# Scaling up Voluntary Sustainability Standards through Sustainable Public Procurement and Trade Policy

## 4th Flagship Report of the United Nations Forum on Sustainability Standards (UNFSS)

UNFSS
United Nations Forum on Sustainability Standards

International Trade Centre

UNITED NATIONS UNCTAD

UN environment programme

UNIDO

A Platform of **International Dialogue** on **Voluntary Sustainability Standards**

# Scaling up Voluntary Sustainability Standards through Sustainable Public Procurement and Trade Policy

## About the United Nations Forum on Sustainability Standards

The United Nations Forum on Sustainability Standards (UNFSS) is a platform created to analyse voluntary sustainability standards (VSS) and disseminate information about them. It is rooted in existing mandates and activities of participating United Nations agencies. Its value lies in pooling resources, synchronizing efforts and assuring policy coherence, coordination and collaboration in line with the "One UN" concept. UNFSS is coordinated by a steering committee consisting of the Food and Agriculture Organization (FAO) of the United Nations, the International Trade Centre (ITC), the United Nations Conference on Trade and Development (UNCTAD), the United Nations Environment Programme (UNEP) and the United Nations Industrial Development Organization (UNIDO). UNCTAD is the Secretariat of UNFSS.

UNFSS works in partnership with VSS experts representing civil society, producer associations, processors and traders, standard-setting organizations and certifiers, trade negotiators, consumers and researchers. It facilitates dialogue and knowledge exchange among intergovernmental actors enabling them to communicate with each other and their target groups with a view to providing relevant information and influencing concerned stakeholders.

For further information, see: www.unfss.org



This publication has been produced in collaboration with the Leuven Centre for Global Governance Studies of the University of Leuven and the support of the Research Foundation Flanders (FWO) and the Swiss State Secretariat for Economic Affairs (SECO).



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Swiss Confederation

Federal Department of Economic Affairs,
Education and Research EAER
**State Secretariat for Economic Affairs SECO**

# About the UNFSS Flagship Series

UNFSS publishes its flagship report on diverse topics relating to VSS once every two years. It seeks to serve as an important tool for stakeholders in both the public and private sectors to gain impartial and substantive information about VSS systems throughout the world. The topics discussed in the UNFSS Flagship Report series are collectively identified by VSS practitioners, namely the national platforms which are national initiatives for VSS, created and shared by stakeholders under each country's designated coordinating body, that aim to provide a neutral forum for information exchange on VSS. Given the specificities of the topics relevant to the activities carried out by the national platforms, the information and analyses provided are intended to serve as a basis for policy dialogues leading to action for sustainable development appropriate to different countries' respective needs, conditions and levels of development.

In 2013, UNFSS published its 1st Flagship Report[1] which presented an array of salient VSS and public policy issues, and developed an inventory of some of the leading initiatives relating to VSS. The report elucidated tensions at the nexus of VSS and public governance.

In September 2015, the United Nations Member States adopted a new set of development goals known as the 2030 Agenda for Sustainable Development which stipulated that the Sustainable Development Goals (SDGs) "are integrated and indivisible and balance the three dimensions of sustainable development: the economic, social and environmental." Accordingly, governments, businesses and civil society are encouraged to promote synergies between their actions.

The 2nd Flagship Report,[2] published in 2016, further dissected the interplay between VSS and public governance by identifying the optimal dynamics between public policy processes and VSS to ensure sustainability objectives would be effectively met. The report delineated the implementation of VSS within the public sector. It also identified the economic, environmental and social benefits of VSS, as well as the rationales public sector engagement with VSS .

In 2018, the 3rd Flagship Report[3] highlighted the role of private actors mainly through an emphasis on global trade. The report, titled *VSS, Trade and the SDGs*, sought to promote an understanding of VSS either as an enhancer or a facilitator of global trade, and examined the direct and indirect impacts of VSS on an economy. The report also provided a benchmarking analysis for identifying the links between VSS and the SDGs, and the result revealed strong linkages with SDG 8: Decent Work and Economic Growth, SDG 12: Responsible Production and Consumption, and SDG 15: Life on Land.

[1] This Report (Part 1: Issues and Part 2: Initiatives) is available at: https://unfss.org/wpcontent/uploads/2012/05/unfss-report-issues-1_draft_lores.pdf, https://unfss.org/wp-content/uploads/2012/05/unfss-reportinitiatives-2_draft_lores.pdf

[2] This Report is available at: https://unfss.files.wordpress.com/2016/09/final_unfss-report_28092016.pdf

[3] This Report is available at: https://unfss.org/wp-content/uploads/2018/09/UNFSS-3rd-Flagship-Report-FINAL-for-upload-1.pdf

# Acknowledgements

This publication is a product of the United Nations Forum on Sustainability Standards (UNFSS). The theme of this report derived from discussions at the 2nd International Convention on Sustainable Trade and Standards (ICSTS),[4] held in Rio de Janeiro on 16 to 18 September 2019, where VSS national platforms, government and private stakeholders, consumers and producers raised the importance of Sustainable Public Procurement and Trade Policy as drivers for sustainability. The UNFSS Steering Committee provided the outline of this report. Santiago Fernandez de Cordoba (UNCTAD) is the coordinator and editor of this publication.

The report has been produced by the Leuven Centre for Global Governance Studies (GGS), University of Leuven for the UNFSS with the support of the Swiss Secretariat for Economic Affairs (SECO) and the Research Foundation – Flanders (FWO). The report has been prepared by Dr. Axel Marx and Charline Depoorter from GGS, in collaboration with Santiago Fernandez de Cordoba and Siti Rubiah Lambert of the UNFSS Secretariat.

The UNFSS Secretariat would like to express their heartfelt gratitude to all the contributors of this Flagship report. Deserving of special mention are: Xhuliana Dedej and Olha Skrypal (Leuven Centre for Global Governance Studies) for their research assistance, Tim Stoffel (The German Development Institute), Dr. Claire Methven O'Brien (Danish Institute for Human Rights and University of St Andrews School of Management), Prof. Dr. Olga Martin-Ortega (University of Greenwich), Manish Pande (Quality Council India), Cristiano Rocha Heckert and Ganesh Inocalla (Brazilian Ministry of Economy), Rogerio Correa and Dolores Teixeira de Brito (Brazilian National Institute of Metrology, Quality and Technology), Liu Xin (Standardization Administration of China), Xia Weijia and Cui Yan (China Association for Standardization), Víctor Torres Valdovinos and Cielo Angélica Beltrán Zapata (General Bureau of Standards of Mexico) and Aderina Uli Panggabean (National Standardization Agency of the Republic of Indonesia) for their contributions, and Jean-Frédéric Morin for his support in using the Trade and Environment database (TREND).

The authors would also like to acknowledge the contributions and support of the UNFSS Steering Committee members for their valuable comments, Ahmad Mukhtar (FAO), Ana Patricia Batalhone (ITC), Anja-Katharina Von Moltke (UNEP), Beatriz Carneiro (UN Environment), Cecilia Heuser (UNCTAD), Dominika Dor (UNIDO), Jamie Morrison (FAO), Joseph Wozniak (ITC), Fared Yaker (UNEP), Nils Heuer (UNEP), Karin Monaco (UNIDO), Niematallah E. A. Elamin (UNCTAD), Stacey Mills (UNEP). Also, Jenifer Tacardon-Mercado (UNCTAD) for formatting the report and Praveen Bhalla (GGS Consultant) for copy editing.

The team is also grateful for the constructive feedback and suggestions provided by the participants of the VSS Academic Advisory Council (AAC)[5] meeting, held virtually on 25 June 2020, in particular Bernard Hoekman, Co-Chair of the AAC (European University Institute).

Finally, we wish to pay tribute to Bonapas Onguglo, Chief, Trade Analysis Branch, UNCTAD who was instrumental in initiating this flagship series of reports and provided invaluable guidance and leadership. His colleagues at the United Nations dedicate this report to his memory. Bonapas worked tirelessly for over 30 years in advancing sustainability as a priority in the United Nations' work on trade and development.

[4] https://unfss.org/icsts/

[5] VSS Academic Advisory Council, at: https://unfss.org/academic-advisory-council/. For a full list of participants, see: https://unfss.org/aac-council-members/

# Table of contents


Executive summary ..... ix

Introduction: Voluntary Sustainability Standards and Public Policy ..... 1

Why Integrate VSS into Public Policies ..... 3
Aims and Structure of the Report ..... 5

Chapter 1. VSS Adoption Dynamics and Trends ..... 7

Introduction ..... 7
Global Trends in VSS Adoption ..... 8
Evolution of Certified Commodities and Cropland Area ..... 8
Uptake of VSS at Country Level .....
Other Factors Influencing VSS Adoption ..... 18

Chapter 2. Drivers for Adoption: Sustainable Public Procurement ..... 21

Introduction ..... 21
Public Procurement ..... 21
Sustainable Public Procurement ..... 25
Voluntary Sustainability Standards in SPP ..... 29
Considerations for Integrating VSS in SPP ..... 34

Chapter 3. Drivers for VSS Adoption: Trade Policy ..... 37

Introduction ..... 37
VSS and Free Trade Agreements ..... 37
VSS and GSP Schemes ..... 40
VSS and Market Access Regulation ..... 42
Export Promotion ..... 44
Better Cotton Initiative in Mozambique ..... 45
Forest Stewardship Council in Gabon ..... 45
Marine Stewardship Council in Suriname ..... 46

Chapter 4. Integrating VSS into Public Policy ..... 47

Capacity of VSS ..... 47
Increase in the Number of VSS and Recognition of VSS ..... 47
Convergence and Divergence of Recognition Systems ..... 48
Over-Certification ..... 49
Distributional Effects ..... 49

Conclusions ..... 51

References ..... 53

Annex: Methodological Note on VSS Adoption Scores ..... 63

## List of Figures

Figure 1. Links between VSS, procurement and trade policies ..... 4
Figure 2. Evolution in the number of VSS active worldwide, 1940-2020 ..... 8
Figure 3. Number of VSS across sectors ..... 9
Figure 4. VSS adoption intensity map per country (as a percentage of all VSS) ..... 16
Figure 5. Correlation between countries' export concentration index and VSS adoption score ..... 18
Figure 6. Development of procurement regulations within plurilateral agreements under the WTO ..... 22
Figure 7. Share of general government procurement in GDP in OECD countries, 2007-2017 ..... 24
Figure 8. Distribution of public procurement by function/government department in OECD countries, 2017 ..... 35
Figure 9. Evolution in the number of FTAs in force ..... 38
Figure 10. Evolution in the number of FTAs that refer to VSS (or synonyms) ..... 40

## List of Tables

Table 1. Evolution of certification in selected agricultural commodities and forestry ..... 10
Table 2. Degree of VSS adoption by country, with income level ..... 12
Table 3. Correlation coefficients between indicators and countries' VSS adoption scores ..... 17
Table 4. Trade agreements that contain references to VSS (or synonyms) ..... 39

## List of Boxes

Box 1. Adoption dynamics in forest certification ..... 19
Box 2. SPP and the WTO Government Procurement Agreement ..... 22
Box 3. Public procurement and human rights: Opportunities, risks and dilemmas ..... 26
Box 4. Sustainability considerations in public procurement: Selected countries ..... 30

# List of Abbreviations

| | |
|---|---|
| AGP | Agreement on Government Procurement |
| BCI | Better Cotton Initiative |
| EFTA | European Free Trade Association |
| EUTR | European Union Timber Regulation |
| FAO | Food and Agriculture Organization of the United Nations |
| FSC | Forest Stewardship Council |
| FTA | free trade agreement |
| GATT | General Agreement on Tariffs and Trade |
| GDP | gross domestic product |
| GPA | Government Procurement Agreement |
| GSP | Generalised System (or Scheme) of Preferences |
| HDI | Human Development Index |
| ILO | International Labour Organization (Office) |
| ISEAL | International Social and Environmental Accreditation and Labelling |
| ITC | International Trade Centre |
| LDC | least developed country |
| MFN | most-favoured nation |
| MSC | Marine Stewardship Council |
| NAFTA | North American Free Trade Agreement |
| NGO | non-governmental organization |
| OECD | Organisation for Economic Co-operation and Development |
| PEFC | Programme for the Endorsement of Forest Certification |
| PTA | preferential trade agreement |
| RED | Renewable Energy Directive |
| SDG | Sustainable Development Goal |
| SPP | sustainable public procurement |
| UN Comtrade | United Nations International Trade Statistics Database |
| UNDP | United Nations Development Programme |
| UNEP | United Nations Environment Programme |
| UNFSS | United Nations Forum on Sustainability Standards |
| UNGP | United Nations Guiding Principles on Business and Human Rights |
| USMCA | United States-Mexico-Canada Agreement |
| VSS | Voluntary Sustainability Standards |
| WTO | World Trade Organization |
| WWF | World Wide Fund for Nature |

© FolacoStudios - Adobe Stock

# EXECUTIVE SUMMARY

Before the COVID-19 pandemic erupted, governments' pledges for sustainable development were flourishing, most notably as countries signed up to the United Nations Sustainable Development Goals (SDGs). However, the devastating health and economic impacts of COVID-19 on the decade-long progress to fight poverty have forced governments to rethink their socioeconomic models so that they do not compromise human health and ecosystems. In this context, voluntary sustainability standards (VSS) are being increasingly recognized as potentially transformative tools for governments to realize their sustainability commitments.

This 4th Flagship Report aims to provide an understanding of the role of government as a vehicle to drive the adoption of VSS. The effectiveness of VSS to contribute to sustainable development partly depends on their degree of adoption by economic operators. In this respect, governments can play a significant role through public procurement and trade policy.

The integration of VSS into public procurement and trade policies is potentially a powerful means to upscale their adoption. Public procurement represents, on average, 12 per cent of gross domestic product (GDP) in countries of the Organisation for Economic Co-operation and Development (OECD), and up to 30 per cent of GDP in developing countries. Given the magnitude of such spending, in combination with the pressing need for sustainable production and consumption, sustainable public procurement (SPP) has become imperative. In addition, trade policy is increasingly being used to pursue non-trade objectives, including those relating to sustainability.

This report seeks to answer the following key questions:

- What are the determinants of VSS adoption at country level?
- How can public procurement and trade policy serve to increase VSS uptake, and how do they contribute to the effectiveness of VSS?
- What are the key considerations and implications of VSS integration into SPP and trade policy?

Based on these questions, the report analyses VSS adoption dynamics and trends, and the drivers for their adoption in SPP and trade policy. The following are its major observations.

### VSS are gaining ground, especially among diversified, export-oriented economies with relatively well-functioning governments and higher levels of development.

The number of VSS, their geographical coverage and the market shares of certified products are, overall, increasing at the global level. However, while VSS are being actively adopted in all countries, their adoption levels vary greatly across countries. VSS adoption scores are more or less aligned with income levels: large developed and middle-income countries tend to have more VSS. Thus, Brazil, China, the United States and many European countries have adopted many VSS;. middle-income countries such as Viet Nam, Indonesia and India also score fairly high on VSS adoption, suggesting that an export-oriented industrialization policy can influence higher VSS activity. Similarly, low-income countries, such as Ethiopia and the United Republic of Tanzania, also score high in VSS adoption due to their export commodities, such as coffee, which tend to be certified by multiple certificates. Generally, it is found that open economies with diversified economic sectors, relatively well-functioning governments and a high of development tend to adopt more VSS.

### Increase in VSS adoption is driven by consumer and business demand, and by their integration into public policy.

Markets with a relatively high level of consumer demand for sustainable products can lead to an increased adoption of VSS. Business demand can also increase VSS uptake, as VSS can serve as a means for differentiation and reputational risk management, and as proof of compliance with due diligence requirements

or with government regulations. Depending on the structure of the economic sector, and more specifically on its level of concentration, VSS can also spread more or less easily, as business actors with strong bargaining power can influence other actors along the value chain to take up VSS. Lastly, SPP and trade policy play a particularly important role in the integration of VSS into public policy.

**SPP can strengthen the design of VSS.**

This will depend on how VSS are integrated into legal frameworks, and on the criteria established to recognize VSS in the context of SPP. Considering that procurement is involved in many segments of the value chain (i.e. sourcing of a commodity, purchasing the commodity, and quality control), the integration of VSS into SPP could foster the supply of sustainable products. It would also provide governments with additional enforcement mechanisms, and induce efforts to promote capacity-building. This in turn could create a spillover effect on the community of VSS, both in terms of scaling them up and making them more reliable and credible with regard to how they are designed and how they operate. This report identifies three challenges to enhancing the potential of VSS in SPP. First, procurement policies should strengthen requirements for the recognition of VSS. Currently, the integration of VSS into SPP involves requirements that are related mainly to their standard-setting processes, but rarely to their standards enforcement procedures, such as monitoring, conformity assessment, complaints handling and sanctions. Requirements relating to these other components need to be further developed. Second, there are no, or very few, VSS available for products for public procurement in several prominent sectors (e.g. the health sector). Third, there is a risk that SPP discriminates by excluding products or services of similar environmental and social performance but that do not hold certificates due to the high costs of certification.

**Free trade agreements, preferential trade agreements, market access regulations and export promotion measures are relevant instruments to increase VSS uptake.**

Between 2010 and 2017, VSS have been increasingly incorporated into some free trade agreements (FTAs), although it may be too early to detect a clear trend. Still, such inclusion tends to be more prominent in FTAs involving the European Union (EU), which reflects the Union's commitment to promoting fair and ethical trade schemes in its trade policies. In preferential trade agreements (PTAs), and in generalized systems/schemes of Preferences (GSP) in particular, it has been observed that both VSS and GSP schemes aim to foster sustainable development and good governance, and proposals are discussed to integrate VSS into the GSP of the European Union. Moreover, making market access conditional on certification and developing export promotion measures in favour of certification can contribute to further upscaling VSS adoption.

**Integrating VSS into SPP and trade policies might also produce several challenges.**

A strong increase in demand for VSS could create capacity issues, with some VSS schemes lacking the capacity to deal with the increased demand. Besides, the current lack of availability of VSS for products in the prominent sectors of public procurement might lead to the creation of additional labels, thereby aggravating the problem of a proliferation of VSS. This could increase confusion for consumers and economic actors in distinguishing between credible and non-credible VSS. There is also a possible risk of proliferation of recognition systems with more or less similar requirements but also possible small differences in requirements. This would make it difficult for various VSS schemes to comply with them all. Additionally, if an increase in business demand for VSS does not align with consumer demand for VSS, it might lead to the problem of over-certification. Moreover, there is a possible distributional effect of upscaling VSS related to the "stuck to the bottom" problem, whereby some producers, especially in least developed countries (LDCs), are excluded from the VSS dynamics as they cannot afford high certification costs, which present a significant barrier to their adoption of VSS.

This report explores governments' role in upscaling VSS adoption through SPP and trade policy. It shows that VSS can generate significant impacts on the ground and transform market dynamics. Hence, boosting the uptake of VSS could improve their overall effectiveness in contributing to sustainability on a large scale.


# INTRODUCTION

## VOLUNTARY SUSTAINABILITY STANDARDS AND PUBLIC POLICY

In 2013, the United Nations Forum on Sustainability Standards (UNFSS) published its 1st Flagship Report which presented an array of salient voluntary sustainability standards (VSS) and public policy issues, and developed an inventory of some of the leading initiatives working on VSS. In September 2015, the United Nations Member States adopted the 2030 Agenda for Sustainable Development which comprised a new set of sustainable development goals (SDGs). The Agenda stipulates that the SDGs "are integrated and indivisible and balance the three dimensions of sustainable development: the economic, social and environmental". Accordingly governments, businesses and civil society are encouraged to promote synergies between their actions towards its implementation.

The UNFSS (2013: 3) defines VSS as "standards specifying requirements that producers, traders, manufacturers, retailers or service providers may be asked to meet, relating to a wide range of sustainability metrics, including respect for basic human rights, worker health and safety, the environmental impacts of production, community relations, land use planning and others". They thus aim to promote sustainability in global value chains through standard-setting and monitoring practices. Most of these standards try to cover all dimensions of sustainability – social, environmental and economic – although some VSS schemes focus only on certain specific dimensions of sustainability. While most VSS have been developed by the private sector, UNEP (2012) differentiates between public and private VSS. Private VSS, implemented mainly by NGOs, industry groups or multi-stakeholder groups, typically provide indications on the social and environmental aspects of products. Examples include the Forest Stewardship Council (FSC), the Rainforest Alliance (RA) and the Marine Stewardship Council (MSC). Public VSS, on the other hand, have emerged from public sector initiatives. Examples include the Blue Angel of the German Government, the Nordic Swan of the inter-parliamentary Nordic Council, and the European Union's Ecolabel. In the literature, VSS are sometimes also referred to as "sustainability standards", "ecolabels", "certification schemes", "eco-certification", or "voluntary market-based certification programmes". In this report, these terms are used interchangeably, but the preferred term is VSS, which encompasses all certification schemes that aim to improve sustainability. In essence, they are voluntary, and have consensus-based standard-setting procedures, regardless of their public or private origin.

VSS, along with international standards, such as those developed by the International Organization for Standardization (ISO) and the International Social and Environmental Accreditation and Labelling Alliance

(ISEAL),[6] may be expected to play an increasingly important role in complementing governments' efforts towards achieving the SDGs.[7] In a world characterized by an exponential growth in international trade and, more importantly, changes in the nature of trade (Hoekman, 2014; Hamilton et al., 2012; Cattaneo et al., 2010), VSS can be, among other instruments, particularly relevant in contributing to the realization of the SDGs, since they operate globally and connect developing countries to developed countries through values chains (Ponte, 2019).

It is evident that VSS can directly contribute to achieving SDG 12 on sustainable consumption and production. In essence, they aim to foster more sustainable and transparent practices among actors at all levels of global value chains to help make global production more sustainable (WWF, 2017; DIE, 2015). However, VSS can also contribute to other SDGs. A broad study by the UNFSS (2018) compared the requirements of 122 VSS with 10 pre-selected SDGs, and their targets and indicators. Results showed strong complementarities between VSS requirements and SDG 8 on decent work and economic growth in particular, with 102 VSS requirements being relevant to this SDG. Among these 102 relevant requirements, the ones with the highest coverage all relate to decent work. Half of those are directly linked to International Labour Organization (ILO) standards, meaning that VSS have complementarities not only with SDG 8, particularly with target 8 on labour rights and safe working conditions, but also with the international labour rights regime more broadly (Marx et al., 2017). Secondly, the study found that 78 VSS requirements match with SDG 12 on sustainable consumption and production, particularly with targets 4, 5 and 6 on issues of waste management, use of chemicals, training of staff on sustainability issues, and development of environmental and social management systems. Thirdly, 60 VSS requirements were found to be relevant to SDG 15 on life on land, mostly in relation to targets 2, 3, 5 and 7, which deal with biodiversity, quality, contamination and erosion of soils, sustainable use and management of forests and nature resources or ecosystems, and protection of wildlife, respectively.

Moreover, in some cases VSS can even be indicators of progress on some SDGs. This is the case for SDG 15 – life on land – target 2 on sustainable management of forests, for example. This target is monitored by the Food and Agriculture Organization of the United Nations (FAO), which uses, among other indicators, the area of certified forests as a measure of progress on SDG 15.2 (FAO, 2019). Although research shows that VSS have the most complementarities with SDGs 8, 12 and 15, they also share similar requirements with other SDGs, including SDG 2 on zero hunger, food security and sustainable agriculture, SDG 5 on gender equality, SDG 6 on clean water and sanitation, SDG 13 on climate action, and SDG 14 on life below water. Lastly, VSS can also help achieve SDG 17 on partnerships for the goals, since they promote multi-stakeholder participation, transparency, knowledge exchange, public-private partnerships and sustainable investments (WWF, 2017). These similarities between the requirements of VSS and the SDGs, their targets and indicators suggest that an increased uptake of and compliance with VSS would contribute to progress in achieving the SDGs.[8]

Indeed, through the setting of sustainability standards, labelling and third-party verification, VSS are used by the private sector as part of its response to the challenges addressed in the SDGs. However, the contribution of VSS towards efforts for achieving the SDGs will depend on their effectiveness. Their effectiveness can be defined based on multiple dimensions (Marx et al., 2012) of which at least two are relevant for assessing their potential to contribute to the SDGs. The first dimension focuses on the impact of VSS on a range of social, economic and environmental indicators, such as improvements in biodiversity and in the wages and safety of workers, as well as greater integration into global value chains. Impact is achieved through different process and production methods.[9] The second dimension

[6] ISEAL is a global membership association for sustainability standards and certification systems. Its members are supported by international accreditation bodies, which are required to meet accepted international best practices. For a full list of members, see: www.isealalliance.org.

[7] For a general introduction on the SDGs, see the open online course on the SDGs at: https://www.edx.org/course/the-un-sustainable-development-goals-an-interdisci.

[8] For a more detailed discussion of the linkages between VSS and SDGs, see UNFSS (2018).

[9] For relevant studies on impacts of VSS, see Tayleur et al. (2017); Tayleur et al. (2018); Akoyi and Maertens (2018); Oya et al. (2018); Beghin et al. (2015); Loconto and Dankers (2014); and ITC (2011a; 2011b); . For a good overview of existing studies, see also https://www.evidensia.eco/

analyses the degree to which VSS are adopted by economic operators. These two dimensions of effectiveness are interrelated: a VSS that generates significant impacts on the ground and transforms the way producers work but which is not widely adopted will not result in a large-scale transformation towards sustainability.

Hence, scaling up and providing incentives for increased adoption of VSS are crucial. In this regard, governments can potentially play an important role.[10] More specifically, incorporating VSS in public procurement and trade policies can significantly contribute to upscaling the use of VSS, thereby improving their effectiveness to some extent. Indeed, both policy areas, in essence, endeavour to govern (global) value chains according to a set of sustainability principles and standards.[11] Sustainable public procurement (SPP) seeks to ensure that governments consider the sustainability of the products they purchase. The inclusion of VSS in public procurement is therefore a potentially powerful tool to upscale their adoption, given that such procurement accounts for 13 per cent of GDP in OECD countries, on average, and it is even higher in some developing countries. Similarly, as increased trade leads to greater sustainability challenges, the inclusion of instruments, such as VSS, that aim to entrench more sustainable practices in global trade can contribute to incorporating sustainability considerations in trade policy. In this respect, through a series of trade instruments, governments can include sustainability considerations in their trade policy and can use VSS, among other instruments, to implement them. There are other ways to upscale VSS adoption, for example through consumer or business demand – an area that could be discussed in a future UNFSS flagship report. The present report explores the role of governments in scaling up VSS adoption or "uptake" (terms that are used interchangeably in this report), with a specific focus on public procurement and trade policy.

