is appointed as the main actor in the procedure for granting and withdrawing GSP+ preferences.¹⁴⁶ Interested countries apply to the Commission to be included in the scheme, which afterward decides on whether to accept the applicant country under the GSP+. The EU continuously monitors GSP+ beneficiary countries' effective implementation of 27 international conventions on human rights, labour rights, environmental and climate protection, and good governance. This monitoring includes exchanges of information, dialogue and visits, and it involves various stakeholders, including civil society.¹⁴⁷

The Commission publishes a report on the implementation of GSP every two years, providing information on the progress made by the GSP+ beneficiary countries in implementing the 27 international conventions.¹⁴⁸ According to the European Commission the following countries are beneficiaries of the GSP as of January 2025:¹⁴⁹

	GSP Standard	GSP+	EBA	
1.	Congo	Bolivia	Afghanistan	Madagascar
2.	Cook Islands	Cabo Verde	Angola	Malawi
3.	India	Kyrgyzstan	Bangladesh	Mali
4.	Indonesia	Mongolia	Benin	Mauritania
5.	Kenya**	Pakistan	Bhutan*	Mozambique
6.	Micronesia	Philippines	Burkina Faso	Myanmar
7.	Nigeria	Sri Lanka	Burundi	Nepal
8.	Niue	Uzbekistan	Cambodia***	Niger
9.	Syria		Central African Republic	Rwanda
10.	Tajikistan		Chad	Sao Tome & Principe
11.	Vanuatu		Comoros Islands	Senegal
12.			Congo DRC	Sierra Leone
13.			Djibouti	Solomon Islands
14.			Eritrea	Somalia
15.			Ethiopia	South Sudan
16.			Gambia	Sudan
17.			Guinea	Tanzania
18.			Guinea Bissau	Timor-Leste
19.			Haiti	Togo
20.			Kiribati	Tuvalu
21.			Lao PDR	Uganda
22.			Lesotho	Yemen
23.			Liberia	Zambia

* graduating from EBA on 1 January 2028

** removed from GSP beneficiary countries on 1 January 2027

*** preferences partially temporarily withdrawn

¹⁴⁶ *Ibid.*, Zamfir (2018), p. 4.

¹⁴⁷ European Commission, Trade and Economic Security, [Generalised Scheme of Preferences](#), last accessed on 10.02.2025.

¹⁴⁸ The report for 2020-2022 is the latest report to be published: European Commission, [Joint Report](#) to the European Parliament and the Council on the Generalised Scheme of Preferences covering the period 2020-2022, last accessed on 10.02.2025.

¹⁴⁹ See European Commission, Trade and Economic Security, [Generalised Scheme of Preferences](#), and the [List of GSP Beneficiary Countries](#), last modified on 03.02.2025, available through CIRCABC, last accessed on 10.02.2025.

2.3.4. Voluntary Partnership Agreements

The Voluntary partnership agreements on forest law enforcement, governance and trade agreements aim to ensure that timber and timber products imported from the countries with whom the European Union has a Voluntary Partnership Agreement (VPA) are legally produced.¹⁵⁰

The agreements envisage setting up the Forest Law Enforcement Governance and Trade (FLEGT) licensing schemes,¹⁵¹ once both parties to the agreement conclude on the basis of a joint assessment of operational readiness. They also set out the procedures and requirements to check and, in the case of exports to the EU, attest, by means of FLEGT licences, that timber products shipped to the EU have been legally produced. FLEGT licences were set up by Regulation (EC) No 2173/2005.¹⁵²

Once the FLEGT licensing scheme has entered into force for timber and timber products covered by the agreement, the EU will only accept timber shipments from the country concerned that are covered by valid FLEGT licences. Timber with a valid FLEGT licence will be considered legally harvested within the meaning of the EU timber regulation, Regulation (EU) No 995/2010 (repealed as of January 2025 and replaced with a new regulation, (EU) 2023/1115).¹⁵³ Operators importing FLEGT licensed timber will thus not have to carry out due diligence under that regulation.

The EU has concluded/is negotiating the following voluntary agreements:

¹⁵⁰ European Commission, Energy, Climate change, Environment, [EU rules against illegal logging](#), last accessed on 10.02.2025; See also: the official website of [FLEGT.org](#), which is dedicated to sharing accurate information and practical knowledge about the implementation of the EU FLEGT Action Plan, last accessed on 10.02.2025.

¹⁵¹ EUR-Lex, Summaries of EU Legislation, [Voluntary partnership agreements on forest law enforcement, governance and trade](#), last accessed on 10.02.2025.

¹⁵² EUR-Lex, Council Regulation (EC) No [2173/2005](#) of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community (OJ L 347, 30.12.2005, pp. 1–6), last accessed on 10.02.2025.

¹⁵³ EUR-Lex, Regulation (EU) No [995/2010](#) of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (OJ L 295, 12.11.2010, pp. 23–34). Note that Regulation 995/2010 was replaced and repealed by [Regulation \(EU\) 2023/1115](#) of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 (Text with EEA relevance), PE/82/2022/REV/1, OJ L 150, 9.6.2023, p. 206–247, last accessed on 10.02.2025.

Country	Date of entry into force of agreement	Date of ratification of agreement	Date of signature of agreement
Côte d'Ivoire		April 2024	19 February 2024
Guyana		March 2023	15 December 2022
Honduras	1 September 2022	June 2021	23 February 2021
Vietnam	1 June 2019	May 2019	19 October 2018
Indonesia	1 May 2014	April 2014	30 September 2013
Liberia	1 December 2013	December 2013	11 July 2011
Congo	1 March 2013	February 2013	17 May 2010
Cameroon	1 December 2011	2 March 2011 –EU 9, August 2011 – Cameroon	6 October 2010
Central African Republic	1 July 2012	1 July 2012	28 November 2011
Ghana	1 December 2009		19 November 2009
Democratic Republic of the Congo	Still under negotiation		
Gabon	Still under negotiation		

It should be highlighted that a 2021 ‘Fitness Check’ carried out by the European Commission Staff for the EU Timber Regulation and the FLEGT Regulation,¹⁵⁴ concluded that the core objective - to tackle illegal logging and associated trade globally- of Voluntary Partnership Agreements, as envisioned in the FLEGT Regulation had not been met. There had been no discernible advance of VPA partner countries over other producer countries in reducing the level of illegal logging, with the notable exception of Indonesia. After almost 20 years, only one VPA country out of 15 being engaged in a VPA process with the EU had an operating licensing system in place (Indonesia). Positive results were however identified in terms of advancing stakeholder engagement with civil society, governance reforms, transparency, codes of conduct and social safeguards.

Surprisingly enough, the FLEGT VPAs do not contain human rights clauses, not even those concluded recently. This was also noted by 2021 ‘Fitness Check’:¹⁵⁵ *“While the EU system itself would be an efficient tool to lower the compliance costs for EU operators, the*

¹⁵⁴ EUR-Lex, [Commission Staff Working Document](#) Fitness Check on Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (the EU Timber Regulation) and on Regulation (EC) No 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community (FLEGT Regulation), SWD/2021/328 final, para. 2.1.2, last accessed on 10.02.2025.

¹⁵⁵ *Ibid*, para. 6.2.

main instrument for its operationalisation i.e. the VPAs has not delivered. VPAs are complex and legally binding trade treaties concluded for a single commodity and derived products, covering also labour, social and human rights dimensions. This means the negotiations are detailed and complex, usually taking years to finalize and implement — far from the quick and flexible tool they were expected to become. Additionally, the EU lacks the leverage of its full economic weight and the advantage that it enjoys when it negotiates broad Free Trade Agreements.”

To this end it is important to highlight that Regulation on Deforestation-free Products (2023/1115/EU) which as of January 2025 has replaced the EU Timber Regulation introduces risk assessment by operators -established in the Union and held accountable in the event of non-fulfilment of the obligations under the Regulation- that take into account *inter alia*:¹⁵⁶ “concerns in relation to the country of production and origin or parts thereof, such as level of corruption, prevalence of document and data falsification, lack of law enforcement, violations of international human rights, armed conflict or presence of sanctions imposed by the UN Security Council or the Council of the European Union”

¹⁵⁶ Article 10(2c) of EU Regulation 2023/1115.

3. Agreeing on a Human Rights Clause – Uniform practice?

3.1.1. From the Baltic Clause to the Bulgarian Clause

As noted in the previous section, the EU developed the Common Approach policy to include a human rights (and democracy) clause in the political framework agreements signed with countries and to which free trade agreements should be linked (linkage clause). However, even when there is no such framework agreement, the clause may form part of the agreement containing the free trade provisions such as a free trade agreement or a more comprehensive one including free trade provisions alongside provisions on cooperation in various areas, such as the association agreements mentioned above. The clause can even be present in some trade related agreements that include usually trade cooperation, but not necessarily tariff liberalisation.

Earlier, we saw that the Commission put forward guidelines in order to achieve a non-discriminatory and systematic approach stating that agreements should incorporate:¹⁵⁷ in the body of the agreement a clause specifying that relations between the Community and the Country concerned and all provisions of the relevant agreement are based on respect for the democratic principles and human rights which inspire the domestic and external policies of the Community and the country concerned and which constitute essential elements of the agreement; and in the preamble (or recital) general references to respect for human rights and democratic values, references to the universal and/or regional instruments common to both parties. Suspension clause or a general non-execution clause was to be included in specific cases.

As of 2014 most human rights clauses adopted a similar basic structure:¹⁵⁸ first, there is an obligation to comply with human rights and democratic principles, contained in an

¹⁵⁷ EUR-Lex, European Commission, [Communication From The Commission On The Inclusion Of Respect For Democratic Principles And Human Rights In Agreements Between The Community And Third Countries](#), COM(1995) 216, which cites the Commission Decision of 26 January 1993, MIN (93)1137, point XIV, p. 9, last accessed on 10.02.2025.

¹⁵⁸ L. Bartels, [The European Parliament's role in relation to human rights in trade and investment agreements](#), Study requested jointly by the European Parliament's Subcommittee on Human Rights and by the Committee on International Trade, February 2014, p. 8, last accessed on 10.02.2025. See also European Parliament, [Working](#)

‘essential elements’ clause – usually in the first articles of an agreement clause (non-proliferation is also included as an essential element within the majority of these agreements, under a different article). Then, in order to enforce this obligation, there is a ‘non-execution’ or ‘non-fulfilment’ clause, which is basically an operationalisation clause which allows a party to the agreement to take ‘appropriate measures’ when the other party violates the essential elements. The type of measures, conditions and mechanisms for adopting them vary significantly.

A first version of the above clause was the so-called ‘Baltic clause’, included in the first Trade and Cooperation Agreements with the Baltic States (and Albania) of 1992, which allowed for the immediate suspension of the agreement in the case of violation of human rights.¹⁵⁹ A more sophisticated version of the clause, the ‘Bulgarian clause’, later on replaced the previous execution clause, by allowing for more options that included the maintenance of political dialogue, conciliation, etc. before resorting to the suspension of the agreement, which is reserved only for the gravest violations of human rights.¹⁶⁰

	BALTIC CLAUSE	BULGARIAN CLAUSE
ESSENTIAL ELEMENT	Respect for the democratic principles and human rights established by the Helsinki Final Act and the Charter of Paris for a New Europe inspires the domestic and external policies of the Community and Latvia and constitutes an essential element of the present agreement. <i>(Article 1 of the EEC-Latvia Agreement)¹⁶¹</i>	Respect for the democratic principles and human rights established by the Helsinki Final Act and the Charter of Paris for a New Europe inspires the domestic and external policies of the Parties and constitutes an essential element of this Agreement. <i>(Article 1 of the EEC-Bulgaria Agreement)¹⁶²</i>
NON-EXECUTION	The Parties reserve the right to suspend this Agreement in whole or in part with immediate effect if a serious violation occurs of the essential provisions of the present agreement.	2. If either Party considers that the other Party has failed to fulfil an obligation under the Agreement, it may take appropriate measures . Before so doing, except in cases of special urgency, it shall supply the Joint Committee with all relevant information required for a thorough

[Documents on the Human Rights and Democracy Clause in European Union agreements](#), Committee on Foreign Affairs, Rapporteur Vittorio Agnoletto, 23.08.2005, last accessed on 10.02.2025.

¹⁵⁹ European Parliament, [Working Documents on the Human Rights and Democracy Clause in European Union agreements](#), Committee on Foreign Affairs, Rapporteur Vittorio Agnoletto, 23.08.2005, last accessed on 10.02.2025. See also: P. Van Elsuwege, J. De Coninck, The Effectiveness of Human Rights Clauses in EU Trade Agreements: Challenges and Opportunities, *Policy Report*, Ghent European Law Institute, 2022, p. 16.

¹⁶⁰ *Ibid.*

¹⁶¹ EUR-Lex, [Agreement](#) between the European Economic Community and the Republic of Latvia on trade and commercial and economic cooperation, OJ L 403, 31.12.1992, p. 11–18, last accessed on 10.02.2025.

¹⁶² EUR-Lex, [Interim Agreement](#) on trade and trade-related matters between the European Economic Community and the European Coal and Steel Community, of the one part, and the Republic of Bulgaria, of the other part, OJ L 323, 23.12.1993, p. 2–183, last accessed on 10.02.2025.

	(Article 21 of the EEC-Latvia Agreement)	<p>examination of the situation with a view to seeking a solution acceptable to the Parties.</p> <p>In the selection of measures, priority must be given to those which least disturb the functioning of the Agreement. These measures shall be notified immediately to the Joint Committee and shall be the subject of consultations within the Joint Committee if the other Party so requests.</p> <p>(Article 46(2) of the EEC-Bulgaria Agreement)</p>
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Alternative and proportional measures that appear in the Bulgaria clause were first put forward by the Commission in 1991, namely:¹⁶³ altering the contents of cooperation programmes or channels used; reduction of cultural, scientific and technical cooperation programmes; postponement of a Joint Committee meeting; suspension of high-level bilateral contacts; postponement of new projects; refusal to follow up partners’ initiatives; trade embargoes; suspension of arms sales; suspension of military cooperation; and suspension of cooperation.

More recent agreements, place the non-execution clause within a broader article on “fulfilment of obligations” which starts with a general clause on the parties’ commitment to take any necessary measures for the fulfilment of their obligations under the Agreement, then, when one party considers that the other does not comply with the obligation, they may bring the issue before the competent body established by the Agreement (Joint Committee) for the initiation of consultations, much like the Bulgarian Clause above.¹⁶⁴

Finally, it should be noted that post-Lisbon trade agreements have gradually included more straightforward sustainable development objectives,¹⁶⁵ as the EU has been leading in integrating sustainable development objectives into trade policy and making trade an effective tool to promote sustainable development worldwide.¹⁶⁶ Therefore, apart from references to

¹⁶³ Archive of European Integration, Commission communication to the Council and Parliament, [Human rights, Democracy and Development Co-operation](#), SEC (91) 61 final, 25.03.1991, last accessed on 10.02.2025, adopted by [Resolution of the Council and of the Member States meeting in the Council on human rights, democracy and development](#), 28.11.1991, Bulletin EC 11/1991, p. 122, 2.3.1., para. 6, last accessed on 10.02.2025.

¹⁶⁴ P. Van Elsuwege, J. De Coninck, *The Effectiveness of Human Rights Clauses in EU Trade Agreements: Challenges and Opportunities*, *Policy Report*, Ghent European Law Institute, 2022, p. 16.

¹⁶⁵ B. Coorman & G. Van Calster, *Trade and Sustainable Development Post-Lisbon*, in M. Hahn & G. Van der Loo (Eds.), *Law and Practice of the Common Commercial Policy – The First 10 Years of the Treaty of Lisbon*, Brill 2020, pp. 187-205, at p. 188-189.

¹⁶⁶ European Commission, [Trade for all](#), *Towards a more responsible trade and investment policy*, 2015, p. 21, last accessed on 10.02.2025.

human rights in the essential elements clause, recent trade agreements all include a chapter on Trade and Sustainable Development that encompass labour, environmental, gender equality¹⁶⁷ - or even data privacy - standards based on multilateral instruments such as the Convention of the International Labour Organisation (ILO), the UN Convention on Climate Change, etc.¹⁶⁸ With ILO core labour standards overlapping with human rights and given the link of human rights to environmental protection, there is an additional human rights protection system within these TSD chapters of recent trade agreements, with a dedicated monitoring, enforcement and dispute settlement framework, apart from that foreseen for human rights clauses.¹⁶⁹

3.1.2. Stand-alone Trade Agreements with Human Rights Clause

From the agreements that were presented above, there are certain trends in relation to the human rights clause they contain. Typically, FTAs are linked to the broader political framework agreement which includes the essential elements and non-execution (or non-fulfilment) clause.¹⁷⁰ As noted above the Colombia/Ecuador/Peru FTA is an exception since it contains its own human rights clause in the text of the agreement:¹⁷¹

EU-Colombia/Ecuador/Peru FTA	
Essential Clause	Non-Fulfilment
Respect for democratic principles and fundamental human rights, as laid down in the Universal Declaration of Human Rights, and for the principle of	[...] 2. If a Party considers that another Party has failed to fulfil its obligations under this Agreement , such Party shall exclusively have recourse to, and abide by, the dispute settlement mechanism established under Title XII (Dispute

¹⁶⁷ R. Shreeves, [Gender mainstreaming in EU trade agreements](#), March 2024, *EPRS Briefing*, p. 4, last accessed on 10.02.2025.

¹⁶⁸ P. Van Elsuwege, J. De Coninck, The Effectiveness of Human Rights Clauses in EU Trade Agreements: Challenges and Opportunities, *Policy Report*, Ghent European Law Institute, 2022, p. 24; I. Mancini, Fundamental Rights in the EU's External Trade Relations: From Promotion 'Through' Trade Agreement to Protection 'in' Trade Agreements, in E. Kassoti & R. A. Wessel (Eds), *EU Trade Agreements and the Duty to Respect Human Rights Abroad*, CLEER Papers 2020/1, pp. 61-93, p. 67-70.

¹⁶⁹ P. Van Elsuwege, J. De Coninck, The Effectiveness of Human Rights Clauses in EU Trade Agreements: Challenges and Opportunities, *Policy Report*, Ghent European Law Institute, 2022, p. 24.

¹⁷⁰ This is the case of the EU-Korea FTA, the OACP EPAs, EU-New Zealand FTA, EU-Vietnam FTA.

¹⁷¹ EUR-Lex, [Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part](#), OJ L 354, 21.12.2012, p. 3–2607, last accessed on 10.02.2025. The EU's comprehensive trade agreement with Colombia and Peru has been provisionally applied with Peru since 01.03.2013 and with Colombia since 01.08.2013. On 01.01.2017, Ecuador also joined the agreement. See also: European Commission, Trade, [Andean Community](#), last accessed on 10.02.2025.

the rule of law, underpins the internal and international policies of the Parties. Respect for these principles constitutes **an essential element** of this Agreement.

