



## **The Road from Paris to Sustainable Development**

Effectively Integrating Human Rights  
and Gender Equality into Climate Actions  
of EU institutions

Interim report

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**Heinrich-Böll-Stiftung**

**The Road from Paris to Sustainable Development**

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## LIST OF ABBREVIATIONS

CEDAW	CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN
CDM	CLEAN DEVELOPMENT MECHANISM
COP	CONFERENCE OF THE PARTIES TO THE UNFCCC
DG-DEVCO	DIRECTORATE-GENERAL EUROPEAID DEVELOPMENT & COOPERATION
EEAS	EUROPEAN EXTERNAL ACTION SERVICE
EU-ETS	EU EMISSIONS TRADING SCHEME
FPIC	FREE PRIOR AND INFORMED CONSENT
IAS	IMPACT ASSESSMENTS
JIM	JOINT IMPLEMENTATION MECHANISM
LULUCF	LAND USE, LAND-USE CHANGE AND FORESTRY
MS	MEMBER STATE
MDGS	MILLENNIUM DEVELOPMENT GOALS
ODA	OFFICIAL DEVELOPMENT ASSISTANCE
OECD	ORGANISATION FOR ECONOMIC COOPERATION AND DEVELOPMENT
PCD	POLICY COHERENCE FOR DEVELOPMENT
RBA	RIGHTS-BASED APPROACH
REDD+	REDUCE EMISSIONS FROM DEFORESTATION AND FOREST DEGRADATION
SDGS	SUSTAINABLE DEVELOPMENT GOALS
SDM	SUSTAINABLE DEVELOPMENT MECHANISM
TEU	TREATY ON THE EUROPEAN UNION
TFEU	TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION
UNFCCC	UN FRAMEWORK CONVENTION ON CLIMATE CHANGE
WIM	WARSAW INTERNATIONAL MECHANISM FOR LOSS AND DAMAGE

# 1. Introduction

## 1.1. Climate change, human rights and gender equality

For a long time, the issue of climate change has been approached primarily from an environmental rather than a social perspective. As climate effects on communities have been increasingly felt around the planet during the past decade the perception of impacts on communities has increased around the planet during the past decade. Governments and stakeholders have grown increasingly aware that climate change not only constitutes a critical environmental issue but also adversely affects communities and threatens to undermine human rights and development.

Since 2005, increasing impacts have provided numerous examples of the negative implications of climate change for the enjoyment of human rights. From Pacific Islanders forced to leave their low-lying ancestral atolls to Sub-Saharan and Andean communities suffering from desertification, the recent years have demonstrated that no region of the world is immune to these negative impacts.

As governments have begun to undertake policies to reduce emissions of greenhouse gases and support the resilience of local communities and infrastructures, a second dimension of the relationship between climate change and human rights has emerged.<sup>1</sup> The scale of policies and actions required to address climate change creates additional risks of human rights violations, especially when policies are designed and implemented inadequately.

In particular, policies requiring vast amounts of land are likely to have an adverse impact on neighbouring communities unless local people are fully included in the planning of projects. Recent examples of conflicts between project developers and local communities or indigenous peoples have highlighted the importance of these risks, in particular in relation to large-scale hydropower projects and industrial plantations designed for the production of agrofuels (also referred to as “biofuels”).

Furthermore, the adverse impacts of climate change are felt differently by different segments of the population. In particular, women are often impacted more severely by climate change than men as women constitute the majority of the world’s poor and are often more dependent on natural resources for their source of livelihood. Because of unequal access to resources and decision-making, as well as traditional gender roles, women also constitute the majority of casualties in the context of extreme weather events.<sup>2</sup>

The stronger representation of men among decision-makers in economic sectors related to climate actions (e.g., the transport and energy sector) and the limited amount of gender-disaggregated data on the impact of climate change and climate policies constitute factors which, among others, reinforce this phenomenon. Addressing gender issues specifically in climate responses is therefore key to ensuring that the policies that are implemented address gender inequalities and effectively empower both men and women to contribute to climate actions and face the impacts of climate change.<sup>3</sup>

1 See, for instance, Office of the UN High Commissioner for Human Rights (2009): Report on the relationship between climate change and human rights, UN Doc. A/HRC/10/61, § 65-68.

2 See, for instance, World Health Organisation (2014): Gender, Climate Change and Health, URL: <http://www.who.int/globalchange/GenderClimateChangeHealthfinal.pdf>

3 See, for instance, UNDP (2013): Overview of Linkages between Gender and Climate Change, UNDP Policy Brief 1 on Gender and Climate Change in Asia and the Pacific. Another report of the foundation highlights the critical situation of women in the context of climate change: “women and men due largely to their gender roles and respective rights (or lack thereof) have differing vulnerabilities to climate change as well as differentiated capabilities to mitigate emissions, adapt to and cope with climate change impacts. These differences need to be taken into account by creating gender-responsive climate financing mechanisms and fund disbursement guidelines and criteria that support gender equality and women’s empowerment in order to increase the effectiveness and efficiency of climate financing; such a link has been proved for gender- responsive development finance”, Schalatek, L.; Bird, N. (2016) : The Principles and Criteria of Public Climate Finance – A Normative Framework, URL: <http://www.odi.org/sites/odi.org.uk/files/resource-documents/11018.pdf>, p.3.

Text *Box 1* below provides three short case studies of linkages between climate change or climate actions and potential infringements of human rights and gender equality.

### Box 1: Examples of impacts of climate change and climate actions on human rights

#### Direct impacts of climate change on human rights



Rising temperatures in Arctic ecosystems and the melting of summer Arctic sea-ice are having an impact on the traditional livelihoods and cultural traditions of the Inuit and other Arctic indigenous peoples.

In a 2005 petition to the Inter-American Commission on Human Rights, the Inuit Circumpolar Council highlighted that climate impacts threatened their rights to the benefits of culture, to the preservation of health, life, physical integrity, security, and means of subsistence. These human rights violations are the result of the lack of adequate mitigation policies among the main emitters of CO<sub>2</sub>.<sup>4</sup>

#### Impacts of climate policies on human rights



In spring 2016, the territory and villages of the indigenous Ngäbe people (Panama) were flooded in order to allow for the establishment of a reservoir for the Barro Blanco hydroelectric power station. The Barro Blanco dam has been promoted as a project that helps address climate change by providing clean energy.

Despite international legal obligations requiring the free and prior informed consent of indigenous peoples, the Ngäbe were not adequately consulted prior to the project, which was funded partly by European investors.<sup>5</sup>

#### Climate impacts, climate policies and gender



Across Botswana, climate change has led to an increase in temperatures and a reduction in rainfall. Associated unpredictability has had a negative impact on agricultural activities in the Seronga region. These changes are also leading to the reduction of game and plants required for local handicrafts.

As women rely particularly on agriculture and handicrafts for their income, they are particularly affected by the impacts of climate change. Additionally, limited access to draught power, land rights, credit and alternative work opportunities severely restricts the ability of women to adapt to these impacts. International support for adaptation policies can play a key role in mitigating these gender-related impacts of climate change.<sup>6</sup>

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4 See the summary of the petition filed by the Inuit Circumpolar Council: <http://www.inuitcircumpolar.com/uploads/3/0/5/4/30542564/finalpetitionsummary.pdf>

5 For more information on the Barro Blanco Dam and the violation of the rights of the Ngäbe people, see <http://carbonmarketwatch.org/category/barro-blanco-large-hydro-project-panama/>

6 For a detailed case study of gender-related impacts of climate change in Botswana, see <http://za.boell.org/2014/02/03/gender-and-climate-change-botswana-case-study-climate-change>

The risks associated with climate change and ill-designed policies calls for the effective integration of human rights and gender equality into the design and implementation of climate policies. Systematic integration of these principles will require the involvement of all actors engaged in climate policy-making and policy implementation.

## 1.2. The EU's responsibility to promote human rights and gender equality in climate actions

Human rights and gender equality are fundamental principles of the European Union and should be integrated into all policies of the EU, both internally and externally. However, only limited initiatives have been undertaken in order to assess to what extent this integration has taken place in the context of climate policies and to map opportunities for strengthening this integration.<sup>7</sup> The present interim report thus seeks to provide an overview of the implications of EU policies for the promotion and respect of human rights and gender equality in the context of climate change.

In order to provide a comprehensive review of the EU's responsibility and its institutions, this report reviews the EU decision-making procedures aimed at promoting policy coherence for sustainable development and examines the specific roles played by the EU and its institutions.

The focus on specific roles – rather than policy areas – aims to address the roles and responsibility of the EU from a systematic perspective. The five roles identified in this report highlight the multitude of interactions between EU policies and the promotion of human rights and gender equality in the context of climate change. Consequently, challenges and opportunities are identified in relation to each of these roles. Since a systematic analysis of all relevant EU policy areas would not be feasible within the scope of the present report, this holistic approach makes it possible to outline cross-cutting patterns that can be tracked independently from the policy areas under which EU policies fall.

The research presented in this report is based on semi-structured interviews conducted with a diverse range of expert stakeholders who are involved in some of the aspects

of European climate and development policies.<sup>8</sup> These interviews were complemented by a desk study of primary sources (mainly EU policy documents) and secondary literature (including academic articles and civil society briefings commenting on EU policies).

Based on the findings of the expert interviews, the study identifies five main roles that the EU plays in global climate actions and have potential implications for human rights and gender equality domestically and abroad: the EU as a domestic policy maker, the EU as a consumer of international goods, the EU as an international negotiating actor, the EU as a participant in international carbon markets, and the EU as an international donor.

Although this approach does not cover all possible interactions between EU policies and the promotion of human rights and gender equality in the context of climate change, the stakeholders and civil servants interviewed identified these five roles as particularly relevant.<sup>9</sup> These five roles illustrate the complexity of the relations between decisions and actions adopted by the EU institutions, together with the promotion and respect of human rights and gender equality in the context of climate change actions.