[10] On public-private interactions, see Lambin et al. (2018); Lambin and Thorlakson (2018); and Eberlein et al. (2014).

[11] The current report builds on the previous flagship report which examined the interlinkages between VSS and trade (UNFSS, 2018).

## WHY INTEGRATE VSS INTO PUBLIC POLICIES?

Three distinct steps can be distinguished in the way VSS work, which also highlight the relevance of VSS to public policies (figure 1). First, the sets of rules and standards in most of the well-known VSS schemes today integrate existing international law and commitments, often developed in a multilateral context, based on international conventions. As such, they include public rules and standards in a private set of procedures. Thus, VSS are connected with public policies by virtue of their embeddedness in public international law; they start off from the same normative basis, in that, to a degree, they refer to the same international agreements and conventions that underpin the notion of sustainable development. Indeed, Collins et al. (2017), who analysed 45 VSS, found that 78 per cent of them cited international laws or norms in their standards. Marx (2019a) found that many ISEAL members refer to international conventions in their standard-setting practices. Specifically, several of them refer to the following international conventions: Forced Labour Convention, 1930 (No. 29), Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), Right to Organise and Collective Bargaining Convention, 1949 (No. 98), Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value, 1951 (No. 100), Convention concerning the Abolition of Forced Labour, 1957 (No. 105), Convention concerning Discrimination in Respect of Employment and Occupation, 1958 (No. 111), Convention concerning Minimum Age for Admission to Employment, 1973 (No. 138), Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182), Convention on International Trade in Endangered Species of Wild Fauna and Flora (1973), Convention on Biological Diversity (1992) and the Stockholm Convention on Persistent Organic Pollutants (2001). Some VSS also refer to human rights conventions or other environmental agreements, such as the Montreal Protocol on Substances that Deplete the Ozone Layer (1987) and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989). These conventions are sometimes also integrated into some public procurement and trade policies (discussed in chapters 2 and 3 of this report). Consequently, besides contributing to the SDGs, which is arguably the most

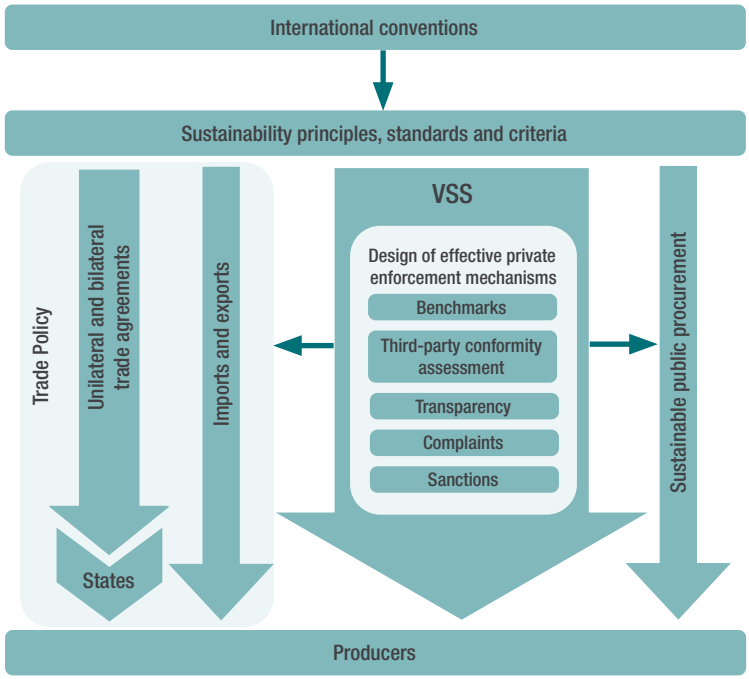
important global multilateral agenda, VSS also aim to enforce some specific multilateral commitments.

Second, and important in the context of integrating VSS into public policy, VSS translate these international principles and standards into measurable indicators and actions, which enables enforcement and compliance assessment. Often, VSS initiatives start with defining general principles, as noted earlier, and delegate the formulation of specific standards to working groups or committees that take local conditions into account. These general principles are then translated into specific "compliance benchmarks". Those benchmarks contain more specific criteria that are related to each of the broad principles. Each of the benchmarks is in turn further defined and operationalized into measurable indicators.

Third, after operationalizing international norms into specific standards, VSS establish systems to monitor compliance with standards by those adopting the VSS. Monitoring of compliance with VSS is a function of two interrelated components: top-down monitoring systems (often audit-based) and bottom-up monitoring systems (often complaint-based) (Marx and Wouters, 2015). The former involve an assessment of conformity with standards and rules by independent third parties using a set of standardized procedures primarily based on audit procedures. Complaint systems allow external stakeholders to constantly monitor compliance with commitments, and, in case of non-compliance, to file a complaint. Stakeholders' engagement in these complaint systems not only empowers them, by allowing them to raise issues relevant to the functioning of VSS; it is also essential for the proper functioning of VSS to monitor compliance, since insufficient stakeholder engagement may result in non-compliance going unnoticed. This third step – an elaborate set of enforcement procedures – is especially interesting from the perspective of SPP and trade policies, since it aims to ensure compliance with sustainability standards. VSS enforcement procedures can therefore foster stronger implementation of sustainability requirements embedded in SPP and trade policies.

VSS therefore offer a potentially interesting complement to existing public policies, and for this reason they might merit further integration into such policies. This possible complementarity, as illustrated in figure 1, starts from the observation that VSS, to a degree, are based on an underlying conception of

**Figure 1**
Links between VSS, procurement and trade policies




*Source:* Authors of this report.

sustainable development which is shared by several public policy approaches to sustainable development. The figure shows that VSS, SPP and trade policy refer to similar international conventions and try to operationalize these based on sustainability principles, standards and criteria, which can be considered as sustainability objectives. These sustainability objectives are pursued through different means. Existing procurement and trade policies aim to have producers comply with these principles, standards and criteria, just as VSS do. Therefore, to pursue their sustainability commitments, governments do not necessarily need to reinvent sustainability tools and measures. Rather, the integration of VSS into SPP and trade policy can serve as an additional, complementary enforcement infrastructure for governments to achieve their sustainability objectives in line with international law.

In addition, the integration of VSS into public policies could potentially strengthen domestic institutions in least developed and middle-income countries, enabling them to pursue sustainable development objectives more effectively. There is some evidence that VSS could contribute to the strengthening of domestic legal frameworks and institutions, for example in relation to forest governance (see Basso et al. (2011) for Brazil, and Cerutti et al. (2011) for Cameroon). By scaling up the use of VSS, these interaction effects between VSS and domestic rules and institutions could be strengthened, in turn improving the capacity of governments to better achieve their sustainable development objectives.

## AIMS AND STRUCTURE OF THE REPORT

This report analyses how VSS are (and can be) integrated into SPP and trade policy respectively, and explores some of the arguments for and against such integration. The aims of the report are to:

- Initiate and stimulate informed debate about the integration of VSS in SPP and trade policy;
- Offer insights into strengths, weaknesses, possibilities and opportunities presented by the proposed approaches and options;
- Identify some of the main implications of VSS integration into SPP and trade policy.

The report is structured as follows:

- **Chapter 1** describes key trends in VSS adoption. After examining global trends in the number of VSS, the chapter explores the evolution of certified commodities and croplands. It then analyses country-level VSS adoption levels, testing them against several country-level parameters in order to identify those with the potential to influence VSS uptake. The chapter ends by exploring other factors conducive to VSS adoption, including demands of consumers, businesses and governments for VSS.

- **Chapter 2** explores the role of public procurement in increasing VSS uptake. It first describes the importance of public procurement and introduces the concept of SPP, looking at how different countries integrate sustainability considerations into their public procurement. It then explores how VSS feature in SPP. The chapter ends by presenting key measures that would promote the integration of VSS into SPP, including strengthening the design of VSS, increasing the availability of VSS and reducing certification costs.

- **Chapter 3** analyses different trade policy instruments in which VSS already play a role or in which their role is under consideration. More specifically, it introduces free trade agreements, preferential trade agreements (GSP measures), market access regulations and export promotion measures, and explores the current (or potential) role of VSS in those instruments.

- In **Chapter 4**, some key considerations for further integrating VSS in SPP and trade policy are discussed. These include capacity issues within VSS systems resulting from the possible increase in the number of VSS, the implications for recognition systems, the risk of over-certification, and possible distributional effects.

- In the aftermath of the COVID-19 pandemic, the **Conclusions** reflect on the relevance of instruments such as VSS to build more sustainable societies in which the health of humans as well as ecosystems is preserved. Lastly, the main findings of this report are highlighted.


# CHAPTER 1

# VSS ADOPTION DYNAMICS AND TRENDS

## INTRODUCTION

International trade has experienced significant transformations over the last 50 years. Not only has its size increased almost 30 fold; it has also changed in nature, as value chains have spread around the globe and become more complex. The expansion and globalization of trade have had significant environmental impacts, such as deforestation, biodiversity loss, climate change, resource depletion, and water and air pollution. They have also led to increased risks of global health crises, such as the current COVID-19 pandemic. Governing global value chains in a sustainable manner has thus become a prominent issue, and VSS, among others, have emerged as leading governance instruments in that sense.

Whether VSS are an efficient tool for promoting sustainability remains a much debated and researched question. Most of the literature on the effectiveness of sustainability standards concentrates on the degree to which those standards contribute to poverty alleviation, environmental protection and other sustainability metrics. However, the effectiveness of VSS is also determined by the degree to which they are adopted. It has been observed that, over the past two decades, the adoption of sustainability standards has grown gradually, and in some cases exponentially. Yet the *adoption dynamics* of VSS have received little attention.

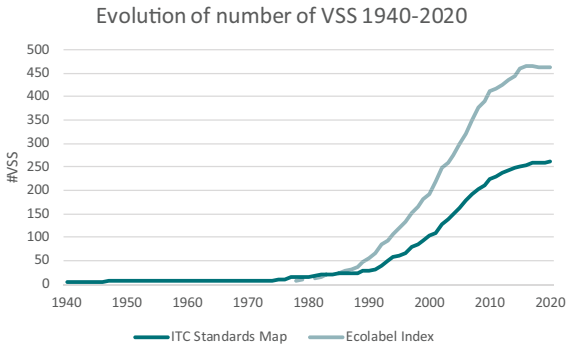
Adoption of VSS refers to the degree of uptake of VSS schemes by producers or firms along global value chains. This can be measured by different indicators, such as the total number of VSS schemes that are active globally or in selected countries, the number of producers or firms that are certified, the number of certified hectares of production land, and the proportion of certified products per commodity. Analysing the adoption dynamics of VSS, or the evolution of VSS adoption over time, is essential for evaluating the effectiveness of VSS and for identifying the determinants of adoption with a view to increasing VSS uptake as a means to achieving increased sustainability.

This chapter examines the adoption dynamics of VSS from three perspectives: global trends in VSS adoption, the evolution of certified commodities, and VSS uptake at country-level. The latter is then tested against several parameters in order to identify potential determinants of VSS adoption. The Forest Stewardship Council (FSC), a leading sustainability standard for forest governance, is analysed as a case study to understand VSS adoption dynamics. The chapter concludes by exploring different explanations and hypothesizing on what factors influence adoption.

# GLOBAL TRENDS IN VSS ADOPTION

Adoption dynamics of VSS schemes can first be analysed by examining the evolution of their total number globally between 1940 and 2020 (figure 2). Two VSS databases – the ITC Standards Map and the Ecolabel Index of the European Union – were used, which map out all existing VSS schemes and compile data on their requirements and procedures. The figure is based on the reported establishment date of VSS schemes, and only includes those that were still in existence at the time of making the graph (March 2020). Therefore, the figure does not reflect the dynamics of establishment and failures of VSS, as analysed by Bloomfield and Schleifer (2017).

**Figure 2**
Evolution in the number of VSS active worldwide, 1940–2020




*Source:* Authors' calculations based on ITC Standards Map[12] and Ecolabel Index.[13]

Despite the divergence in numbers between the ITC Standards Map and the Ecolabel Index,[14] two interesting trends can be discerned. First, although the idea of voluntary standards is quite old (Marx and Wouters, 2015), their proliferation is more recent: VSS truly emerged in the 1990s, and their number grew consistently until the early 2010s. Second, growth in the number of active VSS has been slowing down in recent years, and has even stagnated since 2017, though it is unclear why this has happened. It may be that the market for VSS is saturating in some sectors, in other words, that the existing VSS cover a broad range of social, economic and environmental issues, so that there is little scope for additional VSS to emerge – in some specific sectors at least (see also figure 3 in next section). Another reason for the recent stagnation in the number of VSS may lie in their consolidation, through mergers, alliances and mutual recognition. Mergers of VSS have increasingly occurred, such as the UTZ and Rainforest Alliance merger in 2018. A third reason might simply be that, annually, the number of VSS that disappear due to low uptake levels or unsustainable economic models offsets the number of new VSS, thus showing an overall stagnation.

However, the recent stagnation in the number of existing VSS schemes does not signify stagnation in their adoption by producers or firms along global value chains within different sectors. This aspect is considered in the next section, which examines the evolution of certified cropland area and commodities as indicators of VSS adoption dynamics.

# EVOLUTION OF CERTIFIED COMMODITIES AND CROPLAND AREA

While the number of VSS has grown globally since the 1990s, certain products or sectors are more intensively certified than others. This section looks at the distribution of VSS across sectors as well as, more significantly, the share of certified commodities in their respective markets and the total production area certified.

The largest number of VSS can be found in the agricultural sector (figure 3), a trend that can be observed in the existing literature on VSS, which finds a significant focus on certification of agricultural

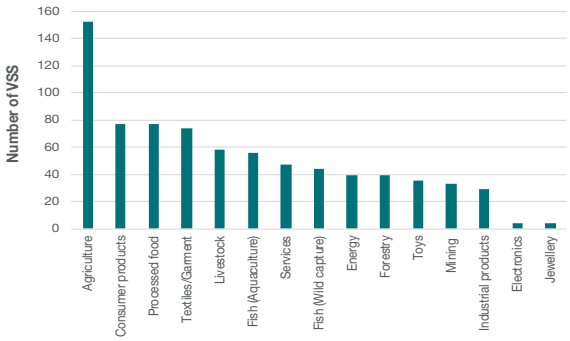
[12] ITC (n.d.). *ITC Standards Map.* Available at: https://sustainabilitymap.org/standards?q=eyJzZWxlY3RlZENsaWVudCI6Ik5PIEFGRklMSUFUSU9OIn0%3D (accessed, March 2020).

[13] Ecolabel Index (n.d.). *Ecolabel Index*. Available at: http://www.ecolabelindex.com/ecolabels/ (accessed, March 2020).

[14] This divergence is explained by different methodologies in the construction of the databases. The ITC Standards Map is typically more restrictive, as it relies on data quality review from independent experts as well as from standards organizations themselves. The Ecolabel Index is more comprehensive, as it aims to map out all existing VSS schemes without review requirements. Hereinafter, data from the ITC Standards Map is used.


commodities. However, a large number of VSS in a given sector does not necessarily imply a high level of certification in that sector. One could even question whether the presence of numerous VSS in a given sector is desirable, as it can confuse consumers seeking to identify credible VSS. In order to better capture VSS uptake, it is preferable to examine the share of certified commodities in total commodity production and the percentage of certified production area in total production area.

**Figure 3**
Number of VSS across sectors




*Source:* Authors' calculation based on ITC Standards Map.[15]

In this respect, the *State of Sustainable Markets* annual reports of the ITC, in collaboration with the Research Institute of Organic Agriculture (FiBL) and the International Institute for Sustainable Development (IISD), have been providing the most comprehensive mapping and evolution of certified commodities globally since 2008. Those reports compile data from the 14 major VSS organizations[16] globally, covering 8 agricultural commodities – bananas, cocoa, coffee, cotton, palm oil, soybeans, sugarcane and tea – plus forestry. The main findings of the 2019 report show that certification has intensified over the past decade, in terms of both the proportion of certified commodities in their respective markets and the proportion of certified production area (table 1). VSS are therefore no longer a niche market but are mainstreaming. In addition, the report estimates that the area of production land certified by the 12 leading agricultural VSS under study accounts for only 1.94 per cent of total agricultural land area globally (Willer et al., 2019: 7), but that this percentage is increasing. This increase is confirmed by Tayleur et al. (2017), who mapped out the coverage of 12 major agricultural VSS,[17] and found that certified cropland is growing by approximately 11 per cent a year. However, similar to the findings of the *State of Sustainable Markets 2019* report, the authors also show that only 1.1 per cent of global cropland is certified by those 12 major VSS. One of the reasons for this low proportion is probably because demand for certification has originated

[15] ITC (n.d.). *ITC Standards Map*. Available at: https://sustainabilitymap.org/standards?q=eyJzZWxlY3RlZENsaWVudCI6Ik5PIEFGRklMSUFUSU9OIn0%3D (accessed, March 2020).

[16] The 14 VSS organizations are: 4C Services (4C), Better Cotton Initiative (BCI), Bonsucro, Cotton made in Africa (CmiA), Fairtrade International (Fairtrade), Forest Stewardship Council (FSC), GLOBALG.A.P., IFOAM – Organics International (organic), Programme for the Endorsement of Forest Certification (PEFC), ProTerra Foundation (ProTerra), Rainforest Alliance (Rainforest), Roundtable on Sustainable Palm Oil (RSPO), Round Table on Responsible Soy (RTRS) and UTZ (a programme and certification scheme for sustainable farming).

[17] Namely: 4C Services (4C), Better Cotton Initiative (BCI), Bonsucro, Cotton made in Africa (CmiA), Fairtrade International (Fairtrade), GLOBALG.A.P., IFOAM – Organics International (organic), ProTerra Foundation (ProTerra), Rainforest Alliance (Rainforest), Roundtable on Sustainable Palm Oil (RSPO), Round Table on Responsible Soy (RTRS), Roundtable on Sustainable Biomaterials, and UTZ.

**Table 1**
Evolution of certification in selected agricultural commodities and forestry

| Commodity | Share of certified production volume in total production, 2017 (Per cent) | Growth in share of certified production volume in total production, 2013-2017 (Per cent) | Share of certified production land in total production land, 2017 (Per cent) | Growth in share of certified production land in total production land, 2013-2017 (Per cent) |
|---|---|---|---|---|
| Bananas | 5.6 | +88.7 | 6.0 | +28.6 |
| Cocoa | 29.4 | +58.2 | 24.8 | +114.7 |
| Coffee | 26.1 | -7.8 | 23.4 | +8.7 |
| Cotton | NA | NA | 16.2 | +172.4 |
| Palm oil | NA | NA | 11.9 | +26.1 |
| Soybeans | 1.5 | +34.3 | 1.5 | -5.9 |
| Sugarcane | NA | NA | 7.6 | +80.2 |
| Tea | 20.9 | +71.0 | 16.4 | +77.3 |
| Forestry | NA | NA | 10.8 | +27.9 [a] |

*Source:* Willer et al. (2019).

[a] For wood, the reference period is 2010–2017.

NA= data not available.

mostly in developed countries, with a recent focus on tropical agricultural commodities, and therefore there are fewer incentives for farmers in developing countries to adopt certification for domestic crops.

While the proportion of land under certified production globally remains limited, it is nonetheless growing, and certified products are gaining market shares as well. However, this trend is not uniform across all countries. Tayleur et al. (2017) analysed the proportion of land under certified production by country. They showed that certification is more intensive in some countries than in others. Countries scoring high (> 10 per cent of production land certified) include Austria, Belize, Colombia, Costa Rica, Côte d'Ivoire, the Dominican Republic, Guatemala, Italy, Malaysia, Papua New Guinea, Peru, Sierra Leone, Sweden and Zambia. Other countries, such as Brazil, El Salvador, Estonia, Ghana, Honduras, Indonesia, Kenya, Latvia, Lithuania, Mexico, Nicaragua and Spain also score relatively high (> 5 per cent). Such findings seem rather intuitive. Considering that about 60 per cent of all VSS apply to agricultural products, one might assume that the largest producing countries of agricultural commodities are likely to be more intensively certified.

Nonetheless, another study by Tayleur et al. (2018) showed that within the areas or countries where agricultural commodities are mostly produced, certification is not uniformly distributed. For example, while bananas, cocoa, coffee, palm oil, soybeans and sugarcane are produced in many tropical countries, certified commodities are concentrated in specific countries or regions of countries. For bananas, certification is most intensive in some parts of Colombia, Costa Rica, the Dominican Republic, Ecuador and Honduras. Certified cocoa is mostly concentrated in Côte d'Ivoire, certified coffee in Brazil, Central America and Colombia, certified palm oil in Indonesia and Malaysia, certified soybeans in Argentina and Brazil, and certified sugarcane in Brazil.

These findings suggest that being a large producer of intensively certified commodities potentially plays a role, but this does not adequately explain VSS uptake. One can hypothesize that other country-level parameters are also influencing the adoption of VSS. The next section analyses the degree of VSS adoption per country, and explores possible explanatory factors for variations in uptake.

## UPTAKE OF VSS AT COUNTRY LEVEL

Country-level data, while not a perfect measure, is a relevant proxy for analysing VSS adoption, since it gives some insight into where VSS are active, and potentially enables an identification of some country-level parameters that influence VSS adoption.

Based on data from the ITC Standards Map, the degree of VSS adoption of a selected country is measured as the percentage of active VSS in that country in relation to the total number of active VSS worldwide. The theoretical maximum for such a score is 100, corresponding to a country where all existing VSS are active. However, such a score is not expected to be found, as a significant number of VSS are local and sector-specific. It is therefore not possible for a country to have all existing VSS active on its territory. The theoretical minimum for the adoption score is 0, corresponding to a country that does not have any active VSS. Adoption scores are then tested against several country-level trade, governance, development and globalization parameters in order to identify factors that influence VSS uptake. Table 2 ranks countries according to their VSS adoption score, showing also their income level. A map (figure 4) provides a visual representation of this table.

Five observations can be made from table 2. First, it appears that VSS are found in all countries,[18] but that there is considerable variation between countries, which can be expected on the basis of the size of the economy. Brazil, China, India, Indonesia, Mexico the United States, for example, are leading in VSS adoption, with more than 40 per cent of all existing VSS active in their respective territories. At the other end of the table, New Caledonia, Micronesia, Palau, Tonga, Tuvalu and Nauru are lagging behind, with less than 10 per cent of all VSS being active in their territories. However, countries at the lower end of the table are mostly small island developing States, where lower adoption scores are to be expected, as smaller economies provide fewer opportunities for different VSS to operate.

Second, variation in adoption scores appears to more or less align with income levels. Indeed, low-income countries – and, to some extent, lower-middle-income countries – feature low in the table, meaning that low-income countries tend to count fewer VSS than high- or upper- middle-income countries. The United Republic of Tanzania is the best-scoring low-income country, ranking 36th, with 29 per cent of all VSS being active on its territory. Reciprocally, among the 30 best scoring countries, only 4 are from the low- or lower- middle-income groups. Large countries with well-developed economies tend to have more VSS.

Nonetheless, and as a third observation, variation in adoption scores does not always align with income level. Japan, for example, despite being the third largest economy in the world, only ranks 35th in the VSS adoption score, after Honduras and Sri Lanka. The Russian Federation, as the 12th largest economy in the world, ranks only 62nd. The size or income level of an economy is therefore not the only determinant of the extent of VSS adoption within a country.

More so, and fourth, some lower-middle-income countries score high, such as Viet Nam (10th position), Indonesia (5th position) and India (4th position). Income level therefore does not necessarily predict the VSS adoption ranking. Rather, the well-scoring lower-middle-income countries are typically countries that pursue an export-oriented industrialization policy.

Lastly, even some low-income countries score fairly high, such as the United Republic of Tanzania, as aforementioned, and Ethiopia (37th) – just below Japan and above Sweden. It is worth noting that these low-income countries that score relatively high export commodities, such as coffee, which can be certified by multiple certificates.

In order to explore possible determinants of country-level VSS uptake, adoption scores are tested against a number of economic and political indicators (table 3).[19] Correlation coefficients *(r)* are calculated to identify factors that correlate with VSS adoption at country level, with correlation considered *high* when $r$ is higher than 0.5 ($|r| > .5$), *moderate* when $r$ ranges between 0.3 and 0.5 ($.3 < |r| < .5$), and *weak* when $r$ is below 0.3 ($|r| < .3$). This correlational analysis is used only for exploratory purposes, and does not aim to identify the exact determinants of VSS presence in each country. Rather it is intended to provide a general understanding of some factors potentially at play.[20]

[18] The ITC Standards Map does not provide data for Liechtenstein, Monaco, San Marino and South Sudan. While those countries do, nonetheless, count a few VSS active on their territory, they are excluded from our analysis.

[19] Adoption scores are correlated with income level and several trade, governance, development and globalization indicators by analysing correlation *(r)*. See annex for explanatory notes to this table.

[20] For further analysis, this modelling exercise could be complemented with ground level research.

