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Sustainable development and the environment in EU and Japanese free trade agreements: embedding anthropocentric narratives

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ABSTRACT

New generation' free trade agreements now include 'Trade and Sustainable Development' (TSD) chapters designed to improve environmental provisions within overall trading arrangements. The wide-ranging European Union (EU)-Japan agreement of 2018 represents the culmination of a trend towards the greater inclusion of such TSD elements, and, as it covers one-third of global GDP, the significance of this agreement for trading relations cannot be understated. Comparing it with other agreements involving Japan and the EU, I argue that greater attention to sustainable development in trade connections, notwithstanding tangible significant environmental improvements, further embeds an anthropocentric narrative of trade-environment linkages and supports a 'win-win' linkage between enhancing economic growth and ensuring environmental protections. Through an eco-centric critique, I seek to challenge the fundamental anthropocentric assumptions underpinning such inclusions and explore the ways in which the language of environmental protection and climate change has been depoliticised by a particular framing of sustainable development.

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KEYWORDS Free trade agreements (FTAs); sustainable development; depoliticise; anthropocentrism; eco-centrism; EU; Japan

Introduction

It seems obvious today that the architects of major trade agreements, which impact on the global economy and on our daily lives, should incorporate environmental clauses as standard. Indeed, in the past two decades, more and more trade agreements have introduced Trade and Sustainable Development (TSD) chapters designed to mitigate the impact of growth strategies on the environment, and the European Union (EU) now includes

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them as an integral part of its trade partnerships. This article analyses the EU's largest recent agreement (the 2018 EU-Japan Economic Partnership Agreement, EPA) and compares it with other agreements involving either the EU or Japan, in order to interrogate the fundamental language and assumptions upon which TSD chapters are based. Thus, the puzzle I aim to address is whether TSD chapters – given their narrative framing – can in fact serve as genuine environmental protection mechanisms or whether they effectively depoliticise concerns about the environment in service to free trade. I conclude that the free trade agreements (FTAs) investigated here promote growth and render secondary environmental concerns, based on the 'cognitive authority' of the anthropocentric texts which underpin them (Kuzemko 2022, p. 176).

This article focuses only on TSD elements, but it is noteworthy that there is important scholarship on biodiversity clauses and agreements linking directly to the Convention on Biological Diversity (CBD, e.g. Petersson and Stoett 2022, Visseren-Hamakers and Kok 2022), whilst other work has focused on specific sectors, including forestry (e.g. Smallwood *et al.* 2023). Trade agreements also refer to relevant Multilateral Environmental Agreements (MEAs) such as the Montreal Protocol on Substances that Deplete the Ozone Layer and the Washington Convention on International Trade in Endangered Species of Wild Fauna and Flora, and the complex interplay of agreements is only just starting to be explored (Limenta 2022). The relevance of the findings of the present article to this wider context will be explored in the Conclusion.

It is worth spending a moment to consider the magnitude of the EPA, which encompasses approximately one-third of global gross domestic product and aims to reduce significantly the mutual trade barriers between Japan and the EU, with the eventual elimination of over 97% of tariffs in each direction (Gilson 2019). Chapter 16 of the EPA is the TSD chapter, which is itself built on earlier templates:

The Parties recognise the contribution of this Agreement to the promotion of sustainable development, of which economic development, social development and environmental protection are mutually reinforcing components. (EPA 2018 Chapter 16.1.2)

The EPA agreement is supported by an accompanying Strategic Partnership Agreement (SPA) which, in relation to environmental concerns, advances political and sectoral cooperation between the two parties and contributes to mutual approaches to climate change and the depletion of natural resources. These agreements acknowledge the ongoing work outside the formal boundaries of the TSD chapter, including the need to encourage adherence to the Copenhagen Accord, to promote greater action on greenhouse gas emissions, to help reform the Clean Development Mechanism, and to support the

establishment of a Reducing Emissions from Deforestation and Forest Degradation (REDD)+ regime. The TSD (16.6) also agrees to pursue the CBD, based on the principles of the Rio agreement in 1992, and Article 17 promotes sustainable forest management, both based on information exchange and coordination within international fora. European Commission President Jean-Claude Juncker lauded the EPA and its TSD as the ‘gold standard’ of labour, safety, climate and consumer protection’ (European Commission 2019). A new monitoring Committee on Trade and Sustainable Development also aims to broaden participation by civil society representatives, although disputes regarding the TSD remain outside the dispute settlement mechanism agreed for the other (trade) elements of the EPA.

This article offers an eco-centric critique of the language of TSD chapters, in order to trace the origins of the privileging of trade over environment and to problematise some of their anthropocentric narratives. Section one reviews the literature on trade and the environment, followed by an overview of an eco-centric alternative for evaluating TSD chapters. The third section charts the history of anthropocentric narratives in relation to climate change and environmental protection within international institutions since the foundational text produced in Stockholm in 1972 and, against this background, sections four and five examine how the environment is represented in the EU-Japan agreement in comparison with other agreements. The conclusion illustrates some of the challenges and consequences of this anthropocentric narrative.

