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TRADE, SOCIETIES AND SUSTAINABLE DEVELOPMENT SUSTRA NETWORK

Sustainability Impact Assessment

Policy Brief Paper

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INTRODUCTION

The adoption of sustainability impact assessment (SIA)[1] by the European Commission in 1999 marked a turning point in international trade negotiations, as questions of trade, environment and sustainable development were explicitly linked. More specifically, it symbolised the effort made by the European Union (EU) to mainstream social and environmental concerns into trade policy as required by the Agenda 21 and the Rio declaration. In doing so, the EU was particularly concerned with (a) developing and implementing an assessment methodology which would ensure that trade agreements are sustainable; (b) promoting the positive effects of trade agreements while minimizing their negative consequences; and (c) promoting greater consistency in international trade rules governing sustainability (e.g. precaution, labelling, etc.).[2]

Outside the EU, however, SIA has been much slower to gain currency[3]. A handful of international organizations, including UNEP[4] and OECD[5], are now using different forms of sustainability impact assessment. But efforts by the EU to promote the use of SIA through the World Trade Organization (WTO) have stalled in the face of reluctance from the developing world and in light of the rigid decision-making structure of the WTO, which does not facilitate the integration of trade and environment issues (despite the work programme conducted since 1995 by the WTO Committee on Trade and Environment). The use of SIA in the WTO thus remains limited to voluntary measures undertaken at the discretion of national governments.

At the same time, considerable doubt has been expressed regarding the EU's motives to link questions of trade and environment, with many developing countries fearing that SIA may simply represent an attempt by the EU to justify and institutionalise already-established policies and raise non-tariff barriers to developing country exports. Most developing countries have therefore been hesitant to adopt SIA, choosing to wait and see how the assessment mechanism develops before committing to it and, in the meantime, focusing their attention on matters of more immediate concern. Consequently, the EU continues to face an uphill battle to encourage its trading partners to adopt and take ownership of SIA.

SIA IN THEORY AND PRACTICE

SIA is intended to provide *ex ante* assessment of policy proposals to help inform and guide decision making rather than simple *ex post* policy evaluation. As conceived by the Commission, SIA differs from traditional policy assessment practices in two important ways. First, SIA is intended to consider the broad social, environmental and economic impact of policies. In this way, SIA expands the traditional sectoral analyses by providing an integrated assessment procedure. Second, because of its proactive and comprehensive assessment capacities, SIA is designed to move beyond the simple identification of potential negative consequences of particular policies, and instead promotes the articulation and development of policy alternatives and supportive accompanying measures, which seek to emphasize and promote policy benefits while mitigating potential negative impacts.

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Despite its lofty goals, however, the use of SIA is the focus of sharp criticism. Based on the experience of the completed projects, the WWF, for example, argues that the SIA mechanism has suffered from poor timing, poor coordination between researchers and negotiators, and limited civil society participation.[6] The Commission has addressed many of these early criticisms by beginning assessment earlier in trade discussions, promoting closer ties between researchers and negotiators, and expanding opportunities for stakeholder input.[7]

Yet new limitations have emerged. Increasing concerns are raised regarding the appropriate level of analysis. SIA must rely both on quantitative and qualitative data to secure the widest possible credibility and acceptance. Further, while micro level studies for all variables and cases might be desirable, such a research program would certainly prove too costly and unwieldy. Therefore, the integrated use of selected case studies to supplement broad, macro-level analysis appears to offer the best possible avenue for future assessment programs.

More generally, the question of how SIA fits into the broader policy framework needs to be more closely considered. Should SIA be used as a *policy tool* to evaluate particular policy proposals? Or should it be viewed more broadly, as a *consultative process* through which proposals are designed, evaluated, negotiated, and ultimately, accepted or rejected? In short, is SIA a tool or a process? Early efforts to develop SIA clearly articulated impact assessment as a policy tool. Trade negotiators were hesitant to accept input and advice which might limit or restrict negotiating strategies. However, in recent months, the DG Trade has made it clear that SIA should also be viewed as part of the policy-design process. Assessment cannot end with the final report, but the report is necessary to feed the policy process. Conceiving of SIA as both a process and a product should promote the legitimacy of the endeavor and establishes the foundation for better, more comprehensive stakeholder participation and more credible analysis.