(Article 1)

Settlement). 3. Without prejudice to the existing mechanisms for political dialogue between the Parties, any Party may immediately adopt appropriate measures in accordance with international law in case of violation by another Party of the essential elements referred to in Articles 1 and 2 of this Agreement. The latter Party may ask for an urgent meeting to be called to bring the Parties concerned together within 15 days for a thorough examination of the situation with a view to seeking an acceptable solution. The measures will be proportional to the violation. Priority will be given to those which least disturb the functioning of this Agreement. These measures shall be revoked as soon as the reasons for their adoption have ceased to exist.

(Article 8)

3.1.3. The New Generation Free Trade Agreements – Trade Agreements linked to Framework Agreements

Earlier above, it was noted that the EU has concluded PCAs with India (1994),¹⁷² the Andean Community (1998),¹⁷³ Yemen (1998),¹⁷⁴ Iraq (2012),¹⁷⁵ South Korea (2013).¹⁷⁶ In lieu of the EU's new 'Common Approach' which put forward a preference for including human rights and democracy clauses in 'framework' cooperation agreements with third countries, framework agreements were also concluded with Central America (2014),¹⁷⁷ Cuba (2016),¹⁷⁸

¹⁷² EUR-Lex, [Cooperation Agreement between the European Community and the Republic of India on partnership and development - Declaration of the Community concerning tariff adjustments - Declarations of the Community and India](#), OJ L 223, 27.8.1994, p. 24–34, last accessed on 10.02.2025.

¹⁷³ EUR-Lex, [Framework Agreement on Cooperation](#) between the European Economic Community and the Cartagena Agreement and its member countries, namely the Republic of Bolivia, the Republic of Colombia, the Republic of Ecuador, the Republic of Peru and the Republic of Venezuela (OJ L 127, 29.4.1998, pp. 11-25), last accessed on 10.02.2025.

¹⁷⁴ EUR-Lex, [Cooperation Agreement](#) between the European Community and the Republic of Yemen (OJ L 72, 11.3.1998, pp. 18-29), last accessed on 10.02.2025.

¹⁷⁵ EUR-Lex, [Partnership and Cooperation Agreement](#) between the European Union and its Member States, of the one part, and the Republic of Iraq, of the other part (OJ L 204, 31.7.2012, pp. 20-130), last accessed on 10.02.2025.

¹⁷⁶ EUR-Lex, [Framework Agreement](#) between the European Union and its Member States, on the one part, and the Republic of Korea, on the other part (OJ L 20, 23.1.2013, pp. 2-24), last accessed on 10.02.2025.

¹⁷⁷ EUR-Lex, [Political Dialogue and Cooperation agreement](#) between the European Community and its Member States, of the one part, and the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, of the other part (OJ L 111, 15.4.2014, pp. 6-28), last accessed on 10.02.2025.

¹⁷⁸ EUR-Lex, [Political Dialogue and Cooperation Agreement](#) between the European Union and its Member States, of the one part, and the Republic of Cuba, of the other part (OJ L 3371, 13.12.2016, pp. 3-40), last accessed on 10.02.2025.

Canada (2016),¹⁷⁹ Vietnam (2016),¹⁸⁰ New Zealand (2016),¹⁸¹ Afghanistan (2017),¹⁸² Australia (2017),¹⁸³ Mongolia (2017),¹⁸⁴ The Philippines (2017),¹⁸⁵ Japan (2018),¹⁸⁶ Singapore (2018),¹⁸⁷

¹⁷⁹ European Council, [Strategic Partnership Agreement between the European Union and its Member States, of the one part, and Canada, of the other part](#), 5368/2/16 REV 2, 05.08.2016, last accessed on 10.02.2025.

¹⁸⁰ EUR-Lex, [Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Socialist Republic of Viet Nam, of the other part](#), OJ L 329, 3.12.2016, pp. 8–42, last accessed on 10.02.2025.

¹⁸¹ EUR-Lex, [Partnership Agreement on Relations and Cooperation between the European Union and its Member States, of the one part, and New Zealand, of the other part](#), OJ L 321, 29.11.2016, pp. 3–30, last accessed on 10.02.2025.

¹⁸² EUR-Lex, [Cooperation Agreement on Partnership and Development between the European Union and its Member States, of the one part, and the Islamic Republic of Afghanistan, of the other part](#), OJ L 67, 14.3.2017, p. 3–30, last accessed on 10.02.2025.

¹⁸³ EUR-Lex, [Framework Agreement between the European Union and its Member States, of the one part, and Australia, of the other part](#), OJ L 237, 15.9.2017, pp. 7–35, last accessed on 10.02.2025.

¹⁸⁴ EUR-Lex, [Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and Mongolia, of the other part](#) (OJ L 326, 9.12.2017, pp. 7–35), last accessed on 10.02.2025.

¹⁸⁵ EUR-Lex, [Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and the Republic of the Philippines, of the other part](#) (OJ L 343, 22.12.2017, pp. 3–32), last accessed on 10.02.2025.

¹⁸⁶ EUR-Lex, [Strategic Partnership Agreement between the European Union and its Member States, of the one part, and Japan, of the other part](#), OJ L 216, 24.8.2018, pp. 4–22, last accessed on 10.02.2025.

¹⁸⁷ EUR-Lex, [Proposal for a Council Decision on the signing, on behalf of the Union, of the Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Singapore, of the other part](#), COM/2014/070 final - 2014/0036 (NLE), as adopted by [Council Decision \(EU\) 2018/1047 of 16 July 2018 on the signing, on behalf of the Union, of the Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Singapore, of the other part](#), ST/7322/2018/INIT, last accessed on 10.02.2025.

the UK (2021),¹⁸⁸ Malaysia (2022),¹⁸⁹ Thailand (2022),¹⁹⁰ Chile (2023)¹⁹¹ and the OACPS (Samoa Agreement of 2023¹⁹² which replaced the Cotonou Agreement).

Of the above agreements, the packages of agreements with South Korea, Canada, Singapore, Vietnam, New Zealand, Australia, Malaysia and Thailand include within the framework agreement a cross-reference to other specific agreements.¹⁹³ However, this does not mean there is a standard technique for the drafting of human rights clause.

In fact, the SPA with Canada was the most interesting case due to the tough stance taken by European Parliament regarding the human rights clause during negotiations with Canada.¹⁹⁴ Authors have characterised the specific case as unique given the high political relevance of the human rights conditionality clause,¹⁹⁵ as well as the strong and successful insistence on it. It is not unusual for the European Parliament to advocate for non-commercial objectives such as human rights, however they never set such high standards in past trade negotiations with countries that were less compliant than Canada regarding fundamental

¹⁸⁸ EUR-Lex, [Trade and cooperation agreement](#) between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part (OJ L 149, 30.4.2021, pp. 10-2539), last accessed on 10.02.2025.

¹⁸⁹ EUR-Lex, [Framework Agreement](#) on Partnership and Cooperation between the European Union and its member states, of the one part, and the Government of Malaysia, of the other part [pending publication]. See also Council Decision (EU) [2022/1987](#) of 13 October 2022 on the signing, on behalf of the Union, of the Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and the Government of Malaysia, of the other part (OJ L 273, 21.10.2022, pp. 1–2), last accessed on 10.02.2025.

¹⁹⁰ EUR-Lex, [Framework Agreement](#) on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Kingdom of Thailand, of the other part, ST/11910/2022/INIT, OJ L 330, 23.12.2022, p. 72–108, last accessed on 10.02.2025.

¹⁹¹ EUR-Lex, [Advanced Framework Agreement](#) between the European Union and its Member States, of the one part, and the Republic of Chile, of the other part, ST/11670/2023/INIT, OJ L, 2024/1759, 30.7.2024 (has not yet entered into force), last accessed on 10.02.2025.

¹⁹² EUR-Lex, [Partnership Agreement between the European Union and its Member States, of the one part, and the Members of the Organisation of African, Caribbean and Pacific States, of the other part](#), ST/8372/2023/REV/1, OJ L, 2023/2862, 28.12.2023, last accessed on 10.02.2025.

¹⁹³ L. Bartels, [Assessment of the implementation of the human rights clause in international and sectoral agreements](#), In Depth Analysis, requested by the European Parliament's Subcommittee on Human Rights, p. 9, last accessed on 10.02.2025.

¹⁹⁴ K.-L. Meissner & L. McKenzie, The paradox of human rights conditionality in EU trade policy: when strategic interests drive policy outcomes, *26 Journal of European Public Policy* 2019, pp. 1273–1291, p. 1274.

¹⁹⁵ *Ibid.*, Meissner & McKenzie, p. 1274; L. Bartels, Human rights, labour standards and environmental standards in CETA, *Legal Studies Research Article 13/2017*, 2017 CUP, p. 11.

rights.¹⁹⁶ More so, when considering that Canada already maintains a high human rights standard.¹⁹⁷ What is significant in the case of the EU-Canada SPA, is the fact that the framework agreement contains a link clause to the CETA,¹⁹⁸ which includes a suspension provision of its own.

EU-Canada SPA		EU-Canada CETA
<p>Essential Element</p> <p>Respect for democratic principles, human rights and fundamental freedoms, as laid down in the Universal Declaration of Human Rights and existing international human rights treaties and other legally binding instruments to which the Union or the Member States and Canada are party, underpins the Parties' respective national and international policies and constitutes an essential element of this Agreement.</p> <p>(Article 2(1) of EU-Canada SPA)</p>	<p>Non-Fulfilment</p> <p>[...] 3. Reaffirming their strong shared commitment to human rights and non-proliferation, the Parties consider that a particularly serious and substantial violation of the obligations described in Articles 2(1) and 3(2) may be addressed as a case of special urgency. The Parties consider that, for a situation to constitute a "particularly serious and substantial violation" of Article 2(1), its gravity and nature would have to be of an exceptional sort such as a coup d'État or grave crimes that threaten the peace, security and well-being of the international community. [...] 6. (a) In a case of special urgency where the JMC is unable to resolve the situation, either Party may decide to suspend the provisions of this Agreement. [...]</p> <p>(Article 28(1-6) of the EU-Canada SPA)</p>	<p>Link clause as per the SPA</p> <p>7. In addition, the Parties recognise that a particularly serious and substantial violation of human rights or non-proliferation, as defined in paragraph 3, could also serve as grounds for the termination of the EU-Canada Comprehensive Economic and Trade Agreement (CETA) in accordance with Article 30.9 of that Agreement.</p> <p>(Article 28(7) of the EU-Canada SPA)</p>
		<p>1. A Party may denounce this Agreement by giving written notice of termination to the General Secretariat of the Council of the European Union and the Department of Foreign Affairs, Trade and Development of Canada, or their respective successors. This Agreement shall be terminated 180 days after the date of that notice. The Party giving a notice of termination shall also provide the CETA Joint Committee with a copy of the notice.</p> <p>2. Notwithstanding paragraph 1, in the event that this Agreement is terminated, the provisions of Chapter Eight (Investment) shall continue to be effective for a period of 20 years after the date of termination of this Agreement in respect of investments made before that date.</p> <p>(Article 30.9 of CETA)</p>

As noted by Bartels, this is not an effective link between the framework agreement and the specific agreement and therefore, no effective human rights clause is governing the CETA.¹⁹⁹ The link clause in the SPA has no added value when it comes to the provision of Article 30.9 of the CETA since this provision allows for the termination of the specific agreement for *any reason*, as long as it is done with a 180-day notice.

Furthermore, it is difficult to invoke immediate application of the SPA to CETA when Article 28(8) of the SPA itself states that *"This Agreement shall not affect or prejudice the*

¹⁹⁶ L. Van den Putte, F. De Ville & J. Orbie, The European Parliament as an inter-national actor in trade. From power to impact, in S. Stavridis & D. Irrera (eds), *The European Parliament and its International Relations*, 2015, Routledge, pp. 52–69, p. 64.

¹⁹⁷ *Ibid*, Meissner & McKenzie, p. 1274. Even for the year of 2023 Canada has a score of 97/100 on the [Freedom House Index](#), last accessed on 10.02.2025.

¹⁹⁸ European Commission, Trade, [EU-Canada Comprehensive Economic and Trade Agreement \(CETA\)](#), last accessed on 10.02.2025.

¹⁹⁹ L. Bartels, [Assessment of the implementation of the human rights clause in international and sectoral agreements](#), In Depth Analysis, requested by the European Parliament's Subcommittee on Human Rights, p. 10, last accessed on 10.02.2025.

interpretation or application of other agreements between the Parties. In particular, the dispute settlement provisions of this Agreement shall not replace or affect in any way the dispute settlement provisions of other agreements between the Parties.” This means that even though the European Parliament retained an adamant stance during the negotiation of the CETA, the end result does fall short of the vision of a common approach policy for human rights clauses.

This does not mean that the strict negotiation standard implemented by the European Parliament was without its benefits. As noted above, the EU has always put forward the formulation of agreements that respect the *ad hoc* situation of the partner country, its developmental level, capabilities etc. Therefore, a significantly developed state like Canada should be placed at a significantly higher standard. Some even argue that the new trade agreements of the EU with developed countries and the stricter human rights standard were also meant to counter claims of ‘disguised protectionism’ towards developing (mostly African) countries.²⁰⁰

On the other hand, as put forward by Meissner and McKenzie, the EP utilized the CETA negotiations to advance a strategic interest – conditionality – anticipating opposition from other players in decision-making, in order to reinforce the common approach and the EP’s own power in influencing policy process and outcomes.²⁰¹ The above is an interesting point, given that neither the European Commission (DG Trade) nor the EEAS were particularly adamant on linking the SPA (and the human rights clause) to CETA and were willing to make concessions for Canada, which did not want a legally binding political agreement that was not related to trade.²⁰² The EP was basically protecting the integrity of the common approach and setting a precedent for future agreements to be negotiated and concluded with the EU.

It should be highlighted that even though an effective link is missing from the CETA, it is not without any human-rights related value. The CETA, as well as other post-Lisbon FTAs, introduced provisions on sustainable development, labour rights, gender equality, data privacy

²⁰⁰ Ye June Jung, [Linking Human Rights to EU Trade: Institutional Trust and Disguised Protectionism](#), *Political Economy of International Organization*, Program and Papers, 2024, p. 9, last accessed on 10.02.2025; I. Mancini, Fundamental Rights in the EU’s External Trade Relations: From Promotion ‘Through’ Trade Agreement to Protection ‘in’ Trade Agreements, in E. Kassoti & R. A. Wessel (Eds), *EU Trade Agreements and the Duty to Respect Human Rights Abroad*, *CLEER Papers 2020/1*, pp. 61-93, p. 75.

²⁰¹ *Ibid*, Meissner & McKenzie, p. 1281,1286.

²⁰² *Id.* p. 1281.

and the environment that include mechanisms of their own.²⁰³ Again there is no standard practice with regards to the extent and enforceability of such provisions.²⁰⁴

Mancini describes another innovation that came with conclusion of the new generation FTAs, which was the inclusion of three additional mechanisms for ensuring fundamental rights protection such as clauses on the right to regulate, which allow the Parties to pursue public policy objectives, in turn argued to allow the adoption of defensive measures that are necessary to protect and ensure respect of certain rights, while preventing regulatory chill effects; and derogation provisions that allow the introduction of measures on the basis of protecting public morals, public order, security, etc.²⁰⁵ The third mechanism put forward by Mancini are human rights conditionality clauses, which are however included in the framework agreements, under vague terms.

The link clause of the Canada framework agreement, as presented above, is ambiguous; however, it is not the standard practice. The EU framework agreements such as those with South Korea,²⁰⁶ Afghanistan,²⁰⁷ Australia,²⁰⁸ New Zealand,²⁰⁹ Vietnam,²¹⁰ Singapore,²¹¹ Malaysia,²¹² Thailand²¹³ and the UK²¹⁴ provide a clear link to specific agreements (including trade and investment) made within the areas of cooperation covered by the corresponding framework agreement which usually states that they “*shall be an integral part of the overall bilateral relations as governed by this Agreement*”. Furthermore, they expressly state - though

²⁰³ Chapters 22, 23 and 24 of CETA.

²⁰⁴ *Ibid.*, I. Mancini, p. 67-69.

²⁰⁵ V. Depaigne, Protecting fundamental rights in trade agreements between the EU and third countries, 42 *European Law Review* 2017, pp. 562-576, p. 563.

²⁰⁶ Article 43(3) & (4) of the EU-South Korea PCA.

²⁰⁷ Article 53(2) of the EU-Afghanistan CA.

²⁰⁸ Article 55(1) of the EU-Australia FA.

²⁰⁹ Article 52(1) of the EU-New Zealand FA.

²¹⁰ Article 54(1) of the EU-Vietnam PCA.

²¹¹ Article 43(3) of the EU-Singapore PCA.

²¹² Article 52(2) of the EU-Malaysia PCA.

²¹³ Article 53(1) of the EU-Thailand PCA.

²¹⁴ Article 2 (2) of the EU-UK TCA, where specific agreements are characterized as ‘supplementing agreements’.

in no uniform way - that appropriate measures can be introduced for the violation of the essential elements clause, including suspension or termination of the specific agreements.²¹⁵

Interestingly, the EU-Singapore PCA²¹⁶ which was negotiated during the same time-period with the EU-Canada SPA, in contrast has the most unambiguous link clause to specific agreements concluded within its framework, as displayed in the following box:

EU-Singapore PCA		EU-Singapore FTA ²¹⁷ and IPA ²¹⁸	
Essential Elements Clause	Non-Execution	Link Clause	Link to PCA
<p>1. Respect for democratic principles, the rule of law and fundamental human rights, as laid down in the Universal Declaration of Human Rights and other applicable international human rights instruments to which the Parties are Contracting Parties, underpins the internal and international policies of the Parties and constitutes an essential element of this Agreement.</p> <p><i>(Article 1(1) EU-Singapore PCA)</i></p>	<p>4. The Parties agree that for the purpose of the correct interpretation and practical application of this Agreement the term 'appropriate measures' in this Article means the suspension of, or the non-performance for the time being of obligations under this Agreement or any specific agreement referred to under Article 9(2) and Article 43(3) or any other measure recommended by the Joint Committee. Appropriate measures shall be taken in accordance with international law and shall be proportionate to the failure to implement obligations under this Agreement. The Parties further agree that the term 'cases of special urgency' in paragraphs 1 and 2 means: (a) repudiation of this Agreement not sanctioned by the general rules of international law; or (b) violation of an essential element of the Agreement, as described in Article 1(1) and Article 7(2).</p> <p><i>(Article 44 (4) of the EU-Singapore PCA)</i></p>	<p>2. To this end, the Parties shall give effect to their mutual cooperation in trade and investment including through the Free Trade Agreement. The aforementioned agreement shall constitute a specific agreement giving effect to the trade provisions of this Agreement and shall be an integral part of the overall bilateral relations and the common institutional framework, as referred to in Article 43(3).</p> <p><i>(Article 9(2) of the EU-Singapore PCA, to be read with Article 44(4) of the PCA)</i></p>	<p>1. This Agreement shall be an integral part of the overall relations between the Union and its Member States, of the one part, and Singapore, of the other part, as governed by the Partnership and Cooperation Agreement, and shall form part of a common institutional framework. It constitutes a specific agreement giving effect to the trade provisions of the Partnership and Cooperation Agreement.</p> <p><i>(Article 16.18(1) of the EU-Singapore FTA)</i></p> <p>1. This Agreement shall be an integral part of the overall bilateral relations as governed by the EUSPCA and shall form part of a common institutional framework. It constitutes a specific agreement giving effect to the trade provisions of the EUSPCA.</p> <p><i>(Article 4.12(1) of the EU-Singapore IPA)</i></p>

²¹⁵ L. Bartels, [Assessment of the implementation of the human rights clause in international and sectoral agreements](#), In Depth Analysis, requested by the European Parliament's Subcommittee on Human Rights, p. 10, last accessed on 10.02.2025.