**Table 2**
Degree of VSS adoption by country, with income level

| Rank | Country | VSS adoption score | Income group |
|---|---|---|---|
| 1 | Brazil | 45.77 | Upper middle |
| 2 | United States of America | 43.85 | High |
| 3 | China | 43.08 | Upper middle |
| 4 | India | 43.08 | Lower middle |
| 5 | Indonesia | 41.92 | Lower middle |
| 6 | Mexico | 41.15 | Upper middle |
| 7 | Peru | 39.23 | Upper middle |
| 8 | Germany | 38.85 | High |
| 9 | Colombia | 38.08 | Upper middle |
| 10 | Viet Nam | 38.08 | Lower middle |
| 11 | Thailand | 37.31 | Upper middle |
| 12 | Netherlands | 36.92 | High |
| 13 | United Kingdom | 36.54 | High |
| 14 | Spain | 35.77 | High |
| 15 | Turkey | 35.38 | Upper middle |
| 16 | France | 35.00 | High |
| 17 | Italy | 35.00 | High |
| 18 | South Africa | 34.62 | Upper middle |
| 19 | Canada | 34.23 | High |
| 20 | Argentina | 33.85 | Upper middle |
| 21 | Belgium | 33.85 | High |
| 22 | Costa Rica | 33.08 | Upper middle |
| 23 | Chile | 31.92 | High |
| 24 | Ecuador | 31.92 | Upper middle |
| 25 | Switzerland | 31.92 | High |
| 26 | Kenya | 31.54 | Lower middle |
| 27 | Portugal | 31.54 | High |
| 28 | Austria | 31.15 | High |
| 29 | Denmark | 31.15 | High |
| 30 | Malaysia | 31.15 | Upper middle |
| 31 | Australia | 30.77 | High |
| 32 | Poland | 30.00 | High |
| 33 | Honduras | 29.62 | Lower middle |
| 34 | Sri Lanka | 29.62 | Upper middle |
| 35 | Japan | 29.23 | High |
| 36 | United Republic of Tanzania | 29.23 | Low |
| 37 | Ethiopia | 28.85 | Low |
| 38 | Guatemala | 28.85 | Upper middle |
| 39 | Sweden | 28.85 | High |
| 40 | Egypt | 28.08 | Lower middle |
| 41 | Greece | 28.08 | High |

.../...

| Rank | Country | VSS adoption score | Income group |
|---|---|---|---|
| 42 | Ireland | 28.08 | High |
| 43 | Nicaragua | 28.08 | Lower middle |
| 44 | Philippines | 27.69 | Lower middle |
| 45 | Bulgaria | 27.31 | Upper middle |
| 46 | Czech Republic | 26.92 | High |
| 47 | Dominican Republic | 26.92 | Upper middle |
| 48 | Hungary | 26.92 | High |
| 49 | Morocco | 26.92 | Lower middle |
| 50 | Ghana | 26.54 | Lower middle |
| 51 | Pakistan | 26.54 | Lower middle |
| 52 | Romania | 26.54 | Upper middle |
| 53 | Uganda | 26.15 | Low |
| 54 | Bolivia | 25.77 | Lower middle |
| 55 | Finland | 25.77 | High |
| 56 | Madagascar | 25.77 | Low |
| 57 | Norway | 25.77 | High |
| 58 | Tunisia | 25.77 | Lower middle |
| 59 | Cambodia | 25.38 | Lower middle |
| 60 | Croatia | 25.38 | High |
| 61 | Paraguay | 25.00 | Upper middle |
| 62 | Russian Federation | 24.62 | Upper middle |
| 63 | New Zealand | 24.23 | High |
| 64 | Uruguay | 23.85 | High |
| 65 | Lithuania | 23.46 | High |
| 66 | Slovakia | 23.46 | High |
| 67 | Bangladesh | 23.08 | Lower middle |
| 68 | El Salvador | 23.08 | Lower middle |
| 69 | Mauritius | 23.08 | Upper middle |
| 70 | Republic of Korea | 23.08 | High |
| 71 | Slovenia | 23.08 | High |
| 72 | Singapore | 22.69 | High |
| 73 | Zambia | 22.69 | Lower middle |
| 74 | Côte d'Ivoire | 22.31 | Lower middle |
| 75 | Latvia | 21.92 | High |
| 76 | Zimbabwe | 21.92 | Lower middle |
| 77 | Estonia | 21.15 | High |
| 78 | Panama | 21.15 | High |
| 79 | Serbia and Montenegro | 21.15 | Upper middle |
| 80 | Israel | 20.77 | High |
| 81 | Ukraine | 20.77 | Lower middle |
| 82 | Bosnia and Herzegovina | 20.38 | Upper middle |
| 83 | Malawi | 20.38 | Low |
| 84 | Burkina Faso | 20.00 | Low |
| 85 | Cameroon | 20.00 | Lower middle |

.../...

| Rank | Country | VSS adoption score | Income group |
|---|---|---|---|
| 86 | Papua New Guinea | 20.00 | Lower middle |
| 87 | Cyprus | 19.62 | High |
| 88 | Rwanda | 19.62 | Low |
| 89 | Senegal | 19.62 | Lower middle |
| 90 | United Arab Emirates | 19.62 | High |
| 91 | Democratic Republic of the Congo | 19.23 | Low |
| 92 | Luxembourg | 19.23 | High |
| 93 | Nepal | 19.23 | Low |
| 94 | Lao People's Democratic Republic | 18.85 | Lower middle |
| 95 | Mozambique | 18.85 | Low |
| 96 | Belize | 18.46 | Upper middle |
| 97 | Bolivarian Republic of Venezuela | 18.46 | Upper middle |
| 98 | Myanmar | 18.08 | Lower middle |
| 99 | Nigeria | 18.08 | Lower middle |
| 100 | Suriname | 18.08 | Upper middle |
| 101 | Jordan | 17.69 | Upper middle |
| 102 | Mali | 17.69 | Low |
| 103 | Burundi | 17.31 | Low |
| 104 | Lebanon | 17.31 | Upper middle |
| 105 | Malta | 17.31 | High |
| 106 | North Macedonia | 17.31 | Upper middle |
| 107 | Congo | 16.92 | Lower middle |
| 108 | Haiti | 16.92 | Low |
| 109 | Togo | 16.92 | Low |
| 110 | Namibia | 16.54 | Upper middle |
| 111 | Oman | 16.54 | High |
| 112 | Albania | 15.77 | Upper middle |
| 113 | Jamaica | 15.77 | Upper middle |
| 114 | State of Palestine | 15.77 | Lower middle |
| 115 | Saudi Arabia | 15.77 | High |
| 116 | Algeria | 15.38 | Upper middle |
| 117 | Guyana | 15.38 | Upper middle |
| 118 | Kazakhstan | 15.38 | Upper middle |
| 119 | Republic of Moldova | 15.38 | Lower middle |
| 120 | Eswatini | 15.38 | Lower middle |
| 121 | Benin | 15.00 | Low |
| 122 | Botswana | 15.00 | Upper middle |
| 123 | Fiji | 15.00 | Upper middle |
| 124 | Georgia | 15.00 | Upper middle |
| 125 | Iceland | 15.00 | High |
| 126 | Mongolia | 15.00 | Lower middle |
| 127 | Trinidad and Tobago | 15.00 | High |
| 128 | Bahamas | 14.62 | High |
| 129 | Bahrain | 14.62 | High |

.../...

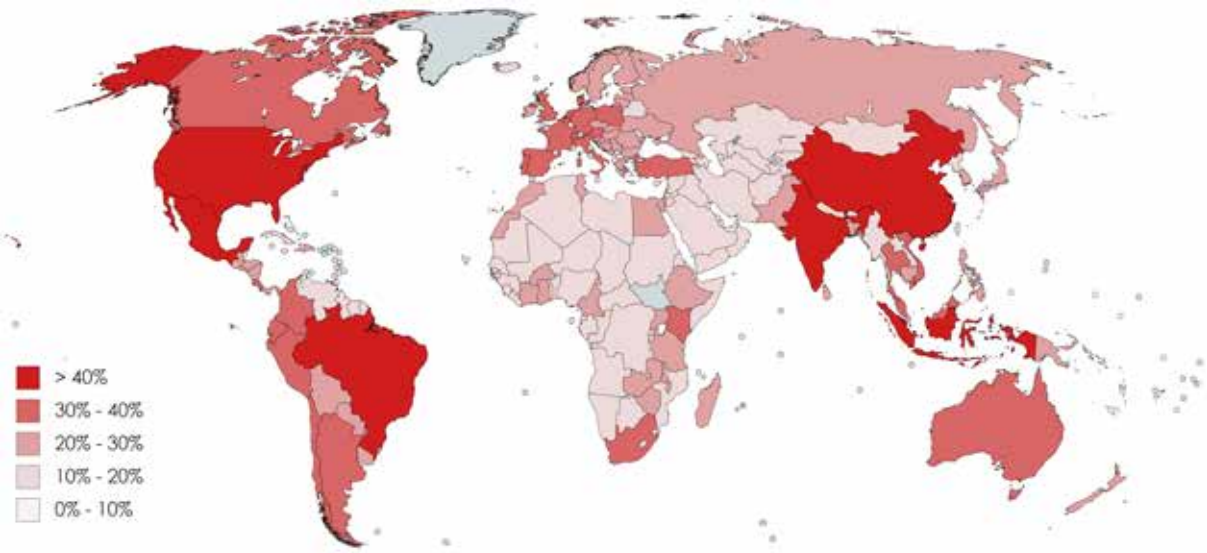
| Rank | Country | VSS adoption score | Income group |
|---|---|---|---|
| 130 | Maldives | 14.62 | Upper middle |
| 131 | Niger | 14.62 | Low |
| 132 | Sierra Leone | 14.62 | Low |
| 133 | Uzbekistan | 14.62 | Lower middle |
| 134 | Azerbaijan | 14.23 | Upper middle |
| 135 | Gambia | 14.23 | Low |
| 136 | Angola | 13.85 | Lower middle |
| 137 | Cuba | 13.85 | Upper middle |
| 138 | Gabon | 13.85 | Upper middle |
| 139 | Guinea | 13.85 | Low |
| 140 | Liberia | 13.85 | Low |
| 141 | Seychelles | 13.85 | High |
| 142 | Turkmenistan | 13.85 | Upper middle |
| 143 | Barbados | 13.46 | High |
| 144 | Belarus | 13.46 | Upper middle |
| 145 | Saint Lucia | 13.46 | Upper middle |
| 146 | Syrian Arab Republic | 13.46 | Low |
| 147 | Democratic People's Republic of Korea | 13.08 | Low |
| 148 | Grenada | 13.08 | Upper middle |
| 149 | Iran (Islamic Republic of) | 13.08 | Upper middle |
| 150 | Lesotho | 13.08 | Lower middle |
| 151 | Sudan | 13.08 | Lower middle |
| 152 | Tajikistan | 13.08 | Low |
| 153 | Armenia | 12.69 | Upper middle |
| 154 | Cabo Verde | 12.69 | Lower middle |
| 155 | Kuwait | 12.69 | High |
| 156 | Kyrgyzstan | 12.69 | Lower middle |
| 157 | Mauritania | 12.69 | Lower middle |
| 158 | Afghanistan | 12.31 | Low |
| 159 | Antigua and Barbuda | 12.31 | High |
| 160 | Central African Republic | 12.31 | Low |
| 161 | Dominica | 12.31 | Upper middle |
| 162 | French Guiana | 12.31 | |
| 163 | Guinea-Bissau | 12.31 | Low |
| 164 | Qatar | 12.31 | High |
| 165 | Solomon Islands | 12.31 | Lower middle |
| 166 | Timor-Leste | 12.31 | Lower middle |
| 167 | Chad | 11.92 | Low |
| 168 | Comoros | 11.92 | Lower middle |
| 169 | Eritrea | 11.92 | Low |
| 170 | Falkland Islands (Malvinas) | 11.92 | |
| 171 | Saint Vincent and the Grenadines | 11.92 | Upper middle |
| 172 | Yemen | 11.92 | Low |
| 173 | Djibouti | 11.54 | Lower middle |

.../...

| Rank | Country | VSS adoption score | Income group |
|---|---|---|---|
| 174 | Equatorial Guinea | 11.54 | Upper middle |
| 175 | Iraq | 11.54 | Upper middle |
| 176 | Libya | 11.54 | Upper middle |
| 177 | Sao Tome and Principe | 11.54 | Lower middle |
| 178 | Somalia | 11.54 | Low |
| 179 | Saint Kitts and Nevis | 11.54 | High |
| 180 | Bhutan | 11.15 | Lower middle |
| 181 | Brunei Darussalam | 11.15 | High |
| 182 | Samoa | 10.77 | Upper middle |
| 183 | Vanuatu | 10.77 | Lower middle |
| 184 | Andorra | 10.38 | High |
| 185 | Kiribati | 10.38 | Lower middle |
| 186 | Marshall Islands | 10.00 | Upper middle |
| 187 | New Caledonia | 9.62 | High |
| 188 | Micronesia (Federated States of) | 9.23 | Lower middle |
| 189 | Palau | 9.23 | High |
| 190 | Tonga | 9.23 | Upper middle |
| 191 | Tuvalu | 9.23 | Upper middle |
| 192 | Nauru | 8.46 | Upper middle |

*Source:* Authors' calculations based on ITC Standards Map.[21]

**Figure 4**
VSS adoption intensity map per country (as a percentage of all VSS)




*Source:* Authors' map based on ITC Standards Map.[22]

[21] ITC (n.d.). *ITC Standards Map*. Available at: https://sustainabilitymap.org/standards?q=eyJzZWxlY3RlZENsaWVudCI6Ik-5PIEFGRklMSUFUSU9OIn0%3D (accessed, March 2020).

[22] ITC (n.d.). *ITC Standards Map*. Available at: https://sustainabilitymap.org/standards?q=eyJzZWxlY3RlZENsaWVudCI6Ik-5PIEFGRklMSUFUSU9OIn0%3D (accessed, March 2020).

**Table 3**
Correlation coefficients between indicators and countries' VSS adoption scores

| Indicator | *r* | Correlation type |
|---|---|---|
| Overall Globalisation index | 0.5955 | High |
| Export Concentration index | -0.5607 | |
| Net imports | 0.5340 | |
| Net exports | 0.5198 | |
| Doing Business index | 0.4901 | Moderate |
| Global Competitiveness index | 0.4597 | |
| GDP | 0.4280 | |
| Government effectiveness | 0.4164 | |
| Trade freedom | 0.4103 | |
| Population size | 0.4094 | |
| Human Development Index | 0.3794 | |
| Rule of law | 0.3339 | |
| GDP per capita | 0.2772 | Weak |
| Income group | 0.2494 | |
| Share of agriculture in GDP | -0.2339 | |
| Trade tariffs | -0.1879 | |
| Exports as a share of GDP | -0.0099 | |
| Growth rate of GDP per capita, 1995-2019 | 0.0023 | |

*Source:* Authors' calculations based on UNCTADstat[23]; UN Comtrade[24]; World Bank[25]; WEF (2019); Heritage Foundation (2019); KOF[26]; UNDP[27].

Table 3 shows that 4 out of 18 indicators analysed are strongly correlated with VSS adoption level ($|r| > .5$), namely overall globalization, export concentration, net imports and net exports. This corresponds to findings by Tayleur et al. (2017) who observed that the most intensively certified commodities are also the most exported ones. Moderately correlated to VSS adoption level ($.3 < |r| < .5$) are the following indicators: doing business, global competitiveness, GDP, governance (i.e. government effectiveness and rule of law), trade freedom, population size and the Human Development Index.

Trade diversification is an important correlate of VSS adoption. As an illustration, figure 5 shows the relation between the Export Concentration index (x-axis) and VSS adoption scores (y-axis), which are normalized on a 0 to 1 scale, with 0 being a country with no VSS, and 1 being the best scoring country (Brazil). The red line represents the correlation between both variables. The figure shows that countries scoring rather well on VSS adoption (y-axis) have a smaller export concentration index (x-axis), meaning that their exports are more diversified, with a broader range of products. By contrast, countries that score high on export concentration, in other words, whose exports are concentrated in a few products, score relatively low on VSS adoption. This result is rather intuitive, as

[23] UNCTADstat (n.d.). *Merchandise: Product concentration and diversification indices of exports and imports, annual.* Available at: https://unctadstat.unctad.org/wds/TableViewer/tableView.aspx?ReportId=120 (accessed, March 2020).

[24] UN Comtrade (n.d.). *International Trade Statistics – Import/Export Data*. Available at: https://comtrade.un.org/data/ (accessed, March 2020).

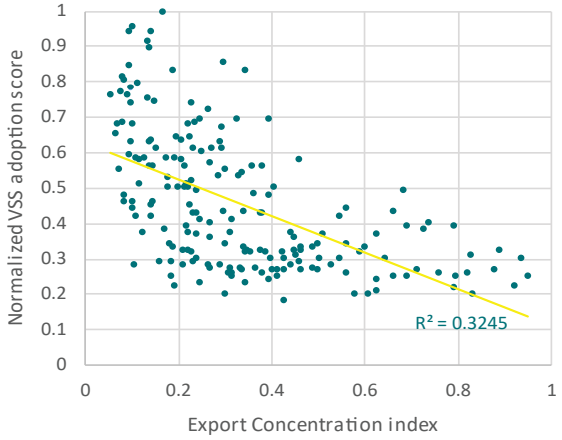
[25] World Bank (n.d.a.). *World Bank Open Data*. Available at: https://data.worldbank.org/ (accessed, March 2020); World Bank (n.d.b.). *Worldwide Governance Indicators*. Available at: https://datacatalog.worldbank.org/dataset/worldwide-governance-indicators (accessed, March 2020).

[26] KOF (n.d.). *KOF Globalisation Index*. Available at: https://kof.ethz.ch/en/forecasts-and-indicators/indicators/kof-globalisation-index.html (accessed, March 2020).

[27] UNDP (n.d.). *Human Development Data (1990-2018)*. Available at: http://hdr.undp.org/en/data (accessed, March 2020).

countries with more diversified export products have the potential to adopt more VSS, as individual VSS are most often targeted towards a certain range of products. Conversely, countries whose exports are limited to a few products have less potential to adopt several VSS.

**Figure 5**
Correlation between countries' export concentration index and VSS adoption score




*Source:* Authors' calculations based on ITC Standards Map[28] and UNCTADstat.[29]

Besides trade diversification, VSS adoption is assumed to be influenced by a combination of other political and economic factors (see annex). Given that most *r* scores calculated in table 3 indicate high or moderate correlations, as a general rule it could be asserted that *open economies* (measured by the overall Globalization index, Doing Business index, Global Competitiveness index, and trade freedom) *with diversified economic sectors and exports* (measured by export diversification and concentration indices and net imports and exports), *relatively well-functioning governments* (measured by government effectiveness and rule of law) *and a certain level of development* (measured by GDP, the Human Development Index (HDI) and income group) tend to adopt more VSS.

While this section explores countries' VSS adoption scores against several indicators, measuring the number of VSS active in a country fails to provide information about the adoption *dynamics* of VSS in a given country; in other words, the evolution of VSS uptake over time. Aggregating adoption data for all VSS in each country over time is, however, beyond the scope of this report. Nonetheless, analysing individual VSS can provide meaningful insights into adoption dynamics of VSS, as illustrated in box 1, which examines adoption dynamics in forest certification.

## OTHER FACTORS INFLUENCING VSS ADOPTION

In the previous section, several country-specific parameters that influence VSS adoption were identified. In this section, other factors including market-related ones, are explored to explain variations in VSS adoption.

A major factor potentially explaining the general increase in VSS adoption is the existence of a consumer market for certified products. O'Rourke (2012), for instance, found that there is indeed a consumer demand for certified products, although the size of such a market remains unclear. However, other studies (Backhaus et al., 2012; EEA, 2015; Rokka and Uusitalo, 2008) show that in Europe, consumption patterns have remained relatively unchanged with regard to VSS. Other research points to an attitude-behaviour gap of consumers, which suggests that their increased environmental awareness and their expressed willingness to pay higher prices for sustainable products do not translate into more sustainable consumption behaviours (Brenton, 2013; Rex and Baumann, 2007). Rather, it was found that demand for VSS at the level of individual consumers depends on multiple factors, including age, nationality, motivation, past experience with VSS, scepticism towards VSS agencies, level of expertise or knowledge about VSS, need, accessibility, affordability, product performance, or force of habit (Taufique et al., 2017; Thøgersen et al., 2009). While some research shows that tailored information tools can influence consumer behaviour towards more sustainable consumption

[28] ITC (n.d.). *ITC Standards Map*. Available at: https://sustainabilitymap.org/standards?q=eyJzZWxlY3RlZENsaWVudCI6Ik5PIEFGRklMSUFUSU9OIn0%3D (accessed, March 2020).

[29] UNCTADstat (n.d.). *Merchandise: Product concentration and diversification indices of exports and imports, annual.* Available at: https://unctadstat.unctad.org/wds/TableViewer/tableView.aspx?ReportId=120 (accessed, March 2020).

## Box 1. Adoption dynamics in forest certification

The Forest Stewardship Council (FSC) and the Programme for the Endorsement of Forest Certification (PEFC) are the two leading VSS in forestry at the global level. The FSC, aims to make forest management environmentally responsible, socially beneficial and economically viable in the long term. It was founded in 1993 by several environmental non-governmental organizations (NGOs), including the World Wide Fund for Nature (WWF), the National Wildlife Federation and Friends of the Earth, along with profit-making firms such as Home Depot, B&Q and IKEA. The FSC is considered by many scholars as one of the most advanced examples of VSS due to its scope and multi-stakeholder internal structure (Bell and Hindmoor, 2012; Gulbrandsen, 2004; Schepers, 2010). Indeed, the FSC certifies forests across 80 countries, and has experienced a tenfold increase in adoption between 2001 and 2019, from approximately 20 million hectares of forest certified in 2001 to more than 200 million in 2019 globally.[a] The PEFC was founded in 1999 by industry groups backed by State agencies as a competitor to the FSC. The PEFC operates in 53 countries and certifies 325 million hectares of forest – a 50 per cent increase compared to 2008. Both the FSC and the PEFC have thus experienced significant growth in the areas they certify globally. But such growth is not homogeneous across all countries where the two VSS are active.

Based on a newly created dataset, Marx and Depoorter (forthcoming) studied the dynamics of adoption of FSC certification in all countries where it is active over the period 2001–2019, by analysing the evolution of both the absolute number of hectares certified and the proportion of certified forest as a percentage of total forest cover per country per year. As the total number of existing VSS has been growing since the 1990s, and as certification of cropland and commodities continues to increase annually, one might expect VSS adoption to experience similar growth.

However, the authors identified six different types of adoption dynamics for the FSC. The first and most widespread is the *steadily growing* type. In around half of the countries where the FSC is active, adoption increased constantly between 2001 and 2019, although the level of adoption varied across countries, from less than 1 per cent of total forest cover certified, such as in Argentina and Colombia, to nearly 100 per cent, as in Belarus. This type of adoption dynamic is what one would expect from the trends in VSS observed at the global level. In other countries, adoption of FSC certification has also been increasing but with sudden growth rather than steadily This constitutes the second type of adoption dynamic, and concerns 14 countries, including Spain, Croatia, Estonia and Denmark. In this case too, the scale of adoption dynamic has varied. However, the FSC has also experienced a stagnation, and even a decline, of adoption in 14 other countries. The third category, the stagnating type, has been observed in countries such as Mozambique, Nicaragua, Gabon, Ireland and Latvia. In some countries, such as Costa Rica, adoption of FSC certification has experienced a steady decline – the fourth category; whereas in other countries, such as Austria and Cambodia, there has been a sharp decline, which is the fifth type of adoption dynamic. The last category, the fluctuating type, observed in 17 countries, including Brazil, China France and Zimbabwe, is characterized by multiple variations in adoption, with no clear trend.

The researchers presented two findings: first, *there are different types of adoption dynamics across countries;* second, *linear or exponential growth in adoption of FSC certification cannot be assumed*. Adoption depends on country-level economic, social, political and environmental parameters. Additionally, adoption dynamics of FSC certification are determined by the number and size of forest owners that become certified, are certified and drop out of certification each year. They also analysed the adoption dynamics of the PEFC based on the same methodology for the period 2008–2019 (no data were available for the period prior to 2008). They found the same six types of dynamics across countries. However, interestingly, their data revealed that in some cases, for a given country where both the FSC and the PEFC are active, the two VSS experience different types of adoption dynamics.

[a] FSC (n.d.). *Facts and Figures*. Available at: https://fsc.org/en/page/facts-figures (accessed, March 2020).

(UNEP, 2020), whether the behavioural change is significant enough to upscale VSS adoption at the producer or firm level remains debatable.

In this sense, a second factor that can foster adoption of VSS is business demand. Several scholars, such as Galati et al. (2017) have explored the reasons why companies wish to take up VSS. First, they find that, in their desire to meet the growing consumer demand for sustainable products, businesses increasingly use VSS as a signalling mechanism to inform consumers about the sustainability of their products, and as a differentiation mechanism to gain market shares. Second, companies adopt VSS as a means to mitigate reputational risks. Indeed, starting in the 1970s, NGOs have gained power and have been conducting naming-and-shaming campaigns against companies whose activities have adverse socioeconomic or environmental impacts. To avoid being the target of such campaigns and to preserve their reputation, businesses therefore adopt VSS as proof of compliance with sustainability standards. Third, VSS are used by companies as a way to govern their supply chains at a time of increased due diligence requirements. With the advent of SPP in particular (chapter 2), supplier firms may seek to adopt VSS as a competitive advantage for winning public contracts. In addition, investment banks and private investors are also increasingly seeking to acquire sustainable portfolios, and VSS can serve as proof of compliance with sustainable practices and standards. Fourth, government regulations on reporting business practices are increasing. In this case as well, taking up VSS can serve as proof of compliance with sustainability standards and facilitate the transfer of such information, provided that governments accept VSS as sufficient proof. Lastly, VSS adoption can increase, depending on the structure of the business sector: VSS spread more rapidly in sectors with large and vertically integrated companies (Espach, 2006; Gulbrandsen, 2005; Swinnen et al., 2015; ITC, 2011a), as adoption of VSS in one stage of the value chain spreads more easily to the other stages. More specifically, the increasing concentration and bargaining power of retailers on world markets might increase VSS adoption at the global level.

Government drivers constitute a third factor that can explain an increase in VSS uptake through three mechanisms. First, governments can include private governance systems in public legislation. Some examples are provided in chapter 3 of this report. Second, an increasing number of laws and regulations are requiring the disclosure of non-financial information about supply chains, such as the California Act on Transparency or the EU Directive 2014/95/EU on non-financial reporting, the UK Modern Slavery Act, Dutch Child Labour Due Diligence Act and French Duty of Vigilance Law. VSS can serve as proof of assurance that supply chains are being monitored and governed, which can therefore lead to further adoption of VSS. Third, as mentioned previously, sustainable public procurement policies can also increase VSS adoption. Public procurement can account for between 10 and 25 per cent of GDP depending on the country. Public contracts that stipulate environmental and social conditions and acknowledge VSS as proof of compliance can therefore encourage suppliers to adopt VSS. The next chapter further elaborates on the role of VSS in SPP.


