

INSIGHT

Will the Inclusion of Voluntary Standards in Trade Agreements Lead to More Sustainable Trade?

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The use of voluntary sustainability standards (VSSs) in free trade agreements (FTAs) is gaining traction. Will it lead to more sustainable forms of production and consumption globally? The outlook is promising, as long as potential pitfalls can be overcome.

What Are VSSs?

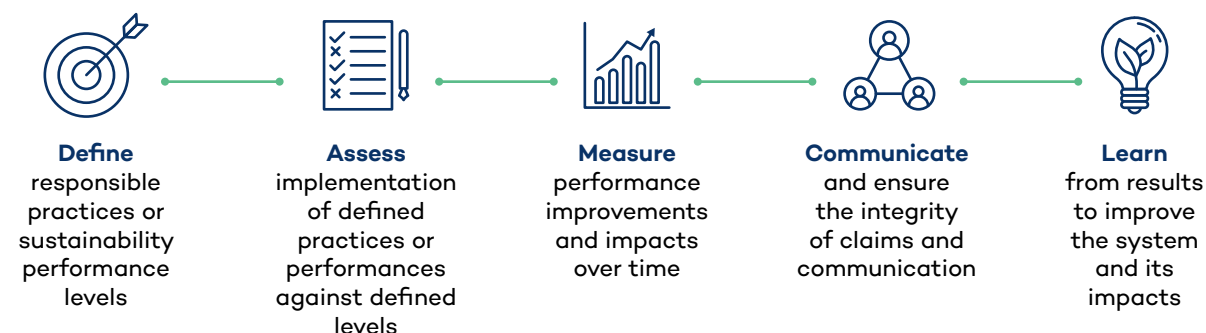
VSSs are sustainability systems designed to help producers and other economic actors achieve sustainable development outcomes (ISEAL, n.d.). These systems are comprised of several measures, including sustainability requirements, processes to ensure these requirements are respected, and capacity building and supporting services, such as training and impact monitoring.

VSSs are considered market-based tools that “prescribe a set of social, economic and/or environmental requirements that economic actors can voluntarily comply with to make their production and processing practices more sustainable” (United Nations Conference on Trade and Development, 2023). These requirements include respect for basic human rights, worker health and safety, and the protection of natural resources and the environment, among others. In exchange for compliance with these requirements, VSS-compliant products obtain formal recognition in the marketplace.

Trade-relevant VSSs operate in different sectors, such as agriculture, textiles, mining, processed foods, and consumer products, and across different stages of the value chain, from production and extraction to retail and consumption. VSSs were developed to meet market demands for more sustainable products and services and have expanded significantly around the globe in recent decades, both in number and in market share.



Figure 1. The core elements of a sustainability system



Source: Adapted from ISEAL, n.d.

Over the past decade, governments in both producing and consuming countries have increasingly incorporated VSSs into trade policy instruments to address environmental, social, and economic concerns in commodity production and trade (Bermúdez, 2021). One way governments have integrated VSSs into trade policy is by referencing them in FTAs to advance sustainability-related goals.