While the present interim report focuses on the integration of human rights and gender in individual climate-related decisions and actions decided by EU institutions, the overall level of ambition of EU climate policy also has a significant impact on the protection of human rights globally. The more temperatures rise as a consequence of anthropogenic emissions, the more severe the human rights implications of climate change will be.<sup>10</sup> Consequently, states must adopt adequate emissions reduction policies in order to limit their contribution to the increase of temperatures. The International Covenant on Economic, Social and Cultural Rights requires, for instance, each State to take actions *“to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means”*.<sup>11</sup> Obligations to protect human rights in the context of climate change thus require the EU institutions to adopt an adequate level of mitigation policies in order to

7 For the most relevant review, see Cournil, C.; Tabau, A.-S. (2012): Human Rights and Climate Change: EU Policy Options, Report to the European Parliament, URL: [europarl.europa.eu/RegData/etudes/etudes/join/2012/457066/EXPO-JOIN\\_ET\(2012\)457066\\_EN.pdf](http://europarl.europa.eu/RegData/etudes/etudes/join/2012/457066/EXPO-JOIN_ET(2012)457066_EN.pdf)

8 Fourteen expert interviews were conducted in spring 2016 with civil society representatives from environmental, developmental, gender and faith-based organisations, academic researchers and governmental representatives. For an overview, please check Annex1.

9 Additional roles could include the EU as an exporter of technologies or as a source of investments in infrastructures in third countries.

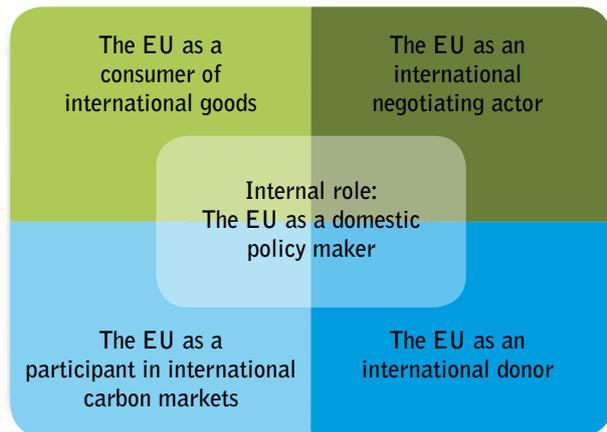
10 Human Rights Council(2015): Mandate Holders on the Effects of Climate Change on the Full Enjoyment of Human Rights, April 30, 2015, URL: <http://www.thecvf.org/wp-content/uploads/2015/05/humanrightsSRHRE.pdf>

11 United Nations (1966): International Covenant on Economic, Social and Cultural Rights, Part II, Article 2, URL: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

reduce its greenhouse gas emissions and contribute effectively to global efforts aimed at avoiding the most dangerous impacts of climate change.

### 1.3. Presentation of the five key roles played by the EU in climate governance

**Figure 1: Five key roles played by the EU in climate governance (Source: own illustration)**



**Internal Role: The EU as a domestic policy maker** considers to what extent the EU demonstrates its leadership in human rights and gender equality by integrating these principles effectively into its own domestic policies. This integration is not only relevant for European citizens who benefit from or are affected by these policies, but it also reflects on the credibility of the EU as an international actor and therefore its ability to contribute positively to international decisions. This role is not developed at length in this report. Given its scope, it rather focuses on the other roles that have a clearer external dimension.

**External Role 1:** The EU as an international negotiating actor assesses how the EU has advocated for gender equality and a rights-based approach to climate actions under the UN Framework Convention on Climate Change (UNFCCC). While not all aspects of international climate policy are addressed under this framework, the UNFCCC remains the prime forum for shaping climate governance, and the EU, as one of the most influential international actors, bears significant responsibility for the outcome of this process.

**External Role 2:** The EU as a consumer of international goods focuses on the implications of specific EU domestic policies that have been adopted as a response to climate change and that have a strong impact on global supply chains. Given the size of the EU domestic market, such decisions can lead to significant developments in countries

that contribute to the provision of goods used by the Union to meet its climate goals.

**External Role 3:** The EU as a participant in international carbon markets reviews the participation of the EU in the carbon trading mechanisms established under the Kyoto Protocol. These mechanisms have been denounced for their failure to address human rights issues adequately. The EU has a strong responsibility to consider the implications of its participation as the majority of the carbon credits traded are purchased in order to comply with the emission trading scheme.

**External Role 4:** The EU as an international donor examines how the EU integrates human rights and gender in projects supporting third countries in the context of climate finance. It also briefly addresses the responsibility of the EU as a decision maker shaping the procedures and safeguards of key international funds to which it contributes.

### 1.4. Structure of the report

The report begins with a brief analysis of the current state of integration of human rights and gender equality into climate policies at the international level (*section 2*). This overview of the international framework sets the stage for an EU-focused analysis and will provide a benchmark against which current EU policies and processes will be assessed.

*Section 3* considers more specifically the legal and policy frameworks adopted at the EU level to promote the integration of human rights and gender equality that applies to climate actions. This section reviews EU commitments to promote human rights and gender equality externally, as well as assessing how EU decision-making procedures promote the coherence of different policies adopted by the EU institutions.

*Section 4* offers practical illustrations of four of the five key roles played by the EU and previously identified as having particular implications for the promotion of human rights and gender equality in the context of climate change (the EU as an international negotiating actor, as a consumer of international goods, as a participant to international carbon markets and as an international donor).

Building on this analytical framework – though a detailed analysis of individual cases falls outside the scope of the present report and would require more specific research – a research blueprint for the analysis of case studies is pro-

posed in *section 5*. This blueprint is designed specifically to review the responsibility of the EU and its institutions with regard to the integration of human rights and gender considerations into climate policies.

Finally, the report concludes with specific policy recommendations targeted at the EU institutions and the Member

States to promote the integration of human rights and gender considerations into climate policies (*section 6*). These policy recommendations draw upon the previous sections of the report and highlight opportunities to strengthen policy coherence in EU climate policies and address specific challenges identified in relation to the four EU external roles considered in this report.

## 2. International Legal and Policy Framework

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Human rights obligations defined under international law, EU law and national constitutional provisions – including obligations with respect to women’s rights – apply to all policies and issues and are thus unquestionably relevant in the context of climate change. Consequently, all states have the duty to fulfil their respective human rights obligations when taking climate actions. As climate change requires cross-sectoral policies and innovative responses, the effective integration of human rights necessitates specific approaches when designing and implementing climate-related policies. Addressing these obligations at all levels of the policy-making process makes it possible to strengthen synergies between climate actions and human rights as well as prevent potential adverse impacts before they occur. Such policy-based approaches can complement existing human rights mechanisms that traditionally seek to remedy situations in which infringements on human rights have already occurred.

### 2.1. Recognition of the interplay between human rights and climate change

UN bodies and experts have contributed during the past decade to articulating the relationship between existing human rights obligations and climate change. Since 2008, the Human Rights Council has adopted several resolutions on human rights and climate change, emphasizing the implications of human rights obligations for national climate policies and international cooperation.<sup>12</sup> The Human Rights Council has established special procedures that have also contributed to spelling out these interlinkages: for instance, highlighting the importance of the rights of indigenous peoples, the right to food and access to clean drinking water, and the right to shelter in the context of climate change.<sup>13</sup>

<sup>12</sup> For more information concerning the role of the Human Rights Council and the relevant resolutions adopted, see Human Rights Council (2017): Resolutions, URL: <http://www.ohchr.org/EN/Issues/HRAndClimateChange/Pages/HRCClimateChangeIndex.aspx>

<sup>13</sup> See, for instance, UN Special Rapporteur on the Issue of Human Rights Obligations relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment (John Knox)(2016): Annual Report to the Human Rights Council, URL: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/31/52](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/31/52)

For a long time, however, the UN climate negotiations remained oblivious of the human rights implications of climate change and climate policies. Neither the 1992 UN Framework Convention on Climate Change, nor its 1997 Kyoto Protocol referred to human rights, and neither international treaty contained specific references to broader social issues.

Following the increasing recognition of the human rights dimensions of climate change, the Cancun Agreements adopted at the 2010 climate conference contained the first references to human rights adopted in the context of climate change negotiations. These references addressed both the direct impacts of climate change on human rights as well as the need for governments to respect human rights when implementing climate policies – in particular in the context of efforts to Reduce Emissions from Deforestation and Forest Degradation (REDD+).<sup>14</sup>

However, little progress towards the effective integration of human rights into climate policies has been observed during the following years. On the contrary, the body established by the Kyoto Protocol to supervise the Clean Development Mechanism explicitly refused to consider evidence of human rights violations when deciding whether to approve projects to generate emission reductions credits.<sup>15</sup> Consequently, some projects with reported human rights impacts were incentivised under the Kyoto Protocol.

Furthermore, since 2010, few national governments appear to have taken specific steps to integrate human rights considerations into the implementation of their obligations under the UNFCCC. A review of national communications submitted to the climate secretariat shows that very few governments have reported specific steps or policies adopted by their countries to promote human rights in the context of climate actions.<sup>16</sup>

Text *box 2* below highlights the references to human rights in decisions and instruments adopted by the parties to the UNFCCC.

## Box 2: References to human rights in outcomes of UN climate negotiations

### Cancun Agreements (2010)

Preamble: Noting resolution 10/4 of the United Nations Human Rights Council on human rights and climate change, which recognizes that the adverse effects of climate change have a range of direct and indirect implications for the effective enjoyment of human rights and that the effects of climate change will be felt most acutely by those segments of the population that are already vulnerable owing to geography, gender, age, indigenous or minority status, or disability [...]

**Paragraph 8:** Parties should, in all climate change related actions, fully respect human rights.

### Paris Agreement (2015)

**Preamble:** Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.

### Decision on the implementation of the framework for capacity building (2016)

**4.** Also invites the Paris Committee on Capacity-building, in managing the 2016-2020 workplan:

(a) To take into consideration cross-cutting issues such as gender responsiveness, human rights and indigenous peoples' knowledge.

To remediate the limited progress achieved through the references inserted in the Cancun Agreements, many countries and civil society actors have advocated for the inclusion of an operative reference to human rights in the provisions of the Paris Agreement. Prior to the Paris Conference, 24 governments from developing countries highlighted their commitments to take human rights into consideration in the implementation of their commitment under the future Paris Agreement.<sup>17</sup> Additionally, 32 countries (including 12 EU Member States) signed a voluntary pledge – the Geneva

14 UNFCCC(2010): UNFCCC COP Decision 1/CP.16, "The Cancun Agreements: Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention" UN Doc. FCCC/CP/2010/7/, preamble to § 88 and appendix 1.