# CHAPTER 2

# DRIVERS FOR ADOPTION: SUSTAINABLE PUBLIC PROCUREMENT

## INTRODUCTION

Given the large quantities of public procurement, government purchasing power has huge potential to nudge markets towards higher standards of sustainability. The concept of SPP envisages public authorities demanding, for example, that their purchases of wood products are manufactured from legally harvested or sustainable timber, that public buildings meet ecological standards, that clothing for State employees is made in a healthy labour environment devoid of child labour, or that coffee served by public bodies is produced under fair conditions. In SPP, VSS are used to identify sustainable products; thus it can significantly contribute to scaling up VSS and influence their uptake. This chapter first introduces public procurement. Next, the notion of sustainable public procurement and how VSS are related to SPP are presented. The chapter ends by presenting some important considerations and discussion points on the linkage between VSS and sustainable public procurement.

## PUBLIC PROCUREMENT

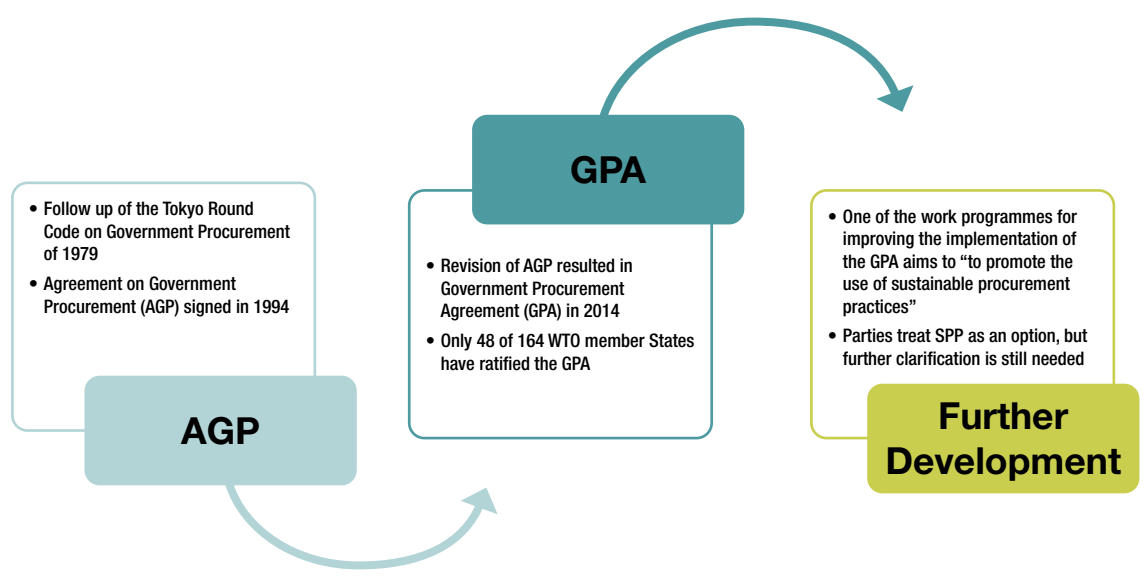
Government agencies use public resources for the purchase of goods and services to operate. Such purchases are known as public procurement or government procurement. There are various definitions of public procurement. According to Arrowsmith and Kunzlik (2009: 9), "Public procurement refers to the buying by the public sector of […] goods, services and works". Public procurement is defined by the OECD (2020) as "the purchase by governments and state-owned enterprises of goods, services and works". And according to the European Commission (2020), it is "the process by which public authorities, such as the government departments or local authorities, purchase work, goods or services from companies". The functional objectives of public procurement include, among others, minimizing corruption in the award of public contracts, driving market innovation, fostering industrial development and promoting competitive markets (Bleda and Chicot, 2020; Dawar and Oh, 2017; Caldwell et al., 2005).[30] Additionally, public procurement is recognized for its role in promoting and encouraging social, environmental and other societal objectives (Arrowsmith and Kunzlik, 2009). The European Commission, among other regional and international organizations, acknowledges the importance of public procurement in boosting economic growth and creating a socially inclusive economy (European Commission, 2020). Public procurement features prominently on the agenda of the World Trade Organization (WTO). To ensure openness, integrity and transparency in the conditions of competition in government procurement

[30] For additional sources, see also Rolfstam (2013); and Uyarra and Flanagan (2010).

## Box 2. SPP and the WTO Government Procurement Agreement[a]

The political decisions on if and how to implement SPP are based on the multilevel regulatory framework for public procurement (Stoffel, 2020). Over the last 30 years regulations by supra- and international institutions slowly gained importance in answering the question if and how SPP can be put into practice. In many countries, public procurement, including the use of VSS, has stopped being solely dependent on national regulations. The Government Procurement Agreement (GPA) of the World Trade Organization (WTO) has often been viewed as a hindrance to considering sustainability criteria in public procurement. In the academic discourse as well as through reforms over the years, it has become increasingly clear that this is not the case. However, clarification is still needed, especially concerning social aspects, to enable and promote national legislation in favour of SPP. The underlying idea of international regulations on public procurement has been to liberalize procurement markets by opening them up to the parties to the agreement, and therefore "to bring government procurement under internationally agreed trade rules" (WTO, n.d.a). In the initial General Agreement on Tariffs and Trade (GATT), regulations relating to public procurement were explicitly excluded. In the course of trade liberalization, public procurement was first addressed as a plurilateral agreement in the Tokyo Round Code on Government Procurement of 1979. During the Uruguay Round, the Agreement on Government Procurement (AGP) was signed in 1994 by some of the GATT parties. In the WTO, the agreement was revised and the still plurilateral GPA entered into force in 2014 (see figure 6). These regulations within the GATT and WTO which should guarantee fair competition in national procurement markets, have occasionally been interpreted as potentially inhibiting SPP regulations and practices.[b]

**Figure 6**
Development of procurement regulations within plurilateral agreements under the WTO




*Source:* Stoffel (2020).

.../...

On the question of whether sustainability criteria were in violation of the principle of non-discrimination in the AGP, some scholars believed this was not the case, based on the fact that the principle of sustainability is also embodied in the foundation of the WTO (Perera et al., 2007). Furthermore, including sustainability aspects in public procurement (i.e. labour standards) could be justified by the AGP's emphasis on the adoption of international standards and therefore "withstand[s] the 'unnecessary obstacle to trade' test" (Perera et al., 2007: 18).

Eventual, sustainability considerations were actively included in reforms of the GPA. Nonetheless, the discussion has continued along the lines of a general bias towards the environmental dimension of SPP (Stoffel et al., 2019). While environmental considerations are explicitly mentioned in the GPA[c] social considerations are not. This still negatively affects some interpretations of GPA regulation with regard to social criteria in public contracts (Semple, 2017).

Despite the ongoing discussions as to whether SPP is compatible with WTO provisions, Parties to the agreement have regulated in favour of SPP, including its social provisions. While the EU and its member countries, as well as many experts, see leeway for beneficial regulations on SPP, there is also still room for doubt as long as social aspects in public procurement are not explicitly included in the agreement. This is also the case for the widespread use of transnational private regulations (TPRs), such as VSS, to verify compliance with sustainability criteria of bidders for public tenders. So far, TPRs are still in a regulatory grey area vis-à-vis the GPA (Corvaglia, 2016).

In the GPA, SPP is addressed in Article XXII as a topic for implementation and for further negotiation of the agreement, and was discussed at the GPA symposium in February 2017. Many speakers expressed the view that sustainability objectives could already be implemented in compliance with the GPA principles (WTO Secretariat, 2017). As a result, the WTO Secretariat proposed three options for parties to the GPA to go forward with SPP:

- Using the already provided policy space within the GPA,
- Officially clarifying the "scope for implementation of sustainability objectives under the Agreement", or
- Adding amendments to the GPA "to more explicitly reflect […] the social in addition to the environmental dimensions of sustainability" (WTO Secretariat, 2017).

So far, no further actions have been taken on the matter. While this does not hinder the consideration of social criteria in SPP and the use of VSS in practice, Parties to the GPA should push for clarification in order to facilitate and foster beneficial legislation on SPP.

[a] Contribution from Tim Stoffel, DIE.

[b] The influence of the GPA on the global development of regulatory frameworks for public procurement is limited mostly to OECD countries. Thus far, only 48 of the 164 WTO member States have ratified the GPA, among them are all the 28 EU member States. Some large developing countries only have observer status (e.g. Argentina, Brazil and Indonesia).

[c] In Article X on possible technical specifications.

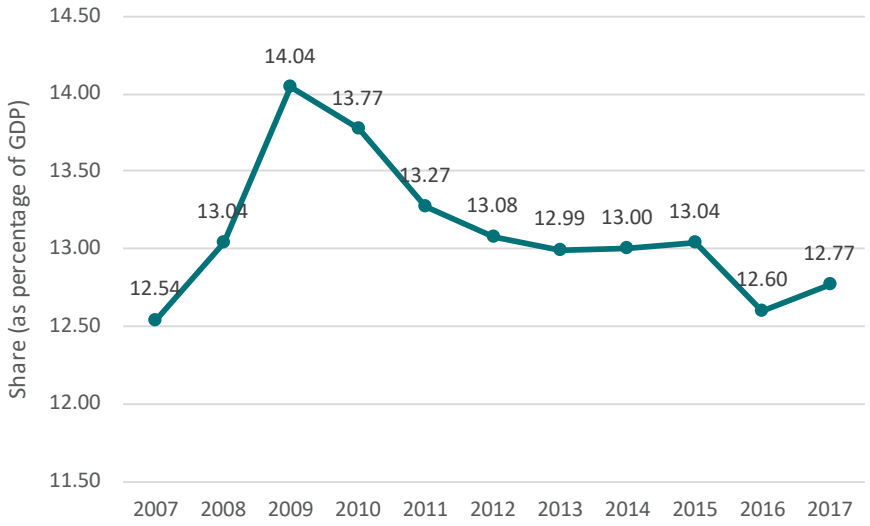
markets, several, but not all, WTO members have signed up to the Agreement on Government Procurement (GPA) (WTO, n.d.a).[31] This agreement was first negotiated in 1979 at the Tokyo Round, and has since then undergone several revisions, the latest being in April 2014. The GPA's three main pillars are non-discrimination, transparency and procedural fairness (see box 2).

Public procurement is potentially an enormous force for market transformation and for VSS uptake (see below on link between VSS and sustainable public procurement). The WTO (n.d.a) estimates that government procurement accounts for up to 15 per cent of an economy's GDP, and OECD data indicate that general government procurement by OECD countries was, on average, around 13 per cent of their GDP in 2017 (figure 7). According to the European Commission (2020), EU countries annually spend, on average, 14 per cent of their GDP on the purchase of goods, services and works (amounting to roughly €2 trillion per year).

Observing a 10-year trend, the figure shows consistency in the share of public procurement in OECD countries' GDP, apart from a temporary peak in 2009-2010 following the financial crisis. Looking at cross-country dynamics, Finland, Japan, the Netherlands and Sweden have the largest share of public procurement expenditures, ranging between 16 and 18 per cent. On the other hand, Colombia, Costa Rica and South Africa spend only between 7 and 12 per cent of their GDP on public procurement.[33] However, this share tends to be higher in several middle-income countries and LDCs. In India, for example, total government procurement is estimated to vary between 20 and 30 per cent of GDP,[34] and for Indonesia, it is estimated to be about 50 per cent.[35]

**Figure 7**

Share of general government procurement in GDP in OECD countries, 2007–2017 (per cent)




*Source:* OECD.[32]

[31] So far, GPA is the only legally binding framework within the WTO that focuses on public procurement.

[32] OECD (n.d.). *Public Procurement.* Available at: https://www.oecd.org/gov/public-procurement/ (accessed, March 2020).

[33] In 2017, public procurement expenditures in OECD countries accounted for 30.45 per cent of total government expenditures on average.

[34] Sources: National Platform in reference to the 2019 budget statement. https://qcin.org/indiapssplatform/ See also UNODC (2013); Prasad (2018).

[35] Input received from the National Platform in reference to 2019 budget statement. www.bsn.go.id


## SUSTAINABLE PUBLIC PROCUREMENT

Given its size, public procurement can play an important role in fostering sustainable development. A growing body of evidence suggests that, in recent years, sustainable procurement has developed and been widely adopted by public authorities throughout the world (Andrecka, 2017). The term "sustainable public procurement" is used to refer to socially and environmentally friendly public procurement policies. SPP is a means to ensure that public contracts contribute to governments' broader environmental and social policy goals (Sjåfjell and Wiesbrock, 2015). It grew out of initiatives that focused on Green Public Procurement and, later, on Social Public Procurement in different countries (D'Hollander and Marx, 2014). Initially, several countries started to develop and adopt Green Public Procurement in a desire to green their economies (UNEP, 2017). Later, there was a growing trend to integrate social dimensions into public procurement policies (McCrudden, 2004), along with attention to fair trade elements, which are increasingly promoted by (local) public authorities as a sign of their commitment towards sustainability (Fair Trade Advocacy Office, 2020). In public procurement, it is, arguably, the inclusion of the environmental dimension that has made the most progress so far; but, increasingly, the social dimension is beginning to receive greater attention.[36] Box 3 discusses some of the opportunities, risks and dilemmas of pursuing human rights, including labour rights, which are often captured under the social dimension of sustainable public procurement.

The further incorporation of the social dimension in sustainable public procurement can be illustrated by the approach currently taken by the European Union. It operationalizes SPP based on some key international conventions and commitments, including conventions on labour rights (figure 1). For example, a set of harmonized rules on public procurement are embedded in European Union law. Public procurement legislation is based on three directives: Directive 2014/24/EU on public procurement, Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors, and Directive 2014/23/EU on the award of concession contracts.[37] Article 18(2) of Directive 2014/24/EU, Article 36(2) of the Directive 2014/25/EU, and Article 30(3) of Directive 2014/23/EU ensure that public contracts with economic operators comply with a set of pre-determined criteria and obligations stipulated in environmental, social and labour laws. In particular, the articles specifically forbid any violation of the environmental, social and labour laws contained in a number of international conventions, such as the ILO Convention 105 on the Abolition of Forced Labour, the ILO Convention on Freedom of Association and Protection of the Rights to Organise, the Vienna Convention for the Protection of the Ozone layer and the Stockholm Convention on Persistent Organic Pollutants, among others.[38] Any violations of the articles stipulated in these conventions allow the

[36] For more details, see Martin-Ortega and O'Brien (2019).

[37] The new EU Directives repeal the former Directive 2004/18/EC and Directive 2004/17/EC.

[38] Annex X of Directive 2014/24/EU, Annex XIV of Directive 2014/25/EU and Annex X of Directive 2014/23/EU provide exhaustive lists of international, social and environmental conventions.

### Box 3. Public procurement and human rights: Opportunities, risks and dilemmas[a]

As mega-consumers, governments have the power, and the opportunity, to shift markets towards sustainable production. For decades, governments have sought to use procurement to advance public policy goals. However, only recently have such goals evolved to advance public bodies' contribution to sustainability via purchasing. Early international standards focused on ensuring minimum labour conditions in relation to work performed on the public's account.b At national level, the focus was on integrating marginalized groups into labour markets. During the 1990s, however, "Green" procurement, which focused on reducing the environmental impacts of public buying, rose in prominence. Agenda 21, resulting from the 1992 Rio Earth Summit, for example, called for governments to exercise environmental leadership through public purchasing,c and resulted in further green procurement initiatives by international organizations, such as the OECD and the United Nations (McCrudden, 2007; Perera et al., 2007).

More recent developments have created explicit links between procurement and the multiple dimensions of sustainability: economic, environmental and social, the latter encompassing respect and protection of human rights. Besides the SDGs, the United Nations Guiding Principles on Business and Human Rights (UNGPs), endorsed by the United Nations Human Rights Council in 2011, stipulate that governments have a duty to protect human rights, which extends to procurement (UNHRC 2008; 2011). Steps are gradually being taken to align procurement law frameworks, such as the WTO Plurilateral Agreement on Government Procurement (GPA) (see box 2), the Model Law on Public Procurement of the United Nations Commission on International Trade Law (UNCITRAL) and the European Union's procurement Directives, to accommodate such norms. In this context the multiple facets of sustainable public procurement are becoming more prominent in normative, regulatory and practical developments. This box explores the opportunities, risks and dilemmas related to one specific aspect: public procurement and human rights.

In general, the shift towards sustainable procurement presents important *opportunities* for public buyers and policymakers. This is true also regarding the use of public purchasing to advance respect for and protection of human rights, both at the national and global levels, via public supply chains.

First, there is an opportunity for contracting authorities to identify, prevent and mitigate human rights abuses through innovative approaches. Committed public buyers can play a pivotal role in overcoming some of the characteristic weaknesses of professionalized social audit of supply chains, for instance, where they collaborate to support worker-based monitoring of shared supplier codes of conduct (Claeson, 2019; Stumberg and Vander Meulen, 2019; Martin-Ortega and O'Brien, 2019; O'Rourke, 2003; LeBaron et al., 2017; Outhwaite and Martin-Ortega, 2017; 2019). Collaborative buying models offer opportunities to reduce the price paid for goods produced in a manner that respects human rights. Through experience sharing amongst buyers, they also provide a broader field of data on which to base learning and, so, increase the effectiveness of human rights-based interventions (Göthberg, 2019). In addition, they signal to the market that public buyers prefer to work with suppliers that have the capacity to assess human rights supply chain risks and provide remedies where abuses are found to occur (Stumberg and Vander Meulen, 2019).

Such benefits are demonstrated by the following pioneering experiences. Sweden's county councils have integrated human rights considerations into their procurement, adopting a collaborative model for purchasing high-risk goods within the health-care and electronics sectors. This has demonstrated the practical viability of introducing human rights considerations into government buying procedures. Further, studies show that such measures can be effective in improving conditions for supply chain workers while also delivering resource and efficiency benefits for public buyers (Göthberg, 2019; Swedwatch, 2015). In the electronics industry, public buyers have shown how they can establish, monitor and enforce human rights standards for workers in their supply chains via human rights contract clauses. Contract clauses create obligations for suppliers to engage with buyers and local monitoring organizations to monitor working conditions in factories which manufacture products and components for such buyers. Through these contractual obligations, public buyers guarantee

.../...

active worker involvement in the monitoring of supply chains and the facilitation of processes which help address systemic barriers to remedy in case of abusive labour conditions (Claeson, 2019). Norwegian legislation obliges public authorities to include clauses on wages and decent working conditions when purchasing construction and cleaning services, and facility management services. Buyers are required to follow up on the performance of such clauses, for instance, by requiring supplier self-declarations (O'Brien et al., 2015). In March 2020, the Government of the United Kingdom published a Modern Slavery Statement that assesses the risk of exploitation in its own supply chains for products and services, which amount to an annual spending of around £50 billion. This statement, requires all government departments to report annually on their efforts to combat modern slavery and human trafficking in their supply chains.d

Given the weight of public procurement spending in the global economy, the second opportunity is to use such procurement to address human rights-related sustainability issues with the aim of contributing towards achieving "responsible business" as defined by the UNGP (OECD, 2017). Moreover, given the emphasis of the 2030 Agenda on the role of the private sector, including via development partnerships, infrastructure and finance, public procurement should be seen as a key enabler that contributes to the realization of the SDGs (O'Brien and Martin-Ortega, 2017).

Thirdly, trends in regulation towards corporate due diligence and disclosure obligations will eventually turn the spotlight back on government conduct and consumption (O'Brien and Martin-Ortega, 2019). Engaging in sustainable procurement initiatives now will prepare public buyers for the higher levels of political and public scrutiny expected in the future. This should also lead to improved monitoring of compliance with production standards to which suppliers are bound through contracts, including codes of conduct. In turn, this could yield stronger accountability and remediation for human rights abuses in government supply chains.

In terms of *risks*, failing to integrate sustainability into public procurement law, policy and practice may result in serious human rights abuses of supply chain workers and of those in their communities, both inside and outside domestic borders (Sinclair, 2019; Martin-Ortega and O'Brien, 2019; Emberson and Trautrims, 2019; Stumberg and Vander Meulen, 2019; Claeson, 2019; Quinot, 2019; Russo, 2019). Failure to assess human rights in the context of procurement of public services will also have consequences for the human rights of public service users, particularly where these are people from groups at risk of discrimination, vulnerability or marginalization. Determining the legal liability of public buyers for such abuses is a complex issue (Russo, 2019; Conlon, 2019; O'Brien, 2018; Martin-Ortega and O'Brien, 2017). Nevertheless, public buyers associated with such harms risk reputational damage (Göthberg, 2019; Sinclair, 2019; Stumberg and Vander Meulen, 2019; Claeson, 2019). Second, buying relationships may be disrupted if they result in harmful impacts on workers or services users, or are deemed by stakeholders as ethically unacceptable on other grounds. This can bring operational challenges, for instance, where replacement service providers must be substituted at short notice. Finally, politically, there are limits to the extent to which public buyers can continue to promote sustainability agendas among businesses if they fail to practice sustainable procurement themselves (Göthberg, 2019).

Turning to *dilemmas* for public buyers, one is whether to act on their human rights obligations, or let their apparently conflicting duties under extant procurement rules (e.g. where these dictate selection of the most economical bid regardless of other factors) prevail. This is because "policy coherence" demands not just "vertical" consistency of domestic law and policy with international human rights commitments, but also the "horizontal" alignment of standards observed by public buyers with those applicable to the private sector. Yet, current procurement law frameworks, although more flexible than they once were, are still not flexible enough to accommodate measures required to guarantee respect for human rights in practice. A second dilemma is how to balance transparency with the legal demands of competition and confidentiality to which public buyers are bound.e Third, at the level of buying entities, procurement professionals must balance their organizational objectives and internal procedures, as well as budget and capacity constraints, alongside sustainability goals. For example, it may be hard to weigh the trade-offs between the immediate local costs of more personnel and

.../...

training, potentially higher contract prices for responsibly sourced goods, and the longer term, more remote costs that may be associated with human rights abuses in supply chains.f A change in production models necessarily leads to a change of cost/price calculations, as it may involve an increase in price, or at least a reassessment of what is most advantageous in terms of social, environmental and product life-cycle conditions. It also means that new resources would need to be deployed in order to undertake these evaluations, understand and assess risks and implement plans to address them. Staying at the level of practice, a fourth dilemma is how to implement such measures within their own processes. For instance, buyers could adopt a "tools" approach by internally developing their own procedures and milestones; alternatively, they could outsource these processes to other organizations with whom they can establish partnerships. Supplier standards could be defined via the incorporation of references to technical specifications in social labels (see section on 'VSS in SPP') (Marx, 2019b), or via partnerships with third-party organizations which establish and monitor specific standards, such as Electronics Watch with regard to procurement of electronics. The organization not only sets a series of labour rights standards but also undertakes the monitoring of such standards through local partners, which ensure oversight of supplier human rights commitments through worker-based monitoring (Claeson, 2019; Outhwaite and Martin-Ortega, 2019).

Finally, at least in theory, strict competition-based procurement rules should carry a potential dividend. Making the limited budgets of governments, intergovernmental organizations and development finance institutions stretch further through more efficient purchasing could foster the realization of socioeconomic rights, especially in an era of austerity or public health crisis (CESR, 2020). Such rules might also encourage growth, albeit indirectly, if they contribute to market integration and increased trade, and thereby help uphold and strengthen economic and social rights, for instance by alleviating global poverty. On this view, restricting competition in the context of the procurement process, even if it aims to advance the human rights of smaller segments of the population engaged in production, might be seen to entail a trade-off. However, based on the above arguments and evidence, and based on mounting evidence of the benefits of sustainability for corporate and investment performance, we suggest that this dynamic seems more imagined than real.

To conclude, urgent action by governments and other stakeholders is needed to accelerate and scale up innovations in responsible public procurement that respects the human rights of workers, service users and the community at large. Removing residual legal and policy barriers to integrating human rights into public purchasing is a first step. Sustained efforts for strengthening individual buyer and collectively responsible procurement capacity, sharing good practices and lessons learned will be critical to securing the necessary transition to a sustainable global economy and society in the long run.

---

[a] Contribution by Claire Methven O'Brien and Olga Martin-Ortega. See further: Martin-Ortega and O'Brien (2019).

[b] ILO, Labour Clauses (Public Contracts) Convention (No. 94); Recommendation No. 84.

[c] United Nations Conference on Environment & Development (Agenda 21), Rio de Janeiro, Brazil, 3 to 14 June 1992, para. 4.23. Available at: https://sustainabledevelopment.un.org/content/documents/Agenda21.pdf

[d] While reporting under the UK Modern Slavery Act 2015 does not generally extend to government buyers, the UK government aimed to set an example for all public purchasers. According to the statement, the UK government's efforts to combat modern slavery in its supply chain include direct engagement with around 400 suppliers and delivering training to over 250 government commercial staff, among other initiatives. The statement is available here: https://www.gov.uk/government/publications/uk-government-modern-slavery-statement (accessed 17 May 2020).

[e] Shown by Stumberg and Vander Meulen (2019) as a crucial lever in improving supply chain human rights standards.

[f] Further explored in the interesting case study provided by the CLES (2011).

respective authorities to refuse to award tendering contracts to an economic entity.[39]

SPP is considered to bring several social and environmental benefits, in particular it can contribute to the reduction of greenhouse gas emissions and resource efficiency, as well as foster social inclusion policies, and fair and equal labour and employment practices among others. In so doing, it can also significantly contribute to achieving the SDGs. There is an obvious link to SDG 12 on Sustainable Consumption and Production, but also to SDG 8 (Decent Work and Economic Growth), SDG 9 (Industry, Innovation and Infrastructure), SDG 14 (Life Below Water) and SDG 15 (Life on Land), as detailed in the introduction to this report. This contribution to the SDGs through SPP is explicitly mentioned by several countries. Mexico and Indonesia, for example, refer to the SDGs in their further operationalization of SPP.[40] As a result, several governments have been introducing sustainability concerns in their procurement policies, to which the 130 members of the One Planet Network testify, although their level of ambition can vary (box 4).

