Spotlight Report
on Sustainability
in Europe

# Who is paying the bill ?

## (Negative) impacts of EU policies and practices in the world

SDG WATCH EUROPE

Report published by
SDG Watch Europe

Once they were fishers
Because of extreme pollution
They are now fetchers
Of wood for barren fires

Nnimmo Bassey

Environmental activist, Poet, and winner of the
Right Livelihood Award 2010

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# Foreword

## Living at the expense of others

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Studying EU policies thoroughly means studying policies of externalization. The thirteen chapters assembled in this publication constitute an impressive – impressively gloomy though – evidence for this assertion. Wherever you turn your eyes, whatever policy domain you may be concerned with: What at first glance may seem to be part of the European Union's internal policies immediately turns out to be a story of externalities, a matter of spill-over effects transcending the borders of the European polity. And more often than not it is negative externalities that come into sight. Negative externalities that we should be talking about instead of obsessively trying to ignore them.

Externalization is a complex phenomenon. It is a combination of the social processes of appropriation, exploitation, devalorisation, externalization (proper), closure, and suppression. Externalization begins with one party, often forcefully, appropriating resources, most importantly labour and nature, by way of expropriating people and land elsewhere in the world. The appropriated resources are then exploited in order to extract economic profit from them, a profit that systematically accrues to the appropriating party only. Appropriating and exploiting other people's labour and other places' nature, however, is made possible by effectively devalorising them, i.e. by denying that labour and land elsewhere have a price to be paid or by implying that they are not as precious and valuable as the labour and land of one's own homeland. Externalization in the narrow sense of the word then means that the costs of the devalorising appropriation and exploitation of others' resources have to be borne by these others themselves – while the winners of the game succeed in closing their economic and social space against the outer world, preventing to be confronted with the consequences of externalization. Finally, this whole arrangement is made invisible, is being suppressed from the externalizers' collective consciousness – out of sight, out of mind.

This is actually why the work of SDG Watch Europe is so important. This is why this publication on the spill-over impacts of a wide range of EU policies is so indispensable: It sheds light on the nexus between the political regulation of production and consumption here, in the European Union, and the living conditions of people elsewhere, in the supposedly 'underdeveloped' countries of the Global South. People that seem to be living far away, but which are actually pretty close to us, because their life chances are heavily and often immediately determined by the European way of living, of producing and consuming – and of doing politics.

This publication contributes to unsettle the double standard of EU policies, consisting in protecting our own industries, corporations, workers, and consumers by confining the opportunities and threatening the well-being of economies and populations in other parts of the world. Every single of the following thirteen chapters is a strong and profound case for ending this double standard of European policy-making. They point to the pressing political need for taking responsibility, to acknowledge that it is others who pay the cost for 'our' success – and that this is a moral burden we, the European citizens, should not be willing to bear any longer.

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# Introduction

The 2030 Agenda for Sustainable Development adopted unanimously at the United Nations in September 2015 is highly ambitious. If taken seriously it has the potential to change the prevailing development paradigm by re-emphasizing the multidimensional and interrelated nature of sustainable development and its universal applicability. Consequently, it should also form the basis for all policies of the European Union.

The 2030 Agenda is universal, not just because the SDGs are global in scope, but also because all countries have to do something to achieve them. No country can deem itself to be sustainably developed and having already done its part to meet the SDGs. The 2030 Agenda offers the opportunity to challenge the idea that development is a phenomenon that occurs only in countries of the Global South while the North is already 'developed'. This is especially true for the European Union.

But four years after the adoption of the 2030 Agenda the world is off-track to achieve the SDGs. Most governments have failed to turn the transformational vision of the 2030 Agenda into real transformational policies. Even worse, xenophobia and authoritarianism are on the rise in a growing number of countries.

In January of 2019 the European Commission presented a "Reflection Paper" on how to deal with the 2030 Agenda. The paper, however, limits itself to outlining options for the Commission and the European Parliament to come after the European elections in May 2019. The EU is still lacking a comprehensive strategy on the implementation of the 2030 Agenda and its ambitious commitments to action.

On average, the EU has one of the world's worst environmental footprint per capita, with our unsustainable lifestyles based on resource and labour exploitation in other parts of the world. The economy of the future needs to take into account the environmental and social impact beyond our borders rather than living in the illusion of a low-carbon, resource efficient Europe that exports resource-intensive production to other parts of the world. Policy coherence for sustainable development requires to fully take into account the externalities and spill-over effects of European policies, production and consumption patterns.

Taking policy coherence into account means also a monitoring of the spill-over effects and set goals to limit them. Eurostat is not including externalities in their reporting, as indicators are (still) not existing.

This report shows in some important policy areas where there is an urgent need for action, because the external effects of European policies are not sufficiently taken into account.

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## Policy Coherence for Sustainable Development

Policy Coherence among the SDGs is crucial in recognising the interconnected nature of the goals.
The concept of EU's Policy Coherence for Sustainable Development urges policy and decision makers to look beyond their usual sectorally defined short-term scope and requires a holistic policy approach across thematic areas and between EU external and other policies. The EU has undertaken different efforts to take this forward, although it would be wrong to state that EU policies today are PCSD compliant. Also within the EU, policies are not necessarily coherent with sustainable development, balancing the 4 dimensions of the concept. Despite the limited success of EU's approach of policy coherence development thus far, the efforts have not been in vain and PCSD might prove crucial in solving the main bottlenecks.

## Common Agricultural Policy

Industrial agriculture is the world's leading driver of ecosystem degradation, affecting life on land, life below water, climate change and clean water. Unhealthy and unsustainably produced food poses a global risk to people and the planet, not to speak of hunger which remains an ongoing injustice despite the expansion of EU food production and EU agro-food exports. Meeting growing food demands while minimizing ecological losses therefore presents one of the major challenges society faces and is critical to many of the SDGs. Reform is necessary, geared toward benefiting small farmers in and outside Europe and with less damage to ecosystems worldwide. If Europe wants to be more supportive of sustainable development and global food security, it has to reduce its external land use, strive to improve crop rotation, and close the nutrient-cycles in its farming systems, rather than expand exports. Sustainable food production needs to operate within the safe operating space for food systems at all scales on earth.

## Fisheries

Crucial improvements have been achieved regarding the EU policies on fisheries' relations with developing countries, notably regarding the management of EU external fishing fleets. However, the design of these policies and their implementation are not always fit to deliver on the SDGs. The EU's Blue Growth approach is raising concerns as it could result in supporting policies and projects in partner countries that further marginalise local fishing communities. Moreover, some EU-fisheries related operations still escape regulation that would ensure their sustainability, like private EU investment in Africa in the form of fishing joint ventures. A fundamental issue also remains, despite efforts by the EC, that the more access is allocated to EU fleets, the more money the coastal country receives. The EC's definition of Blue Growth embraces a concept that puts growth and profits at the forefront of decision making. To support sustainable fisheries in the Global South, access to fish should be given in priority to those who fish the most sustainably from an environmental point of view, contribute the most to food security, and provide the most social benefits to coastal communities.

## EU Trade

Trade is at the basis of the creation of the EU. EU's impressive trade power has enormous impact all over the world with consequent "externalities" and hidden costs that are transferred elsewhere. In global markets exist enormous asymmetries in power and information among participants causing inequalities. Agenda 2030 promises "fundamental changes in the way that our societies produce and consume goods and services". The EU imports (measured by weight) mainly raw materials and semi-finished products and exports mainly finished products of much higher value. Those imports require much more material extraction somewhere else. The current way of accounting hides a massive transfer of environmental damage out of Europe, which fall off the radar. Although the aggressive way in which the EU negotiates trade, without a wider look at the whole impact of what is being negotiated on sustainable development is starting to create concerns, environmental protection or the promotion of human rights is still never a starting point.

## Landgrabbing

The Global South is losing its once effective control over the land, water, wetlands, pastures, fishing grounds and forests on which it depends, a process known as 'landgrabbing'. The role of the EU in landgrabbing is manifold as EU actors are involved in the financing of large-scale land deals worldwide.
The EU domestic policies that strongly impact landgrabbing in the Global South include the EU's Common Agricultural Policy, the bioenergy policy, the EU's trade and investment policy and the Green Growth and Blue Growth strategies. Active measures to prevent and remedy human rights abuses and violations in the context of landgrabbing require moving away from capital fixes with ongoing pressures of extraction and enclosure towards truly sustainable development models that incorporate the multiple meanings and uses of land, water, fisheries and forests. Too often, the tensions between the EU's trade and investment policy and human rights obligations are glossed over with an increasing reliance on a voluntary code of conduct approach rather than robust mechanisms for accountability and redress.

## Financial Policies

The EU's policies on debt, taxes and finance are among the policy areas that have strong impact on SDGs implementation, both in the EU and in third countries: the availability as well as the distribution of financial resources impact (in)directly sustainable development. The Euro crisis was one of the key constraints on progressive transformation towards sustainable development in the EU. The EU's approach to solving the crisis turned formal internal problems into external problems, known as "beggar-thy-neighbour-policy."

The EU is currently building a new house of cards out of unsustainable debts, but this time outside of Europe. The EU and its Member States have not yet started to carry out systematic spill-over analyses to identify the impacts of its policies on developing countries, or on key priorities issues such as gender equality. Furthermore, a fundamental issue is that global economic governance is conducted by bodies dominated by developed country interests, which do not represent, or act in the interests of developing countries. And it's clear that EU Member States prefer to turn a blind eye to the devastating human rights impacts of the economic reforms they implement or impose on others.

## Corporate Accountability

The EU has engaged in the narrative of the "business case" for the SDGs, presenting the sustainable development agenda from the perspective of business growth opportunities. Nevertheless; and despite voluntary human rights initiatives in various economic sectors, the pace of human rights abuses committed by companies has not slowed. International political will to enhance corporate accountability is growing, but the EU has so far failed to take concrete steps to regulate overseas operations of European companies to avoid human rights violations and environmental harm. The current patchwork of sectoral legislative initiatives and the lack of EU-wide regulation allows for significant gaps in corporate accountability. The EU's reluctance to regulate responsible business conduct with an overarching, mandatory framework has a clear negative impact on the capacity of developing countries to achieve the SDGs by 2030.

## Chemical Pollution

Already at the Earth Summit in Rio de Janeiro in 1992, the key principles of sustainable production and consumption were adopted by all UN member states, including the polluter pays principle and the precautionary principle. Multiple major chemicals and waste conventions have been adopted, however international agreements and European regulation have not been able to halt the global and often irreversible pollution of our water, air, soil, food, animals and humans.
In the last decades the global chemical industry's production almost doubled whilst chemical pollution is a significant and underestimated contributor to the global burden of disease with children particularly at risk. Chemical pollutants are found everywhere and in everyone, the oceans are dying under the impact of chemical pollution and electronic waste is one of the most hazardous waste streams worldwide.
The economic costs are to a large degree externalised by businesses to governments and the public. Victims pay with their health and lives with hardly any chance of justice or compensation.

## Waste

The EU generates more waste every year. While increasing its exports, the EU hardly takes in waste from developing countries or emerging markets in return. This negatively affects the implementation of several of SDGs. The waste stream – together with its environmental and social burden – is externalised to poorer economies with weak regulation, frail governance and a mostly informal waste sector. Global waste streams are highly complex and the current legal framework has several loopholes but also problems with implementation and enforcement. Two examples illustrate these weaknesses. Every year, hundreds of European end-of-life vessels such as old container and cargo ships, obsolete tankers and oil platforms as well as rusty passenger ships are being broken down on beaches in South Asia harming people and the environment. Even though they are considered hazardous waste under European environmental regulation, ship-owners can circumvent the law. Another striking example is the massive export of plastic waste. After China's ban on waste imports, European plastic waste flows into countries such as Malaysia or Indonesia. Only parts of it are properly recycled while low-grade plastic waste piles up in landfills or is burned. All this points to a much deeper problem with waste generation in Europe and its unwillingness to take care of its own waste.

## Resource Justice

The lifestyles in the EU are highly dependent on imported resources – minerals and fossil fuels but also water, land and forests - mainly extracted in the Global South. Europe's resource consumption pattern is triggering externalities in other regions by exporting the negative environmental and social impacts of production of the goods consumed in Europe. Overconsumption of resources in the Global North impedes the development of communities in the Global South, presenting a clear barrier to overcoming poverty and achieving food security. The current extractive economy creates an active process of enrichment and impoverishment, which is the driver for social and environmental injustice.
One of the biggest downfalls of the current EU policies is the absence of a maximum resource use target and other overarching legislative tools and policies. More drastic changes are needed. Merely implementing resource efficiency policies will not bring about the desired system change.

## Peace and security

There is a big gap between good intentions for a global and coherent security approach on the one hand and the political reality of the EU's Common Security and Defence Policy (CSDP) that is initially working on the development of a military capacity. Sounding statements on a broad and coherent security approach are not in agreement with European reality with focus on greater military efforts and military cooperation. The mantra is global competitiveness, translated as consolidating the EU as a provider of arms worldwide. As arms are a major component in fuelling violent conflicts, it is quite cynical that European programs strengthen the EU's capabilities for military intervention in conflict areas contributing to the refugee crisis that have been supplied by EU arms. The EU must therefore act in accordance with its proclaimed policy as stated in the Global Strategy. There is a well-defined legal framework that should ensure that its weapons are not used in violent conflicts and in human rights violations. After all, sustainable development is the best way to prevent violence.

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## Climate Policies

The EU's climate policies are not sufficiently enforced to prevent dangerous climate change and its impact on people in Europe and beyond. Despite acknowledgements regarding the insufficiency of the targets there is still a lack of ambition in emissions reduction targets and too much flexibilities in the policies underpinning the legislation. These factors severely weaken the effectiveness of current regulations to drive any climate change. This has far-reaching global impacts. The difference between 1.5 and 2°C will unequivocally have dramatic adverse effects on developing countries' ability to achieve sustainable development. An increased number of citizens are mobilising by taking their governments to court, leading to a wave of climate lawsuits worldwide, urging for a higher ambition.

## Migration and Human Rights

Migration is at the "heart" of the EU's domestic policies as the opening of internal borders is intimately linked to the closing and controlling of external ones. The link between migration and external EU action and policies, for the sake of European citizens, has been used as a main rationale to justify interventionism in the so-called "third countries" by the EU and its Member States. The instruments created take the externalisation of EU migration policy further, using outsourcing protection responsibilities to third countries in exchange for EU aid. They also create more opportunities for human rights violations in the third countries who negotiate with the EU and its Member States. The opacity and the eurocentrism behind the EU's migration policy are part of the continuity of neo-colonialism in the region, solidifying unequal relationship between the continents. Making the link between EU migration policy and the SDGs a reality, would require establishing the mechanisms to ensure European migration instruments contribute to policy coherence on sustainable development and that development allocation is not linked to the EU's domestic political agenda concerning migration deterrence or security.

Organisers

SDG WATCH EUROPE

GPF Global Policy Forum europe

EEB European Environmental Bureau

actionaid

Brot für die Welt

SOCIAL WATCH www.socialwatch.org

Global Call to Action Against Poverty
People Rising to End Inequalities

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Adiwijayanto23
Floating market in Lokbaintan, Banjarmasin, Indonesia.

# The End to the Tug of War?

01

## A new era for Policy Coherence for Sustainable Development

European NGO confederation for relief and development
CONCORD

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# The End to the Tug of War?

## A new era for Policy Coherence for Sustainable Development

***The adoption of the 2030 Agenda with Policy Coherence for Sustainable Development (PCSD) among the Sustainable Development Goals is an important milestone in recognizing the interconnected nature of the world. Embracing the basic principles of the 2030 Agenda means universality and looking at the global challenges we face today - climate change, loss of biodiversity, conflicts, forced displacement and migration - through the longer-term lens of sustainable development.***

The concept of PCSD urges policy and decision makers to thus look beyond their usual sectorally defined short-term scope and to take account of[1]:

1. Impacts on well-being: Does any given policy balance the four dimensions of sustainable development (social, environmental, economic and governance)?
2. Transboundary impacts: Does it have a positive or negative impact on the ability of other countries to achieve sustainable development?
3. Intergenerational impacts: Does it have consequences for future generations?

These three aspects have also been referred to as the "here and now", "elsewhere" and "later" dimensions of policy coherence[2].

Efforts for PCSD, therefore, should not only minimise negative external impacts: they should aim at fundamentally changing the economic, social and political system, to such an extent that future generations will be able to live in a world free from poverty, in which human rights and planetary boundaries are respected, and no one is left behind.

Policy Coherence for Sustainable Development is considered as one of the prerequisites for achieving the 17 Sustainable Development Goals (SDGs), as captured in the often referred "interlinked and integrated nature of the 2030 Agenda". This means looking at the interlinkages between various goals and policies, instead of trying to tackle each problem individually. In order to rid the world of hunger (SDG 2), we need climate action (SDG 13) and the sustainable management of water resources (SDG 6). To protect our oceans and seas (SDG 14), we need to promote sustainable agriculture (SDG 2) and ensure that consumption and production patterns are sustainable (SDG 12). Nor should the important governance aspect of sustainable development be forgotten. The rule of law, democratic participation, and civic space with a vibrant civil society must go hand in hand with economic approaches.

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(1) CONCORD (2016). Sustainable Development. The stakes could not be higher, https://concordeurope.org/blog/2016/11/16/sustainable-development-report-2016/

(2) D. O'Connor, et al. 2016. "Universality, Integration, and Policy Coherence for Sustainable Development: Early SDG Implementation in Selected OECD Countries." Working Paper. Washington, DC: World Resources Institute. https://wriorg.s3.amazonaws.com/s3fs-public/Universality_Integration_and_Policy_Coherence_for_Sustainable_Development_Early_SDG_Implementation_in_Selected_OECD_Countries.pdf?_ga=2.35269281.1223608540.1557474854-924390172.1557474854

## A long-standing EU commitment

Sustainable development has since long been at the heart of the European project and the EU Treaties. The 1992 Maastricht Treaty[3] has set as first Union objective "to promote economic and social progress which is balanced and sustainable" and in the 1997 Amsterdam Treaty[4] we see clear reference to the principle of sustainable development. Quite soon though, it became clear that sustainable development could not be accomplished as a small project on the side, but instead it has to underpin all the work we do.

It's in this vein, already in the 2001 EU Sustainable Development Strategy, published one year ahead of the 2002 World Summit on Sustainable Development, the so-called Rio+10, in Johannesburg, South Africa, that the European Commission called for Sustainable Development to become the central objective of all sectors and policies. That 2001 Strategy also called for a new more integrated and long-term approach to policy-making as you can read in the box[5].

**The 2001 EU Sustainable Development Strategy called already for more integrated and long-term approach to policy-making**

*"Although the Union has a wide range of policies to address the economic, environmental and social dimensions of sustainability, these have developed without enough co-ordination. Too often, action to achieve objectives in one policy area hinders progress in another, while solutions to problems often lie in the hands of policy makers in other sectors or at other levels of government. [...] In addition, the absence of a coherent long-term perspective means that there is too much focus on short-term costs and too little focus on the prospect of longer term "win-win" situations. [...] policy makers must identify likely spill overs – good and bad – onto other policy areas and take them into account. Careful assessment of the full effects of a policy proposal must include estimates of its economic, environmental and social impacts inside and outside the EU. This should include, where relevant, the effects on gender equality and equal opportunities. It is particularly important to identify clearly the groups who bear the burden of change so that policy makers can judge the need for measures to help these groups to adapt."*

Also in the area of development cooperation, the 1992 Maastricht Treaty set out for the Community to "foster the sustainable economic and social development of the developing countries, and more particularly the most disadvantaged among them; the smooth and gradual integration of the developing countries into the world economy; and the campaign against poverty in the developing countries" (article 130u) and, to "take account of the objectives referred to in Article 130u in the policies that it implements which are likely to affect developing countries". Still today, this latter legal commitment is enshrined in article 208 of the Lisbon Treaty[6]. Subsequently, the political commitment to 'Policy Coherence for Development' followed with the adoption of the European Consensus on Development in 2006 and over the year it has developed and strengthened various mechanisms in support of this commitment.

More recently however, with the adoption of the 2030 Agenda for Sustainable Development in 2015, the EU recommitted to sustainable development and to the renewed concept of Policy Coherence for Sustainable Development. In its 2016 Communication, the European Commission states that Sustainable Development requires a holistic and cross-sector policy approach to ensure that economic, social and environmental challenges are addressed together. It is therefore an issue for governance requiring the right instruments to ensure policy coherence across thematic areas and between EU external and other policies. The new European Consensus on Development adopted

(3) https://europa.eu/european-union/sites/europaeu/files/docs/body/treaty_on_european_union_en.pdf
(4) https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:11997M/TXT&from=EN
(5) https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52001DC0264&from=EN
(6) https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN

in 2017 also recommits the EU and its Member States to Policy Coherence for Development as an important contribution to Policy Coherence for Sustainable Development[7].
Also in its 2017 response, the Council, the EU and its Member States recognised their responsibility to address the domestic, regional and global impact of their actions on the economic, social and environmental dimensions of sustainable development. They underlined the fundamental importance of PCSD to achieve the integrated 2030 Agenda and reaffirmed their commitment to ensure inter-linkages, coherence and consistency between the different policy sectors by making use of existing mechanisms, such as the Regulatory Scrutiny Board, and adjusting them where required to address the challenges of sustainability and transformation[8].

The European Parliament, in its 2017[9] and 2019[10] reports, equally highlights the importance of PCSD, recommending that the best practices and lessons learnt from PCD are applied in further developing and operationalising PCSD and stressing the need to enhance PCSD mechanisms. It urges the Commission to adopt a follow-up action plan calling for the adoption of a clear set of rules for the implementation of the PCSD concept, and reiterating its call to distinctly define the responsibilities of each EU institution in achieving PCD commitments.

## Turned into reality?

Since the aforementioned legal and political commitments to Sustainable Development and Policy Coherence for Sustainable Development, the EU has undertaken different efforts to take this forward, with varying success.

The 2014-2019 Commission has adopted a new structure with Vice-Presidents each guiding a dedicated group of Commissioners and with project teams at Commissioner-level taking common priorities forward, thereby integrating different sectoral policy angles to ensure that efforts in one policy area reinforce initiatives in other fields. It also gave the First Vice-President horizontal responsibility for sustainable development, playing a coordinating role in taking forward the Commission's work in actively implementing the 2030 Agenda. Inter-service groups within the Commission and inter-service consultations should ensure more coherence at technical level. It is worth noting though that the project-based approach and inter-service work are mechanisms which are not sustainable development-specific, but should just ensure more coherence in general.

In 2015, it also adopted the Better Regulation Agenda, which has potential to help mainstream sustainable development in EU policies. All Commission ex-ante impact assessments (and ex-post evaluations) must for example analyse environmental, social and economic impacts and there is a dedicated tool to assess the impacts of policy proposals on developing countries. Increased and more structured involvement of stakeholders in the policy-making process is another way to eliminate incoherencies and strengthen PCSD. Once conducted, the Regulatory Scrutiny Board plays a role in ensuring the aforementioned guidelines were properly followed.

Nevertheless, it would be wrong to state that EU policies today are PCSD compliant. We will give some examples to illustrate this. The EU's current trade policy, persuading developing countries to liberalise their markets, may have a negative impact on the nascent industries and other fragile economic sectors in these countries. Furthermore, a 2018 CONCORD study also showed the negative impact it has on women's rights around the world[11]. The impact of EU agricultural exports (dairy, tomato, poultry and cereals) to the domestic markets in developing countries or the increasing demand

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(7) https://ec.europa.eu/europeaid/sites/devco/files/european-consensus-on-development-final-20170626_en.pdf
(8) https://www.consilium.europa.eu/media/23989/st10370-en17.pdf
(9) https://ec.europa.eu/europeaid/sites/devco/files/european-consensus-on-development-final-20170626_en.pdf
(10) http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2019-0220+0+DOC+PDF+V0//EN
(11) https://concordeurope.org/wp-content/uploads/2018/06/CONCORD_Trade_Gender_2018_online.pdf

for energy and animal feed that is at risk of, or is leading to violating the land rights of local communities and indigenous people are two other examples of such negative transboundary impacts[12]. CSOs have put forward many criticisms on the lack of coherence between the externalisation of the EU migration policy and the respect of migrants' human rights. EU and member states support to the Libyan coast guard is pushing back many migrants in detention camps where human rights are not respected, without offering alternative regular pathways.

Also within the EU, policies are not necessarily coherent with sustainable development, in the sense that they balance the 4 dimensions of sustainable development (social, environmental, economic and governance). Despite the recent economic recovery, different forms of inequalities persist or even increase within the EU. And many EU policies reduce the opportunities for future generations to develop sustainably. Our current consumption and production models are far from sustainable, depleting our available natural resources/raw materials, producing excessive amounts of waste and increasing air pollution and climate change, while Europe's biodiversity continues to be eroded, leading to ecosystem degradation.

## Learning from the PCD experience

Over the years, a lot of energy has been put into debating the impact of European Union policies on developing countries. This debate has been framed around the concept of policy coherence for development (PCD), and its roots can be found in the articles of Maastricht Treaty which laid the original legal basis as stated above. The basis has remained in the Treaties ever since. Currently, the Lisbon Treaty states that "the Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries" (TFEU art. 208).

The rather long history of attempting to make policy coherence for development a reality in the European Union and some OECD countries provides us with many valuable lessons. In 2006, the European Commission started to compile biannual reports to look at progress in implementing PCD both in the EU and in its Member States, focusing especially on selected priority themes. The most recent PCD report was published by the EC in January 2019. These reports have focused mainly on presenting processes and approaches to PCD, rather than assessing actual impacts of policies.

A number of measures have been taken to establish mechanisms to promote PCD. In addition to the producing biannual reports, ex-ante impact assessments have analysed possible impacts in developing countries, a specific PCD Unit has been established in the Commission (currently in DEVCO), a standing PCD rapporteur has been appointed in the European Parliament's Development Committee, and the Council at one point also started (but quickly stopped) a rolling PCD Work Programme. Similarly, EU Member States have also taken different steps to promote PCD at national level[13]. These vary from a Government Bill on Policy for Global Development to inter-ministerial coordination networks and parliamentary advisory bodies and screening mechanisms.

CONCORD has produced a number of monitoring reports on the EU's implementation of PCD, called CONCORD Spotlight Reports[14]. Also, CONCORD's member Globalt Fokus (and previously CONCORD Denmark) have regularly reviewed the Commission's impact assessments to analyse whether they are properly harnessed to promoting PCD. Unfortunately, the results have been discouraging, with less than 30% of impact assessments performing their PCD function in any given year between 2009 and 2016[15]. Other shortcomings that CONCORD has pointed out include the lack of real PCD

(12) https://concordeurope.org/wp-content/uploads/2018/11/CONCORD_Recommendations_CAP_PCSD_Nov2018.pdf
(13) CONCORD's scorecard Spotlight from 2015: https://library.concordeurope.org/record/1634/files/DEEEP-REPORT-2016-008.pdf
(14) https://concordeurope.org/blog/2016/01/10/spotlight-publications-policy-coherence-development/
(15) CONCORD report: the Impact of EU Policies in the World 2017 and 2018 https://concordeurope.org/wp-content/uploads/2018/11/CONCORD_ImpactAssessment_Paper_Nov2018.pdf?318a44&318a44

indicators that would measure impacts of EU policies in developing countries and the limited involvement of EU Delegations in providing feedback from the EU's partner countries.

The picture is similar with the other PCD mechanisms. In 2018, the EC published an external evaluation of the EU's PCD efforts and impact since 2009. The evaluation concluded that the current EU PCD approach has raised awareness and increased expertise only to a limited extent, which in turn has not directly influenced policy-making. Moreover, this approach hardly influenced outcomes and impacts in developing countries. According to the evaluation, there has been faltering political commitment to PCD, and the resources to implement it have not been adequate.

So, in short, mechanisms have been successfully set up, but either they have not been used, they have been seriously underresourced, or any potential outcome is compromised due to lack of higher level political commitment to the concept itself. Indeed, the lessons from OECD and EU Member States have also pointed to the critical role of high-level political commitment, to political will from the onset of the policy and functioning policy-making mechanisms. If there is any time in the policy-making cycle when the principle of PCSD should be respected, it is when the potential impact of new policy proposals is being assessed.

Despite the limited success of EU's PCD approach thus far, the efforts have not been in vain. With the move to the more generally accepted and shared objective of sustainable development, PCSD might prove crucial in solving the main bottlenecks.

## Moving forward: recommendations

2019 presents the opportunity to change the EU's short- and medium term EU strategic priorities, the institutional set-up of the College of Commissioners, the priorities for each of them, as well as the policy-making mechanisms. Newly elected Commissioners should be made responsible from the very start of their legislative term for the impacts of their respective policies on other policies here and now, on sustainable development of partner countries and on future generations[16].

The President of the next Commission should lead horizontal sustainable development coordination and bring all Commissioners together in a sustainable development project team to discuss how each Commissioner is ensuring coherence of her or his policies with sustainable development (here and now, elsewhere and later).

An overarching Sustainable Europe 2030 Strategy to replace the current Europe 2020 Strategy should help better understand interlinkages and trade-offs and build synergies. Such a Strategy should also include more detailed mechanisms to ensure that all EU and MS policies are coherent with sustainable development objectives and principles.

The Better Regulation Guidelines should be further improved to better mainstream sustainable development throughout the EU's policy-making cycle. Furthermore, clear action plans and commitments need to be formulated. Interservice consultations and impact assessments should be used in a much more effective way to ensure PCSD - which requires clarification of roles and responsibilities between various Commissions services, the definition of priority areas of intervention and more efforts to consult with stakeholders in the EU and with governments and civil society organisations from developing countries; policy targets, indicators and baselines are also needed to enable the EU and the Member States to measure progress. PCSD mechanisms must be transparent and enable meaningful engagement of civil society in its own rights at all levels of society, across Europe and globally.

(16) CONCORD (2019). How will you contribute to sustainable development? A litmus test for EU leaders, https://concordeurope.org/blog/2019/04/12/how-will-you-work-for-sustainable-development-concords-litmus-test-for-eu-leaders/

**By Karin Ulmer**
**ACT Alliance EU**

The photo is from Robin Hammond, National Geographic,
and it was taken for "The next breadbasket" photo report (2013).
This land outside Maputo provides a snapshot of Africa's agricultural choices: industrial or small scale.

# The Common Agricultural Policy of Europe:

02

## Leaving Farmers in the Global South Hungry

actalliance eu

By Karin Ulmer
ACT Alliance EU

# The Common Agricultural Policy of Europe:

## Leaving Farmers in the Global South Hungry

***Unhealthy and unsustainably produced food poses a global risk to people and the planet. More than 820 million people have insufficient food and many more consume an unhealthy diet that contributes to premature death and morbidity.[1] Ecosystems are under threat, biodiversity is declining at unprecedented rate,[2] and animal welfare is often not even considered.***

In their letter entitled "CAP failing fitness check", [3] NGOs critic the European Union's (EU) Common Agricultural Policy (CAP 2013-2020), which has proven unfit to deliver on a sustainable global food and farming system. Hunger remains an injustice that continues despite the expansion of EU food production and the rapid growth in the value of EU agro-food exports since 2010. The EU's virtual land (and water) grab continues unchecked. Global value chains continue to externalise social and environmental costs. Industrial meat and dairy production drive monocultures and deforestation and increase greenhouse gas emissions (GHG) emissions causing global warming. Import surges and unfair competition harm small-scale farmers' markets in developing countries.

The new CAP legislative proposals from June 2018 appear to lock in policy measures and tools that perpetuate the existing system of overexploitation, surplus or overproduction, and overuse of land and livestock. None of the nine CAP objectives set out in the June 2018 proposal relates to the external effects of its CAP policies. The Commission proposal is still complacent about its global responsibilities under the EU Lisbon Treaty, Article 208 on the EU's commitment to contributing to sustainable development; with Policy Coherence for Development (PCD) imposing an obligation to consider the externalities of the CAP toward the Global South.

The only reference made to the international scope of the issue relates to the EU's commitment to the abolition of export subsidies. In the Commission's view,[4] promoting EU exports, an important focus of the CAP, is consistent with development objectives since it contributes to global food security. On examining CAP externalities, it appears that this approach displaces rather than solves the problem.

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(1) The Lancet Commissions (16 January 2019) Food in the Anthropocene: the EAT-Lancet Commission on healthy diets from sustainable food systems; page 2.
(2) See Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES)
(3) NGO Letter on call for CAP Fitness Check, April 2016.
(4) Commission Staff Working Document (2018) Impact Assessment: Paper on CAP proposal, Annex 5; Results of Quantitative and Multi-Criteria Analysis, 3.5. Policy coherence, SWD(2018) 301 final.

Meeting growing food demands while minimizing ecological losses presents one of the major challenges society faces and is critical to many of the Sustainable Development Goals (SDGs). The role of land use in achieving climate action objectives, halting biodiversity losses, ceasing the violation of rights of local communities and indigenous people, and respecting the right of all people to food are germane to sustaining global food systems.

## The European Commission's View and Assessment

The European Commission[5] holds the view that the CAP embraces the concept of sustainability and contributes to income growth, productivity, and competitiveness, while encouraging sustainable agricultural practices that respect natural resources. The Commission also claims that CAP encourages climate adaptation and mitigation and takes account of PCD and new societal demands such as reducing food waste and ensuring animal welfare. The new CAP performance-based system, which requires strategic planning from the outset at the level of member states are presented as a key instrument in this regard.

The Commission argues that the reformed CAP 2020-2027 improves on the previous iteration as it maintains the market orientation, emphasises resilience and environmental and climate public goods, and enhances delivery on environmental and climate objectives to fight climate change. And that the CAP proposal remains consistent on supporting very favourable terms on trade in agricultural products for developing countries.

In conclusion, maintaining and increasing competitiveness in global markets remains a leading CAP principle and objective, which is at odds with the 2030 Agenda for Sustainable Development.

## Critique of External Effects of CAP Subsidies

The Joint Research Centre (JRC) finds that removing the CAP "would result in an 18% drop in farm income on average in the EU, threatening the economic viability and attractiveness of rural areas, a sizeable decline in production affecting food security, land abandonment, a decline in permanent grassland and a stronger production intensification, which can lead to more pressure on the environment."[6] Thus, it can be concluded that it would be important to maintain the CAP as it is sustains the incomes of European farmers and puts EU production at higher levels than would otherwise be the case. However, reform is necessary but must be geared toward benefiting small farmers in and outside Europe and with less damage to ecosystems worldwide. One reason that many actors (environmental and development NGOs, sustainable farmer groups, animal welfare groups and consumers) call for a major redesign of the agricultural system is to generate positive impacts in Europe and beyond. Demands have been put forward by the European Parliament's (EP) Environmental and Development Committees,[7] as well as by civil society organisations,[8] to ring-fence the CAP budget for specific and societal objectives.[9] Moreover, the Commission's CAP proposal would allow a member state to dedicate as little as 10 percent of their CAP allocation to environmental measures, while another country may allocate as much as 85 percent or more to the environment, thus presenting a real risk of a race to the bottom.[10]

Voluntary Coupled Support (VCS) is a system that operates on top of the basic support system and is tied to the production of specific crops. The VCS system allows member states to finance certain sectors in jeopardy. All member states except Germany have opted to apply VCS, up to 15 percent of direct payments in some countries,[11] mainly to animal products and the sugar sector.