15 Schade, J.; Obergassel, W. (2014): Human Rights and the Clean Development Mechanism, Cambridge Review of International Affairs 27 (4), URL: [http://epub.wupperinst.org/files/5732/5732\\_Schade.pdf](http://epub.wupperinst.org/files/5732/5732_Schade.pdf)

16 Mary Robinson Foundation for Climate Justice (2016): Incorporating Human Rights into Climate Action, URL: <http://www.mrfcj.org/wp-content/uploads/2016/05/Incorporating-Human-Rights-into-Climate-Action-Version-2-May-2016.pdf>

17 Center for International Environmental Law (2016): Human Rights and the 'Intended Nationally Determined Contributions' (INDCs) submitted in the context of the Paris Climate Conference (COP-21), URL: [www.climatehumanrights.org](http://www.climatehumanrights.org)

Pledge For Human Rights In Climate Action – committing to better integrate human rights and climate change in international negotiations.<sup>18</sup>

During the final hours of the Paris climate conference, governments agreed to the inclusion of a reference in the preamble of the agreement to the need to take human rights into account in the context of climate actions. However, some countries refused to include a reference to human rights in the operative section of the Agreement. While the inclusion of the reference to human rights in the preamble provides a strong mandate for effective integration of human rights in the implementation of the Paris Agreement, the UN climate negotiations have yet to provide guidelines and support for parties to promote this effective integration. In 2016, only one decision adopted by the parties to the UNFCCC effectively built on the reference contained in the preamble of the Paris Agreement to provide an explicit mandate to a specific body – in this case, the Paris Committee on Capacity Building – to integrate human rights considerations in its work.

Additionally, several areas of implementation of the UNFCCC are directly relevant to the promotion of and respect for human rights.<sup>19</sup> Article 6 of the UNFCCC and article 12 of the Paris Agreement establish the general commitment of parties to promote and enhance public participation and public access to information. The Warsaw International Mechanism for Loss and Damage (WIM) established in 2013 was created to develop recommendations for integrated approaches to avert, minimize and address climate-related human displacement. Other workstreams and institutions established through the UNFCCC, such as the Nairobi work programme on impacts, vulnerability and adaptation, and activities related to agriculture and food security, also have the potential to consider the human rights implications of climate change and promote rights-based responses.

## 2.2. Promotion of gender equality in the context of climate change

Specific obligations to promote gender equality were elaborated in the 1979 legally-binding Convention on the

Elimination of All Forms of Discrimination against Women (CEDAW). With 189 parties, the CEDAW provides an international bill of women rights and requires governments to take action to promote and protect the rights of women, including the passage of adequate legislation. Many of the provisions of the CEDAW are directly relevant in the context of climate change (for instance, the reference to equal rural development and access to resources) and the adoption of climate policies (for example, provisions related to participation in decision-making and implementation of relevant policies).

Principle 20 of the 1992 UN Rio Declaration on Environment and Development emphasises the key role of women in sustainable development and the need to guarantee their full participation. This principle was further elaborated in the commitments contained in Agenda 21, as well as through a chapter dedicated to “global action for women towards sustainable and equitable development” (chapter 24).

These commitments were reflected in the Beijing Declaration adopted at the 1995 Fourth World Conference on Women and in the related Platform for Action. The Beijing Platform for Action addresses specifically the promotion of gender equality in the context of environmental policies. The Platform includes strategic objectives that aim at promoting the effective participation of women in decision-making related to the environment (objective K.1), integrating gender concerns in sustainable development policies (K.2), and strengthening the assessment of impacts of development and environmental policies on women (K.3).

Gender equality constitutes an integral component of Agenda 2030 and the Sustainable Development Goals (SDGs). Goal 5 focuses specifically on the achievement of gender equality and the empowerment of all women and girls, with targets related to participation in decision-making and access to land and economic resources, among other matters. Additionally, Agenda 2030 recognises the promotion of gender equality as a cross-cutting theme.<sup>20</sup> Goal 17.18 explicitly emphasises the need for gender disaggregated data for the purpose of monitoring the implementation of the SDGs. In total, 24 targets and 46 indicators for the SDGs contain explicit gender components.

17 Center for International Environmental Law (2016): Human Rights and the ‘Intended Nationally Determined Contributions’ (INDCs) submitted in the context of the Paris Climate Conference (COP-21), URL: [www.climaterights.org](http://www.climaterights.org)

18 Ministerio de Relaciones Exteriores y Culto – Costa Rica (2017): Geneva Pledge For Human Rights In Climate Action, URL: <http://www.rree.go.cr/?sec=politica exterior&cat=medio ambiente y desarrollo sostenible&cont=974>

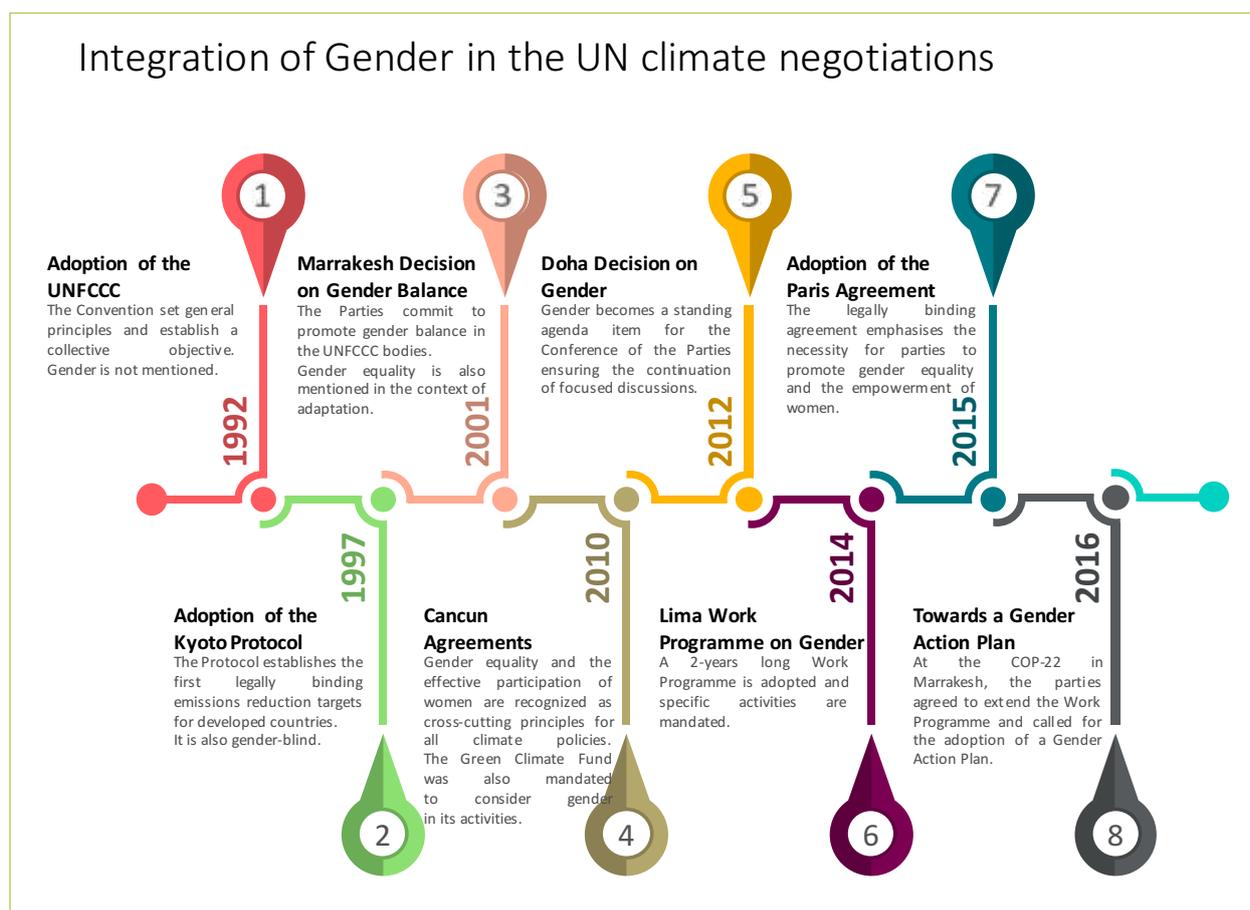
19 Duyck, S.; Lador, Y. (2016): Human Rights and International Climate Politics – Human Rights into Climate Actions After Paris: Opportunities for the UNFCCC, the Human Rights Institutions and the G-20, Friedrich Ebert Stiftung Briefing Paper, URL: <http://library.fes.de/pdf-files/iez/12893.pdf>

20 UN (2015): General Assembly Resolution 70/1: “Transforming our world: the 2030 Agenda for Sustainable Development”, UN Doc. A/RES/70/1, § 20.

Building on these international developments, the importance of considering the gender dimensions of climate

change has been increasingly recognized in the UN climate negotiations process since 2001.

**Figure 2: Timeline of milestones related to the integration of gender in the UN climate negotiations**  
(Source: own illustration)



The 2010 Cancun Agreements provide a general recognition that “gender equality and the effective participation of women are important for effective climate action on all aspects of climate change”.<sup>21</sup> Seven additional references contribute to the promotion of gender equality mainstreaming in specific areas of implementation of the UNFCCC including Adaptation, REDD+, Technology Transfer, and Capacity Building. During the 2012 Doha Climate Conference, the parties agreed to include gender as a standing item on the agenda of the annual Conference Of the Parties (COP). Consequently, the Lima Work Programme on Gender was adopted in 2014. The two-year-long Work Programme mandates specific activities to promote gender-responsive climate policy and requests the secretariat to undertake additional initiatives to support the integration of gender

considerations into the implementation of the Convention. Additionally, an increasing number of thematic decisions adopted by the COP since 2001 have included specific references to gender.

The preamble of the Paris Agreement stresses the need to promote gender equality and the empowerment of women. This legally binding agreement also emphasizes explicitly the importance of gender-responsive policies in relation to adaptation and capacity-building. However, references to gender equality were deleted from the Agreement’s articles addressing mitigation, finance and technological support, despite the specific implications of the above-mentioned provisions concerning women.

21 UNFCCC (2010): COP Decision 1/CP.16, “The Cancun Agreements: Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention”, UN Doc. FCCC/CP/2010/7/Add.1, § 7.