Hence, via SPP, governments can deliver key policy objectives related to sustainable development. With a view to the economic, social and environmental aspects of SPP, the United Nations Environment Programme (UNEP) regards sustainable public procurement as "a process whereby organizations meet their need for goods, services, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the organizations, but also to society and the economy, whilst minimizing the damage to the environment" (UNEP, 2012). The rising importance of SPP is illustrated by various initiatives taken by UNEP, such as the Sustainable Public Procurement Initiative (SPPI) launched at Rio+20 in 2012, which subsequently transformed into the One Planet Network SPP Programme in 2014. This programme, involving more than 130 member countries, is a multi-stakeholder global platform that supports the implementation of SPP around the world. UNEP has also developed SPP Implementation Guidelines that aim to guide governments, policymakers and practitioners in the design and implementation of SPP policies and action plans (UNEP, 2012). Between 2012 and 2017, these Guidelines provided support to 13 countries in their development and implementation of SPP plans in combination with other ongoing capacity-building projects at the time.[41] SPP action plans were implemented at local, regional and global levels. For instance, UNEP initiated projects aimed at establishing a network of experts to disseminate best practices, benchmark policies and develop cooperation with a focus on knowledge transfer from developed countries to developing countries.[42] More recently, UNEP launched additional SPP projects, within the frameworks of the United Nations Development Account (UNDA) initiative and the EU4Environment initiative.[43] The latter, supported by the European Union, seeks to bring about policy and legislative changes towards greener public procurement policies, which in turn is expected to induce greener investment planning, as well as the adoption of innovative technologies and new business models.

## VOLUNTARY SUSTAINABILITY STANDARDS IN SPP

The previous section has described the rise and growing importance of SPP. In this development, VSS play a specific and increasingly significant role since they are often integrated into the operationalization of SPP practices (D'Hollander and Marx, 2014; D'Hollander and Tregurtha, 2016; Marx, 2019b). In public procurement, VSS currently operate on the basis of an elaborate set of rules and procedures to ensure that producers and all actors in the supply chain conform with a given set of social and environmental standards (figure 1). D'Hollander and Marx (2014) have shown that VSS play a role in sustainable public procurement. However, the development of SPP

[39] In accordance with Article 56(1)(b) of Directive 2014/24/EU and Article 76(6) of Directive 2014/25/EU.

[40] Input received from the National Platforms.

[41] For example, the "Stimulating the demand and supply of sustainable products through Sustainable Public Procurement and Ecolabelling" (SPPEL) project in Ukraine, and the "Eastern Partnership Green Project" (EaP Green Project) in the Republic of Moldova.

[42] Such projects include the ASEAN+3 GPP and the Ecolabelling Project funded by China and the Republic of Korea, as well as the Compras Sostenibles in Latin America.

[43] The UNDA initiative is "Enhancing sustainable public procurement for regional transition to inclusive green economy in Eastern Europe, Caucasus and Central Asia (EECCA).

**Box 4. Sustainability considerations in public procurement: Selected countries**

This box reports on how Mexico, Indonesia, India, China and Brazil deal with sustainability considerations in their public procurement policies, and details how sustainability currently is considered in public procurement, based on contributions received these countries' National Platforms.[a]

## Mexico

Mexico has integrated sustainability considerations into both the objectives and principles of its policy on public procurement. The Budget Expenditure Federation has developed several programmes aimed at improving social protection of individuals, and, more generally, at achieving key sustainability objectives. These include: programme for the well-being of the elderly, pension programme for people with disabilities, national 'Benito Juarez' scholarship programme for well-being, youth constructing the future programme, youth writing the future programme, sowing life programme, national reconstruction programme, urban development and housing programme, and batches for well-being programme. The structure of the Budget Expenditure Federation's programmes has been linked to the SDGs since 2018, and relies on core sustainability principles such as universality, inclusion and "leaving no one behind".

## Indonesia

In Indonesia, several laws and regulations at different levels integrate sustainability principles in the public procurement system, although no specific technical instructions related to sustainable public procurement exist yet. National laws and regulations provide the legal basis for some general sustainability principles, including Law Number 32 of 2009 on Environmental Protection and Management, the Government Regulation Number 46 of 2017 on Environmental Economic Instruments, and the Presidential Regulation Number 59 of 2017 on The Implementation of Sustainable Development Goals (SDGs)

More specifically, the Presidential Regulation Number 16 of 2018 on Government Procurement of Goods/Services defines and provides guidelines for sustainable public procurement through three articles. Article 1 §50 defines SPP as "the Procurement of Goods/Services which is intended to achieve benefit value that is economically beneficial not only for Ministries/Institutions/Regional Apparatuses as their users but also for the people, and significantly reduce negative impacts upon the environment in the whole cycle of their use". Article 19 §1 (c) prescribes maximum use of green industrial products in public procurement. Article 68 states that "procurement of Goods/Services shall be carried out with due observance of sustainability aspects (…) [which] consist of: economic aspects including the cost of producing goods/services throughout the life of the relevant goods/services; social aspects including empowerment of small-scale businesses, guarantees of fair working conditions, empowerment of local communities/businesses, equality, and diversity; and environmental aspects including the reduction of negative impacts upon health, air quality, soil quality, water quality and use of natural resources in accordance with the provisions of the prevailing laws and regulations". Paragraph 3 of the article also specifies the bodies responsible for sustainable public procurement: "Sustainable Public Procurement is performed by: the PA/KPA in planning and budgeting the Procurement of Goods/Services; the PPK in preparing technical specifications/KAK and draft contracts in the Procurement of Goods/Services; and the Selection Committee/Procurement Officer/Procurement Agent in preparing the Procurement Documents".

A pilot process was launched in 2019 to promote sustainability considerations in public procurement through the use of labels, based on the Minister of Environment and Forestry Regulation Number P.5/MENLHK/SETJEN/KUM.1/2/2019 about Procedures for the Application of Environmentally Friendly Labels for Procurement of Environmentally Friendly Goods/Services.

.../...

## India

At present, India does not have any national policy governing public procurement. The General Financial Rules and Procurement Manuals of the Department of Expenditure provide some directives with regard to public procurement, such as Rule 173 (xvii) (Department of Expenditure, 2017) on the procurement of energy-efficient electrical appliances, which urges the procuring entity to ensure procurement of only those electrical appliances that have the notified Bureau of Energy Efficiency (BEE) star rating, but the General Financial Rules allow the procuring authority to decide on the sustainability criteria for procurement. In the absence of rules at the central level, central and state ministries, public sector enterprises and government departments independently consider the inclusion of sustainability aspects in their procurement processes and take initiatives to promote sustainability on a needs basis.

Some government agencies have thus started internalizing sustainability considerations in their procurement in a project-specific, decentralized manner, with a particular focus on energy conserving equipment. For example, the Indian Railways, in its Vision 2020 statement (National Academy of Indian Railways, 2020), aims to reduce carbon emissions through several initiatives, including phasing out incandescent lamps and introducing compact fluorescent lamps, establishing mandatory compliance with the Green Building Code in all new projects, and introducing rooftop solar panels at railway stations. In addition, the Ministry of Railways has established the Indian Railways Organization for Alternate Fuels, which is exploring renewable energy sources for the railways (Ministry of Railways, 2012). As a second example of project-specific sustainability considerations in public procurement, the Airports Authority of India has signed a Memorandum of Understanding with the Solar Corporation of India to install rooftop solar power plants at various airports (Airports Authority of India, 2018).

Taking note of the potential benefits of sustainable public procurement, a Task Force on Sustainable Public Procurement was set up under the Ministry of Finance to thoroughly understand the advantages of implementation of sustainable public procurement in India as well as the challenges (Department of Expenditure, 2018). Moreover, voluntary schemes such as the Indian Certification for Medical Devices Scheme and AYUSH premium mark have been developed to facilitate the incorporation of sustainability principles in public procurement (Quality Council of India, 2020a and b).

## China

Sustainability considerations are entrenched in China's public procurement policy based on the "Notification on adjusting and optimizing the government procurement execution mechanism for energy-saving products and environment label products" issued jointly by the Ministry of Finance, the National Development and Reform Commission, the Ministry of Ecology and Environment, and the State Administration of Market Regulation of China. It results from the evolution of different regulations developed since 2004, and took effect on 1 April 2019. This Notification aims to improve the sustainable public procurement policy, simplify the government procurement mechanism for energy- and water-saving, as well as for ecolabelled products, and optimize the participation of suppliers in government procurement activities. It stipulates that government procurement of energy-saving products and ecolabelled products shall be managed by means of an itemized list format. Accordingly, a "List of government procurement items for energy-saving products" and a "List of government procurement items for environment label products" have been issued and contain 18 and 50 items respectively. Purchasers shall give priority to the qualified licensed products. For the product categories not included in the lists of items, buyers are encouraged to comprehensively consider energy-saving, water-saving, environmental protection, recycling, low-carbon, renewable, organic and other factors, and also to refer to relevant national standards, industry standards or group standards. They should also submit relevant green purchasing requirements in their purchase demands.

.../...

## Brazil

In Brazil, the key legal instrument integrating sustainability considerations in public procurement is the Decree 7.746 of 2012.[b] It establishes national guidelines and criteria for SPP, including: low impact on natural resources such as flora, fauna, air, soil and water; preference for materials, technologies and raw materials of local origin; greater efficiency in the use of natural resources such as water and energy; greater generation of jobs, preferably employing local labour; longer useful life and lower maintenance costs of assets and buildings; use of innovations that reduce pressure on natural resources; ensuring the sustainable origin of natural resources used in goods, services and construction; and use of wood and non-wood forest products originating from sustainably managed forests or reforestation. The Decree 7.746 also establishes a consultative body – the Interministerial Commission on Sustainability for the Federal Administration (CISAP),. The CISAP seeks to communicate all discussions related to sustainability to the Federal Government, and proposes strategies to raise awareness among civil servants on sustainability issues as well as rules for the implementation of SPP.

Some other regulations relating to SPP include: Item VI of Article 170, and Article 225 of the Constitution of 1988 relates to environmental matters;[c] Law 12.349 of 2010,[d] which replaced Law 8.666 of 1993, embeds environmental principles in the national public procurement law; Normative Instructions No. 01 of 2010, No. 10 of 2012, and No. 2 of 2014 regulate environmental public procurement;[e] Decree 2.783 of 1998 regulates the acquisition of materials that can damage the ozone layer;[f] Law 6.938 of 1981 establishes the national policy for environmental protection;[g] and Decree 9.373 of 2018 regulates environmentally friendly sales and donations.[h]

Lastly, several current initiatives are promoting sustainability considerations in public procurement in Brazil. An example is the Family Agriculture Food Acquisition Program, which establishes a minimum percentage of acquisition of food products from small farms, in accordance with Law 11.326 of 2006. In addition, in the procurement of services, contractual obligations in public contracts should ensure that suppliers collect and adequately discard fluorescent light bulbs. Further, Article 12 of Law 8.666 of 1993 provides that the procurement of civil engineering services should seek economies in the maintenance and operationalization of buildings, reduction of energy and water consumption, and the use of materials with lower environmental impact.

---

[a] For Mexico: Direccion de Normas, Ministerio de Economia Mexico; for Indonesia: LKPP; for India: Quality Council of India; for China: China Association for Standardization; for Brazil: Secretariat of Management at the Brazilian Ministry of Economy.

[b] Available in Portuguese: http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2012/decreto/d7746.htm

[c] Available only in Portuguese at: http://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm

[d] Available only in Portuguese at: http://www.planalto.gov.br/ccivil_03/_Ato2007-2010/2010/Lei/L12349.htm

[e] Available only in Portuguese at: https://comprasgovernamentais.gov.br/

[f] Available only in Portuguese at: http://www.planalto.gov.br/ccivil_03/decreto/d2783.htm

[g] Available only in Portuguese at: http://www.planalto.gov.br/ccivil_03/leis/L6938compilada.htm

[h] Available only in Portuguese at: http://www.planalto.gov.br/ccivil_03/_Ato2015-2018/2018/Decreto/D9373.htm#art18

policies does not imply a straightforward recognition of VSS by governments. In the majority of legal frameworks for public procurement, the principle of equal treatment and non-discrimination prevents contracting authorities from referring to one specific VSS in public procurement tenders, except when there are enough certifiers in the market to assure equal treatment, non-discrimination and fair competition. However, VSS may be referred to indirectly in SPP through the inclusion in public tenders of sustainability criteria that are similar to standards set by VSS, or by making reference to VSS as a form of proof of compliance with the criteria stipulated in tenders, for instance in buying guides.44 As a result, in daily procurement practice, VSS serve as indicators of social and environmental performance, and may be used as a convenient means of assessing a bidder's credentials.

Moreover, the use of VSS in SPP is present, de facto, at least in some European and Asian countries, since other means of reliable verification of compliance with environmental or social standards are not always available or achievable. In theory, contracting authorities always have to accept other means of reliable verification, and several of these exist, such as bidder declarations that underline commitment towards social responsibility, or a list of relevant measures in the procurement contract itself (Vasileva et al., 2012). However, while contracting authorities are experimenting with new ways to verify social responsibility and sustainability,[45] it seems that strong alternatives to VSS remain limited; many contracting authorities lack the expertise and capacity to verify compliance with different sustainability requirements (D'Hollander and Marx, 2014), especially when they buy transnationally. In the case of fair trade public procurement, for example, public buyers rely almost entirely on existing "ethical" VSS to provide the basis for verification of social responsibility and sustainability of suppliers' goods or services (EFTA, 2010). For certain product groups, such as fair trade coffee or fruits, VSS are likely to be the only proof of compliance available to verify ethical or social criteria. In other words, there are few, if any other, compliance mechanisms that effectively monitor fair-trade criteria across national borders.

To sum up, when demanding higher environmental, social or fair-trade standards in government contracts, procurement officers can rely on VSS for verifying suppliers' compliance with those standards, although not all VSS have the same level of credibility. Some organizations actively promote VSS as the best option to pursue sustainable development through public procurement.

The importance of VSS can be gauged by looking at the different SPP practices across countries. Examining how various countries approach SPP, different patterns or practices emerge (UNEP, 2017), but some common elements can also be identified. According to UNEP's approach, a fruitful implementation of SPP requires several steps, of which VSS are an important one (step 4):

1. Applying sustainability criteria along the contracting cycle
2. Identifying needs and improving efficiency
3. Defining the specification and inviting bids
4. Using ecolabels (or VSS)
5. Evaluating and selecting suppliers (screening)
6. Evaluating bids and awarding contracts
7. Auditing and improving supplier performance

The advantage of using ecolabels or VSS in SPP is also recognized by other international organizations, such as the United Nations Office for Project Services (UNOPS) and the ILO.[46] According to these organizations, the use of ecolabels provides greater assurance of quality and conformity with the sustainability criteria on which SPP is built (UNEP, 2017). Although the importance of VSS or ecolabels

[44] See for example, the Buying Green Handbook of the European Commission, available at: http://ec.europa.eu/environment/gpp/pdf/Buying-Green-Handbook-3rd-Edition.pdf or the Buying Social guide available at: https://op.europa.eu/en/publication-detail/-/publication/cb70c481-0e29-4040-9be2-c408cddf081f. For a full overview of relevant documents, see the Public Procurement Guidance of the European Commission available at: http://ec.europa.eu/regional_policy/sources/docgener/guides/public_procurement/2018/guidance_public_procurement_2018_en.pdf

[45] See contributions in Martin-Ortega and O'Brien (2019).

[46] UNOPS, UNEP and ILO have published *A Guide to Environmental Labels for Procurement Practitioners of the United Nations System* as an advisory and guidance tool in the application of ecolabels on procurement practices (see UNOPS, 2009).

is increasingly recognized in SPP, it should also be noted that there are differences in how countries engage with VSS in SPP. In some Asian countries, there is an obligation to purchase only ecolabelled products, whereas in Europe, references to VSS in SPP are optional and promotional, in the sense of suggesting VSS as a means of verification besides other options. Moreover, in several middle-income countries and LDCs, SPP is developed without integrating VSS. Consultation with national platforms shows that, in these countries, the use of ecolabels is limited or non-existent due to the high costs related to obtaining VSS or to its lack of availability. There is indeed a wide range of products for which no reliable ecolabels or product standards exist, particularly in those countries. Lastly, countries in Latin America typically are reluctant to include VSS in SPP for fear of excluding small and medium-sized enterprises (SMEs) from public procurement.

While, overall, VSS are gaining recognition in SPP, the question remains whether such recognition can lead to greater VSS adoption. Several examples suggest that SPP could indeed increase VSS uptake. In the Republic of Korea, for example, since the adoption of the Act on Promotion of Purchase of Green Products (2005), there has been a spectacular increase in the number of ecolabelled products on its market, from 2 721 in 2005 to 14 647 in 2017. There has also been a proliferation of firms producing ecolabelled products in the Republic of Korea, from less than 700 in 2005 to above 3 600 in 2017 (UNEP, 2019). Other countries such as Japan have experienced similar trends.

## CONSIDERATIONS FOR INTEGRATING VSS IN SPP

Public procurement constitutes an important mechanism to transform markets, and hence SPP can significantly contribute to sustainable development. In SPP, VSS or ecolabels play a potentially important role. As a result, the further use and integration of VSS in SPP could be a significant driver for VSS uptake, at least for a specific set of products. In order to further assess the potential contribution of SPP to the development of VSS, a number of issues need to be considered.

A first issue concerns the strengthening of the design of VSS through SPP. The integration of VSS in SPP can help governments purchase more sustainable products and provide them with additional enforcement mechanisms and capacity-building. This in turn can create a spillover effects on various VSS, in terms of both increasing their adoption and making them more reliable and credible (D'Hollander and Tregurtha, 2016; Gulbrandsen, 2014). Several authors who have studied the institutional designs of VSS, have found significant differences between them in terms of reliability and credibility (Fransen, 2012; Marx, 2014a and b; Collins et al., 2017; Bennett, 2017; Fiorini et al., 2016). Marx (2014a and b) has analysed the design of 426 VSS based on data from the Ecolabel Index database. He makes five observations concerning their diversity along different dimensions, including standard-setting, conformity assessment and ex-post verification. First, there is significant variation in how VSS are designed. Second, most VSS have open and consensus-based standard-setting procedures, which involve several stakeholders, and therefore many of them score high in terms of inclusiveness. However, and third, several VSS have open and consensus-based standard-setting procedures, but no credible ex-ante and ex-post enforcement mechanisms. Fourth, many systems have open and consensus-based standard-setting procedures and third-party conformity assessment, but lack ex-post verification tools, such as complaint systems. Finally, relatively few VSS have a well-elaborated standard-setting and enforcement design. This diversity clearly shows that not all VSS are equal in terms of design and, ultimately, their effectiveness.[47]

The degree to which SPP can strengthen the design of VSS will depend on how VSS are integrated into legal frameworks, and on the criteria set to recognize VSS in the context of SPP (Gulbrandsen, 2014). In order to be recognized under public procurement laws or directives, VSS need to comply with certain criteria. For example, Article 43 of the European Union public procurement directive (2014/14) addresses the use of VSS (labels and certificates).[48] This article determines the criteria to which VSS need to adhere in order to be eligible for public procurement where contracting authorities intend to purchase works, supplies or services with specific environmental, social or other characteristics. In these cases, the

[47] On the link between institutional design and effectiveness, see Ostrom (2005).

[48] Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, Article 43, L 94/122.

technical specifications, the award criteria or the contract performance conditions may require a label as means of proof that the works, services or supplies correspond to the required characteristics, provided certain conditions are fulfilled. Those conditions include the following: VSS requirements should be based on objectively verifiable and non-discriminatory criteria; VSS should be established through open and transparent procedures in which all relevant stakeholders, including government bodies, consumers, social partners, manufacturers, distributors and NGOs, may participate; VSS must be accessible to all interested parties; and VSS requirements should be set by a third party over which the economic operator applying for the VSS cannot exercise a decisive influence.

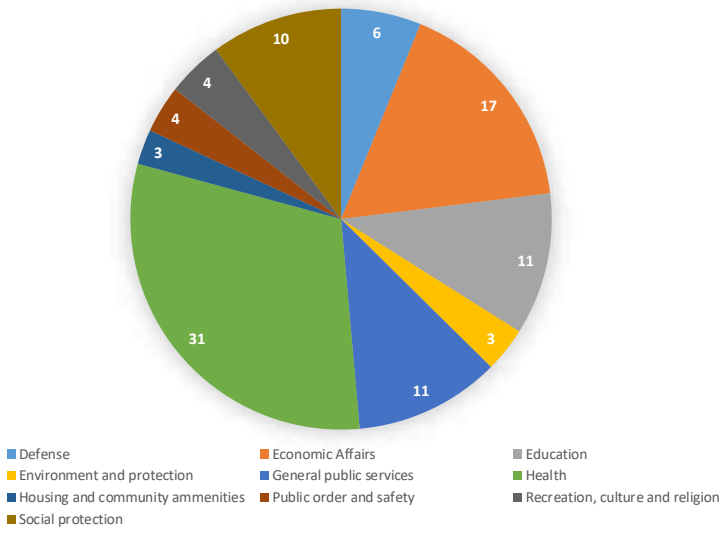
The criteria provided in the example of the European Union, arguably one of the leading examples in this context, are quite clear. They focus mostly on the standard-setting process within VSS, but less on how VSS enforce standards (i.e. monitoring, conformity assessment and sanctions). If the aim is to further strengthen the design of VSS through SPP, more attention could be paid to these elements. However, that might result in fewer VSS available to operate in the context of SPP, which leads to the second issue.

The second issue to consider is the availability of VSS in the context of SPP. Chapter 1, mapped the sectors in which VSS are available based on the ITC database. At present, it is not possible to conduct such a mapping exercise in relation to official sector/products classifications, which makes it impossible to provide a thorough assessment of the sector/product coverage of VSS. It is, however, possible to observe that there is a plethora of VSS, and they cover a wide range of products, but there are still many products/sectors they do not cover. Looking at the current public procurement expenditure patterns in the different government departments in OECD countries in 2017 (figure 8), 31 per cent were allocated to the health sector, 17 per cent to economic affairs, 11 per cent to general public services and education, and 10 per cent to social protection services.

Given the importance of certain sectors for SPP, such as health care, it is safe to assume that no or few VSS are available for a significant number of SPP products, particularly for more technical materials such as electronic equipment and surgical disposables. On the other hand, several VSS are available for procurement products such as food, textiles, woven and non-woven products.[50] This points to possible limits on the use of VSS in public

**Figure 8**

Distribution of public procurement by function/government department in OECD countries, 2017 (per cent)




*Source:* OECD.[49]

[49] OECD (n.d.). *Public Procurement.* Available at: https://www.oecd.org/gov/public-procurement/ (accessed, March 2020).

[50] Technical specifications nonetheless exist for such products, such as those developed by the International Organization for Standardization (ISO).

procurement, although one could argue that VSS could be developed in those sectors. UNEP (2017) identifies six common success factors for green public procurement and ecolabelling programmes that could have a strong impact, and for which the importance of establishing ecolabel schemes before programme implementation is emphasized. Those success factors are:

1. Strong central government support and legislation for green public procurement
2. *Establishing ecolabelling (VSS) schemes before programme implementation*
3. Developing clear green public procurement guidelines and procedures for the staff
4. Capacity-building among the procurement staff
5. Establishing monitoring systems to improve social and environmental impacts
6. Communication and promotion activities

A third consideration is related to possible costs linked to getting certified. The issue of costs has been discussed extensively, and was also brought up in consultations with the National Platforms (ITC, 2011a and b; Loconto and Dankers, 2014). For many producers, certification costs are too high. Given that public procurement regulation frameworks are strongly based on the principles of transparency, non-discrimination and equal treatment, it is necessary to address the issue of the possible effects of excluding products or services of similar environmental and social quality/performance but that do not hold a certificate due to the high costs of certification.


# CHAPTER 3

# DRIVERS FOR VSS ADOPTION: TRADE POLICY

## INTRODUCTION

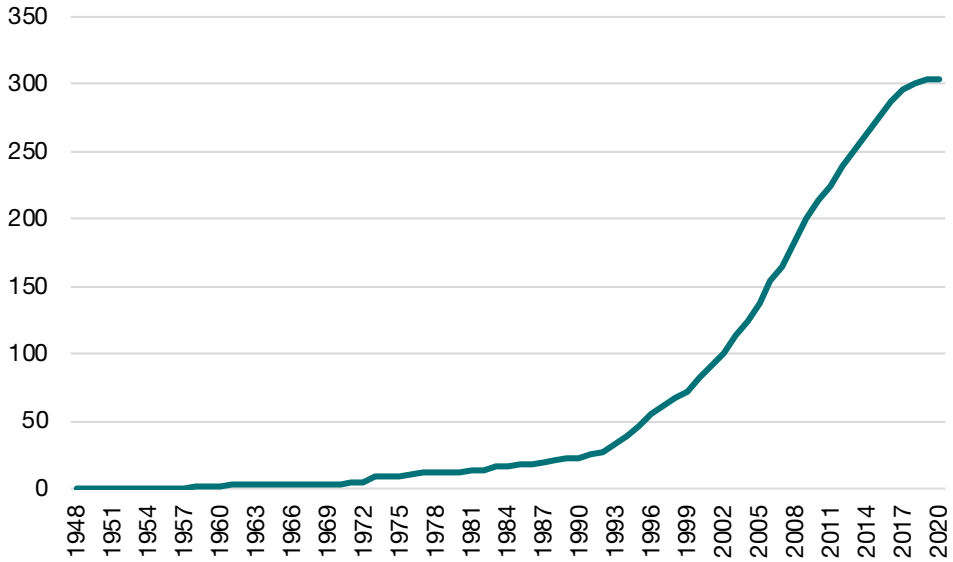
With the rapid increase in global trade in the past few decades through global value chains, trade governance has gained importance.[51] Multiple instruments are used to govern global trade flows, many of which can influence the uptake of VSS and are potentially important to further broaden their use. This chapter identifies four types of trade-related measures/instruments in which VSS already play a role or whose role is under consideration by States. These are free trade agreements (FTAs), preferential trade agreements (PTAs) (GSP measures), market access regulations and export promotion measures. The chapter introduces each instrument, explores the current role of VSS in these instruments, and discusses possible considerations for further integration of VSS in them.