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(5) Commission Staff Working Document (2019) 2019 EU report on Policy Coherence for Development, SWD(2019) 20 final.
(6) Dudu, H. et al. (2017) Impact of CAP Pillar II Payments on Agricultural Productivity, European Commission, Joint Research Centre (JRC), referenced in SWP(2018) 301 final.
(7) See http://www.europarl.europa.eu/committees/en/deve/opinions.html; and http://www.europarl.europa.eu/committees/en/envi/opinions.html
(8) Demands by Civil Society on the future CAP, and Open Letter to MEPs in the AGRI Committee voting on the CAP Reform on 2 and 6 April 2019 sent on 20 March 2019.
(9) See specific objectives in CAP Strategic Plans, Article 6, d, e, f and i.
(10) IFOAM (2018) Towards a post-2020 CAP that supports farmers and delivers public goods to Europeans: Avoiding a race to the bottom an ambitious and better targeted CAP.
(11) See OECD (2018) Development Cooperation Peer Review, European Union 2018.

However, rather than providing the intended benefits, VCS generates market distortions in both the internal and international marketplace. Using VCS simply defers addressing underlying problems by displacing the immediate market adjustment requirements in the EU to third countries. VCS maintains production at higher levels, which can adversely impact developing countries, either by displacing the local production from domestic markets or by affecting developing country export opportunities to EU markets. Phasing out VCS payments would remove this kind of trade distortion and create more market space for agricultural production by small-scale farmers in the affected developing countries.

The Commission's trumpeting of the end of export subsidies is a distraction from the real issue. Previous CAP reforms gradually moved from a system of price support (high EU producer prices) to a system of producer support (direct payments to farmers). However, the new support system still has profound effects on EU production levels and trade outcomes.

## Critique of CAP Trade Dimension

It is through the production, investment, and trade decisions of EU agro-food companies, responding to the EU's agriculture and trade policy frameworks, that the effects of the CAP are felt by developing country partners. This relates to both developing country exports to the EU of products where these countries have a natural competitive advantage (e.g. the production of sugar from sugar cane) and the increasingly significant impact on partner countries targeted by EU exporters of specific products where EU production is surplus to domestic requirements (e.g. poultry parts, fat-filled milk powders and other forms of milk powder, which increasingly provide the input base for reconstituted dairy products in growing African markets).[12] Since 2010, the EU has been running a growing agro-food sector trade surplus, reaching, globally, some 21.5 billion Euro in 2017.

A report by the UN Special Rapporteur on the Right to Health[13] highlights the urgent need to address structural changes in the food environment. Global trade, increasing foreign direct investment in the food sector, and the pervasive marketing of unhealthy foods have increased the consumption of unhealthy foods. Most of these foods are ultra-processed, containing empty calories devoid of nutritional value. In some emerging markets, the processed food industry is among the top sectors attracting foreign direct investment. Supermarkets and large food chains have largely replaced fresh food markets as a major source of food supply in most countries.

EU trade agreements are central to export growth of the European agro-food sector trade as well as to value addition of imported primary agricultural goods. The EU's push for liberalisation in Africa goes beyond what the EU is willing to apply itself when it comes to the use of quantitative restrictions, safeguards, standstill clauses and more in Economic Partnership Agreements. Agribusiness and donor-led initiatives are working toward an expansion of industrial agricultural schemes in Africa, involving extensive infrastructure development and export marketing initiatives, exploiting the growing demand for food and agrofuels.[14]

Externally driven industrial corporate agriculture schemes often not only displace people from their land, but also displace local seeds and breeds, introduce technologies and farming systems that increase greenhouse gas emission, and require deep policy changes to accommodate foreign investors. Policy reforms are working in favour of the interests of agribusiness and the commercial seed industry. Large-scale intervention measures by the EU fail to recognise and protect farmers' rights and in fact contribute to the erosion of seed diversity, which is vital to climate change adaptation and food security. Recent

(12) See ACT Alliance EU (2018) Technical Note on trade dimension of CAP referring to recent trends in EU agro-food sector trade with Africa.

(13) UNGA, HR Council, A/HRC/26/31, from 1 April 2014, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover.

(14) Often, this goes along with land grabbing as documented in Fern (2017) European Development Finance Institutions and land grabs, and in ACT Alliance EU (Aprodev 2013) The role of DFIs in Land Grabs, for example, in the case of Socapalm in Cameroon, Agripalma in Sao Tome, Agrica/Kilombero Plantations Ltd in Tanzania, Feronia in DRC, New Forests Company in Uganda and Tanzania, Green Resources in Uganda, Addax Bioenergy in Sierra Leone, Aviv/Olam in Tanzania, SAGCOT/Beira in Tanzania and Mozambique.

trade-related policy reforms prioritise plant breeders' rights and the uniformity of commercial seeds, by-passing and crowding out investments in family-based farming and seed systems. In response, African farmers are getting organised to resist the corporate takeover of African seed systems, mapping the way forward to build a continental movement to Save African Seeds.[15]

**"My Milk Is Local" - Campaign**

*The Dairy Sector: the effects of Voluntary Coupled Support in the dairy sector are being compounded by the periodic use of EU crisis management measures, which insulate EU dairy producers from the worst effect of falls in global dairy prices and shift the burden of adjustments to non-EU producers. EU companies are targeting African markets for expanded exports of dairy products, notably milk powders. Over the past 10 years, dairy products produced from bulk milk powder exports have become cheaper than dairy products manufactured from locally produced milk. These milk powder-based dairy products can profoundly affect the development of local dairy markets; and may suffocate the aspirations West Africa has articulated of increasing local dairy production capacity.*

*When it comes to jobs, an estimate in Burkina Faso suggests that 1 cow with 2-3 litres of milk provides precious income for a family. In comparison, in the EU, 80 cows provide for 1-2 jobs on average. Moreover, milk production is mainly handled by women which means this income is more likely to be invested in basic needs (food, education, health).. Pastoralism, in which milk plays a key role, procure livelihoods to directly 20 million people in francophone West Africa.*

*A newly established milk powder repackaging facility in Ghana created a grand total of eight jobs. One of these container-based facilities can generate milk products equivalent to 55,000,000 litres of milk (1kg of milk powder converts into 11.5 litres of milk). This is the equivalent of the milk production that could be generated locally from the establishment of 106 new dairy enterprises based on a doubling of current milk yields and an average herd size of 100 head, with all the employment and income effects this would give rise to throughout a locally integrated dairy supply chain.*

## Critique of CAP Externalities on the Planet and Increasing Land Conflicts

Agriculture is the world's leading driver of ecosystem change, affecting life on land (SDG 15), life below water (SDG 14), climate change (SDG 13), and clean water (SDG 6). About half of agricultural land is degraded, leading to a loss of ecosystem functions such as nutrient cycling, genetic diversity, pest control, and pollination. Fertiliser and pesticide runoff result in "dead zones" increasingly observed at the mouths of river systems and healthy coastal and marine resources. Seventy percent of global freshwater is used by agriculture, which is closely linked to promoting sustainable water management (SDG 6).[16]

**Landgrabbing:** The EU's agricultural system is to a large degree dependent on protein feed imports, and as a large-scale exporter of meat and dairy products, the EU is dependent on importing animal feed. Satisfying this demand would require an area of 20 million hectares of land outside of Europe, equivalent to 10 percent of Europe's own arable land. Given that good agricultural land and water are the two scarcest resources needed for the world population to feed itself, there is tremendous stress globally for land, leading to rampant violation of the land rights of indigenous people and rural communities. A study on land-

(15) AFSA - Alliance for Food Sovereignty in Africa (2018) Resisting corporate takeover of African seed systems; AFSA (2017) Policy Trends and Emerging Opportunities for Strengthen Community Land Rights in Africa.

(16) The Economics of Ecosystem and Biodiversity at http://www.teebweb.org/sdg-agrifood/annex-3/; TEEB Annex 3 on SDGs Planet (6, 12, 13, 14, 15).

grabbing of the EU food economy finds that the EU exports 14 million hectare of land use while importing 49 million hectares.[17]

The negative externalities of landgrabbing, such as a deficit of protein and animal feed imports, are felt primarily in the Global South. There is widespread destruction of natural habitats through the deforestation of tropical rain forests, which increases greenhouse gas emissions and biodiversity-loss, in addition to food insecurity and violation of land rights. However, there are also many problems originating from these trade flows for Europe itself. There is severe pollution of water and air in several regions, resulting from the high concentration of manure related to the intensive animal keeping made possible by feed imports.[18]

If Europe wants to be more supportive of sustainable development and global food security, it has to reduce its external land use, strive to improve crop rotation, increase protein production and close the nutrient-cycles in its farming systems, rather than expand exports.

**Livestock.** The EU agricultural sector contributes to climate change with 53 percent of methane and 78 percent of nitrous oxide emissions derived from agriculture in the EU in 2015, mostly due to the livestock sector. Since 1996, the land area used to produce soy for the EU market is roughly equal to the area of deforestation in Brazilian forests. Soil carbon represents 89 percent of agricultural GHG mitigation potential, but is being degraded through global land use changes, driven in part by EU demand for key commodities. Livestock is responsible for 85 percent of total GHG emissions from the EU's agricultural sector. The costs for the EU from the excess of nitrogen in the environment is up to 320 billion euro a year, with the livestock sector consuming around 85 percent of nitrogen in crops harvested or imported into the EU.[19]

**Climate Impact.** Six countries in addition to the EU are responsible for the lion's share of rising global meat production and exports, which lead to increasing GHG emissions. The EU is responsible for 13 percent of beef production, 21 percent of pork production, and 35 percent of exports, as well as 13 percent of chicken production and 12 percent of exports. The growth in bioenergy production has also now been shown to be directly damaging to the climate, not to mention to biodiversity and the availability of land for growing food.[20]

Climate action must be congruent with efforts to ensure food security, respect of human rights, and restoration of natural ecosystems. These objectives must not represent choices or trade-offs, but challenges that must be approached in an integrated manner. Behind the global intersected crises of climate change, biodiversity loss, and violation of land rights is overconsumption of the world's resources by those able to do so.[21]

## Conclusions and Recommendations[22]

Global food production exerts the largest pressure by humans on earth, threatening local ecosystems and the stability of the global food system. With food production causing major global environmental risks, sustainable food production needs to operate within the safe operating space for food systems at all scales on earth.[23]

Promote agroecological and organic farming in and outside EU.

- Introduce sustainability criteria on agrobiodiversity and climate indicators in CAP Strategic Plans, and in EU intervention measures and investment flows.

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(17) ACT Alliance EU (APRODEV) EU CAP Reform 2013: CAP Lobby Brief No 4-EU imports of soy for animal field.
(18) See Factsheets on EU Regulation on Nitrate and EU Directive on Sustainable Use of Pesticides.
(19) EEB, FoE Europe, Greenpeace, IFOAM EU Group, PAN, WWF (2012) The truth behind the CAP: 13 reasons for green reform.
(20) EEB, Birdlife, Greenpeace, WWF (2018) Last Chance CAP.
(21) CLARA, Climate-Land-Ambitions-Rights-Alliance (2018) Missing pathways to 1.5 degrees: The role of land sector mitigation.
(22) See recommendations in IPES FOOD (2019) Towards a Common Food Policy for the European Union. The policy reform and realignment that is required to build sustainable food systems in Europe.
(23) The Lancet Commissions (2019:2) see footnote 1.

Stop landgrabbing.

- Introduce mandatory due diligence for all operators in food supply chains and forest-risk commodities.
- Build accessible complaint mechanism and procedural guarantees allowing affected communities to flag land grabs and access to remedies.
- Strengthen sustainable development clauses in trade agreements through more prescriptive language, non-regression clauses, enforceable provisions to halt land grabbing and deforestation.

Stop unfair competition with small-scale farmers in the Global South.

- Phase out all trade-distorting CAP payments.
- Shift away from area-based CAP payments.
- Promote local and integrated feed production.
- Adopt a definition of dumping that includes explicit social, economic, environmental, health, and animal welfare criteria.
- Aggregate information and complaints on dumping across sectors and regions.
- Expand monitoring of trade impacts on sensitive agricultural commodities in developing countries and early warning.

By Beatrice Gorez - Coalition for Fair Fisheries Arrangements
and Francisco Marí - Brot für die Welt

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# EU Fisheries Policies:

## Causing empty seas in Africa

03

CFFA-CAPE Brot für die Welt

By Beatrice Gorez - Coalition for Fair Fisheries Arrangements
and Francisco Marí - Brot für die Welt

# EU Fisheries Policies:

## Causing empty seas in Africa

***The European Union's (EU) response to the UN 2030 Agenda for Sustainable Development in relation to SDG 14[1] was adopted in November 2016, setting forth detailed actions to shape international governance on the future of the oceans. Several organisations commented on this agenda, calling for more policy coherence, including the EU Long-Distance Fisheries Advisory Council[2] (LDAC). They highlighted that with respect to EU external fisheries, "urgent efforts to ensure policy coherence for development, coordination and transparency across relevant EU policies and agencies are needed."[3] It is not surprising, therefore, that the European Commission itself[4] scores their own engagement on SDG 14 as the lowest of all the SDGs.***

A review of EU policies that provide the main framework for fisheries' relations with developing countries reveals that crucial improvements have been achieved in recent years, notably regarding the management of EU external fishing fleets. Currently, the EU external fishing fleet that operates in developing countries' waters and in international waters, often referred to as the Long-Distance Fishing Fleet, represents only 0.5 percent of the EU fleet (285 vessels), but makes around 20 percent of the EU's catches. These vessels come mainly from Spain (208 vessels) and are involved in Sustainable Fisheries Partnership Agreements and private agreements with countries in the Indian, Atlantic, and Pacific Oceans.

The reformed Common Fisheries Policy, which entered into force in 2014, included a legally binding commitment to fish at sustainable levels, complemented by the regulation on the Sustainable Management of External Fishing Fleets (SMEFF) in 2017 and the regulation on illegal, unreported and unregulated fishing (IUU) in 2010. However, the design of these policies and their implementation are not always fit to deliver on the SDGs.

Moreover, some EU fisheries-related operations, for example in African countries, still escape regulation that would ensure their sustainability, like private EU investment in Africa in the form of fishing joint ventures or in factories processing fish into fishmeal. These are opaque operations, which, in some cases, fuel overfishing, jeopardize the access of local populations to fish—an incomparable source of nutritious food—often depriving men and women from the local fishing communities of their livelihoods.

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(1) European Commission, International ocean governance: an agenda for the future of our oceans https://ec.europa.eu/maritimeaffairs/policy/ocean-governance_en

(2) LDAC is an EU fisheries stakeholders-led body, composed of 60% EU fisheries sector stakeholders, and 40% EU Development and Environment NGOs http://ldac.chil.me/home

(3) http://ldac.chil.me/download-doc/242194

(4) European Commission, Reflection paper towards a sustainable Europe by 2030, January 2019 https://ec.europa.eu/commission/sites/beta-political/files/factsheets_sustainable_europe_012019_v3.pdf

The EU's Blue Growth approach is also raising concerns as it fails to cover fisheries and could result in supporting policies and projects in partner countries that further marginalize local fishing communities.

## The Common Fisheries Policy

The most recent reform of the EU Common Fisheries Policy (CFP) for the first time devoted a whole chapter to the external dimension of EU fisheries, including Sustainable Fisheries Partnership Agreements (SFPAs) and EU action in Regional Fisheries Management Organisations. The CFP external policy chapter emphasised sustainability and the need to "improve policy coherence of Union initiatives, with particular regard to environmental, trade and development activities and strengthen consistency of actions taken in the context of development cooperation and scientific, technical and economic cooperation."[5]

At the centre of the reformed policy regarding SFPAs is the principle of limiting access, for EU vessels, to resources that are scientifically demonstrated to be surplus for the coastal State, in line with the provisions of the United Nations Convention of the Law of the Sea (UNCLOS). The elaboration of this chapter was informed by a European Parliament report[6] that insisted on the need to also respect fishing communities' fishing rights. This has led the EU to refrain from letting some of its fleets access fishing resources of importance to local artisanal fishers. The best example is the latest SFPA signed between the EU and Mauritania, which has stopped EU vessels from accessing the stock of octopus, a species of key importance for the development of the local artisanal sector, and has set up zoning of fishing areas that stop EU trawlers, which were fishing for sardinella or shrimp, from accessing these stocks and their vulnerable environment. The new approach also emphasises transparency regarding the global fishing effort, based on the perspective that the public should know who is fishing what.

This new approach was welcomed by African fishing communities and NGOs that supported them, which had been opposed since the 1990s to the presence of EU trawler fleets in African waters as some of these fleets were competing with local artisanal fishery development and were often contributing, subsidized by the EU, to overfishing and overcapacity.

Today, there are 13 SFPAs with an overall budget of EUR 135 million per year. Most of these SFPAs concern EU fleets' access to tuna. Unlike other species, such as shrimp or octopus, tuna is a highly migratory species that roams the oceans. Tuna resources do not belong to coastal states as they only pass through their waters at various times of the year. The main tuna stocks are managed and allocated at the level of Regional Fisheries Management Organisations (RFMOs), and tuna SFPAs serve as a tool to decide how much has to be paid to a coastal state to catch a certain amount of the tuna allocated to the EU by the RFMO when it crossed the coastal state waters. The SFPA also provides for technical measures to ensure that vessels' operations are sustainable.

The main issue for African artisanal fishing organisations regarding tuna fisheries is not the bilateral SFPAs, but rather the position of the EU on RFMOs, particularly regarding tuna allocation systems. For the EU, allocation of tuna resources should first and foremost serve those who have historically caught it. This position does not take into account the coastal communities' desire to maintain, expand (in the Indian Ocean), or develop (in the Atlantic or Pacific) artisanal tuna fisheries. In 2017, the network of African Artisanal Fisheries, CAOPA,[7] and the Brussels based coalition, CFFA,[8] tabled a position[9] to the Indian Ocean tuna RFMO, IOTC, that access to tuna should be given first to those who fish most sustainably, from a social and environmental standpoint, who

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(5) https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32013R1380&from=EN#d1e2473-22-1
(6) http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2012-0290&language=EN
(7) https://caopa.org/en/our-partners/
(8) https://cape-cffa.squarespace.com/
(9) http://iotc.org/documents/caopa-cffa-paper-challenge-setting-access-allocation-system-iotc

**Where the EU falls short on SFPAs: the case of small pelagic fish in West Africa**

*The United Nations Convention on the Law of the Sea (UNCLOS)*[10] *defines the rights and responsibilities of nations with respect to their use of the world's oceans, establishing guidelines for the management of marine natural resources. Regarding fisheries resources that are shared between several coastal states, UNCLOS highlights the responsibilities of the coastal States "to agree upon measures necessary to coordinate and ensure the conservation and development of such stocks."*

*In West Africa, sardinella resources, shared between Senegal, the Gambia, Mauritania, Morocco, Guinea Bissau, and a key resource for food security in the region, do require such coordinated management. However, there is no such coordination, and livelihoods of coastal communities are put at risk.*

*Nowhere is this more visible than in Senegal. Nearly 12,000 artisanal fishermen, 20 percent of the Senegalese artisanal fishers, live only from the sardinella fishery. In addition, artisanal processing and national and subregional distribution channels associated with the sardinella fishery employ thousands of people. The importance of the female component in this artisanal processing sector is a favourable factor for poverty-reduction policies. Many Senegalese families nowadays have only one meal a day: a lunch based on rice and sardinella. In terms of food security, sardinella is the most accessible source of animal protein in terms of price and quantity.*

*For several years, the FAO working group that monitors the state of this resource found that sardinella stocks are overexploited and that fishing needed to be substantially reduced. Senegalese artisanal fishers want this strategic resource to be reserved for sustainable artisanal fisheries. They, therefore welcome the fact that no access to small pelagic fish was negotiated in the EU-Senegal SFPA and that the fishing area open to EU vessels has been pushed 16 miles away from the coast as part of the protocol with Mauritania to prevent their access to sardinella.*

*However, these small pelagic resources are migratory and share their time between the countries of the region, where EU and other foreign fleets target them. Indeed, the biggest concern for coastal fishing communities remains the fact that access to sardinellas and horse mackerel is allocated to foreign fleets, including those from the EU, Russia, Turkey, and China, without any coordinated approach or regional management measures in place.*

*How can a surplus be identified—the basis for the signature of a Fisheries Partnership Agreement with the EU—in the absence of this regional management and regional allocation of access? If decisive steps geared toward regional management are not implemented, these resources should not be the subject of a discussion on access by European fleets.*

(10) https://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf

contribute the most to food security in coastal countries, and generally provide the most benefits. This approach would give priority to small-scale fisheries, while ensuring that all fleets are conducting operations sustainably.

A fundamental issue with SFPAs is that despite efforts made over the years by the EC to decouple the level of financial compensation from the level of access to fishing resources, the situation is still that the more access is allocated to EU fleets, the more money the coastal country receives. Despite sustainability commitments, those compensations can still be a way to pressure coastal countries to accept a level of access for EU vessels that is not compatible with local sustainable development.

Since January 2018, a new EU Regulation on the Sustainable Management of External Fishing Fleets[11] took effect and complements the CFP basic regulation. Its objective is to put in place a comprehensive system of fishing authorisations for EU vessels to fish outside Union waters. The system applies wherever the fishing activity takes place, based on strict eligibility criteria, in order to ensure that fish are caught in a sustainable manner. This covers any situation where an EU vessel is fishing outside EU waters, not only those governed by SFPAs.

However, implementation has proven difficult. For example, a key tool adopted under the SMEFF was the creation of a public database of fishing authorisations, intended to enhance transparency about which vessel was allowed to fish outside EU waters. However, there has been a considerable delay with the creation of this database, and several Member States, like Greece, Italy, or the Baltic States, do not provide the compulsory information to the Commission about their fishing vessels operating in third countries. These same Member States are also granting authorisations to vessels fishing in Africa in an unsustainable way.

## Combating Illegal Fishing

The EU is a key actor in the international fight to combat illegal fishing. It contributes actively to efforts at the UN level, promoting the creation of a global fleet register, the allocation of a unique vessel identifier (IMO number) to commercial fishing vessels, and further ratification of the FAO Port State Measures Agreement to prevent, deter, and eliminate IUU fishing. The EU also promotes better ocean governance with third country partners, programming EUR 590 million for this topic under its development policy for 2014-2020. This includes programs like PESCAO (West Africa) or ECOFISH (Indian Ocean), which focus on strengthening African coastal countries' capacity to combat IUU fishing. This work is further supported by the European Fisheries Control Agency (EFCA), which undertakes various capacity-building actions for fisheries inspectors in non-EU countries.

The EU's main tool to combat illegal fishing, however, is the EU Regulation to prevent, deter, and eliminate illegal, unreported and unregulated fishing[12] (IUU), adopted in 2010, under which third countries identified as not having adequate legislations and measures in place to prevent and deter illegal fishing are issued a formal warning (yellow card) to improve the situation. If they fail to do so, they are issued a red card, with the consequence that their fish products are banned from the EU market, and EU vessels cannot access their waters. A dialogue between the parties, seeking to resolve the situation, runs parallel to the carding process. The EU has entered into dialogues on IUU fishing with more than 50 countries since 2010. Twenty-five countries have been carded since 2010,[13] a vast majority of them developing countries, and 14 countries, considered by the EU as "having successfully reformed their control and management systems in line with their international obligations as flag, coastal, port and market states responsibilities" have seen their cards removed.

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(11) https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2015:636:FIN
(12) The EU rules to combat illegal, unreported and unregulated fishing https://ec.europa.eu/fisheries/cfp/illegal_fishing_en
(13) https://ec.europa.eu/fisheries/sites/fisheries/files/illegal-fishing-overview-of-existing-procedures-third-countries_en.pdf

The carding of a country is based on clear reports of failures, made public. However, the "de-carding" process is far from transparent: reports giving the reasons why a country's card was removed are not made public. For example, the Republic of Korea was given a yellow card in 2013, and that card was removed in 2015. African fishers welcomed the carding decision: Republic of Korea trawler fleets have been repeat offenders in many African countries, like Guinea, destroying the environment, fishing nets and even pirogues during illegal night incursions in the artisanal fishing zone.[14] After the IUU card was removed, the EU signed a Joint Statement with the Republic of Korea on efforts to combat IUU fishing, "following the good results of the EU-Republic of Korea Working Group established after the lifting of the IUU yellow card in April 2015." But, in February 2019, the Republic of Korea government failed to sanction Korean vessels that had illegally caught 70 tons of toothfish in Antarctic waters, instead allowing the owner to sell its landings on the global market. This example shows why some have claimed that the EU applies double standards when removing the IUU card of a third country like the Republic of Korea, an important trading partner for the EU, arguing that it got off the hook more easily than smaller developing countries.

Publishing the reports on which the EU de-carding decision is based would provide much-needed transparency and would help demonstrate to EU third country partners that this regulation is applied fairly to all.

A more fundamental issue with the emphasis on the fight against IUU fishing is that it distracts from the fact that overfishing and marine habitat destruction result in many cases from legal, but unsustainable, fishing. Too many fishing licenses are given by governments to industrial operators, often in a very opaque way. Creating transparency around who is licensed to fish what, and promoting a public debate about the sustainability of such legal access, would go a long way toward addressing such shortcomings. Given the commitments made by the EU on transparency on access to fish, NGOs and artisanal fisheries organisations in the Global South expect that the European Union would become a board member of the new Fisheries Transparency Initiative (FiTI) and support the initiative financially.[15]

## Investments

Another way through which vessels of EU origin access developing countries' fish resources is through the constitution of joint ventures. Typically, a European operator will transfer its vessel(s) to a coastal country in a venture with a local operator. The constitution of joint ventures, for example with African fisheries, is often based on very limited knowledge of ecosystems, the state of fish resources, or the dynamics of the fisheries sector and coastal communities. There are countless cases in the history of African maritime fisheries where overfishing due to overinvestment in production facilities ultimately led to a fall in fish resources, business closures, and negative impacts for local coastal fisheries with which they competed for access to resources. In recent years, such joint ventures have been denounced by local fishers for their opacity, and, more recently, some of them were denounced for being involved in systematic fraudulent practices, such as the massive under reporting of tonnage by vessels of Chinese origin operating under joint ventures in West Africa.

In the case of the EU, it is to be noted that in sustainable fisheries partnership agreements signed between EU and African countries (SFPA), an article is now inserted, on "Promoting cooperation among economic operators and civil society," which encourages the establishment of joint ventures.

In a joint paper,[16] CFFA and its partner, CAOPA, argue that the implementation of this article requires definition of a set of principles to ensure such joint ventures operate in a transparent manner, do not enter in competition with the local arti-

(14) After the carding decision, it appeared that many Republic of Korea vessels fishing in West Africa reflagged to other countries, removing the obligations of the Republic of Korea to control them.
(15) Fisheries Transparency Initiative, http://fisheriestransparency.org/
(16) https://cape-cffa.squarespace.com/new-blog/2015/7/10/fishing-joint-ventures-operations-need-to-be-transparent-sustainability-framework-has-to-be-developed

sanal sector, and are in line with the third country sustainable fisheries development objectives.

Given the emphasis placed by the EU on the promotion of private investment in future EU partnership with the countries of Africa, the Caribbean, and the Pacific, as a way to increase prosperity by fulfilling the SDGs, it will be essential to ensure such investments in fisheries are sustainable.

## European Union Blue Growth Strategy

Blue growth has become an important concept for reforming ocean governance. The European Commission's blue growth strategy has been developed since 2011 and is being presented as an inspiration for EU support to Africa—to unlock the vast wealth potential from the seas. However, this vision remains unattractive for African artisanal fishers and is not aligned with the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries. A key reason is that the definition of the blue economy used by the EC has lost its transformative objective, being replaced by a concept that puts growth and profits at the forefront of decision making.

The most glaringly problematic aspect of the EU's current strategy on blue growth is that while fisheries is obviously a key sector in the blue economy, it is not considered a sector that warrants assistance to grow. The EC's role in managing and regulating fisheries is considered separate, both in terms of funding and policies, from its blue growth strategy. Although nowhere is the reason explained by the EC, it would seem that in surveying the blue economy, the EC found that the sectors offering the best potential for increased employment and profits did not include fisheries.

One concern about what this implies is that if the blue growth concept takes off in Africa, the influence of the EU could also lead to fisheries being side-lined, with the focus shifted to directing public funding and encouraging private investments where there is the best prospect for short-term financial profits.

## RECOMMENDATIONS

- To develop fisheries sustainably in the Global South, access to fish should be given in priority to those who fish most sustainably from an environmental point of view, contribute the most to food security, and provide the most social benefits to coastal communities. Given their comparative advantage in these areas, developing countries' small-scale fisheries should have priority access to fish resources, and EU vessels should be kept away from resources and fishing areas that small-scale fishers depend on for their livelihoods.
- Transparency is key for sustainable fisheries. The EU, the EU member states and coastal countries from the Global South should fully comply with the FiTI Standard, which provides governments, the fishing industry (both large-scale and small-scale), and civil society with a comprehensive and credible way to achieve and maintain high levels of transparency on the management of the marine fisheries sector and the activities of fishers and fishing companies.
- Regarding private EU investment in developing countries, particularly in the form of fishing joint ventures or in factories processing fish into fishmeal, the EU and the host countries of these joint ventures should define a set of principles to ensure such joint ventures operate in a transparent manner, do not enter in competition with coastal communities (access to fish by fishers, access to raw material by women processors), and are in line with the third country's sustainable fisheries development objectives.
- The EU's Blue Growth approach should include fisheries as its central component and should stop supporting blue growth policies and projects in developing countries that further marginalize local fishing communities.

By Roberto Bissio
Social Watch

NOAA's National Ocean Service
Container Ship

# EU trade policies:

## Outsourcing social and environmental damage?

04

SOCIAL WATCH
www.socialwatch.org

By Roberto Bissio
Social Watch

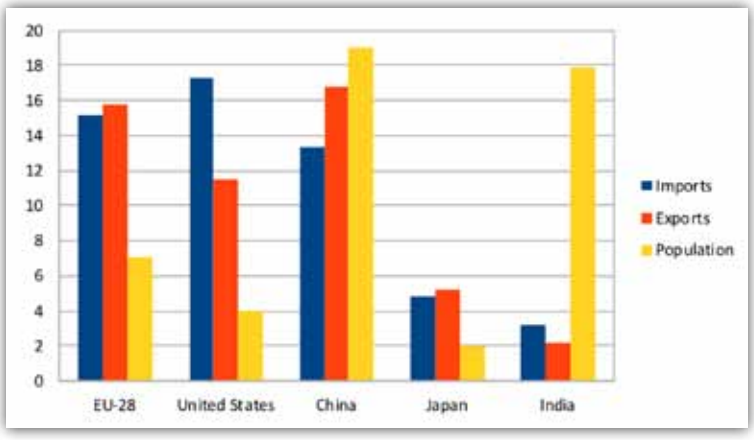
# EU trade policies:

## Outsourcing social and environmental damage?

***While only accounting for 7 percent of the world's population, the EU-28 originated 15% of the world's trade in 2017. That year 3.7 trillion euros of merchandise crossed the EU-28 common borders (not counting intra-EU trade), a sum of exports and imports larger than that of the US, it also had more imports but less exports and China, had more exports but less imports.***

**Chart 1:**
**World share of trade and population (percentages)**

*Value of merchandise trade and number of people as percentage of world totals. Source: WTO data (for trade) and UN data, processed by the author*




The impressive trade power of the European Union (EU) has enormous impact all over the world. And with it, many "externalities," hidden costs not paid by buyers or sellers but transferred elsewhere.

In classic economic theory, trade is mutually beneficial almost by definition, because non-coerced economic actors will only buy or sell if they also gain something. In modern times international trade is analysed more closely. There are enormous asymmetries in power and information among participants in global markets, which results in some participants benefitting more than others and, as a result, trade increases inequalities instead of acting as "communicating vases" where the liquid reaches the same level regardless of the shape or volume of the containers.

According to the "Global Resources Outlook 2019" by the UN Environmental Program, "global population has doubled and global economic activity (GDP) has grown fourfold since the 1970s." In that period, annual global extraction of materials grew from 27.1 billion tons to 92.1 billion tons. The global average of material demand per capita grew from 7.4 tons in 1970 to 12.2 tons per capita in 2017.[1]

This is clearly not a sustainable trend, and is why Agenda 2030 promises "fundamental changes in the way that our societies produce and consume goods and services."[2] The 2030 Agenda reaffirmed (paragraph 12) the principle of "common but differentiated responsibilities" established by the Earth Summit in 1992. The differentiation in consumption is notorious: every year, high-income countries consume 27 tons of materials per capita on average, which is 60 percent higher than the upper-middle countries and more than thirteen times the level of the low-income countries (at two tons per capita).[3]

## Decoupling is the way

Agenda 2030, therefore, commits "all countries (to) take action" and this should happen "with developed countries taking the lead." SDG12 promises to "ensure sustainable consumption and production patterns" and sets the target, "by 2030, achieve the sustainable management and efficient use of natural resources" (target 12.2).

This is complemented by target 8.4 that commits to "improve progressively, through 2030, global resource efficiency in consumption and production and endeavour to decouple economic growth from environmental degradation.""

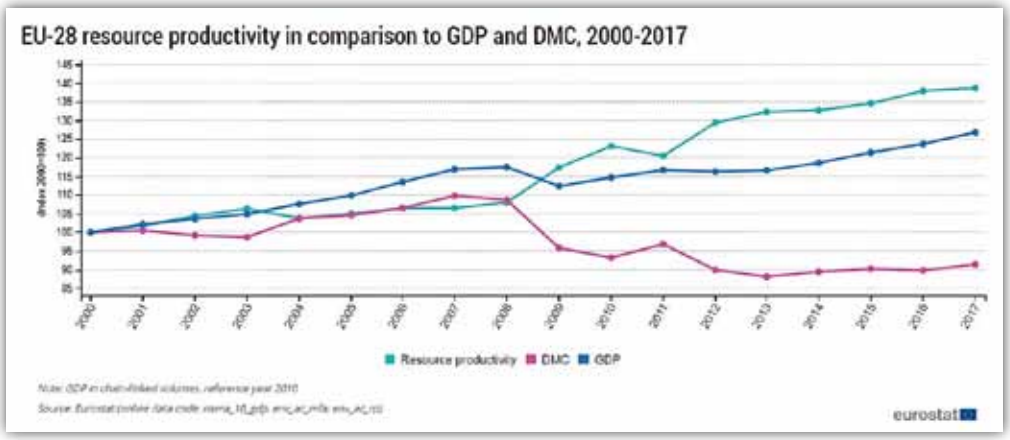
"Decoupling" is the key concept here, if there is going to be continuous economic growth (deemed essential to eradicate poverty) and respect of planetary boundaries. Ultimately, global material consumption will need to be reduced to limits imposed by nature, but the 2030 Agenda is silent on this aspect.