²¹⁶ EUR-Lex, [Proposal for a Council Decision on the signing, on behalf of the Union, of the Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Singapore, of the other part](#), COM/2014/070 final - 2014/0036 (NLE), as adopted by [Council Decision \(EU\) 2018/1047 of 16 July 2018 on the signing, on behalf of the Union, of the Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Singapore, of the other part](#), ST/7322/2018/INIT, last accessed on 10.02.2025.

²¹⁷ EUR-Lex, [Free Trade agreement between the European Union and the Republic of Singapore](#), ST/7972/2018/ADD/5, OJ L 294, 14.11.2019, p. 3–755, last accessed on 10.02.2025.

²¹⁸ EUR-Lex, [Investment Protection Agreement between the European Union and its Member States of the one part, and the Republic of Singapore, of the other part](#), as annexed to [Proposal for a Council Decision on the conclusion of the Investment Protection Agreement between the European Union and its Member States, of the one part, and the Republic of Singapore of the other part](#), COM/2018/194 final, last accessed on 10.02.2025. The EU-Singapore Investment Protection Agreement is not mentioned in Article 9(2) of the PCA however, the IPA itself does refer to it in Article 4(12).

The EU-Malaysia PCA²¹⁹ and EU-Thailand PCA²²⁰ follow more or less the same line, though the threshold for the suspension of a specific agreement (FTA or IPA) is only established for cases of ‘substantial’ violation of the essential elements clause (this is left open to interpretation).²²¹ Negotiations for the FTA agreement with Malaysia have been paused since 2012, while negotiations for the EU-Thailand FTA resumed in 2023 after being paused for 10 years.²²² IPAs have not been concluded with either country so far, therefore there is no reason to examine links to framework agreements.

Another effective link clause between a framework agreement and specific agreements, is also noted in the case of the Vietnam agreements. However, instead of the framework agreement containing a link clause to the specific agreements, the specific agreements contain reference thereto:

EU-Vietnam FTA ²²³ and EU-Vietnam IPA ²²⁴	EU-Vietnam PCA ²²⁵	
Link Clauses	Essential Elements Clause	Non-fulfilment
1. The Parties shall take any general or specific measures required to fulfil their obligations under this Agreement. They shall ensure that the	1. The Parties confirm their commitment to the general principles of international law as defined in the purposes and principles of the	2. If either Party considers that the other Party has failed to fulfil any of its obligations

²¹⁹ EUR-Lex, [Framework Agreement](#) on Partnership and Cooperation between the European Union and its member states, of the one part, and the Government of Malaysia, of the other part [pending publication]. See also Council Decision (EU) [2022/1987](#) of 13 October 2022 on the signing, on behalf of the Union, of the Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and the Government of Malaysia, of the other part (OJ L 273, 21.10.2022, pp. 1–2), last accessed on 10.02.2025.

²²⁰ EUR-Lex, [Framework Agreement](#) on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Kingdom of Thailand, of the other part, ST/11910/2022/INIT, OJ L 330, 23.12.2022, p. 72–108, last accessed on 10.02.2025.

²²¹ See Article 53(3) & (4) on fulfilment of obligations of the EU-Malaysia PCA: *“If either Party considers that the other Party has failed to fulfil any of the obligations that are described as essential elements in Article 1(1) and Article 7(1), it shall immediately notify the other Party thereof and the appropriate measures it intends to take ... For the purpose of this paragraph ‘appropriate measures’ means any measure recommended by the Joint Committee or the suspension, in part or in full, of this Agreement or of any specific agreement as referred to in Article 52(2) [...] 4.[...] In the selection of the appropriate measures, priority shall be given to those which least disturb the functioning of this Agreement or of any specific agreement as referred to in Article 52(2).”* Article 55(5) & (6) of the EU-Thailand PCA follows the same logic.

²²² Information available at European Commission, Trade, [Negotiations and Agreements](#), last accessed on 10.02.2025. See also: European Commission, Trade and Security, [Investment](#), last accessed on 10.02.2025.

²²³ EUR-Lex, [Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam](#), ST/6051/2019/INIT, OJ L 186, 12.6.2020, p. 3–1400, last accessed on 10.02.2025.

²²⁴ EUR-Lex, [Proposal for a Council Decision](#) on the conclusion of the Investment Protection Agreement between the European Union and its Member States, of the one part, and the Socialist Republic of Viet Nam, of the other part, COM/2018/693 final, [Annex I](#), last accessed on 10.02.2025.

²²⁵ EUR-Lex, [Framework Agreement](#) on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Socialist Republic of Viet Nam, of the other part, OJ L 329, 3.12.2016, pp. 8–42, last accessed on 10.02.2025.

<p>objectives set out in this Agreement are attained. 2. If a Party considers that the other Party has committed a material breach of the Partnership and Cooperation Agreement, it may take appropriate measures with respect to this Agreement in accordance with Article 57 of the Partnership and Cooperation Agreement.</p> <p><i>(Article 17.18 of the EU-Vietnam FTA)</i></p> <p>2. If either Party considers that the other Party has committed a material breach of the Partnership and Cooperation Agreement, it may take appropriate measures with respect to this Agreement in accordance with Article 57 of the Partnership and Cooperation Agreement.</p> <p><i>(Article 4.16(2) of the EU-Vietnam IPA)</i></p>	<p>Charter of the United Nations, reaffirmed in the UN General Assembly Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, of 24 October 1970, and in other relevant international treaties, expressing inter alia the rule of law, and the principle of pacta sunt servanda; and to the respect for democratic principles and human rights, as laid down in the UN General Assembly Universal Declaration of Human Rights and other relevant international human rights instruments to which the Parties are Contracting Parties, which underpin the internal and international policies of both Parties and which constitute an essential element of this Agreement.</p> <p><i>(Article 1(1) of the EU-Vietnam PCA)</i></p>	<p>under this Agreement it may take appropriate measures. 3. Before doing so, except in cases of a material breach of the Agreement, it shall present to the Joint Committee all the relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties.</p> <p><i>(Article 57 (2) & (3) of the EU-Vietnam PCA)</i></p>
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The wording of the Vietnam treaties avoids referencing suspension as an appropriate measure, however, the term ‘material breach’ echoes the wording of Article 60 VCLT, mentioned earlier, which could lead to the suspension or even termination of a treaty under international (customary) law.

International law explicitly is to be invoked in the case of the EU-Japan SPA²²⁶ under Article 43 (4) and (6) which states that violations which amount to a threat to peace and security, with international repercussions may be addressed through appropriate measures outside the framework of the agreement in accordance with international law. This might also imply that Article 60 VCLT is applicable. Furthermore, given that the relevant EU-Japan EPA²²⁷ does not provide a specific ‘appropriate measures’ mechanism, and in light of Article 43(8) of the EU-Japan SPA, which separates the framework agreement from other agreements between the parties, it appears that there is no effective human rights clause allowing the suspension or termination of the EPA on the grounds of human rights violations.²²⁸

The EU-New Zealand FTA²²⁹ also includes within its own text reference to suspension or termination of this specific agreement (link clause) setting a high threshold, namely serious

²²⁶ EUR-Lex, [Strategic Partnership Agreement](#) between the European Union and its Member States, of the one part, and Japan, of the other part, OJ L 216, 24.8.2018, pp. 4–22, last accessed on 10.02.2025.

²²⁷ EUR-Lex, [Consolidated text: Agreement between the European Union and Japan for an Economic Partnership](#), last accessed on 10.02.2025.

²²⁸ See also L. Bartels, [Assessment of the implementation of the human rights clause in international and sectoral agreements](#), In Depth Analysis, requested by the European Parliament's Subcommittee on Human Rights, p. 9, last accessed on 10.02.2025.

²²⁹ EUR-Lex, [Free Trade Agreement between the European Union and New Zealand](#), OJ L, 2024/866, 25.3.2024, last accessed on 10.02.2025.

violations of the essential elements clause in the corresponding framework agreement which threaten international peace and security and require immediate reaction.²³⁰

Finally, examining the case of the OACPS agreements, the link between the human rights clause of the framework agreement to the specific agreements concluded thereafter is more straightforward under the Cotonou system, with links to it appearing within all relevant EPAs.²³¹ The Cotonou Agreement was set to expire in 2020, however was extended until November 2021 in light of the initialled OACP-EU Partnership Agreement.²³² This new partnership agreement was signed on 15.11.2023 (the Samoa Agreement²³³) provisionally taking effect as of 01.01.2024.²³⁴

Given that the Samoa Agreement is recent and further legal procedures will be required before it can enter fully into force - notably ratification by at least two-thirds (53) of OACPS members - no EPAs have been negotiated within its framework. At the date of signature, 30 ACP countries refused to sign the agreement over concerns regarding same-sex relations (same-sex marriage) and reproductive health rights (abortion), which came as a surprise since these rights were not explicitly mentioned, other than within the framework of existing international agreements.²³⁵ As of January 2025, the Samoa Agreement had not entered into

²³⁰ Article 27.4(3) of the EU-New Zealand FTA, is the link clause which states: “*This Agreement forms part of the common institutional framework referred to in Article 52(1) of the Partnership Agreement. A Party may take appropriate measures relating to this Agreement in the event of a particularly serious and substantial violation of any of the obligations described in Article 2(1) or Article 8(1) of the Partnership Agreement as essential elements, which threatens international peace and security so as to require an immediate reaction. A Party may also take such appropriate measures relating to this Agreement in the event of an act or omission that materially defeats the object and purpose of the Paris Agreement. Those appropriate measures shall be taken in accordance with the procedure set out in Article 54 of the Partnership Agreement.*”

²³¹ L. Bartels, [Human rights provisions in Economic Partnership Agreements in light of the expiry of the Cotonou Agreement in 2020](#), requested by the European Parliament's Committees on Development (DEVE) and on International Trade (INTA), 17.03.2017, p. 15-19, last accessed on 10.02.2025,

²³² European Council, [Post-Cotonou Agreement](#), last accessed on 10.02.2025; European Commission, Trade, [Economic Partnerships](#), last accessed on 10.02.2025.

²³³ EUR-Lex, [Partnership Agreement between the European Union and its Member States, of the one part, and the Members of the Organisation of African, Caribbean and Pacific States, of the other part, ST/8372/2023/REV/1, OJ L, 2023/2862, 28.12.2023](#), last accessed on 10.02.2025.

²³⁴ See for a history of the ACP-EU partnership: OACPS-EU Joint Parliamentary Assembly, [History](#), last accessed on 10.02.2025.

²³⁵ E. Pichon, [The Samoa Agreement with African, Caribbean and Pacific states](#), *EPRS Briefing*, June 2024, p. 5, last accessed on 10.02.2025. Fake news regarding the inclusion of LGBT rights and abortion rights were especially noted in the case of Nigeria, where there was public uproar against the Government for signing the Samoa Agreement, see African Digital Democracy Observatory (ADDO), [INSIGHT: How misinformation about Samoa Agreement caused uproar in Nigeria](#), 15.11.2024, last accessed on 10.02.2025. The Federation of Catholic Family Associations-FAFCA also denounced the agreement as ‘ideological colonisation’ alleging that the agreement is formulated in such a way that it will supersede national legal frameworks and ‘impose’ abortion rights and LGBTI

full force. However, a comparison of the two agreements and their human rights clauses is worth further examination:

Cotonou Agreement	Samoa Agreement
<p style="text-align: center;">Essential Elements Clause</p> <p>Respect for human rights, democratic principles and the rule of law, which underpin the ACP-EU Partnership, shall underpin the domestic and international policies of the Parties and constitute the essential elements of this Agreement.</p> <p><i>(Article 9 (2) of Cotonou Agreement)</i></p>	<p style="text-align: center;">Essential Elements Clause</p> <p>The Parties agree that respect for human rights, democratic principles and the rule of law shall underpin their domestic and international policies and constitute an essential element of this Agreement.</p> <p><i>(Article 9(7) of the Samoa Agreement)</i></p>
<p style="text-align: center;">Non-fulfilment Clause</p> <p>2.a. If, despite the political dialogue on the essential elements as provided for under Article 8 and paragraph 1a of this Article, a Party considers that the other Party fails to fulfil an obligation stemming from respect for human rights, democratic principles and the rule of law referred to in Article 9(2), it shall, except in cases of special urgency, supply the other Party and the Council of Ministers with the relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties. To this end, it shall invite the other Party to hold consultations that focus on the measures taken or to be taken by the Party concerned to remedy the situation in accordance with Annex VII. [...] c. The ‘appropriate measures’ referred to in this Article are measures taken in accordance with international law, and proportional to the violation. In the selection of these measures, priority must be given to those which least disrupt the application of this agreement. It is understood that suspension would be a measure of last resort.</p> <p><i>(Article 96 (2a, c) of the Cotonou Agreement)</i></p>	<p style="text-align: center;">Non-fulfilment Clause</p> <p>6. Notwithstanding paragraph 5, if either Party considers that the other Party is in violation of any of the essential elements as set out in Articles 9 and 18, except in case of special urgency, or in serious cases of corruption as set out in Article 12, it shall notify the other Party, presenting all relevant information required for a thorough examination of the situation, with a view to seeking a mutually acceptable solution within 60 days of the date of notification. [...] Where they are unable to reach a mutually acceptable solution within 90 days of the commencement of consultations, the notifying Party may take appropriate measures.</p> <p>7. If either Party considers that a violation of any of the essential elements constitutes a case of special urgency, it may take appropriate measures with immediate effect, without prior consultations. Cases of special urgency shall refer to exceptional cases of a particularly serious and flagrant violation of one of the essential elements referred to in Articles 9 and 18.</p> <p>8. "Appropriate measures" referred to in paragraphs 6 and 7 shall be proportionate to the failure to implement obligations under this Agreement. Priority shall be given to those which least disturb the functioning of this Agreement. Appropriate measures may include the suspension, in part or in full, of this Agreement. After taking the appropriate measures, at the request of either Party, consultations may be called in order to examine the situation thoroughly and find solutions allowing the withdrawal of appropriate measures.</p> <p><i>(Article 101(6),(7),(8) of the Samoa Agreement)</i></p>

The two agreements do not have substantial differences. The essential elements clause remains the same, while the suspension of the agreement remains an appropriate measure of last resort. The only difference is the more detailed procedure for consultations and introducing appropriate measures in the Samoa Agreement. The above framework agreements do not contain link clauses, however as Bartels argues, by default, appropriate measures under Article 96 of the Cotonou Agreement can extend to the suspension of other agreements between the parties, given that the meaning of ‘appropriate measures’ is sufficiently flexible to have this

rights on the OACP countries that sign the agreement (see FAFCE, [Samoa Agreement: Europe’s ideological neo-colonisation](#), 11.12.2023, last accessed on 10.02.2025).

effect;²³⁶ meaning that the EPAs or IPAs concluded between the EU and parties to the Cotonou may be suspended by a (serious) violation of the essential elements of the Cotonou.

The Samoa Agreement also contains a provision for EPAs that have already been concluded while the Cotonou Agreement was still in force. Article 50 of the Samoa Agreement expresses the need to build on existing preferential trade arrangements and Economic Partnership Agreements (EPAs) as instruments of trade cooperation, by recognising a cooperation primarily for strengthening concrete implementation of those existing instruments. As noted in a previous section on EPAs, Article 50(6) of the Samoa Agreement explicitly states that: *“The Parties to the respective EPAs agree that the references contained therein to the provisions on appropriate measures in the Cotonou Agreement are understood as references to the corresponding provisions in this Agreement.”*

Therefore, the Samoa Agreement arguably contains a link clause for the application of its human rights clause, however this link clause is limited as it applies: a) to EPAs and not all specific agreements (such as IPAs) and b) to those EPAs that have been concluded while the Cotonou Agreement remains in force. This means that in order for a human rights violation according to the Samoa Agreement to lead to the suspension or termination of a specific agreement, it has to either be an EPA that refers to the appropriate measures of the Cotonou Agreement which will then trigger Article 50(6) of the Samoa Agreement, or it has to be an EPA or an IPA that refers directly to the appropriate measures of the Samoa Agreement (link clause within the EPA or IPA itself).

3.1.4. Stand-alone Association, Cooperation, or Hybrid Agreements that include trade provisions

So far in the above analysis, we have examined two types of trade agreements with human rights clauses: on the one hand, the stand-alone free trade agreement with Colombia, Peru, and Ecuador and on the other hand, free trade agreements or economic partnership agreements linked to framework agreements (Singapore, Canada, Japan, South Korea, Japan,

²³⁶ L. Bartels, [Assessment of the implementation of the human rights clause in international and sectoral agreements](#), In Depth Analysis, requested by the European Parliament's Subcommittee on Human Rights, 2023, p. 9, last accessed on 10.02.2025, where the author references his previous study, L. Bartels, [Human rights provisions in Economic Partnership Agreements in light of the expiry of the Cotonou Agreement in 2020](#), requested by the European Parliament's Committees on Development (DEVE) and on International Trade (INTA), 17.03.2017, p. 12-13, last accessed on 10.02.2025.

New Zealand, Vietnam, OACP countries, etc.). However, another type consists of comprehensive agreements that include provisions, *inter alia*, on trade. These are also stand-alone agreements yet not trade-exclusive, that fall beyond the ‘Common Approach’ remit. These include the Stabilisation and Association Agreements with Western Balkan countries, Association Agreements with Eastern Neighbours (Georgia, Moldova, Ukraine), enhanced partnership and cooperation agreements and Euro-Mediterranean Association Agreements.