Reviewing trade-environment linkages

A growing body of scholarship examines links between trade agreements and environmental protection, despite the fact that data continues to be difficult to obtain, the impact of environmental clauses on measures of environmental improvement can be hard to prove, and findings can be ‘controversial’ (Morin *et al.* 2018, p. 123). The variety of trade agreements makes assessments inconclusive, and the nature of the impact of environmental clauses depends to a large extent on the level of economic development of the country being evaluated (see Morin *et al.* 2020). Much of the scholarship illustrates particular elements of agreements in areas like CO₂ emissions, particulates and air pollution (Le *et al.* 2016, Zarzoso 2018, Brandi *et al.* 2020), whilst other works examine how agreements can lead to new environmental norms and policies (e.g. Morin and Rochette 2017, Morin and Jinnah 2018), and how growth in green regulation can enhance competition and exports in environmental sectors, particularly in renewables (Brandi *et al.* 2020). Works such as that of Abman *et al.* examine how trade agreement provisions designed to mitigate the impact of trade liberalisation on

deforestation works in practice, by examining the number of provisions on biodiversity and deforestation over time (2021). Scholarship also critiques trade-environment policies by showing, for example, how key issues like carbon trading and fossil fuel subsidies can be ignored (Morin and Jinnah 2018), how enforcement mechanisms are often weak, and why it is problematic that existing agreements are not covered by new pledges (Blot 2023a). Indeed, Wout notes that these omissions provide ‘opportunities to avoid obligations’ (2021, p. 95).

Much of the literature points to differentiated interests and outcomes for different states. Thus, for example, whilst the European Commission published a new Trade and Sustainable Development Action Plan to enhance its commitment to trade-environment linkages (2022a 2022b), the 2020 Regional Comprehensive Economic Partnership (RCEP) agreement contains no dedicated sections on the environment or labour (Limenta 2022). Simultaneously, Asselt points to the potential incompatibility of new agreements with international laws on trade and on climate change (Asselt 2017), and concerns are also voiced that environmental clauses may be applied as a form of protectionism and non-tariff barriers (see Abman *et al.* 2021). And Tian *et al.* voice suspicions that environmental standards and clauses could lead to the relocation of ‘some climate-unfriendly industries or production activities from industrialized ... members to developing countries’ (Tian *et al.* 2022, p. 9). In this regard, due attention needs to be paid to the potential for an increase in trade to exacerbate environmental harms in middle- and lower-income countries (Le *et al.* 2016). Against this background a number of scholars call into question whether TSD chapters are fit for purpose (Binder and Puccio 2017, Harrison *et al.* 2019, Wout 2022, Blot 2023b).

This new and growing literature highlights both the need for and complexity of understanding the trade-offs between growth and environmental protection (Brandi *et al.* 2020). It confirms Morin and Jinnah’s focus on the ‘polycentricity’ of these multiple processes and multiple agents (Morin and Jinnah 2018, p. 541), and recognises the diversity of environmental issues (Limenta 2022, see also Bellmann and van der Ven 2020). However, a gap remains in this literature in terms of questioning the fundamental assumptions underpinning TSD chapters, and it is to this gap which the remainder of this article turns.

Anthropocentrism and FTAs: towards an eco-centric reframing

The term ‘anthropocentrism’ essentially refers to the centrality of the human species on Planet Earth. Although often interpreted along a spectrum, anthropocentric behaviour in the main suggests a strong division between human and natural realms in industrialised societies, which leaves ‘little room for nonmonetized connections to nature’ (Bogert *et al.* 2022, p. 7).

Thus, an anthropocentric focus reduces more-than-human species to a resource used to service human need (Washington *et al.* 2021) and establishes a “hyperseparation” ... between humanity and nature’ (Tschakert 2022, p. 278). These conditions can then serve to justify the extractivism that leads local communities to have their vital natural resources removed without reaping the economic benefits they are intended to bring (Jingzhong *et al.* 2020). It is noteworthy that the form of anthropocentrism associated with economic growth is often grounded in a particular framing of modernity, which sees the domestication of nature and a growing economic and utilitarian perspective on nature as capital (Washington *et al.* 2021). Importantly, this interpretation of human-nonhuman distinction dislodges from negotiations any discussion of ethics, values and environmental consequences and instead starts to build a rationale that environmental protection and economic growth are mutually compatible and even desirable (see Machin 2019). The label ‘ecological modernisation’ (EM) has been attached to this kind of approach, issuing from a body of theory originating in the 1980s, and proponents of EM regard environmental degradation as an opportunity and challenge, rather than as a consequence of how we live and produce (Revell 2003). Moreover, as a powerful political discourse, grounded in the idea of technical innovation and a reliance on science, it serves to justify non-transformative responses to climate change and, as Machin notes, depicts EM as ‘not simply a rational response to environmental “facts” but rather a way of constructing those facts in the first place’ (2019, p. 210). As a result, for Iqbal and Pierson, if ‘trade clashes with environmental protection, trade always trumps environment’ (Iqbal and Pierson 2017, p. 20), and phrases like sustainable development come to be imbued with the idea that they hold a ‘magic solution to the problems that confront us’ (Adelman 2017, p. 3).