PRACTICAL CONSEQUENCES

Understanding SIA as a policy process is essential not just for the development of better policy but for establishing its utility and effectiveness as well. Indeed, in a review of the assessment procedures used by the Intergovernmental Panel on Climate Change (IPCC), Cash and Clarke observe: “Much about what makes some assessments more effective than others seems to be associated with the *process* by which they are developed, rather than just the *product* itself. In particular, assessments seem to be more usefully viewed as a *social communication process* through which scientists, decision makers, advocates, and the media interact to define relevant questions (while leaving others unasked), mobilize certain kinds of experts and expertise (while leaving others out), and interpret findings in particular ways.”[8] Hereunder we consider the consequence of this shift in the role of SIA on the issues of stakeholder participation, capacity building and learning.

IMPROVING STAKEHOLDER PARTICIPATION

Tradeoffs associated with expanding stakeholder participation suggest that merely increasing the number of participants consulted in the assessment process is insufficient. Alternative frameworks which rely more on rearticulating the role and nature of stakeholder participation offer a more fruitful line of inquiry. According to Cash, the nature of environmental change necessitates linking the global and local levels and therefore requires abandoning the traditional top-down models of assessment.[9] In its place, he advocates the development of distributive assessment, based on networks of researchers and decision makers spanning multiple levels, and integrating research, assessment and decision making processes across those levels through a dynamic, two-way communicative and adaptive process.

This network approach towards stakeholder participation requires further reform on the level of the governance structures. A special attention should be given in this respect both to mechanisms for the generation of local data and to mechanisms to reveal the social preferences (or social demands) of the actors concerned by trade liberalisation. Interesting examples in this direction are governmental incentives for the generation of environmental and social data by private actors themselves[10] or the further development of screening tools revealing collective preferences of the social actors in their evaluation of the impacts of liberalisation, prior to the “in depth” assessment phase[11].

Capacity Building

Participation also requires capacity building. The ability of many countries to undertake SIA remains limited because of weak research capacities. It undermines the strength of the assessment process in the EU, as researchers are forced to rely on data which are less robust than they might otherwise desire.[12] The limited research capacity in many developing countries also restricts their ability to undertake assessment studies independent of the EU's efforts. This reinforces suspicions regarding the EU's motives, and undermines the perceived validity and credibility of SIA in the developing world.

The problem of weak capacity and the necessity of capacity building is highlighted in the IPCC case. Biermann, for example, argues that the acceptance of global environmental assessments by Indian experts was undermined by the lack of cooperation with local researchers. From their perspective, the international assessments undertaken by the IPCC lacked credibility because they (1) failed to account for the particular situation and problems of developing countries; (2) failed to appreciate the specific socio-economic context of developing countries; and (3) failed to address questions of international equity.[13] In addressing these concerns, the IPCC committed itself to improve the research capacity of scientists in the developing world through greater financial support, and to expand opportunities for their participation in assessment and decision-making procedures. This ultimately lent far greater credibility to the IPCC and its assessment process.

Capacity building, therefore, should not be confined merely to efforts to support and promote EU assessments. By establishing an independent research capacity for impact assessment in the developing world, the European Union would accomplish three important objectives. First, it would encourage developing countries to take *ownership* of sustainable development policy. Where the domestic research capacity is sufficient to provide policy input and advice to decision makers, environmental, economic and social policies are more likely to be tailored to specific local conditions and needs. Consequently, commitment to policy should be stronger and policy failure should be less common. Second, supporting the development of local research capacity would enhance the *legitimacy* of SIA by establishing the conditions necessary for consideration of a broader number of frames and worldviews. Third expanded participation would create the opportunity for the emergence and development of alternatives not necessarily considered by European researchers[14]. Through policy dialogues between scientists in the developing world and Europe, new positions not considered unilaterally by either could emerge.

The use of stakeholder participation: from error-correction towards reflexive learning processes

The enrichment of SIA through enhanced stakeholder participation does not automatically imply a learning process which allows integrating the objectives of sustainable development in trade liberalisation. Indeed, both the amelioration of SIA through capacity building and the adjustment process between science and policy within a polycentric network are based on an error-correction mechanism which is oriented to maintaining the stability of the main operational programs (implementing trade liberalisation) and not towards the transformation of the basic (economic, social) beliefs of the actors and institutions. The remaining issue is here one of the organisation of a *reflexive learning process*[15]: in which way the interpretation of SIA by different actors has an effect in turn on the definition of SIA by its main institutional promoters? How can this interpretation process lead to the emergence and transformation of core beliefs around the use of the assessment models?

First of all, reflexive learning should take place in the policy communities involved in SIA. One of the key expectations behind SIA is that SIA generates new possibilities for evolving to win-win situations in the negotiation. However new social possibilities in the negotiation can also arise by better revealing the collective preferences that guide the choices of the different social actors. An evolution of the current paradigm, still very much focused on assessment of tariff measures, is needed to include the issue of revealing collective preferences in the core objectives of SIA studies.