Some classify the EU-UK Trade and Cooperation Agreement and the EU-Cuba Political Dialogue Cooperation Agreement in this category,²³⁷ while others appear to place the EU-Chile Advanced Framework Agreement in this category too.²³⁸ The EU on the other hand considers the EU-UK TCA an FTA,²³⁹ however, given the variety of areas covered by the Agreement and the explicit reference to specific agreements (supplementary agreements), it could either be a framework agreement as presented in the previous section, or a comprehensive agreement which covers multiple areas and therefore belonging in this section (hybrid agreement).²⁴⁰ The EU-Chile AFA is categorised as a framework agreement, not only due to its name, but also due to the references made to it by the EU-Chile Interim Trade Agreement.²⁴¹

The EU-Cuba PDCA is without a doubt a political agreement which provides for regular political dialogues between the parties on a range of agreed specific issues, including human rights, and allows for sectoral dialogues to be held in other areas. According to the EEAS, the PDCA “*creates an enabling framework for enhanced political dialogue, for improved bilateral cooperation, as well as for developing joint action in multilateral fora. It defines general principles and objectives for the EU-Cuba relationship and includes three main chapters: political dialogue, addressing issues such as human rights, small arms and light weapons and disarmament, migration, drugs, counter-terrorism, sustainable development;*

²³⁷ L. Bartels, [Assessment of the implementation of the human rights clause in international and sectoral agreements](#), In Depth Analysis, requested by the European Parliament’s Subcommittee on Human Rights, p. 12, last accessed on 10.02.2025.

²³⁸ P. Van Elsuwege, J. De Coninck, The Effectiveness of Human Rights Clauses in EU Trade Agreements: Challenges and Opportunities, *Policy Report*, Ghent European Law Institute, 2022, p. 18.

²³⁹ European Commission, Access2Markets, [Free trade agreements](#), last accessed on 10.02.2025.

²⁴⁰ L. Bartels, [Assessment of the implementation of the human rights clause in international and sectoral agreements](#), In Depth Analysis, requested by the European Parliament’s Subcommittee on Human Rights, p. 13, last accessed on 10.02.2025.

²⁴¹ EUR-Lex, [Interim Agreement on trade between the European Union and the Republic of Chile](#), ST/11668/2023/INIT, OJ L, 2024/2953, 20.12.2024, which entered into force on 01.02.2025, last accessed on 10.02.2025.

dialogue on cooperation and sectoral policy, including areas such as human rights, governance, civil society, social and economic development, environment, regional cooperation; and trade and trade cooperation, dealing with principles of international trade and covering cooperation on customs, trade facilitation, technical norms and standards, sustainable trade and investment.” Therefore, there is a potential for the PDCA to evolve into a framework agreement.

In any case, the categorisation of the above agreements is not crucial to the present study, and agreements have been sectioned in the present to facilitate the examination and comparison of the human rights clauses therein and identify whether there is a constant or a standard in its formulation. For this reason, as noted above, the EU-China CAI is not included in the present examination as it does not have a human rights clause.

Human rights clauses in the standard ‘essential elements/non-fulfilment’ clauses were included in the early 1990s association agreements with Bulgaria (which gave birth to the ‘Bulgarian Clause’), Estonia, Egypt²⁴² and Serbia.²⁴³ From the above agreements, the one with Egypt only mentions the rights of the Universal Declaration (which is a standard for most essential elements’ clauses in agreements). In the agreement with Serbia the essential elements clause was significantly elaborated, due the dissolution of Yugoslavia:

“Respect for democratic principles and human rights as proclaimed in the Universal Declaration of Human Rights and as defined in the Convention for the Protection of Human Rights and Fundamental Freedoms, in the Helsinki Final Act and the Charter of Paris for a New Europe, respect for principles of international law, including full cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY), and the rule of law as well as the principles of market economy as reflected in the Document of the CSCE Bonn Conference on Economic Cooperation, shall form the basis of the domestic and external policies of the Parties and constitute essential elements of this Agreement.”

(Article 2 of the EU-Serbia SAA)

The EU-Bosnia Herzegovina SAA (2016) has a similar essential elements clause to the Serbia SAA above for similar reasons.²⁴⁴

²⁴² Articles 2 and 86 of the EU-Egypt AA, EUR-Lex, [Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt](#), of the other part, O.J. L 304, 30.09.2004, pp. 38-208, last accessed on 10.02.2025.

²⁴³ Articles 2 and 133 of the EU-Serbia SAA, EUR-Lex, [Stabilisation and Association Agreement](#) between the European Communities and their Member States of the one part, and the Republic of Serbia, of the other part (OJ L 278, 18.10.2013, pp. 16-473), last accessed on 10.02.2025.

²⁴⁴ EUR-Lex, [Stabilisation and Association Agreement](#) between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part, OJ L 164, 30.6.2015, p. 2–547, last accessed on 10.02.2025.

Since 2014 stand-alone trade, association and cooperation agreements like the ones concluded with Ukraine,²⁴⁵ Armenia,²⁴⁶ Kazakhstan²⁴⁷ and Kosovo²⁴⁸ also have human rights clauses of their own. They contain clauses on essential elements (however there is variation regarding the core human rights they reference)²⁴⁹ and clauses for taking appropriate measures in the event of a violation of ‘essential elements’ of the agreement (which also vary as to their content).²⁵⁰ From the above agreements, the EU-Ukraine AA²⁵¹ essential elements’ clause is significantly elaborate:

“Respect for democratic principles, human rights and fundamental freedoms, as defined in particular in the Helsinki Final Act of 1975 of the Conference on Security and Cooperation in Europe and the Charter of Paris for a New Europe of 1990, and other relevant human rights instruments, among them the UN Universal Declaration of Human Rights and the European Convention on Human Rights and Fundamental Freedoms, and respect for the principle of the rule of law shall form the basis of the domestic and external policies of the Parties and constitute essential elements of this Agreement. Promotion of respect for the principles of sovereignty and territorial integrity, inviolability of borders and independence, as well as countering the proliferation of weapons of mass destruction, related materials and their means of delivery also constitute essential elements of this Agreement.”

(Article 2 of the EU-Ukraine AA)

Appropriate measures can be introduced for almost all the above agreements on the basis of a violation of an essential elements clause, however the content of the appropriate measures vary across the agreements. Suspension is an available measure in the EU-Kosovo

²⁴⁵ EUR-Lex, [Association Agreement](#) between the European Union and its Member States, of the one part, and Ukraine, of the other part, (OJ L 161/3,29.05.2014), last accessed on 10.02.2025.

²⁴⁶ [Comprehensive and enhanced Partnership Agreement](#) between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Armenia, of the other part (OJ L 23, 26.1.2018, pp. 4-466), last accessed on 10.02.2025.

²⁴⁷ EUR-Lex, [Enhanced Partnership and Cooperation Agreement](#) between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part (OJ L 29, 4.2.2016, p. 3-150), last accessed on 10.02.2025.

²⁴⁸ EUR-Lex, [Stabilisation and Association Agreement](#) between the European Union and the European Atomic Energy Community, of the one part, and Kosovo, of the other part, OJ L 71, 16.3.2016, p. 3–321, last accessed on 10.02.2025.

²⁴⁹ They refer to the UDHR and to other binding international human rights instruments (either by stating they are parties to these instruments or that they are applicable). Members of the Council of Europe, and the Organisation for Security and Cooperation in Europe (OSCE) also refer to the ECHR and the Helsinki Final Act (namely, Armenia, Kazakhstan and Ukraine). The EU-Kosovo SAA also mentions the above instruments without being a member of the corresponding organisations (CoE and OSCE).

²⁵⁰ For example, the EU-Kosovo SAA provides for immediate suspension in Article 140(3) in the event of a violation of essential elements; The EU-Armenia CEPA and EU-Ukraine AA allows immediate measures but also provides for consultation and dispute settlement (Article 379 of the EU-Armenia CEPA and Article 478 of the EU-Ukraine AA).

²⁵¹ EUR-Lex, [Association Agreement](#) between the European Union and its Member States, of the one part, and Ukraine, of the other part, (OJ L 161/3,29.05.2014), last accessed on 10.02.2025.

SAA²⁵² (and in the EU-Cuba PDCA and EU-UK TCA). All agreements include provisions on proportionality when introducing appropriate measures as well as foresee notification and/or consultations as a procedure. The EU-Ukraine AA and the EU-Armenia CEPA also include dispute settlement mechanisms.²⁵³

3.2.1. Violations of Human Rights and EU trade agreements - Triggering the Human Rights Clause

The analysis of the previous section showed that while there is a standard practice regarding the inclusion of a human rights clause in trade agreements, which includes an essential elements' clause and a non-fulfilment clause allowing the introduction of appropriate measures for addressing violations of the essential elements clause (operationalisation), in practice, the final version of the human rights clause and how human rights violations are addressed varies from agreement to agreement. Such a variation is expected, given that agreements between countries are always subject to negotiation between the parties, where terms are sent back and forth multiple times before a final agreement can be signed.

According to Article 218 of the TFEU, the Council of the European Union is the competent body for issuing a decision for the suspension of the application of agreement with third countries, following a proposal from the European Commission or the High Representative for Foreign Affairs and Security Policy. Therefore, a decision for suspending or adopting appropriate measures in cases of violation of the essential elements clauses of EU trade agreements must ultimately be taken by the Council.

Unfortunately, there are not many cases where the human rights clause has been triggered. In practice the EU has launched consultations with ACP countries under the Cotonou Agreement (Article 96) while the essential elements clauses in the other agreements are rarely invoked.²⁵⁴

²⁵² Article 140 of the EU-Kosovo SAA.

²⁵³ Article 478 of the EU-Ukraine AA and Article 379 of the EU-Armenia CEPA.

²⁵⁴ J. Døhlie Saltnes, Ambiguities in the EU's rights-based approach to liberal order, *99 International Affairs 2023*, pp. 2241–2259, p. 2250; European Commission and High Representative of the Union for Foreign Affairs and Security Policy, Joint Staff Working Document, [Evaluation of the Cotonou Partnership Agreement](#), SWD(2016) 250 final, p. 37, last accessed on 10.02.2025.

For the period of 1996-2010, there were 23 instances of official consultations initiated by the EU in accordance with the human rights clause, together with the reason for the triggering of the consultations.²⁵⁵ The clause was in fifteen out of twenty–three cases initiated due to a *coup d'état* while the remaining eight cases were initiated following a deterioration of the respect for democratic principles, human rights or the rule of law. All these cases were initiated on the basis of Articles 9(1), 96 and 97 of the Cotonou Agreement.

A 2016 evaluation of the Cotonou Agreement showed that from 2000-2015 there were 17 consultations under Article 96 of the Agreement, and appropriate measures were taken in 16 instances.²⁵⁶ The report notes, that at first glance the track record of Article 96 procedures looks overall positive, and an illustration of its impact show that in five out of seven selected cases until 2007, the measures adopted following Article 96 consultations (mostly partial aid suspension) were considered to have achieved a positive result, i.e. promoting a return to democratic rule. These were the cases of the Central African Republic (2003-2005), Côte d'Ivoire (2000-2002), Fiji (2001-2003), Haiti (2001), and Togo (1993-1994/1998-2006). On the other hand, it found that the use of Article 96 was reactive rather than proactive, and that its consultation procedure, while being highly useful, did not allow going beyond solving the crises at hand, and remained ill-suited to provide for effective and lasting solutions to deep-rooted instability in weak states.²⁵⁷

An example of the first package of cases entered into consultations based on Article 96 of the Cotonou Agreement is displayed below:

Case-study 1

Consultations with Guinea-Bissau under Article 96 of the Cotonou Agreement

On 01.04.2010, the deputy chief of staff of the army of Guinea-Bissau ordered a mutiny in which the army's chief of staff and the prime minister were detained. He became *de facto* chief of staff and was then officially appointed to this position on 25 June 2010.

The EU condemned the mutiny and called on the authorities to restore normal democratic order. On 14.04.2010, the Council's Africa working party asked the EU heads of mission in Bissau to engage in an enhanced political

²⁵⁵ J. Døhlie Saltnes, [The EU's Human Rights Policy. Unpacking the Literature on the EU's Implementation of Aid Conditionality](#), *Arena Working Paper 2/2013*, 2013, pp. 1-26, p. 7, last accessed on 10.02.2025.

²⁵⁶ European Commission and High Representative of the Union for Foreign Affairs and Security Policy, Joint Staff Working Document, [Evaluation of the Cotonou Partnership Agreement](#), SWD(2016) 250 final, 15.07.2016, p. 38-39, last accessed on 10.02.2025.

²⁵⁷ *Ibid.*, SWD(2016) 250, p. 39.

dialogue with the authorities on the following points: the release of the chief of staff and other detained persons; the legal responsibility and disciplinary sanctions against those involved; and the necessary obedience due to the legitimate democratic authorities.

In May 2010, following a joint mission by the Commission, the Council and the Africa working party presidency to Guinea Bissau, it became evident that the authorities were not in a position to fulfil the EU request for a return to constitutional order.

On 31.01.2011, the Council agreed to open consultations with the authorities in Guinea-Bissau under Article 96 of the Cotonou. The African Union, the Economic Community of West African States and the Community of Portuguese Language Countries were invited to take part in the consultations as observers. Pending the outcome of consultations, development cooperation was suspended.

The opening meeting of the consultation process took place in Brussels on 29.03.2011. On 18.07.2011, the Council concluded consultations with Guinea-Bissau and set a series of measures to gradually resume development cooperation with the country (Council Decision 2011/492/EU²⁵⁸). The decision was set to be reviewed regularly, at least once every six months and set an end date of 19.07.2012. Progress made by Guinea Bissau in the reform process would be reflected in a gradual resumption of EU development assistance.

On the basis of the findings of the joint monitoring mission and the recommendations of the resident and non-resident EU Heads of Mission to Guinea-Bissau, and taking into account the holding of credible elections, the restoration of the constitutional order, the establishment of an inclusive government committed to implementing the reform necessary for the development and stability of the country, and the encouraging progress made on implementing the Article 96 commitments, Decision 2011/492/EU was repealed in March 2015 according to Council Decision (EU) 2015/541 following a proposal of the European Commission.²⁵⁹

Since 2016 there has been only one case of the EU invoking the human rights clause in an international agreement to suspend financial support:

Case-study 2

Consultations with the Republic of Burundi under Article 96 of the Cotonou Agreement

²⁵⁸ EUR-Lex, [2011/492/EU](#): Council Decision of 18 July 2011 concerning the conclusion of consultations with the Republic of Guinea-Bissau under Article 96 of the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, OJ L 203, 6.8.2011, p. 2–6, last accessed on 10.02.2025.

²⁵⁹ EUR-Lex, [Council Decision \(EU\) 2015/541](#) of 24 March 2015 repealing Decision 2011/492/EU concerning the conclusion of consultations with the Republic of Guinea-Bissau under Article 96 of the ACP-EU Partnership Agreement, OJ L 88, 1.4.2015, p. 13–15, last accessed on 10.02.2025.

Following the deterioration of the situation in Burundi in the run-up to the legislative and presidential elections in June and July 2015, the European Union considered that the Republic of Burundi had not complied with essential elements set out in Article 9 of the ACP-EU Partnership Agreement (Cotonou Agreement) in relation to human rights, democracy and the rule of law.

Following the consultations held in Brussels in December 2015 under Article 96 of the Cotonou Agreement, the European Union noted the replies given by the Government of Burundi and the latter's commitment to providing clarifications in respect to the questions raised and to speed up certain judicial proceedings. The European Union nevertheless considered that the positions expressed did not comprehensively address the question of non-compliance with the essential elements of its partnership with the Republic of Burundi. Nor did these positions provide a satisfactory response to the decisions taken by the African Union's Peace and Security Council on 17.10.2015 and 13.11.2015, in particular the need for the speedy convening of a genuine and inclusive dialogue, based on respect for the Arusha Agreement.

On 18.03.2016, virtue of Council Decision 2016/394,²⁶⁰ consultations were concluded and appropriate measures, were taken. These included suspension of financial support or disbursements of funds (including budgetary support) directly benefiting the Burundian administration or institutions.

On 07.02.2022, Council Decision 2022/177²⁶¹ repealed Decision 2016/394, lifting the appropriate measures adopted.

It should be highlighted that the only time an agreement had been suspended due to human rights violations, there was no human rights clause to be triggered; instead, the EU acted based on commitments contained in the recital/preamble of the suspended agreement as well as the positions of UN bodies condemning the extremely serious violations of human rights:

Case-study 3

Partial Suspension of the EEC-Syria Cooperation Agreement

²⁶⁰ EUR-Lex, [Council Decision \(EU\) 2016/394](#) of 14 March 2016 concerning the conclusion of consultations with the Republic of Burundi under Article 96 of the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, OJ L 73, 18.3.2016, p. 90–96, last accessed on 10.02.2025.

²⁶¹ EUR-Lex, [Council Decision \(EU\) 2022/177](#) of 8 February 2022 repealing, on behalf of the Union, Decision (EU) 2016/394, ST/5535/2022/INIT, OJ L 29, 10/02/2022, p. 6–7, last accessed on 10.02.2025.

On 18.01.1977, the European Economic Community and the Syrian Arab Republic concluded a Cooperation Agreement²⁶² ('the Cooperation Agreement') to promote overall cooperation with a view to strengthen relations between them.

In March 2011, protests grew against specific abuses of power by Syrian officials against the general backdrop of growing economic and political discontent. Cautious protests which began in marginalised regions developed into a countrywide uprising. The Syrian authorities had responded, and continued to respond, in a very violent manner including by shooting peaceful protestors.

On 02.09.2011 the Council decided on the partial suspension of the application of the Cooperation Agreement until the Syrian authorities put an end to the systematic violations of human rights.

The Council Decision²⁶³ was issued on the basis of Articles 207 and 218 of the TFEU and the common desire of the Parties within the Cooperation Agreement itself to maintain and strengthen friendly relations in accordance with the principles of the United Nations Charter.

The Council Decision specifically took into account the following:

- That the UN High Commissioner for Human Rights considered the scale and nature of these acts may amount to crimes against humanity and urged the members of the Security Council to consider referring the current situation in Syria to the International Criminal Court.

- The Human Rights Council Resolution on grave human rights violations in the Syrian Arab Republic in which it strongly condemned the continued grave human rights violations by the Syrian authorities, reiterated its call for the Syrian authorities to comply with their obligations under international law, stressed the need for an international, transparent, independent and prompt investigation into alleged violations of international law, including actions that may constitute crimes against humanity and to hold those responsible to account, and decided to dispatch an independent international commission of inquiry to investigate violations of international human rights law in Syria.