The Global framework for the SDGs defines the same two indicators for targets 8.4 and 12.2: material footprint and domestic material consumption. However, four years after the adoption of the SDGs at the highest level, "material footprint" is so controversial it is ranked as a Tier III indicator, meaning it still lacks methodological agreement and therefore, cannot be used in the official international dataset and reporting.

Meanwhile, domestic material consumption (DMC) is being used by the EU to claim, "since the year 2000 the EU's resource productivity has increased by about 40 %."[4] (see Chart 2).

Resource productivity is the lead indicator of the "resource efficiency scoreboard," developed in the context of the flagship initiative "A resource-efficient Europe" under the Europe 2020 strategy.

**Chart 2**




(1) UNEP, 2019, Global Resources Outlook, Available at https://www.resourcepanel.org

(2) Paragraph 28 of "Transforming our world: the 2030 Agenda for Sustainable Development" UN resolution A/RES/70/1, adopted September 2015, available at https://sustainabledevelopment.un.org/post2015/transformingourworld

(3) Global Resources Outlook 2019

(4) https://ec.europa.eu/eurostat/statistics-explained/index.php/Resource_productivity_statistics

Resource productivity is the relation between GDP and DMC, which measures the weight of the yearly extraction of raw materials from the domestic territory, plus all physical imports minus all physical exports.

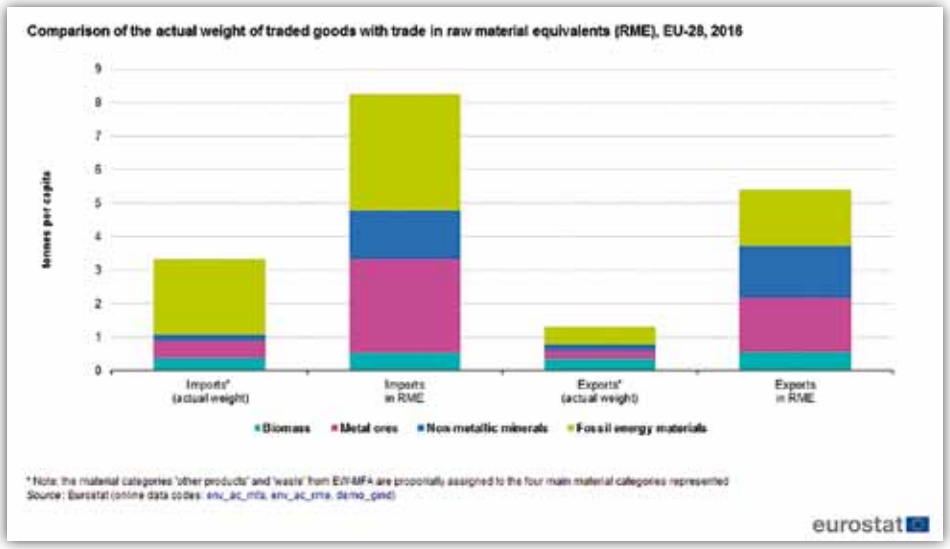
While a resource productivity increase is encouraging, the graphic also shows that actual material consumption has grown since 2012. And, in fact, the picture would be much worse if European trade was not, in practice, exporting to other countries the environmental degradation that SDG8.4 wants to reduce globally.

In fact, as Eurostat itself explains, DMC does not "provide an entirely consistent picture of global material footprints because they record imports and exports in the actual weight of the traded goods when they cross country borders instead of the weight of materials extracted to produce them."[5] For example, one imported cell-phone adds 150 to 200 grams to the DMC; as many kilos of ore in Bolivia are required to produce the lithium of the batteries and the burning of many kilos of coal and oil in South Korea is necessary to provide the energy required for its manufacturing.

By showing an increase in resource productivity, even when the increase is far from what is required, DMC indicators provide false comfort. The need to change consumption patterns and innovate production methods would feel more urgent if material footprints were shown instead.

The material footprint, technically called "raw material equivalent" (RME) of the EU imports in 2016, according to the Eurostat estimates, were 2.5 times higher when expressed in RME than when the imports were recorded in the material flow accounts on which DMC is based (see Chart 3 below).

**Chart 3**

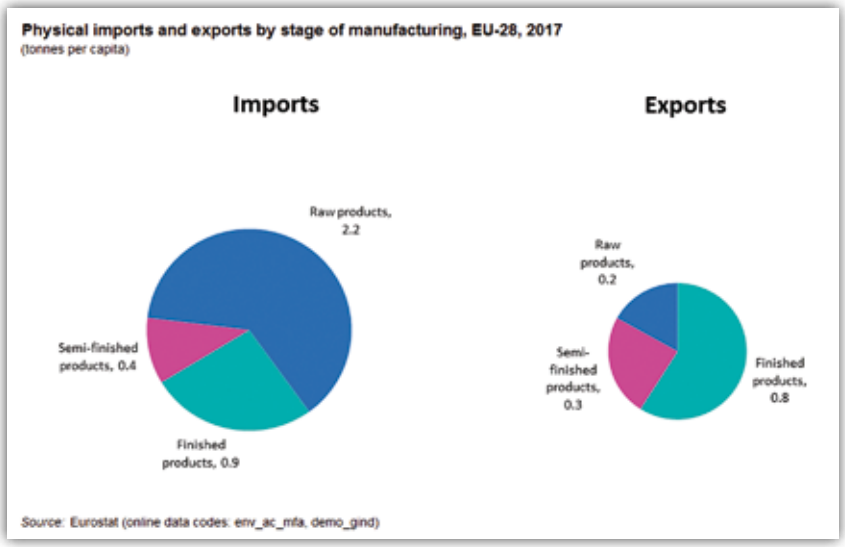



While European imports and exports are quite balanced in value (as seen in Chart 1), in terms of tons per capita, in 1917 the EU imported more than twice what it exported: 3.4 tons per capita entered the EU and 1.3 tons left it.

(5) https://ec.europa.eu/eurostat/statistics-explained/index.php/Material_flow_accounts_statistics_-_material_footprints

From a trade perspective, the EU appears as the big winner because it imports (measured by weight) mainly raw materials (including half a ton per capita of fossil fuels), semi-finished products and exports of mainly finished products. Contrary to the ideas promoted by many populists, this trade transfers jobs and value into the EU and not out. (see Chart 4)

**Chart 4**




At the same time, the three and half tons of imports for every European require more than eight tons of material extraction somewhere else, The additional five tons per European are not accounted for in the DMC estimates, and, therefore, are seen as having been consumed elsewhere.

This way of accounting hides massive transfers of environmental damage out of Europe. The material flow accounts are available for each European country and for a variety of sub-sectors, but the material footprint indicators, which would reveal those externalities, are still debated.

Eurostat explains that Chart 3 and the underlying data on raw material equivalents "are estimated for the aggregated EU economy by Eurostat with models that are still under development and therefore do not produce official statistics yet. The results have a higher statistical uncertainty."[6]

This is problematic as what is not counted is not added into official reports, so this key footprint is absent from the SDGs' global indicator framework. Therefore, it is also absent from the official UN reporting. So, a key component of the sustainability agenda is missed and the environmental implications of trade as a tool for a massive transfer of environmental costs does not include crucial data.

## Trading away the SDGs?

Trade and trade-related policies and international agreements are addressed explicitly in seven of the 17 Sustainable Development Goals (SDGs). As one of the three major trading powers, the EU has responsibilities in all of these.

Market access is deemed essential to promote the graduation of the least developed countries and to improve the livelihood of small food producers. Trade distortions are supposed to be remedied by reducing subsidies on agriculture, fossil fuels and fisheries. Capacity-building on trade is required, and the WTO is urged to complete the Doha Round as one of the key means of implementation for Agenda 2030: Promote a universal, rules-based, open, non- discriminatory and equitable multilateral trading system under the WTO including through the conclusion of negotiations within its Doha Development Agenda (Target 17.10).

The Doha Development Round of trade negotiations was launched in Qatar in 2001. It was supposed to address the issues of concern to

(6) See Material flow accounts statistics - material footprints", available at https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Material_flow_accounts_statistics_-_material_footprints

developing countries, in particular textiles and agriculture. These issues were left behind in the previous "Uruguay Round" that created the WTO.

Yet, only a few weeks after having unanimously approved Target 17.10 at the United Nations in September 2015, the trade ministers of the same countries could not agree at the 10th Ministerial Conference of the World Trade Organization (WTO) in Nairobi to reaffirm their commitment to conclude the Doha Round. Thus, paragraph 30 of the Nairobi Declaration reads that "many Members reaffirm the Doha Development Agenda" while "other Members do not reaffirm the Doha mandates." The non-named "other members" is an euphemism for the United States, as the Trump administration was starting to withdraw its mandate from the Paris Agreement on climate change and starting to change global trade rules and paralyse the WTO.

But the EU, while officially regretting the U.S.'s new positions, was not willing, at the next WTO Ministerial Conference, in Buenos Aires, 2017, to join forces with the other members of the WTO to reaffirm their commitment to "a universal, rules-based, open, non-discriminatory and equitable multilateral trading system under the World Trade Organization." Their Heads of State agreed to the 2030 Agenda.

Instead, the EU allied with the US, the other countries of the global North and with the International Chamber of Commerce, the World Economic Forum and the GAFA-A group (Google, Amazon, Facebook and Apple and, in this case, the Chinese company, Alibaba), to move on with partial, non-consensual, agreements on "new issues" such as electronic commerce.

The e-commerce propositions runs contrary to many domestic EU policies on internet issues. For example, the heading includes "free flow of data," which means the possibility of commodification and appropriation of personal and local data by global corporations, freedom for corporations to operate in a country without having a commercial presence in it (and thus exempted from fiscal and even criminal liabilities) and freedom to offer their services to the public.

Moreover, these States do not have to disclose their data-gathering algorithms or include local software or expertise to the public.

The other so-called "21st century issues" the EU supports include investment facilitation, MSMEs (micro, small and medium enterprises) and a "declaration on women and trade," which is signed by over 100 countries. When this was announced in Buenos Aires, about 200 women's groups from around the world immediately condemned the notion that the WTO could help to empower women, stating:

> [I]ncreasing access to credit and cross border trade for a few women will not benefit women's human rights overall. The declaration is a 'pink herring', an attempt to obscure the harm WTO provisions have on women while ensuring the WTO can bring in 'new issues', likely to deepen inequality.[7]

Similarly, many small and medium-enterprises, mainly from developing countries, condemned the idea of an informal working group for them in the WTO, as well as using supposed benefits without any consultation, to introduce the issue of e-commerce to the WTO. This was seen as more of a subsidized non-tax-paying threat than an advantage.

The introduction of these new issues was opposed by the African Group, as well as by Bangladesh, India and other countries. South Africa's trade minister Rob Davies castigated the attempts of Buenos Aires to terminate the special and differential treatment (S&DT) flexibilities for developing countries, which was another US-proposed idea that the EU is backing. He also said that, "walking away from all mandated issues while embracing new issues" doesn't portend well for the organization.[8]

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(7) See http://apwld.org/statement-womens-rights-groups-call-on-governments-to-reject-the-wto-declaration-on-womens-economic-empowerment/

(8) See US blocks outcomes, collapsing MC11 like house of cards. In: SUNS #8597 (15.12.17). www.twn.my/title2/wto.info/2017/ti171230.htm

The meeting at the Argentinian capital collapsed without approving a declaration, not even to thank the host country. "The sad reality is that we did not even agree to stop subsidizing illegal fishing," said the EU Trade Commissioner Cecilia Malmstrom.[9]

In Buenos Aires, the governments could only "agree to continue to engage constructively in the fisheries subsidies negotiations"[10] with an interest in adopting an agreement by the next WTO Ministerial Conference in 2019, theoretically in time to meet the 2030 Agenda commitment. But this promise cannot be blindly trusted. The previous WTO Ministerial Conference, in 2015, had agreed to conclude in Buenos Aires the negotiations on agricultural stockholding for food security by developing countries. In spite of that commitment, no agreement was reached in 2017, not even to continue negotiating.

This failure to agree on agriculture which, to a great extent, was due to the EU's reluctance to change the Common Agricultural Policy, also contravenes the commitments of the 2030 Agenda. SDG2 promises to "end hunger, achieve food security and improved nutrition and promote sustainable agriculture" and to that effect it spells out as specific targets the commitments to "correct and prevent trade restrictions and distortions in world agricultural markets" (target 2.b) and also to "ensure the proper functioning of food commodity markets in order to help limit extreme food price volatility." (target 2.c)

The agriculture subsidies of developed countries, particularly those of the EU, are a major cause of complaint by developing countries in global negotiations and the inclusion of a clear mandate concerning them in the 2030 Agenda raised hopes that these issues can be revised.

Developing countries claim that those subsidies are trade-distorting and affect their farmers, hindering efforts to reduce poverty.

In the 2030 Agenda everybody agreed to "correct and prevent trade restrictions and distortions in world agricultural markets, including through the parallel elimination of all forms of agricultural export subsidies and all export measures with equivalent effect" (Target 2.b). But in the WTO agreement a subsidy can only be challenged if it constitutes "dumping," defined as a product being exported at a lower price than its "normal value." However, the "normal value" is defined as the domestic price, which is kept low by the subsidies. Put another way:

> as long as the products are exported at the domestic price, there is no dumping. It is a truly scandalous definition (...), to the detriment of developing countries that do not have the financial means to significantly subsidize their large numbers of farmers.[11]

The sensation of injustice is further enticed by the EU's and other developed powers' refusal to allow India and other poor countries that did not have any agricultural subsidies when the WTO was created in 1995 to support their own farmers through stock-building or price-ensuring mechanisms. Developing countries argue that such support is essential to achieve SDG2, committing to end hunger and generalize sustainable agriculture.

The EU will not even discuss its agricultural subsidies when negotiating bilateral or regional trade agreements, arguing those should be negotiated at the WTO. Yet, within the WTO the EU keeps postponing these discussions or conditioning them on further concessions by developing countries on "new issues" that were not part of the unfinished Doha Round.

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(9) EU Statement at the Heads of Delegations meeting, Buenos Aires, Argentina, 13 December 2017. Available at http://trade.ec.europa.eu/doclib/docs/2017/december/tradoc_156464.pdf

(10) All official documents of the Buenos Aires Ministerial Conference can be found at: www.wto.org/english/thewto_e/minist_e/mc11_e/mc11_e.htm

(11) US, EU "decoupled" agri-support "green box" payments actionable Toulouse, 7 Aug (Jacques Berthelot, French civil society activist and agricultural economist at SOL, France) : https://www.sol-asso.fr/wp-content/uploads/2017/01/Summary-of-Analysis-and-impacts-of-the-US-complaint-on-the-dumping-of-Spanish-table-ripe-olives-SOL-2-August-2018.pdf

## Free Trade of Fair trade?

The aggressive way in which the EU negotiates trade, without looking at the impact of sustainable development negotiations is creating concerns in Europe. Protection of markets was always taboo in free trade thinking, but more and more minds are becoming open to idea of regulation of the markets towards fair and sustainable trade.

There was great opposition to the TTIP and CETA. Also the proposed regional agreement stalled Africa, as a whole, because of the many African objections to key EU demands. The European Commission is now aggressively pushing to make agreements with individual states. But, on the other hand, the EU also started to better integrate (in theory) some social and environmental principles.

Trade is the basis of the creation of the European Union. The EU has enormous trading power and its negotiators deploy impressive expertise. But while they negotiate on behalf of all EU member states, the oversight of national parliaments over EU trade policies and negotiating tactics is limited. Further, the goal of trade negotiators is to maximize short term "gains" for Europe,which is understood in a merchantilistic way. Coherence with other EU policies, such as development cooperation, environmental protection or the promotion of human rights is never a starting point. In practice, the development cooperation budget is used for trade purposes more than anything else. Futhermore, the "aid for trade" is more instrumental in convincing countries to join trade agreements rather then assist in increasing the value added of their trade.

## Recommendations

- Improve democratic oversight of EU policies by studying the environmental, human rights and social impacts of trade and investment agreements, both within the EU and abroad, and make new agreements conditional to those studies and ensure effective parliamentary oversight of trade policies and negotiations.
- Revise the definition of subsidies, making sure that subsidies under CAP support organic small-scale farming and do not contribute to environmental or social degradation at home or abroad.
- Actively promote decoupling, revising unsustainable production and consumption patterns, as required by the 2030 Agenda, starting with an improvement and generalization of footprint indicators.
- Create a level playing field for all trade activities (through the whole supply chain) taking into account and respecting human rights, environmental protections, fair labour conditions and fair prices for producers.
- Integrate the sustainability approach (SDGs) into the competition laws to avoid setting the lowest standards on human and environmental rights and protection.
- EU needs to constructively participate in the negotiations to a UN Convention on Business and Human Rights.

**Do what I say, not what I do**

*Ghana and Cote d'Ivoire signed and ratified such interim EPAs in 2016, fearing they would lose preferential access to the European market. Additionally, an agreement with the regional West African organization, ECOWAS, is stalled because of Nigeria's resistance. As a result of these agreements "trade between neighbours is now more difficult than trade with the EU.We are creating borders within Africa" said Gunther Nooke, personal representative of Africa to German Chancellor Angela Merkel.*

*According to Nooke, in the midst the migration crisis the only things that benefits Europe and Africa is more employment in Africa. He said: "This can only be done by protecting the entire African market with the creation of an African Customs Union led by the African Union. African products can be made here and be freely traded across the continent without having to compete with European goods. But now, because of differences in opinion about EPAs, African countries aren't making any progress in forming a customs union."*

**By Sylvia Kay**
**Transnational Institute - TNI**

Palm oil plantation on indigenous peoples lands/forests
in Myeik District, Tanintharyi Region, Myanmar.
J. Franco

# Landgrabbing:

## Contested meaning of land

05

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By Sylvia Kay
Transnational Institute - TNI

# Landgrabbing:

## Contested meanings of land

***Across the world, peasants, pastoralists, fishers, and indigenous peoples are losing their once effective control over the land, water, wetlands, pastures, fishing grounds and forests on which they depend including the right to decide how these natural resources will be used, when and by whom, at what scale and for what purposes, often for generations to come.***

This process known as landgrabbing takes place through different mechanisms (concessions, long-term leases, contract farming), involving different actors (public, private, foreign, domestic) and for different reasons (including for agriculture, forestry, energy, mining, industry, infrastructure, real estate, tourism, and conservation).[1] In this process, existing uses and meanings of land and territories are overridden, shifting from locally adapted, culturally appropriate, mostly small-scale and labour intensive use towards more large-scale, capital-intensive and extractive forms of resource appropriation. The implications of this model of development in terms of human rights, rural livelihoods, food security, and ecology have been well documented.

The role of the European Union (EU) in landgrabbing is manifold.[2] EU actors are involved in the financing of large-scale land deals worldwide. This occurs through forms of private finance (companies, banks, pension funds, hedge funds, brokerage firms, insurance groups), public finance (development finance and other state sponsored projects), and increasingly through a combination of both in the shape of public-private partnerships, multi-stakeholder initiatives, and other forms of blended finance'. Figures 1 and 2 provide an overview of the involvement of EU investors in large-scale land deals in the global South.[3]

**Figure 1. Amount of land directly controlled by EU companies outside of Europe**

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(1) Transnational Institute (2013), The Global Land Grab. A Primer, Revised edition, February 2013, Amsterdam: Transnational Institute. Available at: https://www.tni.org/files/download/landgrabbingprimer-feb2013.pdf

(2) Hands Off the Land Alliance (2012), The European Union and the Global Land Grab, published for the HOTL alliance by the Transnational Institute. Available at: https://www.tni.org/en/publication/the-european-union-and-the-global-land-grab

(3) These figures are taken from Mills, E. (2017), Land Grabbing and Human Rights: The Role of EU Actors Abroad. Heidelberg: FIAN International. They are based on the findings of a 2016 European Parliament commissioned study on the involvement of European investors in landgrabbing outside of the EU (full reference below), using data collected by the authors of this study from the Land Matrix database in December 2015.

**Figure 2. EU land deals by region**

The response by EU policymakers to evidence regarding the involvement of EU investors in landgrabbing has been mixed. On the one hand, official studies have been commissioned, and largely endorsed, by the European Parliament on landgrabbing, both inside and outside Europe.[4] The importance of land tenure security (and women's land rights in particular), free, prior and informed consent (FPIC), and responsible agricultural investment are issues that have all been raised by EU policymakers within the broader framework of a good governance agenda. On the other hand, the tensions between the EU's trade and investment policy and human rights obligations are often glossed over with an increasing reliance on a code of conduct approach rather than robust mechanisms for accountability and redress. The use of EU development assistance to subsidise private investments in developing countries, including in the area of agriculture, further increases the risk of landgrabbing, especially in the absence of strong due diligence and effective monitoring and accountability mechanisms for affected communities.

## EU domestic policies and landgrabbing in the global South

Addressing the challenges posed by landgrabbing involves a critical examination of some of the underlying drivers of landgrabbing. This means not just demanding better land governance in the global South, but also looking at the ways in which, in an interconnected world, the EU's domestic policies impact on land and territories outside of Europe. This section will focus on the implications for landgrabbing in the global South of four EU domestic policies including: a) the EU's Common Agricultural Policy; b) the EU's bioenergy policy; c) the EU's trade and investment policy; and d) the EUs Green Growth and Blue Growth strategies.

### A not so Common Agricultural Policy

As the EU's flagship agriculture and rural development programme, the Common Agricultural Policy (CAP) is one of the primary influencers of land use and distribution patterns within the EU. Moreover, as an agricultural policy that rewards industrialisation, specialisation and export orientation within a globally competitive trade in foodstuffs and agricultural commodities, it also has a strong impact on land outside of Europe. Much has been said already here about the role of dumping (the flooding of markets with cheap, subsidized exports) as well as the prizing open of national agricultural sectors through the signing of free trade agreements in terms of undercutting the position of farmers and domestic food production in the global South with all the ramifications for land use and distribution patterns that this entails.

What is particularly worth highlighting is how the EU's position as an agricultural powerhouse is also dependent on the huge import of agricultural commodities and inputs from the global South. Europe has a vast 'land import dependency' with nearly 60% of the land used to meet Europe's demand for agricultural and forestry products coming from outside its borders.[5] Within this, the EU's livestock industry plays an exceptionally large role given that:

- Three quarters of the EU's consumption of protein-rich feedstuffs currently co-

(4) See Kay, S., Peuch, J. and Franco, J. (2015), Extent of farmland grabbing in the EU, Brussels: European Parliament. Available at: http://www.europarl.europa.eu/RegData/etudes/STUD/2015/540369/IPOL_STU(2015)540369_EN.pdf and Borras Jr., S.M, Seufert, P., Backes, S., Fyfe, D., Herre, R., Michéle, L. Mills, E. (2016), Land grabbing and human rights: The involvement of European corporate and financial entities in land grabbing outside the European Union, Brussels: European Parliament. Available at: http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU(2016)578007

(5) Friends of the Earth Europe (2011), Europe's Land Import Dependency, Brussels: FOE Europe.

mes from abroad;
- The EU is by far the world's largest importer of soymeal and the second largest importer of soybeans after China;
- Several European firms rank among the world's top feed companies;
- The CAP supports the growth of the European livestock industry not only by subsidising cereals used as animal feed but also with intervention prices, direct payments, export refunds as well as investment aids directed towards industrial-scale animal farms.[6]

These vast flows of animal feedstocks (soybeans and soymeal) being imported into the EU have significant implications for land use in exporting countries, principally in South America, as vast tracts of land are given over to soy monocultures. The area planted with soybeans in South America is continuously growing with the combined soybean area of Brazil, Argentina, Paraguay and Bolivia expanding two-and-half times between 1988 and 2008, from 17 million hectares to 42 million hectares. This expansion has come at a huge social and ecological cost: "Land is concentrated in the hands of a few investors and farm operators, small farmers and indigenous peoples are pushed from their lands, the pesticide-intensive cultivation of genetically modified soy endangers soils, water and human health, while the agricultural frontier further expands into natural habitats, savannahs and forests".[7]

**The boom of the EU's bioeconomy**

The boom of the EU's bioeconomy touches on many interrelated dimensions of the EU's policies on growth, climate, and energy. At its heart, is a vision of a new economy based on the increasing use of biotechnologies and agrofuels in order to respond to growing concerns about the unsustainable use and management of finite natural resources, especially fossil fuels.[8] This involves the conversion, through technical processes, of food and non-food agricultural crops, into sources of bio-based energy, plastics and chemicals, to be used for a variety of agricultural, industrial, transport, waste recycling, and environmental technology purposes.

The EU has invested heavily in the future of the bioeconomy. It has been rolled out through the following measures:

- The adoption in 2009 of the EU's Renewable Energy Directive (RED)[9] which set out an overall goal of generating 20% of energy from renewable sources by 2020 and mandated that 10% of all energy consumed in the transport sector come from renewable sources by 2020.
- The publication in 2015 of a dedicated Bioeconomy Strategy[10] by the European Commission to be championed through national bioeconomy action plans developed by individual EU Member States.
- The implementation of a series of support measures including direct subsidies for research; tax-exemptions; support programmes for establishing bio-plants' (e.g. for biogas, biomass co-generation of heat and power, agrofuels) and for running these plants; a steady flow of research and development funds (e.g. through the EU ALTENER programme or through national programmes); support programmes for the production of raw material for bioenergy in agriculture and forestry (e.g. through EU rural development schemes).

The long-term sustainability of this bioeconomy boom has however been questioned as it has become clear that the increased demand for bioenergy in the EU is being met largely by imported biomass from outside of Europe. It is estimated that if the consumption of bioenergy is to double, as expected, by 2030, an area of land and forest the size of Sweden and Poland combined will be needed to supply the raw material

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(6) Fritz, T. (2011), Globalising Hunger: Food Security and the EU's Common Agricultural Policy (CAP), Ecologistas en Acción, FDCL, Transnational Institute, Vedégylet. Available at: https://www.tni.org/en/paper/globalising-hunger
(7) Ibid, p.81
(8) Mills, E. (2015), The Bioeconomy. A Primer, Amsterdam: Transnational Institute. Available at: https://www.tni.org/en/publication/the-bioeconomy
(9) See: https://ec.europa.eu/energy/en/topics/renewable-energy/renewable-energy-directive
(10) See: https://ec.europa.eu/research/bioeconomy/index.cfm?pg=policy&lib=strategy

for bioenergy production in the EU.[11] In the global South, this will mean an increasing conversion of agricultural land, forests and grasslands to fuelcrop monocultures to feed the EU bioenergy market. This imported biomass is usually extracted at a large scale and - contrary to assumptions that the land in question is idle, available or marginal  often involves land on which the most marginalised groups depend for their livelihoods. This can set in place both direct and indirect land use changes as communities are pushed into more fragile ecosystems and tensions around land subject to competing claims are heightened, sparking potential conflict.

So far, the EU has largely responded to these concerns with non-solutions.[12] The inability to examine the real implications of rising agrofuel and bioenergy demand in the EU on land and natural resources in the global South, along with an unwillingness to engage in a deeper conversation on the EU's model of energy production, ownership, use, and consumption means that a just transition towards a truly sustainable economy is likely to prove elusive. In fact, it is clear that agrofuels will continue to play a dominant role. The EU's 2050 Energy Strategy[13] for example, projects that by 2050, up to 40% of energy consumption in the transport sector (aviation, inland navigation and long-distance road freight) will come from  sustainable biofuels'.

**Investment and trade policy: a license to grab?**
The impacts of the EU's (inward and outward) investment and trade policy on land in the global South are multifaceted and complex. Critical analysis has focussed on the EU's role in a global investment regime that  through various clauses and mechanisms - grants far-reaching investment protection to (foreign) investors while curtailing, or threatening to curtail, governments' ability to regulate for progressive public policies.[14] Specifically, when it comes to land governance, this regime:

- hinders necessary and important land redistribution and restitution programmes;
- locks in onerous land deals;
- fosters land commodification;
- disempowers local legal resistance;
- impedes the reversal of abuses of illegitimate and unjust land (and water) deals;
- limits the scope of progressive agrarian and agricultural policies that protect small-scale farmers and public health.

By supporting this global investment regime, the EU seriously undermines efforts to stop and roll back landgrabbing, thereby  legalising the illegitimate'.

Strikingly, following a recent ruling by the European Court of Justice, the EU has decided to abolish intra-EU Bilateral Investment Treaties (BITs), arguing that they are incompatible with the rules of the internal market and crucially, that EU Member States must be allowed to regulate in the public interest.[15] This is noteworthy as one of the main criticisms levied against the use of these BITs is that they exert a 'chilling effect' on states' willingness and ability to legislate in the public interest, significantly reducing their room to manoeuvre. Yet in the unveiling of the new Investment Plan for Europe,[16] which is set to replace the old system of intra-EU BITs with a 'more predictable, stable and clear regulatory environment to promote investments', no mention is made of the ongoing BITs EU investors have signed with countries in the global South. This suggests that countries in the global South will face continued reduced public control over transnational capital, undermining their prospects for agrarian, environmental, economic and social justice.

While a rethink of the global investment protection regime by the EU is urgently needed, this is

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(11) Andersen, B.H. (2016), Bioenergy in the EU, Amsterdam: Transnational Institute. Available at: https://www.tni.org/files/publication-downloads/bioenergy_in_the_eu.pdf
(12) These include, inter alia, a greater emphasis on so-called  second generation biofuels' (produced from cellulose or lignin in plant residues or trees) which are believed to alleviate stresses on land. These assertions remain to be proven however, especially as the use of these second generation agrofuels is brought up to scale.
(13) See: https://ec.europa.eu/energy/en/topics/energy-strategy-and-energy-union/2050-energy-strategy
(14) Vervest, P. and Feodoroff, T. (2015), Licensed to grab. How international investment rules undermine agrarian justice. Amsterdam: Transnational Institute. Available at: https://www.tni.org/en/briefing/licensed-grab
(15) See: http://europa.eu/rapid/press-release_IP-18-4528_en.htm
(16) See: https://ec.europa.eu/commission/priorities/jobs-growth-and-investment/investment-plan-europe-juncker-plan_en

not the only area of concern. Increasingly, the way in which modern, financial capitalism works is through complex investment webs, involving multiple, cascading relationships between various (visible and less visible) actors. As part of this process of financialisation, increasing use is made of offshore centres, tax havens, and other shareholding arrangements which mask beneficial ownership and encourage a distancing of accountability. The speculative impacts of these processes of financialisation on land and territories are alarming as land and natural resources are increasingly viewed as vehicles for accumulation rather than being part of embedded social, cultural and ecological relations.

The rise in global farmland being bought up by European financial actors such as banks, pension funds, and insurance groups is one such expression of this trend. It also means that distinctions between the impacts of the EU's internal and external policies are rendered much more nebulous in a global financial system that blurs these differences. This is further the case given the rise, championed also by the EU within its international cooperation and development policy, of 'blended finance' which combines official development aid with the larger deployment of financial instruments (loans, guarantees, equity funds, risk-sharing mechanisms) in order to catalyse private sector investment.[17]

**Capital fixes and the rise of the blue and green economies**

The increasing financialisation of land and territories pursued within the context of neoliberal globalisation, both within and outside of Europe, is strongly tied to the discourses of green and blue growth. These appear prominently in a variety of EU policies and programmes including most notably the EU's 2020 Strategy for Growth[18] built around support for a 'green economy' and a Blue Growth Strategy.[19] Green and blue growth strategies are strongly premised on the belief that achieving a better balance between land/marine based natural resources and human economic activities is generally problem-free and that growth, competitiveness and environmental sustainability can go hand-in-hand. It also assumes a large role for industry and says little about the need for more democratic forms of access to and control over natural resources.

The contradictions of this approach are rarely addressed despite the fact that they seek to reconcile competing goals by relying on a series of 'fixes' to further capital accumulation. For example, in the Blue Growth strategy this involves:

- A conservation fix which signals concern for climate change by establishing marine protected areas but leaves the oil and gas industries untouched;
- A protein fix which promotes a transition to aquaculture in order to save ocean space but avoids dealing with the problem of decreasing fish stocks and the need for increasing quantities of feed based on capture fish and other ingredients including soy, rapeseed, sunflower and wheat;
- An energy/extractive fix which positions offshore wind and other 'renewable' energy sources at the forefront of new ocean economy but says little about the sources of the raw materials for these renewables (including rare-earth minerals obtained through mining).[20]

The implications of these fixes go far beyond the specifics of a particular policy. They are emblematic of a much broader recasting of land and ocean politics in which contested visions of development are at play between those who wish to safeguard diverse meanings and uses of land and ocean space (economic, social, cultural, ecological, spiritual) against the ongoing pressures of extraction and enclosure (see box).

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(17) See: https://ec.europa.eu/europeaid/policies/innovative-financial-instruments-blending_en

(18) See: http://ec.europa.eu/eu2020/pdf/COMPLET%20EN%20BARROSO%20%20%20007%20-%20Europe%202020%20-%20EN%20version.pdf

(19) See: https://ec.europa.eu/maritimeaffairs/policy/blue_growth_en

(20) For a further critical examination of the discourse and politics behind Blue Growth, see: Brent, Z.W, Barbesgaard, M. and Pedersen, C. (2018), The Blue Fix: Unmasking the politics behind the promise of blue growth, Amsterdam: Transnational Institute. Available at: https://www.tni.org/en/bluegrowth

**Contested meanings of land in Myanmar[21]**

*In Myanmar today land is being revalued in a dramatic way by powerful economic actors as they try to grab control of land and other natural resources like water, forests, fisheries and the oil and minerals in the soil. This shift toward a singular meaning of land - namely land simply as a factor of production - is being pushed by extractive, exploitative and predatory business practices and unrestrained rent-seeking behaviour by empowered political and economic elites aimed at controlling land, water, mineral, forest and fishery resources and the benefits of their use. This vision is expressed through a range of large investment projects - including jade and copper mining, hydropower dams, deep sea ports, and the creation of multiple 'special economic zones'. It is also being codified in legislation, such as in the Vacant, Fallow, and Virgin (VFV) Land Law which allows for land that is not currently titled and being used in certain, prescribed ways to be reallocated on the basis that otherwise, this land is a 'wasted asset'.*

*What is being lost as a result of all this? What is being lost are the many meanings and uses and relationships around land that fall outside of the narrow boundaries of land as an economic factor. These wider and more socially meaningful meanings of land include: lifestream, history, sacred spirits, homeland, livelihood, sanctuary, safety net, daily life space, sacred places, watershed, inheritance, life with dignity, and last but not least, gift from Nature. As a farmer from Shan State expresses: "Land is our life as well as our prestige. It's the food for us to survive, the home for us to live, and the place of unity for our family. Also land is our precious inheritance throughout the generations." The burning question now standing before Myanmar is whose vision of development will ultimately count?*

## Conclusions and recommendations

The EU and its Member States must take active measures to prevent and remedy human rights abuses and violations in the context of landgrabbing. Crucially, existing European legislation recognises the extra-territorial obligations (ETOs) of the EU in this regard:

- The Treaty on the Functioning of the European Union highlights that both the EU's external actions and domestic policies (with international implications), must be developed and pursued in accordance with human rights;
- The European Court of Human Rights (ECHR) has determined that the obligation to protect and provide access to remedy under the ECHR applies to both extraterritorial activities and domestic activities with extraterritorial impacts.