Eco-centric redress

Today’s large body of critical environmental scholarship and opinion loosely hangs under the banner of eco-centrism. Broadly, it demonstrates how the foundational idea that climate change is a challenge for humans to overcome is fundamentally flawed, whilst underscoring the need to protect the health of the entire ecosystem, of which humans are simply one part (Imran *et al.* 2014). Many eco-centric positions, commonly encompassed within Political Ecology and Ecofeminist literatures, assert the need to reframe and recast the anthropocentric hubris that locates the human within an isolated, central position away from all other species, and seek to ‘unearth the deep-rooted dimensions of inequality and exclusion in what are essentially socio-environmental economic crises’ (Elias *et al.* 2021, pp. 5–6). These approaches illustrate well the gap between those who focus on power as originating in

human agency and those who insist on the “constitutive” pressures of political economies, discourses and institutions as shaping human-environment relations’ (Ahlborg and Joslyn Nightingale 2018, p. 383). This critical literature raises questions about the ability of the neoliberal system to accommodate the ‘drastic changes required in order to save the planet’ (Depelteau 2021, pp. 19–22). Kopnina argues that we need both shallow (utilitarian) and deep objectives as the basis for protecting the planet (Kopnina 2012), and Haraway’s works extend the possible roadmap by urging us to live together in a ‘thick’ present, based on ‘multi-species, multi-racial, multi-kindred reproductive and environmental justice’ (Paulson 2019). Thus, an eco-centric viewpoint questions our use of language and examines how and why particular discursive linkages have come to be made.

Methodology

In order to challenge the anthropocentric bases of TSD chapters, this article examines the contextual framing of trade-environment linkages through the key foundational UN texts on the environment (1972 UN Conference on the Human Environment in Stockholm, the 1987 UN World Commission on the Environment and Development and the 1992 Rio Summit of the UN Conference on Environment and Development); and declarations from each United Nations Framework Convention on Climate Change (UNFCCC) Conference of the Parties (CoP) from 1995 to 2022. The article then analyses the EU-Japan EPA; other FTAs involving the EU (with South Korea, Central America, Canada, and with Singapore); and key FTAs signed by Japan in recent years (with Australia, Indonesia, Singapore and with Thailand, as well as the RCEP, involving 15 Asia Pacific states including Japan, China and Australia). All texts were read several times, and words and quasi-sentences (omitting repetitive titles and subheadings) were coded and entered into NVivo for the purpose of uniform, systematic analysis. Descriptions for each code were made, as a means of creating sub-categories, in order to ascertain how and why particular terms related to sustainability and the environment have been applied, and to show how key terms (‘environment’, ‘sustainable development’, ‘climate change’) are used in diverse contexts. The process illustrates how ‘shared language is a useful indicator of common knowledge’ and facilitates a broad latent semantic analysis of both the terms used in documents and the different meanings ascribed to them (Burcu Bayram and Ta 2020).

By highlighting how particular terms are applied within dominant texts it was possible to draw out the process of depoliticisation.¹ This process, which leaves ‘little room for open deliberation’ (Flinders and Wood 2022, p. 6), can either displace objects to a new ‘sphere’ or exclude certain subjects from ‘authoritative decision-making’ (Felli 2015, pp. 244–5). Felli notes that the

process of depoliticisation occurs before actions are taken, in the essential framing of debates and terminology, which determines the parameters for choice and decision-making. For example, 1960s protests about the impact on the environment of industrialisation saw in response a state intervention discursively framed as technical and EM, which seemingly resides within the realm of functionaries and not states (Felli 2015). Thus, the form of discursive control which has come to be attached to particular subject areas is bounded within narrow bands of signification and, in the case of the environment, ensures that ‘policies and specific interventions will never pose any fundamental threat to the existing order’ (Apostolopoulou 2020, p. 347). In the current article, this form of discursive depoliticisation is traced through an identification of exclusion, displacement, and technical formulation (Flinders and Buller 2006, Ide 2020). Exclusion traces the areas in which particular terms regarding the environment are explicitly excluded; displacement sees the location of a subject in low politics, subsumed as part of a greater whole, or linked to different narratives; and technical formulation illustrates the way in which an EM discourse is applied to environmental matters. The following section traces the context against which dominant environmental narratives have emerged.

Tracing a narrative history

The modern definition of sustainable development can be traced back to the Declaration on the Human Environment from the 1972 UN Conference. Its very title refers to the ‘human’ environment and it sets out clearly the links between the needs of humans and the exploitation of natural resources. The document talks of ‘growing evidence of man-made harm’ and Principle 6 demands states that:

The discharge of toxic substances . . . must be halted in order to ensure that serious or irreversible damage is not inflicted upon ecosystems.