Therefore, much work remains to be undertaken under the UNFCCC to guarantee that climate policies effectively promote gender equality. At the 22nd Conference of the Parties to the UNFCCC (COP-22) held in Marrakesh in November 2016, governments agreed to continue and enhance the Lima Work Programme on Gender for an additional period of three years and mandated the UNFCCC secretariat to elaborate a gender action plan. They also issued a systematic request to all bodies constituted under the UNFCCC to include information in their regular reports on the integration of a gender perspective.<sup>22</sup>

### 2.3. Mapping the human rights and gender equality obligations in the framework of climate actions

The former sections provide the necessary context with a view to identifying the interplay between human rights and climate change, gender equality and climate change, and policy coherence for (sustainable) development. This identification is meant to provide a firm basis for policy recommendations. Nevertheless, the policy recommendations and case studies need to be more concretely informed. The mapping exercise is meant to do that.<sup>23</sup>

#### Box 3: Procedural right

##### Procedural rights

- Access to (environmental) information
- Participation in the decision-making process (including the free and informed prior consent – FPIC)
- Access to (environmental) justice (including right to a fair trial)

#### Text box 4: Substantive rights

##### Substantive rights

- Prohibition of inhuman or degrading treatment or punishment
- Prohibition of discrimination
- Freedom of expression
- Freedom of association
- Right to life
- Right to health
- Right to a healthy/balanced environment (including the right to environmental protection)
- Right to the integrity of the person
- Right to liberty and security
- Right to dignity
- Right to property
- Right to private and family life
- Right to water
- Right to food
- Right to land
- Right to housing
- Right to (cultural) identity

### 2.4. International commitment to policy coherence for (sustainable) development

The importance of the integration of human rights and gender equality considerations into climate policies demonstrates the need for promoting coherent policies more systematically.

The impact of donor countries on the promotion of development in recipient countries is far broader than the direct outcome of the official development assistance (ODA) that donor countries provide. While the donor countries have committed to provide 0.7% of their GDP as ODA<sup>24</sup> (a target that most of them have continuously failed to achieve), other national policies can also play a critical role in boosting or hampering social and economic development in third countries, as well as in promoting or hindering the development of human rights obligations and gender equality requirements.

22 UNFCCC (2016): UNFCCC/CP/2016/10/Add.2, Decision 21/CP.22, "Gender and climate change", URL: <http://unfccc.int/resource/docs/2016/cop22/eng/10a02.pdf>

23 This exercise has been reported in more depth by the academic literature and fully exposed in a Report for the European Parliament (Cournil, C.; Tabau, A.-S. (2012): Human Rights and Climate Change: EU Policy Options, Report to the European Parliament, URL: [europarl.europa.eu/RegData/etudes/etudes/Join/2012/457066/EXPO-JOIN\\_ET\(2012\)457066\\_EN.pdf](http://europarl.europa.eu/RegData/etudes/etudes/Join/2012/457066/EXPO-JOIN_ET(2012)457066_EN.pdf), pp. 131-133), the latter being based on UN High Commissioner for Human Rights (2009): Report of the United Nations High Commissioner for Human Rights (A/HRC/10/61), URL: <http://www.ohchr.org/Documents/Press/AnalyticalStudy.pdf>, pp. 27-28).

24 Millennium Project (2006): The 0.7% target: An in-depth look, URL: <http://www.unmillenniumproject.org/press/07.htm>

Consequently, in order to prevent potential conflicts between such policies and ODA, the Organisation for Economic Cooperation and Development (OECD) and the EU have committed to enhance policy coherence for development (PCD). This concept emphasizes the responsibility of developed countries to assess the potential negative impacts that any policy might have on developing countries and to mitigate such impacts. The scope of policy coherence for development has been progressively expanded from preventing harm to seeking synergies between aid and non-aid policies. Additionally, and in the context of the broader sustainable development discourse, issues related to the undesired impact that policy might have on the achievement of environmental goals has highlighted the importance to further broaden the scope of the commitment to policy coherence.

The adoption of the Sustainable Development Goals (SDGs) in 2015 placed policy coherence for sustainable development at the core of the international development

agenda. In contrast to the Millennium Development Goals (MDGs) which focused on developing countries only, the universal approach underpinning the SDGs foresees their implementation as a responsibility of both developed and developing countries. Policy coherence is highlighted in the UN Declaration accompanying the SDGs as a key success factor for the implementation of Agenda 2030. In addition, policy coherence for sustainable development is also translated into individual targets (Goal 17, Targets 17.3 and 17.4). The adoption of the SDGs and the establishment of monitoring mechanisms thus have the potential to serve as a strong incentive to promote policy coherence for sustainable development in all countries.

UN member states and UN institutions have also repeatedly emphasized the importance of coherent implementation of the Sustainable Development Goals, the Addis Ababa Action Agenda – which focuses on Financing for Development and is an integral part of the SDGs – and the Paris Agreement.

### 3. European Legal, Policy and Institutional Framework

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While the international norms and obligations highlighted in the previous section apply to the European Union and its member states, the EU has also reiterated its own commitments to the effective integration of human rights and gender across all its policies. Additionally, the EU has positioned itself as a frontrunner of policy coherence for development and has established procedures and mechanisms in order to promote this approach in its external action.

This section provides a brief assessment of the EU's commitments to mainstreaming human rights and gender as cross-cutting issues in its policies before considering more broadly the EU commitment to policy coherence, with a particular emphasis on the processes and mechanisms integrated in EU decision-making processes to ensure the effective promotion of this approach to its external action.

#### 3.1. Commitment of the EU to mainstreaming Human Rights

##### 3.1.1. Legal basis for Human Rights in EU law

The EU founding treaties define human rights as a core value of the European Union (Treaty on the European Union – TEU, article 2) and stipulate EU commitment to consider the relevance of human rights with regards to the extraterritorial effects of EU policies (TEU, articles 3(5) and 21, and TFUE, articles 208, 209 and 212).

Additionally, the EU has also adopted the EU Charter of Fundamental Rights, which further elaborates EU obligations in relation to human rights. The Charter acquired legal binding force with the Lisbon Treaty. The Court of Justice of the European Union has ruled that the provisions of the Charter are legally binding on all EU institutions and bodies.<sup>25</sup>

25 European Court of Justice (2012): European Court of Justice of 19 July 2012 in the Case C 130/10, Parliament v. Council (Al Qaeda), URL: <http://curia.europa.eu/juris/liste.jsf?num=C-130/10>

Eventually, the Council of Europe's human rights law also affects EU law. In that respect, EU institutions will be fully bound by Council of Europe human rights law requirements once the EU has acceded the European Convention for the Protection of Human Rights and Fundamental Freedoms.

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### Box 5: European Union Treaty Articles

#### **EUT – Article 3(5)**

In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child

#### **EUT – Article 21**

1. The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law. (...)

2. The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to:

- (b) consolidate and support democracy, the rule of law, human rights and the principles of international law;
- (d) foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty;
- (f) help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development.

3. The Union shall respect the principles and pursue the objectives set out in paragraphs 1 and 2 in the development and implementation of the different areas of the Union's external action (...)

The Union shall ensure consistency between the different areas of its external action and between these and its other policies. (...)

26 European Parliament, Council and Commission (2012): EU Charter of Fundamental Rights, Preamble and Articles 52(3) and 53, and TEU, Article 6, URL: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>

27 Gouritin, A. (2013) : L'impact de l'adhésion de l'UE à la Convention européenne des droits de l'Homme sur le lien entre droits de l'Homme et politiques climatiques de l'UE, in: Cournil, C. ; A.-S. Tabau, A.-S. (Eds): Changements climatiques et droits de l'Homme : les options politiques de l'Union européenne, Bruylant, Oct.2013,, pp. 243-270.

### 3.1.2 EU approaches to externally foster human rights

The EU has adopted a number of approaches in order to promote human rights beyond its territory. In particular, the EU has undertaken several steps in order to ensure that its own external action would respect and strengthen human rights. The EU seeks the inclusion of a human rights clause in all the political framework agreements signed with third countries to establish human rights as an essential element of the agreement. The Commission also appointed an EU Special Representative for Human Rights.

In June 2012, the Foreign Affairs Council adopted a Strategic Framework for Human Rights and Democracy. The implementation of this framework is guided by an Action Plan on Human Rights and Democracy adopted by the Foreign Affairs Council.

Following the adoption of the Agenda for Change and the Strategic Framework on Human Rights and Democracy in 2012, the EU committed to move towards a Rights-Based Approach (RBA) for development cooperation. The European Commission produced a toolbox to assist its staff with the implementation of a Rights-Based Approach.

A second Action Plan on Human Rights and Democracy, containing 34 objectives accompanied by 114 specific actions and measures was adopted in 2015. Aiming to “foster a comprehensive agenda to promote Economic, Social and Cultural Rights”, the Action Plan specifically calls on the European External Action Service (EEAS), the Commission and the Member States to “step up efforts to protect Human Rights Defenders (...) in the context of inter alia ‘land grabbing’ and climate change”<sup>28</sup> The Action Plan also includes a requirement for the EU institutions and the Member States to pursue a human rights-based approach to development, including in relation to Agenda 2030.

## 3.2. Commitment of the EU to Gender Mainstreaming

The founding treaties also establish gender equality as a core value of the European Union (TEU, article 2). The promotion of gender equality is also defined in both treaties as a core objective of the European Union and of its institu-

tions (TEU, article 2 and Treaty on the Functioning of the European Union – TFEU, article 8). These provisions are relevant both internally and in relation to the external action of the union. Gender considerations have progressively been integrated to EU external policy. Already in 2000, the Cotonou Agreement governing the relations between the EU and 79 African, Caribbean and Pacific countries identified gender issues as a cross-cutting principle for the implementation of the agreement, as well as a focus area for cooperation (article 1 and 31).

The adoption of the European Consensus on Development in 2005 confirmed that gender equality constitutes one of the fundamental principles underpinning EU development policy: *“The promotion of gender equality and women’s rights is not only crucial in itself but is a fundamental human right and a question of social justice, as well as being instrumental in achieving all the MDGs (...)”*<sup>29</sup>

Following the adoption of the Consensus on Development, the EU institutions adopted a number of policy documents to promote the effective integration of gender equality and women’s empowerment in EU development cooperation. The Commission adopted a 2007 Communication on Gender Equality and Women’s Empowerment in Development Cooperation, which were endorsed by the related EU Council. The 2010 Council Conclusions on the MDGs included an Action Plan on Gender Equality and Women’s Empowerment. Building on these policies, in 2010 the Commission prepared an EU Plan of Action on Gender Equality and Women’s Empowerment in Development.

In 2015, the Council adopted a new version of the Gender Action Plan to cover the period up to 2020. This updated version of the Plan of Action aims at promoting gender equality and the empowerment of girls and women as principles of EU external action through four pivotal areas.