This translates into the following recommendations[22] addressed to policymakers at the EU and Member State levels:

1. Ensure the EU's human rights agenda more proactively addresses land grabbing e.g. through the function of the EU Special Representative on Human Rights and the provision of training and operational tools to staff in EU headquarters, capitals, delegations, representations, and embassies.
2. Work towards human rights compliant policies e.g. by conducting human rights impact assessments, providing effective complaint and remedy mechanisms, revising policies such as RED that have contributed to landgrabbing, and applying important tenure related instruments such as the CFS Guidelines on the Res-

(21) Franco, J., Twomey, H., Ju, K.K. et. al (2015), The Meaning of Land in Myanmar. A Primer. Amsterdam: Transnational Institute. Available at: https://www.tni.org/en/publication/the-meaning-of-land-in-myanmar

(22) These recommendations are taken from the study authored by Borras Jr., S.M, et al. Land grabbing and human rights: The involvement of European corporate and financial entities in land grabbing outside the European Union. For an easy access version of this study synthesizing these recommendations, see: https://www.fian.org/en/news/article/the_eu_must_act_to_stop_and_prevent_land_grabbing/

ponsible Governance of Tenure of Land, Fisheries and Forests.

3. Enforce accountability and regulation of EU-based actors e.g. by tracking and monitoring land deals involving EU actors, developing polices and frameworks for the conduct of corporations over which the EU has jurisdiction, and withdrawing any form of support (financial, diplomatic, and otherwise) to companies involved in landgrabbing and human rights violations.
4. Adopt strong safeguards and remedies when EU development assistance is being used to promote private investments in land-related projects. All such measures should be gender-responsive and incorporate gendered human rights impact assessments. No large-scale transfer of land should be allowed under such investments, and FPIC should be extended to all local communities.
5. Advance human rights in international and multilateral bodies e.g. by monitoring the effective implementation of the CFS Tenure Guidelines, the UN Declaration on the Rights of Peasants and supporting the ongoing work at the UN Human Rights Council on a binding treaty for transnational corporations.
6. Increase support and protection for human rights defenders e.g. by developing local implementation strategies for the EU Guidelines on Human Rights Defenders, including specific attention to the risks facing defenders of land, water, and environmental rights.
7. Enhance the role of the European Parliament (EP) and of civil society organisations (CSOs) e.g. by ensuring proper access to information by the EP on landgrabbing by EU actors, adequate coordination across EU institutions and policy domains, and establishing a mechanism to facilitate the effective participation of CSOs in developing, implementing, and monitoring EU policies and actions in relation to landgrabbing.

Finally, in addition to adressing landgrabbing as a matter of human rights, the EU must also prioritise measures that de-escalate levels of poverty and hunger, tackle the urgent challenges of climate change and resource degradation, and deliver greater democratic control and voice. This means moving away from capital fixes towards truly sustainable development models that incorporate the multiple meanings and uses of land, water, fisheries and forests. Positive examples[23] for doing so already exist across the world: from support for local food production systems, territorial markets[24] and public-peasant investment partnerships,[25] to agro-ecological farming practices and farmer-to-farmer knowledge exchange, to cooperative models for the management of water and energy systems. These experiences and proposals must be integrated into EU domestic policies in order to ensure policy coherence for development and a just transition with a bright future for the next generation of (rural) youth.

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(23) For an overview of these, see Kay, S. (2012), Positive Investment Alternatives to Large-Scale Land Acquisitions or Leases, Amsterdam: Transnational Institute. Available at: https://www.tni.org/en/publication/positive-land-investment-alternatives

(24) Kay, S. (2016), Connecting Smallholders to Markets: An analytical guide. Study published by Terra Nuova and the Hands On the Land alliance for the Civil Society Mechanism of the Committee on World Food Security. Available at: http://www.csm4cfs.org/wp-content/uploads/2016/10/ENG-ConnectingSmallholdersToMarkets_web.pdf

(25) For a comprehensive review of these strategies, see: Kay, S. (2014), Reclaiming Agricultural Investment: Towards Public-Peasant Investment Synergies, Amsterdam: Transnational Institute. Available at: https://www.tni.org/files/download/reclaiming_agricultural_investment.pdf

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# Beggar thy neighbour:

## EU policies on debt, tax and finance and its impact on developing countries

06

eurodad

european network on debt and development

By Bodo Ellmers and Tove Ryding
Eurodad

# Beggar thy neighbour:

## EU policies on debt, tax and finance and its impact on developing countries

***The European Union's (EU) policies on debt, taxes and finance are among the policy areas that have a strong impact on Sustainable Development Goals implementation, both in the EU and third countries. These policies shape the availability, as well as the distribution, of financial resources that directly or indirectly impact sustainable development. Wrong and ill-informed decisions do not merely hinder progress, they can be detrimental to development and reverse already made progress. A striking example of this is from within the EU itself, in the way countries directly affected by the Euro crisis had a large proportion of their populations impoverished; their welfare systems destroyed; work turning increasingly precarious; with well-documented specific impacts on women.[1]***

While debt, taxes and finance are central policy areas, discussed daily in cabinets and parliaments in Brussels and Member States' capitals, the SDGs are not sufficiently embedded in decision-making. Moreover, while taxation is, at least, rhetorically addressed in official EU communication on policy coherence for development, the EU policies relating to debt sustainability and general financial policies are not.[2] This is highly problematic.

### After the Euro crisis: The impacts of fiscal austerity and internal adjustment

The Euro crisis held Europe hostage over the past decade and was one of the key constraints on progressive transformation towards sustainable development in the EU. The austerity of these policies slashed investment across the EU and the most-affected countries were those in the European "periphery" Portugal, Spain, Cyprus and especially Greece.

The way the EU addressed the crisis also had negative effects on third countries. A key reason for the Euro crisis was internal imbalances. The countries in the EU-periphery imported more from those in the "core" than they exported. The deficits were created by lending from the core country banks to periphery country consumers. This house of cards was not sustainable and collapsed a decade ago.

The EU's approach to solving the crisis was an one-sided adjustment, focused on forcing austerity policies on the periphery countries.

(1) See e.g. the TUC (2015), The Impact on Women of Recession and Austerity, https://www.tuc.org.uk/research-analysis/reports/impact-women-recession-and-austerity

(2) See e.g. European Commission (2019), 2019 EU Report on policy coherence for development, SWD(2019) 20 final, https://ec.europa.eu/europeaid/sites/devco/files/swd_2019_20_pcdreport.pdf; For Eurodad analysis, see Bodo Ellmers and Tove Maria Ryding (2019), Errors and Omissions: A glance at the European Commission's new Communication on Policy Coherence for Development, https://eurodad.org/Entries/view/1547028/2019/02/14/Errors-and-Omissions-A-glance-at-the-European-Commission-s-new-Communication-on-Policy-Coherence-for-Development

The methods used included political and ideological pressure and a sophisticated regulatory framework. This included, among other elements, reforms to the Stability and Growth Pact, a new Macroeconomic Imbalance Procedure and the Fiscal Compact, which forced austerity policies on the periphery countries. Consequently, fiscal and trade deficits were reduced, and the periphery countries are no longer in deficit. However, nothing has been done to address the exorbitant trade surpluses in the European "core" countries such as Germany and the Netherlands.

As a result, the EU, as a whole, has become a surplus region vis-a-vis the rest of the world. And former internal problems have turned into external problems, as the EU tried to solve internal economic imbalances by turning them into external economic imbalances by using a policy approach, which has since the competitive devaluations of the 1930s Great Depression been known as "beggar-thy-neighbour-policy."

In the Eurozone, where the European Commission has more tools to impose austerity, the current account surplus is above the EU's average of 1.4% of GDP, at 3.5% of GDP, according to Eurostat data for 2017. This indicates the EU is generally importing fewer goods and products from other countries than it exports. The EU is consequently "exporting unemployment" to the rest of the world, rather than creating jobs and income. This undermines developing countries' chances to develop through trade. A few wealthier Member States, in particular Germany, the Netherlands and Denmark are responsible for most of the surplus in absolute terms.

Another implication is that the core countries' excessive savings, which were once recycled in the EU's internal periphery, are now flowing to the "new" deficit countries outside of Europe, creating external debts there. The EU is currently building a new house of cards out of unsustainable debts, very similar to the house of cards that lead to the Euro crisis a decade ago, but this time outside of Europe.

## The impact of lax monetary policies

This effect is reinforced by the second major set of crisis-management instruments used by the EU in recent years: lax monetary policies. Starting from late 2008, the European Central Bank (ECB) as well as central banks in non-Euro EU countries, lowered interest rates, keeping levels to near zero per cent. Central banks also started to buy government bonds and other assets to avoid defaults, lower borrowing costs and to boost credit supply in the EU. At first it was timid, but increased substantially after 2015 following ECB's Director Mario Draghi's announcement to do "whatever it takes" to prevent a collapse of the common currency area. The so-called "quantitative easing" (QE) policies helped lower interest rates across Europe, freeing up public funds for purposes other than paying creditors. However, an unintended but predictable side-effect of QE was that it created trillions of hot, speculative money, which has and continues to destabilize the global economy.

For developing countries this policy was a double-edged sword. While on one hand, it boosted financing options, in the absence of capital controls, some of the money flew to developing countries in search of high-yield investments. Such investments were, difficult to find in Europe, due to fiscal austerity and the recession. Many low-income countries that were previously dependent on funding from development banks or China started to issue Euro bonds on global financial markets and had no trouble finding buyers. Securing foreign currency loans was easy and public as well as private actors in developing countries made extensive use of this financing option.[3]

The EU and its Member States also set up new institutions and facilities that act procyclical, i.e. that further promote the export of private capital from Europe to the global South. The most prominent of these institutions are the European

(3) Cf Eurodad (2013), The new debt vulnerabilities. Ten reasons why the debt crisis is not over, https://eurodad.org/Entries/view/1546060/2013/11/11/The-new-debt-vulnerabilities-10-reasons-why-the-debt-crisis-is-not-over

External Investment Plan and the G20's Compact with Africa, the latter set up under the German G20 presidency in 2017.

## Pushing poor countries into a new debt trap

The lending boom pushed poor countries into a new debt trap.[4] Both private and public debt levels in developing countries surged. This was problematic since Central Banks in the USA and Europe turned around and "normalized" their monetary policies, phased out bond purchases and, in the case of the US Federal Reserve Bank, raised interest rates.

By the end of 2018, 32 low-income countries had either defaulted or were at high risk of debt crisis, according to the IMF debt sustainability assessments.[5] This figure has more than doubled in the past 5 years. The lending boom to developing countries in the wake of the financial crisis has wiped out hard-won debt relief gains made by the Heavily Indebted Poor Country (HIPC) debt relief initiatives in the 1990s and 2000s.

Middle-income countries such as Argentina, Pakistan, or Turkey were hit by a "tsunami"[6] of capital inflows from the North early on in the crisis. More recently, these countries suffered massive capital outflows when foreign investors withdrew speculative capital. In 2018, Argentina had to request the largest IMF bail-out loan ever - almost US$60bn - to re-finance capital flight. In return, it committed to returning to harsh austerity adjustments, which in the coming years will constrain, if not reverse, future progress made towards the SDGs.[7]

## Backing IMF adjustments that undermine the SDGs

Many other developing countries ended up in similar situations. In a recent report, Eurodad assessed loan conditions in IMF programs and found they were designed without considering how best to implement the the SDGs. Conditions that may hamper progress towards achieving the SDGs include those which require governments to cut public spending ("fiscal consolidation"), fire public service workers ("wage bill reforms") who are key to effectively delivering public services including health and education, or reduce private sector wages and undermine workers' rights ("labour market reform").[8] Some IMF policies also have problematic impacts when it comes to the promotion of gender equality.[9] IMF programs, including their loan conditionalities, need to be signed off by the IMF Executive Board, where EU Member States hold more than 30% of voting rights. Collectively, they could veto any IMF program that undermines SDG implementation or violates human rights. But they do not.

Aware of the devastating human rights violations because of creditor-designed "economic reform programs", of both the Troika in Europe and the IMF, the UN Human Rights Council adopted Guiding Principles on Human Rights Impact Assessments (HRIA) of Economic Reform Programmes in March 2019.[10] The UNHRC calls on governments and creditor institutions to ensure these HRIAs are completed, and that the findings are considered, when taking decisions on economic reforms. The UNHRC Resolution was adopted by majority vote due to the support of developing countries in the UNHRC. Scandalously however, all EU Member States with seats in the UNHRC voted against it, making it clear they prefer to turn a blind eye to the devastating human rights impacts of the economic reforms they implement or impose on others through the IMF.

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(4) Cf. Tim Jones (2015), The new debt trap. How the response to the last global financial crisis has laid the ground for the next, Jubilee Debt Campaign UK, https://jubileedebt.org.uk/wp-content/uploads/2015/07/The-new-debt-trap_07.15.pdf

(5) Cf. International Monetary Fund (2019), List of LIC DSAs for PRGT-eligible countries, As of January 1 2019, https://www.imf.org/external/pubs/ft/dsa/dsalist.pdf

(6) Tsunami was the term used by Dilma Rousseff, then the President of Brazil, on a state visit to the USA where she protested against the USA's monetary policies and their devastating impact in third countries, see e.g. Financial Times (2012), Rousseff seeks US support in currency war', https://www.ft.com/content/4e942712-826a-11e1-9242-00144feab49a

(7) Gino Brunswijck (2018), Argentina More lending guarantees creeping austerity, https://eurodad.org/argentina-lending-guarantees

(8) Gino Brunswijck (2018), Unhealthy conditions. IMF conditionality and the impact on health financing, https://eurodad.org/unhealthy-conditions

(9) ActionAid (2018), Short-changed: How the IMF's tax policies are failing women, https://actionaid.org/publications/2018/short-changed-how-imfs-tax-policies-are-failing-women

(10) UN Human Rights Council (2019), Guiding Principles on human rights impact assessments of economic reforms, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/40/57

## EU's role in the broken global tax system

The obvious alternative to funding the implementation of the SDGs with debt is to ensure greater tax income in developing countries. If done correctly, that is by means of progressive tax systems, which redistribute resources from the wealthiest to the poorest, taxation could be used as a key tool to achieve SDG10 on reducing inequality. But done incorrectly, through the imposition of regressive taxes, taxation can lead to increased inequality.

A central element of any fair, effective and progressive tax system is to ensure that multinational corporations pay their share of tax in the countries where they do business. However, as illustrated by the numerous tax scandals in recent years, this can be difficult to achieve, and today multinational corporations have numerous ways of using international structures to avoid taxes. While corporate tax avoidance is a costly affair for both developed and developing countries, the impacts are felt more forcefully by developing countries, which often rely more heavily on corporate taxes for generating public revenue and typically have greater difficulty finding alternative sources of income.[11]

The EU and its Member States play a multifaceted role in relation to this problem. On the one hand, the EU itself is deeply impacted by the loss of corporate tax income and in some cases, has been the first to help provide solutions For example, in 2013 the EU introduced transparency rules to allow the public to access data to see where multinational banks do business and what they pay in tax in each country where they operate (so-called public country-by-country reporting). Although this is not an absolute solution, research has shown that this type of transparency can play an important role in reducing corporate tax avoidance.[12] For this reason, the EU is currently debating whether to expand the system to all large multinational corporations, instead of just banks. Unfortunately, this initiative is currently being stalled by the majority of EU Member States.[13]

## EU tax havens and the race to the bottom

Regrettably, some EU countries also play a different and much more worrying role in the international tax system, namely by helping multinational corporations avoid taxes. For example, EU Member States such as the Netherlands, Luxembourg, Ireland, Hungary and Malta have been called out by both the European Commission and the European Parliament owing to their use of so-called "aggressive tax planning structures"," which multinationals can use to significantly lower their corporate tax bills.[14] Such harmful tax structures can have direct negative consequences on developing countries. One example involves the tech giant Apple, who, according to a case presented by the European Commission, used tax structures in Ireland to lower its corporate tax rate dramatically, reducing it to 0.005 per cent in 2014. According to the Commission, the profits were channelled through Ireland but did not originate solely in Europe, but also came from Africa, India, and the Middle East.[15]

However, it is not just the countries with the most aggressive structures that are a cause for concern. An increasing number of EU countries have engaged in what is often referred to as "tax competition", in an attempt to attract foreign investment. For example, there has been a dramatic increase in the number of EU countries using harmful tax incentives such as special tax regimes for income from intellectual property - so-called patent boxes - which create risks

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(11) IMF (2019), Global taxation in the global economy, IMF Policy Paper, https://www.imf.org/~/media/Files/Publications/PP/2019/PPEA2019007.ashx

(12) Michael Overesch and Hubertus Wolff (2018), Financial Transparency to the Rescue: Effects of Country-by-Country Reporting in the EU Banking Sector on Tax Avoidance, Available at SSRN: https://ssrn.com/abstract=3075784 or http://dx.doi.org/10.2139/ssrn.3075784

(13) Olivia Lally (2018), Paradise Lost: EU governments blocking transparency one year after Paradise Papers, Eurodad, https://eurodad.org/paradise-lost

(14) European Parliament (2019), Report on financial crimes, tax evasion and tax avoidance, European Parliament resolution of 26 March 2019 on financial crimes, tax evasion and tax avoidance (2018/2121(INI)), http://www.europarl.europa.eu/cmsdata/162244/P8_TA-PROV(2019)0240.pdf

(15) European Commission (2016), State Aid: Ireland gave illegal tax benefits to Apple worth up to 13 billion, press release, 30 August 2016, http://europa.eu/rapid/press-release_IP-16-2923_en.htm For more information on this state aid case, and related count cases, see the European Commission, SA.38373 $ - Aid to Apple, http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_38373

of corporate tax avoidance.[16] At the same time, there is a broad trend in both Europe and globally towards lowering headline corporate tax rates as part of what has been described as the "race to the bottom" on corporate taxation.[17] It is well-known that aggressive tax planning structures and other types of tax competition have strong transboundary impacts. However despite this, the EU and its Member States have not yet started to carry out systematic spill-over analyses to identify the impacts of its tax policies on developing countries, or on key priorities issues such as gender equality.

## Enforcing biased and ineffective tax standards on developing countries

One important way to stop harmful tax practices and reverse the "race to the bottom" would be through global cooperation and regulation. But unfortunately, the current international framework on taxation of multinational corporations is deeply complex, opaque and ineffective.[18] Furthermore, it has failed to take the priorities and realities of most developing countries into account. This is, to a large extent, a reflection of which countries were and importantly were not, in the room when the rules were written.

For the last 50 years, the Organisation for Economic Co-operation and Development (OECD), also known as the "rich countries' club", is where global tax standards have been decided. In more recent years, decision making has also included the G20. However, during the last major review of international corporate tax standards the OECD's process on Base Erosion and Profit Shifting (BEPS), which was concluded in 2015, over 100 developing countries were excluded from the decision making.[19] After the BEPS package a document of almost 2,000 pages was adopted, the OECD set up an implementation body known as the Inclusive Framework, inviting all countries to come and follow the agreed-upon standards "on an equal footing", and to participate in the negotiation of any additional BEPS decisions. However, to join the Inclusive Framework, developing countries are required to agree with decisions that have already been made.[20] This means that developing countries are still not able to participate on a truly equal footing in the setting of international tax standards.

Developing countries have not accepted this system without objections. In fact, for years the Group of 77 (G77), representing over 130 developing countries, has been calling for the establishment of an intergovernmental tax body under the United Nations to lead the setting of global tax standards instead of the OECD.[21] However, both the European Commission and several EU Member States have rejected this request, and instead insist on keeping standard setting under the auspices of the OECD and G20.[22]

In December 2017, the situation took a turn for the worse when the EU decided to blacklist countries that had not committed to following the OECD standards as "non-cooperative jurisdictions",[23] and threatened to apply financial sanctions against them.[24] Thus, after first excluding developing countries from decision making, they are now being pressured to follow international tax standards that not only fail to take their interests and realities into account, but have also proven to be incapable of solving the problem of international corporate tax avoidance.

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(16) Eurodad et al. (2017), Tax Games the Race to the Bottom, https://eurodad.org/files/pdf/1546849-tax-games-the-race-to-the-bottom.pdf

(17) Eurodad et al. (2017), Tax Games the Race to the Bottom, https://eurodad.org/files/pdf/1546849-tax-games-the-race-to-the-bottom.pdf (Ibid.)

(18) For further analysis of the current international corporate tax system, see for example the submission from Eurodad to IMF's consultation on the issue, https://www.imf.org/external/np/exr/consult/2018/corptaxation/pdf/2018commentscorptaxation.pdf page 22.

(19) OECD (2015), OECD Secretary-General Report to the G20 Finance Ministers and Central Bank Governors, http://www.oecd.org/g20/topics/taxation/oecd-secretary-general-tax-report-to-g20-FMCBG-september-2015.pdf page 11

(20) OECD (2017), Background brief Inclusive Framework on BEPS, http://www.oecd.org/tax/beps/background-brief-inclusive-framework-for-beps-implementation.pdf.

(21) Statement on behalf of Group of 77 and China by Mr. Sameh Elkhishin, First Secretary of the Permanent Mission of Egypt to the United Nations, at the ECOSOC Special Meeting on International Cooperation in Tax Matters, 18 May 2018, http://www.g77.org/statement/getstatement.php?id=180518b.

(22) See for example European Commission (2016), Answer given by Mr Moscovici on behalf of the Commission, http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=P-2016-002732&language=EN as well as Eurodad et al. (2017), Tax Games the Race to the Bottom, https://eurodad.org/files/pdf/1546849-tax-games-the-race-to-the-bottom.pdf page 49.

(23) Council of the European Union (2017), The EU list of non-cooperative jurisdictions for tax purposes, Council conclusions, https://www.consilium.europa.eu/media/33082/council-conclusions-non-cooperative-jurisdictions-5-december-2017.pdf.

(24) European Commission (2018), Fair taxation: Commission puts in place first EU counter-measures on listed non-cooperative tax jurisdictions, http://europa.eu/rapid/press-release_IP-18-2245_en.htm

## Excluding poor countries in global economic governance

Tax standards are not the only international policies written by bodies in which developing countries are severely underrepresented. The same is the case for debt and finance. The G20 and the Financial Stability Board (that the G20 set up at the London Summit in 2009 to coordinate financial sector regulation) include a few of the major emerging economies such as China and Brazil. However, most developing countries and all low-income countries have been left behind. This is a reflection of the broader picture, where global economic governance is conducted by bodies dominated by developed country interests which do not represent or act in the interests of developing countries.

The management of the IMF and the World Bank is yet another example: an unwritten "gentlemen's agreement" states that the managing director of the IMF is always european, while the president of the World Bank is always from the United States. Developing countries have contested this North-western dominance of international financial institutions (IFIs) for quite some time. The premature departure of ex-President Kim, announced in January 2019, provided an opportunity for the World Bank to change this unjust tradition[25] an opportunity that EU Member States failed to grasp. They hold roughly one-quarter of the voting rights at the World Bank and could have vetoed a Trump-appointee, but deliberately decided not to challenge the United States. The flawed government structures of the World Bank and the IMF are seen as a key reason why IFIs work for the interest of rich countries to the detriment of developing countries.

Attempts to strengthen the "G193", meaning the role of the United Nations in global economic governance, receive little support from the EU and its Member States. The most remarkable example of the EU's rejection of the United Nations was its boycott of the UN General Assembly's ad-hoc Committee on a multilateral legal framework for sovereign debt restructuring processes in 2015. The Committee had been set up on the initiative of the G77, with the mandate to develop an international insolvency regime that would protect countries in debt crises from aggressive litigation by predatory vulture funds. The EU's boycott decisively contributed to the Committee's failure to establish a hard and effective insolvency law for sovereign debtors, with the result that international community now lacks the necessary, effective institutions to solve current and future debt crises.[26] This is particularly problematic now that a new wave of debt crises is a major threat to the implementation of the Sustainable Development Goals.[27]

## Recommendations

The EU should:

- Work with partners in the UN to create a global debt workout mechanism for the effective and sustainable resolution of debt crises. The SDG-financing needs must be prioritized over debt service where resources are limited. Additionally, the SDGs should guide decision-making on debt workouts;
- Scale up public investments in SDG-related sectors and activities. The EU countries that have fiscal space should make use of this arena. EU countries that are heavily indebted and, thus, fiscally constrained should consider debt restructurings to free up fiscal space for SDG-investments. Beyond using fiscal resources, the EU should also consider using monetary resources for SDG-financing: "quantitative easing" could be implemented in a way that directly funds SDG-investments;

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(25) World Bank Group (2019), Selection of the President of the World Bank Group, https://www.worldbank.org/en/news/press-release/2019/01/10/selection-of-the-president-of-the-world-bank-group

(26) For an overview: Bodo Ellmers (2015), The UN's work towards faster and better resolution of debt crises: a tale of legal frameworks and basic principles for debt restructurings, https://eurodad.org/UNandDebtCrises

(27) Inter-agency Task Force on Financing for Development (2019), 2019 Financing for Sustainable Development Report; Advanced Unedited Version as of 12 March 2019, p. 15-16

*The pace of tax reform efforts has accelerated after OECD countries found themselves more urgently needing to get corporations to pay a fair share of tax in the aftermath of the North Atlantic financial and economic crisis of 2007- 08. OECD norms which dominate the allocation of taxing rights among countries have made it possible for corporations to use developing countries to avoid and evade taxes.*

*In its actions, the OECD and its Member States have signalled a strong preference to manage and control the design of and actions on the reform agenda. One argument often touted is that rich countries supposedly have greater technical expertise to fix the tax problems of developing countries. In this context, tax cooperation becomes about capacity building and implementation of OECD standards rather than reforming the process to restore tax performance and agency of all parties involved. Developing countries are being invited to implement OECD standards in the Global Forum on Transparency and Exchange of Information for Tax Purposes and Inclusive Framework on BEPS. Developing countries in the Inclusive Framework could also be part of some remaining standard setting as long as they commit to implementing most of the standards already designed without their equal participation.*

*The Group of 77 and China, a group of 134 developing countries, continues to highlight the lack of progress on tax cooperation, including at the recent Financing for Development (FfD) Conference in April 2019. The Addis Ababa Action Agenda, which was adopted at the UN Summit on Financing for Development in 2015, stresses that "efforts in international tax cooperation should be universal in approach and scope", though developed countries continue to block the very mechanism that would ensure implementation of this commitment establishing a universal, intergovernmental tax commission under the auspices of the UN.*

*By Pooja Rangaprasad - India*

- Carry out and publish spill-over analyses of all national and EU-level tax policies, to assess the general impacts on developing countries, as well as the impacts on gender equality;
- Introduce full public country-by-country reporting for all large multinational corporations operating in the EU, and thereby allow transparency in relation to where those multinational corporations do business, and what they pay in taxes in the countries where they operate;
- Support the establishment of an intergovernmental tax body under the auspices of the UN, with the aim of ensuring that developing countries can participate equally in the global reform of international tax rules. This forum should become the main forum for international cooperation in tax matters and related transparency issues. The tax body should be adequately funded and allow observes full access, including civil society and parliamentarians. One of the key priorities of the body should be to negotiate and adopt an international convention on tax cooperation and related transparency.
- There is an urgent need to establish and strengthen fully inclusive global economic governance institutions, correct failed and unjust policies and fill the gaping holes in the international financial architecture. The EU must (re-)discover true and enlightened multilateralism, and help create inclusive, transparent, democratic and accountable institutions for global economic governance.

**By Lis Cunha and Isabelle Brachet**
**ActionAid**

29 May, 2014: ActionAid Zambia and other tax justice groups protest in Lusaka over claims that copper mining company Konkola Copper Mines (KCM) and its parent company Vedanta may have been avoiding tax in Zambia.
ActionAid

# Corporate Accountability

## Social Rights, Environment, and Human Rights Violations

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actionaid

By Lis Cunha and Isabelle Brachet
ActionAid

# Corporate Accountability

## Social Rights, Environment, and Human Rights Violations

***Recent Trends in Corporate Support for the SDGs across the European Union***
***The European Union (EU) has made a clear commitment to achieving the 2030 Agenda for Sustainable Development and the SDGs, alongside its existing obligations in the areas of human rights, gender equality, and policy coherence for development.***

In order to secure corporate involvement in sustainable development, the SDGs are often framed as enablers of commercial opportunity and economic benefits for businesses.[1] Indeed, several tools and reports have been developed around the "business case" for the SDGs, presenting the sustainable development agenda from the perspective of business growth opportunities. As a result, European companies have started to adopt the language of the SDGs to highlight how they positively contribute to a sustainable world through their activities, with more companies beginning to mention the SDGs in their public reporting.

In this vein, the EU as well as multinational institutions such as the World Bank is increasingly focusing on mobilising private sector finance to deliver the SDGs in developing countries. However, its approach may be interpreted as "prioritising profit of the rich and powerful ahead of the needs of the poor and vulnerable."[2] It is noticeable in EU external action, where the trend is to offer more subsidies to companies to encourage them to invest in the developing world, sometimes with the explicit aim of generating business opportunities for European companies seen as a win-win situation.This is exemplified by the European External Investment Plan and the proposals to substantially increase the amounts of development assistance aimed at leveraging private investments in developing countries in the next EU budget (2021-2027).

A similar trend can be seen in relation to women's rights. In response to a narrative created around the "business case" for gender equality, governments and corporations increasingly espouse a commitment to furthering this agenda. However, their actions achieve little more than provide opportunities to individual women to integrate into economic markets, rather than transform structural and systemic conditions. Thecurrent approach by both the EU and corporates to the SDGs risks distracting attention from the need for a broader human rights-based outlook by businesses with regard to the potential impacts of their activities on people and the environment.

Inits 2016 conclusions on business and human rights,[3] the Council of the European Union affirmed that "corporate respect for human rights and its embedding in corporate operations and

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(1) CSR Europe, 2017, The Sustainable Development Goals (SDGs): The Value for Europe: https://www.csreurope.org/sites/default/files/FS_WP_Sustainable%20Development%20Goals_05112017_RD_0.pdf
(2) ChristianAid, 2019, Financing Injustice:https://www.christianaid.org.uk/sites/default/files/2019-01/Financing_%20Inequality_brief_1.pdf
(3) Council of the European Union, 2016, Council Conclusions on Business and Human Rights: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/council_conclusions_on_business_and_human_rights_foreign_affairs_council.pdf

value and supply chains is indispensable to sustainable development and achieving the SDGs." This was an important reminder that the primary responsibility of the private sector in relation to the SDGs is to ensure that companies' business models and operations are built on respect for human rights, including by establishing due diligence policies and processes to prevent the potential negative impacts of business activities on society. An effective and comprehensive "do no harm" approach must invariably come before any diversion of resources and focus toward businesses' efforts to contribute positively to the SDGs in other manners, such as through charitable activities or one-off projects. As highlighted by the United Nations Working Group on Business and Human Rights, "business strategies to contribute to the SDGs are no substitute for human rights due diligence."[4]

Despite the blossoming of voluntary human rights initiatives in various economic sectors and an enhanced business narrative around their positive impact on the SDGs, the pace of human rights abuses committed by companies has not slowed. Their breadth is also wide ranging, from labour rights violations to pollution, land grabbing, and tax evasion. Low wages, poor working conditions, discrimination against women workers, and gender-based violence are common place in the supply chains of European companies, while new cases of corporate land grabbing around the world are exposed with staggering frequency, often implicating European businesses or investors.[5] Meanwhile, human rights defenders challenging corporate abuse face violence and threats, and women defenders often face additional gender-related dangers.[6] Front Line Defenders reports that "in 2018, 321 defenders in 27 countries were targeted and killed for their work" with the vast majority of them killed for "defending land, environmental or indigenous peoples' rights, often in the context of extractive industries and state-aligned mega-projects."[7] Despite the pervasiveness of human rights abuses, victims lack access to justice and are almost never awarded remedy or redress,[8] with women encountering additional barriers to justice.

## Curbing Corporate Abuse

In response to these abuses, social movements, civil society organisations, trade unions, and activists worldwide are coming together to stop corporate impunity. Over 1,000 organisations from all over the world have joined the Treaty Alliance,[9] campaigning in support of a legally binding instrument at the UN level to address human rights abuses committed by transnational corporations and other enterprises. The process for such an instrument was initiated at the UN, sparked by movements in the Global South to counter the violations by multinationals taking place in their territory.

European citizens have also joined the call for an end to corporate impunity in Europe and abroad. In January 2019, a European civil society campaign was launched, called Rights for People, Rules for Corporations,[10] calling for EU and EU Member State support for the UN Binding Treaty and for the adoption of measures at the European level as well. As of the end of May 2019, more than half a million signatures from across Europe had already been gathered in support of the campaign.