- That according to the Preamble of the Cooperation Agreement, both Parties wished, by concluding the Agreement, to demonstrate their common desire to maintain and strengthen friendly relations in accordance with the principles of the United Nations Charter.

- That the Union considers the current situation in Syria in clear violation of the principles of the United Nations Charter which constitute the basis of the cooperation between Syria and the Union.

- That the violations perpetrated by Syria in breach of general international law and the principles of the United Nations Charter were extremely serious.

Therefore, the Council decided that the application of the Cooperation Agreement should be partially suspended until the Syrian authorities put an end to the systematic violations of human rights; a measure it considered in compliance with general international law and the principles which form the basis of the Cooperation Agreement.

It is important to note that the decision sought to only target the Syrian authorities and not the people of Syria and limited the suspension to crude oil and petroleum products the trade of which at the time benefited most the Syrian regime (i.e. Articles 12, 14 and 15 of the Cooperation Agreement). The measures adopted included *inter alia* a wide range of restrictions on goods, services, capital movements. A year later, the Council Decision

²⁶² EUR-Lex, [Cooperation Agreement](#) between the European Economic Community and the Syrian Arab Republic, OJ L269/27.09.1977, pp. 2-87, last accessed on 10.02.2025.

²⁶³ EUR-Lex, 2011/523/EU: [Council Decision of 2 September 2011](#) partially suspending the application of the Cooperation Agreement between the European Economic Community and the Syrian Arab Republic, OJ L 228, 3.9.2011, p. 19–21, last accessed on 10.02.2025.

was amended to include further restrictions by Council Decision 2012/123/CFSP²⁶⁴ and any direct or indirect trade related to diamonds, gold and precious metals with Government of Syria, its public bodies, corporations and agencies, the Central Bank of Syria and any person directly or indirectly linked with them.

To this day the Council Decision remains in force and has not been repealed.

The option of triggering human rights clauses in EU trade agreements in cases of serious human rights violations has frequently been put forward by the European Parliament and NGOs.²⁶⁵ For example, the EP issued a Resolution on 13.03.2014 calling for the launching of consultations to suspend Uganda and Nigeria from the Cotonou Agreement in view of new legislation further criminalising homosexuality (Nigeria introduced the death penalty and Uganda an extended prison sentence).²⁶⁶ Consultations were never launched by the Council in this regard. Inaction defined by the reluctance to trigger human rights clauses in various agreements, even in the event of substantiated human rights violations, has been frequently recorded in the past.

In 2013, Døhlie Saltnes identified breaches of the essential elements clause (including cases of coup d'état) where no consultations were implemented under Article 96 of the Cotonou.²⁶⁷ The study provided 17 'non-cases' where consultations could have been launched. In fact, in 2004 the European Commission had requested the launching of consultations against Côte d'Ivoire, based on concerns about the deteriorating human rights situation and delay in holding elections, yet the Council never followed up on the relevant proposal.

This leads to questions on whether EU institutions are bound by an obligation to trigger the human rights clause when they are confronted with a breach of the essential elements clause of an agreement by another contracting party. This question was examined by the Court of

²⁶⁴ EUR-Lex, [Council Decision 2012/123/CFSP](#) of 27 February 2012 amending Decision 2011/523/EU partially suspending the application of the Cooperation Agreement between the European Economic Community and the Syrian Arab Republic, OJ L 54, 28.2.2012, p. 18–19, last accessed on 10.02.2025.

²⁶⁵ L. Bartels, [Assessment of the implementation of the human rights clause in international and sectoral agreements](#), In Depth Analysis, requested by the European Parliament's Subcommittee on Human Rights, 2023, p. 17, last accessed on 10.02.2025; J. Døhlie Saltnes, Ambiguities in the EU's rights-based approach to liberal order, *99 International Affairs 2023*, pp. 2241–2259, p. 2250

²⁶⁶ EUR-Lex, [European Parliament resolution of 13 March 2014](#) on launching consultations to suspend Uganda and Nigeria from the Cotonou Agreement in view of recent legislation further criminalising homosexuality (2014/2634(RSP)), OJ C 378, 9.11.2017, p. 253–256, last accessed on 10.02.2025.

²⁶⁷ Døhlie Saltnes, [The EU's Human Rights Policy. Unpacking the Literature on the EU's Implementation of Aid Conditionality](#), *Arena Working Paper 2/2013*, 2013, pp. 1-26, p. 8-9, last accessed on 10.02.2025.

Justice of the EU in light of the *Mugraby* case,²⁶⁸ which concerned an action for damages in respect of injuries that occurred because of the failure of the EU to adopt appropriate measures against Lebanon under the human rights clause in the EU-Lebanon Association Agreement following Lebanon's fundamental rights violations. According to the European Court:

*“58. It follows from the wording of the second paragraph of Article 86 of the Association Agreement that **the parties to it are not obliged to terminate or suspend the agreement where one of them does not fulfil one of the obligations imposed on it by the agreement.***

*59. Specifically, it is clear from the wording of the second paragraph of Article 86 of the Association Agreement and, in particular, from the use of the expression ‘[i]f either Party considers that the other Party has failed to fulfil an obligation under this Agreement’, that **each party to the agreement is free to decide whether there may be an infringement of the clause** relating to the respect for fundamental human rights laid down in Article 2 by the Republic of Lebanon and, if so, of the nature and seriousness of such infringement. It is also clear from the use of the word ‘may’ that, in the event of an infringement of the provisions of the agreement, **each party to the agreement is free to adopt the measure** it regards as being the most appropriate. It is true that the suspension of the Association Agreement is a measure that the Community, through its competent institutions, may adopt. However, it is not obliged to adopt such a measure, nor does that measure represent the only measure available to deal with an infringement of the obligations in the Association Agreement.”*

Following the dictum of Court above, it is clear that the EU institutions are not bound by an obligation to trigger the human rights clauses in the agreements they conclude with third countries. Yet, the above case also verifies that the human rights clause was never intended to provide legal standing to individuals.²⁶⁹ However, this should not be misconstrued so as to negate the EU institutions' and Member States' obligation to respect the EU Charter of Fundamental Rights within the framework of the EU's external action, including during the conclusion of trade agreements with third countries, as noted earlier above.²⁷⁰

From all the above it appears that the human rights clause has limited enforceability in practice, echoing criticism that the EU has been overly ambitious covering a variety of human rights issues, without however ensuring concrete and enforceable standards.²⁷¹ Moreover, even

²⁶⁸ CJEU, Case T-292/09, *Mugraby v Council of the European Union*, [Order of 06.09.2011](#), last accessed on 10.02.2025.

²⁶⁹ *Ibid.*, T-292/09, para. 61.

²⁷⁰ See CJEU, [Opinion 1/17](#), *CETA*, 30.04.2019, para. 165, last accessed on 10.02.2025. Though this could give rise to immaterial issues related to the extraterritorial application of the EU Charter. For more on this, see E. Kassoti, *The Extraterritorial Applicability of the Eu Charter of Fundamental Rights: Some Reflections in the Aftermath of the Front Polisario Saga*, *12 European Journal of Legal Studies* 2020, pp. 117-14.

²⁷¹ N. Hachez, 'Essential Elements' Clauses in EU Trade Agreements: Making Trade Work in a Way that Helps Human Rights?', *53 Cuadernos Europeos de Deusto* 2015, pp. 81-106, p. 102; H. Horn, P. C. Mavroidis & A. Sapir, [Beyond the WTO? An Anatomy of EU and US Preferential Trade Agreements](#), *Brueghel Blueprint n.º 7*, 2009, last accessed on 10.02.2025.

the dispute settlement mechanism provided in the TSD chapters was described as one of the main weaknesses of the EU's trade-human rights nexus, until the relevant policy was revised.²⁷² This brings us to the next section that focuses on the dispute settlement mechanism provided in the TSD chapters of recent trade agreements.

3.2.2. Dispute settlement and the enforcement of labour and environmental rights

The system set up for the sustainable development chapters of the recent trade agreements could provide grounds for a more assertive approach regarding the enforcement of human and labour rights. Through these chapters the EU has managed to operationalise the linkage between trade and labour rights.²⁷³

This is not necessarily a practice exclusive to the EU.²⁷⁴ In fact the ILO has documented an increasing number of Free Trade Agreements (FTAs) which include a labour dimension, either in the agreement itself or in a parallel agreement.²⁷⁵ Labour clauses that list minimum commitments for the protection of human rights at work and refer to specific international labour standards adopted by the ILO, conflict resolution systems as well as funds and parallel labour cooperation/consultation appear in a growing number of bilateral free trade agreements – particularly those signed by Canada, the United States and the European Union. To this end the ILO launched in 2022 a Labour Provisions in Trade Agreements Hub²⁷⁶ which list all trade agreements indicating whether they include provisions on labour rights, monitoring and dispute settlement.

²⁷² C. Gammage, [A Critique of the Extraterritorial Obligations of the EU in Relation to Human Rights Clauses and Social Norms in EU Free Trade Agreements](#), 2 *Europe in the World: A Law Review* 2018, p. 1, last accessed on 10.02.2025.

²⁷³ I. Mancini, *Fundamental Rights in the EU's External Trade Relations: From Promotion 'Through' Trade Agreement to Protection 'in' Trade Agreements*, in E. Kassoti & R. A. Wessel (Eds), *EU Trade Agreements and the Duty to Respect Human Rights Abroad*, *CLEER Papers* 2020/1, pp. 61-93, p. 62-63.

²⁷⁴ Though at the time of negotiations for trade agreements with the EU, Canada, the US, Singapore and Japan were all missing ratification of some of the Fundamental ILO Conventions. In light of the CETA, Canada ratified the ILO Convention on the right to organize and collective bargaining, however discussions with the US and Japan proved more difficult. Eventually negotiations with the US failed and Japan has only ratified 8 of the 10 Fundamental ILO Conventions. It remains to be seen what will follow in the course of the EU-Japan EPA.

²⁷⁵ ILO, [Free Trade Agreements and Labour Rights](#), last accessed on 10.02.2025.

²⁷⁶ ILO, [Labour Provisions in Trade Agreements Hub](#), last accessed on 10.02.2025.

Examining though the enforcement of such rights, especially from an EU perspective, as noted by Van Elsuwege and De Coninck,²⁷⁷ the available *ex post* impact assessments of the European Commission appear to confirm the rather weak enforcement of human and labour rights in practice. In fact the evaluation report for the implementation of the EU-Korea FTA and the findings that it had not changed the *status quo* of human and labour rights in Korea, constituted the basis for the EU to request for the very first time formal consultations with the Republic of Korea in relation to the country's compliance with international labour standards as defined in the TSD Chapter of the EU-Korea FTA.²⁷⁸

In January 2021, the Panel of Experts appointed by the Republic of Korea and the EU established²⁷⁹ that the Republic of Korea needs to adjust its labour laws and practices to comply with the principle of freedom of association. The experts also agreed that the commitment to take steps towards the ratification of fundamental ILO Conventions requires ongoing and substantial efforts. Finally, the panel confirmed the EU's arguments that the two commitments at issue are legally binding and must be respected regardless of their effect on trade.

Even though the outcome of the above dispute led to the ratification of three ILO Conventions by the Republic of Korea, the system is not perfect nor is it enforceable. According to Peers, while the panel report constitutes a victory for the EU endorsing some of its fundamental positions, it remains to be seen how the lack of remedies will affect the implementation of the report: *“It might be possible that the process has some effect on domestic political opinion in the other party, perhaps helping to persuade the government to move faster on the relevant issues. However, considerations like these are only relevant where there is a form of democracy in the other party – so they are hardly relevant in the context of the EU/China investment agreement”*.²⁸⁰

According to the same expert, the panel conclusion that the obligation to ratify ILO conventions is weaker than the EU contends risks sending a signal to partners that they can

²⁷⁷ P. Van Elsuwege, J. De Coninck, *The Effectiveness of Human Rights Clauses in EU Trade Agreements: Challenges and Opportunities*, *Policy Report*, Ghent European Law Institute, 2022, p. 34.

²⁷⁸ European Commission, *Bilateral Disputes*, [Korea labour commitments](#), last accessed on 10.02.2025. It should be noted that so far only 5 cases have been submitted for dispute settlement based on the relevant mechanism in the TSD Chapter of trade agreements.

²⁷⁹ Panel of Experts Proceeding Constituted Under Article 13.15 of the Eu-Korea Free Trade Agreement, [Report of the Panel of Experts](#), 20.01.2021, available through CIRCABC, p. 78, last accessed on 10.02.2025.

²⁸⁰ EU Law Analysis, S. Peers, [Free trade v freedom of association? The EU/South Korea free trade agreement and the panel report on the EU challenge to South Korean labour law](#), 26.01.2021, last accessed on 10.02.2025.

significantly delay ratification. Other experts have pointed out to the lack of a more tailor-made approach of the EU when opening negotiations and that it failed to address controversial matters and root causes of labour rights issues in Korea.²⁸¹

In 2022, the European Commission put forward a more assertive strategy that would allow the adoption of trade sanctions as a last resort for the violation of sustainable trade obligations, including core labour standards and climate change commitments under the Paris Agreement.²⁸² This approach was reflected in Chapter 26 of the EU-New Zealand FTA where the TSD chapter is aligned with the general dispute settlement procedure.²⁸³ So far no dispute has ever been discussed under this new approach. However, this does not mean that there are no other available means for the EU to address human rights violations.

²⁸¹ P. Van Elsuwege, J. De Coninck, *The Effectiveness of Human Rights Clauses in EU Trade Agreements: Challenges and Opportunities*, *Policy Report*, Ghent European Law Institute, 2022, p. 35.

²⁸² EUR-Lex, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, [The power of trade partnerships: together for green and just economic growth](#)*, COM/2022/409 final, 3.6, last accessed on 10.02.2025.

²⁸³ EUR-Lex, [Free Trade Agreement between the European Union and New Zealand](#), OJ L, 2024/866, 25.3.2024, last accessed on 10.02.2025. The EU-New Zealand Free Trade Agreement was signed on 09.07.2023 and entered into force on 01.05.2024.

4. Other means of sanctioning/addressing Human Rights violations by non-EU states.

4.1. Individual Sanctions

Perhaps one of the underlying reasons for the EU's hesitancy in triggering human rights clauses of trade agreements is the fear of worsening the human rights situation of the states concerned, when individuals may be sanctioned instead.

Travel restrictions and asset freezing were introduced within the framework of the Common Foreign and Security Policy,²⁸⁴ in the case of Burundi (2015) against individuals and entities responsible for the human rights violations in the country even before the introduction of the appropriate measures (see above *Case Study 2*). Under the Common Foreign and Security Policy, the EU not only implements all sanctions adopted by the United Nations Security Council, but also autonomous sanctions in the fight against terrorism financing, to defend human rights and democratic institutions, or to prevent the proliferation of chemical weapons or weapons of mass destruction (Article 29 TEU and 215 TFEU).

In 2020, the establishment of the EU Global Human Rights Sanctions Regime²⁸⁵ enhanced the EU's role in addressing serious human rights violations and abuses worldwide. Individual sanctions include under the new system travel bans, asset freezing and a prohibition to make funds and economic resources available. They can be imposed through a decision of the EU Council on individuals and entities responsible for or involved in violations and abuses such as crimes against humanity, torture, sexual and gender-based violence or the suppression of the freedom of religion or belief. It can also target individuals and entities associated with the perpetrators. On the basis of Article 21 TEU, other human rights violations or abuses can also fall under the scope of the sanctions regime when such violations or abuses are widespread, systematic or are otherwise of serious concern as regards the objectives of the common foreign and security policy set out in the Treaty.

²⁸⁴ EEAS, [European Union sanctions](#), last accessed on 10.02.2025.

²⁸⁵ EUR-Lex, [Council Regulation \(EU\) 2020/1998](#) of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses, OJ L 410I, 7.12.2020, p. 1–12, last accessed on 10.02.2025 and [Council Decision \(CFSP\) 2020/1999](#) of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses, OJ L 410I, 7.12.2020, p. 13–19, last accessed on 10.02.2025.

There are also two country-specific regimes with which the EU has devoted sanctions solely to the protection of human rights in Iran²⁸⁶ and Russia.²⁸⁷ It should be noted here that even though the EU has constantly condemned the serious human rights violations with regard to the war of aggression against Ukraine and has terminated all financial and other cooperation, including under financing agreements, with Russia, no steps have been taken to suspend the EU-Russia PCA (1997).²⁸⁸

Other sanctions' regimes also include provisions to address human rights' violations worldwide in places such as Belarus, the DRC, Myanmar, Nicaragua, Sudan, Venezuela.²⁸⁹ On 19 January 2024, the Council established a dedicated framework of restrictive measures that allows the European Union to hold accountable any individual or entity who supports, facilitates or enables violent actions by Hamas and the Palestinian Islamic Jihad (PIJ).²⁹⁰

Following the July 2024 ICJ Advisory Opinion on the "*Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*",²⁹¹ the EU has been heavily criticized, including by the former EEAS High Representative and Vice-President of the European Commission, J. Borrell,²⁹² for not introducing sanctions or even appropriate measures against Israel pursuant to the human rights clause of the EU-Israel AA.²⁹³ Borrell called for the implementation of rules without distinction and noted that in similar occasions individual sanctions had been introduced. This is in line

²⁸⁶ European Council, [EU sanctions against Iran](#), last accessed on 10.02.2025.

²⁸⁷ European Council, [Timeline - EU sanctions against Russia](#), last accessed on 10.02.2025.

²⁸⁸ Bartels mentions that mandatory consultations under the PCA may hinder the suspension of an agreement under a human rights clause. L. Bartels, [Assessment of the implementation of the human rights clause in international and sectoral agreements](#), In Depth Analysis, requested by the European Parliament's Subcommittee on Human Rights, 2023, p. 20, last accessed on 10.02.2025.

²⁸⁹ European Council, [Sanctions against human rights violations](#), last accessed on 10.02.2025.

²⁹⁰ European Council, [Sanctions against terrorism](#), last accessed on 10.02.2025.

²⁹¹ ICJ, [Advisory Opinion Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem](#), 19.07.2024, last accessed on 10.02.2025.

²⁹² Y. Al Tamimi, [Implications of the ICJ Advisory Opinion for the EU-Israel Association Agreement](#), 30.07.2024, *EJIL:Talk!*, last accessed on 10.02.2025; OXFAM, [Suspend the EU-Israel Association Agreement!](#), Letters and Statements, 20.09.2024, last accessed on 10.02.2025; EEAS, J.Borrell, [War in Gaza: we cannot continue with business as usual](#), 15.11.2024, last accessed on 10.02.2025.