## VSS AND FREE TRADE AGREEMENTS

A trade agreement sets out the conditions of trade, including taxes, tariffs on goods and services, quotas or investment conditions, between two or more parties. Trade agreements are beyond WTO rules, as they specify trade conditions that apply only to their signatories (WTO, n.d.b). However, they need to be compatible with WTO rules and are authorized by the WTO provided they are notified to that organization for review, that non-signatories are not subject to greater trade restrictions than prior to the agreement, and are reciprocal. FTAs, or regional trade agreements in WTO terms, can be bilateral (between two parties) or plurilateral (more than two parties). Although bilateral FTAs still constitute the majority of FTAs, the number of plurilateral FTAs has been increasing in recent decades. The United States-Mexico-Canada Agreement (USMCA), successor to the North American Free Trade Agreement (NAFTA), is an example of a plurilateral FTA. Trade agreements have evolved over time, both in number and in content. Currently, 301 FTAs are in force. Emerging in the 1970s with the liberalization of markets, they increased sharply in number during the 1990s, corresponding to the end of the Cold War and the opening up of developing economies like China and India (figure 9). Since 2017, the increase in number of FTAs in force has been slowing down, with only eight additional ones concluded between 2017 and 2020.

[51] For a more elaborate discussion of the linkages between VSS and trade, see UNFSS (2018).

**Figure 9**
Evolution in the number of FTAs in force




*Source:* Authors' calculations based on WTO.[52]

Moreover, FTAs have evolved in terms of content, increasingly incorporating non-trade objectives, such as sustainable development provisions or social and environmental protection provisions. Morin et al. (2018) examined 630 FTAs enforced between 1947 and 2016 using the new TRade and ENvironment Database – or TREND, and found that the number of environmental norms (embodied in provisions, clauses or rules) in those FTAs started to grow in the 1970s, with a sharp increase in the 1990s. The authors counted 308 highly diverse and fragmented environmental norms across the 630 FTAs analysed. With regard to social protection provisions, a study by the ILO (2015) found that the number of FTAs that include labour provisions had been growing over the past two decades, from only 4 in 1995 (covering 0.6 per cent of global trade) to 58 in 2013 (covering 5.5 per cent of global trade). About 40 per cent of these FTAs contained conditional labour provisions, whereas in 60 per cent of them, such social provisions were exclusively promotional.

States therefore increasingly use FTAs as a means to pursue non-trade objectives by including social and environmental provisions in them, often drawing upon existing international conventions or agreements. These provisions are often included in a chapter devoted to sustainable development, which generally also stipulates how the environmental and social objectives should be reached. Here, VSS potentially play a role, since they also refer to similar international conventions and agreements. This section therefore analyses whether States are indeed promoting or imposing the use of VSS in their FTAs as a means to enforce social and environmental provisions. For this purpose, the TREND database was explored by searching key words that are associated with VSS, such as: "label", "eco-label", "ecolabel", "sustainability standards", "ethical standards", "certification", "eco-certification", "fair and ethical trade scheme", and "voluntary market-based certification programmes". In total, 19 FTAs referred to one or more of those words (most frequently "eco-labels"); 10 of these FTAs involve the European Union, and Canada and the United States are both parties to 3 FTAs that refer to words associated with VSS (table 4).

However, provisions referring to the use of VSS (or associated key words) remain promotional rather than conditional. For example, FTAs to which the European Union is a party typically refer to VSS as follows: "In order to promote the achievement of the objectives of Chapter Thirteen and to assist in the fulfilment of their obligations pursuant to it, the Parties have established

[52] WTO (n.d.). *Regional Trade Agreements Database*. Available at: http://rtais.wto.org/UI/charts.aspx# (accessed, April 2020).

**Table 4**
Trade agreements that contain references to VSS (or synonyms)

| |
|---|
| EC – CARIFORUM Economic Partnership Agreement |
| EC – Central America |
| EC – Republic of Korea |
| EC – Colombia-Peru-Ecuador |
| EC – Georgia |
| EC – Republic of Moldova |
| EC – Singapore |
| EC – Ukraine |
| EC – Viet Nam |
| Canada – EC (CETA) |
| EFTA – Montenegro |
| EFTA – Bosnia Herzegovina |
| EFTA – Central America |
| USMCA (formerly NAFTA) |
| Peru – United States |
| Republic of Korea – United States |
| Republic of Korea – Turkey |
| Colombia – Republic of Korea |
| Canada – Chile |

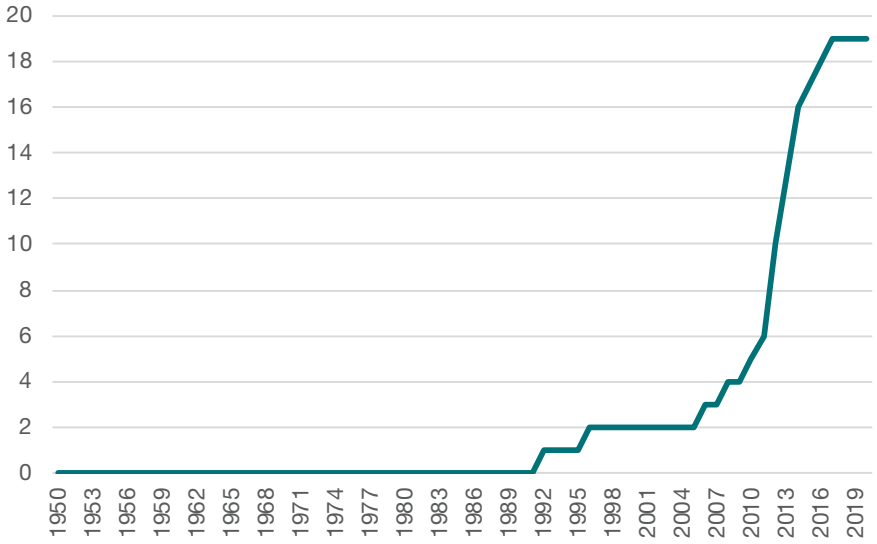
*Source:* Morin et al. (2018).
*Note:* CARIFORUM comprises the following Caribbean countries: Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Saint Lucia, Saint Vincent and the Grenadines, Saint Kitts and Nevis, Suriname, Trinidad and Tobago, and the Dominican Republic.
CETA = Comprehensive Economic and Trade Agreement
EFTA = European Free Trade Association (comprising Iceland, Liechtenstein, Norway and Switzerland).

the following indicative list of areas of cooperation: (…) (d) exchange of information and cooperation on corporate social responsibility and accountability, including on the effective implementation and follow-up of internationally agreed guidelines, fair and ethical trade, private and public certification and labelling schemes including eco-labelling and green public procurement" (Annex 13 of EU – Republic of Korea FTA). The EFTA – Central America trade agreement also states: "The Parties shall strive to facilitate and promote foreign investment, trade in and dissemination of goods and services beneficial to sustainable development, including: (…) environmental technologies, sustainable renewable energy, organic production, energy efficient and eco-labelled goods and services, including through addressing related non-tariff barriers; goods and services that are the subject of schemes such as fair and ethical trade" (Art. 9.7). And the Canada-Chile Agreement on Environmental Cooperation states: "The Council may consider, and develop recommendations regarding: (…) (r) eco-labelling" (Art. 10).

As environmental and social provisions have been increasingly included in FTAs since the 1970s, and more significantly since the 1990s, the question arises as to whether VSS are also increasingly incorporated into trade agreements. It seems that before NAFTA in 1992, FTAs did not refer to VSS (or its associated words), but between 2010 and 2017, a growing number of FTAs referred to them (figure 10), although it may, however, be too early to detect a clear trend.

In sum, only a few FTAs refer to VSS, primarily those involving the European Union, echoing its policy on fair and ethical trade schemes enunciated in its Trade for All Strategy (European Union, 2015). Thus, there is considerable scope for further development and integration of VSS in FTAs, and this could influence VSS uptake. Currently, the few references to VSS

**Figure 10**
Evolution in the number of FTAs that refer to VSS (or synonyms)




*Source:* Authors' calculation based on Morin et al. (2018).

remain recommendations without requiring clear commitments and little permanent evaluation. More firm commitments, accompanied by timelines might also influence uptake. Such commitments could be formulated for specific commodities. Practitioners and academics have been pondering the idea of differentiated tariffs for certified products versus non-certified products akin to the idea of granting tariff concessions in favour of green goods (Mavroidis and Neven, 2019). However, such an approach gives rise to questions about its compatibility with WTO rules (see also next section) and is therefore controversial.

## VSS AND GSP SCHEMES

A second trade instrument into which VSS can be integrated are preferential trade agreements (PTAs), which are non-reciprocal schemes. More specifically, a generalized scheme or system of preferences (GSP) is a preferential trade arrangement by which a country grants unilateral and non-reciprocal preferential market access to goods originating in developing countries. This exception to the general WTO principle of "most-favoured nation treatment" (MFN) is made possible through a so-called "Enabling Clause", which was adopted in 1979 by the Contracting Parties to the GATT 1947.[53] Countries or regional blocs that operate a scheme of generalized tariff preferences[54] have the objective of "assist[ing] developing countries in their efforts to reduce poverty, [and to] promote good governance and sustainable development" (European Commission, 2016: 2). The preferences take the form of a partial or entire suspension of import tariffs. In general, a country is eligible if it is classified as a lower-middle-income country or LDC. In some cases, additional preferences are awarded if a country complies with an additional set of requirements related to sustainable development, such as ratifying and implementing a number of international conventions related to sustainable development.

Currently, 13 countries and regional organizations, constituting large consumer markets, operate a GSP scheme consisting of a general scheme for middle-income countries and a specific scheme for LDCs. These countries/groupings are: Armenia, Australia, Canada, the European Union, Iceland, Japan, Kazakhstan, New Zealand, Norway, the Russian Federation, Switzerland, Turkey and the United States. In addition to two standard schemes, the European Union, Norway and Turkey provide a third scheme specifically related to sustainable development.

[53] GATT Document L/4903, *Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries*, adopted on 28 November 1979.

[54] Regulation (EU) No 978/2013 of the European Parliament and of the Council, applying a scheme of generalized tariff preferences and repealing Council Regulation (EC) No 732/2008, recital (1).

Among their objectives both VSS and the GSP schemes aim to foster sustainable development and good governance. For example, in the European Union's "special incentive arrangement for sustainable development and good governance" (GSP+), a country which commits to ratifying and implementing 27 international conventions concerning human and labour rights, environmental protection and good governance can benefit from additional tariff preferences. The additional preferences are intended as a form of compensation, or reward, for having signed up to, and implementing the relevant international conventions. In other words, GSP+ "fosters the achievement of its goals by offering the 'carrot' of preferences" (European Commission, 2016: 3).

Some authors have explored the possibility of integrating VSS in the European Union's GSP, since VSS might contribute to better implementation of international commitments related to sustainable development (Schukat and Rust, 2012; Marx et al., 2018; Marx, 2019a; van der Ven, 2018). One of the arguments in favour of this approach is that it would allow a more differentiated approach to fostering compliance with sustainable development requirements, since it would provide direct incentives to firms. As Schukat and Rust (2012) made clear, it allows an approach towards individual firms. Under the terms of the current GSP scheme of the European Union, States which violate their international commitments can face a suspension of tariff preferences. Such a suspension implies punishing all companies, including those whose production systems already comply with social and environmental criteria and some of the relevant conventions. VSS could directly promote the implementation of sustainability criteria, as stipulated in the conventions, at the level of economic operators, without either granting to or withdrawing tariff preferences across the board from all economic operators in that State. Hence, one key argument, would be that by integrating VSS into a GSP, not only States but also economic operators would contribute to sustainable development. Such integration of VSS might also take a promotional approach as is the case with the FTAs, or it could take the form of offering preferential market access (e.g. lower tariffs) for certified products. In the latter option, countries would need to make a distinction between tariffs for certified and non-certified products. The application of such an approach could be targeted towards certain sectors and commodities for which several VSS might be available. This could potentially boost VSS uptake.

However, there are also several reservations about such an approach. First, if applied, it should cover all trade schemes administered by a country. Integration in trading regimes is dynamic: countries move from one system (GSP) to another (bilateral agreement). If the requirements for VSS were required solely in the context of the GSP or a bilateral agreement, it might create disproportionate costs to comply if these requirements no longer hold under other trade regimes. Second, for the tariff differentiation approach to work, the question arises as to whether there is sufficient scope to lower tariffs, in particular with reference to GSP systems for LDCs in which most tariffs are already close to zero. Third, the integration of VSS might negatively affect the utilization rate of preferential tariffs in trade regimes. The utilization rate indicates preferential imports as a percentage of eligible imports under a trade agreement, or the degree of usage of existing preferences (Keck and Lendle, 2012). Hence, it is the share of imports actually imported under GSP over all imports that are in principle eligible. Not all imports that are eligible for a preference will necessarily be imported under such a scheme for several reasons: not each shipment would fulfil rules of origin, and preference might not be claimed or granted for a specific reason. Integrating VSS in a trade regime might result in lowering the utilization rate since economic operators may not be able to prove that they fulfil VSS criteria, or they may choose not to do so because they cannot afford the high certification costs, or they prefer to pay the MFN duty rate. Especially when the costs of certification would outweigh the benefits of tariff reduction, economic operators might enter the market without the tariff preference. This might defeat the purpose of a trade regime. Finally, such an approach would need further scrutiny to assess compatibility with WTO rules, especially in relation to the principle of "like products" and the ongoing debate about process and production methods (PPMs) (Marx et al., 2018).[55] The WTO dispute settlement bodies have repeatedly declined to take into account differences in PPMs when determining "likeness" despite criticism of this position from academics (Bodansky and Lawrence, 2009; Hestermeyer, 2011).

[55] For exhaustive legal analyses of compatibility with WTO law, see Partiti (2017 and 2021).

## VSS AND MARKET ACCESS REGULATION

A third measure that could have a significant impact on VSS uptake is market access regulation. Making market access conditional on certification could potentially create incentives for VSS adoption, but this approach is debatable. There is no general overview available on how many regulations exist which include VSS in market access requirements, but some recent examples show how this is currently done. One example where VSS play a role, albeit indirectly, is the European Union Timber Regulation (EUTR) which was developed in the context of the bloc's 2003 Action Plan on Forest Law Enforcement, Governance and Trade (FLEGT). It aims to tackle illegal timber and the associated trade by using a combination of demand- and supply-side measures, focusing respectively on the banning of illegal timber from the European Union market, and supporting forest governance reforms and law enforcement in timber-producing countries. The EUTR requires operators (from non-VPA countries56) to comply with a number of stringent due diligence requirements . These obligations apply to timber and timber-based products originating from both inside and outside the Union, in order to avoid discrimination among supplier countries. To verify such compliance, EUTR requires forest operators to exercise due diligence, which means European Union operators are to minimize the risk of illegal timber entering the value chain, and they can be held accountable if they fail to do so. To fulfil these obligations, operators can either develop their own due diligence system (DDS) or use one designed by a monitoring organization (MO) recognized by the European Union.57 Monitoring organizations are private, companies based in the European Union, which can be contracted by operators to provide them with the guidance and monitoring required to verify timber legality.58 Operators can also use their own DDS which should consist of three components: (1) information about the operator's supply of timber; (2) risk-assessment procedures; and (3) risk-mitigation procedures.59 Under the risk- assessment procedures of DDSs, the EUTR encourages the use of VSS, or "certification or other third party verified schemes which cover compliance with applicable legislation".60 To be recognized in this context VSS need to conduct regular (at least annual) and appropriate checks, including field visits, have the means to trace timber across the supply chain before it reaches the market, and provide controls to ensure that non-verified or illegal timber does not enter the supply chain.61

The Republic of Korea takes a similar approach, but recognizes VSS more explicitly. The country is among the ten largest consumers of timber and timber products worldwide, and a major importer and exporter of timber. Previously, it often imported timber from countries associated with illegal logging (Forest Trends, 2019). Indeed, a 2014 report stated that up to 36 per cent of timber products imported into the country were sourced from such high-risk countries (Lee et al., 2014). The Government decided to address the issue of illegal timber trade, leading to an amendment of the Act on the Sustainable Use of Timbers in 2017, which entered into force in March 2018. Article 1 of the Act states its main purpose as "increasing the carbon sinking function and other diverse functions of timber and using the timber in a sustainable manner" (Korea Forest Service, 2017). The Act specifically addresses key trade issues (responsibilities, import declaration, import inspection, revocation of registration and penalties, among others).

Timber importers are expected to prepare all legality assurance documents prior to importing into the country. The inspection agency designated by the

[56] VPAs are voluntary partnership agreements which the European Union has with some timber/producing countries and which guarantee "green lane access" to the European market for timber originating from those countries.

[57] So far, 13 MOs have been recognized. For more information, see: http://ec.europa.eu/environment/forests/mos.htm

[58] Art. 4-6 of Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market. 2010. *Official Journal of the European Union L295*, 23-34.

[59] Art. 4 and 6(1) *ibid*.

[60] Art. 6 (1)(b) *ibid*.

[61] Art. 4 of Commission implementing Regulation (EU) No 607/2012 of 6 July 2012 on the detailed rules concerning the due diligence system and the frequency and nature of the checks on monitoring organizations as provided for in Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market. *Official Journal of the European Union L177*, 16-18.


Korean Forest Service then checks those documents and decides whether the timber in question can enter the country. The implementation of the Act is supported by the Detailed Standards for Determining Legality of Imported Timber and Timber Products, which specify the requirements that imported and domestically produced timber and timber products need to meet. It contains an exhaustive list of documents and certifications that are recognized by the Republic of Korea as assuring the legality of the timber harvest. These documents include, inter alia, internationally recognized documents that certify legally felled timber or timber products (FSC, PEFC, country-specific PEFC certificates, third-party certification under ISO 17065) (Korea Forest Service, 2018).

Complying with the Act is mandatory for all timber operators or traders aiming to conduct their activities in the Republic of Korea. The legality of the timber imports is supervised by the Korea Forest Service, which carries out pre-import controls with the assistance of the Korea Forestry Promotion Institute, an inspection agency. The Korean Forest Service acknowledges the exemplary practices of international actors such as the European Union, the United States and Australia in forest governance. It states that the Act has been revised "in response" to their ambitious standards and aims to "actively participate in international efforts to preserve the global forest environment and to import only legally harvested timber" (Korea Forest Service, 2020b).

While the Act formally recognizes VSS, which might create significant incentives for VSS adoption, especially FSC and PEFC, it is too early to assess its impacts in terms of the advantages and disadvantages of integrating VSS into these regulatory requirements.

The Republic of Korea has a long history of developing a well-functioning system for forest management. After the devastations of the Korean War, the Korea Forest Service undertook an extensive project of forest rehabilitation that was realized through five 10-year National Forest Plans (Korea Forest Service, 2020a). These plans and other State initiatives addressed questions such as deforestation and forest restoration, more recently with an emphasis on sustainable development through the "low carbon, green growth" vision (Lee, 2012).

A third interesting example in which VSS directly play a role is the European Union's Renewable Energy Directive (RED) which was adopted in 2009. RED does not constitute an import restriction; rather, it governs how goods which are entering the Union's market are "marked" in terms of sustainability. It aims to achieve a number of mandatory targets to promote the use of renewable energy sources, including biofuels. In order to ensure that the European Union imports sustainable biofuels, the RED has established a set of sustainability criteria for biofuels, including environmental and social criteria.[62] Recognized VSS provide proof of compliance with those criteria. They certify most of the sustainable biofuels available in the European Union market, both those derived from biomass produced in the bloc, and those imported from third countries (European Court of Auditors, 2016: 17). In order to be recognized by the Commission, VSS are required to meet the sustainability criteria defined under the RED and are expected to have a verifiable auditing system to provide evidence of the particular claims they make. A key component of the RED is a recognition system based on substantive and

[62] The criteria set out in Art. 17 of the RED apply equally to both domestically produced and imported biofuels.

procedural requirements. Once a VSS is recognized by the Commission, that recognition is valid for five years unless the Commission decides to repeal it in case a scheme fails to comply with the agreed set of rules. After five years, an extension of the recognition is subject to a new decision by the Commission.[63] Currently, the Commission recognizes 14 VSS[64] (down from the previous 19), some of which are privately run entities developed by groups of economic operators and other interested parties, often including NGOs (the so-called "roundtable consortia"), while others have been developed by biofuel producers. A number of the recognized schemes are RED customizations of existing certification systems with a broader geographic and/or sectoral orientation beyond the European Union's biofuels market (e.g. Round Table on Responsible Soy, Roundtable on Sustainable Biomaterals, and Bonsucro) (German and Schoneveld, 2011). In order to verify biofuels' compliance with the RED's sustainability criteria, VSS have to monitor the whole value chain – from farmer to biofuel producer – which adds a value chain requirement to the recognition system. In practice, this means that every economic operator along the value chain has to provide purchasers of biomass or biofuels (the next link in the value chain) with information about the certificate it has obtained and the particular sustainability characteristics of the products it delivers. Before an operator can be certified, it has to be audited by a certification body (German and Schoneveld, 2011; European Court of Auditors, 2016).

RED provides an interesting example of how VSS are recognized in regulations. However, an evaluation of the certification of sustainable biofuels by the European Court of Auditors (ECA) identified a number of critical shortcomings in the system. The ECA evaluation found that the Commission's assessment procedures for the recognition of VSS did not adequately take into account a number of critical considerations regarding biofuels' sustainability. In particular, the Commission's substantive requirements for VSS recognition do not sufficiently recognize that biofuels can have negative socioeconomic impacts, including land tenure conflicts, forced/child labour or poor working conditions, even though these considerations are explicitly referred to under the RED's sustainability criteria (European Court of Auditors, 2016: 8 and 21). In addition, it was found that the Commission granted recognition to VSS which did not adequately verify whether certain biofuels were indeed produced from waste, or whether biofuel feedstocks were cultivated in accordance with the European Union's environmental requirements for agriculture. Some VSS were also found to be insufficiently transparent. Finally, and perhaps the most problematic critique of the VSS recognition system the ECA found was that, once a VSS has been officially recognized, the Commission does not check whether that VSS actually applies the certification standards it committed to in its request for recognition. The fact that the current system does not provide a specific and separate complaints mechanism arguably renders it even more vulnerable to violations, since the Commission has no means to detect or verify infringements (European Court of Auditors, 2016: 8-9). Consequently, too many VSS are recognized, a criticism shared by WWF (2013). These criticisms correspond to findings of other studies (Schleifer, 2013; Ponte and Daugbjerg, 2015; WWF, 2013; Ugarte et al., 2013). In response, the Commission reduced the number of VSS it recognized from 19 to 14.

The lesson to be learned from this is that, when integrating VSS into regulations, the kinds of VSS that are integrated and how they ensure compliance need to be carefully considered. As discussed in chapter 2, not all VSS are equal, and the integration of VSS into public policy should not mean that all of them should be recognized automatically. The discussion on RED, for example, indicates the importance of setting up a stringent, comprehensive and transparent recognition system which applies detailed substantive and procedural requirements for VSS to be integrated.

## EXPORT PROMOTION

A fourth trade-based instrument into which VSS are integrated are export promotion measures. VSS can contribute to increasing access to markets, and hence promoting exports (Maertens and Swinnen, 2009). Governments can engage with VSS in different ways to increase exports. No data are available on the number and nature of measures which integrate VSS

[63] Communication from the Commission on voluntary schemes and default values in the European Union's biofuels and bioliquids sustainability scheme, 2010/C 160/01. 2010. *Official Journal of the European Union C160*(53), 1-7.

[64] For an overview of the 14 VSS, see: https://ec.europa.eu/energy/en/topics/renewable-energy/biofuels/voluntary-schemes


into export promotion. However, there are several examples of countries that seek to promote their main export products through certification, some of which are described in this section. While these examples provide little evidence on the outcomes of the inclusion of VSS, they nonetheless serve to indicate different types of government engagement in export promotion. First, governments can make certification a necessary requirement for obtaining an export licence. Second, they can provide financial incentives for certification in order to promote certain export-oriented sectors and products. Third, they can engage with VSS to provide training and capacity-building to producers in order to help them increase their exports.

### BETTER COTTON INITIATIVE IN MOZAMBIQUE

The second UNFSS flagship report (2016) reported on the collaboration between the Better Cotton Initiative and the Mozambique Government to increase the productivity and sustainability of the cotton sector so as to promote the country's cotton exports. The Cotton Institute of Mozambique (IAM) engaged the Better Cotton Initiative (BCI) to help develop improved extension services (in line with BCI principles and criteria). This resulted in the first "better cotton" harvest in 2013. BCI focuses on investing in capacity-building (rather than only checking outcomes through licensing alone). In 2014, IAM and BCI signed a strategic partnership agreement to embed BCI principles and criteria in Mozambique's national regulations governing cotton growing, thus integrating VSS standards and procedures into public policy. This integration developed in stages. The first stage involved embedding the BCI's principles and criteria into revised national cotton regulations, which apply to all legislation relating to granting concessions.

In the second stage, IAM developed a national standard for sustainable cotton production, mirroring the criteria and indicators developed by the BCI, and included additional sustainable criteria related to parts of the production line not covered by the BCI standard. Third, once the new national standard was developed, the verification and licensing process was expected to be transferred from the BCI to the IAM (ISEAL, 2017a). Both the BCI and IAM are currently training and developing certification bodies based in Mozambique to carry out external third-party audits. The BCI standard will be embedded within this national-level standard and verification process, and the BCI will recognize Mozambique cotton through a benchmarking agreement. Once the national-level standard and verification process has been finalized, an agreement of "equivalence" will ensure that Mozambique-produced cotton will enter international markets as BCI-certified cotton.

### FOREST STEWARDSHIP COUNCIL IN GABON

Forests cover about 90 per cent of the Gabonese territory, amounting to approximately 23 million hectares.[65] About 60 per cent of this area consists of 40 forestry concessions. Although the contribution of the forestry industry to Gabon's GDP has decreased over the past few decades, wood products still account for about 10 per cent of the country's exports, with a total export value of $442 million in 2017.[66]

[65] World Bank (n.d.c). *Forest area (sq. km and % of land) – Gabon*. Available at: https://data.worldbank.org/indicator/AG.LND.FRST.K2?locations=GA (accessed, April 2020).

[66] OEC (n.d.a). *What does Gabon export?* Available at: https://oec.world/en/visualize/tree_map/hs92/export/gab/all/show/2017/ (accessed, April 2020).