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(4) UN Working Group on Business and Human Rights, 2017, "The business and human rights dimension of sustainable development: Embedding "Protect, Respect and Remedy" in SDGs implementation"https://www.business-humanrights.org/sites/default/files/documents/UNWG-SDG-recommendations-30-Jun-2017.pdf

(5) European Parliament, 2016, Land grabbing and human rights: The involvement of European corporate and financial entities in land grabbing outside the European Union,: http://www.europarl.europa.eu/RegData/etudes/STUD/2016/578007/EXPO_STU(2016)578007_EN.pdf

(6) AWID, 2017, Women Human Rights Defenders Confronting Extractive Industries:https://www.awid.org/sites/default/files/atoms/files/whrds-confronting_extractive_industries_report-eng.pdf or UN Special Rapporteur on the situation of human rights defenders, 28 February 2019:https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24232&LangID=E

(7) FrontLine Defenders, 2019, Global Analysis 2018:https://www.frontlinedefenders.org/en/resource-publication/global-analysis-2018

(8) SOMO, ActionAid et al, 2017, Removing Barriers to Justice:https://actionaid.nl/wp-content/uploads/2017/09/Removing-barriers-web.pdf

(9) Treaty Alliance:https://www.treatymovement.com/about-us

(10) This European campaign was launched on 22 January 2019 by an alliance of over 150 organisations, trade unions, and social movements: https://rules4corporations.org/

## Legislative Progress on Corporate Accountability at the EU Level

Even with growing international political will to enhance corporate accountability, the EU has so far not engaged constructively[11] in the ongoing UN process to developa Binding Treaty,[12] despite several calls from civil society and the European Parliament to do so.[13] The European Commission has also failed to take concrete steps to regulate the overseas operations of European companies in all sectors to avoid human rights and environmental harm and provide victims with effective remedies.

The EU also does not currently have an overarching policy framework or governance structure addressing businesses and human rights, notwithstanding the pressure from several Member States to develop one.[14] The EU's main approach to promoting responsible business conduct has been through support for voluntary initiatives and measures, such as the UN Guiding Principles on Business and Human Rights (UNGP),[15] which were adopted by the UN in 2011 and subsequently endorsed by the EU and Member States. However, these initiatives lack binding obligations for companies and effective redress mechanisms for victims.

The European Commission's 2011-2014 Strategy on Corporate Social Responsibility[16] was centred around soft-law approaches and incentives, along with support for industry self-regulation. Along the same lines, the EU Action Plan on Human Rights and Democracy 2015-2019 focused on further implementation of the UNGPs. It is worth noting that in that action plan, the only legal requirement introduced for companies in the area of human rights,deals with reporting, through the EU Non-Financial Reporting Directive.[17] The European Commission's recent Reflection Paper "Towards a Sustainable Europe by 2030"[18] similarly identifies responsible business conduct as an underlying prerequisite for the SDGs, but falls short of any reference to the need to regulate companies' operations and hold them accountable for human rights abuses and environmental damage.

Nevertheless, in response to challenges in the supply chains of European companies, the EU adopted legislation in recent years requiring due diligence on imports from some economic sectors. For example, the 2017 Conflict Minerals Regulation[19] sets forth supply chain due diligence obligations for EU importers of tin, tantalum, and tungsten, their ores, and gold originating from conflict-affected and high-risk areas. Likewise, the 2010 Timber Regulation[20] stipulates the obligations of operators who place timber and timber products on the EU market to conduct due diligence on the source and legality of the imported timber.

The EU is also currently considering further sectoral regulation: this year the European Commission is expected to publish an Action Plan on Deforestation, which may explore due diligence requirements foragricultural imports such as cocoa, palm oil, soy, or coffee. In addition, following up on its 2018 Action Plan on Financing Sustainable Growth,[21] in which the EU expressed

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(11) SOMO, 2018, Re-cap: negotiations over the Zero Draft of a binding treaty on business and human rights: https://www.somo.nl/reflections-on-the-first-round-of-negotiations-for-a-united-nations-treaty-on-business-and-human-rights/

(12) Office of the UN High Commissioner for Human Rights, 2019: https://www.ohchr.org/en/hrbodies/hrc/wgtranscorp/pages/igwgontnc.aspx

(13) European Parliament resolution of 4 October 2018 on the EU's input to a UN Binding Instrument on transnational corporations and other business enterprises with transnational characteristics with respect to human rights:

(14) Letter of September 2017 to Commissioner Frans Timmermans: https://www.business-humanrights.org/sites/default/files/documents/Joint%20letter%20to%20the%20EU%20Commission%20about%20the%20missing%20EU%20Action%20Plan%20on%20RBC.pdf

(15) United Nations, 2011, Guiding Principles on Business and Human Rights: https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr_eN.pdf

(16) European Commission, Corporate Social Responsibility & Responsible Business Conduct: https://ec.europa.eu/growth/industry/corporate-social-responsibility_en

(17) European Commission, Non-financial reporting: https://ec.europa.eu/info/business-economy-euro/company-reporting-and-auditing/company-reporting/non-financial-reporting_en. NGOs have called on the European Commission to strengthen the reporting requirements under the Directive: http://en.frankbold.org/sites/default/files/publikace/statement_eu_legal_corporate_sustainability_reporting_framework_0.pdf

(18) European Commission, 2019, Reflection Paper Towards a Sustainable Europe by 2030': https://ec.europa.eu/commission/sites/beta-political/files/rp_sustainable_europe_30-01_en_web.pdf

(19) Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017, more info at http://www.bhrinlaw.org/key-developments/53-europe

(20) Regulation (EU) No 995/2010 of the European Parliament and Council of 20 October 2010, more info at http://www.bhrinlaw.org/key-developments/53-europe

(21) European Commission, Commission action plan on financing sustainable growth: https://ec.europa.eu/info/publications/180308-action-plan-sustainable-growth_en

a commitment to direct financial flows toward sustainable development in line with the SDGs, the EU is in the processof adopting legislative measures for the financial sector, for example by clarifying the duties of institutional investors to disclose their policies on environmental, social, and governance risks. The European Parliament has called for the proposed regulation tobe accompanied by the introduction of an overarching, mandatory due diligence framework for all financial market participants.[22]

The current patchwork of sectoral legislative initiatives and the lack of EU-wide regulation covering the responsibility of European corporations operating in allsectors to not harm workers, local communities, and the environment allows for significant gaps in corporate accountability. New research by the European Parliament shows that victims of abuses committed by European companies face several barriers to accessing remedies and justice, particularly in connection with violations in global supply chains. Only a minority (20%) of existing legal cases against European companies for human rights abuses outside of the EU lead to a decision finding the defendant company liable or an out-of-court settlement.[23]

European governments seem to be starting to recognise the limitations of voluntary approaches and the need to complement sectoral regulation on responsible business conduct with an overarching, mandatory framework. There is a growing number of national legislative initiatives across Europe requiring large companies, independent of economic sector, to conduct due diligence in relation to human rights.[24] Most notably, in 2017 France adopted a law on the "duty of vigilance,"requiring parent companies to identify and prevent the potential negative impacts of their activities, as well as those oftheir subsidiaries and suppliers, on human rights and the environment.[25] This momentum driving national initiatives makes it more urgent than ever that the EU introduce Europe-wide legislation ensuring a coherent and comprehensive framework.

**A Call for Justice**

*In 2015, 1,826 Chingola residents in Zambia took U.K.-based Vedanta Resources Ltd. to the London courts for the devastation caused by its subsidiary, Konkola Copper Mines (KCM), in the Nchanga Mines. The complainants claimed that they suffered not only a disruption in their livelihoods, but also property damage and continuous pollution. They argued that women and children were the most seriously affected as they were forced to look for an alternative water source given that the rivers that KCM is alleged to have contaminated were the main source of water for day-to-day household chores.*

*In 2006, following pollution of the Kafue River with effluent from KCM, residents filed a lawsuit that resulted in a landmark award of $2 million in 2011 in the Zambian High Court. However, KCM appealed the case at the Zambian Supreme Court, which found Vedanta guilty of gross pollution, but removed all compensation payments. As a result, the victims took their case to the U.K. High Court, which in 2016 rejected Vedanta's argument that the farmers should not be permitted to bring their case in London. The company appealed, and in April 2019, the U.K. Supreme Court issued a landmark ruling granting the villagers the right to purse justice against Vedanta in the English courts.*

*The community is still seeking compensation for damages, remediation, and cessation of the alleged continual pollution that they say is gravely impacting their lives. Compensation was provided to owners of gardens in one of the communities, but women to date complain that they were not fairly involved in the negotiations.*
*Had EU legislation existed that required large companies to identify, prevent, and mitigate the human and environmental impacts of their activities, the adverse consequences suffered by the community in Chingola may have been avoided. Reforms to the EU's legal framework on access to remedies by victims might also have facilitated the community's access to justice, as their struggle continues, 13 years on.*

*Source: ActionAid Zambia*

## Adverse Consequences for Developing Countries of EU Resistance to Legislate

The EU's resistance to legislating the accountability of its companies for human rights and environmental violations outside of Europe has a clear negative impact on the capacity of developing countries to achieve the SDGs by 2030.

Activities carried out by European companies and their subsidiaries, suppliers, and other business partners can have a myriad of adverse impacts on workers, local communities, and the environment in the Global South. This potential for negative consequences is particularly evident in relation to SDG 8 on decent work as the expansion of corporate value chains through trade and investment deals has created jobs in developing countries that are notoriously of poor quality and dangerous, particularly for women.[26] European companies' purchasing practices also often reinforce poor working conditions and low wages at the bottom of the value chain. With young women disproportionately trapped in these poorly paid, exploitative, and insecure jobs,[27] such as in export-oriented garment or electronics manufacturing, the current system also has clear negative implications for SDG5 on gender equality.

The negative consequences of the lack of corporate accountability can be felt in developing countries in many other ways beyond the barriers to achieving decent work and gender equality. There are numerous reports evidencing the involvement of European companies and their subsidiaries in environmental degradation, water pollution, land grabbing, tax evasion and other human rights abuses.[28] The effects of these practices can be directly linked to a number of SDGs, such as SDG2 (Zero Hunger) given the threat to food securityof land grabbing; SDG13 (Climate Action) due to the dangers posed by emissions; and SDG15 (Life on Land) stemming from the environmental degradation caused by these companies in developing countries, to name just a few.[29] EU-based investors are also often implicated in such abuses[30] as the lack of binding rules at the EU level, both in relation to the behaviour of corporations as well as of investors, allows corporate-related abuses of human rights in developing countries to continue and is a key inhibitor for their progress towards achieving the SDGs.

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(22) European Parliament report on the proposal for a regulation of the European Parliament and of the Council on disclosures relating to sustainable investments and sustainability risks and amending Directive (EU) 2016/2341 (COM(2018)0354 C8?0208/2018 2018/0179(COD)), at http://www.europarl.europa.eu/doceo/document/A-8-2018-0363_EN.html?redirect

(23) European Parliament, 2019, Access to legal remedies for victims of corporate human rights abuses in third countries: http://www.europarl.europa.eu/RegData/etudes/STUD/2019/603475/EXPO_STU(2019)603475_EN.pdf

(24) European Coalition for Corporate Justice, 2019, Evidence for mandatory HRDD legislation: http://corporatejustice.org/eccj-publications/15144-evidence-for-mandatory-hrdd-legislation-updated-may-2019

(25) European Coalition for Corporate Justice, 2017, French Corporate Duty of Vigilance Law FAQ: http://corporatejustice.org/documents/publications/french-corporate-duty-of-vigilance-law-faq.pdf

(26) ActionAid, 2018, From rhetoric to rights: towards gender-just trade:https://www.actionaid.org.uk/sites/default/files/publications/from_rhetoric_to_rights_towards_gender_just_trade_actionaid_policy_briefing.pdf

(27) Feminists4BindingTreaty, 2018, Women's rights beyond the business case:https://actionaid.org/publications/2018/womens-rights-beyond-business-case

(28) ENCO, 2018, The EU and the corporate impunity nexus:https://multinationales.org/IMG/pdf/eu_corporate_impunity_nexus.pdf. Also see Friends of the Earth France and ActionAid France - PeuplesSolidaires, 2017, End of the Road for Transnational Corporations? Human rights and environment: from a groundbreaking French law to a UN treaty:https://www.foei.org/wp-content/uploads/2017/10/end_of_the_road_for_tncs_foef-aaf-oct17_ENG.pdf

(29) United Nations Development Programme, Sustainable Development Goals:https://www.undp.org/content/undp/en/home/sustainable-development-goals.html

(30) Global Witness, 2018, Indecent Exposure:https://www.globalwitness.org/en/campaigns/land-deals/indecent-exposure/

## Recommendations

At EU level, the introduction of binding measures on corporate accountabilityis critical. Legislation should be adopted requiring companies in all sectors to conduct gender-sensitive human rights due diligence with regard to their operations, supply chains, and business relationships, and initiatives should be launched to improve access to remedies in extraterritorial cases.[31] These measures should be underpinned by a comprehensive EU strategy on responsible business conduct, with clear governance structures, in the form of an EU action plan on business and human rights.[32] The development of ambitious legislation and strategies at the national level should also be supported.

EU-based investors and investments should be regulated through clear, binding obligations on labour rights, human rights, and women's rights specifically as part of EU trade and investment agreements. Legislation should be introduced requiring mandatory human rights due diligence from European investors, including strict minimum safeguards in regulations pertaining to sustainable investments.[33]

At the international level, negotiations must be undertaken in support of a UN Binding Treaty on Transnational Corporations and other Business Enterprises with respect to human rights.[34] There should be focused inclusion of the gender dimension through three key elements: mandatory gender impact assessments, gender-sensitive justice and remedial mechanisms, and an enabling environment for women human rights defenders.[35]

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(31) In line with recommendations set out in the 2017 Fundamental Rights Agency opinion: https://fra.europa.eu/en/opinion/2017/business-human-rights

(32) In line with recommendations set out in the 2018 NGO letter: https://amnestyeu.azureedge.net/wp-content/uploads/2018/10/EEAS_Cover_Letter_Annex_8_June_2018.pdf

(33) NGO recommendations for the EU Sustainable Finance Action Plan, 2017:https://actionaid.org/publications/2017/ngo-recommendations-eu-sustainable-finance-action-plan

(34) In line with recommendations set out in European Parliament resolution of 4 October 2018: http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2018-0382+0+DOC+XML+V0//EN&language=EN

(35) In line with recommendations set out by Feminists4BindingTreaty: https://actionaid.org/publications/2018/womens-rights-beyond-business-case

**By Sascha Gabizon**
**Women Engage for a Common Future - WECF**

Waste scavengers on a waste ‘mountain‘ in Asia
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# The Global Chemical Pollution:

## The role of the EU and the human right to a non-toxic environment

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By Sascha Gabizon
Women Engage for a Common Future - WECF

# The Global Chemical Pollution:

## The role of the EU and the human right to a non-toxic environment

***The 2030 Agenda for Sustainable Development aims to ensure a balance between protecting the planet and its people, whilst ensuring peace, prosperity and well-being. The global pollution with chemicals and waste is addressed in SDG 12, which makes a rather weak reference to the global conventions on chemicals and waste in target 12.4 on chemicals and waste management, as agreed in international frameworks, and minimize adverse effects on human health and the environment. SDG 12 also aims to reduce waste in general, and hazardous waste in particular, and to reduce fossil fuel subsidies. Interestingly, the production of chemicals is closely linked to the petrochemical sector. Only a handful of large petroleum companies is responsible for plastic and pesticide production. A number of large investor funds own parts of the downstream petroleum as well as the derivate production companies.***

Already at the Earth Summit in Rio de Janeiro in 1992, key principles of sustainable production and consumption were adopted by all UN member states, including the polluter pays principle and the precautionary principle, which says that if there is a suspicion of harm, governments must take action to prevent that harm. The burden of proof that harm is indeed being done, is on the industry, not on the consumer or public sector.

In parallel, at global, multiple major chemicals and waste conventions have been adopted including the Basel Convention (1992) which aims to stop dumping of hazardous waste in other countries, the Rotterdam Convention (2004) which required prior informed consent of states before allowing trade in hazardous substances, and the Stockholm Convention (2004) which aims to phase out the most hazardous and persistent chemicals. With more than 100,000 different synthetic chemical substances on the market, even all these multilateral agreements cover only a small part, and many gaps remain. For example, the world urgently needs regulation to phase out all Highly Hazardous Pesticides, and a phase out of neonicotinoids and other bee and insect-killing products which are threatening survival of our species. Another area where action is needed, but funding is lacking, is the large remaining stockpiles of obsolete pesticides and PCBs (polychlorinated biphenyls which were used in electric transformers).

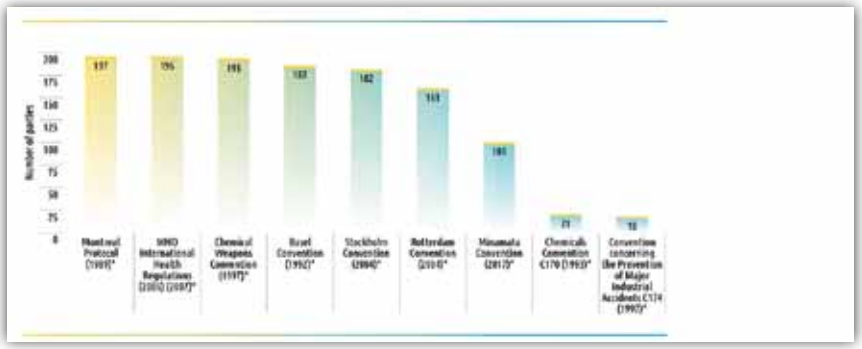

**Figure 1:**
*Number of parties to relevant multilateral legally binding treaties (as of 14 January 2019)*
** year of entry into force Source: UNEP Global Chemicals Outlook II*

As a result of these UN processes, the European Union adopted in 2006 its key chemicals regulation REACH (Registration, Evaluation, Authorization and restriction of Chemicals) which is based on the Rio Principles, and stipulated 'no data, no market', placing responsibility on the industry to provide the proof that their chemicals are not harming human health nor the environment. Heavy lobbying by the American and European chemical industry – which based on their own accounts were spending a least 50 million USD per year – lead to a watering down of the REACH legislation. For example, REACH does not apply to chemicals produced below one ton a year, and it also allows for a great number of exemptions in use.

As we will see in the following pages, the international agreements and the European regulation – even if the EU regulation remains the most comprehensive in the world –have not been able to halt the global and often irreversible pollution of our water, air, soil, food, animals and humans.

## Terrifying trends

The UN's latest Global Chemicals Outlook (GCO II)[1] gives terrifying figures. All trends for use of chemicals and production of waste are on the steep increase. In 2018 the total number of industrial chemicals in commerce globally was estimated at 40,000 to 60,000. Some 62% of the total volume of chemicals consumed in Europe in 2016 were hazardous to health[2].

Between 2000 and 2017, the global chemical industry's production almost doubled from about 1.2 to 2.3 billion tonnes. Sales are projected to double again from 2017 to 2030. Projected growth will be highest in Asia, with China estimated to account for almost 50 % of global sales by 2030.

## The burden of disease from chemicals is high

UN's GCOII quotes the 2017 report of the Lancet Commission on Pollution and Health[3], that identified chemical pollution as a significant and "almost certainly underestimated" contributor to the global burden of disease. WHO estimated that 1.6 million lives and 45 million disability-adjusted life years (DALYs) could have been saved in 2016, by a reduction of chemicals. These figures are likely to be underestimates, given that they are based only on exposures to chemicals for which reliable global data exist (including lead causing intellectual disability, occupational carcinogens such as asbestos, and pesticides involved in self-inflicted injuries). The 2016 Global Burden of Disease study estimated that 500,000 deaths are attributable solely to lead exposure. In addition, chemical accidents in facilities continue to result in high human fatalities. Chemicals are also found in air pollution, for example from burning plastics and other waste, which by it-self is estimated to be responsible for up to 7 million deaths per year.

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(1) United Nations Environment Programme, Global Chemicals Outlook II, Nairobi, 11–15 March 2019 https://www.unenvironment.org/resources/report/global-chemicals-outlook-ii-legacies-innovative-solutions

(2) European Environment Agency (2018). Consumption of hazardous chemicals, 7 December. https://www.eea.europa.eu/airs/2018/environment-and-health/production-of-hazardous-chemicals#tab-related-interactive-charts. Accessed 19 January 2019.

(3) Landrigan, P.J., Fuller, R., Acosta, N.J.R., Adeyi, O., Arnold, R., Basu, N.N. et al. (2018). The Lancet Commission on Pollution and Health. The Lancet 391(10119), 462-512. https://doi.org/10.1016/S0140-6736(17)32345-0.

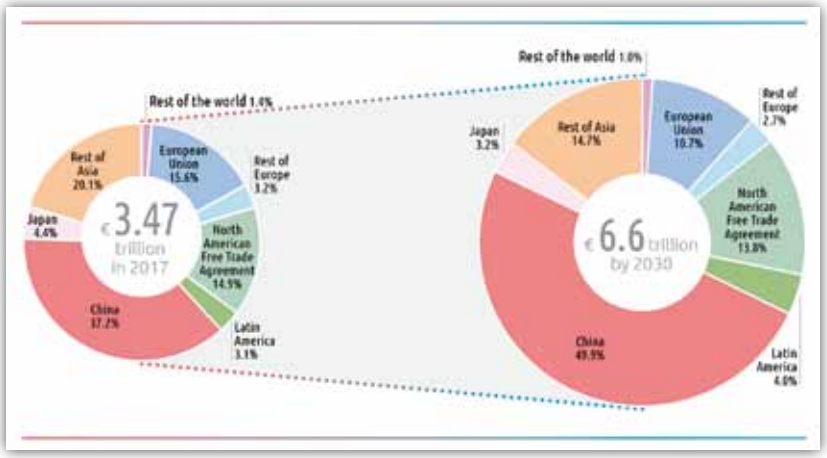


**Figure 2:**
*Projected growth in world chemical sales (excluding pharmaceuticals), 2017-2030 (European Chemical Industry Council 2018, p. 34). Source: UNEP Global Chemicals Outlook II*

Children are particularly at risk. Examples include dioxins and furans in breast milk, phthalates in urine, and heavy metals in human blood. Studies have found banned flame retardants in the umbilical cord blood of new-born children. Children's brain and organ development can be harmed in particular from so-called hormone disrupting chemicals, also called endocrine disrupting chemicals (EDCs). Currently most EDCs are not well legislated under REACH and other EU regulations. Chemicals such as plasticizers (phthalates) and chemicals used in food wraps and pizza cartons are found to have EDCs. More and more textiles are also treated with chemicals that are likely EDCs. The European Commission has been brought to court by Sweden for lack of action to address the dangers of EDCs. Action to restrict EDCs in the EU should have been taken a decade ago.

## Environmental injustice for which perpetrators are not held accountable

The UN Human Rights Council's special rapporteur on toxics[4], reports that cancer now figures among the leading causes of morbidity and mortality worldwide, with approximately 17 million new cases of cancer each year[5]. The incidence of childhood cancer has risen during periods of rapid increase in the use of industrial chemicals; this increased incidence cannot be explained by genetics or lifestyle choices alone. The World Health Organization (WHO) estimates[6] that over 1,700,000 children under the age of 5 died in 2012 from environmental factors, such as air pollution (over 500,000 deaths) and water contamination. This figure accounts for 26 % of the deaths of children under 5 years of age. Children from low-income scavenger communities in developing countries, who live on and near waste dumps, are the most vulnerable, often exposed to extreme high levels of chemicals from the burning of waste and local food. UNHCR reports that at La Chureca in Managua, Nicaragua, approximately half of all waste pickers were less than 18 years old. In Guiyu, China, about 80 % of children suffer from respiratory diseases, and there has been a surge in cases of leukaemia and concentrations of lead in blood are high. Thus questions arise of "environmental racism" and "environmental injustice" that undermines human dignity, equality and non-discrimination. This assault on children's rights is largely invisible, enabling perpetrators, including European companies and governments, to evade accountability. Increasingly legislators are trying to create accountability frameworks, and already some 100 countries have a notion of the "human right to a healthy environment" in their constitutions or other laws.

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(4) United Nations Human Rights Council (2018). Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes. http://www.srtoxics.org/wp-content/uploads/2018/09/2018-HRC-report-on-Workers-Rights-EN.pdf.

(5) https://www.cancerresearchuk.org/health-professional/cancer-statistics/worldwide-cancer

## Chemical pollutants are found everywhere and in everyone

The GCOII says that chemical pollutants are found in air, water and soil in all regions. Most chemicals are persistent and bio-accumulative, meaning that they do not just go away. Soils throughout the world are contaminated by hazardous chemicals, including polychlorinated biphenyls (PCBs), heavy metals and pesticides. Many of these hazardous chemicals, as well as microplastics, are found in food for human consumption. Microplastics, pharmaceutical residues and mercury are found in rivers and seas and in fish consumed by humans. Concentrations of chemical pollutants are found in some of the most remote and unexpected parts of the planet. For example, PCBs have been detected at high concentrations in animals 10,000 metres deep in ocean sediment, and certain organochlorine pesticides regulated under the Stockholm Convention have been found in the Himalayan glaciers. Because of climate change resulting in the melting of arctic ice from global warming, toxics released by past generations and long since banned for use, are increasingly being liberated and are entering the food chain and water supplies.

## Plastics

The oceans are dying under the impact of chemical pollution. Every week dead whales and dolphins are found with 40 to 60 kilos of plastics in their bodies. If they do not die from ingestion of plastics, they die because they remain entangled in plastics waste, as do seals and turtles. Fish for human consumption analysed on the US West-coast as well as commercial sea-salt contain micro-plastics. Through the food chain humans are being contaminated with micro-plastics. Since plastics were created, less than 9% of plastic waste has been recovered, while the rest is dispersed in the oceans, rivers, soils and air. Micro-plastics are spread through the air across countries. Plastics depending on the type can remain for hundreds of years in the environment. In 30 years, there will be more plastics than fish in the oceans.

Plastics are derived from oil. The fossil fuel industry and the plastic producers are closely linked, with 5 global corporations responsible for the majority of the plastic production, as well as other synthetic chemicals derived from oil. These corporations have been making record profits in the last decades. And they have not paid to clean up the destruction for which their products are responsible. On the contrary, the oil and plastics industry have been spending millions every year to lobby European institutions to stop better regulations. Just one company – ExxonMobil – spent 35 million Euro on EU lobbying in the last 8 years. The plastics industry's plans show an expected further increase in plastics production by 40% in the coming decade.

Plastics are not benign. Many harmful chemicals are added to plastics, for example plastic softeners and flame-retardants. When one harmful chemical is substituted with another, such as in the case of Bisphenol-A, the replacements have mostly shown similar negative health impacts.

## E-Waste

Electronic waste is one of the fastest growing waste streams worldwide, and one of the most hazardous and difficult to manage. More and more waste contains electronics; even some children shoes contain batteries. E-waste contains not only metals that have a value such as copper, gold and platinum, but also a mix of hazardous chemicals such as flame retardants and toxic heavy metals that can cause cancer, are mutagenic and lead to infertility. To protect workers, safe treatment of e-waste is costly. This is one of the reasons for a large informal and illegal global market of e-waste, despite a global e-waste trade ban under the Basel Convention.
EU countries have the obligation to control their e-waste. But authorities are not doing the job. Old

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(6) World Health Organization (2018). The public health impact of chemicals: knowns and unknowns: data addendum for 2016. http://apps.who.int/iris/handle/10665/279001. Accessed 21 January 2019.
(7) See Arnika website https://english.arnika.org/press-releases/ipen-dioxins-found-in-toys-and-other-products.
(8) See film "What has gender got to do with chemicals": https://www.youtube.com/watch?v=y8O5afbXQlc

televisions, fridges, mobile phones, and computers are picked up from streets and waste centres by traders who fill containers with a mixture of products which are declared as second hand reusables. The e-waste is then shipped to Ghana, Nigeria, and Indonesia, amongst others. At the e-waste recycling markets a hierarchy exists with the lowest and most dangerous jobs done by informal workers including women and children. Waste of no value such as plastic casings containing flameretardands and other PFAS, are burned, often right near settlements. The burning and dumping of the E-waste pollutes air, soil, water and food. The Czech NGO Arnika tested eggs from settlements at the Ghana E-waste dumpsite and reached the shocking conclusion that the eggs contained similar levels of toxins as that of fly-ash from waste incinerators. Another study by the NGO Arnika tested plastic toys made with recycled material coming to Europe from China and found they contained chemicals that are forbidden in the EU[7].

## Economic costs of chemical pollution are soaring high

According to the UN HRC, the economic costs borne by governments and the public, externalized by businesses to a large degree, are estimated to range from hundreds of billions to trillions of United States dollars for selected toxics. The use of lead in paint is estimated to cost low and middle-income countries close to $1 trillion in health-care expenses, lost productivity, and economic costs. Endocrine-disrupting chemicals in food and cosmetics and from other sources are estimated to burden the European Union with over € 100 billion in economic costs per year, and there is inadequate information to estimate the costs externalized on developing countries. Hazardous pesticides are estimated to cost sub-Saharan Africa more than the official development assistance it receives per year. A 2015 study estimated the costs from neurobehavioral deficits caused by certain chemicals to be more than USD 170 billion per year in the European Union alone. Some studies estimate costs from environmental chemical exposures to be as high as several percentage points of global gross domestic product, with developing countries and economies in transition bearing the largest costs. A 2017 study estimated the cumulative benefits of the EU's chemicals legislation for the EU as in the "high 10 billion Euros" per year.

## Chemicals that are expensive to dispose of enter into illegal circuits

Despite the E-waste ban under the Basel Convention, an estimated 60 to 90% of electronic waste is disposed of illegally. The illegal use of banned pesticides and toxic chemicals, as well as of counterfeit products, continues to be a major problem globally. Estimates show that the global market for illegal pesticides may have doubled in the last decade. The UNHCR report mentions that not only an estimated 900,000 farm workers

**Wecyclers**

*In Lagos, Nigeria, the female entrepreneur Bilikiss Abiola has created a social company called 'Wecyclers,' which consists of a network of community-based recycling schemes in different Lagos neighbourhoods. The systems works quite well, as it provides incentives to households - mostly women - to collect their waste separately by plastic, cans, paper and glass. An employee of Wecyclers visits households on a trolley bicycle, collects and weighs the bags of waste, and gives the household a stamp for each bag collected. When enough stamps have been collected, the household can choose from a set of gifts (household goods). With this incentive, Wecyclers has created a very successful way of keeping waste out of streets and has stopped backyard burning. The collected waste is cleaned, sorted by type, and the recyclable waste is sold to recycling companies. Wecyclers also has a cooperation with bottling companies and collects specific types of bottles at locations such as cinemas, sorts and cleans them and returns them to the company for re-use.* [8]

die annually from pesticides, but also children die with startling regularity from pesticide poisonings. A major contributor to this problem is that a large number of hazardous pesticides that present unmanageable risks are not banned or restricted at the global level. Another significant problem is the half a million tons of obsolete pesticides scattered across developing countries, and seeping into soil and water. As the previous owners of the obsolete pesticides are often no longer traceable, the high cost for clean-up remains with the public. Future costs of current use of pesticides, such as drastic losses of bees and other insects, are not regulated, and will also fall on the shoulders of farmers and the public.

## Lack of business accountability for their pollution

Businesses that generate waste, or products that become waste, have a responsibility. Often industries that produce toxic pollution will rather protect their profit margins then protect the human rights of contaminated workers and communities. The UNHCR report gives examples, such as the emblematic case in the illegal dumping of toxic waste in Côte d'Ivoire by Trafigura that killed at least 17 people and injured more than 100,000, with the full extent of the contamination in and around Abidjan unknown. In Peru, Occidental Petroleum and Pluspetrol have left thousands of contaminated sites in the Peruvian Amazon from approximately 40 years of oil production, contaminating the food and water of local indigenous communities. Pluspetrol abandoned the sites without remediating contamination. Court cases by victims of chrysotile asbestos continue, as there is a clear link between specific health impacts such as death from mesothelioma and exposure to asbestos fibres, but often the victim dies before the court case closes.

## Asbestos and mercury responsible for a terrible amount of deaths still today

Despite the evidence that there is no safe use of chrysotile asbestos, with an estimated 100,000 deaths annually, a number of asbestos producing countries including Kazakhstan and Russia continue to block the addition of chrysotile to the Rotterdam Convention list of prior informed consent. In Japan, the Chisso Corporation in Minamata Bay dumped waste containing mercury into Minamata Bay. Thousands of children were poisoned by contaminated fish consumed by themselves or their mothers, suffering tragic impacts on their development and health. Among many health impacts known collectively as "Minamata Disease", congenital disorders were observed in children born to mothers who themselves did not display any health impacts. Economic considerations were the primary reason why the government did not require the company to stop emitting mercury into the Bay for twelve years after the first cases were first identified in 1956. The Minimata convention entered into force in 2017 and aims to phase out mercury, but exceptions are given for small scale gold mining, with continuing severe health impacts especially on children in the informal gold mining communities. Despite the important work of the chemicals conventions, more is needed to ensure that businesses take the responsibility to prevent exposure to toxics and pollution, throughout the supply chain of workers, communities and consumers. A great priority is therefore to ensure support for the UN process on business and human rights.

## The victims are the ones that pay the real cost of business pollutions

Some lawsuits are getting a lot of attention, such as for the victims of Monsanto's glyphosate pesticide 'Roundup'. But the vast majority of victims have no chance of justice, they are never compensated. The UNHRC states that even in cases where rights are clearly infringed and the relevant businesses or other actors identified, realizing an effective remedy and ensuring corporate accountability for harms due to toxic chemicals or pollution has proven extremely difficult around the world. In a number of clear cases, the companies have been liquidated to avoid payments of compensations. Other reasons for the difficulty of justice for victims include lack

of awareness among victims that their diseases could have been caused by exposure to toxic chemicals or pollution during work or childhood. The burden of proof is placed on the victim, including the need to establish causation. Also the costs of legal representation for plaintiffs and the endless appeals processes mostly mean that victims are deceased before cases are closed. Victims pay with their health and lives, whilst the polluters continue to grow their profits and avoid accountability.

## Recommendations: what should the EU do?

1. Implement fully the 15 principles recommended by the UN Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes to help Governments and businesses better protect human rights with respect to exposure to hazardous chemicals[9]
2. Strengthen EU policies to ensure that the circular economy will not be a continued recycling of toxics, but will exclude all groups of chemicals that are persistent, bio-accumulative, hormone disrupting, hazardous to bees and other insects and potentially harmful to human health. This means that the EU needs to change its position in the Stockholm Convention where it opposes the necessary limits of POPs (Persistent Organic Pollutants) in recycled products.
3. Be fully accountable for breaches to international agreements on e-waste and other hazardous waste leaving the EU and bringing the waste back for safe disposal in the EU.
4. Support the creation of funds giving developing countries grants for immediate closure and clean-up of waste dumps and legacy pollution sites.
5. Support for the urgent adoption of a treaty to immediately ban all highly hazardous chemicals – all already forbidden in the EU – as well as a global phase out of glyphosate, and support a transition to agroecology.
6. Support civil society organisations in their work on the human right to a non-toxic environment, including human rights and gender dimensions.
7. The EU Commission should no longer block the binding global instrument on business and human rights and support that its mandate focuses on transnational businesses, and it should work to adopt further legislation for EU based companies building on the duty of vigilance and green card initiatives.