²⁹³ EUR-Lex, [Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the State of Israel, of the other part](#), OJ L 147, 21.6.2000, p. 3–172, last accessed on 10.02.2025.

with Bartels' assertion that the EU's choice to act and eventual choice of instrument are matters of 'diplomatic judgement'.²⁹⁴

4.2. Withdrawal of GSP preferences

Above the GSP system was presented, along with the obligation of the benefiting states to comply with labour standards, environmental sustainability and gender equality. The European Commission is the main actor in the procedure both for granting as well as withdrawing GSP+ preferences. Under the scheme the Commission maintains the competence to monitor compliance with the relevant conventions by examining the conclusions and recommendations of the relevant international monitoring bodies. Every two years, it presents a report to the European Parliament and the Council on the ratification status of the respective ILO conventions, the compliance of the beneficiary countries with any reporting obligations under those conventions, and the status of the implementation of the conventions in practice.

Suspension of GSP preferences was applied in the cases of Belarus (from GSP), Myanmar/Burma (from GSP), Sri Lanka (from GSP+) and Cambodia (EBA).²⁹⁵ In practice these sanctions had limited economic impact. Sri Lanka appeared to be more severely affected, since its exports to the EU were concentrated in sectors like the garment industry, which were more dependent on GSP preferences. From a human and labour rights perspective, the three first above countries subject to EU sanctions were slow to remedy the violations reported.²⁹⁶ Over time, however, Myanmar and Sri Lanka underwent a regime change which led to the re-establishment of GSP and GSP+ preferences. Questions of the effectiveness of withdrawals in improving the human rights situation in the relevant countries still remain.

In a 2021 study,²⁹⁷ the European Commission stated that “*conditionality can contribute to the creation of the necessary platform of dialogue on issues covered by the GSP Regulation*

²⁹⁴ L. Bartels, [Assessment of the implementation of the human rights clause in international and sectoral agreements](#), In Depth Analysis, requested by the European Parliament's Subcommittee on Human Rights, 2023, p. 19, last accessed on 10.02.2025.

²⁹⁵ I. Borchert, P. Conconi, M. Di Ubaldo & C. Hergehelegiu, The Pursuit of Non-Trade Policy Objectives in EU Trade Policy, *ECARES working paper 2020-09*, April 2020, p. 28.

²⁹⁶ I. Zamfir, [Human rights in EU trade policy Unilateral measures applied by the EU](#), *EPRS Briefing*, May 2018, p. 8-9, last accessed on 10.02.2025.

²⁹⁷ EUR-Lex, [Commission Staff Working Document](#), Impact Assessment Report, Accompanying the document Proposal for a Regulation of the European Parliament and of the Council on applying a generalised scheme of

*and can increase EU's leverage in pushing for respect of fundamental rights".*²⁹⁸ It added however that *"Overall, GSP can be considered to have made a positive contribution to the improvement of social and human rights in the beneficiary countries. Nevertheless, the conditionality mechanisms built into the GSP have shown some limitations. In particular, with respect to environmental protection, the MTE concluded that the EU currently has very limited leverage through Standard GSP and EBA to directly contribute to environmental sustainability in the beneficiary countries."*²⁹⁹

A 2020 analysis suggested³⁰⁰ that if the EU wishes to rely more on trade policy to promote human rights objectives, it should focus on GSP programs, rather than trade agreements, given that the unilateral nature of these programs implies that they are a more flexible tool, which the EU can use to enforce human rights commitments by its trading partners. However, conditionality in GSP schemes should be administered in a more consistent and rules-based way, with beneficiary countries being regularly monitored and their trade preferences being more systematically revoked or suspended in case of non-compliance.

4.3. Single Entry Point

In 2020, the European Commission launched a new complaints system for reporting market access barriers and breaches of Trade and Sustainable Development (TSD) commitments in the EU's trade agreements and under the GSP.³⁰¹

The complaints procedure is open to Member States, individual companies, business/trade associations, civil society organisations and citizens from the EU. For sustainable development issues, the complainant is required to provide details of the impact and seriousness of the alleged breach.

tariff preferences and repealing Regulation (EU) No 978/2012 of the European Parliament and of the Council, SWD(2021) 266 final, 22.09.2021, last accessed on 10.02.2025.

²⁹⁸ *Ibid*, SWD(2021) 266 final, p. 23.

²⁹⁹ *Id.*, p. 33.

³⁰⁰ I. Borchert, P. Conconi, M. Di Ubaldo & C. Herghelegiu, The Pursuit of Non-Trade Policy Objectives in EU Trade Policy, *ECARES working paper 2020-09*, April 2020, p. 30.

³⁰¹ European Commission, [Commission launches new complaints system to fight trade barriers and violations of sustainable trade commitments](#), Press Release, 16.11.2020, last accessed on 10.02.2025.

The Single Entry Point (SEP) is not available for complaints concerning human rights violations under the essential elements clauses of trade agreements, however trade agreements with TSD chapters provide grounds for the submission of complaints related to labour rights, gender equality or the environment.³⁰²

In a reply to the European Ombudsman, the European Commission had stated that the SEP can also deal with complaints touching on human rights issues, even though there had been no such complaints. However, it attributed this to the overall lack of awareness of the mechanism and its scope.³⁰³

The first ever complaint on labour issues was submitted through the Single Entry Point fairly recently:

Case-study 4

First SEP Labour complaint

In 2022, the Dutch NGO CNV Internationaal submitted a complaint on behalf of trade union organisations from Colombia and Peru, in order to address an alleged violation of Articles 267, 269, 271 and 277 of Title IX of the Trade Agreement between the European Union, Colombia and Peru, which relate to the fulfilment of obligations concerning decent work; more specifically the obligation to comply with fundamental labour rights, freedom of association and the right to equality.³⁰⁴ This was the first complaint to be filed under the Single Entry Point (SEP) calling for the investigation of possible violations of a trade agreement's TSD chapters.

As a result, following relevant consultations, in March 2024 the European Commission and the Peruvian government agreed on a list of technical cooperation activities to implement the labour rights commitments taken under the EU-Colombia-Peru-Ecuador Trade Agreement.³⁰⁵ The implementation of the list of activities covers a period of two years and will be supported by an extensive technical and financial programme by the EU.

Through a public statement, the Dutch NGO that had filed the complaint expressed its disappointment for the fact that it was not consulted on the substance of the listed activities, however it declared that it would remain at the disposal of the relevant stakeholders for the development and the implementation of a final road map.³⁰⁶

³⁰² European Commission, DG Trade, [Operating guidelines for the Single Entry Point and complaints mechanism for the enforcement of EU trade agreements and arrangements](#), December 2023, last accessed on 10.02.2025.

³⁰³ European Ombudsman, [Closing note on the Strategic Initiative concerning how the European Commission ensures respect for human rights in the context of international trade agreements \(SI/5/2021/VS\)](#), 15.07.2022, para. 20, last accessed on 10.02.2025.

³⁰⁴ ETUCLEX, [New complaint presented by trade union organisations before the Single Entry Point \(SEP\) of the European Commission](#), 01.02.2025, last accessed on 10.02.2025.

³⁰⁵ European Commission, [EU and Peru agree on cooperation activities to ensure respect of labour rights, Press Release](#), 20.03.2024, last accessed on 10.02.2025.

³⁰⁶ CNV Internationaal, [Response to the SEP: A road under construction for miners' rights, Public Statement](#), 26.03.2024, last accessed on 10.02.2025.

The above case is significant and is linked to the European Ombudsman's concerns for how non-EU actors may put forward complaints through the SEP. The case demonstrated that trade unions in Colombia and Peru, i.e. the opposite contracting parties of the EU, were able to submit the complaint through an EU-established actor. The above case also shows that there is a potential for complaints related to environmental law and even gender equality to be submitted through the SEP portal, even by injured parties in non-EU states.

Furthermore, it is important to consider that labour rights, gender equality and environmental rights are fundamental rights that enjoy protection under the EU Charter. If these fundamental rights are allowed to trigger dialogue between the EU and its contracting parties, there is no reason to deny the same level of attention for other fundamental rights, especially when a legitimate basis is already provided for such rights within the essential elements clause of trade agreements.³⁰⁷ Even more so, when considering the extent of human rights covered within the GSP, which are not subject to such limitations.

4.4. Engaging in human rights dialogues

Examining the human rights clauses in the agreements above, the importance of a human rights dialogue appeared as a constant theme.

In its effort to promote human rights, the EU engages in human rights dialogues through several instruments, including trade agreements. In fact, institutionalized dialogues are included in many agreements already containing human rights clauses, by providing for the establishment of dedicated bodies, such as subcommittees or working groups tasked with engaging in the discussion of human rights issues.³⁰⁸ Such flexible dialogues were first envisioned by the Lomé conventions and then became more constructed on a formal political level under the Cotonou Agreement (Article 8), justifying its characterisation as one of the

³⁰⁷ For more on the argument a more -EU-fundamental-rights approach through trade agreements see I. Mancini, *Fundamental Rights in the EU's External Trade Relations: From Promotion 'Through' Trade Agreement to Protection 'in' Trade Agreements*, in E. Kassoti & R. A. Wessel (Eds), *EU Trade Agreements and the Duty to Respect Human Rights Abroad*, CLEER Papers 2020/1, pp. 61-93.

³⁰⁸ L. Bartels, [Assessment of the implementation of the human rights clause in international and sectoral agreements](#), In Depth Analysis, requested by the European Parliament's Subcommittee on Human Rights, 2023, p. 21, last accessed on 10.02.2025.; I. Zamfir, [Human rights in EU trade agreements - The human rights clause and its application](#), *EPRS Briefing*, July 2019, p. 2, last accessed on 10.02.2025.

agreements stronger features.³⁰⁹ The Samoa Agreement builds on the Cotonou and even provides for multi-stakeholder involvement, including civil society (Articles 3 and 5). It is argued that the inclusion of the human rights clause may have in fact contributed to opening effective channels for dialogue on democracy and human rights as well as increased commercial and economic contacts, which would in turn encourage further progress.³¹⁰

Human Rights Dialogues are one of the main means of implementation of EU external human rights policy in line with the EU Action Plan on Human Rights and Democracy (2020-27),³¹¹ which calls, *inter alia*, for political, human rights and sectoral policy dialogues with third countries and regional organisations; dialogue and monitoring missions to implement the EU's generalised scheme of preferences (GSP); and regular dialogue with civil society, human rights defenders, national human rights institutions, the business sector and other relevant stakeholders.

³⁰⁹ European Commission and High Representative of the Union for Foreign Affairs and Security Policy, Joint Staff Working Document, [Evaluation of the Cotonou Partnership Agreement](#), SWD(2016) 250 final, p. 2, last accessed on 10.02.2025.

³¹⁰ *Ibid.*, I. Zamfir p. 6.

³¹¹ European Council, EU Action Plan on Human Rights and Democracy 2020-2027, last accessed on 10.02.2025.

5. Conclusions – Lessons learnt and moving forward

The present analysis shows how human rights clauses have evolved through the years and have become an integral part of the trade or trade related agreements the EU concludes with non-EU countries. Even though there is a standard practice of including human rights under the scheme of an essential elements clause – which basically lays down the list of human rights to be prioritised – and a non-fulfilment clause – which operationalises the human rights clause and allows for the introduction of measures – there is no standard practice concerning the specific human rights protected as essential; the threshold for their violation that may trigger the human rights clause; nor the mechanisms available, that in practice range from consultations or notifications, to partial or full suspension of the agreement or even its termination.

The only uniform practice is that of the Cotonou Agreement, which could explain why it has been invoked in several instances. However, the Cotonou does not necessarily guarantee an effective human rights clause, as it is dependent on the linkage clauses within the specific agreements concluded within its framework. Furthermore, in light of the expiration of the Cotonou and its replacement by the Samoa Agreement, there is no guarantee, even though the latter is more ambitious and attempts to expand the human rights remit and include issues like the death penalty, gender equality and LGBT rights in the dialogue with traditionally conservative countries.

Furthermore, the practice of including separate mechanisms in TSD chapters which focus more on labour rights, the environment etc., while commendable, may create the impression that human rights clauses are no longer fashionable, as Bartels notes.³¹² Though, this is not necessarily due to the ineffectiveness of these clauses; rather it is linked to development of alternative tools, which allow for unilateral and assertive action, as described above.

Civil society as well as academics have not been quick to dismiss the importance of human rights clauses altogether. Instead, they firmly hold that there are grounds for

³¹² L. Bartels, [Assessment of the implementation of the human rights clause in international and sectoral agreements](#), In Depth Analysis, requested by the European Parliament's Subcommittee on Human Rights, 2023, p. 29, last accessed on 10.02.2025.

improvement and recommendations have been put forward aiming to fortify this tool in the EU's external actions.

In essence these recommendations follow a holistic approach aimed at improving the legal framework, the material framework, the operational framework, the implementation and continuous monitoring and by maintaining transparency through multi-stakeholder participation, including of civil society organisations.

More specifically, these recommendations include:³¹³

- Uniformity in the wording of the clauses by introducing a standardised the scope of human rights included in the essential elements clauses (such as international human rights instruments signed by the parties or considered to reflect customary international law).
- Providing for a standard type of mechanism that can be triggered in the event of a violation of the essential elements of the agreement which will explicitly include as *ultimum refugium* the suspension or termination of *all* specific agreements between the parties, irrespective of linkage clauses.
- Provision of a (complaints) mechanism that will allow non-State actors, irrespective of their country origin, to put forward human rights violations. Such mechanism should also include provisions for their involvement in the process either as observers in negotiations or even by allowing them to submit proposals for addressing these violations.
- Implementation of regular impact assessment that will also involve input from civil society organisations of the non-EU state.
- Regular monitoring by the European Parliament and participation of civil society organisations during relevant parliamentary debates.
- Introduction of roadmaps and clear benchmarking when the contracting party is considered to be violating an essential elements clause, as a means of verifying that it is upholding relevant commitments, such as ratification of treaties, etc.

³¹³ *Ibid.*, Bartels, p. 32 -33; P. Van Elsuwege, J. De Coninck, The Effectiveness of Human Rights Clauses in EU Trade Agreements: Challenges and Opportunities, *Policy Report*, Ghent European Law Institute, 2022, p. 50-57; I. Zamfir, [Human rights in EU trade agreements - The human rights clause and its application](#), *EPRS Briefing*, July 2019, last accessed on 10.02.2025, p. 10-11.

- Establishment of human rights committees, comprised of EU and local stakeholders as well as civil society organisations tasked with regular monitoring of the human rights obligations under the agreements, etc.

In 2022, the European Ombudsman³¹⁴ addressed the European Commission reiterating previous requests for prior human rights impact assessments before the conclusion of negotiations for agreements with third countries. This was a practice noted in both the case of the trade deal with Vietnam as well as for EU-Mercosur. Especially in the latter case, an inquiry was launched by the Ombudsman following a complaint by five civil society organisations, which were concerned that the Commission conducted the trade negotiations without an up-to-date assessment of its potential economic, social, human rights, and environmental impact.

At the same time, the Ombudsman addressed two suggestions to the European Commission: a) it should consider setting up a new and separate complaint-handling portal for alleged human rights abuses, which will respect accessibility, citizen-friendliness and transparency and b) it should examine how it can facilitate stakeholders based in the countries with which the EU has agreements who want to raise human rights issues through this new portal. Given that stakeholders on the ground are often best placed to report problems and present evidence, especially concerning human right issues, this would help strengthen the effectiveness of the EU's trade enforcement mechanisms.

In the author's opinion, a human rights clause would be essential in achieving such a venture, given that it would provide the necessary legitimacy for the European Commission to move forward with such a mechanism. It could even be achieved through the already established Single Entry Point discussed earlier on.

To further fortify the importance and contemporaneity of the human rights clause in trade agreements, it is important to highlight that even the European Parliament often calls for external actions to be taken on its basis. Moreover, in February 2024 it adopted its 2023 Annual Report on Human rights and democracy in the world and the European Union's policy on the matter, which explicitly included the following on human rights clauses:³¹⁵

³¹⁴ European Ombudsman, [Closing note](#) on the Strategic Initiative concerning how the European Commission ensures respect for human rights in the context of international trade agreements (SI/5/2021/VS), 15.07.2021, last accessed on 10.02.2025.

³¹⁵ European Parliament, European Parliament resolution of 28 February 2024 on human rights and democracy in the world and the European Union's policy on the matter – annual report 2023 (2023/2118(INI)), [P9_TA\(2024\)0106](#), last accessed on 10.02.2025.

81. Stresses that **human rights clauses should apply in a coherent manner to all EU international agreements with third countries**, including sectoral and investment agreements, and that these should be **monitored closely and backed by a clear set of benchmarks and procedures to be followed in the event of human rights violations**, and provide a basis for engaging with a third country on human rights in a practical and flexible manner; notes that until 2014 the EU formally activated the human rights clauses on two dozen occasions and since then it has only adopted ‘appropriate measures’ under these clauses on one occasion; **reiterates that in the face of serious and persistent breaches of human rights clauses by its partner countries the EU should react swiftly and decisively, and as an ultimate course of action, by suspending the relevant agreements if other options prove ineffective;**

82. Calls for **the implementation of the EU Ombudsman’s recommendation concerning the creation of a complaint-handling portal**, within the framework of EU trade and financial instruments, **and for the adaptation of the Commission’s Single Entry Point to allow for the submission of complaints regarding the failure to comply with human rights clauses**, which should be accessible, citizen-friendly and transparent; encourages the EU institutions and the Member States **to further engage with the Ombudsman in developing new strategies and tools for protecting and promoting human rights through trade**; calls on the Commission to improve its communication towards Parliament on its considerations and decisions regarding the enforcement of human rights clauses in international agreements;

Human rights clauses have also been included in a similar call within the Draft 2024 Annual Report, published in September 2024.³¹⁶

In conclusion, human rights clauses have not been entirely dismissed as an effective tool for the EU to promote human rights during its external action. They remain relevant though are in need for an update, a revamp. It remains to be seen how the EU will move forward in this regard given current political developments and shift in the priorities of States.

³¹⁶ European Parliament, Committee of Foreign Affairs, [Draft Report](#) on human rights and democracy in the world and the European Union’s policy on the matter – annual report 2024 (2024/xxx(INI)), Rapporteur: Isabel Wiseler-Lima, 17.09.2024, last accessed on 10.02.2025.