As one of the first steps to promote the new Gender Action Plan, in March 2016 the Commission released an internal guidance note on the EU Gender Action Plan 2016-2020<sup>30</sup> aimed for the Directorate-General EuropeAid Development & Cooperation (DG-DEVCO) and EEAS staff working within Delegations, as well as DG-DEVCO staff based in Brussels. This guidance note highlights key aspects of the Gender

28 Council of the European Union (2015): Council Conclusions on the Action Plan on Human Rights and Democracy 2015-2019, Annex “EU Action Plan on Human Rights and Democracy, Objective 17 C, p.16, URL: [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/action-plan-on-human-rights-and-democracy-2015-2019\\_en.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/action-plan-on-human-rights-and-democracy-2015-2019_en.pdf)

29 European Commission (2006): European Consensus on Development, Section 4.4/19. Gender Equality, p.16, URL: [https://ec.europa.eu/europeaid/sites/devco/files/publication-the-european-consensus-on-development-200606\\_en.pdf](https://ec.europa.eu/europeaid/sites/devco/files/publication-the-european-consensus-on-development-200606_en.pdf)

30 Council of the European Union (2015): Council Conclusions on the Gender Action Plan 2016-2020, URL: <http://www.consilium.europa.eu/en/press/press-releases/2015/10/26-fac-conclusions-gender-development/>

Action Plan, provides resources for its effective integration in EU policies and identifies key responsibility for its implementation. As it targets EU civil servants and provides tools relevant to their work, this guidance note could potentially contribute significantly to the effective integration of gender in EU actions in third countries. Altogether, the role of the EU delegation has increased with the adoption of the Lisbon treaty, the diplomatic missions of the EU now being mandated to act as EU delegations representing EU institutions in third countries.

### 3.3. Commitment of the EU to Policy Coherence for (Sustainable) Development

The EU has been among the first institutional actors promoting the concept of policy coherence for development. The adoption of the Maastricht Treaty in 1992 provided the EU with an explicit legal basis for the adoption of coherence policies.

This commitment was strengthened with the adoption of the Lisbon Treaty in 2007. The Treaty of the European Union explicitly mandates the external actions of the EU to uphold and promote its values as defined in article 2 – thus included both human rights and the promotion of gender equality (TEU, article 3.8). The Treaty also emphasizes the need for the EU and its member states to comply with commitments adopted by the UN and other relevant international organisations in all policies likely to affect third countries (TEU, article 21). The amended treaties also highlighted that the EU shall consider the objectives of development cooperation in any policies that are likely to affect developing countries (TFEU, article 208). The Court of Justice of the European Union ruled that these provisions define a mandatory obligation for the EU institutions to respect these internal and international norms when taking external actions.<sup>31</sup>

EU institutions have integrated this commitment as a guiding principle for the EU development policy. The commitment to policy coherence for development is, for instance, highlighted in the 2005 European Consensus for Development<sup>32</sup> – the joint policy statement by the EU

Council, EU Parliament and European Commission to guide EU development policy. After the adoption of the new EU policy “Agenda for Change for EU Development policy”<sup>33</sup> in 2011, PCD remained at the core of the EU development policy.

The European Council has since then adopted specific decisions on PCD and provided further guidance to the Commission to promote an operational and targeted approach to PCD. In its 2009 conclusions on PCD, the Council highlighted the following five priority challenges: 1) Trade and Finance, 2) Addressing climate change, 3) Ensuring global food security, 4) Making migration work for development, and 5) Strengthening the links and synergies between security and development in the context of a global peace-building agenda.

While policy coherence has thus been integrated at the core of the European Consensus for Development, the concept has yet to influence the implementation of the Sustainable Development Goals. The EU has played an active role in supporting the inclusion of PCD in Agenda 2030 during the international negotiations related to the SDGs. Nevertheless, the EU currently lacks a comprehensive framework to ensure the SDGs implementation through its internal and external policies.

### 3.4. Process of adoption of initiatives and institutional arrangements in terms of policy coherence for development

In this interim report, a special attention is given to the Commission’s capacity to initiate policies and legislative initiative. The traditional decision making process for the adoption of initiatives by the EU Commission consists of a few key stages, several of which offer an opportunity for the promotion of policy coherence and, more specifically, the respect for human rights and gender equality into EU Climate Actions. More particularly, processes allowing the consideration of potential impacts of the initiative under consideration on the one hand, and those enabling relevant actors outside of and within the Commission on the other hand, can contribute to this objective.

31 European Court of Justice (2011): European Court of Justice of 21 December 2011 in the Case C-366/10, Air Transport Association of America and others, URL: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-366/10>

32 European Commission (2006): European Consensus on Development, URL: [https://ec.europa.eu/europeaid/sites/devco/files/publication-the-european-consensus-on-development-200606\\_en.pdf](https://ec.europa.eu/europeaid/sites/devco/files/publication-the-european-consensus-on-development-200606_en.pdf)

33 European Commission (2011): Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Increasing the impact of EU Development Policy: an Agenda for Change, COM(2011) 637 final, Brussels, 13.10.2011, URL: [eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX%3A52011DC0637&qid=1412922281378&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX%3A52011DC0637&qid=1412922281378&from=EN)

### 3.4.1. Assessing Climate Actions, human rights and gender equality in legislative process

The first step in the EU decision-making process involves a public consultation open for any stakeholder in order to gather expertise and comments on the proposal for a EU policy. These consultations offer an opportunity for members of the civil society to highlight, among other elements, the expected impacts of upcoming policies and to anticipate and seek to mitigate these potential adverse effects.<sup>34</sup>

Another stage of the initiative offers a point of entry for human rights and gender equality in EU's initiatives: Impact Assessments (IAs). Established in 2003, they constitute the main political tool currently available to ensure that EU institutions consider comprehensively the economic, social and environmental impacts of their initiatives. The IAs must be conducted prior to the adoption of any EU decision that is expected to have significant economic, social or environmental impacts. They cover the broad range of internal and external implications of the contemplated policy. As such, their preparation provides a strong tool to promote policy coherence for development.<sup>35</sup>

More specifically, conducting IAs related to EU climate actions' impact on human rights and gender equality is particularly relevant under at least four headings:

1. The IAs requirement does not just apply to legislative initiatives. The requirement to perform an IA also applies to other (non-legal) decisions. This includes, among other items, financial decisions, those being critical for climate actions' impact on human rights and gender equality (as seen at more length in section 5.4 of the report).

2. Since 2009, the guidelines for the preparation of the IAs include a particular requirement that the IA considers impacts of EU initiatives on developing countries.

3. IAs are specifically concerned with human rights requirements and gender equality. The EU Commission itself issued a "Fundamental Rights check-list".<sup>36</sup> Bearing in mind for the sake of this report that human rights and equality between men and women potentially affected by climate actions are guaranteed by the Charter,<sup>37</sup> the check-list reads:

- What fundamental rights are affected?
- Are the rights in question absolute rights (which may not be subject to limitations, examples being human dignity and the ban on torture)?
- What is the impact of the various policy options under consideration on fundamental rights? Is the impact beneficial (promotion of fundamental rights) or negative (limitation of fundamental rights)?
- Do the options have both a beneficial and a negative impact, depending on the fundamental rights concerned (for example, a negative impact on freedom of expression and a beneficial one on intellectual property)?
- Would any limitation of fundamental rights be formulated in a clear and predictable manner?
- Would any limitation of fundamental rights:
  - be necessary to achieve an objective of general interest or to protect the rights and freedoms of others (which)?
  - be proportionate to the desired aim?
  - preserve the essence of the fundamental rights concerned?

4. Qualitative assessments of past IAs revealed that these processes often failed to assess potential impacts in a comprehensive manner, particularly in relation to external impacts.<sup>38</sup>

34 The consultations take the form of an online questionnaire, which might be complemented by a more targeted outreach strategy in order to ensure the participation of those groups considered as the most relevant for the initiative under consideration. As part of the Better Regulation Agenda of the current commission, guidelines were developed to improve the quality of the stakeholders' consultations. These guidelines include five minimum standards in relation to clear content of the consultation process, the consultation of target groups, the publication of relevant information, an adequate consultation period and the acknowledgement of feedback by the services of the Commission. The scope of the initiatives requiring an initial stakeholder consultation has also been broadened by the current commission.

35 Given the central role played by the IAs in the EU decision-making process, the EU Commission established a dedicated supervisory body with the mandate to review the quality of the impact assessments. In 2014, this body was replaced by a Regulatory Scrutiny Board, which benefits from a more independent nature than its predecessor.

36 European Commission(2010): Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union, Brussels, 19 October 2010, COM573 final, p. 5. To avoid any confusion, this check-list is meant to be applied to all initiatives, including those where an IA is not conducted.

37 See point a) under this Section.

38 CONCORD Denmark (2015): The European Commission's Impact Assessments continuously neglect obligations to Developing Countries, URL: [http://globaltfokus.dk/images/Politik/Rapporter/IA\\_analysis\\_2015.pdf](http://globaltfokus.dk/images/Politik/Rapporter/IA_analysis_2015.pdf); CONCORD and the Fédération Internationale des Droits de l'Homme (FIDH) (2015): The European Commission's "Better Regulation Package" Will It Serve Poverty Eradication And Human Rights?, Spotlight Report Policy Paper, URL: <http://library.concordeurope.org/record/1636/files/DEEEP-REPORT-2016-010.pdf>; and Adelle, C.; Jordan, A. (2014): Policy Coherence for Development in the European Union: Do New procedures Unblock or Simply Reproduce Old Disagreements? *Journal of European Integration* 36(4): 375-91. In addition, the European Parliament also voices concerns in this respect and more particularly regarding human rights concerns. European Parliament (2016): Motion for a European Parliament Resolution on the EU 2015 Report on Policy Coherence for Development, (2015/2317(INI)), adopted on 20 May 2016, point 10.

Against that background, changes occurred with the launch of the European Commission’s Better Regulation package released in 2015.<sup>39</sup> Out of the 59 tools identified in the “Better Regulation Toolbox”, tools #24 and 30 could more particularly bring about solutions to the problems identified in past IAs. Tool #24 (guidance on how to consider fundamental and human rights – including in third countries – when conducting impact assessments) notes that cost and benefit analysis are not adequate to assess potential human rights impacts. Tool #30 identifies options and methodologies to ensure that the potential impacts of EU policies on developing countries can be adequately considered during the Impact Assessments. In particular, the tool emphasises the importance of considering the differentiated positions of developing countries and the necessity of considering potential impacts on Least Developed Countries and other countries most in need.

It remains to be seen whether the implementation of the Better Regulation Agenda and its associated tools will adequately address the concerns highlighted earlier by the qualitative assessments.