(9) August 2018, http://www.srtoxics.org/wp-content/uploads/2018/09/2018-HRC-report-on-Workers-Rights-EN.pdf.

**By Patrizia Heidegger,**
**European Environmental Bureau**

Citizen protest in Arica, Chile
Anonymous

# The toxic trade continues:

## European waste exports to the Global South

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EEB
European
Environmental
Bureau

By Patrizia Heidegger,
European Environmental Bureau

# The toxic trade continues:

## European waste exports to the Global South

***The EU generates more and more waste every year. According to the European Environmental Agency (EEA), the total waste produced increased from an already elevated level by 5% between 2010 and 2016.[1] Eurostat reported the waste produced by all economic activities and households amounted to 2,533 million tonnes in 2016, or 911 million tonnes when excluding mineral wastes from mining. On average, every EU citizen generated 1.8 tonnes of waste every year (excluding major mineral wastes)[2] in 2016.[3]***

A recent World Bank study shows a clear correlation between the income level (in GDP) and the amount of solid waste produced: the richer a country, the more waste it generates. According to the same source, the Organisation for Economic Co-operation and development (OECD) countries, including those in the EU, produce almost half of the world's waste, while countries in Africa and South Asia produce the least.[4] Despite efforts to increase recycling in the EU and to move towards a Circular Economy in which materials would be infinitely reused, Europe does not only generate an increasing amount of trash, but also exports more and more to third countries.

According to Eurostat, the bulk of waste being exported to non-EU countries increased by +69% since 2004 reaching 41.4 million tonnes in 2018 while waste imports to the EU remained stable over the same period at around 13 million tonnes. Most imports arrived from neighbouring countries  Switzerland and Norway  as well as the U.S. While increasing its exports, the EU does not take in a lot of waste from developing countries or emerging markets in return. Since 2004 and in regard to all waste types, Turkey and China are the main destinations for the EU's waste. Exports to Turkey have almost triples since 2004. Exports to China peaked in 2009 and have been in a sharp decline since China's nearly total ban on waste imports in 2018; EU exports have fallen from more than 14 million tonnes in 2009 to approximately 5 million tonnes in 2018. Since China has stepped up its environmental standards and put a halt on waste imports, several countries have seen a tremendous increase in waste imports from the EU in 2017 to 2018: India +67%, Indonesia +97%, Pakistan +670% and Egypt +225%. These countries are already overburdened with their

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(1) See EEA on waste generation in the EU: https://www.eea.europa.eu/airs/2018/resource-efficiency-and-low-carbon-economy/waste-generation

(2) Mineral wastes are wastes generated during the extraction of ores and (m)inerals such as waste rock, mill tailings, coal refuse, wash slimes, and spent oil shale.

(3) https://ec.europa.eu/eurostat/statistics-explained/index.php/Waste_statistics#Total_waste_generation

(4) https://siteresources.worldbank.org/INTURBANDEVELOPMENT/Resources/336387-1334852610766/Chap3.pdf

domestically produced waste, lack of proper waste management systems and struggle with the implementation of environmental protection laws as well as health and safety standards.[5]

Global waste streams are highly complex and differ from one type of waste to another. Wastes are shipped within the EU from one Member State to another, some types of waste are imported to the EU, and others are exported. Some wastes are sold for the recovery of materials, while others simply disposed. Some wastes are traded legally, while others are exported in violation of European and international law. To add to the complexity, some items are shipped from the EU for reuse – that is, they are not declared as waste – but end up as waste soon after being exported. Waste Electrical and Electronic Equipment (WEEE) is one of the best-known examples of this phenomenon. Given its shortness, this article cannot offer a comprehensive analysis but will instead highlight two selected waste streams through which the EU externalises negative environmental and social impact to third countries: plastic waste and ships and end-of-life ships.

## Waste exports and the SDGs

The export of wastes to developing countries has implications for the achievement of sustainable development and negatively affects the implementation of several of the Sustainable Development Goals (SDGs). Looking at SDG3 on health, the global waste trade is linked to the exposure of workers and local communities to hazardous substances, polluted water, air and soil. Exporting waste to countries with inadequate waste management systems and weak enforcement can also result in the contamination of water and the release of untreated wastewater, running counter to SDG6 on clean water. Concerning SDG8, substandard waste management is often linked to labour rights violations as well as hazardous working conditions. Achieving SDG12 (Sustainable Production and Consumption) is a particular challenge for the EU and its Member States given the excessive per capita use of resources and generation of waste. To fulfil its promises under the 2030 Agenda, the EU would need to achieve the sustainable management and use of natural resources, ensure by 2020 the environmentally sound management of chemicals[6] and all wastes throughout their life cycle and substantially reduce waste generation through prevention, reduction, recycling and reuse instead of externalising part of its waste burden. Obviously, waste exports to countries with weak waste management and the risk of leakages further aggravate the situation for Life below Water (SDG14) and Life on Land (SDG15). Such exports, in particular plastic waste, can contribute to marine pollution and further endanger terrestrial and fresh water eco-systems.[7]

## The toxic trade

When industrialised countries started to tighten their environmental standards in the 1970s and 80s, costs for waste recovery or disposal rose and hazardous as well as other types of waste streams started to move into Eastern Europe and developing countries. The simple logic behind the waste trade from the Global North to the Global South has been in place for decades: when the treatment of a certain type of waste is perceived as too expensive in industrialised countries and/or the recovered materials are too low in quality to be of use for a highly-developed economy, the waste stream – together with its environmental and social burden – is externalised to poorer economies with slack regulations, frail governance and mostly informal waste sectors. The "toxic trade," as this pattern is known, increased when global trade was liberalised in the 1980s. The infamous quote from the then World Bank chief economist Lawrence Summers in 1991 summarises what some policy-makers and businesses on both sides of the global waste trade believed: "I think the economic logic behind dumping a load of toxic waste in the lowest-wage country is impeccable and we should face up to that. I've always thought that under-populated countries in Africa are vastly underpolluted."[8] In more sophisticated terms: poorer countries have a comparative advantage in taking in waste and other dirty industries. With that logic, environmental degradation and health risks are acceptable if they serve economic growth.

The critics of the global waste trade, on the other hand, have argued how "race, class and gender are shown to be key to [in] understanding the global organization of environmental inequality and justice," stressing that the global waste trade actually reinforces existing inequalities by mostly impacting those who are already disadvantaged.[9] The growing resistance in developing countries against the dumping of toxic waste is reflected in the environmental justice movement starting in the U.S. where people of colour and other marginalised groups, often women, fought against the exposure to hazardous waste as a form of environmental racism.[10] This has also been called "toxic colonialism"[11] and resulted in extreme cases where large amounts of hazardous waste were dumped in and around poor communities in the Global South. Some of the high-profile instances include the Khian Sea case with a toxic waste dumped in Haiti, the Koko waste dump in Nigeria or the Probo Koala case in the Ivory Coast.[12] Cases such as these caused death and illnesses which triggered attempts to regulate global waste trade through international environmental law.

## The legal framework

In 1989, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal was adopted as a response to various waste dumping scandals in the 1980s in Africa and other parts of the developing world, where toxic waste had been imported from industrialised countries. It entered into force in 1992. The Basel Convention was meant to control the "toxic trade" to protect human health and the environment.

All waste imports and exports from the EU (with a few exceptions)[13] are regulated by the European Waste Shipment Regulation, which was adopted in 2006 and transposes the provisions of the Basel Convention into EU law.[14] In the same vein, it lays out rules for controlling waste shipments with the objective of improving environmental protections. It differentiates between waste shipments to and from countries in the European Free Trade Association (EFTA), the Organisation for Economic Cooperation and Developments (OECD) and third countries (generally developing and emerging economies). It distinguishes between "green-listed" (non-hazardous) and "amber-listed" (hazardous) wastes, as well as exports for recovery and export for disposal. The rules are complex, but can be summarised as follows:

- The export of "green-listed" waste to developing countries for recovery is allowed. At the last Conference of the Parties of the Basel Convention, the state parties decided the exporting country needs to follow the procedure of Prior Informed Consent (PIC) for certain types of plastic waste. The EU needs to adapt its legal framework accordingly.
- The export of hazardous wastes to developing countries and the export of non-hazardous waste for disposal to developing countries is banned. Violations of these legal provisions constitute an environmental crime under the Environmental Crimes Directive.

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(5) There is a plentitude of scientific, journalist and civil society articles available on the challenges that developing countries such as the above mentioned face with waste management. For the situtation in India, please refer to https://www.downtoearth.org.in/blog/waste/india-s-challenges-in-waste-management-56753; for Indonesia, please refer to https://www.thejakartapost.com/academia/2019/03/01/the-waste-challenge-is-indonesia-at-a-tipping-point-1551431355.html; for the situation in Egypt see https://www.ecomena.org/garbage-cairo/.

(6) According to an independent evaluation by SAICM and several other expert studies this goal will not be achieved by 2020. See http://www.saicm.org/Portals/12/Documents/meetings/OEWG3/doc/OEWG_3_3_ADVANCED.pdf.

(7) 90% of all plastic waste enters the oceans through 10 rivers and drains in developing countries: 2 in Africa and 8 in Asia. See https://www.theglobeandmail.com/opinion/article-if-were-going-to-save-our-oceans-from-plastics-we-have-to-address/.

(8) Quoted in https://www.globalpolicy.org/component/content/article/209/43247.html.

(9) Newell, Peter (2005) "Class and the Global Politics of Environmental Inequality, in Global Environmental Politics, vol. 5, issue 3, MIT, p. 70.

(10) Taylor, Dorceta E. (1997) "Women of Color, Environmental Justice, and Ecofeminism", in K. Warren (ed.) Ecofeminism: Women, Culture, Nature, pages 5870.

(11) For the history of the term please see https://discardstudies.com/2018/11/01/waste-colonialism/.

(12) For the Khian Sea case, see https://www.nytimes.com/1988/11/28/us/after-2-years-ship-dumps-toxic-ash.html; for the Koko waste dump see https://www.nytimes.com/1988/07/17/world/waste-dumpers-turning-to-west-africa.html);; for the Probo Koala see https://www.amnesty.org/en/latest/news/2016/04/trafigura-a-toxic-journey/.

(13) The exceptions are radioactive waste, waste generated on board of ships, shipments subject to the approval requirements of the animal by-product regulation, certain shipments of waste from the Antarctic, imports into the EU of certain waste generated by armed forces or relief organizations in situations of crisis, and others.

(14) Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste.

- All parties involved must ensure waste is managed in an environmentally sound manner, respecting EU and international rules.
- The exporter also has a duty to take back waste shipments that are found to be illegal or are not provided as intended.
- The Regulation does not cover the export of items for reuse, such as electrical and electronic devices, even if these items may quickly turn into waste and need to be recycled or disposed of.

The two following examples illustrate the weakness of the current legal framework: its loopholes and also problems with implementation and enforcement resulting in negative environmental and social impact in developing countries.

## Death on the beach: where European ships go to die

According to Eurostat's Waste Shipment Statistics, hazardous waste is primarily shipped within the EU and "practically, no shipments of hazardous waste to non-OECD countries were registered since 2010."[15] The reason is simple: the export of hazardous waste to a developing country is an environmental crime under EU law. However, hazardous waste owned by European companies does end up in developing countries. These shipments take place in legal grey zones or are illegal (and often not detected).

A clear-cut example are end-of-life ships that, according to the Basel Convention, fall into the category of hazardous waste.[16] Shipping companies headquartered in the EU own more than 40% of the world's fleet of container ships, oil tankers and other cargo ships.[17] There are currently around 53,000 large ocean-going vessels trading in the global economy.[18] Greece and Germany, two Member States, are among the top five ship-owning economies in the world. Because of technical innovation, changing markets and stricter requirements, several hundred large ships as well as oil platforms are scrapped every year. In 2018, close to 750 large ships were sold for demolition around 90% of them were broken up on tidal beaches in India, Bangladesh and Pakistan.[19]

The environmental and health and safety standards in those shipbreaking yards mentioned above are not acceptable in developed countries, who own most of the world's merchant fleet. The discarded ships are broken apart directly on the beach with torch-cutters. Hazardous waste including asbestos, heavy metals, PCBs or oil sludges are not removed and remediated in an environmentally friendly way. Workers are exposed to toxic fumes and regularly suffer injury or death from accidents like falling down the beach ships, explosions or fires. In many of these shipbreaking yards, trade unions are weak or sometime banned. Workers are regularly found to not have insurance or work contracts and are left to fend for themselves when injured or suffering from work-related illnesses. Child labour of young boys is still widespread in the shipbreaking yards of Bangladesh.[20]

In 2013, the EU adopted the Ship Recycling Regulation. This allows for the exports of end-of-life vessels, which the EU and international law clearly classifies as hazardous waste, to third countries under the condition they are recycled in ship recycling yards approved by the European Commission. This regulation is unable to close an important loophole: it only regulates those ships flying the flag of a Member State. Most commercial ships owned by European shipping companies are already registered under so-called flags-of-convenience during their operational life, i.e. non-European flags, that usually offer lower taxes and less strict environmental and social standards. According to the UN Conference on Trade and Development, ship registration in developing economies are particularly common, accounting for 76% of global registrations with the top three ship registries being Panama, Liberia and the Marshall Islands. In a nutshell: while Greece, Germany, Japan, China and Singapore own most of the world's merchant fleets, tens of thousands of container ships, oil tankers and cargo vessels are legally regulated by Panama, Liberia and the Marshall Islands. Thus, the majority of the EU's scrap ships are not covered by the Ship Recycling Regulation.

All end-of-life ships without the flag of an EU Member State fall under the Waste Shipment Re-

gulation and its ban on the export of hazardous wastes. However, this ban is easily circumvented: ship owners simply do not announce when they are selling old ships for breaking. Rather, they transfer them to companies that specialise in scrap deals (referred to as "cash buyers") and let them sail for the South Asian beach-breaking yards before any European authority knows the ship has become waste. Even though this legal loophole is old, the EU legislators are not willing to hold European ship owners directly accountable for the ships they own, and all the European vessels they sell for scrap. The legislators rejected an innovative proposal of a Ship Recycling License that would have implemented the "polluter pays principles" for end-of-life ships and would have held ship owners responsible for the sustainable recycling of their vessels. The result: while a few responsible ship owners from the EU keep a European flag and have their ships recycled in approved ship recycling facilities, the majority of European-owned end-of-life ships and oil platforms end up on beaches in South Asia harming people and the environment.

## The fairy tale of green recycling: plastic pollutes

As opposed to hazardous waste, "green-listed" waste can be exported for recovery. However, the definition of "recovery" is problematic. For many waste streams, waste management entails a recovery component and a disposal component. That is, one part is recycled, and the rest ends up being incinerated or in a landfill. Even in situations where most of the waste is recovered, the operation may still result in negative environmental or social impacts like soil and ground water pollution. Additionally, recovery often means down-cycling: the recovered product is of a lower grade or the importing country uses the substance for environmentally harmful activities. A good example is the recovery of plastic waste: where the output can be recycled plastic but also base chemicals or substances used as fuel.[21]

The EU produces around 25 million tonnes of plastic waste every year, of which, less than 30% is recycled. Half of the plastic collected for recycling in the EU is exported for treatment in countries outside the EU, according to a recent study by the European Parliament.[22] Previously, a significant share of the exported plastic waste was shipped to China, but that has changed due to China's recent ban on plastic waste imports, the so-called National Sword Policy. According to Eurostat, the EU exported 1.93 million tonnes of waste plastics to countries outside the EU last year in 2018. Due to China's ban, the EU's plastics exports have gone down by nearly 42% since 2014, but the EU is rapidly finding new ways to export its plastic to countries such as Malaysia, Indonesia or Vietnam. According to the Financial Times, the Chinese ban has triggered an environmental crisis in South-east Asia where around one third of the estimated 1700 Chinese importers have relocated:

> The region has been inundated with plastic scrap in far greater quantities than it can handle. In the span of just a few months, Malaysia has become the biggest importer of plastic scrap in the world, with a volume that is now twice that of China and Hong Kong. Between the first half of 2017 and the first half of 2018, Vietnam saw its imports of plastic scrap double, while shipments to Indonesia rose 56 percent. The country that has seen the biggest percentage increase of all is Thailand, where imports surged 1,370 per cent.[23]

Another investigation by Ssche Zeitung revealed how European plastic waste results in severe pollution and impacts health in Malaysia. Plastic waste from Europe is being burnt in the open, releasing toxic dioxin. According to the article,

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(15) See https://ec.europa.eu/eurostat/statistics-explained/index.php/Waste_shipment_statistics#Main_statistical_findings
(16) See Basel Convention Decision VII/26 (October 2004).
(17) UNCTAD (2018) e-handbook of statistics: merchant fleet. See https://stats.unctad.org/handbook/MaritimeTransport/MerchantFleet.html
(18) https://www.statista.com/statistics/264024/number-of-merchant-ships-worldwide-by-type/.
(19) See NGO Shipbreaking Platform at https://www.shipbreakingplatform.org/platform-publishes-list-2018/.
(20) For various reports see www.shipbreakingplatform.org.
(21) See http://ec.europa.eu/environment/waste/studies/pdf/r_d_part_a.pdf page 3.
(22) See http://www.europarl.europa.eu/news/en/headlines/society/20181212STO21610/plastic-waste-and-recycling-in-the-eu-facts-and-figures.
(23) https://www.ft.com/content/360e2524-d71a-11e8-a854-33d6f82e62f8

Germany and the U.K. together with the U.S. and Japan are the biggest exporters of plastic waste to Malaysia. After public protests the government promised better enforcement and even a ban on the import of plastic waste. The government reported almost 140 illegal plastic recycling plants were closed by February 2019 because they broke environmental rules.[24] However, the Government gave out new licences to importing companies according to Ssche. According to this source, the import of plastic waste to Malaysia is worth 6.4 billion euros and the government is keen on attracting this business. It remains to be seen if the immense environmental and social impact of importing plastic waste will trigger the governments to enact and enforce a ban similar to China's policy.

This example shows a much deeper problem with waste generation in Europe and its inability to recycle its own plastic waste. According to the German Environmental Agency, Germany recycles around 47% of all plastic waste.[25] However, according to Ssche, companies do not have to show how or where the waste was recycled. The newspaper claims German recyclers are only interested in high-grade plastic waste separately collected in the German recycling system, and not in plastic waste mixed-in with general household or other waste: these plastic wastes are shipped abroad when counting the recycling quota. Additionally, Malaysia and other importers are already overburdened with their domestic plastic waste with hundreds of thousands of tonnes of plastic ending up in the ocean every year.[26]

## Recommendations:

- The EU needs to rapidly increase its efforts to prevent waste. Waste preventions needs to be addressed at the design stage of products and all along the consumption chain. Moreover, the EU needs to support projects on waste prevention and resource conservation (such as through EU funding available in Horizon2020) and support innovative business models and territorial approaches that promote waste prevention.
- The EU needs to drastically reduce plastic waste both by phasing out certain types of plastic products and by supporting zero-waste solutions such as packaging-free goods or reusable packing, and ensure the remaining plastic waste is separately collected and becomes fully recyclable or reusable by 2030 in line with the 2018 Strategy on Plastics.
- EU fiscal incentives should award the use of secondary raw materials and penalise virgin material use, in order to boost the demand side for recycled materials.
- The EU needs to broaden Extended Producer Responsibility (EPR) schemes so the producers have to cover the costs of waste collection, transport and treatment, clean up litter and awareness raising measures; EPR measures need to be in force before 2024, covering all packaging types and a large range of products. The EPR fees shall be adequately modulated, using bonus-malus criteria, reflecting products durability, reusability and recyclability and therefore incentivising the design of products towards waste prevention.
- In line with the Waste Shipment Regulation, the EU has to stop all exports of plastic waste including for recovery to countries that cannot handle plastic waste "in accordance with human health and environmental protection standards that are broadly equivalent to standards established in the EU."
- The EU needs to quickly transpose the recent Basel Convention decision into EU law which not only requires Prior Informed Consent (PIC) when exporting clean and sorted plastic waste, but also adds mixed or contaminated plastic waste to the list of hazardous waste whose export from the EU will be banned under the Waste Shipment Regulation. The PIC procedure should also apply to plastic waste transfers within the EU.
- At the global level, the EU has to support the ratification, the entry into force and the enforcement of the Ban Amendment.

- The EU needs to step up its cooperation with Member States to improve the implementation of the Waste Shipment Regulation to stop illegal waste shipments, such as end-of-life ships, WEEE or mixed or contaminated plastic waste.
- Member States need to provide adequate resources to the authorities and inspectors, for instance, in European port authorities, and ensure the judiciary is equipped and trained to persecute environmental crimes.
- The EU needs to close all legal grey zones regarding the export of hazardous waste, such as on end-of-life ships owned by European shipping companies or electronic and electric equipment sold for re-use but quickly ending up as waste.
- The EU and its Member States need to support the development of a binding UN instrument for corporate accountability of abuses committed in third countries and open avenues of justice for victims of corporate human rights abuses and environmental damage in European courts.

(24) https://www.euwid-recycling.com/news/markets/single/Artikel/eu-waste-plastics-exports-down-a-quarter-in-2018.html
(25) See Umweltbundesamt https://www.umweltbundesamt.de/daten/ressourcen-abfall/verwertung-entsorgung-ausgewaehlter-abfallarten/kunststoffabfaelle.
(26) https://projekte.sueddeutsche.de/artikel/wirtschaft/deutscher-plastik-muell-verschmutzt-malaysia-e590969/
(27) See https://www.business-humanrights.org/en/boliden-lawsuit-re-chile.
(28) Ibid.

**Toxic Playground in Chile**

*Boliden Mineral, a Swedish mining company, shipped around 20,000 tonnes of toxic smelter sludge to Chile in 1984-1985. The waste was derived from its arsenic plant in Sweden and was sold to a Chilean company, Promel, for processing. However, the waste was not treated and was abandoned on the outskirts of Arica. A few years later, the area became a playground for children and housing was developed. The waste was untouched until 1998.*

*In 2013, 707 Chilean victims filed a claim against Boliden in Sweden claiming they had suffered various negative health effects such as cancer, miscarriages, skin and lung diseases.[27] The plaintiffs requested 90 million Swedish Krona in damages. The victims claimed Boliden was aware of the potential health threats posed by the waste. The company, however, questioned the sources of the negative health impacts, including high levels of arsenic in the victims' blood.[28] The company argued the Chilean authorities and the importing countries were solely responsibile. Promel, already sentenced by a Chilean court to pay damages, no longer existed and, thus, was unable to pay.*

*A Swedish District Court started looking into the case in 2017 and rejected the victims' claim. While the Court of Appeal decided that Swedish law could be applied, it refused to examine the merits of the case. The judge argued any claim had reached the statute of limitation and was time-barred 10 years after the act that caused harm. While this judgement did not exonerate Boliden, it was too late to make the company compensate the victims. Activists in Chile are now again calling for Sweden to repatriate the waste.*

*This case illustrates the urgent need for clear due diligence obligations: companies need to be legally required to thoroughly assess and avert possible environmental, social and health risks related to their value chain and subcontractors' activities. Victims need to be granted access to justice in the country where the company is headquartered, and there needs to be a legal framework that ensures companies can be held liable for not only damage they have caused directly, but also, for being negligent with their choice of subcontractors.*

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# Resource Justice:

## A Key Principle for Achieving the SDGs

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leapfrog 2SD

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Leapfrog2SD

# Resource Justice:

## A Key Principle for Achieving the SDGs

***The lifestyles in European Union are highly dependent on imported resources, mainly extracted in the Global South. Europe's resource use is one of the highest globally and it is far beyond the fair share of available resources worldwide.***

On a global scale, there are striking figures relating to the exponential growth in consumption of natural resources in the 20th century (figure 1). Fossil fuel extraction increased by a factor of 12, ores and minerals by a factor of 27, and raw materials for construction by a factor of 34, while the population only grew by a factor of 3.7 (Krausmann et al. 2009).[1] The global share of domestic material consumption (DMC) by low-income countries had remained unchanged at below 3 percent despite the group posting the highest population rate among different income categories. Furthermore, looking at the material footprint per capita shows that high-income countries maintain the highest material footprint consumption of approximately 27 tonnes, which is 60 percent higher than the upper-middle-income group and more than 13 times the level of the low-income group (GRO, UNEP, 2019).[2]

And what is Europe's share in this? Europe has historically been dependent on resources from the Global South, and the pattern continues today: the flow of natural resources is much greater from South to North than vice-versa. Natural resources do not only refer to minerals and fossil fuels, but also to water, land, and forests. We live in an extractive and globalised economy, where most countries considered developed in economic terms, including the majority of European countries, rely heavily on resources from third countries, including from the Global South. This

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(1) Krausmann, F. et al., 2009. Growth in global materials use, GDP, and population during the 20th century. Ecological Economics 68(10), 2696-2705
(2) Global Resource Outlook, 2019, International Resource Panel, UNEP
(3) European Commission, 2016a. Raw materials scoreboard - European innovation partnership on raw materials. Publications Office of the European Union, Luxembourg.

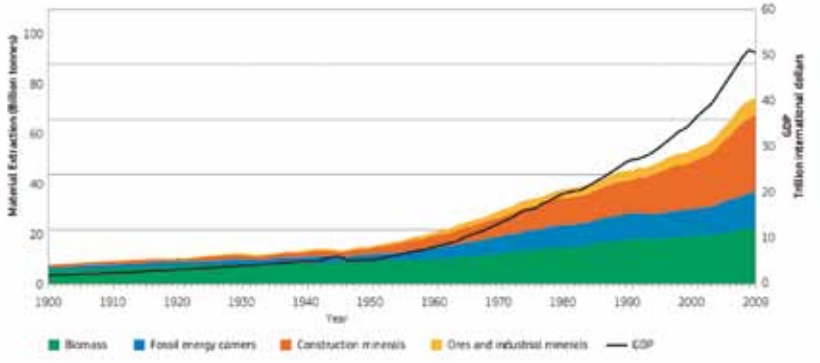


**Figure 1:** *Global material extraction by resource type and GDP (1990-2009) (European Commission, 2016a)*[3]

situation is not simply unsustainable, but is also unjust, as developed countries' overconsumption of resources will impede the development of communities in the Global South, presenting a clear barrier to overcoming poverty and achieving food security.

Despite efforts to use resources more efficiently, over the past few decades Europe's consumption of raw materials has increased in absolute terms (EEA 2012).[4] This trend has only recently been interrupted by the economic downturn, but is likely to resume unless action is taken. Europe remains one of the highest consuming continents on the globe, far exceeding its fair share of resources (EEA 2015).[5] In 2010, its annual per capita material footprint stood at 20 tonnes, second only to the United States. By comparison, Africa's footprint was below 3 tonnes per capita (UNEP 2016a).[6] The absolute rise in resource use, despite increases in productivity and efficiency, is also evidence of the so called "rebound effect" in action and should serve as a warning that focusing on resource efficiency and technological innovation alone might be insufficient.

Europes resource consumption pattern is triggering externalities in other regions by exporting the production impacts of products consumed in Europe. These include social impacts such as land grabbing in the Global South in the rush to grow large plantations to supply palm oil to the European market, and environmental impacts such as water stresses in many villages, for instance in Peru, resulting from the production of asparagus for European consumption.

Considerable attention in the European Union (EU) is currently focused on improving the recycling and reuse of materials. This is indeed vital, given that over 50% of municipal waste continues to be landfilled and incinerated in Europe (Eurostat, 2016b).[7] However, this alone cannot be the answer to the overconsumption crisis. Demand for raw materials outweighs the volume of recycled or reused materials available on the market (European Commission 2016a).[8] Much of the problem indeed relates to technical limitations in recycling and reuse due to the current design of products and the types and combinations of materials used. However, studies also show that even if Europe could recycle 100% of its waste, high consumption rates mean that the demand for virgin resources would remain high and primary extraction would remain necessary. A good example of this phenomenon is aluminium. Despite high rates of recycling (62% to 95%), Europe's demand is so great that it cannot be met by recycling alone  recycled aluminium supplied only 35% of consumption in Europe in 2008, creating a continuous demand for the virgin resource (Chapman, A. et al. 2013).[9]

All this points to the need to prioritise an absolute reduction in Europe's resource consumption, and the first step is to measure the resources consumed. In order to account for all resources embodied throughout the full life-cycle of products from extraction to consumption (including of imported products), fair measurement should take a consumption-based, or material footprint, approach.

## Action and Reaction in the Global South

The high European demand for resources is not only environmentally unsustainable, but raises issues of social justice as resource conflicts are growing in number and intensity. Globally four environmental defenders were killed every week in 2017 (Global Witness 2018),[10] merely for protesting the destruction of the ecosystems they depend upon for their livelihoods. There is a new trend of agribusiness overtakes mining companies for links to the killing. The killings are only one aspect of the immense repression that envi-

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(4) EEA, 2012. Material Resources and waste  2012 update. The European Environment State and Outlook 2010. European Environment Agency, Copenhagen.
(5) EEA, 2015. The European environment - state and outlook 2015, European Environment Agency, Copenhagen.
(6) UNEP, 2016a. Global Material Flows and Resource Productivity. An Assessment Study of the UNEP International Resource Panel. H. Schandl et al., Paris, United Nations Environment Programme.
(7) Eurostat, 2016b. Municipal Waste Statistics, viewed 25 November 2016 http://ec.europa.eu/eurostat/statistics-explained/index.php/Municipal_waste_statistics
(8) European Commission, 2016a. Raw materials scoreboard - European innovation partnership on raw materials. Publications Office of the European Union, Luxembourg.
(9) Chapman, A., Tercero Espinoza, L., et al., 2013. Study on Critical Raw Materials at EU Level. Oakdene Hollins and Fraunhofer ISI.
(10) At what cost? Report 2018; www.globalwitness.org

ronmental and human rights organisations are suffering in many countries. Whole local communities have been displaced from their lands in favour of industrial agribusiness (the practice known as "land grabbing") or isolated from sources of irrigation for their lands as the water is needed for export crops. The pressure on natural resources continues to increase as the Global North siphons them for their own use. It is clear that this extractive economy is the main driver of an active process of enrichment and impoverishment, with the accumulation of wealth on one hand inviting adverse consequences for others.

This phenomenon is not new; it has existed since colonial times. Only since the early 1990s has growing environmental awareness driven change, spurred by grassroot movements, in addition to the burgeoning Western sense of accountability for past colonial suppression. For the first time, the scale of environmental damage and social injustice has been quantified in terms of tonnes of resources.

The rising demand for justice started in Latin America as a civil society campaign called "Who owes Who." During UN negotiations, NGOs started to table the issue of ecological debt, especially in the framework of the Rio process. It became incorporated into the language of environmental negotiations, especially as it attracted the attention of academic circles and scientific journals.

Europe must recognize its historical and current accumulation of ecological debt and place more emphasize on ceasing this accumulation and delivering funding for compensation. It is also necessary that Europe decrease its use of natural resources, not only for purposes of redistribution, but also for security reasons. Conflicts continue to arise from the pressure on natural resources, with local communities fighting bitterly to maintain their livelihoods, combat pollution of their soils and rivers, fight deforestation, and resist displacement from their lands.

More than 2,750 conflicts have been mapped on the interactive Atlas for Environmental Justice,[11] showing trends in the location and reasons for the conflicts, as well as how local communities react and what forms of resistance could be successful. The map shows very clearly that overconsumption of natural resources creates more environmental conflicts around the world and that tackling that overconsumption is the only way to achieve peace.

## Is the European Commission doing enough?

In 2011, the European Commission's Roadmap to a Resource Efficient Europe put forward a vision of a European economy, which by 2050 "has grown in a way that respects resource constraints and planetary boundaries, [...] is competitive, inclusive and provides a high standard of living with much lower environmental impacts." [12]

While the Roadmap sets forth a clear vision, there are numerous problems with the Roadmap and its implementation. For instance, the Roadmap not addresses the matter of justice with respect to Europe's use of resources nor the fact that the EU has been using more than its fair share of resources for a long time at the expense of countries in the Global South. Furthermore, despite being much needed, there is no strategy for the EU to develop a single robust resource use policy and ensure coherence with other policies across the board. Where current European policies and initiatives on resource use and efficiency are present, they are fragmented and split across different departments, lacking shared goals, visions, and actions. This is a real concern in a world of limited resources, with rising resource-based conflicts, increasing waste production, and escalating environmental impacts linked to Europe's production and consumption pattern.

On its current trajectory, can the EU deliver the necessary transformational change in time? A review of the policy proposals currently on the table and the European Commission's priorities for 2017 (European Union 2016),[13] raises serious

(11) www.ejatlas.org
(12) European Union, 2011: Communication: Roadmap to a Resource Efficient Europe, 20 September 2011, COM(2011) 571 final.
(13) European Union, 2016: Communication: Commission Work Programme 2017. Delivering a Europe that protects, empowers and defends. 25 October 2016, COM(2016) 710 final.

doubts. More drastic changes are needed to ensure better measurement and management of the resources used and to remain within a safe planetary operating space. Even relatively progressive potential actions for the coming years, including improvements to waste legislation, expanding the scope of the Eco-design Directive, and investigating the sourcing of more raw materials from within Europe, fall far short of delivering the transformational change needed. The Roadmap is not perfect, but it was a start. In this document the European Commission launched a process of developing the four footprint indicators, with an additional provisional lead indicator for resource productivity (the effectiveness of which is debatable). Among others, there were important points on the need to address markets and prices, taxes, and subsidies that do not reflect the real costs of resource use and lock the economy into an unsustainable path. The goal is that by 2020, EU policies will take into account their direct and indirect impact on land use in the EU and globally.

However, since the launch of the Roadmap, there has been little progress on the planned initiatives. In vital areas such as indicators to measure resource use, there has been no progress at all. The original Roadmap promised to continue to develop these indicators to become fully consumption-based, yet none have been fully developed. For example, material consumption is still being measured by domestic material consumption (DMC), which gives a distorted view as it only takes into account the final weight of physical products imported, not the total embodied weight that goes into all the materials used to produce them; and land consumption is measured by land use within the EU, ignoring the fact that Europe relies on large amounts of land outside the EU to satisfy its consumption.

In addition to the Roadmap, the 7th Environment Action Programme (7th EAP), "Living well, within the limits of our planet,"[14] entered into force in 2014 as a guide for European environmental policy until 2020. On the surface, it articulates an impressive long-term vision, including that nothing is wasted; natural resources are managed sustainably; and biodiversity is protected, valued, and restored in ways that enhance society's resilience. Regarding resource use and efficiency, the Programme states that the EU should set a framework for action to improve resource efficiency, including targets for reducing the overall lifecycle environmental impact of consumption, in particular in the food, housing and mobility sectors, and indicators and targets for land, water, material, and carbon footprints with methodologies to measure these to be developed by 2015. However, none of these actions have been followed through in a meaningful way.