Increasingly, regulations to ensure that forests are sustainably managed have been implemented in recent years, with the explicit aim to promote exports. More specifically, in September 2018, the President of the Gabonese Republic announced that forestry permits would be withdrawn from all forestry operators not certified by the FSC by 2022. Following that announcement, a five-year cooperation agreement, renewable tacitly, was signed between the FSC and the Government of Gabon on 31 January 2020. It aims to "contribute to the promotion of sustainably managed Gabonese forests, and to the improvement of Gabonese certified wood products' access to reference markets".[67] The parties to the agreement will cooperate in five main ways: (1) create an enabling institutional environment for sustainable forest management; (2) provide follow-up and support to forestry operators; (3) raise awareness about sustainable forest management and increase the participation of key actors, including civil society; (4) develop markets for sustainable wood products; and (5) provide capacity-building for sustainable forest management. A joint committee has also been created to coordinate, follow up and evaluate the implementation of specific actions (FSC, 2020).

The Government of Gabon is making the issuance of forestry permits conditional on FSC certification in order to increase forestry exports and hence their contribution to GDP. The presence of the FSC in Gabon dates back to 2009, but since the presidential announcement in September 2018, 19 additional Forest Management (FSC-FM) and Chain of Custody (FSC-CoC) certificates have been issued (out of 31 ever active in Gabon). By December 2019, FSC-FM certificates covered more than 2 million hectares of forests, almost 10 per cent of the total forest area in Gabon, and 12 CoC certificates are currently operating (FSC, 2019).

### MARINE STEWARDSHIP COUNCIL IN SURINAME

With the increasing demand for sustainable fishery products (including seabob shrimps) in Europe and North America, the Heiploeg Group, the largest shrimp processor in Europe, applied to the Marine Stewardship Council (MSC) in 2010 for certification of its seabob shrimp fisheries in Suriname (Suriname Seabob Fishery, 2020a). In 2011, it became the first fishery in the tropics to be certified by the MSC.

This initiative encouraged the Government of Suriname to develop a Seabob Fishery Management Plan, aimed at making seabob fishing more sustainable and improving its access to sensitive export markets through the MSC label. To implement such a plan, the Seabob Working Group (SWG) was established on 1 April 2010, comprising representatives from Suriname's Ministry of Agriculture, Animal Husbandry and Fishing, the commercial fishing industry and local artisanal fishers. Civil society organizations can also join the SWG as observers. The WWF, in particular, has attended most of its sessions (Suriname Seabob Fishery, 2020b). It meets monthly, and is responsible for conducting periodic stock assessments, as well as supporting and monitoring fishing practices to help fisheries obtain MSC certification (Suriname Seabob Fishery, 2017). The SWG Working Group therefore plays a key role in overseeing the management of fisheries, and provides a forum for discussing and resolving disputes (ISEAL, 2017b).

Besides providing certification, the MSC also shares its expertise in standard-setting, auditing and monitoring of fishing practices with the Government of Suriname and with fishery operators. The Government provides strong complementary operational support to fisheries to implement more sustainable fishing practices in order to facilitate the acquisition of MSC certification (FAO, 2018).

This interaction between the MSC and the Government of Suriname have reportedly not yet yielded economic benefits, probably because a greater supply of MSC-certified shrimps is needed to achieve a stronger position in export markets (Suriname Seabob Fishery, 2020a). Nevertheless, the export value of Suriname's fishery products increased by 51 per cent between 2009 and 2017.[68] With the growing demand for sustainable products by markets in Europe and North America , the largest export markets of Suriname's fishery products, certification has the potential to play a significant role in promoting seabob shrimp exports in the future.

[67] Informal translation of the cooperation agreement between the Ministry of Waters, Forests, Sea and Environment and the FSC (2020). Available at: https://www.atibt.org/wp-content/uploads/2020/02/3101-Accord-de-cooperation-FSCGabon.pdf, p.2.

[68] OEC (n.d.b). *What does Suriname export?* Available at: https://oec.world/en/visualize/tree_map/hs92/export/sur/all/show/2017/ (accessed, April 2020).


# CHAPTER 4

# INTEGRATING VSS INTO PUBLIC POLICY

Various issues and consequences of integrating VSS into procurement and trade policies arise, which need to be considered and discussed. These include capacity issues within VSS systems, the possible impacts resulting from the growing number of VSS, the implications for recognition systems, the risk of over-certification, and possible distributional effects. This chapter discusses each one of these implications briefly.

## CAPACITY OF VSS

Although VSS schemes recognize organizations that are responsible for accrediting certification bodies to perform assessments of conformity with standards, some VSS remain actively engaged with certified entities in order to ensure compliance with standards, in terms of both monitoring and handling complaints and disputes (Marx and Wouters, 2017). This might imply that some VSS can only certify a limited number of companies, and are not necessarily interested in certifying as many as possible. Some VSS shift their approach from one which mostly relies on independent third-party auditing to a system involving a more complex governance structure in which several dependent and independent actors provide information, expertise and capacity in the certification process (Loconto, 2017). VSS schemes that engage actively and frequently with their adopters might face difficulties in coping with increased demand. Therefore, a VSS governance model which only involves independent certification bodies for granting certificates and handling complaints can probably more easily cope with a significant increase in demand. However, even in these cases, a sharp increase in demand for certification could pose challenges, such as a lack of time to conduct proper and correct audits, an insufficient number of qualified auditors, and/or ensuring that the auditors are sufficiently competent.

## INCREASE IN THE NUMBER OF VSS AND RECOGNITION OF VSS

The number of VSS has been stagnating in the last couple of years, as mentioned in chapter 1. The proliferation of VSS since 1990 was considered by several commentators to be an issue since it risked creating confusion in the market due to the plethora of labels, some of which were pure "greenwashing".[69] This stagnation, driven by different dynamics, including cooperation and mergers of VSS, is a possible sign of consolidation of various VSS. As mentioned earlier, many labels that are currently operating are fairly concentrated in a limited number

[69] Also referred to as the "wild west of labelling" (Entine, 2013).

of commodities or sectors. Unfortunately, neither the ITC Standards Map nor the Ecolabel Index database use the relevant Standard International Trade Classification (SITC) product categories to provide an overview of which commodities are covered by VSS. However, it is safe to assume that, for many products obtained through public procurement, no VSS are available of (see chapter 2). This might lead to the creation of additional labels, which could have some possible negative consequences. The early days of VSS development took place in a context with little or no regulatory oversight and few rules to comply with. The question arises as to whether in the future a regulatory framework should be developed which deals with recognition of various VSS. Mavroidis and Wolfe (2017) argue that VSS should be brought within the normative framework of the trade regime, and suggest that the WTO should adopt a reference paper that would encourage its members to apply WTO rules, especially with regard to transparency and non-discrimination, for adopting or recognizing standards. On the other hand, bringing VSS into the normative framework could arguably disrupt their voluntary nature. While this debate is still ongoing, the issue of formal recognition of VSS leads to a third point.

## CONVERGENCE AND DIVERGENCE OF RECOGNITION SYSTEMS

The previous point suggested the need to consider developing recognition systems which distinguish between credible and non-credible VSS. This is particularly important with regard to a possible upscaling of VSS use in FTAs and GSP schemes in order to maintain the credibility of VSS and certificates used by exporters. Indeed, if VSS become explicitly mentioned in those trade instruments, the use of fake VSS certificates by exporters might grow. Besides, credibility is crucial for upscaling VSS adoption, as other sustainability enforcement and certification instruments exist in parallel – such as ISO certificates, for example – and might be preferred to VSS (Potoski and Prakash, 2005). Recognition systems to ensure credibility of audits and VSS certificates should thus be well thought out.

Recognition systems, in different forms, are emerging. Chapter 2 provided the example of criteria applied to VSS for sustainable public procurement. In chapter 3, the example of the Renewable Energy Directive which establishes a recognition system was introduced. Developing recognition systems generally involves three types of requirements: (1) substantive requirements, (2) procedural requirements and (3) value chain requirements. The bases for the substantive requirements can be provided by the SDGs and multilateral commitments (e.g. ILO-conventions) as is currently done (see chapter 1 for some examples). Procedural requirements focus on: (a) how standards are set, and (b) how they are enforced and implemented through ex-ante conformity assessments, ex-post verification, ability to signal non-compliance (complaints systems) and possible sanctions. These procedural requirements can follow existing guidelines, such as the International Social and Environmental Accreditation and Labelling (ISEAL) Alliance Code of Good Practice for Setting Social and Environmental Standards,[70] and requirements outlined in ISO/IEC 17065:2012 (Conformity assessment – requirements for bodies certifying products, processes and services) and the related ISO/IEC 17067:2013 (Conformity assessment – fundamentals of product certification and guidelines for product certification schemes[71]). Finally, value-chain or chain-of-custody requirements might stipulate which types of value-chain tracking methods can be used: identity preservation, segregation and mass balance (ISEAL, 2016).

Recognition system cover several dimensions, and, potentially, many recognition systems might emerge. This creates a possible risk of proliferation of such systems, all with more or less similar requirements, but also possible small differences in requirements, which might make it difficult for VSS to comply with them all. It may therefore be important to consider actions to create convergence between recognition systems.

[70] The ISEAL Standard-Setting Code conforms to a large extent with the WTO Technical Barriers to Trade (TBT) Agreement's Code of Good Practice, as contained in annex 3 to the Agreement.

[71] This document describes the fundamentals of product certification, and provides guidelines for understanding, developing, operating and maintaining certification schemes for products, processes and services.

## OVER-CERTIFICATION

The focus of this report is on mechanisms to increase the uptake of VSS, for which there is significant scope, as noted in chapter 1. Tayleur et al. (2018) analysed the uptake of seven agricultural commodities which are generally considered to be significantly covered by certification: coffee, bananas, cocoa, palm oil, sugarcane, soy and tea. By plotting the certified areas against the total area in which the specific commodities were cultivated, they found that certification for these products to be low globally. Their analysis showed that 9 per cent of coffee production worldwide is certified. For the other six commodities the proportion of certification is even lower: only 0.3 per cent for bananas, 2.2 per cent for cocoa and palm oil respectively, 0.6 per cent for sugarcane, 0.2 per cent for soy, and 2 per cent for tea.

However, increased demand might lead to the problem of over-certification. VSS do not necessarily aim at certifying as many companies or producers as possible, but rather at creating certified markets. Hence, a key challenge for them is to have enough downstream players or buyers in consumer markets (i.e. in Europe). Integrating VSS into public policy might thus generate too many certified goods. However, not all will be sold or marked as such on the market. There are some indications that there is already an oversupply of some certified products on the markets, and some certified products are being sold without a certificate. For example, there are many types of tea, and Sri Lanka is a major tea producer of certified tea. However, the country mainly produces specific types of certified tea for markets in the Russian Federation, Turkey and West Asia which do not really demand certified tea. The type of tea demanded by the European Market is, however, not available in Sri Lanka due to ecological and geographical factors (UTZ, 2016). A measure which would influence uptake on a large scale might thus defeat the purpose of some VSS by generating an over-supply of certified produce.

## DISTRIBUTIONAL EFFECTS

Finally, it is important to consider possible distributional effects of upscaling VSS. Maertens and Swinnen (2009) showed that VSS could be a catalyst for trade, but also a barrier. The case of Saint Vincent and the Grenadines, raised in the Committee on Sanitary and Phytosanitary Standards of the WTO, showed the drastic effects of requiring VSS certification as a condition for entering the United Kingdom's retailer market. Suddenly, farmers from Saint Vincent and the Grenadines lost their export market because

they could not afford the costs of certification of their products (Stanton, 2012). Costs as a barrier to entry into the VSS market can be significant. For economic operators, two additional costs might be involved in getting certified. One relates to becoming certified, and the other is related to higher costs of producing in compliance with VSS standards. Concerning the former, getting certified often implies additional investments, technical changes and corrective actions in order to be in conformity with standards. These costs can vary significantly depending on the steps that are still necessary in order to obtain the certificate. Some studies indicate that these costs might be very substantial. Concerning the latter, some studies show that production according to VSS is often more expensive (Loconto and Dankers, 2014). There are also costs related to recertification which need to be taken into account.

These costs can influence the ability of producers to comply with or adopt VSS in order to enter some (export) markets (UNFSS, 2018). This might especially be the case for producers in LDCs. Several VSS try to get producers in LDCs on board, but some evidence suggests this is difficult because of the high certification costs. This problem, which Marx and Cuypers (2010) refer to as “stuck at the bottom”, results in some producers in LDCs being excluded from VSS dynamics. Tayleur et al. (2018) looked into where seven types of certified commodity crops are located, and whether they are located in places which are significant for conserving the world’s most important biodiversity and for benefiting the most vulnerable producers. They developed the first global map of certification of these seven commodity crops, synthesizing data from over one million farms to reveal the distribution of certification. Their study found that certification appears to be concentrated in areas important for biodiversity conservation, but not in those areas most in need of poverty alleviation. This might indicate that it is very difficult for poor farmers to enter the VSS market. Hence, costs related to obtaining VSS certification might create distributional effects in terms of obtaining market access between those who can and cannot afford to be certified.


# CONCLUSIONS

This report was written when the COVID-19 pandemic struck, sparing hardly any countries. The pandemic will clearly affect some of the issues discussed in this report. It will have an impact on globalization, global value chains and how we approach sustainable development; it might also affect the rules and procedures underlying (sustainable) public procurement; and it will affect trade policy in many ways. What the short- and long-term consequences will be is hard to assess at present. Some changes might be structural and more fundamental, while others may be only temporary.

One crucial issue the pandemic highlighted is the vulnerability of societies to risks affecting the health of people. Increased attention to health concerns – not only to human health, but also to the health of ecosystems– will, hopefully, take top priority for years to come. In the case of the COVID-19 pandemic, global health was affected by a virus for which no vaccine is yet available. However, more generally, other health concerns are associated with how we produce, consume and trade products, and to the social and environmental consequences of these activities. The severe health and economic impacts of the COVID-19 pandemic might raise more awareness of the urgent need for sustainable development and sustainable trade, and, consequently, to increased attention to tools and instruments to facilitate sustainable trade, of which VSS are one. In order to have a significant impact on trade, VSS need to be used widely. This report has sought to map out the current trends in the use of VSS, and discuss some public policy instruments that could help scale up VSS.

Chapter 1 explored the current trends in VSS adoption from different perspectives and made some key observations. First, globally, the number of VSS has been increasing since the 1990s, but the increase has been slowing down in recent years, to the point of stagnation. Second, there are significant differences in the number of VSS active in different countries. Third, for agricultural commodities, certification is gaining market shares, and its coverage in terms of croplands is growing by roughly 11 per cent per year globally, although it remains, overall, relatively low (1.4 per cent of global cropland area). Fourth, looking into country-level adoption of VSS, it appears that countries with open economies, and diversified economic sectors and exports, which score well on governance indicators and have achieved a certain level of development (middle income or higher) tend to take up more VSS. Lastly, other factors such as consumer demand, business demand and government demand also play a key role in VSS uptake.

Chapter 2 analysed the role of VSS in sustainable public procurement. It first pointed to the importance of public procurement, and therefore its significant potential to upscale VSS adoption. The chapter

then focused on sustainable public procurement which grew out of environmental and social public procurement. It showed that there are synergies between VSS and SPP, as VSS can serve as an enforcement mechanism and as proof of compliance with public sustainability commitments. Lastly, considerations such as the strengthening of the design of VSS, their availability, as well as the costs of certification were discussed in the context of sustainable public procurement.

Chapter 3 delved into the potential integration of VSS into different trade instruments. It explored how VSS are currently included in free trade agreements. It then discussed the potential inclusion of VSS in GSP schemes. This was followed by an analysis of how VSS can be used as an instrument for market access regulation. Finally, three ways in which governments can use VSS as an instrument for export promotion were discussed, namely conditionality, financial incentives and capacity-building.

Chapter 4 suggests that integrating VSS into sustainable public procurement and trade-based instruments might significantly influence their adoption, but raises a number of issues, including those related to VSS capacity, the proliferation of VSS, divergence and convergence of recognition systems, over-certification and distributional effects.

This report shows that governments can play an important role in upscaling VSS adoption through SPP and trade policy. As VSS offer considerable synergies with the SDGs and other public sustainability commitments, they are a valuable complementary enforcement tool to progress towards sustainability worldwide, although there will be many challenges to their further integration into SPP and trade policy.

# REFERENCES


Airports Authority of India (2018). *23rd Annual Report 2017-18*. Available at: https://www.aai.aero/sites/default/files/AAI_Annual%20Report_2017-18_%20English.pdf.

Akoyi KT and Maertens M (2018). Walk the talk: private sustainability standards in the Ugandan coffee sector. *Journal of Development Studies 54*(10), 1792-1818.

Andrecka M (2017). Corporate social responsibility and sustainability in Danish public procurement. *European Procurement & Public Private Partnership Law Review 12*(3), 333-345.

Arrowsmith S and Kunzlik P (2009). Public procurement and horizontal policies in EC law: general principles. In Arrowsmith S and Kunzlik P (eds.) *Social and Environmental Policies in EC Procurement Law: New Directives, New Directions.* Cambridge: Cambridge University Press.

Backhaus J, Breukers S, Mont O, Paukovic M and Mourik R (2012). *Sustainable lifestyles: today's facts and tomorrow's trends*. *D1.1 Sustainable lifestyles baseline report*. 43030648, UNEP/ Wuppertal Institute Collaborating Centre on Sustainable Consumption and Production (CSCP), Amsterdam.

Basso VM, Jacovine LAG, Alves RR, Valverde SR, da Silva FL and Brianezi D (2011). Evaluation of the influence of forest certification in compliance with environmental legislation in forest plantations. *Revista Arvore 35*(4), 835-844.

Beghin J, Maertens M and Swinnen J (2015). Nontariff Measures and Standards in Trade and Global Value Chains. *Annual Review of Resource Economics 7*, 425-450.

Bell S and Hindmoor A (2012). Governance without government? The case of the Forest Stewardship Council. *Public Administration 90*(1), 144-159.

Bennett EA (2017). Who Governs Socially-Oriented Voluntary Sustainability Standards? Not the Producers of Certified Products. *World Development 91*, 53-69.

Bleda M and Chicot J (2020). The role of public procurement in the formation of markets for innovation. *Journal of Business Research 107*, 186-196.

Bloomfield MJ and Schleifer P (2017). Tracing failure of coral reef protection in non-state market-driven governance. *Global Environmental Politics 17*(4), 127-146.

Bodansky D and Lawrence JC (2009). Trade and Environment. In Bethlehem D et al. (eds.) *The Oxford Handbook of International Trade Law*. Oxford: OUP, 526-527.

Brenton S (2013). The political motivations of ethical consumers. *International Journal of Consumer Studies 37*(5), 490-497.

Caldwell N, Walker H, Harland C, Knight L, Zheng J and Wakeley T (2005). Promoting competitive markets: The role of public procurement. *Journal of Purchasing and supply management 11*(5-6), 242-251.

Cattaneo O, Gereffi G and Staritz C (2010). *Global Value Chains in a Postcrisis World: A Development Perspective*. Washington, DC: World Bank.

Cerutti PO, Tacconi L, Nasi R and Lescuyer G (2011). Legal vs. certified timber: Preliminary impacts of forest certification in Cameroon. *Forest Policy and Economics 13*(3), 184-190.

CESR (Center for Economic and Social Rights) (2020). *Assessing Austerity: Monitoring the human rights impacts of fiscal consolidation.* Available at: http://www.cesr.org/assessing-austerity-monitoring-human-rights-impacts-fiscal-consolidation.

Claeson B (2019). Making rights effective in public procurement supply chains: lessons from the electronics sector. In Martin-Ortega O and O'Brien C (eds.) *Public Procurement and Human Rights: Opportunities, Risks and Dilemmas of the State as Buyer*. Cheltenham, UK: Edward Elgar, 192-205.

CLES (Centre for Local Economic Strategies) (2011). *The power of procurement: Towards progressive procurement: the policy and practice of Manchester City Council*. Available at: http://

www.cles.org.uk/wp-content/uploads/2011/01/The-power-of-procurement.pdf

Collins B, Evans A and Hung M (2017). *The New Regulators? Assessing the Landscape of Multi-Stakeholder Initiatives. Assessing the landscape of multi-stakeholder initiatives*. MSI Integrity and Kenan Institute for Ethics, Duke University.

Conlon E (2019). Civil liability for abuses of ILO core labour rights in European Union government supply chains: Ireland as a case study. In Martin-Ortega O and O'Brien C (eds.) *Public Procurement and Human Rights: Opportunities, Risks and Dilemmas of the State as Buyer*. Cheltenham, UK: Edward Elgar, 115-132.

Corvaglia MA (2016). Public procurement and private standards: Ensuring sustainability under the WTO Agreement on Government Procurement. *Journal of International Economic Law 19*(3), 607–627.

D'Hollander D and Marx A (2014). Strengthening private certification systems through public regulation. *Sustainability Accounting, Management and Policy Journal 5*(1), 2-21.

D'Hollander D and Tregurtha N (2016). Exploring the potential of government and voluntary standards collaborations to scale up sustainable production and supply. *Policy Matters 59*, 60-72.

Dawar K and Oh SC (2017). *The role of public procurement policy in driving industrial development*. UNIDO Inclusive and Sustainable Industrial Development Working Paper Series WP8/2017. Vienna: UNIDO.

Department of Expenditure (2017). *General Financial Rules 2017*. Available at: https://doe.gov.in/sites/default/files/GFR2017_0.pdf

Department of Expenditure (2018). *Office Memorandum: Task Force on Sustainable Public Procurement*. Available at: https://doe.gov.in/sites/default/files/Task%20Force%20on%20Sustainable%20Public%20Procurement.pdf

DIE (2015). *Sustainability Standards, SDGs and the WTO*. Available at: https://www.die-gdi.de/fileadmin/user_upload/pdfs/veranstaltungen/2016/20151220_Sustainability_Standards_MGG_One_Pager.pdf

Eberlein B, Abbott K, Black J, Meidinger E and Wood S (2014). Transnational Business Governance Interactions: conceptualization and framework for analysis. *Regulation and Governance 8*, 1–21.

EEA (2015). *SOER 2015 - European briefings: Consumption*. European briefings EEA, Copenhagen.

EFTA (2010). *State of Play of Fair Trade Public Procurement in Europe*. Available at: http://www.european-fair-trade-association.org/observatory/index.php/en/studies/

Emberson C and Trautrims A (2019). Public procurement and modern slavery risks in the English adult social care sector. In Martin-Ortega O and O'Brien C (eds.) *Public Procurement and Human Rights: Opportunities, Risks and Dilemmas of the State as Buyer*. Cheltenham, UK: Edward Elgar, 180-191.

Entine J (2013). *Ecolabels – The Wild West of labelling.* Ethical Corporation. Available at: http://www.ethicalcorp.com/environment/ecolabels-wild-west-labelling

Espach R (2006). When is sustainable forestry sustainable? The Forest Stewardship Council in Argentina and Brazil. *Global Environmental Politics 6*, 55–84.

European Commission (2016). *Report from the Commission to the European Parliament and the Council on the Generalised Scheme of Preferences covering the period 2014–2015*. COM (2016) 29 Final. Brussels, Belgium: European Commission.

European Commission (2020). *Public Procurement.* Available at: https://ec.europa.eu/growth/single-market/public-procurement_en

European Court of Auditors (2016). *Special Report: The EU system for the certification of sustainable biofuels*. Available at: https://www.eca.europa.eu/Lists/ECADocuments/SR16_18/SR_BIOFUELS_EN.pdf

European Union (2015). *Trade for all: Towards a more responsible trade and investment policy*. Luxembourg: European Union.

Fair Trade Advocacy Office (2020). *Public Procurement.* Available at: https://fairtrade-advocacy.org/our-work/key-topics/public-procurement-3/

FAO (2018). *Seafood certification and developing countries: focus on Asia*. Rome: FAO.

FAO (2019). *SDG Indicator 15.2.1 - Progress towards sustainable forest management*. Available at: http://www.fao.org/sustainable-development-goals/indicators/1521/en/

Fiorini M, Hoekman B, Jansen M, Schleifer P, Solleder O, Taimasova R and Wozniak J (2016). *Exploring Voluntary Sustainability Standards using ITC standards map: on the accessibility of voluntary sustainability standards for suppliers*. ITC Working paper 04-2016.

Forest Trends (2019). *Regulating the Trade in Illegal Timber: Republic of Korea Update, State of Play October 2018*. Available at: https://www.forest-trends.org/wp-content/uploads/2019/01/Forest-Trends-Korea-Brief-Final-2019.pdf

Fransen L (2012). Multi-stakeholder governance and voluntary programme interactions: legitimation politics in the institutional design of Corporate Social Responsibility. *Socio-Economic Review 10*(1), 163-192.

FSC (2019). *Facts and figure – December 2019*. Available at: https://fsc.org/en/page/facts-figures#archive-

FSC (2020). *Information Presse: Signature d'un accord de coopération entre le governement gabonais et le FSC International*. Available at: https://www.atibt.org/wp-content/uploads/2020/02/3001-Communique-de-presse-Partenariat-FSC-Gabon-003.pdf

Galati A, Gianguzzi G, Tinervia S, Crescimanno M and La Mela Veca D (2017). Motivations, adoption and impact of voluntary environmental certification in the Italian Forest based industry: the case of the FSC standard. *Forest Policy and Economics 83*(1), 169-176.

German L and Schoneveld G (2011). *Social sustainability of EU-approved voluntary schemes for biofuels Implications for rural livelihoods*. CIFOR Working Paper 75.

Göthberg P (2019). Public procurement and human rights in the healthcare sector: the Swedish county councils' collaborative model. In Martin-Ortega O and O'Brien C (eds.) *Public Procurement and Human Rights: Opportunities, Risks and Dilemmas of the State as Buyer*. Cheltenham, UK: Edward Elgar, 165-180.

Gulbrandsen L (2004). Overlapping Public and Private Governance: Can Forest Certification Fill the Gaps in the Global Forest Regime? *Global Environmental Politics 4*(2), 75-99.

Gulbrandsen L (2005). Explaining different approaches to voluntary standard: a study of Forest certification choices in Norway and Sweden. *Journal of Environmental Policy and Planning 7*(1), 43–59.

Gulbrandsen L (2014). Dynamic Governance Interactions: Evolutionary Effects of State Responses to Non-State Certification Programs. *Regulation & Governance* 8(1), 74–92.

Gygli S, Haelg F, Potrafke N and Sturm JE (2019). The KOF Globalisation index – revisited. *The Review of International Organizations 14*(3), 543-574.

Hamilton GG, Petrovic M and Senauer B (2012). *The Market Makers. How Retailers are Reshaping the Global Economy*. Oxford: Oxford University Press.