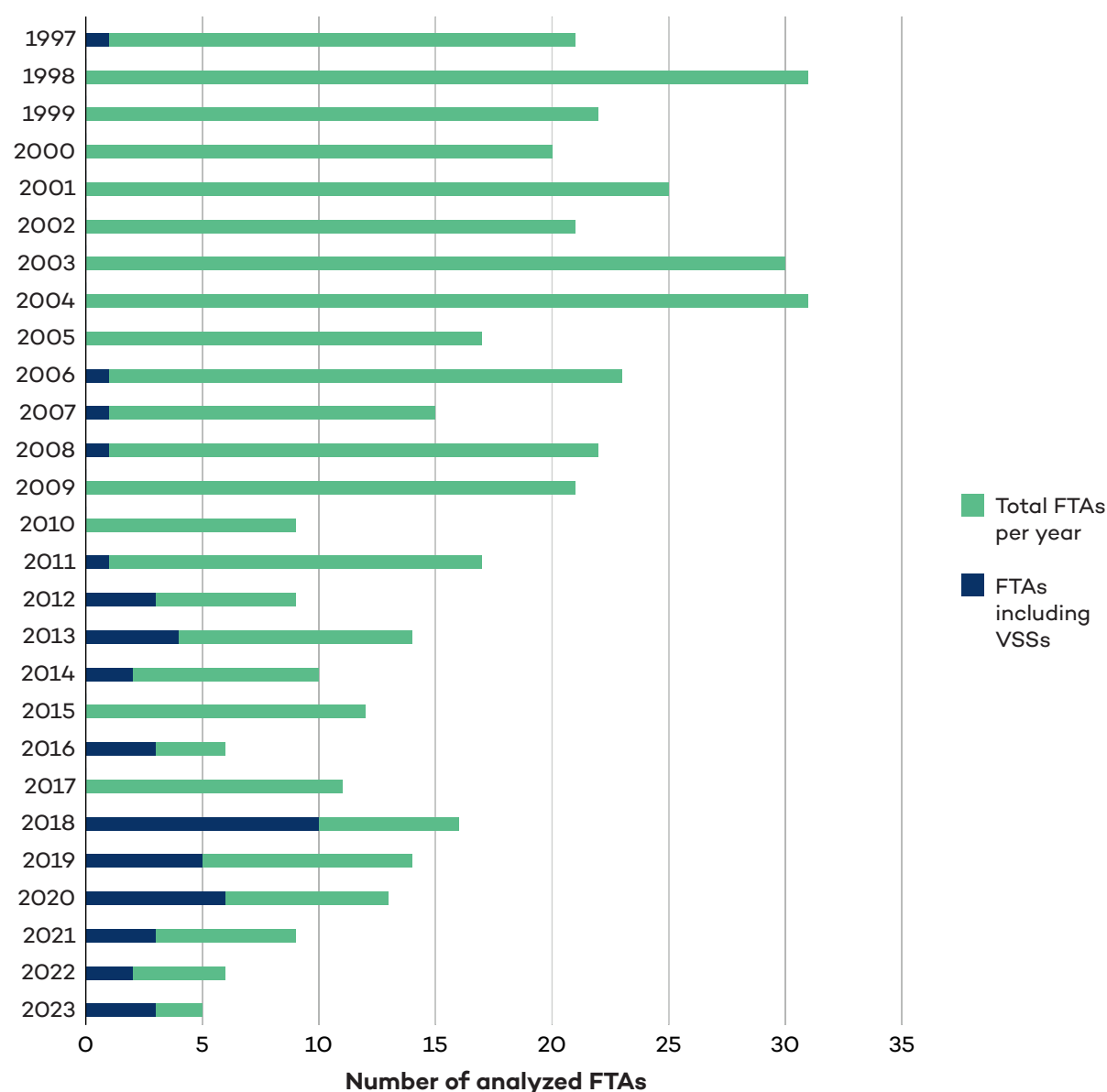
How Many FTAs Reference VSSs?

Our analysis shows that references to VSSs in FTAs have increased substantially in the past 5 years (see Figure 2). Our research suggests that before 2018, there were only 17 FTAs referring to VSSs. Fast forward to 2023, and almost half of the new agreements analyzed—29 out of 61 concluded between 2018 and 2023—referred to VSSs in some way. This peaked in 2018, with 60% of the analyzed treaties including a reference to VSSs that year (see Figure 2).

Since references to VSSs are usually found in chapters dedicated to the environment or to trade and sustainable development (TSD), this significant increase can be explained by growth in the inclusion of such chapters in FTAs, as well as environmental and social provisions, more generally. Notably, many of the signed treaties that reference, recognize, or use VSSs are those concluded by the European Union (EU) and European Free Trade Association (EFTA) countries, which have model provisions on trade and sustainable development. It could also be a consequence of Brexit, which meant the United Kingdom had to negotiate new FTAs incorporating TSD chapters in their new agreements.



