



EU Trade Sustainability Impact Assessments: Revisiting the Consultation Process

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- Trade sustainability impact assessments (SIAs) are used by the European Commission to inform policymakers on the potential effects of trade and investment agreements and to engage with stakeholders
- The EU's Trade SIAs have two main components:
 - ① A quantitative analysis of potential impacts, which are mainly focused on economic effects and are mostly estimated using a CGE model
 - ② A complementary consultation process with stakeholders
- Both components cover the direct trade (economic) effects, but also a broad set of non-trade policy objectives (NTPOs), which include sustainable development, the environment, labor and human rights, among others.

- **Main objective:** In this paper we focus on analysing the inclusiveness and effectiveness of the consultation process. We provide a critical assessment of the current process and suggest recommendations to improve it
- Overview of this presentation:
 - ① Thematic coverage of NTPOs in SIAs
 - ② SIAs within the broader EU trade negotiation process
 - ③ Main characteristics of the current SIAs and consultation process (CP)
 - ④ Critical review of the current CP
 - ⑤ Recommendations to improve the consultation process

Thematic coverage of SIAs

- Treaty of Lisbon: The EU's trade and investment policies should support and promote NTPOs (standards related to human rights, labor rights, the environment and sustainable development)
- In addition, several EU legal and institutional arrangements: Article 21 of the Treaty on European Union, the Charter of Fundamental Rights of the EU, and EU guidelines to promote human rights through its external actions (Council of the European Union, 2012)
- As well as commitments made by EU member states enshrined in international law –e.g., the Universal Declaration of Human Rights and the International Covenant on Civil and Political rights

Trade policy and non-trade policy objectives

- There are two basic aspects of EU trade policy analysis:
 - ① Ex-ante: determining the design and substance of policy interventions to achieve NTPOs
 - ② Ex-post: implementation of agreements, complementary actions (e.g., technical assistance; development aid), and monitoring and evaluation
- SIAs are part of the ex-ante process, but could also be used to inform and guide the ex-post analysis
- However, the first problematic issues with the EU's Trade SIAs is that they are parallel and not properly integrated to actual negotiations

SIA in the EU trade negotiation process

- Full process of negotiating and implementing EU trade agreements involves more than 30 different stages and all three EU governance bodies: the EC, the Council and the European Parliament (EC, 2012).
- There are five main components:
 - 1 Preparatory: initiate negotiation process, scoping report and commissioning the trade SIA
 - 2 Mandate: authorisation and negotiation directives by the Council
 - 3 Negotiations
 - 4 Finalisation and signature of a draft agreement
 - 5 Ratification by the Council and the European Parliament

SIA spans the full negotiation process

- The full negotiation process is described as a chronological sequence
- In practice, however, the trade SIA is never concluded before the negotiations begin
- Hence, the SIA is not really part of the "preparation" process: it is an ongoing exercise and overlaps and may extend beyond the negotiations
- For example: TTIP launched in June 2013, first negotiation round was in 7 July 2013, SIA tender was published on 24 July 2013, negotiations ended in December 2016 and final SIA report was published until March 2017

Trade policies have heterogenous effects

- In general, since most trade agreements have modest economy-wide effects, the potential impacts on non-trade outcomes are expected to be muted
- Nevertheless, the potential impacts can be significant for specific economic activities and can also affect heterogenous population groups differentially, i.e. there will be winners and losers from any trade agreement
- Assessing these distributional consequences is a core task of the SIA model-based analysis of the potential effects of an agreement
- Identifying groups that may confront significant adjustment costs should inform the substantive design of an agreement and the need for flanking measures

Analysing NTPOs is a complex task

- An economic analysis of trade agreements, therefore, should provide guidance on the magnitude of the effects and link these to economic activities and agents
- However, it is already a difficult task to assess the economic effects of trade agreements and their relative magnitudes on different populations (by skill, activity, region, and gender, among others)
- Adding NTPOs compounds the difficulties and complexities to the analysis

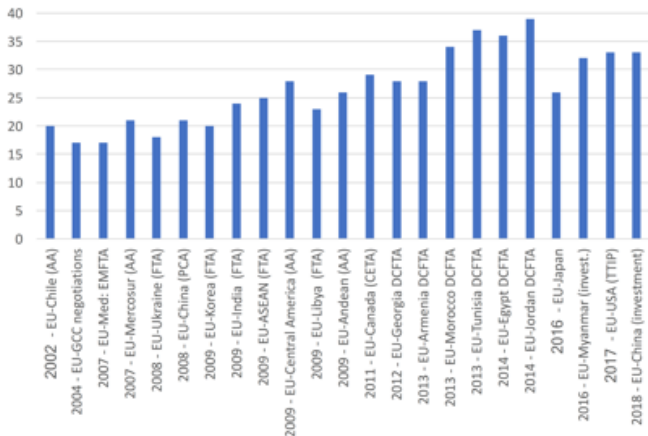
- The EU's Trade SIAs aim to use the quantitative analysis (first component) to assess these impacts, while the consultation process (second component) is used to communicate these effects, consult stakeholders regarding these potential effects and create a feedback loop with the negotiations
- The quantitative analysis, however, has been criticised for using a "tick-the-box" methodological framework that allows to cover a broad set of topics, but that only delivers a shallow analysis of these trade and non-trade issues