Heritage Foundation (2019). *2019 Index of Economic Freedom*. Washington DC: Heritage Foundation.

Hestermeyer H (2011). Article III GATT. In Wolfrum R, Stoll PT and Hestermeyer H (eds.) *Max Planck Commentaries on World Trade Law*. *WTO—Trade in Goods*. Leiden/Boston: Brill, 146-147.

Hoekman B (2014). *Supply Chains, Mega-Regionals and Multilateralism. A Road Map for the WTO*. London: CEPR Press.

ILO (2015). *Social dimensions of free trade agreements*. Geneva: International Labour Organization; International Institute for Labour Studies.

ISEAL (2016). *Chain of custody models and definitions. A reference document for sustainability standards systems, and to complement ISEAL's Sustainability Claims Good Practice Guide*. London: ISEAL.

ISEAL (2017a). *Upgrading cotton production in Mozambique: the role of the Better Cotton Initiative*. Available at: https://www.isealalliance.org/sites/default/files/resource/2019-05/ISEAL_FactSheet_BCI_Mozambique.pdf

ISEAL (2017b). *Suriname and MSC: collaboration for certification*. Available at: https://www.isealalliance.org/sites/default/files/resource/2019-05/ISEAL_FactSheet_Suriname.pdf

ITC (2011a). The Impacts of Private Standards on Global Value Chains. In *Literature Review Series on the Impacts of Private Standards; Part I*. Geneva: International Trade Centre (ITC).

ITC (2011b). The Impacts of Private Standards on Producers in Developing Countries. In *Literature Review Series on the Impacts of Private Standards; Part II*. Geneva: International Trade Centre (ITC).

Kaufmann D, Kraay A and Mastruzzi M (2010). *The Worldwide Governance Indicators: Methodology and Analytical Issues*. World Bank Policy Research Working Paper No. 5430. Available at: https://ssrn.com/abstract=1682130.

Keck A and Lendle A (2012). *New evidence on preference utilization*. World Trade Organization Economic Research and Statistics Division - Staff Working Paper ERSD-2012-12. Available at: https://www.wto.org/english/res_e/reser_e/ersd201212_e.pdf

Korea Forest Service (2017). *Act on the Sustainable Use of Timbers.* Available at: https://www.documents.clientearth.org/wp-content/uploads/library/2017-09-22-korean-act-on-the-sustainability-of-wood-ext-en.pdf

Korea Forest Service (2018). *Detailed Standards for Determining the Legality of Imported Timber and Timber Products.* Available at: https://www.forest.go.kr/images/data/down/Detailed%20Standards%20for%20Determining%20the%20Legality%20of%20Imported%20Timber%20and%20Timber%20Products.pdf

Korea Forest Service (2020a). *Forest Policy*. Available at: http://english.forest.go.kr/kfsweb/kfi/kfs/cms/cmsView.do?cmsId=FC_001680&mn=UENG_02_01_01

Korea Forest Service (2020b). *Legal Timber Trade*. Available at: http://english.forest.go.kr/kfsweb/kfi/kfs/cms/cmsView.do?cmsId=FC_002319&mn=UENG_02_02_06

Lambin E and Thorlakson T (2018). Sustainability Standards: Interactions between private actors, civil society and governments. *Annual Review Environmental Resources 43*, 369–393.

Lambin E, Meyfroidt P, Rueda X, Blackman A, Börner J, Cerutti PO, Dietsch T, Jungmann L, Lamarque P, Lister J, Walker NF and Wunder S (2018). Effectiveness and Synergies of Policy Instruments for Land Use Governance in Tropical Regions. *Global Environmental Change 28,*129-40.

LeBaron G, Lister J and Dauvergne P (2017). Governing Global Supply Chain Sustainability through the Ethical Audit Regime. *Globalizations 14*(6)*,* 958-975.

Lee DK (2012). The forest sector's contribution to a "low carbon, green growth" vision in the Republic of Korea. *Unasylva 239*(63). Available at: https://pdfs.semanticscholar.org/3fa9/bbc2dfe03f8e91c84963531ec0369f250c3e.pdf

Lee SM, Jang CS, Kim KD, Song SH and Park J (2014). Analysis of the effect of timber industry on illegal logging timber and timber import regulations (*informal translation*). *Rural Economy 37*(2). Seoul: Korea Rural Economic Institute.

Loconto A (2017). Models of assurance: Diversity and standardization of modes of intermediation. *Annals of the American Academy 670*(1), 112–132.

Loconto A and Dankers C (2014). *Impact of international voluntary standards on smallholder market participation in developing countries: a review of literature*. Rome: FAO.

Maertens M and Swinnen J (2009). Trade, standards and poverty: Evidence from Senegal. *World Development 37*(1), 161-178.

Martin-Ortega O and O'Brien C (2019). *Public Procurement and Human Rights: Opportunities, Risks and Dilemmas for the State as Buyer.* Cheltenham: Edward Elgar.

Martin-Ortega O and O'Brien C (2017). Advancing Respect for Labour Rights Globally through Public Procurement. *Politics and Governance 5*(4), 69-79.

Marx A (2014a). Legitimacy, Institutional Design and Dispute Settlement. The Case of Eco-certification systems. *Globalizations 11*(3), 401-416.

Marx A (2014b). Varieties of Legitimacy: A Configurational Institutional Design Analysis of Eco-labels. *Innovation: European Journal for Social Science Research 26*(3), 268-287.

Marx A (2019a). Integrating Voluntary Sustainability Standards in Trade Policy: The Case of the European Union's GSP Scheme. *Sustainability 10*(12), 66-87.

Marx A (2019b). Public procurement and human rights: current role and potential of voluntary sustainability standards. In Martin-Ortega O and O'Brien C (eds.) *Public Procurement and Human Rights: Opportunities, Risks and Dilemmas of the State as Buyer*. Cheltenham, UK: Edward Elgar, 132-149.

Marx A and Cuypers D (2010). Forest Certification as a Global Environmental Governance Tool. What is the Macro-impact of the Forest Stewardship Council. *Regulation and Governance 4*(4), 304-334.

Marx A and Wouters J (2015). Competition and Cooperation in the Market of Voluntary Standards Sustainability Standards. In Delimatsis P (ed.) *International standardization – Law, Economics and Politics*. Cambridge: Cambridge University Press, 215-241.

Marx A and Wouters J (2017). Intermediaries in Global Labour Governance. *The ANNALS of the American Academy of Political and Social Science 670*(1), 189-206.

Marx A, Lein B, Sharma A, Suse AG, Willemyns I, Ebert F and Wouters J (2018). *What Role can Voluntary Sustainability Standards play in the European Union's GSP Scheme.* Report for the German Ministry of Development Cooperation. Leuven: Leuven Centre for Global Governance Studies.

Marx A, Bécault E and Wouters J (2012). Private Standards in Forestry: Assessing the Legitimacy and Effectiveness of the Forest Stewardship Council. In Marx A, Maertens M, Swinnen J and Wouters J (eds.) *Global Governance and Private Standards. Interdisciplinary Perspectives*. Cheltenham, UK: Edward Elgar.

Marx A, Brando N and Lein B (2017). Strengthening Labour Rights Provisions in Bilateral Trade Agreements: Making the Case for Voluntary Sustainability Standards. *Global Policy 8*(S3), 78-88.

Mavroidis P and Neven D (2019). *Greening the WTO: EGA, Tariff Concessions and Policy Likeness*. EUI RSCAS, 2019/07, Global Governance Programme-333, Global Economics.

Mavroidis P and Wolfe R (2017). Private Standards and the WTO: Reclusive No More. *World Trade Review 16*(1), 1-24.

McCrudden C (2004). Using public procurement to achieve social outcomes. *Natural Resources Forum 28*, 257–267.

McCrudden C (2007). *Buying Social Justice. Equality, Government Procurement and Legal Change*. Oxford: Oxford University Press.

Ministry of Railways (2012). *Indian Railways Organization for Alternate Fuels: Vision and Roadmap*. Available at: http://www.iroaf.indianrailways.gov.in/iroaf/uploads/files/1430377566214-IROAF%20Vision%20and%20Roadmap(2012).pdf

Morin JF, Dür A and Lechner L (2018). Mapping the trade and environment nexus: Insights from a new dataset. *Global Environmental Politics 18*(1), 122-139.

National Academy of Indian Railways (2020). *Green Procurement.* Available at: http://www.nair.indianrailways.gov.in/uploads/files/1501565888550-green%20Procurement%20doc%20pdf.pdf

Elamin N.E.A and FernandezdeCordoba S. (2020). *The Trade Impact of Voluntary Sustainability Standards: A review of empirical evidence.*

UNCTAD Research Paper No. 50, UNCTAD/SER. RP/2020/9. Geneva: UNCTAD.

O'Brien C (2018). The Home State Duty to Regulate the Human Rights Impacts of TNCs Abroad: A Rebuttal. *Business and Human Rights Journal 3*(1), 47-73.

O'Brien C and Martin-Ortega O (2017). *The SDGs, human rights and procurement: An urgent need for policy coherence*. *High impact procurement supporting sustainable development*. Supplement to the 2016 Annual Statistical Report on United Nations Procurement. United Nations Office for Project Services (UNOPS), 10-13.

O'Brien C and Martin-Ortega O (2019). Discretion, Divergence, Paradox: Public and Private Supply Chain Standards on Human Rights. In Bogojević S, Groussot X and Hettne J (eds.) *Discretion in EU Public Procurement Law.* Oxford: Hart Publishing, 189–210.

O'Brien C, Vander Meulen N and Mehra A (2015). *International Learning Lab on Public Procurement and Human Rights. Public Procurement and Human Rights: A Survey of Twenty Jurisdictions*. Danish Institute for Human Rights and International Corporate Accountability Roundtable. Available at: http://www.hrprocurementlab.org/

O'Rourke D (2003). Outsourcing Regulation: Analyzing Nongovernmental Systems of Labor Standards and Monitoring. *The Policy Studies Journal 31*(1), 1-29.

O'Rourke D (2012). *Shopping for Good*. MIT Press.

OECD (2017). *Global Forum on Responsible Business Conduct*. *Session Note, Contributing to the Sustainable Development Goals through responsible business conduct*. Available at: https://mneguidelines.oecd.org/global-forum/2017-GFRBC-Session-Note-Contributing-to-SDGs.pdf

OECD (2020). *Public Procurement.* Available at: https://www.oecd.org/gov/public-procurement/

Ostrom E (2005). *Understanding Institutional Diversity*. Princeton NJ: Princeton University Press.

Outhwaite O (2019). Human rights and national procurement rules in the World Trade Organization Agreement on Government Procurement. In Martin-Ortega O and O'Brien C (eds.) *Public Procurement and Human Rights: Opportunities, Risks and Dilemmas of the State as Buyer*. Cheltenham, UK: Edward Elgar, 3-23.

Outhwaite O and Martin-Ortega O (2017). *Monitoring Human Rights in Global Supply Chains: Insights and policy recommendations for civil society, global brands and academics*. BHRE Research Series, Policy Paper 3. Available at: https://static1.squarespace.com/

Outhwaite O and Martin-Ortega O (2019). Worker-driven monitoring – Redefining supply chain monitoring to improve labour rights in global supply chains. *Competition and Change 23*(4), 378-396.

Oya C, Schaefer F and Skalidou D (2018). The effectiveness of agricultural certification in developing countries: A systematic review. *World Development 112*, 282-312.

Partiti E (2017). *Public play upon private standards: How European and international economic law enter into voluntary regimes for sustainability*. PhD thesis, University of Amsterdam, Amsterdam.

Partiti E (2021). *Regulating transnational sustainability regimes under EU and WTO law*. Cambridge University Press.

Perera O, Chowdhury N and Goswami A (2007). *State of Play in Sustainable Public Procurement*. Manitoba: International Institute for Sustainable Development (IISD). Available at: http://www.iisd.org/pdf/2007/state_procurement.pdf

Ponte S (2019). *Business, Power and Sustainability in a World of Global Value Chains*. London: ZED Books.

Ponte S and Daugbjerg C (2015). Biofuel Sustainability and the Formation of Transnational Hybrid Governance. *Environmental Politics 24*(1), 96-114.

Potoski M and Prakash A (2005). Green clubs and voluntary governance: ISO 14001 and firms'

regulatory compliance. *American Journal of Political Science 49*(2), 235-248.

Prasad GC (2018). India seeks fair play in public procurement. *Livemint.* Available at: https://www.livemint.com/Politics/asFFP31qGnnzpr8rrWUSpO/India-seeks-fair-play-in-public-procurement.html

Quality Council of India (2020a). *ICMED Scheme.* Available at: https://www.qcin.org/icmed-medical.php

Quality Council of India (2020b). *Voluntary Scheme for AYUSH Products*. Available at: https://www.qcin.org/voluntary-certification-scheme-for-ayush-products.php

Quinot G (2019). Constitutionalising public procurement through human rights: lessons from South Africa. In Martin-Ortega O and O'Brien C (eds.) *Public Procurement and Human Rights: Opportunities, Risks and Dilemmas of the State as Buyer*. Cheltenham, UK: Edward Elgar, 78-95.

Rex E and Baumann H (2007). Beyond ecolabels: what green marketing can learn from conventional marketing. *Journal of Cleaner Production 15*(6), 567-576.

Rokka J and Uusitalo L (2008). Preference for green packaging in consumer product choices – Do consumers care? *International Journal of Consumer Studies 32*, 516-525.

Rolfstam M (2013). *Public procurement and innovation: The role of institutions.* Northampton: Edward Elgar.

Russo D (2019). The human rights responsibilities of international organizations as procuring authorities. In Martin-Ortega O and O'Brien C (eds.) *Public Procurement and Human Rights: Opportunities, Risks and Dilemmas of the State as Buyer*. Cheltenham, UK: Edward Elgar, 62-77.

Schepers D (2010). Challenges to Legitimacy at the Forest Stewardship Council. *Journal of Business Ethics 92*(2), 279-290.

Schleifer P (2013). Orchestrating sustainability: The case of European Union biofuel governance. *Regulation and Governance 7*(4), 533-546.

Schukat P and Rust J (2012). *Tariff preferences for sustainable products. An examination of the potential role of sustainability standards in the generalized preference systems based on the European Union model (GSP).* Bonn & Eschborn: Deutsche Gesellschaft fur Internationale Zusammenarbeit (GIZ) GmbH.

Semple A (2017). Socially responsible public procurement (SRPP) under EU law and international agreements: The CPA, CETA and the EU-Ukrainian deep and comprehensive free trade area. *European Procurement & Public Private Partnership Law Review 12*(3), 293–309.

Sinclair J (2019). Outsourcing and bonded labour in military and diplomatic security services. In Martin-Ortega O and O'Brien C (eds.) *Public Procurement and Human Rights: Opportunities, Risks and Dilemmas of the State as Buyer*. Cheltenham, UK: Edward Elgar, 151-164.

Sjåfjell B and Wiesbrock A (2015). *Sustainable public procurement under EU law: new perspectives on the state as stakeholder*. Cambridge: Cambridge University Press.

Stanton G (2012). Food safety-related private standards: the WTO perspective. In Marx A et al. (eds.) *Global Governance and Private Standards. Interdisciplinary Perspectives*. Cheltenham: Edward Elgar, 235-254.

Stoffel T (2020). *Socially Responsible Public Procurement (SRPP) in Multi-Level Regulatory Frameworks. Assessment Report on Policy Space for SRPP Regulation and Implementation in Germany and Kenya*. DIE Discussion Paper 9/2020. Available at: https://www.die-gdi.de/discussion-paper/article/socially-responsible-public-procurement-srpp-in-multi-level-regulatory-frameworks-assessment-report-on-policy-space-for-srpp-regulation-and-implementation-in-germany-and-kenya/

Stoffel T, Cravero C, La Chimia A and Quinot G (2019). Multidimensionality of Sustainable Public Procurement (SPP) – Exploring Concepts and Effects in Sub-Saharan Africa and Europe. *Sustainability 11*, 6352.

Stumberg R and Vander Meulen N (2019). Supply chain transparency in public procurement: lessons

from the apparel sector. In Martin-Ortega O and O'Brien C (eds.) *Public Procurement and Human Rights: Opportunities, Risks and Dilemmas of the State as Buyer*. Cheltenham, UK: Edward Elgar, 206-224.

Suriname Seabob Fishery (2017). *Verslag Seabob Werkgroep – Periode 1 oktober 2016 tot en met 1 oktober 2017*. Available at: http://seabob.sr/wp-content/uploads/2018/05/180102-SWG-Jaarverslag-dec-2016-tot-okt-2017.pdf

Suriname Seabob Fishery (2020a). *MSC Certification*. Available at: http://seabob.sr/msc-certification/

Suriname Seabob Fishery (2020b). *Reports Meeting SWG*. Available at: http://seabob.sr/reports-meeting-swg/

Swedwatch (2015). *Healthier Procurement, Improvements to working conditions for surgical instrument manufacture in Pakistan*. Report 73, Swedwatch.

Swinnen J, Deconinck K, Vandemoortele T and Vandeplas A (2015). *Quality Standards, Value Chains, and International Development: Economic and Political Theory.* Cambridge: Cambridge University Press.

Taufique K, Vocino A and Polonsky M (2017). The influence of eco-label knowledge and trust on pro-environmental consumer behaviour in an emerging market. *Journal of Strategic Marketing 25*(7), 511-529.

Tayleur C, Balmford A, Buchanan G, Butchart S, Ducharme H, Green R, Milder J, Sanderson F, Thomas D, Vickery J and Phalan B (2017). Global Coverage of Agricultural Sustainability Standards, and Their Role in Conserving Biodiversity. *Conservation Letters 10*, 610-618.

Tayleur C, Balmford A, Buchanan G, Butchart S, Walker C, Ducharme H, Green R, Milder J, Sanderson F, Thomas D, Tracewski L, Vickery J and Phalan B (2018). Where are commodity crops certified, and what does it mean for conservation and poverty alleviation? *Biological Conservation 217*, 36-46.

Thøgersen J, Haugaard P and Olesen A (2009). Consumer responses to ecolabels. *European Journal of Marketing 44*(11-12), 1787-1810.

Ugarte S, van Dam J and Spijkers S (2013). *Recognition of private certification schemes for public regulation. Lessons learned from the Renewable Energy Directive*. Bonn and Eschborn: Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ).

UN HRC (2008). *Protect, Respect and Remedy: A Framework for Business and Human Rights*. UN Doc A/HRC/8/5. Available at : https://businesshumanrights.org/sites/default/files/reports-andmaterials/Ruggie-report-7-Apr-2008.pdf

UN HRC (2011). *United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*. U.N. Doc. A/HRC/17/31. Available at: http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

UNEP (2012). *Sustainable Public Procurement Implementation Guidelines: Introducing UNEP's Approach*. Paris: UNEP.

UNEP (2017). *Comparative Analysis of Green Public Procurement and Ecolabelling Programmes in China, Japan, Thailand and the Republic of Korea: Lessons Learned and Common Success Factors*. Paris: UNEP.

UNEP (2019). *Green Public Procurement in the Republic of Korea: A Decade of Progress and Lessons Learned*. Paris: UNEP.

UNEP (2020). *Consumer Information Tools and Climate Change: Facilitating low-carbon choices in Tourism, Buildings and Food Systems*. Paris: UNEP.

UNFSS (2013). *Voluntary Sustainability Standards. Today's Landscape of Issues and Initiatives to Achieve Public Policy Objectives*. Geneva: United Nations Forum on Sustainability Standards. Part 1: Issues and Part 2: Initiatives can be downloaded here: https://unfss.org/wp-content/uploads/2012/05/unfss-report-issues-1_draft_lores.pdf; https://unfss.org/wp-content/uploads/2012/05/unfss-report-initiatives-2_draft_lores.pdf

UNFSS (2016). *Meeting Sustainability Goals. Voluntary sustainability standards and the role of the government. 2nd Flagship Report.* Geneva: United Nations Forum on Sustainability Standards.

UNFSS (2018). *Voluntary Sustainability Standards, Trade and Sustainable Development*. Geneva: United Nations Forum on Sustainability Standards.

UNODC (2013). *India: Probity in Public Procurement.* Available at: https://www.unodc.org/documents/southasia/publications/research-studies/India-PPPs.pdf

UNOPS (2009). *A Guide to Environmental Labels for Procurement Practitioners of the United Nations System.* Copenhagen.

UTZ (2016). *UTZ's response to the report: 'External Evaluation of the UTZ tea program in Sri Lanka'*. Available at: https://www.utz.org/wp-content/uploads/2016/07/UTZ-Response-External-evaluation-on-the-UTZ-tea-program-in-Sri-Lanka.pdf

Uyarra E and Flanagan K (2010). Understanding the innovation impacts of public procurement. *European Planning Studies 18*, 123–143.

van der Ven C (2018). *Fine-tuning the EU's General System of Preferences to make it a more effective tool for development*. Bonn & Eschborn: Deutsche Gesellschaft fur Internationale Zusammenarbeit (GIZ) GmbH.

Vasileva V, Defranceschi P, Semple A, Tepper P, Fincke J and Schinzel E (2012). *The Landmark Project: Verifying Social Responsibility in Supply Chains*. Südwind, Austria: The Landmark Consortium, c/o ICLEI – Local Governments for Sustainability.

WEF (2019). *The Global Competitiveness Report 2019*. Geneva: World Economic Forum.

Willer H, Sampson G, Voora V, Dang D and Lernoud J (2019). *The State of Sustainable Markets 2019 – Statistics and Emerging Trends*. Geneva: International Trade Centre.

World Bank (2019). *Doing Business 2019: Training for Reform*. Washington DC: World Bank.

WTO (n.d.a). *Agreement on Government Procurement.* Available at: https://www.wto.org/english/tratop_e/gproc_e/gp_gpa_e.htm (accessed, March 2020).

WTO (n.d.b). *Regional Trade Agreements*. Available at: https://www.wto.org/english/tratop_e/region_e/region_e.htm (accessed, March 2020).

WTO Secretariat (2017). *Key take-aways from the committee's symposium on sustainable procurement: Symposium on sustainable procurement by the work programme on sustainable procurement of the committee on government procurement*. Geneva: WTO. Available at: https://docs.wto.org/dol2fe/Pages/FE_Search/ExportFile.aspx?id=236605&filename=q/PLURI/GPA/W341.pdf

WWF (2013). *Searching for Sustainability: Comparative Analysis of Certification Schemes for Biomass used for the Production of Biofuels*. Frankfurt am Main: WWF. Available at: http://assets.panda.org/downloads/wwf_searching_for_sustainability_2013.pdf

WWF (2017). *SDGs Mean Business: How Credible Standards Can Help Companies Deliver the 2030 Agenda*. WWF-ISEAL joint report. Available at: https://d3nehc6yl9qzo4.cloudfront.net/downloads/wwf_iseal_sdg_2017_final_20_feb17_1.pdf

# ANNEX

## METHODOLOGICAL NOTE ON VSS ADOPTION SCORES

This annex briefly describes the variables used in table 3. Trade indicators first include the Export Concentration index,[72] also called the Herfindahl-Hirschmann index (HHI), which measures, on a 0 to 1 scale, the degree of product concentration in exports, in other words, the number of different commodities that are exported. A score of 0 corresponds to very diversified exports, meaning that a significant number of different products are exported; a score of 1 refers to more concentrated exports, in other words, exporting only one or a limited number of different commodities. Then, net imports and exports of goods in US dollars,[73] exports as a percentage of GDP, the share of agriculture in GDP, GDP, GDP per capita,[74] as well as the growth rate of GDP per capita over the period 1995–2019 are also analysed as trade indicators. We present Trade Tariffs (WEF, 2019) as well as Trade Freedom (Heritage Foundation, 2019), which measures the absence of tariff and non-tariff barriers to trade and scores from 0 (less trade freedom) to 100 (most trade freedom). Moreover, the Doing Business index (World Bank, 2019) captures the ease of doing business in an economy, based on 10 topics and 41 indicators. Scores range from 0 for the lowest performance to 100 for the best performance. Lastly, the Global Competitiveness index (GCI) (WEF, 2019) measures 113 variables, which are structured into 12 pillars of competitiveness that are further classified under 4 factors, namely: enabling environment, markets, human capital, and innovation ecosystem. The GCI score ranges from 0 (not competitive) to 7 (very competitive). For assessing governance, two indicators are used: the Government Effectiveness index, which captures the "quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies" (Kaufmann et al., 2010). These are assessed on a scale of -2.5 indicating poor government effectiveness, up to 2.5, indicating a more effective government. In addition, we use the Rule of Law index[75] to measure "perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence" (Kaufmann et al., 2010). This scale also ranges from -2.5 (low level of rule of law) to 2.5 (high level of rule of law). Lastly, the KOF Globalisation index and the Human Development Index (HDI)[76] are analysed. The KOF Globalisation index evaluates different aspects of globalization, including trade globalization, political globalization and social globalization, described as follows: "Economic globalization characterizes long distance flows of goods, capital and services as well as information and perceptions that accompany market exchanges. Social globalization expresses the spread of ideas, information, images and people. Political globalization characterizes the diffusion of government policies" (Gygli et al., 2019). This index is measured on a scale from the lowest score of 21.87 to the maximum score of 89.88. Lastly, the HDI captures the level of human development of a country, including indicators of life expectancy, education and per capita income, and ranges from 0 (low) to 1 (high).

[72] UNCTADstat (n.d.). *Merchandise: Product concentration and diversification indices of exports and imports, annual*. Available at: https://unctadstat.unctad.org/wds/TableViewer/tableView.aspx?ReportId=120 (accessed, March 2020).

[73] UN Comtrade (n.d.). *International Trade Statistics – Import/Export Data*. Available at: https://comtrade.un.org/data/ (accessed, March 2020).

[74] World Bank (n.d.a.). *World Bank Open Data.* Available at: https://data.worldbank.org/ (accessed, March 2020).

[75] World Bank (n.d.b.). *Worldwide Governance Indicators*. Available at: https://datacatalog.worldbank.org/dataset/worldwide-governance-indicators (accessed, March 2020).

[76] UNDP (n.d.). *Human Development Data (1990-2018)*. Available at: http://hdr.undp.org/en/data (accessed, March 2020).

Photo credit: Cover © Adele De Witte - Adobe Stock