Figure 2. The number of analyzed FTAs that include a reference to, recognize, or use VSSs since 1997



Source: Authors' elaboration based on data from the Design of Trade Agreements Database, 2024; United Nations Forum on Sustainability Standards, 2020.

How Are VSSs Referenced in FTAs?

References to VSSs vary in these instruments, both in terms of terminology and intention. Our analysis found up to 37 variations in the terminology employed. To illustrate, VSSs are referenced as eco-labelling/labelling schemes, fair and ethical trade schemes, incentive-based mechanisms, and certification schemes, among other terms.

Regarding the intentions behind adding VSSs to FTAs, we identified five common types of rationale, relating to cooperation, promotion, recognition, guidelines, and support.



COOPERATION

Parties may agree to cooperate on VSSs, sometimes through the exchange of information or simply by listing them as an area for cooperation. For example, article 16.12, included in the TSD chapter of the 2020 United Kingdom–Japan Comprehensive Economic Partnership Agreement (CEPA), states that the parties may “cooperate on labelling schemes, including through the exchange of information on eco-labels, as well as other measures and initiatives that contribute to sustainability, including as appropriate fair and ethical trade schemes.”

PROMOTION

Parties may state that they will facilitate and promote trade in sustainable products, including those that are certified. For example, article 19.11 in the TSD chapter of the 2023 EU–New Zealand FTA states that “each Party shall promote and facilitate trade and investment in: ... goods subject to transparent, factual, and non-misleading sustainability assurance schemes such as fair and ethical trade schemes and ecolabels.”

RECOGNITION

Parties may recognize that VSSs can contribute to the achievement and maintenance of a high level of environmental protection. For instance, article 12.10 in the environment chapter of the 2021 Chile–Paraguay FTA states that the parties acknowledge that “flexible and voluntary mechanisms, such as voluntary national audits and reports, market-based incentives, voluntary exchange of information and expertise, among others, can contribute to the achievement and maintenance of high levels of environmental protection and complement national regulatory measures.”

GUIDELINES

Parties may agree to encourage private sector entities to develop credible voluntary mechanisms that promote sustainability. For example, article 17.9 in the environment chapter of the 2020 Chile–Ecuador Economic Complementarity Agreement states that parties should encourage private sector or non-governmental organizations that develop such mechanisms to ensure they are “truthful, not misleading and take into account scientific and technical information” and “are based on relevant international standards, guidelines or recommendations, and best practices.”

SUPPORT

Finally, VSSs may be used to support the implementation of an FTA. The only case of such use is by Switzerland under the EFTA–Indonesia CEPA (Larrea et al., 2021). Under Chapter 8, articles 8.10(2):a and 8.10(2):e, the agreement requires that “all vegetable oils and their derivatives traded between the parties” be traded in accordance with the “laws, policies and practices aiming at protecting primary forests, peatlands, and related ecosystems, halting deforestation, peat drainage and fire clearing in land preparation, reducing air and water pollution, and respecting rights of local and indigenous communities and workers.” In the implementation of this article, Switzerland’s domestic legislation requires that imported



Indonesian palm oil and palm oil derivatives benefit from preferential tariff treatment if they comply with one of the following VSSs:

- Roundtable on Sustainable Palm Oil certification (RSPO)
- International Sustainability and Carbon Certification (ISCC Plus)
- Palm Oil Innovation Group (POIG)

What Issues Need To Be Addressed?