Interestingly, the 1972 document is driven also by a need to address multiple forms of inequalities and, whilst fundamentally anthropocentric in its language, there is a strong emphasis on the fact that ‘[b]oth aspects of man’s environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights—even the right to life itself.’ Subsequent documents drew on this foundational text, particularly to make technical assessments of how to deliver such environmental protection. The 1990 Ministerial Declaration of the World Climate Conference further noted that climate change presented a specific set of problems requiring a global response and urged the international action which would be seen at Rio in 1992. But it was the 1987 UN World Commission on the Environment and Development (known as the Brundtland Commission) which came to be the

most authoritative document for defining sustainable development as ‘development that meets the needs of present generations without compromising the ability of future generations to meet their own needs’ (WCED 1987). This seminal authority stressed that sustainable development (as a response to problems related to poverty and underdevelopment) ‘cannot be solved unless we have a new era of growth in which developing countries play a large role and reap large benefits (Fletcher and Rammelt 2017, p. 453).

Subsequent UN agreements further embedded growth-sustainability linkages, and the 1992 Rio Summit (so-called ‘Earth Summit’) of the UN Conference on Environment and Development, in its Agenda 21, ‘suggests that a balance must be found between addressing the needs of the environment and those of humankind’ (Kopnina 2014, p. 75). Agenda 21’s Chapter 9 also sketches the explicit link between sustainable development, atmospheric pollution and industrial development, in a clear exposition of the causes and consequences of climate change, which was also the basis for the 1997 Kyoto Protocol committing industrialised states to specific emissions reduction targets. These texts integrated ‘economic development, social justice and environmental protection in a virtuous circle on the one hand, and a means of overcoming the physical limits of the biosphere through market solutions on the other’ (Adelman 2017, p. 7).

The main decision-making body of the UNFCCC is the Conference of the Parties (CoP), held annually since the inaugural meeting in Bonn in 1995, and this process is also integral to the content and context of the EPA (EPA 2018, Chapter 16.4, Gilson 2021). An NVivo text trawl of all CoP meetings demonstrates how the word ‘environment’ was primarily used during the 1990s and 2000s only in relation to institutional names, whilst the 2006 CoP12 meeting in Nairobi, the first to be held in sub-Saharan Africa, stands out for mentioning the environment 77 times. Indeed, its declaration talked far more about the ‘natural environment’, whilst the Director General of the UN Office at Nairobi connected the fate of the environment and the lives of the people, linking explicitly the work of the UN Environment Programme and UN Human Settlement Programme. Nevertheless, this exception did not mark a change in language and subsequent meetings returned to a general linguistic neglect of the natural environment. Similarly, the term sustainable development is left unchallenged, beyond the notes at the New Delhi CoP meeting in 2002, where it was identified as a battle, and where the Kyoto Protocol was re-emphasised in drawing the links between it and climate change. As the UNFCCC was the basis for CoP meetings, it should follow that climate change would be a clear and prolific feature in CoP declarations. In fact, a simple textual search demonstrates a large difference: from one reference in Buenos Aires in 1998 to 296 references in Buenos Aires six years later. The latter focused mainly on references to specific climate change strategies of particular states, whilst it is predominantly at meetings in the

Global South, already strongly impacted by climate change, where the term climate change gains a higher profile. Thus, for example, in Nairobi in 2006 the opening statement challenged the assumption that climate action and economic growth offer a win-win opportunity, noting instead that climate change could ‘threaten the development goals of billions of the world’s poorest people and jeopardize recent gains in poverty reduction, particularly on the African continent’ (United Nations 2007, p. 6). A growing sense of urgency was also expressed regarding climate change and its impact in Cancún in 2010, but these were isolated examples until the Paris meeting in 2015 redirected language towards linking climate change and human activity, with its aim of limiting global temperature increase to 1.5 degrees. It is this CoP meeting and its outcomes, aligned with broader environmental governance, which are noted in the TSD (16.4). The following section illustrates how echoes of these authoritative ecological modernisation narratives have filtered into modern FTAs and their TSD chapters.

New generation FTAs

The rise of new generation FTAs reinforced the ‘partnership’ between sustainability and growth. These new arrangements also began to address topic areas, notably labour rights and the environment, which were not previously included in World Trade Organisation (WTO) agreements due to concerns about the trade impact this would bring to bear on developing economies (Bastiaens and Postnikov 2017). A ‘WTO-plus’ approach to trade could therefore be underpinned by a rights regime and sustainable development (Harrison *et al.* 2019) and accompanied by the greater inclusion of civil society representatives in the formation of agreements, not least as the custodians and monitors of labour, health, environmental and other rights (Drieghe *et al.* 2022).