### 3.4.2. Institutional arrangements: hypothetical guarantees for Climate Actions’ coherence

A wealth of sub-organs of the key EU institutions contribute to some extent to decision-making related to EU policies and programmes potentially impacting human rights and gender equality in climate actions and third countries. The table below provides an overview of those:

**Table 1: EU Institutions with relevance for the integration of human rights and gender equality in EU climate actions**

<b>European Commission</b>	<ul style="list-style-type: none"> <li>• DG Climate Action (CLIMA)</li> <li>• DG International Cooperation and Development (DEVCO) – PCD Unit</li> <li>• DG Trade (TRADE)</li> </ul>
<b>European Union External Action Service</b>	<ul style="list-style-type: none"> <li>• European Union External Action Service (EEAS)</li> <li>• EU Delegations in Third Countries</li> </ul>
<b>European Parliament</b>	<ul style="list-style-type: none"> <li>• Development Committee – Standing rapporteur on PCD</li> <li>• Environment, Public Health and Food Safety Committee</li> <li>• Foreign Affairs Committee – Human Rights Sub-committee</li> <li>• Women’s Rights and Gender Equality Committee</li> </ul>

To further promote policy coherence in EU policy-making, the Commission also relies on internal inter-service consultations. The consultations seek to gather formal input on a specific proposal from other Directorate-Generals not directly involved with the policy under preparation, but the policy area that might be impacted by this initiative. Theoretically, this process should enable all relevant services of the commission to share expertise and anticipate potential externalities before the adoption of any new initiative. In practice, however, limited resources constrain the capacity of all relevant DGs to play an active role in all inter-services consultations related to issues that they are mandated to address. However, the status and scope of these documents have been reduced over time, thus reducing the potential impacts of the main findings contained in these publications.

In addition to these processes, EU institutions also established internal arrangements to monitor and promote policy coherence. The Commission has established a PCD Unit within the Directorate General for International Cooperation and Development (DG DEVCO). The PCD Unit is responsible for the production of a biennial report on PCD. These reports have been published by the Commission since 2007 and are meant to offer a comprehensive assessment of the work of the EU in this field.

Additionally, the EU Parliament has also highlighted its interest to play a role in the promotion and the review of PCD. In 2010, its Development Committee appointed its own standing rapporteur on PCD. Its role is to liaise with the Commission and with national parliaments on this issue and to produce a periodic report with a view to complementing those provided by the Commission. In this regard, the European Parliament’s Report on the EU 2015 Report on Policy Coherence for Development is critical towards the Commission’s Report and the PCD’s state-of-play. It laments that:

“Although PCD was endorsed in the UN Millennium Declaration, the Lisbon Treaty and the Busan Forum on Aid Effectiveness, little progress has been made as to its concrete implementation.”<sup>40</sup>

<sup>39</sup> The Better Regulation Agenda has raised both hopes and concerns among civil society. On the one hand, the emphasis on the need for additional transparency and the greater capacity for civil society to provide input to regulatory processes is a welcomed improvement in EU decision-making processes. On the other hand, the heavy emphasis on the objective to “cut the red tape” raised concerns among civil society about the risk of focusing primarily on economic growth while deregulating activities that might have environmental and social impacts. Depending on the manner in which it is implemented, the Better Regulation Agenda might thus either weaken EU’s commitment to PCD or strengthens its ability to deliver coherent policies.

<sup>40</sup> See European Parliament (2016): Motion for a European Parliament Resolution on the EU 2015 Report on Policy Coherence for Development, (2015/2317(INI)), adopted on 20 May 2016, point 2 (references omitted).

It also

“(Believes) that more emphasis must be put on institutional coordination, whether between EU institutions or with Member States; calls on the governments of the Member States to embed PCD in a legally binding act and to define a Policy Coherence for Sustainable Development (PCSD) action plan to operationalise it; considers that national parliaments should be more fully involved in the PCD agenda, in the context of their capacity to hold their governments accountable and scrutinise progress in this field”<sup>41</sup>

Eventually, similar mechanisms exist in the context of the European External Action Services (EEAS). Article 3 of the

Decision establishing the organisation and functioning of the EEAS<sup>42</sup> requires inter-institutional dialogues (cooperation, consultation, and support). This requirement concerns the General Secretariat Council, the Commission, the European Parliament, the other institutions, agencies and bodies of the Union, and “service-level arrangements with relevant services of the General Secretariat of the Council, the Commission, or other offices or interinstitutional bodies of the Union.”<sup>43</sup>

It is worth reporting that, as a general comment, experts have raised concerns regarding the fact that the priority given to process and mechanisms to promote PCD within the work of the EU institutions might have occurred at the expense of a stronger focus on actual outcomes.<sup>44</sup>

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41 *Ibid.*, point 11.

42 Council of the European Union (2010): Council Decision of 26 July 2010 establishing the organisation and functioning of the European External Action Service (2010/427/EU).

43 *Ibid.*, Article 3(3).

44 Carbone, M.; Furness, M. (2016): Report of the Workshop: EU Policy Coherence for Development: The challenge of sustainability, European Parliament’s Committee on Development.

## 4. Challenges and Opportunities for the Integration of Gender and Human Rights in EU Climate Actions



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Building on the normative context provided in the previous sections, this section reviews the extent to which the EU has lived up to these commitments when taking climate-related actions.

Rather than focusing on specific policy areas based on the institutional structure of the European Union or the division of its competences, this report takes the approach of considering specific roles played by the EU when responding to climate change. The choice of this approach is justified in the first part of this report. While additional roles might be suggested, the four EU external roles addressed in this report were identified on the basis of expert stakeholders' interviews as those most likely to have significant implications for the promotion of human rights.

As mentioned in the first section of the report, the EU internal role, or "the EU as a domestic policy maker", will not be addressed because (despite the impact of this role on the

international influence of the EU), it falls outside the scope of the report. Firstly, the EU and its member states play a significant role in contributing to the shaping of international climate governance through their negotiating positions in global forums, in particular in relation to the UN climate negotiations ("the EU as an international negotiating actor"). Secondly, the EU plays a strong role in global supply chains through its consumption of specific goods, such as wood products and biofuels, regulated partly under climate policies, ("the EU as a consumer of international goods"). Thirdly, private actors based in the EU play an important role in international carbon trading mechanisms. Consequently, EU regulations can impact the types of projects and activities promoted through such schemes ("the EU as a participant in international carbon markets"). Fourthly, development and climate funding provided by the EU to third countries can have significant positive as well as adverse implications for the communities concerned by those projects, which depends on the safeguards and

criteria adopted by EU institutions and host country governments (“the EU as an international donor”).

#### 4.1. The EU as an international negotiating actor

As a major international actor, the EU plays an important diplomatic role in shaping international climate governance through its engagement in the international climate negotiations. However, the ability of the EU to advocate strongly for specific thematic issues in climate negotiations is often impaired by the diversity of views among its member states. In this context, early coordination among EU delegations is critical to ensure that the EU can adequately support the principles to which it is strongly committed in the negotiations.

The European Union has supported the integration of human rights on several occasions in the climate negotiations. For instance, the EU referred to human rights in five of its formal written submissions to the climate negotiations. In particular, the EU has been a proponent of the integration of safeguards and grievance mechanisms in the mitigation instruments established under the UNFCCC, including the Clean Development Mechanism and REDD+.

During the negotiations leading to the COP-21, the EU provided only a limited support to proposals aiming to integrate human rights in the Paris Agreement. After having initially taken a strong position on the issue, the EU then moved to embrace only preambular language, refusing to endorse calls for a stronger reference in the operative provisions of the agreement, although some of its member states supported this proposal.

The ability of the EU to play a more supportive role is currently constrained by the lack of adequate coordination between the EU delegations, particularly ahead of the climate negotiating sessions. As a consequence, it is often dif-

ficult to reach consensus among delegations on expressing stronger support, as some of the delegations prefer to focus primarily on addressing other aspects of the negotiations.

In their political statements on the climate negotiations, the EU institutions have paid different levels of attention to this issue. In the past, the European Parliament (EP) demonstrated the strongest support by referring to this issue in most of its annual resolutions adopted since 2007 prior to each COP. The EP called, for instance, for stronger consideration of human rights in the procedures of the CDM (2010, 2011, 2014) and in relation to the Paris Agreement (2015). While the Council had remained silent on this issue prior to the COP-21, the first explicitly referred to it in its conclusions on Climate Diplomacy adopted in February 2016, emphasising that “the EU will continue to advocate for the promotion and protection of human rights also in the context of climate change and climate diplomacy.”<sup>45</sup>

The references contained in these documents should provide a mandate for a more proactive EU role in future negotiations to ensure that human rights are duly integrated with its positions in the climate negotiations process. Such a position would better reflect the EU commitment to policy coherence, as reflected in its Action Plan on Human Rights and Democracy. The EU Commission and the EEAS could play a significant role by ensuring the participation of a human rights expert in the process in order to support the EU delegation and the Member States.

The EU could also consider signing the Geneva Pledge for Human Rights in climate actions that was launched in 2015. The Pledge stipulates the integration of human rights and climate expertise in international forums and was already signed by twelve EU member states.<sup>46</sup> A stronger involvement of the Commission and the EEAS, together with a more proactive role by these member states, might enable the EU to better reflect human rights considerations in its negotiating positions.

<sup>45</sup> See the list of these references in Annex 2 to this report.

<sup>46</sup> These twelve Member States are: Belgium, Finland, France, Germany, Ireland, Italy, Luxembourg, Netherlands, Romania, Slovenia, Sweden and the United Kingdom of Great Britain and Northern Ireland. See <http://climaterights.org/our-work/unfccc/geneva-pledge/>

### Box 6: EU leadership advocating for a right-based approach to the SDGs

EU climate diplomacy could learn from the experience of the negotiations leading to the adoption of the Sustainable Development Goals. In the SDG process, the EU adopted a strong position advocating in favour of a human rights-based approach to sustainable development. In this context, rights-based approaches were not merely mentioned in EU communication, but were also included as one of the core elements of its vision for the SDG framework. This strong position contributed to ensuring that the final document explicitly highlighted the importance of human-rights based approaches. This experience offers a good practice of how the EU has successfully integrated human rights in its position related to another major international negotiating process.

As far as gender equality is concerned, the EU has played a more proactive role to promote the integration of gender considerations in the climate negotiations. For many years, the EU has been at the forefront of countries supporting this agenda under the UNFCCC, both as a specific workstream and towards its effective integration in various areas of work under the Convention.