Annex with List of Sources

A. Bibliography

- A. von Bogdandy, The European Union as a Human Rights Organisation? Human Rights and the Core of the European Union, *37 Common Market Law Review* 2000, pp. 1307-1338
- P. Alston, Resisting the Merger and Acquisition of Human Rights by Trade Law – A reply to Petersmann, *13 EJIL* 2002
- Y. Al Tamimi, [Implications of the ICJ Advisory Opinion for the EU-Israel Association Agreement](#), 30.07.2024, *EJIL:Talk!*, last accessed on 10.02.2025
- R. Ayadi & S. Ronco, [The EU-Africa Partnership and Development Aid – Assessing the EU's actorness and effectiveness in development policy](#), *CEPS In-depth Analysis*, April 2023
- L. Bartels, [Assessment of the implementation of the human rights clause in international and sectoral agreements](#), In Depth Analysis, requested by the European Parliament's Subcommittee on Human Rights, 2023, last accessed on 10.02.2025
- L. Bartels, Human rights, labour standards and environmental standards in CETA, *Legal Studies Research Article 13/2017*, 2017 CUP
- L. Bartels, [Human rights provisions in Economic Partnership Agreements in light of the expiry of the Cotonou Agreement in 2020](#), requested by the European Parliament's Committees on Development (DEVE) and on International Trade (INTA), 17.03.2017, last accessed on 10.02.2025
- L. Bartels, [The European Parliament's role in relation to human rights in trade and investment agreements](#), Study requested jointly by the European Parliament's Subcommittee on Human Rights and by the Committee on International Trade, February 2014, last accessed on 10.02.2025
- F. Bindi, European Union Foreign Policy: A Historical Overview, pp. 13-40, in F. Bindi, *The Foreign Policy of the European Union, Assessing Europe's Role in the World*, 2016
- I. Borchert, P. Conconi, M. Di Ubaldo & C. Herghelegiu, The Pursuit of Non-Trade Policy Objectives in EU Trade Policy, *ECARES working paper 2020-09*, April 2020
- P. Conconi, C. Hergheliegu & L. Puccio, EU Trade Agreements: To Mix or Not to Mix, That Is the Question, EU Trade Agreements: To Mix or Not to Mix, That Is the Question', *55 Journal of World Trade* 2021, pp.231–260
- B. Coorman & G. Van Calster, Trade and Sustainable Development Post-Lisbon, in M. Hahn & G. Van der Loo (Eds.), *Law and Practice of the Common Commercial Policy – The First 10 Years of the Treaty of Lisbon*, Brill 2020, pp. 187-205
- T. Cottier et al (Eds.), *Human Rights and International Trade*, OUP 2005
- CVCE, [Yaoundé Convention](#), part of the subject file: Decolonisation: geopolitical issues and impact on the European integration process, 01.03.17
- V. Depaigne, Protecting fundamental rights in trade agreements between the EU and third countries, *42 European Law Review* 2017, pp. 562-576
- C. Gammage, [A Critique of the Extraterritorial Obligations of the EU in Relation to Human Rights Clauses and Social Norms in EU Free Trade Agreements](#), *2 Europe in the World: A Law Review* 2018, last accessed on 10.02.2025.
- N. Hachez, 'Essential Elements' Clauses in EU Trade Agreements: Making Trade Work in a Way that Helps Human Rights?, *53 Cuadernos Europeos de Deusto* 2015, pp. 81-106
- H. Horn, P. C. Mavroidis & A. Sapir, [Beyond the WTO? An Anatomy of EU and US Preferential Trade Agreements](#), *Brueghel Blueprint n.º 7*, 2009, last accessed on 10.02.2025.

- Ye June Jung, [Linking Human Rights to EU Trade: Institutional Trust and Disguised Protectionism](#), *Political Economy of International Organization*, Program and Papers, 2024, last accessed on 10.02.2025
- V.P. Karzi, [EU Fundamental Rights in practice and Charter conditionality](#), Country Research, FRA, December 2023, last accessed on 10.02.2025
- E. Kassoti, The Extraterritorial Applicability of the Eu Charter of Fundamental Rights: Some Reflections in the Aftermath of the Front Polisario Saga, *12 European Journal of Legal Studies 2020*, pp. 117-141.
- I. Mancini, Fundamental Rights in the EU's External Trade Relations: From Promotion 'Through' Trade Agreement to Protection 'in' Trade Agreements, in E. Kassoti & R. A. Wessel (Eds), *EU Trade Agreements and the Duty to Respect Human Rights Abroad*, CLEER Papers 2020/1, pp. 61-93
- K.-L. Meissner & L. McKenzie, The paradox of human rights conditionality in EU trade policy: when strategic interests drive policy outcomes, *26 Journal of European Public Policy 2019*, pp. 1273–1291
- G. Migani, [EEC/EU and Development Aid from Lomé to Cotonou](#), *Digital Encyclopedia of European History*, 22/06/20, last accessed on 10.02.2025
- S. Peers, [Free trade v freedom of association? The EU/South Korea free trade agreement and the panel report on the EU challenge to South Korean labour law](#), *EU Law Analysis*, 26.01.2021, last accessed on 10.02.2025
- E.U. Petersmann, Human rights and international economic law in the 21st century – The need to clarify their interrelationships, *4 Journal of International Economic Law 2001*, pp. 3-29
- E. Pichon, [The Samoa Agreement with African, Caribbean and Pacific states](#), *EPRS Briefing*, June 2024, last accessed on 10.02.2025
- J. Døhlie Saltnes, Ambiguities in the EU's rights-based approach to liberal order, *99 International Affairs 2023*, pp. 2241–2259
- J. Døhlie Saltnes, [The EU's Human Rights Policy. Unpacking the Literature on the EU's Implementation of Aid Conditionality](#), *Arena Working Paper 2/2013*, 2013, pp. 1-26, last accessed on 10.02.2025.
- R. Shreeves, [Gender mainstreaming in EU trade agreements](#), March 2024, *EPRS Briefing*, p. 4, last accessed on 10.02.2025
- L. Van den Putte, F. De Ville & J. Orbie, The European Parliament as an inter-national actor in trade. From power to impact, in S. Stavridis & D. Irrera (eds), *The European Parliament and its International Relations*, 2015, Routledge, pp. 52–69
- P. Van Elsuwege, J. De Coninck, The Effectiveness of Human Rights Clauses in EU Trade Agreements: Challenges and Opportunities, *Policy Report*, Ghent European Law Institute, 2022
- I. Zamfir, [Human rights in EU trade agreements - The human rights clause and its application](#), *EPRS Briefing*, July 2019, last accessed on 10.02.2025
- I. Zamfir, [Human rights in EU trade policy Unilateral measures applied by the EU](#), *EPRS Briefing*, May 2018, p. 2, last accessed on 10.02.2025

B. EU Documents

EU Legislation, summaries, decisions, acts

- EUR-lex, [Treaty Establishing the European Economic Community \(EEC\)](#), signed in Rome, 25/03/1957, last accessed on 10.02.2025
- EUR-Lex, [Single European Act](#), OJ L 169, 29.6.1987, p. 1–28, last accessed on 10.02.2025
- EUR-Lex, [Treaty on European Union](#), OJ C 191, 29.7.1992, p. 1–112

- EUR-Lex, European Commission, [Communication From The Commission On The Inclusion Of Respect For Democratic Principles And Human Rights In Agreements Between The Community And Third Countries](#), COM(1995) 216, last accessed on 10.02.2025
- EUR-Lex, [Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts](#), OJ C 340, 10.11.1997, p. 1–144
- EUR-Lex, [Treaty on European Union \(consolidated version 1997\)](#), OJ C 340, 10.11.1997, p. 145–172, last accessed on 10.02.2025
- EUR-Lex, [Communication](#) from the Commission to the Council and the European Parliament on the stabilisation and association process for countries of South-Eastern Europe - Bosnia and Herzegovina, Croatia, Federal Republic of Yugoslavia, former Yugoslav Republic of Macedonia and Albania, COM/99/0235 final, 26.05.1999, last accessed on 10.02.2025
- EUR-Lex, [Treaty of Nice amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts](#), OJ C 80, 10.3.2001, p. 1–87, last accessed on 10.02.2025.
- EUR-Lex, Council Regulation (EC) No [2173/2005](#) of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community (OJ L 347, 30.12.2005, pp. 1–6), last accessed on 10.02.2025
- EUR-Lex, [Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community](#), signed at Lisbon, 13 December 2007, (2007/C 306/01), last accessed on 10.02.2025
- EUR-Lex, [Charter of Fundamental Right of the European Union](#), Official Journal of the European Union, C 303, 14 December 2007, last accessed on 10.02.2025
- EUR-Lex, [Consolidated version of the Treaty on European Union](#), OJ C 115, 9.5.2008, p. 1–388, last accessed on 10.02.2025
- EUR-Lex, [Consolidated version of the Treaty on the Functioning of the European Union](#), 2008, last accessed on 10.02.2025.
- EUR-Lex, [Regulation \(EU\) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation \(EC\) No 732/2008](#), last accessed on 10.02.2025
- EUR-Lex, Regulation (EU) No [995/2010](#) of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (OJ L 295, 12.11.2010, pp. 23–34), last accessed on 10.02.2025
- EUR-Lex, [2011/492/EU](#): Council Decision of 18 July 2011 concerning the conclusion of consultations with the Republic of Guinea-Bissau under Article 96 of the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, OJ L 203, 6.8.2011, p. 2–6, last accessed on 10.02.2025
- EUR-Lex, 2011/523/EU: [Council Decision of 2 September 2011](#) partially suspending the application of the Cooperation Agreement between the European Economic Community and the Syrian Arab Republic, OJ L 228, 3.9.2011, p. 19–21, last accessed on 10.02.2025
- EUR-Lex, [Council Decision 2012/123/CFSP](#) of 27 February 2012 amending Decision 2011/523/EU partially suspending the application of the Cooperation Agreement between the European Economic Community and the Syrian Arab Republic, OJ L 54, 28.2.2012, p. 18–19, last accessed on 10.02.2025
- EUR-Lex, [Regulation \(EU\) No 978/2012](#) of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008, OJ L 303, 31.10.2012, p. 1–82, last accessed on 10.02.2025

- EUR-Lex, [Regulation \(EU\) No 1219/2012](#) of the European Parliament and of the Council of 12 December 2012 establishing transitional arrangements for bilateral investment agreements between Member States and third countries, OJ L 351, 20.12.2012, p. 40–46, last accessed on 10.02.2025
- EUR-Lex, [Regulation \(EU\) No 1380/2013](#) of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC, OJ L 354, 28.12.2013, p. 22–61, last accessed on 10.02.2025
- EUR-Lex, [European Parliament resolution of 13 March 2014](#) on launching consultations to suspend Uganda and Nigeria from the Cotonou Agreement in view of recent legislation further criminalising homosexuality (2014/2634(RSP)), OJ C 378, 9.11.2017, p. 253–256, last accessed on 10.02.2025
- EUR-Lex, [Council Decision \(EU\) 2015/541](#) of 24 March 2015 repealing Decision 2011/492/EU concerning the conclusion of consultations with the Republic of Guinea-Bissau under Article 96 of the ACP-EU Partnership Agreement, OJ L 88, 1.4.2015, p. 13–15, last accessed on 10.02.2025
- EUR-Lex, [Council Decision \(EU\) 2016/394](#) of 14 March 2016 concerning the conclusion of consultations with the Republic of Burundi under Article 96 of the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, OJ L 73, 18.3.2016, p. 90–96, last accessed on 10.02.2025
- EUR-Lex, [Council Decision \(CFSP\) 2020/1999](#) of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses, OJ L 410I, 7.12.2020, p. 13–19, last accessed on 10.02.2025
- EUR-Lex, [Council Regulation \(EU\) 2020/1998](#) of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses, OJ L 410I, 7.12.2020, p. 1–12, last accessed on 10.02.2025
- EUR-Lex, [Council Decision \(EU\) 2022/177](#) of 8 February 2022 repealing, on behalf of the Union, Decision (EU) 2016/394, ST/5535/2022/INIT, OJ L 29, 10/02/2022, p. 6–7, last accessed on 10.02.2025
- EUR-Lex, [Regulation \(EU\) 2023/1115](#) of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 (Text with EEA relevance), PE/82/2022/REV/1, OJ L 150, 9.6.2023, p. 206–247, last accessed on 10.02.2025
- EUR-Lex, Summaries of EU legislation, [Barcelona Declaration and Euro-Mediterranean partnership](#), last accessed on 10.02.2025
- EUR-Lex, Summary of EU Legislation, [Partnership and Cooperation Agreements \(PCAs\): Russia, the Southern Caucasus and Central Asia](#), last accessed on 10.02.2025
- EUR-Lex, Summaries of EU Legislation, [The stabilisation and association process](#), last accessed on 10.02.2025
- EUR-Lex, Summaries of EU Legislation, [Voluntary partnership agreements on forest law enforcement, governance and trade](#), last accessed on 10.02.2025

European Council

- European Council, [Human Rights and Democracy: EU Strategic Framework and EU Action Plan](#), 11855/12, 25.06.2012, last accessed on 10.02.2025

- European Council, Partial Declassification of document: 10491/1/09 REV 1 RESTREINT UE, 2 June 2009 on [Reflection Paper on Political Clauses in Agreements with Third Countries](#), Annex, 25.03.2013, last accessed on 10.02.2025
- European Council, [the EU Action Plan on Human Rights and Democracy 2020-2024](#), last accessed on 10.02.2025
- European Council, [EU Action Plan on Human Rights and Democracy 2020-2027](#), last accessed on 10.02.2025
- European Council, [EU Trade Agreements](#), last accessed on 10.02.2025
- European Council, [EU sanctions against Iran](#), last accessed on 10.02.2025
- European Council, [Post-Cotonou Agreement](#), last accessed on 10.02.2025
- European Council, [Sanctions against human rights violations](#), last accessed on 10.02.2025.
- European Council, [Sanctions against terrorism](#), last accessed on 10.02.2025.
- European Council, [Timeline - EU sanctions against Russia](#), last accessed on 10.02.2025.

European Commission

- Archive of European Integration, Commission communication to the Council and Parliament, [Human rights, Democracy and Development Co-operation](#), SEC (91) 61 final, 25.03.1991, last accessed on 10.02.2025, adopted by [Resolution of the Council and of the Member States meeting in the Council on human rights, democracy and development](#), 28.11.1991, Bulletin EC 11/1991, p. 122, 2.3.1., para. 6, last accessed on 10.02.2025
- EU Bulletin, [1995/5](#), p. 9, last accessed on 10.02.2025
- EUR-Lex, European Commission, [Communication From The Commission On The Inclusion Of Respect For Democratic Principles And Human Rights In Agreements Between The Community And Third Countries](#), COM(1995) 216, which cites the Commission Decision of 26 January 1993, MIN (93)1137, point XIV, p. 9, last accessed on 10.02.2025
- European Commission, [Guidelines on the analysis of human rights impacts in impact assessments for trade-related policy initiatives](#), 2015, last accessed on 10.02.2025
- European Commission, [Trade for all](#), Towards a more responsible trade and investment policy, 2015, p. 21, last accessed on 10.02.2025
- European Commission and High Representative of the Union for Foreign Affairs and Security Policy, Joint Staff Working Document, [Evaluation of the Cotonou Partnership Agreement](#), SWD(2016) 250 final, last accessed on 10.02.2025
- European Commission, [Commission launches new complaints system to fight trade barriers and violations of sustainable trade commitments](#), Press Release, 16.11.2020, last accessed on 10.02.2025
- EUR-Lex, [Commission Staff Working Document](#) Fitness Check on Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (the EU Timber Regulation) and on Regulation (EC) No 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community (FLEGT Regulation), SWD/2021/328 final, para. 2.1.2, last accessed on 10.02.2025
- EUR-Lex, [Commission Staff Working Document](#), Impact Assessment Report, Accompanying the document Proposal for a Regulation of the European Parliament and of the Council on applying a generalised scheme of tariff preferences and repealing Regulation (EU) No 978/2012 of the European Parliament and of the Council, SWD(2021) 266 final, 22.09.2021, last accessed on 10.02.2025

- European Commission, [Joint Report](#) to the European Parliament and the Council on the Generalised Scheme of Preferences covering the period 2020-2022, last accessed on 10.02.2025
- EUR-Lex, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, [The power of trade partnerships: together for green and just economic growth](#), COM/2022/409 final, last accessed on 10.02.2025
- European Commission, DG Trade, [Operating guidelines for the Single Entry Point and complaints mechanism for the enforcement of EU trade agreements and arrangements](#), December 2023, last accessed on 10.02.2025
- European Commission, [EU and Peru agree on cooperation activities to ensure respect of labour rights, Press Release](#), 20.03.2024, last accessed on 10.02.2025
- CIRCABC, [Overview of Economic Partnership Agreements](#), updated 15.01.2025, last accessed on 10.02.2025
- CIRCABC, [List of GSP Beneficiary Countries](#), last modified on 03.02.2025, available through, last accessed on 10.02.2025
- European Commission, Access2Markets, [Association Agreement](#), last accessed on 10.02.2025
- European Commission, Access2Markets, [European Economic Area \(EEA\) Agreement](#), last accessed on 10.02.2025
- European Commission, Access2Markets, [Free trade agreements](#), last accessed on 10.02.2025
- European Commission, Bilateral Disputes, [Korea labour commitments](#), last accessed on 10.02.2025
- Future of Life Institute, [EU Artificial Intelligence Act](#), last accessed on 10.02.2025
- European Commission, [EU Digital Services Act](#), last accessed on 10.02.2025
- European Commission, [Conflict Minerals Regulation](#), last accessed on 10.02.2025
- European Commission, [Corporate Sustainability Due Diligence Directive](#), last accessed on 10.02.2025
- European Commission, [Critical Raw Materials Act](#), last accessed on 10.02.2025
- European Commission, Energy, Climate change, Environment, [EU rules against illegal logging](#), last accessed on 10.02.2025
- European Commission, EU Trade relationships by country/region, [Mexico](#), last accessed on 10.02.2025
- European Commission, [Overview of Economic Partnership Agreements](#), last accessed on 10.02.2025
- European Commission, [Regulation on batteries](#), last accessed on 10.02.2025
- European Commission, [Regulation on deforestation-free products](#), last accessed on 10.02.2025
- European Commission, [Sustainable Finance Disclosures Regulation](#), last accessed on 10.02.2025
- European Commission, Trade, EU Trade relationships by country/region, [South Korea](#), last accessed on 10.02.2025
- European Commission, Trade, EU Trade relationships by country/region, [Western Balkans](#), last accessed on 10.02.2025
- European Commission, Trade and Economic Security, [Negotiations and agreements](#), last accessed on 10.02.2025
- European Commission, Trade and Economic Security, [Generalised Scheme of Preferences](#), last accessed on 10.02.2025
- European Commission, Trade, [Andean Community](#), last accessed on 10.02.2025

- European Commission, Trade, [Economic Partnerships](#), last accessed on 10.02.2025
- European Commission, Trade and Security, [Investment](#), last accessed on 10.02.2025
- European Commission, Trade, [Non-EU Markets](#), last accessed on 10.02.2025

European Ombudsman

- European Ombudsman, [Decision in Case 1409/2014/MHZ on the European Commission's failure to carry out a prior human rights impact assessment of the EU-Vietnam free trade agreement](#), last accessed on 10.02.2025
- European Ombudsman, [Closing note on the Strategic Initiative concerning how the European Commission ensures respect for human rights in the context of international trade agreements \(SI/5/2021/VS\)](#), 15.07.2022, last accessed on 10.02.2025.