The growing reference, recognition, and utilization of VSSs in FTAs presents challenges that require attention. Building upon our analysis, we identified five issues related to the recognition of VSSs in FTAs that need to be addressed to maximize their benefits:

- **Ambiguity regarding the terminology employed, and hence concerning the scope of the provisions:** The diversity in how VSSs are referenced in FTAs—regarding the terminology used—could result in a lack of clarity about the scope of such provisions. Establishing standardized definitions or advocating for universally accepted terms, such as “sustainability standards or schemes” that could be used to reference, recognize, and use VSSs in FTAs, could help address this issue in future agreements.
- **A lack of enforcement mechanisms in the provisions:** According to our analysis, provisions that refer to VSSs in FTAs are primarily promotional and vague, and they often lack enforceable requirements for their implementation. Consequently, the lack of an enforcement mechanism may limit the implementation of such provisions and can hinder both their potential impacts and the possibility of assessing their effects. As such, we did not find information on how the provisions played out in practice after the conclusion of the FTA. Moreover, the limited enforceability may be related to the fact that most of the VSSs referred to in the provisions are private standards, not public standards.
- **The potential for VSSs to become barriers to trade:** While VSSs are voluntary in nature, their increased use and references in FTAs can make them a “de facto requirement for market access,” posing challenges for producers and small and medium-sized enterprises, particularly in developing countries (United Nations Forum on Sustainability Standards [UNFSS], 2018). Careful consideration is necessary when referencing and using VSSs in trade agreements to promote sustainable trade so that VSSs do not become market barriers. This approach could be accomplished by including provisions about the preference of using standards systems that have mechanisms in place to facilitate compliance by small-scale producers, such as specific schemes tailored to their needs, or those that implement measures that can help small-scale producers comply with the requirements (i.e., training opportunities, supporting services, access to funds, or promoting long-term contracts with traders).
- **Multilateral governance, minimum requirements, and guidelines for the use of VSSs in trade policy:** As VSSs are increasingly referenced and used in FTAs, some argue that they should be subject to multilateral regulation in the same way that mandatory product standards are, which opens up a debate regarding their relationship to existing World Trade Organization rules (UNFSS, 2018). On the other hand, some



argue that if they are designed in a non-discriminatory and proportional way, the mandatory use of VSSs in FTAs would pass World Trade Organization scrutiny (Bürgi Bonanomi & Tribaldos, 2021). Moreover, the increasing use of and reference to VSSs in FTAs begs the question of whether governments would find it useful to develop a set of minimum requirements that standards need to meet to be formally used in trade policy (related to VSS design, considering transparency and credibility, among others), as well as guidelines on how to specifically integrate them and use them in trade policy.

- **The credibility of VSSs as a tool to advance sustainable trade:** Referencing and using VSSs in FTAs does not automatically ensure their credibility or effectiveness in achieving positive, sustainable outcomes, as each of these tools differs in its goals, design, criteria, assurance systems, and impact monitoring approaches. Distinguishing between credible and non-credible VSSs and providing guidance to assess their reliability and credibility are crucial to avoiding the promotion of less robust schemes, which could undermine the intended goals of including them in FTAs. Some tools, such as the ISEAL Credibility Principles (ISEAL, 2024) or the ISO 14000 family of standards on promoting effective management systems in organizations, could be used for those purposes.¹ Trade policy officials looking to develop guidelines could also use them to identify and assess VSSs whose systems are more credible and effective in achieving their intended outcomes.

What Benefits Emerge From Integrating VSSs into FTAs?

Including VSS in FTAs can open new opportunities for advancing sustainable trade while enhancing the collaboration between policy-makers and VSS organizations. We identified three main benefits of such inclusion:

- **VSSs can act as supporting tools for fostering sustainable trade:** As VSSs continue to grow in the marketplace, they can be viewed as a complementary mechanism for reinforcing public regulations (United Nations Conference on Trade and Development, 2022). VSSs can play a pivotal role in supporting public policy by identifying sustainability targets to be addressed, providing evidence for progressive policy measures, and catalyzing the development of innovative public policies and regulations (Potts et al., 2018). In this context, the integration of VSSs into FTAs can support economic actors complying with more sustainable requirements in sectors such as forestry, metals/minerals/mining, fisheries, agriculture, tourism, and others where significant social and environmental sustainability issues exist in the supply chain. This is not limited to FTAs—for example, there are also discussions about how VSSs could support the implementation of upcoming due diligence and claims regulations (ISEAL Alliance, 2019). Moreover, VSSs can have a trade-enhancing effect and strengthen trade relations between low- and high-income countries (Bemelmans & Maertens, 2023).