The 7th EAP also contains objectives on the better integration of environmental concerns into other policy areas to ensure coherence when creating new policy and to maximise the benefits of the EU's environment legislation by improving implementation. However, between empty promises on initiatives, drops, delays, and fragmented policies, these objectives need significant work to deliver change.

One of the biggest downfalls of the current EU policies is the absence of a resource efficiency target and other overarching legislative tools and policies. Many initiatives are focused on social and technological innovation instead of addressing the root problems in our system of production and consumption. Efforts to achieve a circular economy do not address the fact that we are, collectively, living beyond our planetary boundaries. Furthermore, many of the actions are being delayed and weakened. For example, the action plan committed to use the Eco-design Directive to make products more readily recyclable, repairable, and reusable, yet it is likely that popular household items such as toasters and hair dryers will be excluded, and that there will be delays in addressing mobile phones and washing machines (European Commission 2016b).[15]

(14) European Commission, 2013, Living well, within the limits of our planet. Viewed 25 November 2016 http://ec.europa.eu/environment/pubs/pdf/factsheets/7eap/en.pdf

(15) European Commission, 2016b. Commission to set out new approach on Ecodesign. Viewed 25 November 2016 https://ec.europa.eu/energy/en/news/commission-set-out-new-approach-ecodesign

## From Resource Efficiency to Resource Sufficiency

The major challenge is to move beyond mere resource efficiency and decrease absolute resource use. A new term that addresses this challenge and is gaining prominence is "sufficiency,"[16] which comprises the issues of the quantity of resources available and how much is enough. With this knowledge, an economic and lifestyle approach that meets basic needs and achieves wellbeing for all can be developed. This implies a shift away from material desires toward a new definition of what constitutes a "good life," which would require not only dematerialising the economy, but the entire concept of well being.

**Impact on the Environment: The IPAT Equation: I = P*A*T**

**P:** Population is the main topic of discussion in the U.S., with 120% population growth expected globally by 2050.

**T:** Technological efficiency is the main topic of discussion in the EU, with an approximately 40% increase of resource use productivity anticipated by 2050.

**A:** Affluence is the element that is excluded from discussion, except among NGOs active in environmental justice and degrowth movements. The OECD expects Affluence (measured as GDP) to grow 300% by 2050.

Even if it is widely acknowledged that business as usual (and, therefore, policy making as usual) is not an option, effecting real change is extremely difficult. A transition of this magnitude cannot be achieved without a better understanding of how we are locked into our economic system, what the drivers of this model are, and how we can transcend it. Merely implementing resource efficiency policies will not bring about the desired systemic change.

## Innovative Policy Recommendations

Cap and rationing schemes: The adoption of a hard cap means that a resource cannot be harvested or a type of waste cannot be disposed of beyond an established amount over a certain period of time. This might sound like a radical proposal to many, but extraction from aquifers and forests has been managed through caps by local communities for centuries, as demonstrated by Elinor Ostrom with research that earned her the Nobel Memorial Prize in Economics.[17] Moreover, the Common Fisheries Policy in the EU is based on caps and quotas, so there is certainly precedent for implementing a similar system.

Green taxation: In the shift toward a post-growth economy after dismantling unsustainable subsidies on energy and resource consumption-taxation policies can play a very important role. They can be designed as additional incentives operating below the physical resource cap with the goal of redistributing the profits of market activities toward a more just and fair society that exists within the biophysical capacity of its environment.

Debt-free (national) currencies: For supporters of this (disputed) concept, money does not represent real wealth, but a claim of wealth as money itself has no intrinsic value. Its value is derived from the fact that we accept it in exchange for real wealth, which takes the form of housing, land, fertile soil, medical care, food, and access to energy and internet, actual resources, goods, and services that people value.

Work-related policies: Since the dawn of capitalism, market economies have placed a strong emphasis on labour productivity. Continuous improvements in technology geared toward enhancing productivity lead to higher production output for a given amount of labour input. Crucially, this also means that fewer working hours are needed to produce the same goods from one year to the next. As long as the combination of economic growth and declining working hours

(16) Sufficiency, moving beyond the gospel of eco-efficiency, Friends of the Earth Europe (ed: Leida Rijnhout, Ricardo Mastini), 2018 http://www.foeeurope.org/sites/default/files/resource_use/2018/foee_sufficiency_booklet.pdf

(17) Elinor Ostrom, Governing the Commons: The Evolution of Institutions for Collective Action, Cambridge University Press (1991).

**Royal Dutch Shell**

*Royal Dutch Shell has been present in Nigeria since 1937, although the first oil exports started roughly twenty years later. Ever since, the country has depended on oil as its leading export source, with Shell being responsible at times for up to one-half of the total oil production. The contamination to which Shell has submitted the Nigerian population and environment can be traced to two main sources: gas flaring and oil spills.*

*Gas flaring has been prohibited since 1984, however oil companies can still flare with a special permit, the requirements of which are unknown. Furthermore, the fines for this practice are too low to deter companies from doing it, thus Shell keeps wasting a gas that could be used for other, more efficient purposes. The quality of life of the population, not surprisingly, is greatly affected. For instance, several studies have linked the appearance of acid rain to gas flares, which harms not only the Nigerian population but also the harvest and the fish from which they depend on. Shell has promised several times to end with flaring, but nevertheless it keeps pushing the deadline year after year.*

*An even more harmful devastation is caused by the estimated 1.5 million tons of oil spilled over the last 50 years in a region where 60 % of the people depend on the natural environment. There have been more than 7,000 spills between 1970 and 2000, and there are 2,000 official major spillages sites and thousands of other smaller ones. More than a thousand spill cases have been filed against Shell alone, although few have been resolved. These malpractices have destroyed the farmlands and fishponds of the estimated 30 million people living in the Niger Delta. Nevertheless, Shell avoids the responsibility of the spills and continues to blame them mostly on sabotage even though they personally admit that the pipelines are obsolete.*

*Many court case were opened against Shell, with little concrete result. Shell prefers to settle the conflict with money. The family of Ken Saro-Wiwa, Shell's fiercest critic who was assassinated by the Nigeria's military regime, sued the company for its involvement in the financing and silencing of human rights violations. Days before the start of the trial, Shell agreed to pay $15.5 million as a settlement.*

*Source: Environmental Justice Atlas*
*www.ejatlas.org*

(from 7 x 12 hours to less than 40 hours in Central Europe today) could offset labour productivity increases, there was no problem. However, since the growth of European economies has slowed significantly over the decades, and the concept of shortening working weeks has been taboo ever since the 1980s, there is now downward pressure on employment as people lose their jobs or are forced to accept low-level, poorly compensated, part-time jobs. Economic growth has been critical within this system just to prevent mass unemployment.

To break free of this vicious cycle it is necessary to decouple employment from economic growth. Changes in the labour market can facilitate the social marketing of the concept of sufficiency to citizens who are faced with the threat to their employment presented by sustainability policies that menace the primacy of economic growth. Policies should be discussed that aim to stabilise the labour market in a post-growth economy, such as reducing working time, providing job guarantees, and maximum income.

Universal basic services: The Institute for Global Prosperity at University College London developed a proposal for Universal Basic Services (UBS) representing an affordable alternative to the Universal Basic Income advocated by some economists.[18] The same principle of universal access that already exists in all EU countries for healthcare, public education, and legal services should be extended to shelter, food, transport, and information. Such an expansion of the concept of public services could help solve the problem of social inequality.

(18) UCL Institute for Global Prosperity, Social prosperity for the future: A proposal for Universal Basic Services, University College London (2017), https://www.ucl.ac.uk/bartlett/igp/sites/bartlett/files/universal_basic_services_-_the_institute_for_global_prosperity_.pdf.

**By Ludo De Brabander**
**Vrede vzw**

Peace activists protest against European funding of the arms industry.
Ludo De Brabander

# EU Militarisation and Arms Trade:

## Endangering Global Peace and Human Security

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By Ludo De Brabander
Vrede vzw

# EU Militarisation and Arms Trade:

## Endangering Global Peace and Human Security

***In June 2016, Federica Mogherini, the High Representative for the Common Foreign and Security Policy, presented the Global Strategy for the European Union's Foreign and Security Policy. It came thirteen years after the first European Security Strategy (2003) to give direction to a foreign and security policy that addresses - as it is often repeated on the official EU web pages - an increasingly complex and uncertain security environment and to help the EU to become a globally more capable, more coherent and more strategic actor. Unfortunately, there is a big gap between good intentions for a global and coherent security approach on the one hand, and the political reality of the Common Security and Defence Policy (CSDP) that is initially working on the development of a military capacity. Since the publication of the 'Global Strategy', the expansion of the military wing of the EU has been gaining momentum.***

In 2003, Javier Solana, the then High Representative for the Common Foreign and Security Policy, came up with the first European Security Strategy.[1] Its purpose was to put an end to the European disagreements resulting from the war in Iraq. The United Kingdom (UK), Spain, Italy but also a number of Eastern EU candidate countries supported the American Iraq war and formed a "coalition of the willing". On the other hand, France, Germany and Belgium, were not eager to follow the US/UK war logic. There was absolutely no question of a "Common" Foreign and Security Policy. The European political elite therefore considered it necessary to agree on a joint European strategy to record the threats and responses to them. In a sense, the European Strategy, published in December 2003, entitled "A Secure Europe in a Better World" helped to lay the foundation for the militarized security and defence chapter in the later Lisbon Treaty.

### A changed European security environment

9/11, the Iraq war, and the Balkan wars did not prevent Solana's strategy document from opening optimistically with: "Europe has never been so prosperous, so secure nor so free."[2] It further

(1) A Secure Europe in a Better World. European Security Strategy (2003). Brussels, 12 December 2003

(2) A Secure Europe in a Better World. European Security Strategy (2003), p. 1

stated: "The increasing convergence of European interests and the strengthening of mutual solidarity of the EU makes us a more credible and effective actor. Europe should be ready to share in the responsibility for global security and in building a better world." And: "The European Union has made progress towards a coherent foreign policy and effective crisis management."[3]

Now, thirteen years later, the European safety environment looks completely different. The wars in Syria and Ukraine, the refugee crisis, terrorist attacks and Brexit have not only shaken up overall security perceptions, but also the optimism of a Europe that is able to tackle these threats in solidarity. The political establishment decided that the 2003 European security strategy was in urgent need of replacement. When Federica Mogherini took over as the new High Representative, one of her first assignments was to prepare a new European Strategy Paper. In this, optimism makes way for a rather dramatic analysis: "We live in times of existential crisis, within and beyond the European Union. Our Union is under threat."[4] Important security challenges are "to the east", (where) the European security order has been violated, while terrorism and violence plague North Africa and the Middle East, as well as Europe itself."

## Absence of European responsibility

Mogherini's Global Strategy offers little room for self-criticism. The European Union is presented as uniquely value-based and its main objective is to defend its noble principles in and outside the EU. There is no lack of good intentions: "Echoing the Sustainable Development Goals, the EU will adopt a joined-up approach to its humanitarian, development, migration, trade, investment, infrastructure, education, health and research policies, as well as improve horizontal coherence between the EU and its Member States."[5] Although the Global Strategy reaffirms the collective commitment to achieve 0,7% ODA (Official Development Assistance in percentage of the GDP), only four EU-countries (Sweden, Luxembourg, Denmark, UK) reached the target in 2017, while most EU-countries saw a drop in ODA the same year.[6] In 2005 the 15 countries that were then EU-members agreed to reach the target by 2015. By 2017, 15 countries of the current member states did not even achieve half of the goal, while the overall ODA was decreasing.

It is one of many examples that shows a gap between the intentions of the Global Strategy and reality.

The lack of self-criticism and the absence of European responsibilities in the cited emergence of threats arising from the destabilized European security environment is striking. The Global Strategy remains silent on how European arms exports, neo-liberal trade policy, support for authoritarian regimes and laxity with regard to Israeli colonisation and repression in the Palestinian territories, the western wars in Iraq or Libya, among others have contributed to the destabilisation of the southern 'periphery'.

While the proliferation of weapons of mass destruction, according to the Global Strategy, poses a growing threat to Europe and the wider world, the hundreds of nuclear weapons deployed in France, UK, Belgium, the Netherlands, Germany and Italy are disregarded, notwithstanding that those nuclear arsenals on European soil are all subject of a modernization programs. The Global Strategy states that, "the EU will strongly support the expanding membership, universalisation, full implementation and enforcement of multilateral disarmament, non-proliferation and arms control treaties and regimes", although one year later (7 July 2017), only four EU-member states (Austria, Ireland, Malta and Sweden) adopted the new UN Treaty on the Prohibition of Nuclear Weapons.[7] Most EU-countries (all those who are member of NATO, with the exemption of the Netherlands) refused even to participate in the negations leading to the treaty.

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(3) A Secure Europe in a Better World. European Security Strategy (2003), p. 11
(4) Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy (2016), Brussels, June 2016, p. 7
(5) Shared Vision, Common Action: A Stronger Europe (2016), p. 26
(6) OECD (2019), Net ODA (indicator) (doi: 10.1787/33346549-en, accessed on 17 March 2019)
(7) ICAN, Positions of the Treaty (http://www.icanw.org/why-a-ban/positions/ accessed on 18 March 2019)

The issue of arms control is equally subject to sounding statements in the Global Strategy that are not in agreement with European reality. It is claimed that the EU will actively participate in arms export control systems and "strengthen common rules governing Member States' export policies of military including dual-use equipment and technologies (...)."[8] Since 1998, the EU adopted a Code of Conduct defining eight criteria that must curb arms exports. Although a Common Position (2008) made them binding it doesn't prevent EU countries exporting arms to end up in violent conflict zones. Saudi Arabia remains the main destination for European weapons, even after human rights organizations documented Saudi Arabia's large scale war crimes in Yemen. Other problematic countries, such as Egypt and the United Arab Emirates (UAE), are also in the top 10 of the most important destinations of European arms transfers. There are no indications that European member states will put aside the interests of its arms industry to prevent arms trade will provoke "fragility beyond our borders", even when the Global Strategy pledges that "in a more contested world, the EU will be guided by a strong sense of responsibility (...) [and] will therefore act promptly to prevent violent conflict."[9] The Global Strategy confirms that the "SDGs also encourage us to expand and apply the principle of policy coherence for development."[10] SDG 16 is about promoting "peaceful and inclusive societies for sustainable development". While only "illicit arms trade" is considered as a SDG 16-target, the transfer of arms to violent conflict zones and countries with systematic human rights violations is clearly not an act of promoting "peaceful societies".

## Militarization of the EU

Although the European Security Strategy pays lip service to a broad and coherent security approach, in reality the focus is on greater military efforts and military cooperation under a treaty that obliges states into armament (not disarmament). According to Article 42 (3) of the Treaty of the European Union (Treaty of Lisbon): "Member States shall undertake progressively to improve their military capabilities". The mission for armament has been prepared for a while with the establishment of the European Defence Agency (EDA) in 2004. According to the Lisbon Treaty, which was approved in December 2007, it is EDA's task to "strengthen [sic] the industrial and technological base of the defence sector" and to "participate in defining a European capabilities and armaments policy (...)". The EDA is the only EU agency with a Board of Directors at ministerial level. It is also one of the few bodies whose mission is so closely linked to the interests of an industrial sector. The EDA has 130 employees, but also a network of 4,000 "defence specialists" contributing to different types of teams and working groups. These are also widely open to members of the military industry. The EDA has since become the most important forum for partnerships of the military industry with the EU administration, scientific world, the army and policy makers. It forms the core of the European 'Military Industrial Complex' (MIC). The major policy lines for European defence and armament policies are outlined by the EDA.

## More military investments

In 2007, the European member states agreed on a strategy that should lead to a stronger industrial and technological base for European defence. According to the EDA, this is necessary to be able to respond to the operational requirements of future armies. This strategy includes a plea for more investments in both military equipment and in research and development. The EDA explicitly states on its website that it is the intention to work for a "robust European Defence Technological and Industrial Base (EDTIB)" to become "more competitive both in Europe and around the world" and enhancing "global competitiveness"[11]. Consequently, "global competitiveness" can be translated as consolidating the EU as a provider of arms worldwide. Since then, that mantra has been repeated in all relevant political and military

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(8) Shared Vision, Common Action: A Stronger Europe (2016), p. 42
(9) Shared Vision, Common Action: A Stronger Europe (2016), pp. 17-18
(10) Shared Vision, Common Action: A Stronger Europe (2016), p. 50
(11) EDA, Strategy for the European Defense Technological and Industrial Base (https://www.eda.europa.eu/what-we-do/our-current-priorities/strategies/Technologicalandindustrialbase accessed on 18 March 2019)

forums and it has finally been picked up in the new Global Strategy: "A sustainable, innovative and competitive European defence industry is essential for Europe's strategic autonomy and for a credible CSDP."[12]

The "competitive" European military industry is with 27% the second (after the US) most important arms supplier to the world. The Middle East/ North Africa region is one of the main destinations for EU weapons. According to SIPRI, the Stockholm International Peace Research Institute, "for four of these countries [France, Germany, the United Kingdom and Italy], the region that accounted for the highest growth in exports was the Middle East. French arms exports to the region rose by 261 per cent between 200913 and 201418, while German, Italian and British exports grew by 125, 75 and 30 per cent, respectively."[13]

The Global Strategy recognizes that this region is in a state of turmoil and that breaking "the political economy of the war" must be worked on.[14] However, it seems that economic priorities are more important. According to the European Council, a strong EDTIB will bring "benefits in terms of growth, jobs and innovation to the broader European industrial sector."[15]

Two years later, the Council calls on Member States to "allocate a sufficient level of expenditure for defence", a favour that is not easily awarded to other departments in times of budgetary constraints.[16] In addition, EU ministers also call for adequate European funding for defence research.

## European Defence Fund

In his 'State of the Union' of 14 September 2016, the President of the European Commission, Jean Claude Juncker stated that a strong European defence needs a European defence industry that innovates. Junker: "That is why we will propose before the end of the year a European Defence Fund, to turbo boost research and innovation."[17] Barely three months later, the European Commission publishes the European Defence Action Plan outlining the establishment of the European Defence Fund (EDF). It includes two parts about funding. The first part concerns the financing of defence research. From 2018 to 2020, 90 million is allocated annually for defence research. For the period 2020 to 2027, the Commission proposes to invest 500 million euro a year in defence research. A second part involves the creation of a financial instrument for joint investment by Member States in military equipment with a view to reducing purchasing costs. The European Commission is considering an annual amount of 5 billion euros. By the end of 2018 the European Parliament approves the final European Commission proposal to scale up the EDF to 13 billion Euro for the next long-term EU budget 2021-2027. The Fund will provide 4.1 billion euro to directly finance competitive and collaborative research projects, particularly through grants. Beyond the research phase, 8.9 billion euro will be available to complement member state investments in defence products by co-financing the costs for prototype development.[18]

Until recently, the rule applied was that military-related research is excluded from European research programs like Horizon 2020. This policy has been changed. These developments do not seem to be motivated solely by a concern for a well-developed security and defence policy. The plan to put public funds in defence research suits the military industry very well.

The EDF is a new but not last step in the militarization of the European Union. On December 11, 2017, the European Council decided to set up PESCO (Permanent Structured Cooperation) in which most EU Member States except Denmark, Malta and the United Kingdom participate.

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(12) Shared Vision, Common Action: A Stronger Europe (2016), p. 46
(13) SIPRI (2019), Trends in International Arms Transfers, 2018. Sipri Fact Sheet, March 2019, p. 5 (https://www.sipri.org/sites/default/files/2019-03/fs_1903_at_2018_0.pdf)
(14) Shared Vision, Common Action: A Stronger Europe (2016), p. 31
(15) European Council (2013), Conclusions, 20 December 2013 (http://data.consilium.europa.eu/doc/document/ST-217-2013-INIT/en/pdf accessed on 18 March 2019)
(16) European Council (2015), Conclusions, 26 June 2015 (http://data.consilium.europa.eu/doc/document/ST-22-2015-INIT/en/pdf)
(17) European Commission (2016), State of the Union Address 2016: Towards a better Europe - a Europe that protects, empowers and defends, 14 September 2016 (http://europa.eu/rapid/press-release_SPEECH-16-3043_en.htm accessed on 19 March 2019)
(18) Barns, M. (2018), EU Parliament approves new 13billion euro European Defence Fund,. In: The Parliament Magazine, 26 November 2018 (https://www.theparliamentmagazine.eu/articles/news/eu-parliament-approves-new-%E2%82%AC13bn-european-defence-fund, accessed on 19 March 2019)

PESCO is aimed to step up the European Union's work to enhance coordination, increase investment in defence and cooperation in developing defence capabilities. Participating countries are committed to a whole list of strict mandatory criteria. For example, participating Member States must "regularly" increase defence budgets. 20% of military spending must be used for military investments.

## Global arms market

In 2015, the European Commission asked a so-called 'Personalities Group' to issue an opinion on launching a 'Preparatory Action' on defence research. At the beginning of 2016, this Group of Personalities, of whom almost half are directly linked to the defence industry, published its report. Not surprisingly, the Group concludes that more European money must go to defence research and to joint investments in military equipment. The Commission's proposal to spend 90 million euro annually in a test period and from 500 million euro per year on defence research in 2020 is a direct recommendation of the report. The need for a defence industry to compete on the world market is also prominent in the report: "From an industrial viewpoint, access to international markets is a necessity, but not only as a means to compensate for a declining domestic market: export growth significantly contributes to sustaining the critical mass of European defence companies and highlights the competitiveness, capability, performance and reliability of European export products."[19] Further on, it says: "If the EU Member States do not invest in the next generation of defence technologies and do not find a common position on defence exports, other countries will ultimately displace European suppliers on export markets."[20]

The European arms trade nevertheless is likely to cause the opposite of the CSDP self-declared objectives "to take a leading role in peace-keeping operations, conflict prevention and in the strengthening of the international security".[21] The 2030 Agenda for Sustainable Development that has been adopted by the EU says: "We are determined to foster peaceful, just and inclusive societies which are free from fear and violence."[22]

An analyses of the Centre Delàs in Barcelona concluded that EU arms foster violent conflicts and contribute to the refugee crisis: "The member states of the EU exported arms to 212 destinations, of which 89 have presented significant numbers of refugees or displaced persons and of which 65 are in conflict or unrest. A 29% of European arms exports from 2003 to 2014 (122 billion) were committed to places in conflict and/or tension, resulting in a total of 37.281 million euros in realized exports to these countries. In 26 of the primary recipients of European arms with fluxes of refugees and displaced persons, the impact of arms imports is correlated with a negative evolution or perpetuation of conflict. These countries make up 7.4% of the authorized exports and 7.8% of realized exports, or 33.61 million euros and 9.32 million euros respectively. These 26 countries have generated 75% of the refugees and displaced persons during this period (27.2 million people)."[23]

It is not unlikely that the EU military industry, driven by competition and EU funded innovation, will strengthen its position in the worldwide arms export and more in particular to violent conflict areas.

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(19) Group of Personalities (2016), European Defence Research. The case for a EU-funded Defence R&T Programme. Paris: The European Union Institute for Security Studies (EUISS), February 2016 (https://www.iss.europa.eu/sites/default/files/EUISSFiles/GoP_report.pdf)

(20) Group of Personalities (2016), pp. 45-46

(21) European Union External Action (2018), The Common Security and Defence Policy (CSDP), 3 May 2018 (https://eeas.europa.eu/topics/common-security-and-defence-policy-csdp/431/common-security-and-defence-policy-csdp_en)

(22) UN General Assembly (2015), Transforming our world: the 2030 Agenda for Sustainable Development. Resolution adopted by the General Assembly on 25 September 2015 (http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E accessed on 18 March 2019)

(23) Rufanges, J.C.; Benedicto, A.R.; Vargas, E.V. (2017), European Arms that Foster Armed Conflicts that Cause Refugees to Flee. An Analysis of Arms Exports from the European Union to Countries in Conflict or Tension with Refugees or Internally Displaced Persons 2003-14. Barcelona: Centre Delàs d'Estudis per la Pau, june 2017, p. 41

## Recommendations

As arms are a major component in fuelling violent conflicts, it seems quite cynical that European programs like the EDF and PESCO are developed to strengthen the EU's capabilities for crisis management and military intervention in conflict areas that have been supplied by EU arms that are contributing to the refugee crisis. Some of the beneficiaries of EU border security contracts, worth 15 billion euro in 2015, belong to the biggest arms sellers to the Middle-East and North-African region. The big players in Europe's border security complex include arms companies Airbus, Finmeccanica, Thales and Safran. Finmeccanica, Thales and Airbus are also three of the top four European arms traders, all selling to countries in the Middle East and North Africa. Their total revenues in 2015 amounted to 95 billion euros.[24]

The EU must act in accordance with its proclaimed policy as stated in the Global Strategy: "The European Union will promote peace and guarantee its citizens and territory. Internal and external security are ever more intertwined: our security at home depends on peace beyond our borders."[25] The EU should also adhere to the commitments made in Agenda 2030 "to promote peaceful and inclusive societies for sustainable development" (SDG 16). Human rights and the prevention of violent conflicts must prevail over the interests of the military industry. It is obvious that the European arms trade has a negative impact on human security worldwide. However, with the EU Common Position on arms export control, the EU has a well-defined legal framework that should ensure that its weapons are not used in violent conflicts and in human rights violations. The militarization of the EU and the imposed standards in terms of budget and capacity development are difficult to reconcile with policies to promote peace.

The EU must develop a more coherent vision of non-military peace policy: Sustainable development is the best way to prevent violence. Domestic and foreign policy must strive for a coherent implementation of the concept of human security (as defined by UNDP in 1994)[26], addressing the root causes of insecurity and coordinating different policy instruments. At the domestic and foreign level, this means a cap on military spending. Public investments should benefit human security in its broadest sense. Social security is also human security.

The EU must take the lead in an active peace policy: Military expenditures must be limited and refocused to a basic defence capacity, supporting UN peacekeeping operations (such as mine clearance or disarmament missions) and avoiding highly militarised peace enforcement operations. The EU can do much better in the field of diplomacy aimed at resolving conflict situations and focusing on non-violent local conflict prevention and managment, which requires sufficient resources and capacity.

Curb the arms trade:
EU member states must stop licensing arms exports to problematic destinations (violent conflict areas, human rights violations, etc.). A restrictive interpretation of the arms legislation and control of the final destination and use of exported weapons and components (including dual-use equipment) is needed. Arms trade must not be an obstacle to the EU Foreign policy if it is really about being a global actor for peace, human security and stability. The public funding of the arms industry is contrary to the promotion of peace.

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(24) Akkerman, M. (2016), Border Wars. The arms dealers profiting from Europe's refugee tragedy. Amsterdam: Transnational Institute/Stop Wapenhandel, pp. 1-2 (https://www.tni.org/files/publication-downloads/border-wars-report-web1207.pdf)
(25) Shared Vision, Common Action: A Stronger Europe (2016), p. 7
(26) UNDP (1994), New Dimensions of Human Security. Human Development Report 1994. New York/Oxford: Oxford University Press
(27) Davis Vanopdorp (2019), Germany exporting weapons to Saudi Arabia and UAE reports. In: Deutsche Welle, 12 April 2019 (https://p.dw.com/p/3Ge2F accessed on 2 May 2019)
(28) Lewis Sanders IV (2019), Germany to train Saudi soldiers despite Yemen war concerns. In: Deutsche Welle, 29 April 2019 (https://p.dw.com/p/3HcEq accessed on 2 May 2019)
(29) Disclose.ngo (2019), Yemen Papers, 15 April 2019 (https://made-in-france.disclose.ngo/en/chapter/yemen-papers/?fbclid=IwAR1NU6c3O2sAYZ2nRf0JruJXAj6WWFKPWcTjqyBPc-oe5sRoj9yXqkIJ1VM accessed on 2 May 2019)
(30) Pax (2019), Day of Judgement, The Role of the US and Europe in Civilian Death, Destruction, and Trauma in Yemen, 6 March 2019 (https://www.paxforpeace.nl/publications/all-publications/day-of-judgment?fbclid=IwAR3QMCR89yOPRiPSB-iCa5_xzw6HzUcSlhliaQqIaqN6V4G2wqG18H-CkW58 accessed on 2 May 2019)
(31) Annual Reports of the Council Common Position 2008/944/CFSP ( https://eeas.europa.eu/headquarters/headquarters-homepage/8472/annual-reports-on-arms-exports-_en accessed on 2 May 2019)
(32) Amnesty International (2019), Yemen: UAE recklessly supplying militias with windfall of Western arms, 6 February 2019

**The Yemeni war**

*The use of European weapons in the Yemeni war is not a secret, or let's say it's the most known but most undocumented secret of the European militarization. Though, some authenticated and credible reports have shed some light on the European arsenal which is being in use by different warring parties in Yemen. Still, governments are not showing a positive political will to stop exchanging civilians' lives for the money and benefits they gain from the arms sales.*

*In spite of all accusations against Saudi Arabia for committing war crimes, it's still the biggest arms importer. European governments are still planning and approving more arms deals with it. Germany has lifted some of the restrictions which were applied by the arms ban last year and they approved new shipments to Saudi Arabia.[27] End of April 2019, it was announced that Germany is training Saudi soldiers in July 2019 as part of the arms deal that was approved in 2016 and the German government is setting plans for another training program in 2020.[28]*

*A recent report by Disclose news website has revealed some French documents stating that Saudi Arabia and United Arab Emirates are deploying French military equipment in their military intervention in Yemen. The report showed that some French-made weapons are in use such as the Caesar self-propelled 155mm howitzers, Leclerc tanks, Cougar transport helicopters, A330 MRTT refueling plane and ships.[29]*

*A newly published report showed that some UK-made weaponry have been used in attacks in Yemen by the Saudi-led military coalition and caused partial or full destruction of several civilian businesses as well as an educational facilities. The weaponry included the 500-pound Hakim PGM which was most likely dropped on a community college in 2016.[30]*

*According to publicly available data, since the escalation of the Yemeni conflict in March 2015, Western states have supplied the UAE with at least US$3.5 billion worth of arms. Among them are heavy conventional weapons including aircraft and ships small arms, light weapons and associated parts and ammunition.*

*Despite the serious violations attributed to the UAE and militias it backs, the following EU states have recently supplied the Emiratis with arms: Belgium, Bulgaria, Czechia, France, Germany and the UK. According to official EU data, EU countries sold 1.757 billion worth of arms between 2015 and 2017.[31]*

*Amnesty International analysed open-source evidence around the battle for Hodeidah and found that military vehicles and weapons supplied to the UAE are now widely in use by militias on the ground.[32]*

*Belgian Minimi light machine guns, also likely sold to the UAE, are being deployed by a militia called "The Giants" which is leading the fight in the western coastline towards Hudaydah city.*

*The UAE has directly trained and funded militias including the Security Belt and Elite Forces, which operate a shadowy network of secret prisons known as "black sites" where serious human rights violations take place. The UAE-backed militias running these black sites wield Bulgarian rifles and drive US armoured vehicles.*

*Author: Saif Ahmed Alhaddi (Yemeni Human Rights Activist)*

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Climate Action Network Europe

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# Domestic climate policies:

## The case for higher ambitions

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# Domestic climate policies:

## The case for higher ambitions

***The European Union's (EU) climate policies are not sufficiently enforced to prevent dangerous climate change and its impact on people in Europe and beyond. By adopting the Paris Agreement in 2015, the world decided to pursue efforts to limit temperature rise to 1.5°C. However, the EU's climate target, to reduce emissions by at least 40% by 2030, was set in 2014 and has not been amended since. It is now contributing to a 3°C increase in global temperatures.***

In the same year as the Paris Agreement, the EU committed to the 2030 Agenda universally, inside and outside the EU. Because of the global impact of climate change, policies must align with the Paris Agreement for a realistic chance of achieving Agenda 2030. However, results of climate action, Sustainable Development Goal 13, is sorely lacking, despite its direct and increasingly visible effects.

In November 2018 the European Commission recognised in its draft entitled, "EU Long Term Strategy" that the EU's climate policies are not consistent with the objectives of the Paris Agreement. The European Parliament called for increasing the EU's 2030 climate target from 40% to 55% in resolutions in October 2018 and March 2019.

Despite these acknowledgements by EU Institutions regarding the insufficiency of the targets and the Intergovernmental Panel on Climate Change's (IPCC) "Special Report on Global Warming of 1.5 °C"[1] message concerning the absolute necessity to step-up short term climate action, there is still no concrete process in the EU on how to meet this short term target and related legislation.

The gap between what science tells us to do and the actions of governments increases every day.

As a part of an increased sense of urgency to tackle climate change and limit its impacts on people's lives, livelihoods and human rights, an increasing number of citizens are mobilising to demand more ambitious climate action by marching and taking their governments to court.

### The cases for higher ambition

In 2013, a group of citizens and the Urgenda Foundation filed a complaint against the Dutch national government to force the government to adopt more stringent climate policies. In this case, the plaintiffs claimed, 'dangerous climate change,' will cause serious and dangerous impacts on mankind and infringe on the fundamental rights of the plaintiffs, such as the right to life and the right to private and family life, both in the Netherlands and throughout Europe. This landmark case inspired a wave of climate lawsuits worldwide, especially against big emitters.

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(1) IPCC, 2018: Global warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [V. Masson-Delmotte, P. Zhai, H. O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J. B. R. Matthews, Y. Chen, X. Zhou, M. I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, T. Waterfield (eds.)]. [Online: https://www.ipcc.ch/sr15/]

Today in several European countries, including Germany, France, Ireland, U.K., Belgium, citizens are using climate litigation cases and asking courts to try to enforce necessary climate change measures and policies.

## The People's Climate Case

The landmark People's Climate Case initiated by ten families — from Europe and the Global South and the Saami youth association from Sweden — whose lives, livelihoods and fundamental rights of life, health, occupation and property are impacted by climate change is challenging the EU's 2030 targets over its inadequacy to tackle climate change and protect the plaintiffs' fundamental rights. Two of these courageous families are from the Global South: the Guyo family from Northern Kenya and the Qaloibau family from Vanua Levu Island in Fiji. These families are participating to remind courts the EU's policies have consequences not only for Europe but also for the Global South.

Filed at the European General Court, their lawsuit contends the EU's existing 2030 climate target to reduce domestic greenhouse gas (GHG) emissions by at least 40% by 2030, as compared to 1990 levels, is inadequate. The complaint references [the harm that] "the EU is causing through action or omission of protective regulation" and "the destruction of the natural conditions of their livelihoods".[2] Plaintiffs contend the EU failed and continues to fail to meet its urgent responsibilities to limit the emission of green house gases (GHG), is in breach of its binding obligations and endangers the plaintiffs' fundamental rights such as right to live, health, occupation and property.