Early EU agreements and the environment

The 1992 North American Free Trade Agreement (NAFTA) and the linked 1993 North American Agreement on Environmental Cooperation ‘raised the prominence of labour and environmental issues in trade policy’, and their clauses were echoed in EU agreements from the mid-2000s (Velut *et al.* 2022, see also Morin and Rochette 2017). This approach built also on the obligation, embedded in EU treaties since 1987, that environmental concerns should be integrated into all policies, as well as through Trade Sustainability Impact Assessments since 2000, designed to evaluate, inter alia, the effects of environmental chapters. Subsequently, the EU’s *Global Europe* document of 2006 launched a new approach to environmental inclusion, which required the EU henceforth to ‘take into account the need

to make efforts to support environmental multilateralism and environmental protection in developing countries' (Jinnah and Morgera 2013, pp. 327–8). In addition, as will be explored below, EU agreements came to make explicit reference to climate change, through a number of key agreements. First, the EU-Republic of Korea Free Trade Agreement came into force in 2011 and became both blueprint and spur for the later EU-Japan agreement. It contains a TSD chapter which was subsequently replicated elsewhere, and which strongly adheres to the 1980s UN interpretation of sustainable development. It also firmly embeds the idea that states will reaffirm a commitment to their domestic environmental laws, rather than attempting collectively to extend them in any way (Marín-Durán 2020). Morgera highlights the positive impact on environmental cooperation of this agreement, as it established new channels for dialogue (Morgera 2013), whilst Marín-Durán highlights the prospects for setting new standards in what could amount to a paradigm shift (Marín-Durán 2013). In practice, this agreement did set the precedent for putting labour and environmental rights together in one chapter, whilst also ensuring that any sanctions for non-compliance would not match those imposed for non-compliance in trade-related matters (Van den Putte 2015). This agreement also set the stage for the establishing formal structures to oversee the implementation of the TSD chapter, including a Domestic Advisory Group (DAG) for each side (with representatives from business and civil society) (IISD 2018, Harrison *et al.* 2019).² In order to qualify to apply for DAG membership on the EU side, an organisation needs, among other criteria, to be not-for-profit, have expertise in sustainable development and registered on the civil society database of DG Trade. The DAGs meet separately and then come together once a year (European Commission 2023). The still untested role of these groups has started to reveal the ways in which civil society organisations can use the framework of the agreement to put pressure onto contracting parties.

Signed in June 2012, the EU-Central America (Panama, Guatemala, Costa Rica, El Salvador, Honduras and Nicaragua) agreement was created in order to eliminate tariffs and offer 'support for sustainable development' (European Commission 2022a). In a similar vein to criticisms of the EU-Korea agreement, D'Agnone notes that the conditionalities tied to environmental matters in this agreement are not supported by sanctions for violators, and rather they remain within the realm of guiding principles (D'Agnone 2021). In addition, it was clear that pledges made in these arrangements would not be met with an increase in development assistance to support the means to enhance and implement labour and environmental standards (Harrison *et al.* 2019). Subsequently, signed in October 2016, the Canada-EU Comprehensive Economic and Trade Agreement (CETA) includes chapters on trade-related labour and environmental issues 'as part of a global approach to trade and sustainable

development' (CETA 22.2). In this way, like those agreements cited above, this FTA refers back to Rio 1992 and 'emphasize[s] trade being friendly to environment protection, international standards and public participation' (Wang 2019, p. 330). As with other new generation agreements, it encompasses the idea of sustainable development as the combination of labour, environment and trade (CETA 22.1.1), and only requires signatories to 'strive' towards enhancing environmental protection (CETA 22.3.2). In practice, CETA added environmental clauses consistent with the EU's own norms and represented somewhat of a dilution for Canada's own requirements and thus, for Binder and Puccio, it 'only partially exceeded the dialogue-only approach in earlier EU trade agreements' (2017). What is clear from this, as for the other agreements, is that provisions held within the agreement 'frequently favour trade facilitation over environmental protection', and that any application of the precautionary principle vis-à-vis the environment is not mandatory and is supported only by a weak dispute settlement mechanism (Heyl *et al.* 2021, p. 5). Concerns about the potential diminution of labour rights and environmental standards in this agreement were also raised by European NGOs (Suzuki 2017).

The EU-Singapore agreement, signed in October 2018, includes a TSD chapter, which recognises the need to 'consult and cooperate as appropriate' and to support UNFCCC agreements (Official Journal of the EU 2019). Political and legal reviews of this agreement, however, also added a novel dimension. Prior to the 2015 Court of Justice Opinion 2/15 all states of the EU were listed as contracting parties to agreements but following Opinion 2/15 it was legally agreed that the EU could become the negotiator and representative for all parts of the FTA (except for some particular issues regarding investment). For Gruni, this change gives the EU the opportunity to 'put an end to the substantive and procedural ostracism of labour and environmental standards in the WTO and in FTAs' (Gruni 2018, p. 12). However, for other commentators, the Opinion is 'unconvincing and legally flawed', not least because of the discrepancies in domestic state laws in contrast to EU laws (Marín-Durán 2020, p. 1033). In reality, on the whole this change has far more implications for labour than it does for the environment, given that the EU and its member states are generally aligned in their participation in MEAs to which the TSD clause defers, and in practice, it entrenches the EU's commitment to MEAs, such as those on timber and on fish stocks. The main problem, outlined again in this agreement, is the fact that resolution and sanctions for the TSD continue to sit outside the dispute mechanisms designed to protect the trade elements, leaving the legal value of this Opinion in question. Gruni summarises the problem, noting that a genuine effort to address climate change and environmental protection through trade would require agreements to recognise explicitly 'interactions

between economic clauses ... and social or environmental objectives’ (2018, p. 9).