This involvement was, however, somewhat tarnished during the COP-20 in Lima when, the EU accepted a compromise on the language used in relevant decisions, endorsing references to gender responsiveness rather than gender equality. Negotiations leading to the COP-21 also highlighted that gender was not a priority for the EU and that its support for the issue was conditioned by the necessity to secure progress on other aspects of the negotiations considered of higher importance. In order to promote gender equality more effectively in the process, the EU would need to give more political priority to the issue.

The EU delegations established an EU gender team, including the gender experts of each delegation, to tackle the gender issue. This gender team enables delegations to exchange information more effectively on this subject. Additionally, the EU Commission has been involved in gender-related discussions with the participation of a dedicated expert. This stronger coordination mechanism could serve as a model for the development of greater institutional capacity in relation to human rights.

## 4.2. The EU as a consumer of international goods



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### 4.2.1. Biofuels

Due to the size of its market, decisions impacting demands on the EU internal market can have strong external impacts by driving imports and thus providing an incentive for the production and exploitation of specific goods in third countries. EU climate and energy policies can, accordingly, have significant external implications, particularly when the availability of goods is limited domestically. Through its climate-related policies, the EU has impacted two global supply chains that are particularly exposed to being related to human rights infringements against local communities and peoples.

First, international demand for biofuels might be linked with instances of land grabs in locations where land has been taken away from local communities in order to establish large plantations for biofuel crops.

Second, the conversion of productive land to biofuel crops has caused the diversion of agricultural production away from supplying food markets. Consequently, this reduced supply has undermined food security in some regions of the world through its impact on the determination of food prices.

Whereas other factors, such as unfavourable weather and high oil prices, play determining roles in the food crisis, the upward pressure on prices caused by the diversion of food into fuels aggravates these trends and can thus further exacerbate food crisis. Recognizing the implications of biofuels on food prices and availability, the UN Special Rapporteur on the Right to Food and the High-Level Panel of Experts on Food Security and Nutrition have both recommended the abandon of specific targets for the consumption of biofuels.<sup>47</sup>

<sup>47</sup> UN Special Rapporteur on the right to food (Olivier De Schutter) (2009): Report to the Human Rights Council: Crisis into opportunity: reinforcing multilateralism, UN Doc. A/HRC/12/31, and High-level Panel of Experts on Food Security and Nutrition (2013): Biofuels and food security, HLPE Report No. 5.

This mechanism is amplified by the fact that land reconverted for the production of biofuels often belongs to the most productive agricultural land. Researchers have estimated that the lands currently used for the production and export of biofuels and other cash crops could contribute to feeding several hundreds of millions of people if reconverted to food crops.<sup>48</sup>

As part of its 2020 Climate and Energy Package, the EU required that renewable sources constitute at least 10% of all transport fuels consumed by 2020.<sup>49</sup> This target, contained in the 2009 Renewable Energy Directive, constituted a significant increase from the previous objective provided by the 2003 Biofuel Directive, requiring blending of at least 5.75% of renewable fuels in EU's transport sector by 2010.

While the EU institutions were concerned about potential adverse implications of the new target adopted in 2009, the criteria included in the Directive only focused on the prevention of environmental degradation, for instance excluding biofuels produced on biodiverse lands. The Directive failed to address the potential social implications of the new target – despite initial consideration of the inclusion of social criteria.<sup>50</sup> The sustainability criteria adopted in 2009 do not address land rights issues explicitly, but rather focus on ensuring the reduction of greenhouse gases and on conserving biodiversity.

This policy led to significant impacts in third countries as the EU became a major importer of biofuels, with imports of biodiesel and bioethanol representing respectively 22.6% and 29.2% of the EU consumption in 2012. The imports of biofuels to the EU raised several concerns for their adverse social implications in third countries. The Commission commissioned a report in 2013 to assess the impact of biofuels production on developing countries from the point of view of Policy Coherence for Development.<sup>51</sup> The report highlighted that the imports of biofuels into the EU had the potential to trigger a wide range of human rights adverse impacts, including rights to food, access to clean water, land rights and

free prior and informed consent for Indigenous Peoples. Additionally, the report also emphasized that the changes in land use resulting from the production of biofuels were often associated with a weakening of women's rights (as many customary land systems are unfavourable to women).

Building on the sustainability criteria, the 2015 Directive is mainly focused on reducing the carbon intensity of biofuels and thus does not consider the land tenure and other rights-related issues potentially linked with the biofuels.<sup>52</sup> This demonstrates the dramatic impacts that EU energy policy can have on communities living in third countries. It also highlights the weaknesses of the EU decision-making procedures with regards to impact assessments and policy coherence. The measures adopted by the EU to remedy the negative impacts created by its biofuels policies were implemented only reactively, without being integrated into the initial design of the new policies.

The inclusion of biomass combustion to meet the EU's renewable energy targets for 2020 raises similar issues with those of the biofuels target. EU member states can complement their indigenous renewable production by importing biomass, such as wood pellets, from third countries. Those imports can have severe extraterritorial impacts, both environmental and social. In its proposal for a Winter Energy Package, adopted in November 2016, the European Commission proposes “to extend the existing EU sustainability criteria to cover all types of bioenergy.”<sup>53</sup> In that respect, “a new approach for forest biomass is proposed, which builds upon existing legislation on sustainable forest management and adequate accounting of greenhouse gas emissions from the land use and forest sector in the country of origin of the biomass. Developments in biomass production and use for energy will be monitored and reviewed through the Energy Union Governance.”<sup>54</sup> Regarding the possible negative effects of the inclusion of biomass to meet the EU's renewable energy targets, the Commission does not mention the possible extraterritorial effects, not to mention human rights or gender equality problems. It lim-

48 Rulli, M.C.; D'Odorico, P. (2014): Food appropriation through large scale land acquisitions, *Environmental Research Letters* 9(6).

49 European Parliament; Council of the European Union (2009): Directive 2009/28/EC of 23 April 2009 on the promotion of the use of energy from renewable sources [...].

50 Lendle, A.; Schaus, M. (2010): Sustainability Criteria in the EU Renewable Energy Directive – Consistent with WTO Rules, ICTSD information note No. 2, September 2010.

51 Diop, D. et al. (2011): Assessing the impact of biofuels production on developing countries from the point of view of Policy Coherence for Development, Final report for the European Commission, URL: [https://ec.europa.eu/europeaid/sites/devco/files/study-impact-assesment-biofuels-production-on-development-pcd-201302\\_en\\_2.pdf](https://ec.europa.eu/europeaid/sites/devco/files/study-impact-assesment-biofuels-production-on-development-pcd-201302_en_2.pdf)

52 European Parliament; Council of the European Union (2015): Directive (EU) 2015/1513 of 9 September 2015 amending Directive 98/70/EC relating to the quality of petrol and diesel fuels [...].

53 European Commission (2016): European Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank, Clean Energy for All Europeans, COM/2016/0860 final, Brussels, 30.11.2016, under point 3.

54 *Ibid.*

its the scope to mentioning “solid biomass currently used for heat and power in the EU which is overall climate friendly”<sup>55</sup> but acknowledges that “there are concerns that if the level of use continues to increase, the climate effects might deteriorate. Ensuring climate benefits **in the long term** will require, in particular, limiting additional pressure on forests”<sup>56</sup> (emphasis added). The concerns identified by the Commission, however, do not justify a shift in its strategy. Also, the Commission puts forward that “only efficient conversion of biomass to energy should receive public support, be it in the form of financial support or preferential access to the grid”, so as to take stock of wood’s possible “higher added value than just energy”<sup>57</sup>. Still, no more details or criteria are mentioned by the Commission.

All in all, the Commission falls short in providing criteria that would guarantee the full respect of human rights requirements and gender equality in the context of biomass’ inclusion to meet the EU’s renewable energy targets.

#### 4.2.2 Timber



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Additionally, EU imports of agricultural products, timber and wood products also have a significant impact on deforestation, land use and land rights in third countries.

Between 1990 and 2008, it is estimated that the EU has been responsible for 10% of global deforestation due to its consumption of goods driving land use change.<sup>58</sup> Deforestation and forest degradation is crucial for climate change: forests and woodlands accelerate or decelerate climate change.<sup>59</sup>

The EU’s response is driven by the 2003 Forest Law Enforcement Governance and Trade (FLEGT) Action Plan that is based on three pillars (law enforcement, governance and trade). The European Commission released the first FLEGT’s evaluation in 2016. This evaluation criticizes the FLEGT’s shortcomings in terms of effectiveness, efficiency and sustainability.<sup>60</sup> Still, according to the evaluation, human rights have been granted a greater visibility in the context of Voluntary Partnership Agreements.<sup>61</sup>

Even though the evaluation presents the FLEGT as a good example of policy coherence with among others climate change policies and frameworks, the FLEGT “however ... requires more active participation by EU Member States; better planning, steering and coordination in the deployment of the various measures and support; and stronger monitoring and evaluation arrangements.”<sup>62</sup>

Two pieces of legislation give teeth to the Action Plan: the Timber Regulation on licensing schemes for imports of timber, dated 2010, and the FLEGT Regulation.

Regarding the Timber Regulation and its Implementing Regulation, dated 2012, the EU could, as part of its climate policies, integrate human rights and gender equality criteria under the heading of the due diligence system imposed on operators, on the one hand, and the checks on monitoring organisations. Similarly, the EU could provide that the notion of “legally produced timber”, as endorsed in the FLEGT Regulation, encompasses human rights and gender equality criteria. For the time being, this definition is left to the partner country’s national laws.

55 *Ibid.*

56 *Ibid.*

57 *Ibid.*

58 European Commission (2013): The impact of EU consumption on deforestation: Comprehensive analysis of the impact of EU consumption on deforestation, Final Report, Technical Report – 2013 – 063, URL: <http://ec.europa.eu/environment/forests/pdf/1.%20Report%20analysis%20of%20impact.pdf>, p. IV.

59 *Ibid.*, p. 2.

60 European Commission (2016): Commission Staff Working Document (CSWD): Evaluation of the EU Action Plan for Forest Law Enforcement Governance and Trade (FLEGT), SWD(2016), 275, Brussels, 2.8.2016, pp. 3-4.

61 *Ibid.*, p. 11: “FLEGT has supported policy reviews aimed at clarifying existing legal frameworks. This has led to improving recognition of tenure and land rights and refinement of requirements for allocating logging rights, simplifying rules, addressing gaps and reconciling contradictions. Work around the definition of legality in the context of the VPA multi-stakeholder negotiations has helped several countries such as Liberia and Ghana to identify key areas for reform and facilitated legal reform such as the law on indigenous peoples’ rights in the Republic of the Congo. The establishment of an open and participatory consultation and decision-making process has enabled scrutiny and pressure from stakeholders, which provides the necessary impetus for more thorough-going reforms, including the integration of customary and human rights laws.”