Until now, only the economic rights contained in EU primary law were applied to foreign actors, like foreign companies being sanctioned by the Commission for breaching competition rules and applying for legal protection. The People's Climate Case is the first to claim that individual

**The Guyo Family**[3]

*The Guyo family, with 5 children, live in a village in Northern Kenya, close to the Ethiopian border. The family's main source of income is cattle and goat herding. During the daytime, all children except the youngest child go to school (which is about 1.5 km from their home) and they help with herding and tending to the livestock in the afternoon.*

*The Guyo family has been experiencing perceivable changes in temperature and precipitation in the past decades, such as an increased number of droughts, occasional torrential rain that causes flooding, as well as increased heat at the peak of dry period.*

*The link between climate change and rising temperatures in Kenya is strong. Mean annual temperature has increased more than 1°C over the past 30 years,[4] and this temperature rise cannot be explained by natural forcing. The Guyo family experiences the consequences of climate change first-hand.*

*Children in the family are the most vulnerable to the impacts of climate change, and they have already started to suffer from more frequent and extreme heatwaves. During the hot periods, where temperatures rise up to 40°C, the children get heat rashes, frequent headaches and disturbed sleep. When the children walk to school, they get dizzy spells. During the hot season in 2017, the children needed to take a break from school because walking to school during the heatwaves were impossible.*

*Due to their livelihood, they cannot move to a place where the heat might affect them less. They are also unable to — for example — purchase an air conditioner due to lack of power supply and investment capacity. Climate change is a threat to the children's eduation and already negatively impacts their health. Their right to life is, therefore, violated. The Guyo family possess a direct interest to increase climate protection in order to halt and slow down the warming effect of man-made greenhouse gas emissions.*

persons living in Kenya and Fiji are entitled to the EU fundamental rights to health, occupation, property and equal treatment and that these rights are being violated because of GHG emissions from EU territory.

These two families — each uniquely affected — represent millions in the Global South whose environments and natural resources are negatively impacted by climate change, such as: droughts, floods, heat waves, rising sea levels and the change of seasons. In the court application the plaintiffs provide evidence climate change has on their food systems, livelihoods, prosperity, health, education and natural environments. The case and its evidence sheds light on how climate change negatively impacts people's ability to achieve sustainable development — across sustainable development goals.

## On trial: the inadequacy of the EU's climate policies

Limiting global warming to 1.5 °C requires changes to legislation across numerous sectors in the EU, from energy to agriculture, and from finance to infrastructure. Together with the 2030 greenhouse gas emissions reduction target of 40% compared to 1990 levels, the People's Climate case addresses the EU's 2030 framework of climate legislation: the Emissions Trading Scheme,[5] the Effort Sharing Regulation (ESR) (now known as the Climate Action Regulation)[6] and the Land Use, Land Use Change and Forestry (LULUCF) regularisation.[7] These three GHG Emissions Acts address three categories of greenhouse gas emission sources.

The Emissions Trading System (ETS) governs sources of power generation, heavy industry and aviation. A weak emissions reduction target of 57% (as compared to 2005 emissions) and the massive use of international offsets have led to a build-up of and an enormous surplus of emission allowances. The price for allowances has drastically dropped to the point where they no longer drive change.

The ESR applies to emissions from energy, industrial processes and product use, agriculture and waste. These account for almost 60% of the total EU emissions yet are only required to to reduce emissions by 30% by 2030 as compared to 2005 levels. To improve regulation Climate Action Network (CAN) Europe calls for: a higher 2030 reduction target of at least -47%; a ratchet-up mechanism to increase targets every five years; a more stringent starting point for counting emissions in 2021; and elimination of loopholes.

The LULUCF Regulation covers sources and sinks from land use, land use change, and forestry. These sectors only have to reach no-net emission, the "no-debit rule" (emissions from these sectors must not exceed their emissions removals) and Member States are allowed to use forestry credits to offset some of their emissions in the ESR. To improve the Regulation CAN Europe calls for these sectors to serve as a sink for emissions, for clearer rules governing the accounting of emissions and for the abolishment of loopholes and offsetting credits.

None of these regulations are in line with the Paris Agreement. Each is characterised by a lack of ambition in emissions reduction targets and flexibilities in the policies underpinning the legislation. These factors severely weaken their effectiveness to drive any climate change.

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(2) Application of the People's Climate Case delivered to the European General Court on 24.05.2018: https://peoplesclimatecase.caneurope.org/wp-content/uploads/2018/08/application-delivered-to-european-general-court.pdf

(3) Presentation of Guyo Family : https://peoplesclimatecase.caneurope.org/plaintiff/family-guyo-from-kenya/

(4) IPCC (2014) WG I, Chapter 10, p. 867-952

(5) Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the EU https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3Al28012

(6) Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32018R0842

(7) Regulation (EU) 2018/841 of the European Parliament and of the Council of 30 May 2018 on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework, and amending Regulation (EU) No 525/2013 and Decision No 529/2013/EU (Text with EEA relevance) https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2018.156.01.0001.01.ENG

## Interlinkages: climate change impacts on the SDGs in the Global South

Poor policies and lack of ambition in the EU have far-reaching global impacts. The People's Climate Change lawsuit explains how climate change tends to affect people in less developed countries more severely: "developing countries have fewer resources with which to adapt to and mitigate the effects of climate change; the economic losses caused by climate change would also be more serious for persons in less developed countries, starting with fewer resources and lower living standards".[8]

The complaint goes on to explain that continued emission of GHGs, which lead to climate change, "is contrary to the principles of equality of treatment....and the principle of sustainable development."

The IPCC's "Special Report on Global Warming of 1.5°C" shows unequivocally that the difference between 1.5 and 2°C will have a dramatic adverse effect on developing countries' ability to achieve sustainable development, particularly poverty eradication and reduction of inequalities, this is explored in depth in Chapter 5 on Sustainable Development, Poverty Eradication, and Reducting Inequalities. It says:

Populations at disproportionately higher risk of adverse consequences with global warming of 1.5°C and beyond include disadvantaged and vulnerable populations, some indigenous peoples, and local communities dependent on agricultural or coastal livelihoods (high confidence). Regions at disproportionately higher risk include...small island developing states, and Least Developed Countries (high confidence). Poverty and disadvantage are expected to increase in some populations as global warming increases; limiting global warming to 1.5°C, compared with 2°C, could reduce the number of people exposed to both climate-related risks and susceptibility to poverty by up to several hundred million by 2050 (medium confidence).[9]

As evidenced by the unique experiences of

| Indicator | | Long-term trend (past 15 years) | Short-term trend (past 5 years) |
|---|---|---|---|
| **Climate mitigation** | | | |
| Greenhouse gas emissions | | ↑ | ↑ |
| Greenhouse gas emissions intensity of energy consumption | | ↗ | ↗ |
| Energy consumption (*) | Primary energy consumption | ↗ | ↗ |
| | Final energy consumption | ↗ | ↘ |
| Share of renewable energy in gross final energy consumption (*) | | ↑ (†) | ↑ |
| Average $CO_2$ emissions per km from new passenger cars (*) | | ↗ (‡) | ↗ |
| **Climate impacts** | | | |
| Mean near surface temperature deviation | | ↕ | ↕ |
| Climate-related economic losses | | ↕ | ↕ |
| Mean ocean acidity (*) | | ↕ | ↕ |
| **Support to climate action** | | | |
| Contribution to the international 100bn USD commitment on climate-related expending | | ↕ | ↕ |
| Population covered by the Covenant of Mayors for Climate and Energy signatories | | ↕ | ↕ |

(*) Multi-purpose indicator.
(†) Past 12-year period.
(‡) Past 10-year period.

**Table 1:** *Indicators measuring progress towards SDG13, EU-28*[10]

the Fijian and Kenyan plaintiffs in the People's Climate Case and also by the broad evidence summarised in the IPCC Special Report on 1.5 °C, climate change is already negatively impacting key issues for sustainable development goals. It is impacting people's ability to lift themselves out of Poverty (SDG 1); to achieve Food Security and Nutrition (SDG 2); to experience Good Health (SDG 3); to benefit from a Good Education (SDG 4); to achieve Full and Productive Employment (SDG 8); and because of its impact on natural environments is damaging access to water resources

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(8) Application of the People's Climate Case delivered to the European General Court on 24.05.2018: https://peoplesclimatecase.caneurope.org/wp-content/uploads/2018/08/application-delivered-to-european-general-court.pdf
For the hierarchy of EU fundamental rights and international law see ECJ decision of 3 September 2008, Joined Cases C402/05 P and C-415/05 P (Kadi, Al Barakaat), ECLI:EU:C:2008:461, para. 285.

(9) IPCC, 2018: Summary for Policymakers. In: Global warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [V. Masson-Delmotte, P. Zhai, H. O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J. B. R. Matthews, Y. Chen, X. Zhou, M. I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, T. Waterfield (eds.)]. [Online: https://www.ipcc.ch/sr15/chapter/summary-for-policy-makers/ ] pp11

(10) Eurostat, Sustainable development in the European Union MONITORING REPORT ON PROGRESS TOWARDS THE SDGS IN AN EU CONTEXT, 2018 p238 https://ec.europa.eu/eurostat/documents/3217494/9237449/KS-01-18-656-EN-N.pdf/2b2a096b-3bd6-4939-8ef3-11cfc14b9329

(SDG 6) as well as conservation of ecosystems and resources (SDGs 14 and 15). Because climate change affects people with the least resources more severely it also negatively impacts societal equality, damages resilience, and jeopardizes peace.

## In defence of universality

The EU monitors SDG 13 through a set of indicators compiled by Eurostat in annual progress reports, covering climate mitigation, climate impacts, and support to climate action (see table 1). Of these only the indicator that has direct relevance to the Global South relates to climate finance. The economic impacts and physical impacts indicators only assess losses within and in relation to Europe. The only indicator with direct relevance to the Global South monitors the EU's finance to developing countries for climate mitigation and adaptation, the collective developed countries' goal is to jointly mobilise USD 100 billion per year from 2020 under the United Nations Framework Convention on Climate Change (UNFCCC).

While climate finance contributions are a positive EU policy, choosing not to monitor and assess the impact of the EU's climate action on the rest of the world means the EU's approach to SDG13 does not conform to one of the fundamental principles of the sustainable development goals: the principle of universality which commits all countries to contribute towards a comprehensive effort for global sustainability in all dimensions. To achieve Agenda 2030 in developing countries the external dimension of climate action cannot be limited to climate finance. Impacts on developing countries must be assessed and the negative externalities of EU action or inaction also need to be considered.

Moreover, there are no targets set and the selection of indicators does not drive the change in policies that is needed. With a few exceptions, the indicators stem from already existing indicators used for monitoring long-term EU policies. These indicators do not allow for a robust assessment of whether EU policies are coherent with the sustainable development goals and objectives. Given the overwhelming evidence of the importance of limiting global warming to 1.5 °C on the Global South, SDG 13 indicators must be re-designed to assess if the EU's climate policies are compatible with the Paris Agreement.

## Judgement: the need for more comprehensive and ambitious strategy

In January 2019 the European Commission released a reflection paper on the Sustainable Development Goals, "Towards a Sustainable Europe by 2030".[11] In its references to climate change and global temperature increase the paper noted and celebrated the EU's existing emissions reduction targets, and its projected achievement of them. Yet in reality the EU has one of the world's worst ecological footprints and $CO_2$ emissions per capita. The current climate framework is not compatible with the Paris Agreement, and therefore does not appear as if it will meet the goals of Agenda 2030. If the EU is serious about making its internal policies coherent with sustainable development, it must re-evaluate its climate policies to take into account their impact on the achievement of the SDGs in developing countries. Development cannot be limited to external action.

(11) https://ec.europa.eu/commission/publications/reflection-paper-towards-sustainable-europe-2030_en

## Conclusions and Recommendations

- Climate change already affects people in the Global South and further emissions will increase its dangers; this has a detrimental impact on the achievement of sustainable development.
- The EU's 2030 greenhouse gas emissions reduction target needs to be revised upward; in line with the latest available science on warming of 1.5°C CAN Europe calls for a reduction of 65% by 2030.
- The EU needs to re-open legislation forming its 2030 climate framework, the ETS, ESR and LULUCF, to increase their ambition and remove the legislation's flexibilities.
- The EU must work to enhance convergence between the Agenda 2030 and the Paris Agreement; achievement of SDG 13 by the EU must be assessed through sustainable development of dramatically more ambitious targets and indicators will need to address the negative impacts of EU emissions on developing countries.
- The EU needs to have an overarching SDG strategy that recognises the interlinkages between all the sustainable development goals, the importance of policy coherence, and the universality principle.

**By Jara Henar**
**Alianza por la Solidaridad**

Agadez, Niger, 2016
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# EU Migration policies:

## The consequences for Human Rights

13

Alianza por la Solidaridad

**By Jara Henar**
**Alianza por la Solidaridad**

# EU Migration policies:

## The consequences for Human Rights

***Migration is at the "heart" of the European Union's (EU) domestic policies, specifically in the Directorate-General's (DG) Migration and Home Affairs (HOME). The pillars defined by the European Agenda on Migration[1] are in the DG HOME, which addresses other policies such as: police cooperation, crisis and terrorism, organised crime and human trafficking. These policies form part of what could be considered "hard" policies, linked to the EU's security interests and highly sensitive to the national sovereignty of each member state.***

To address the relationship between migration and human rights, we will analyse some documents that shaped the EU's migration policy. First, we will analyse how the opening of internal borders is intimately linked to the closing and controlling external ones.

This is demonstrated in the Conclusions of the Presidency in the framework of the European Council which took place in December 1992. Specifically, the decision not to open free internal mobility until a system of protection against "dangerous" entrances was set:

The work necessary to achieve [free movement within the EU] without creating dangers for public security and compromising the fight against illegal immigration (...) is still under way. Further progress is needed, in particular (...) to conclude the External Frontiers Convention and to complete negotiations on a Convention on the European Information System.[2]

In the same vein, the Conclusions include a Declaration on the principles governing external aspects of the migration policy.[3] This Declaration highlights a variety of principles that should guide the EU and its Member States in their respective spheres of competence, to address the causes of migratory movements and reduce displacements from origin countries.

These principles lay the foundations of the EU's migration policy and its externalisation, formulated at least 27 years ago. It is not our aim to focus on the details of the instruments produced[4] by European institutions, but we can see how these points are present in many subsequent documents such as: the 2005 Global Approach to

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(1) European Commission (2015). A European Agenda on Migration, at https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015DC0240&from=GA. The four pillars include: 1) reducing incentives against irregular migration; 2) border management; 3) a common asylum policy and 4) a policy for legal migration

(2) European Council in Edinburgh 11-12 December 1992. Conclusions of the Presidency, at https://www.consilium.europa.eu/media/20492/1992_december_-_edinburgh__eng_.pdf

(3) Ibid.

(4) For further details, the document "20 years of migration policy: the path to a European Agenda on Migration" offers a summary with relevant milestones of the EU migration policy, at https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/docs/timeline_en/timeline_en.pdf

Migration (GAM),[5] the 2010 Stockholm Programme[6] and the 2011 Global Approach to Migration and Mobility (GAMM)[7] of the 2015 European Agenda on Migration (EAM).[8]

One of the principles worth highlighting from the 1992 Conclusions is the "Continuous work for the preservation of peace and the termination of armed conflicts, full respect for human rights and the rule of law, so diminishing migratory pressures that result from war and oppressive and discriminatory government". This point, which in later documents is framed as addressing the root causes of displacement (2005 GAM, 2015 EAM), establishes a link between migration and external EU action and policies, for the sake of European citizens:

> Many of the root causes of migration lie deep in global issues which the EU has been trying to address for many years. Migration should be recognised as one of the primary areas where an active and engaged EU external policy is of direct importance to EU citizens. Civil war, persecution, poverty, and climate change all feed directly and immediately into migration, so the prevention and mitigation of these threats is of primary importance for the migration debate.[9]

We believe this point is critically important, since it has been used as a main rational to justify interventionism in the so-called "third countries" by the EU and its Member States.

Another principle is: "Development aid to encourage sustainable social and economic development, contributing to job creation and alleviation of poverty in the countries of origin". The Conclusions establish a second link, between migration and development. Subsequent documents set a double dimension to this: on the one hand, linked with the previous point, development cooperation plays a role in "tackling global issues like poverty, insecurity, inequality and unemployment which are among the root causes of irregular and forced migration."[10]

Conversely, "well-managed legal migration" is assumed to contribute to higher levels of sustainable development[11] and inclusive growth.[12] As seen, the 1992 Conclusions include only the economic and social dimension of sustainable development, but in later documents, the environmental dimension is added, linking it with the SDGs. Accordingly, the European Agenda on Migration says, "The EU will continue to actively support migration-related targets as part of the final overall [SDG] framework, and to emphasise the importance of harnessing the positive effects of migration as a horizontal means of implementation for the post-2015 development agenda."[13]

The last set of principles we consider relevant in the 1992 Conclusions, include: a) "Displaced people should be encouraged to stay in the nearest safe area to their homes, and aid and assistance should be directed to do so"; b) "Combat illegal immigration" and c) "Bilateral or multilateral agreements with countries of origin or transit to ensure that illegal immigrants can be returned to their home countries, on the basis of good neighbourly relations", where readmission is highly valued by Member States in their relationships with third countries.[14]

(5) European Council (2005). Global approach to migration: Priority actions focusing on Africa and the Mediterranean, at http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2015744%202005%20INIT It was inspired from the European Commission (2005) "Priority actions for responding to the challenges of migration: First follow-up to Hampton Court", available at http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2015744%202005%20INIT (This link takes you to the same site/paper as the previous citation in this footnote.)

(6) European Council (2010). The Stockholm Programme-an open and secure Europe serving and protecting citizens, at https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:115:0001:0038:EN:PDF

(7) European Commission (2011). The Global Approach to Migration and Mobility, at https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011DC0743&from=EN

(8) European Commission (2015), op. cit.

(9) European Commission (2015), op. cit.

(10) Ibid., page 8

(11) Carrera, S, Radescu, R & Reslow, N (2015). EU external migration policies. A preliminary mapping of the instruments, the actors and their priorities, at http://www.uta.fi/edu/en/research/projects/eura-net/publications/TASK%203.1%20REPORT_UM_CEPS_final_v4.pdf

(12) European Council (2017). The New European Consensus on Development. 'Our world, our dignity, our future', at https://ec.europa.eu/europeaid/sites/devco/files/european-consensus-on-development-final-20170626_en.pdf

(13) European Agenda on Migration, page 16

(14) Page 48 of the Conclusions, Member States "in their relations with third countries they will take into account those countries' practice in readmitting their own nationals when expelled from the territories of the Member States"

Its content can be analysed from several perspectives,[15] but what interests us is the idea of "good neighbours:" the so-called "third countries" that must sign agreements — such as the 1992 agreement between Morocco and Spain[16] or the 2016 EU-Turkey statement[17] — with the EU or its Member States working on stemming migration — as countries of origin, transit or return — by combating "irregular" pathways used by people on the move, integrating migrants and asylum seekers so they do not continue towards Europe, and readmitting and reintegrating[18] them, when forcibly or "voluntary" returned from the EU. This approach is present in the European Neighbourhood Policy (ENP), whose priorities for cooperation with third countries[19] match those already mentioned: good governance, rule of law and human rights; the link between economic development and stabilisation; the security dimension and migration and mobility.[20] Additionally, the ENP rewards the "good neighbours" with the "more for more" principle[21] where additional reform efforts by partner countries are rewarded with additional support from the EU.

There is more content in the documents presented, but we prioritised these three main points as we believe they show the parallel definition of the internal and external dimensions of the EU migration policy — and its externalisation — and, generally, of EU external actions, where there is a continuity since its beginning until today: in 2019 the priorities are the same.[22]

## Acceleration of EU migration policy: externalisation and its consequences

The European Agenda on Migration (EAM) is a milestone in European migration policy. The EAM is a reaction by EU institutions to the increased number of refugees and migrants arriving in Europe in 2015. The EAM intends to define a comprehensive management strategy for all aspects of migration.[23] In this section, we will address some of the instruments under the EAM that further propel externalisation.

For instance, in November 2015 (six months after the EAM) leaders from Africa and the EU adopted, in the Valletta Summit, a Political Declaration and an Action Plan.[24] This Plan outlined five domains of cooperation that aligned with the EAM and previous migration instruments: fight root causes and develop benefits of migration, promote regular migration, reinforce asylum, fight against trafficking and smuggling, and facilitate return and reintegration.[25]

At the same time, the EU launched the EU Emergency Trust Fund for Africa (EUTF), which is the main financial instrument for the EU's political engagement with African partners related to migration.[26] Introduced as an "innovative tool allowing for a more flexible response to the challenges posed by irregular migration," it seeks to strengthen the capacities of third countries in areas such as: migration, border management and the stabilisation and development of target regions (Sahel, North Africa and Horn of Africa).

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(15) Including the use of the concept of "illegal" migration or migrants along EU migration policy documents

(16) Agreement between Spain and Morocco regarding the movement of persons, transit and the readmission of illegally entered foreigners, at https://www.boe.es/boe/dias/1992/04/25/pdfs/A13969-13970.pdf (in Spanish)

(17) At https://www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement, and more detailed information at http://www.europarl.europa.eu/legislative-train/theme-towards-a-new-policy-on-migration/file-eu-turkey-statement-action-plan

(18) European Council (2017). The New European Consensus on Development. 'Our world, our dignity, our future', at https://ec.europa.eu/europeaid/sites/devco/files/european-consensus-on-development-final-20170626_en.pdf

(19) European Commission (2015). Review of the European Neighbourhood Policy, at https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/neighbourhood/pdf/key-<documents/151118_joint-communication_review-of-the-enp_en.pdf (This link no longer works)

(20) Ibid. The priority on migration and mobility include, amongst others, elements such as 1) cooperation on root causes; 2) collaboration on returns, readmissions and reintegration; 3) enhanced support for those receiving and assisting refugees, and 4) identification of skills gaps in EU to facilitate mutually beneficial legal migration).

(21) At https://eeas.europa.eu/diplomatic-network/northern-dimension/330/european-neighbourhood-policy-enp_en

(22) European Commission (2019) EU report on Policy Coherence for Development, page 24: "The Commission's work [on migration and development] focuses on the following issues: 1) addressing the drivers/root causes of irregular migration and forced displacement; 2) enhancing partners' capacities for improved migration and refugee management; 3) maximising the development impact of migration". Available at https://ec.europa.eu/europeaid/sites/devco/files/swd_2019_20_pcdreport.pdf

(23) CONCORD (2018). Partnership or conditionality. Monitoring the Migration Compacts and EU Trust Fund for Africa. Available at https://concordeurope.org/wp-content/uploads/2018/01/CONCORD_EUTrustFundReport_2018_online.pdf

(24) Valletta Summit Political Declaration, at https://www.consilium.europa.eu/media/21841/political_decl_en.pdf Valletta Summit Action Plan, at https://www.consilium.europa.eu/media/21839/action_plan_en.pdf

(25) Ibid.

(26) CONCORD (2018), op. cit.

At the same time, in June 2016, the New Partnership Framework was adopted. The idea was to combine instruments and tools from the EU and its Member States to make compacts with third countries to better manage migration.[27] For each partner country this leads to the development of both positive and negative incentives; as development cooperation and trade become dependent on the country's cooperation on migration management, rewarding those willing to cooperate, and ensuring there are consequences for those not cooperating.[28] This instrument, which started with a few priority origin and transit countries — including Mali, Nigeria, Niger, Senegal and Ethiopia — is a step further toward the externalisation of EU migration policy[29] using outsourcing protection responsibilities to a third country in exchange for EU aid.[30]

Several stakeholders analysed the impact of these migration-related instruments on human rights. We will use the classification made by the Transnational Institute (TNI)[31] to present relevant key findings, using examples from the Niger situation[32] to illustrate:

A. Increasing the danger along migratory routes. In the EU agreements with third countries, "management" of migration means that third countries have to stem "irregular movements," implying increased border control and possible prosecution of those movements. But closure of the routes does not stop people on the move. In general, this leads them to use more dangerous routes and means, like relying on smugglers to help cross borders. So, the EU agreements contribute to increasing, not ending, smuggling33.

At the same time, as the risk increases, border guards ask for higher bribes and smugglers charge more, and often expose travellers to more perils too,34 such as using alternative desert routes far from human settlements where fixing broken transportations is impossible or where travellers will be abandoned in the middle of nowhere. Because of this, the Sahara Desert is the largest land-graveyard in the world; it is impossible to know how many people on the move have died there.

Furthermore, the control of movements interferes with existing legal frameworks such as the ECOWAS (Economic Community of West African States) Protocol on freedom of movement:35 for instance, natives of West African countries who use the Nigerien route are stopped in Agadez, in the Sahara, to impede their movement towards Libya,36 being limited in their movements inside the ECOWAS zone.

B. Fueling human rights abuses outside Europe. The agreements impact the democratic processes of some countries. One example is the active influence from representatives of the EU and its Member States to the ongoing definition of the Nigerien National Migration Strategy[37] and their pressure on Niger to create a law to criminalise smuggling.[38] EU intervention also generates zones of detention, increases militarisation of borders and the criminalisation of migratory acts.

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(27) European Commission (2016). Communication on establishing a new Partnership Framework with third countries under the European Agenda on Migration. Available at https://eur-lex.europa.eu/resource.html?uri=cellar:763f0d11-2d86-11e6-b497-01aa75ed71a1.0001.02/DOC_1&format=PDF

(28) CONCORD (2017). The Impact of EU Policies in the World. Seeing the bigger picture. Available at https://concordeurope.org/wp-content/uploads/2017/11/IAPaper_full_nov17_2p.pdf

(29) CONCORD (2018), op. cit.

(30) CONCORD (2016). Sustainable Development-The Stakes could not be higher, at https://concordeurope.org/wp-content/uploads/2016/11/SustainableDevelopment_publication_2016_web.pdf

(31) TNI (2018). Expanding the fortress. The policies, the profiteers and the people shaped by EU's border externalisation programme, available at https://www.tni.org/files/publication-downloads/expanding_the_fortress_-_1.6_may_11.pdf

(32) Niger is one of the priority countries of the Partnership Framework and hosts many projects financed from the Emergency Trust Fund for Africa, being considered as one of the best pupils and ally by the EU in the region, its case is analysed as the most advanced laboratory of externalisation (ARCI 2018, op. cit.), where remains to be seen the mid and long-term real consequences of the current deployment of funds, equipment, people and security by the EU and its Member States, over human rights, sustainable development, democracy and stability.

(33) Ibid., page 35

(34) Ibid., page 34

(35) ECOWAS (1979). Protocol A/P.1/5/79 relating to free movement of persons, residence and establishment, at http://documentation.ecowas.int/download/en/legal_documents/protocols/PROTOCOL%20RELATING%20TO%20%20FREE%20MOVEMENT%20OF%20PERSONS.pdf

(36) Interview to Tcherno Hamadou Boulama, Program's Director at Alternative Espaces Citoyens, Niger. Dated April 4, 2019. Available at https://www.youtube.com/watch?v=8NzbrUVnc74&feature=youtu.be (in French)

(37) Information from an interview the author maintained with the Director of a Member State Development Agency in Niamey, Niger. December 2016

(38) Republic of Niger (2015). Law 2015-36 on illicit migrant smuggling, available at https://sherloc.unodc.org/res/cld/document/ner/2015/loi_relative_au_trafic_illicite_de_migrants_html/Loi_N2015-36_relative_au_trafic_illicite_de_migrants.pdf (in French). The implementation of this law in a region like Agadez in Niger has led, among others, to the control by authorities of key points specific to traditional migratory routes, such as oasis and other points of supply, boosting the use of much more insecure routes by travellers and smugglers.

Additionally, it contributes to both public and private actors repressing and abusing migrant people.[39]

C. Supporting dictatorships and repression. Most of the countries prioritised by the EU in its efforts to externalise border management have authoritarian regimes, and are known for human rights violations.40 Through the agreements, the EU legitimises and strengthens those governments through funding, training and equipment.41 The institutions mandated with security and with migration portfolios (Internal Affairs), double their capacity for repression of third country nationals and their own citizens, which increases human rights abuses42 and perpetuates the cycle of violence that cause people to flee.43 For example, the EU Capacity Building Mission in Niger (EUCAP Sahel Niger), provides training and advising activities to the Nigerian enforcement authorities, notably in migration management and the fight against human trafficking and smuggling.

This means that despite the continuous references to human rights protections in the EU migration instruments, the agreements create more opportunities for human rights violations in the third countries who negotiate with the EU and its Member States.

D. Undermining development and stability. Many countries that are targets of EU border externalisation policies deal with fragile internal security and stability. The EU's one-sided approach of focusing on stopping migration shows a disregard for the consequences this may have on other countries and the region.44

Agadez, in Niger, illustrates the impact of EU policies on the local economy: after 2011 Niger rapidly declined as an international tourist destination, now, the main source of income for its inhabitants is obtained from migration.45 The current EU-Niger agreement undermines this migration-based economy and, according to Nigerien civil society, this results in huge losses of money, higher than what Niger expects to receive to curb migration in Agadez.46 The previous beneficiaries from these sources are either forced underground to criminal networks or resort to violence to keep profits flowing,47 which impacts the fragile existing stability with the Tuareg population in the region.

E. Diversion of development funds. The EUTF implies a disregard of the Lisbon Treaty, which states the primary objective of EU development cooperation is poverty eradication.48 The EUTF answers solely to EU priorities and "emergencies," diverting money from development to security projects, which are not directed to the poorest of the poor (who should be the main beneficiaries), since they are not able to migrate.49

F. Eurocentrism, opacity and neo-colonialism. The agreements answer exclusively to the EU priorities — including economic and energy interests[50] — and African countries are not part of the EUTF system of governance.[51]

On the other hand, the Permanent Peoples' Tribunal (PPT),[52] states that migration policies are often adopted at European and national levels "using instruments of so-called 'soft-law' which are not subject to the jurisdiction of the courts, nor of public debate."[53] The agreements,

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(39) TNI (2018), op. cit.
(40) ARCI (2018). The dangerous link between migration, development and security for the externalisation of borders in Africa, available at https://www.arci.it/app/uploads/2018/07/report-frontiere-2018-english-.pdf
(41) TNI (2018), op. cit.
(42) ARCI (2018), op. cit.
(43) TNI (2018), op. cit.
(44) Ibid.
(45) "Smugglers and transport companies, but also local restaurants hotels and traders benefit both from new customers and a large reservoir of cheap temporary labour" (CONCORD, 2018, op. cit., page 26)
(46) Interview to Tcherno Hamadou Boulama, Program's Director at Alternative Espaces Citoyens, Niger. Dated April 4, 2019. Available at https://www.youtube.com/watch?v=8NzbrUVnc74&feature=youtu.be (in French)
(47) TNI (2018), op. cit. This has also created a coexistence between to flows of people on the move, northbound and southbound, "invisible and criminalised the former, systematic and organised the latter" (ARCI 2018, op. cit.)
(48) Treaty of Lisbon, available at http://publications.europa.eu/resource/cellar/688a7a98-3110-4ffe-a6b3-8972d8445325.0007.01/DOC_19
(49) CONCORD (2018), op. cit. And TNI (2018), op. cit
(50) The website of EUCAP Sahel Niger (https://eeas.europa.eu/csdp-missions-operations/eucap-sahel-niger/3875/about-eucap-sahel-niger_en) recognises the energy security as an European interest in the region
(51) CONCORD (2018), op. cit.
(52) The 45th Session of the PPT on the violation of human rights of migrants and refugee people started in 2017 with the aim to identify and judge the chain of co-responsibility in these violations experienced throughout the migratory journey and to promote mechanisms for access to justice. At http://transnationalmigrantplatform.net/migrantppt
(53) TPP (2017). Palermo Hearing Judgement, available at https://transnationalmigrantplatform.net/migrantppt/wp-content/uploads/2018/09/PPT_Palermo2017_ENG.pdf

partnerships, declarations, memoranda of understandings,[54] etc. are usually established in an "informal" manner and are not made public nor subjected to voting or scrutiny by parliaments (third county nationals or Europeans). They are far from transparent and traceable systems and "characterised by opacity, informality, secrecy and sometimes arbitrariness".[55]

Finally, the opacity and the eurocentrism behind the EU's migration policy, together with reward dynamics for the good neighbours are part of the continuity of neo-colonialism in the region, solidifying unequal relationship between the continents.[56]

## Conclusions and recommendations

The ensemble of documents that constitute the EU's migration strategy go beyond the ones presented in this article;[57] here we tried to present the key elements that constitute the EU's external agenda on migration. In our opinion, it is possible to observe a maintained policy coherence between the different instruments, but not a Policy Coherence for Sustainable Development (PCSD). Considering the evolution of strategy, it seems difficult to envisage a change of procedures capable of ensuring full respect of human rights and promoting sustainable development of the third countries impacted by the EU migration policy.

But this change is needed. It is not acceptable that the EU's migration policy facilitates human rights violations through opaque agreements made through democratically dubious mechanisms, despite third counties interests, far from European scrutiny and which contribute to policies and actions the EU repeatedly wanting to protect.

To ensure full respect for human rights we believe it is essential to establish accountability mechanisms, in those agreements and any EU migration instrument. It is also necessary to establish consequences for human rights violation, to end the impunity for those committing egregious crimes on a daily basis. For instance, The PPT has presented different proposals, like applying "system" crimes, where the EU would be responsible "for activating a global policy to fight illegal migration and impose omissive behaviour for border controls to keep migrants far from European borders."[58]

Finally, in December 2018 the European Consensus on Development established a link with EU migration policy, the SDG target 10.7[59] and the Global compact for safe, orderly, and regular migration[60]. Making this a reality would require establishing the mechanisms to ensure European migration instruments contribute to PCSD and, among others that development allocation is not linked to the EU's domestic political agenda concerning migration deterrence or security.

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(54) Very paradigmatic is the Memorandum of understanding on development cooperation, combating illegal immigration, human trafficking, smuggling and reinforcing border security signed in 2017 between the Libya State and the Italian Republic, at http://www.governo.it/sites/governo.it/files/Libia.pdf (in Italian)

(55) TPP (2017), op. cit.

(56) TNI (2018), op. cit.

(57) Such as the Rabat (https://www.rabat-process.org) and Khartoum Processes (https://www.khartoumprocess.net), the European External Investment Plan (https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016DC0581&from=EN), or the ACP-EU Partnership Agreement (https://ec.europa.eu/europeaid/regions/african-caribbean-and-pacific-acp-region/cotonou-agreement_en)

(58) TPP (2017). Palermo, op. cit.

(59) The target 10.7 aims "to facilitate orderly, safe and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies"

(60) https://refugeesmigrants.un.org/sites/default/files/180711_final_draft_0.pdf

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