Comparing environmental references

EU-Japan EPA

The EPA was written in the wake of these developing trends for including the environment in FTAs, and for stating the mutual benefits of sustainable development and economic growth. At their summit in 2010 EU and Japanese leaders identified climate change as one of the ‘greatest challenges facing the international community’ and ‘shared the conviction that Japan and the EU should exercise joint leadership’ in this area (Ministry of Foreign Affairs Japan 2010, Gilson 2019). It is clear in the EPA that environmental issues follow the narrative of the UN framework: the final publication of the EPA underlines the foundational significance of the UN’s Agenda 2030 for Sustainable Development of 2015 (EPA Article 16.1), and Article 16.1.2 of the TSD, cited at the start of this article, echoes UN language. It is worth observing also the sentence which then follows:

The Parties further recognise that the purpose of this Chapter is to strengthen the trade relations and cooperation between the Parties in ways that promote sustainable development, and is not to harmonise the environment or labour standards of the Parties. (EPA 2018, Chapter 16.1.2)

Figure 1 illustrates the number of times the word ‘environment’ is referred to in EU and Japanese agreements, and it is clear that the term has much greater

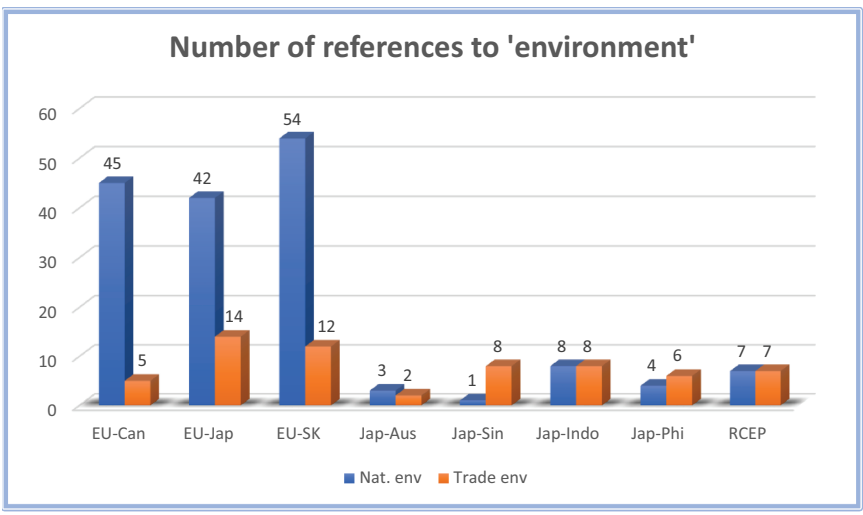


Figure 1. References to the environment in trade agreements.

significance in EU frameworks than in those involving Japan with other states.

Moreover, when used, the term is applied to multiple meanings, as shown in Figure 2.

Thus, for example, whilst there are more references to the natural environment and to its protection in EU than non-EU agreements, these tend to be associated with technical regulation, linked directly with labour rights, and are closely associated with growth strategies. Other references to environment refer on the whole to the 'business', 'trade' or 'regulatory' contexts, or make allusions to the trading elements of environmental goods and services. Interestingly, the EPA's TSD chapter contains no definition of what the 'environment' is, in terms of the natural world it covers or how it is conceptualised. The references to environment in this section refer 11 times to international organisations or agreements, particularly to 'relevant' MEAs, expressing the desire to exchange information about each party's engagement with them. The chapter makes three references to environmental goods and services, and once to a generic set of 'environmental challenges'. The close association between environment and labour is made seven times, which privileges a particular set of (EU) structures of organisation. Broad reference to stakeholders ('including employers' and workers' organisations and environmental groups') is made five times. The mutuality of environment and trade is emphasised four times in this chapter, including 'economic development, social development and environmental protection are mutually reinforcing components' and 'mutual supportiveness between