Analysis of SIAs quantitative analysis

- Rojas-Romagosa(2020) summarised the evolution of the coverage and methodological approaches on the quantitative analyse of trade and non-trade policy objectives
- Main findings:
 - ① Thematic coverage has steadily increased over time, in particular labour-related and human rights topics
 - ② Methodology has been formalised with the ECs SIA handbooks
 - ③ Consultation process has been improved and expanded
 - ④ CGE models are the core of the quantitative (direct) analysis
 - ⑤ But most topics are only covered using indirect qualitative analysis (only around 13% of the topics have a direct analysis)
 - ⑥ Hence, most of the NTPOs are only analysed using indirect (causal chain) and sometimes speculative (ad-hoc) methods

Non-trade policy objectives (NTPOs): total

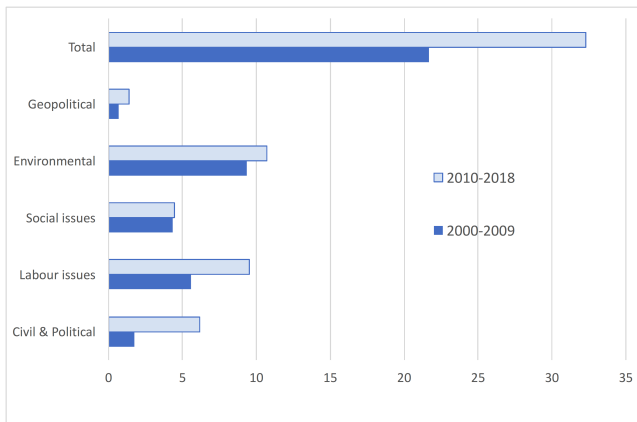
Figure 1: Total number of NTPO issues covered in each SIA report



Notes: By year in which the Final Report of the SIA was delivered. Source: Final SIA reports downloaded from DG-Trade website.

Non-trade policy objectives (NTPOs): average

Figure 2: Average number of NTPO, by main categories covered in SIAs



Notes: By year in which the Final Report of the SIA was delivered. Source: Final SIA reports downloaded from DG-Trade website.

SIA limitations: Analysing human rights

- Specific guidelines for how to conduct human rights impact assessment are laid out in EC (2015b)
- Analysing the impact of trade policy on human rights, however, is not straightforward given that such rights encompass a broad array of human activity: economic, political, cultural, and social.
- Matters are compounded by the absence of a systematic, evidence-based, and standardised methodology to analyse the impact of trade agreements on human rights
- Many scholars advocate for a comprehensive analysis of human rights issues employing tailor-made human rights impact assessments (HRIAs). However, a robust HRIA methodology that incorporates trade and trade policy as an instrument has not been developed (Brando et al. 2015).

Analysing human rights in SIAs (cont.)

- The latest SIA handbook (EC,2016) does not delimit the coverage of human rights issues, nor does it provide an analytical framework to do so
- Instead, the guidelines provided in EC (2015b) recommend using a simple positive, negative, or neutral (+/-/0) score to assess direct and indirect effects of a trade agreement on specific human rights
- This is mostly based on induction-based links between the expected economic outcomes of the trade agreement and different rights.
- For example, the SIA on the Environmental Goods Agreement, finds that the main (positive) effect of the agreement on human right is: "Small solar lights, or renewable energy projects that bring electricity to rural areas, can allow people to work later, to enjoy leisure activities and to read and write during the night, among other benefits". (Development Solutions, 2016)

Analysing human rights in SIAs (cont.)