¹ See more on the *ISEAL Credibility Principles* here: <https://www.isealalliance.org/defining-credible-practice/iseal-credibility-principles> and the ISO 14000: Environmental management standard here: <https://www.iso.org/standards/popular/iso-14000-family>



- **Referencing VSSs in FTAs drives innovative approaches in trade policy:** For instance, in the case of the EFTA–Indonesia CEPA, VSSs are being used for the first time to qualify palm oil products that meet certain sustainability requirements for preferential tariff treatment (Larrea et al., 2021). This innovative mechanism has the potential to set a new trend in trade and sustainability policy, as it establishes binding and enforceable sustainability preferences in trade agreements. This practice could establish a regulatory precedent to develop tariff preferences for products that meet specific sustainability criteria, which may include but are not limited to compliance with credible VSSs.
- **Greater cooperation between policy-makers and VSS organizations can improve the design of VSSs and strengthen how they are implemented:** The inclusion of VSSs in FTAs as an area for cooperation can present an opportunity to promote the exchange of information between policy-makers and VSSs organizations to foster transparency and mutual understanding in VSSs design and implementation (see, for instance, the EU–Korea FTA). Governments can play a catalytic role in addressing common sustainability challenges, sharing best practices, and developing harmonized approaches (including with VSSs) to sustainable trade. This approach could help to address the credibility of VSSs as a tool to promote sustainable trade, as this cooperation can contribute to improving VSS design and operational effectiveness and credibility.

Conclusion

The increasing number of VSS references in FTAs over recent years has taken place within a broader trend to better address environmental and social concerns in trade policy. By referencing VSSs in FTAs, governments are recognizing the role that VSSs can play in bolstering more sustainable trade practices.

The use of VSSs and their integration into trade policy show great potential to drive more sustainable trade practices. VSS organizations bring together a wide array of actors, such as civil society groups, private bodies, and, in some cases, public actors, with the goal of generating sustainable development benefits through trade relations. In this respect, VSS organizations offer valuable on-the-ground experience in supporting producers and communities in transitioning to more sustainable and inclusive practices. Moreover, VSS organizations can provide or link technical and financial support to farmers and small businesses in developing countries to increase their capacity to improve the sustainability of their production methods so they can comply with sustainability-related criteria and market access requirements.

However, it should be noted that the impact of VSSs' inclusion in FTAs remains somewhat uncertain, and it is too early to determine whether the growing inclusion of VSSs in FTAs will lead to more sustainable trade among the parties. Further evidence and a deeper level of analysis are required to better understand how these provisions referencing, recognizing, and using VSSs are implemented in practice, as well as their concrete effects on the ground. Analysis is also required to determine how VSS integration into trade policy measures up in terms of, for instance, addressing a set of specific environmental and social issues in key value chains.



This trend also indicates the potential for increased collaboration between policy-makers and VSSs organizations to enhance the understanding, development, and integration of these tools into trade policy. To promote this collaboration, sectoral dialogues could be conducted to better understand and tackle sustainability challenges in specific sectors, like cocoa, palm oil, timber, and soybeans, among others. Such dialogues could potentially draw from the experiences of VSSs in addressing sustainability issues within each sector and inform the design of trade policy measures. Moreover, the need for credibility principles in the selection of VSSs and the diverse terminology used to reference them in FTAs presents an opportunity for policy-makers and VSS organizations to engage in discussions and better frame how VSSs can be effectively incorporated into FTAs by defining the scope and enforcement requirements of such provisions more clearly.

In sum, this trend of including provisions in FTAs that reference, recognize, or use VSSs provides an opportunity to strengthen VSSs, increase our understanding of them, address their shortcomings, and distinguish credible systems from low-performing ones. At the same time, this trend provides an opportunity to integrate existing VSS knowledge and practices into the development and implementation of FTAs to address critical sustainability issues.

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