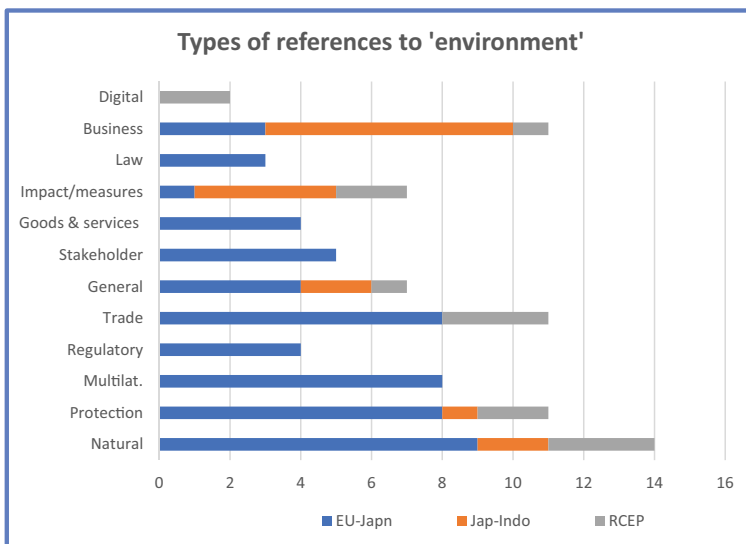


Figure 2. Types of references to 'environment'.

trade and environment'. These qualifying terms ensure that the very application of the word environment situates it within a clear anthropocentric rubric.

Figure 3 shows how similar patterns obtain for the use of the term 'sustainable development'. Beyond its title and five references to other summits and declarations on sustainable development, the TSD applies this phrase to underline the mutuality of trade and environment, by 'strengthen[ing] the trade relations and cooperation between the Parties in ways that promote sustainable development'; reminds parties that sustainable development priorities should continue to be determined at domestic levels (EPA 16.2.2); and that they remain simply a 'goal'. It also establishes a Committee on Trade and Sustainable Development to engage with civil society to monitor these provisions and repeats the mechanisms of engagement.

At face value, Wout suggests that the EU is 'developing an assertive TSD chapter': it includes a stated commitment to the Paris Agreement on climate change; has within it a review clause regarding enforceability (Article 16.19), added late due to pressure from within the European Parliament; adds a Single Entry Point for all EU stakeholders facing market access issues or compliance issues in third (non-EU) countries; and further empowers civil society representatives through more consultation (2022). Nevertheless, even within an anthropocentric and EM framework, critics note two key areas still in need of redress: the weak legality of many of these environmental clauses renders 'soft' the dispute mechanisms related to sustainable development (Limenta 2022); and a lack of agreement among EU member states themselves, as well as between parties, means that sanctions are not applied in the event of inaction, and the formal dispute settlement mechanisms are

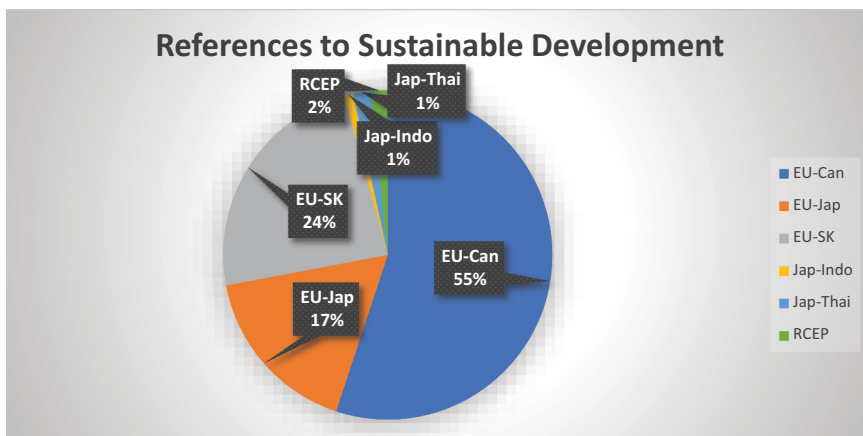


Figure 3. References to 'sustainable development'.

reserved for the trade, and not climate, elements of agreements (Wout 2022). As a result, these chapters potentially ‘allow EU officials to claim green credentials without sacrificing too much in terms of the benefits of trade liberalisation’ (Krajewski 2022). With regard to civil society, Drieghe *et al.* provide a useful barometer not only for how much civic groups are included in EU trade agreements but in which aspects. Thus, representatives from non-governmental organisations (NGOs), academia and business form part of the DAGs but do not have direct influence over policy making, leaving their participation as a ‘double-edged sword’ which could result in co-option (2022). Moreover, in EU agreements, these DAGs contain both environment and labour representatives, as these issues are combined in TSD chapters, although those representing interests in these fields often seek vastly different objectives.

More significantly, the very use of the terms environment and sustainable development in the TSD and overall EPA serve to displace environmental catastrophe through a repeated expression of mutuality of trade and environment, which ‘emphasises the low politics, neutral and positive sum character of shared environmental problems’ (Ide 2020). In addition, the strong linkages between environment and labour bring together sometimes conflicting agenda and stakeholders and dilute environmental matters through discursive and structural requirements to address both sets of issues simultaneously. Moreover, references to different forms of oppression, which might have framed both labour and environment in the 1970s, are no longer present.