- Such findings with little or no quantitative backing, are widespread in most SIAs human rights impact assessments
- The general impression is that the particular links and human rights topics chosen are arbitrarily decided by the SIA consortia and included as a way to tick the box in the SIA table of contents
- They provide limited (if any) useful information on the actual impact of the agreement on particular human rights
- Hence, the assessment of human rights dimensions is not evidence-based, contrary to what is called for in EC (2016), but remains unquantified, anecdotal and of little practical use in policy debates

- Overall, SIA provide scarce quantitative evidence to policy-makers and stakeholders regarding most NTPOs
- This limitation of the quantitative analysis spills over to the consultation process and makes the communication of the expected impacts of trade agreements and any feedback loops more difficult
- This creates the perception that the SIA is just a PR communication exercise
- A key function of the consultation process is to provide stakeholders a platform to express concerns regarding possible negative effects of a trade agreement
- Moreover, the CP is expected to provide feedback to the negotiators and overtime, on the design of the trade agreements
- But many do not think SIAs achieve this. For instance, according to the SIA practitioner survey by Fiorini et al. (2019), trade unions and NGOs disagreed or strongly disagreed that the design of the trade agreements is efficiently informed by the CP

- The CP has been expanded and made more inclusive over time, for instance, by using a dedicated website and improving on the communications tools
- Several consultants in charge of the doing the SIAs, considered that there are some linkages between the CP, the quantitative analysis and (sometimes) the negotiation process (e.g. TTIP and CETA)
- However, severe limitations remain and the process needs to be overhauled to make it more inclusive and effective

Main recommendations to improve the CP

- We identify three main issues that need to be addressed:
 - ① Weighing the views and comments expressed during the CP by participants
 - ② Ensuring that the CP involves and engages with a representative sample of stakeholders
 - ③ Analysing how changes in trade and the provisions of a trade agreement may (can) impact on different groups in society and specific NTPOs that were brought forward in the consultations
- Next, we provide specific recommendations for each issue

Revisiting the design of consultation surveys

- Current EU SIA consultations utilise a survey instrument that just asks if the agreement will have an impact on a long list of topics
- This instrument does not identify nor ranks which topics are considered the most important and relevant by the stakeholders
- Surveys should be re-designed to include closed ended, scaled questions on the specific NTPOs included in trade agreements as well as questions on the preferred instruments to pursue them
- Identifying and ranking NTPOs will provide guidance for the quantitative analysis, which could then focus on a constrained number of topics that in turn, can be analysed in more depth

Deliberative polling as active element of the CP

- These re-designed consultation surveys could then be used as a sampling frame to obtain a representative group of stakeholders
- Deliberative polling:
 - Implement a process of deliberation among this representative group of stakeholders
 - Bring them together to discuss trade and non-trade issues in small groups
 - Facilitated by trained moderators
 - Informed by accessible expert briefing materials that provide balanced information on the range of salient issues, including economic effects and non-economic concerns.
- The goal would be to solicit the group's views through a poll on priorities and policy instruments needed to improve outcomes in the chosen areas

Focused and in-depth quantitative analysis

- Such deliberative polling would address a weakness of the current consultation process: the lack of a mechanism to weight (rank order) the views and concerns expressed by a wide range of stakeholders.
- To be effective, however, a robust information base is required during the deliberative polling
- This can include preliminary analysis of the potential results of a trade agreement, including the scoping report but also interim SIA reports
- This could also create a positive feedback loop where the (initial) identification of a small set of priority non-trade issues should result in a focused and in-depth quantitative analysis (through topic-specific CGE models, or other instruments)

Alternative analysis for specific issues

- However, this analysis should be conditional on the quality and extent of available data and methodological constraints discussed previously regarding assessments of how trade reform may impact on NTPOs
- This potential constraint, for some topics, could be addressed in part by synthesising the experience with implementation of trade agreements and associated ex post evaluations, as well as the academic literature analysing the relationship between trade and trade reforms on both economic and non-trade issues
- The information problem can also be addressed in part through engagement with international organisations with specialised expertise and country presence/knowledge.

Multi-stakeholder value chain-based deliberations

- Another, complementary approach is to conceptualise the CP (and/or deliberative polling) around specific value chains
- This can be an alternative means of identifying a representative set of stakeholders with a common interest in an economic activity that may be affected by trade policy reforms.
- Organising deliberations around several value chains that are economically significant would also ease the identification of specific populations, economic activities and locations that are more relevant to the specific trade agreement and that might require attention
- This can also be useful to guide the stated intention of the EU to develop mandatory standards for internal operation of international supply chains of EU headquartered companies.

Summary

- Current SIAs cover a very broad set of trade and non-trade topics, but only through a shallow and (mostly) qualitative analysis
- This methodological approach yields very limited information on the expected magnitude of the impacts of trade agreements
- In turn, this lack of relevant information also makes the consultation process more difficult
- We propose the use of re-designed consultation surveys, the identification and engagement of a representative set of stakeholders and deliberative polling to define a limited number of priority issues
- Focusing on these priority areas will improve the quantitative analysis and create a positive feedback loop with the consultation process
- Finally, this improved ex-ante analysis can (and should) be relevant to ex-post evaluations by identifying key performance indicators and baselines against which to assess the results of implementing trade and aid policy instruments