European External Action Service

- EEAS, J.Borrell, [War in Gaza: we cannot continue with business as usual](#), 15.11.2024, last accessed on 10.02.2025
- EEAS, [European Neighbourhood Policy](#), last accessed on 10.02.2025
- EEAS, [European Union sanctions](#), last accessed on 10.02.2025

European Parliament

- European Parliament, [Working Documents on the Human Rights and Democracy Clause in European Union agreements](#), Committee on Foreign Affairs, Rapporteur Vittorio Agnoletto, 23.08.2005, last accessed on 10.02.2025
- European Parliament, Library Briefing, EU Association Agreements: [Common patterns and specific characteristics](#), 19.07.2012, last accessed on 10.02.2025.
- European Parliament, European Parliament resolution of 28 February 2024 on human rights and democracy in the world and the European Union's policy on the matter – annual report 2023 (2023/2118(INI)), [P9_TA\(2024\)0106](#), last accessed on 10.02.2025.
- European Parliament, Committee of Foreign Affairs, [Draft Report](#) on human rights and democracy in the world and the European Union's policy on the matter – annual report 2024 (2024/xxxx(INI)), Rapporteur: Isabel Wiseler-Lima, 17.09.2024, last accessed on 10.02.2025.

European Parliament Research Service

- EPRS, [Types of trade agreements and the human rights clause](#), 2019, last accessed on 10.02.2025

C. EU Treaties with Third-Countries

- Publications of the Office of the European Union, [ACP-EEC Convention of Lomé](#), last accessed on 10.02.2025.
- University of Pittsburgh, Archive of European Integration, [Convention of Association between the European Economic Community and the African and Malagasy States associated with that Community and annexed documents signed at Yaounde on 20 July 1963](#), last accessed on 10.02.2025
- EUR-Lex, [Cooperation Agreement](#) between the European Economic Community and the Syrian Arab Republic, OJ L269/27.09.1977, pp. 2-87, last accessed on 10.02.2025

- EUR-Lex, [Fourth ACP-EEC Convention signed at Lomé on 15 December 1989](#), OJ L 229, 17.8.1991, p. 3–286, last accessed on 10.02.2025.
- EUR-Lex, [Agreement](#) between the European Economic Community and the Republic of Latvia on trade and commercial and economic cooperation, OJ L 403, 31.12.1992, p. 11–18, last accessed on 10.02.2025
- EUR-Lex, [Interim Agreement](#) on trade and trade-related matters between the European Economic Community and the European Coal and Steel Community, of the one part, and the Republic of Bulgaria, of the other part, OJ L 323, 23.12.1993, p. 2–183, last accessed on 10.02.2025
- EUR-Lex, [Agreement on the European Economic Area - Final Act - Joint Declarations - Declarations by the Governments of the Member States of the Community and the EFTA States - Arrangements - Agreed Minutes - Declarations by one or several of the Contracting Parties of the Agreement on the European Economic Area](#), OJ L 1, 3.1.1994, p. 3–522, last accessed on 10.02.2025
- EUR-Lex, [Cooperation Agreement between the European Community and the Republic of India on partnership and development - Declaration of the Community concerning tariff adjustments - Declarations of the Community and India](#), OJ L 223, 27.8.1994, p. 24–34, last accessed on 10.02.2025
- EUR-Lex, [Agreement](#) on partnership and cooperation establishing a partnership between the European Communities and their Member States, of one part, and the Russian Federation, of the other part (OJ L 327, 28.11.1997, pp. 3-69), last accessed on 10.02.2025
- EUR-Lex, [Cooperation Agreement](#) between the European Community and the Republic of Yemen (OJ L 72, 11.3.1998, pp. 18-29), last accessed on 10.02.2025.
- EUR-Lex, [Framework Agreement on Cooperation](#) between the European Economic Community and the Cartagena Agreement and its member countries, namely the Republic of Bolivia, the Republic of Colombia, the Republic of Ecuador, the Republic of Peru and the Republic of Venezuela (OJ L 127, 29.4.1998, pp. 11-25), last accessed on 10.02.2025.
- EUR-Lex, [Partnership and Cooperation Agreement](#) establishing a partnership between the European Communities and their Member States, of the one part, and the Kyrgyz Republic, of the other part (OJ L 196, 28.7.1999, pp. 48-89), last accessed on 10.02.2025
- EUR-Lex, [Partnership and Cooperation Agreement](#) establishing a partnership between the European Communities and their Member States, of the one part, and the Republic of Uzbekistan, of the other part (OJ L 229, 31.8.1999, pp. 3-52), last accessed on 10.02.2025
- EUR-Lex, [Partnership and Cooperation Agreement](#) between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part (OJ L 246, 17.9.1999, pp. 3-51), last accessed on 10.02.2025
- EUR-Lex, [Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the State of Israel, of the other part](#), OJ L 147, 21.6.2000, p. 3–172, last accessed on 10.02.2025
- EUR-Lex, [Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and its Member States, of the one part, and the United Mexican States, of the other part - Final Act – Declarations](#), OJ L 276, 28.10.2000, p. 45–80, last accessed on 10.02.2025
- EUR-Lex, [2000/483/EC: Partnership agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 - Protocols - Final Act –](#) , OJ L 317, 15.12.2000, p. 3–353, last accessed on 10.02.2025.
- EUR-Lex, [Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt](#), of the other part, O.J. L 304, 30.09.2004, pp. 38-208, last accessed on 10.02.2025

- EUR-Lex, [Partnership and Cooperation Agreement](#) establishing a partnership between the European Communities and their Member States, of the one part, and the Republic of Tajikistan, of the other part (OJ L 350, 29.12.2009, pp. 3-51), last accessed on 10.02.2025
- EUR-Lex, [Free trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part](#), OJ L 127, 14.5.2011, p. 1–1426, last accessed on 10.02.2025
- EUR-Lex, [Partnership and Cooperation Agreement](#) between the European Union and its Member States, of the one part, and the Republic of Iraq, of the other part (OJ L 204, 31.7.2012, pp. 20-130), last accessed on 10.02.2025.
- EUR-Lex, [Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other](#), OJ L 346, 15.12.2012, p. 3–2621, last accessed on 10.02.2025
- EUR-Lex, [Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part](#), OJ L 354, 21.12.2012, p. 3–2607, last accessed on 10.02.2025
- EUR-Lex, [Framework Agreement](#) between the European Union and its Member States, on the one part, and the Republic of Korea, on the other part (OJ L 20, 23.1.2013, pp. 2-24), last accessed on 10.02.2025.
- EUR-Lex, [Regional Convention on pan-Euro-Mediterranean preferential rules of origin](#), O.J. L54/5, 26.02.2013, last accessed on 10.02.2025
- EUR-Lex, Stabilisation and Association [Agreement](#) between the European Communities and their Member States of the one part, and the Republic of Serbia, of the other part (OJ L 278, 18.10.2013, pp. 16-473), last accessed on 10.02.2025
- EUR-Lex, [Political Dialogue and Cooperation agreement](#) between the European Community and its Member States, of the one part, and the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, of the other part (OJ L 111, 15.4.2014, pp. 6-28), last accessed on 10.02.2025.
- EUR-Lex, [Association Agreement](#) between the European Union and its Member States, of the one part, and Ukraine, of the other part, (OJ L 161/3,29.05.2014), last accessed on 10.02.2025.
- EUR-Lex, [Proposal for a Council Decision on the signing, on behalf of the Union, of the Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Singapore, of the other part](#), COM/2014/070 final - 2014/0036 (NLE), as adopted by [Council Decision \(EU\) 2018/1047 of 16 July 2018 on the signing, on behalf of the Union, of the Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Singapore, of the other part](#), ST/7322/2018/INIT, last accessed on 10.02.2025
- European Council, [Economic partnership agreement between the West African States, the Economic Community of West African States \(ECOWAS\) and the West African Economic and Monetary Union \(UEMOA\), of the one part, and the European Union and its Member States, of the other part](#), 13370/14, Interinstitutional File: 2014/0265 (NLE), 03.12.2014, last accessed on 10.02.2025
- EUR-Lex, [Stabilisation and Association Agreement](#) between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part, OJ L 164, 30.6.2015, p. 2–547, last accessed on 10.02.2025.
- EUR-Lex, [Enhanced Partnership and Cooperation Agreement](#) between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part (OJ L 29, 4.2.2016, p. 3-150), last accessed on 10.02.2025.
- EUR-Lex, [Stabilisation and Association Agreement](#) between the European Union and the European Atomic Energy Community, of the one part, and Kosovo, of the other part, OJ L 71, 16.3.2016, p. 3–321, last accessed on 10.02.2025.

- European Council, [Strategic Partnership Agreement between the European Union and its Member States, of the one part, and Canada, of the other part](#), 5368/2/16 REV 2, 05.08.2016, last accessed on 10.02.2025.
- EUR-Lex, [Partnership Agreement](#) on Relations and Cooperation between the European Union and its Member States, of the one part, and New Zealand, of the other part, OJ L 321, 29.11.2016, pp. 3–30, last accessed on 10.02.2025.
- EUR-Lex, [Framework Agreement](#) on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Socialist Republic of Viet Nam, of the other part, OJ L 329, 3.12.2016, pp. 8–42, last accessed on 10.02.2025.
- EUR-Lex, [Political Dialogue and Cooperation Agreement](#) between the European Union and its Member States, of the one part, and the Republic of Cuba, of the other part (OJ L 337I , 13.12.2016, pp. 3-40), last accessed on 10.02.2025.
- EUR-Lex, [Cooperation Agreement on Partnership and Development between the European Union and its Member States, of the one part, and the Islamic Republic of Afghanistan, of the other part](#), OJ L 67, 14.3.2017, p. 3–30, last accessed on 10.02.2025.
- EUR-Lex, [Framework Agreement](#) between the European Union and its Member States, of the one part, and Australia, of the other part, OJ L 237, 15.9.2017, pp. 7-35, last accessed on 10.02.2025.
- EUR-Lex, [Framework Agreement](#) on Partnership and Cooperation between the European Union and its Member States, of the one part, and Mongolia, of the other part (OJ L 326, 9.12.2017, pp. 7–35), last accessed on 10.02.2025.
- EUR-Lex, [Framework Agreement on Partnership and Cooperation](#) between the European Union and its Member States, of the one part, and the Republic of the Philippines, of the other part (OJ L 343, 22.12.2017, pp. 3–32), last accessed on 10.02.2025.
- EUR-Lex, [Comprehensive and enhanced Partnership Agreement](#) between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Armenia, of the other part (OJ L 23, 26.1.2018, pp. 4-466), last accessed on 10.02.2025.
- EUR-Lex, [Strategic Partnership Agreement](#) between the European Union and its Member States, of the one part, and Japan, of the other part, OJ L 216, 24.8.2018, pp. 4–22, last accessed on 10.02.2025.
- EUR-Lex, Investment Protection Agreement between the European Union and its Member States of the one part, and the Republic of Singapore, of the other part, as annexed to [Proposal for a Council Decision on the conclusion of the Investment Protection Agreement between the European Union and its Member States, of the one part, and the Republic of Singapore of the other part](#), COM/2018/194 final, last accessed on 10.02.2025
- EUR-Lex, [Free Trade agreement between the European Union and the Republic of Singapore](#), ST/7972/2018/ADD/5, OJ L 294, 14.11.2019, p. 3–755, last accessed on 10.02.2025
- EUR-Lex, [Proposal for a Council Decision](#) on the conclusion of the Investment Protection Agreement between the European Union and its Member States, of the one part, and the Socialist Republic of Viet Nam, of the other part, COM/2018/693 final, [Annex I](#), last accessed on 10.02.2025
- EUR-Lex, [Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam](#), ST/6051/2019/INIT, OJ L 186, 12.6.2020, p. 3–1400, last accessed on 10.02.2025.
- EUR-Lex, [Trade and cooperation agreement](#) between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part (OJ L 149, 30.4.2021, pp. 10-2539), last accessed on 10.02.2025
- EUR-Lex, [Framework Agreement](#) on Partnership and Cooperation between the European Union and its member states, of the one part, and the Government of Malaysia, of the other part [pending publication] and Council Decision (EU) [2022/1987](#) of 13 October 2022 on the signing, on behalf of the Union, of the Framework Agreement on Partnership and Cooperation between the European Union and

its Member States, of the one part, and the Government of Malaysia, of the other part (OJ L 273, 21.10.2022, pp. 1–2), last accessed on 10.02.2025.

- EUR-Lex, [Framework Agreement](#) on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Kingdom of Thailand, of the other part, ST/11910/2022/INIT, OJ L 330, 23.12.2022, p. 72–108, last accessed on 10.02.2025.

- EUR-Lex, [Partnership Agreement between the European Union and its Member States, of the one part, and the Members of the Organisation of African, Caribbean and Pacific States, of the other part](#), ST/8372/2023/REV/1, OJ L, 2023/2862, 28.12.2023, last accessed on 10.02.2025

- EUR-Lex, [Advanced Framework Agreement](#) between the European Union and its Member States, of the one part, and the Republic of Chile, of the other part, ST/11670/2023/INIT, OJ L, 2024/1759, 30.7.2024 (has not yet entered into force), last accessed on 10.02.2025

- EUR-Lex, [Protocol](#) on the implementation of the Sustainable Fisheries Partnership Agreement between the European Union, of the one part, and the Government of Greenland and the Government of Denmark, of the other part (2025–2030), ST/14781/2024/INIT, OJ L, 2024/3203, 30.12.2024, last accessed on 10.02.2025

- EUR-Lex, [Free Trade Agreement between the European Union and New Zealand](#), OJ L, 2024/866, 25.3.2024, last accessed on 10.02.2025

- EUR-Lex, [Interim Agreement on trade between the European Union and the Republic of Chile](#), ST/11668/2023/INIT, OJ L, 2024/2953, 20.12.2024, which entered into force on 01.02.2025, last accessed on 10.02.2025

- EUR-Lex, [Consolidated text: Agreement between the European Economic Community and the Swiss Confederation](#), last accessed on 10.02.2025

- European Commission, Trade, [EU-Canada Comprehensive Economic and Trade Agreement \(CETA\)](#), last accessed on 10.02.2025

- European Commission, Trade, [EU-Chile: Text of the agreement](#), last accessed on 10.02.2025.

- EUR-Lex, [Consolidated text: Agreement between the European Union and Japan for an Economic Partnership](#), last accessed on 10.02.2025

- European Commission, Trade, [EU-Japan agreement chapter-by-chapter](#), last accessed on 10.02.2025

- European Commission, Trade and Economic Security, [EU-China agreement in principle](#), last accessed on 10.02.2025

- European Commission, Trade, [EU-India Free Trade Agreement, Investment Protection Agreement and Geographical Indications Agreement](#), last accessed on 10.02.2025

- European Commission, Food, Farming, Fisheries, [Sustainable fisheries partnership agreements \(SFPAs\)](#), last accessed on 10.02.2025

D. Other International Organisations' Documents

- Council of Europe, [Convention for the Protection of Human Rights and Fundamental Freedoms](#), ETS No. 005, last accessed on 10.02.2025.

- ILO, International Labour Standards, [Conventions, Protocols and Recommendations](#), last accessed on 10.02.2025

- ILO, [Free Trade Agreements and Labour Rights](#), last accessed on 10.02.2025

- ILO, [Labour Provisions in Trade Agreements Hub](#), last accessed on 10.02.2025

- UNCTAD, [Generalized System of Preferences: Handbook on the Scheme of the European Union](#), Geneva 2022, last accessed on 10.02.2025

- United Nations, [1969 Vienna Convention on the Law of the Treaties](#), 1155 UNTS 331, last accessed on 10.02.2025
- United Nations General Assembly, Resolution [A/RES/S-16/1](#), 14/12/1989, last accessed on 10.02.2025

E. Case-law

International Court of Justice

- ICJ, [Legal Consequences for States of the Continued Presence of South Africa in Namibia \(South West Africa\) notwithstanding Security Council Resolution 276 \(1970\) \(Advisory Opinion\)](#), 21 June 1971, last accessed on 10.02.2025
- ICJ, [Gabčíkovo-Nagymaros Project](#) (Merits), 25 September 1997, last accessed on 10.02.2025
- ICJ, Obligations of States in Respect of Climate Change, Request for an Advisory Opinion, [Written Statement of the European Union](#), 22.03.2024, last accessed on 10.02.2025
- ICJ, [Advisory Opinion Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem](#), 19.07.2024, last accessed on 10.02.2025

European Court of Justice

- CJEU, [Case C-286/90, Poulsen and Diva Navigation](#) [1992] ECR I-6019, last accessed on 10.02.2025
- CJEU, [Case C-162/96 Racke](#) [1998] ECR I-3655, last accessed on 10.02.2025
- CJEU, [Case T-292/09, Mugraby v Council of the European Union, Order of 06.09.2011](#), last accessed on 10.02.2025
- CJEU, [Case C-366/10, ATAA](#), last accessed on 10.02.2025
- CJEU, [T-512/12, Front Polisario v. Council, Judgement of the General Court](#), 10.12.2015, last accessed on 10.02.2025
- CJEU, [Opinion 1/17, CETA](#), 30.04.2019, last accessed on 10.02.2025

F. Miscellanea

- CIRCABC, Panel of Experts Proceeding Constituted Under Article 13.15 of the Eu-Korea Free Trade Agreement, [Report of the Panel of Experts](#), 20.01.2021, last accessed on 10.02.2025
- FAFCE, [Samoa Agreement: Europe's ideological neo-colonisation](#), 11.12.2023, last accessed on 10.02.2025
- CNV Internationaal, [Response to the SEP: A road under construction for miners' rights, Public Statement](#), 26.03.2024, last accessed on 10.02.2025
- OXFAM, [Suspend the EU-Israel Association Agreement!](#), Letters and Statements, 20.09.2024, last accessed on 10.02.2025
- African Digital Democracy Observatory (ADDO), [INSIGHT: How misinformation about Samoa Agreement caused uproar in Nigeria](#), 15.11.2024, last accessed on 10.02.2025
- ETUCLEX, [New complaint presented by trade union organisations before the Single Entry Point \(SEP\) of the European Commission](#), 01.02.2025, last accessed on 10.02.2025
- OACPS-EU Joint Parliamentary Assembly, [History](#), last accessed on 10.02.2025