Second, reflexive learning should also take place in the scientific communities themselves. For example, one issue of this learning process is the emergence of a consensus on negotiated standards, which measure the impacts ecological and social

systems can endure. These standards should allow for example to measure the resilience of social and ecological systems, define thresholds of irreversible damage and / or produce ecological footprint data. Current research is already underway in this direction, but further construction of research networks sharing values and causal beliefs is necessary in order for such a common knowledge to emerge.

CONCLUSION

Further research would be necessary to develop SIA as a product itself, and more specifically to enhance its capacity to play a role in international trade discussions and in generating alternative policy options. But, trying to enhance the effectiveness and legitimacy of SIA as a process is perhaps the most challenging points for EU and all stakeholders involved.

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1. Sustainability impact assessment is "a process undertaken during a trade negotiation which seeks to identify economic, social and environmental impacts of the trade agreement. A SIA should help to integrate sustainability into trade policy by informing negotiators of the possible social, environmental and economic consequences of a trade agreement. SIAs should also provide guidelines for the design of possible flanking measures, the sphere of activity which can exceed the commercial field (internal policy, capacity building, international regulation), and which will make it possible to maximize the positive impacts and to reduce any negative impacts of the trade negotiations in question" (Directorate General of Trade. 2003. Sustainability Impact Assessment of Trade Agreements: Making Trade Sustainable? Background paper prepared for the DG Trade Seminar on SIA. Brussels: 6-7 February).
2. DG Trade. 2003. op. cit..
3. For an analysis of sustainability impact assessment in Canada and the United States, see Christine Elwell's Sustainability Impact Assessment of the Earth Summit @ 10: A Canadian Perspective. (Toronto: Canadian Institute for Environmental Law and Policy, 2002). Available online at www.cielap.org.
4. United Nations Environment Programme (UNEP). 2001. Reference Manual for the Integrated Assessment of Trade-Related Policies. Available online at www.unep.ch.
5. Organisation for Economic Co-operation and Development (OECD). 1999. Methodologies for Environmental Assessment of Trade Liberalisation Agreements. Report of the OECD Workshop - 26-27 October
6. WWF. 2002. Changing the Balance of Trade: WWF Briefing on Sustainability Assessment of EU Trade Policy. Available online at www.panda.org/epo/.
7. See, for example, DG Trade. 2002. Trade Policy Dialogue with Civil Society: Sustainable Development and Trade. Available online at www.trade-info.cec.eu.int.
8. Cash, David and William Clark. 2001. "From Science to Policy: Assessing the Assessment Process." John F. Kennedy School of Government, Harvard University Working Paper. Available online:www.environment.harvard.edu/gea/.
9. Cash, David. 2000. "Distributed Assessment Systems: An Emerging Paradigm of Research, Assessment, and Decision Making for Environmental Change." Global Environmental Change. 10(4): 241-44.
10. Cf. Nicola Borregaard & Theresa Bradley, *Towards understanding costs and benefits of trade liberalization - A developing country perspective*, presentation at the OECD Workshop 1999, op. cit.
11. Relying for example on the experience on ex ante screening for social preferences in the field of health impact assessment, cf. for example the program on Health Impact Assessment of the university of Northumbria (UK).
12. With respect to the SIA of the ACP countries, for example, considerable discussion has focused on the lack of data from many African countries on which assessment could be based. Consequently, researchers in the ACP study have been forced to rely more extensively on macro-level data from the World Bank and other international organizations than they initially desired.
13. Biermann, Frank. 2001. "Big Science, Small Impacts—in the South? The Influence of Global Environmental Assessments on Expert Communities in India." Global Environmental Change. (11): 297-309.
14. In perhaps the most well-known example of this type of "counter assessments", Indian scientists responded to a 1990 study by the US Environmental Protection Agency which concluded that India accounted for more than 33 percent of global methane emissions. Indian scientists produced a report which demonstrated that the methodology employed in the US study inaccurately captured the nature of Indian agricultural production, and that the methane emissions from Indian rice production were ten times lower than the conclusions indicated in the US study (Biermann, op. cit.).
15. The notion of reflexivity here refers to the capacity of institutions of governance to anticipate and incorporate challenges into the governance process. It moves beyond simple error-correction and ultimately results in the rearticulation of the preferences and beliefs of actors and institutions along common lines. The concept of reflexivity builds on a critical reading of the work of Ulrich Beck (cf. Beck, U. The Reinvention of Politics: Rethinking Modernity in the Global Social Order, pp. 11-19) and is developed more fully in the context of governance by Jacques Lenoble and Marc Maesschalck (cf Lenoble and Maesschalck, The Action of Norms, Kluwer Law International, 2003).

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