Japan's other FTAs

Of course, countries around the world sign FTAs not involving the EU or US, and Japan to date has signed 21 agreements of its own, with others still under negotiation. In Japan's agreements with Australia, Indonesia, Singapore and Thailand, respectively, and within the RCEP, there are very few mentions of the word ‘environment’. When it does appear, it tends to be in relation to, for example, the Minister of the Environment or UN Environment Programme, or else is applied as a generic term (such as ‘creating an environment’) or qualified by adjectives including ‘necessary’ and ‘trust’. Most references are to the ‘trading’ or ‘business’ environment, and the RCEP makes repeated reference to the ‘digital environment’. As Figure 3 illustrates, when it comes to references to ‘sustainable development’ among the FTAs selected here, a similar pattern emerges. References to ‘climate change’ are also few: it is not mentioned in any of Japan's FTAs or in the RCEP and appears only a handful of times in CETA (6), the EPA (7) and EU–Korea agreement (5).

These agreements largely cut off environmental protection and sustainable development from trade and investment initiatives, rather than

attempting to reconcile or integrate them. Rather, the Japanese government resists the threading of an environmental narrative through its FTAs and sticks closely to a stance of ecological modernisation, ensuring that discussions of ethics and values are removed from negotiations and that the term environment is effectively depoliticised through exclusion (see Gilson 2021). Moreover, the combination of labour and environment works less well in countries like Canada and Japan, where these groups of representatives work very differently (Wout 2022), and in this linkage too, the non-EU agreements hold no binding obligations (Limenta 2022).

Conclusion

Anthropocentric analyses of TSD chapters in FTAs demonstrate that they have clearly reaped some material benefits in terms of highlighting the need to protect our global environment and to mitigate some aspects of trade-related damage. With ‘fewer parties at the bargaining table’ (Morin and Jinnah 2018, p. 561), and with FTAs as potential channels for normative change (Velut *et al.* 2022), we are now witnessing the standardisation of environmental clauses in EU trade agreements and pressure for the EU to take a greater leadership role in promoting these inclusions (Nessel and Orbie 2022). Thus, these discrete agreements embody the ambitions of the MEAs they echo, which they had struggled to do in the WTO framework (Cuyvers 2014). At the same time, despite these perceived advances, observers also note the continued lack of enforcement mechanism within sustainable development clauses (Hseih 2022) and a continued lack of inclusion by many countries of environmental clauses in their trade agreements (Limenta 2022).

From an eco-centric standpoint, the discursive structure upon which a win-win narrative of growth and environment continues to be based depoliticises the catastrophic emergency of the climate crisis and even creates the illusion that any reduction in growth (or indeed proposals for ‘degrowth’) would threaten environmental protection. This depoliticisation process in the case of Japan involves the exclusion of environmental references in agreements with states which do not share the EU’s normative commitment to include them and suggests that the spillover effect of the EPA in terms of environmental norms is not automatic. Within the EU agreements highlighted here, environmental references are displaced through interlinkages with labour and through multiple qualifying adjectives. Most of those adjectives, moreover, emphasise an EM discourse which privileges market-competitive, techno-scientific solutions to environmental decline and ensures the sustainability of economic development itself.

This article has sought to fill a gap in our understanding about how FTAs themselves are structured in such a way as to make their putative ambitions

for sustainable development extremely difficult to achieve, leaving citizens potentially greenwashed by initiatives in the name of the ‘environment’. There are of course limitations to these findings and there is clearly a need for more comprehensive assessments, across more countries, and inclusive of different kinds of agreements – including those, for example, specifically looking at biodiversity or forestry – in order to examine the extent to which TSD chapters and trade agreements are consistent with other trends in environmental management. Further work needs to explore the ways in which growth and the environment are entangled within neoliberalism, and yet at the same time the very concept of the ‘environment’ has been de-entangled from its natural roots and applied to multiple other depoliticised planes. And a more wide-reaching and systematic study is needed to understand how greenwashing can occur through depoliticisation processes and the very application of language in the goal of supporting trade to save the planet.

This article has contributed to calls for the anthropocentric foundations of trade to be interrogated and for scholarly spaces to be made in order to analyse the discursive struggles that precede the creation of dominant contemporary meanings of trade and environmental protection (Olausson 2014). If anthropocentric underpinnings forestall debate about the plight of more-than-humans and our complex inter-species existence on this planet, and in so doing justify limiting environmental actions in the name of protecting trade for the sake of growth, we risk depoliticising still further the world’s most pressing crisis.

Notes

1. I use the term not to denote the actions of politicians, or states, but to interpret the ways in which particular terms are stripped of their political potential.
2. The DAG-to-DAG meetings feed into the Committee on Trade and Sustainable Development, chaired by the Director for Asia and Latin America within DG Trade, and the Director General of International Cooperation Bureau, Ministry of Employment and Labour for Korea. The DAG chair reports on the DAG findings and on the Civil Society Forum.

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