62 *Ibid.*, p. 24.

### 4.2.3 Palm Oil

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On a global level, the main producers of palm oil are Malaysia and Indonesia and the production of palm oil has been constantly rising.<sup>63</sup> Globally, the EU is one of the main consumers of palm oil.<sup>64</sup> In 2014, 45% of the palm oil imported in the EU was used for transport purposes.<sup>65</sup> Palm oil as a biofuel is a means for the EU to fulfil its renewable energy targets in the transport sector.<sup>66</sup> Various certification schemes are meant to favour the producers of palm oil who, in theory, respect various criteria and principles aimed at endorsing the sustainable development principles.<sup>67</sup>

The human rights' implications of palm oil plantations are well documented. Several actors have been regularly raising awareness about those implications.<sup>68</sup> They are: forced

labour, child labour, violations of indigenous peoples' rights (right to land), deterioration of the environment and biodiversity loss (including deforestation), right to food, right to life and right to health.

Against that background, the Environment, Public Health and Food Safety Committee (ENVI) of the European Parliament adopted a Report on palm oil and deforestation of rainforests on March 3, 2017.<sup>69</sup> The Report acknowledges the problems generated by the exploitation of palm trees in terms of human rights violations. Among others, the European Parliament underlines the link between palm oil exploitation and deforestation and environmental deterioration,<sup>70</sup> and the fires that contribute to global warming.

The main problem identified in the Report and supported by other actors is the difficult identification of the actors in the supply chain: "... whereas companies trading in palm oil are generally unable to prove with certainty that the palm oil in their supply chain is not linked to deforestation, peatland drainage or environmental pollution, and to demonstrate that it has been produced in full respect of fundamental human rights and adequate social standards."<sup>71</sup> The Report also very strongly criticizes the certification schemes mentioned above. The European Parliament underlines that those do not "effectively prohibit their members from converting rainforests or peatlands into palm plantations."<sup>72</sup>

63 UNCTAD (2016): Huile de Palme, Un profil de produit de base par INFOCOMM. Fonds de la CNUCED pour l'information sur les marchés des produits de base agricoles, URL : [http://unctad.org/fr/PublicationsLibrary/INFOCOMM\\_cp08\\_PalmOil\\_fr.pdf](http://unctad.org/fr/PublicationsLibrary/INFOCOMM_cp08_PalmOil_fr.pdf), pp. 7-9. (Only available in French).

64 In 2015, 8 827 000 tons of palm oil have been imported in the EU. See the EU vegetable oil and protein meal industry association: Fediol (2016): Vegetable Oils Production, Imports, Exports and Consumption, URL: <http://www.fediol.be/data/1471594102Stat%20oils%202015%20total%20only.pdf>

65 European Parliament (2017): Report on Palm oil and deforestation of rainforests adopted by the Environment, Public Health and Food Safety Committee (ENVI) on March 3rd 2017, under "G".

66 As exposed in the section on biofuels, renewable sources constitute at least 10% of all transport fuels consumed by 2020 (2009 Renewable Energy Directive).

67 Those are: RSPO – Roundtable On Sustainable Palm Oil, ISCC PLUS – International Sustainability and Carbon Certification, RAINFOREST ALLIANCE – Certification to the Sustainable Agriculture Network (SAN) Standard, and RSB – Roundtable on Sustainable Biomaterials.

68 See for example The Greens/European Free Alliance (2012): Don't get bio fooled, URL: <http://www.greens-efa.eu/en/article/news/dont-get-bio-fooled/>; Greenpeace (2016): Cutting Deforestation Out Of Palm Oil Company Scorecard, URL: <http://www.greenpeace.org/international/en/publications/Campaign-reports/Forests-Reports/Cutting-Deforestation-Out-Of-Palm-Oil/>; or Greenpeace (2016): 4 stories of Indigenous Peoples' struggle for climate justice, URL: <http://www.greenpeace.org/international/en/news/Blogs/makingwaves/4-stories-of-indigenous-peoples-struggle/blog/57235/>. See also Schuster Institute for Investigative Journalism at Brandeis University (2014): Palm Oil Controversies, Human Rights abuses and controversies, URL: <http://www.schusterinstituteinvestigations.org/palm-oil-controversies-forced-labor-child-labor>

69 The Report still has to be adopted by the European Parliament in Plenary Sitting. The expected date of adoption at First Reading is April 4th 2017. European Parliament (2017): Report on Palm oil and deforestation of rainforests adopted by the Environment, Public Health and Food Safety Committee (ENVI) on 3 March 2017, URL: [http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2016/2222\(INI\)&l=en](http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2016/2222(INI)&l=en)

70 Preamble of Report from 3 March 2017, under "E": "whereas precious tropical ecosystems, which cover a mere 7% of the Earth's surface, are under increasing pressure from deforestation, and the establishment of palm oil plantations is resulting in massive forest fires, the drying up of rivers, soil erosion, peatland drainage, pollution of waterways and overall loss of biodiversity, which leads to the loss of many ecosystem services and is having a major impact on the climate, the conservation of natural resources and, lastly, the preservation of the global environment for present and future generations."

71 *Ibid.*, under "C".

72 *Ibid.*, under "8".

Human rights considerations drive the proposals of the European Parliament.<sup>73</sup> The proposals more directly linked with the present report are:

- Alignment of palm oil trees supply chain conditions and criteria with the FLEGT and Timber Regulations.
- The Commission should “include binding commitments in sustainable development chapters of its trade and development cooperation agreements with a view to preventing deforestation, in particular, an anti-deforestation guarantee in trade agreements with palm oil producing countries, and providing strong and enforceable measures to tackle unsustainable forestry practices in palm oil producing countries.”<sup>74</sup>
- The Commission and member States should “ensure that the environmental problems related to deforestation caused by palm oil are also addressed in the light of the objectives set by the EU Biodiversity Strategy to 2020, which should be an integral part of the Union’s external action in this area.”<sup>75</sup>

For the sake of the present report, it is worth pointing out that the European Parliament puts forward a notion of sustainability that encompasses human rights requirements. This is the way forward, if the EU is seriously moving towards the integration of human rights and gender requirements into its external policies.

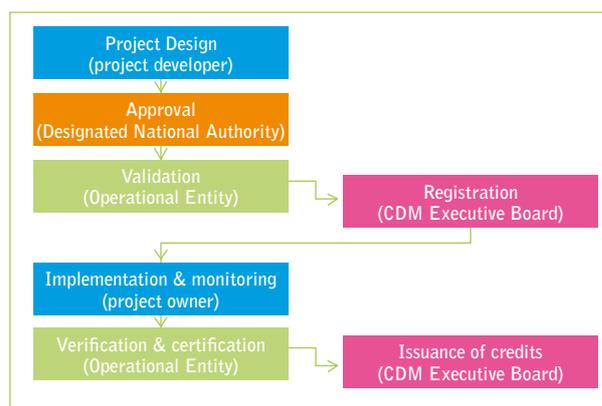
### 4.3. The EU as a participant to international carbon markets

Initiated in 2005, the EU Emissions Trading Scheme (ETS) constitutes a core pillar of EU climate policy. The EU-ETS aims at promoting cost-effective emissions reductions by allowing companies to purchase and sell allowances to meet their individual emissions targets. The scope of the EU-ETS covers about 45% of all emissions from the EU. While an increasing number of countries are establishing similar trading mechanisms at the national (e.g. Switzerland, Australia, New Zealand) or subnational level (e.g. California, Beijing, Quebec), the EU-ETS remains by far the largest emissions-trading scheme.

Shortly after its establishment, the Commission decided to link the EU-ETS with the international trading mechanisms established under the Kyoto Protocol, thereby allowing operators to acquire emissions reductions units resulting from projects implemented in other countries.<sup>76</sup> Articles 6 and 12 of the Protocol establishes a Joint Implementation Mechanism (JI) and a Clean Development Mechanism (CDM), the latter allowing developed countries to meet their mitigation target by acquiring emissions reductions units resulting from projects implemented in developing countries.

According to the Kyoto Protocol, the CDM aims at promoting sustainable development in developing countries, while potentially lowering the cost for developed countries to meet their mitigation objectives. The CDM is overseen by an Executive Board and is governed by the Modalities and Procedures adopted in 2001 as a part of the Marrakesh Accords. Project developers wishing to generate and sell emissions reductions units must follow a project cycle, which is designed to guarantee respect for the rules of the CDM.<sup>77</sup> This project cycle involves a range of actors besides the project developer: the Designated National Authority (a national authority responsible for confirming that a project is in line with the national development priorities), a Designated Operational Entity (a third-party certifier), and the CDM Executive Board.

**Figure 3: Project cycle for the Clean Development Mechanism (source: own illustration based on information provided by UNFCCC<sup>78</sup>)**



73 See for example *Ibid.*, under “Ea”: “Whereas there are very worrying reports that a large part of the global production of palm oil is in breach of fundamental human rights and adequate social standards, that child labour is frequently occurring, and that there are many land conflicts between local and indigenous communities and palm oil concession holders.”

74 *Ibid.*, under “9”.

75 *Ibid.*, under “14”.

76 European Parliament; Council of the European Union (2014): “Linking Directive”, Directive 2004/101/EC of the European Parliament and of the Council, L 338/18.

77 The rules are available on the website of the CDM Rulebook, URL: <http://www.cdmrulebook.org>

78 UNFCCC (2017): CDM Project Cycle, <http://cdm.unfccc.int/Projects/diagram.html>

Since the establishment of the CDM, the mechanism has been denounced for its failure to exclude projects linked to allegations of human rights violations.<sup>79</sup> Indeed, its modalities and procedures aim primarily at accounting adequately the amount of emissions that have been reduced by the project. Those do not mention human rights. Whereas projects must contribute to sustainable development, the validation of this requirement is left solely to the host government. In the past, the Board refused to consider evidence that specific projects infringed the human rights of local communities and peoples. A new procedure established in 2015 requires the board to forward such information to the relevant UN and national human rights institutions.

Similarly, while local public consultations are required prior to the registration of any project, there are no minimum standards defined in relation to these consultations. Studies have demonstrated that the consultations undertaken in relation to many projects fail to meet basic international standards.<sup>80</sup> Finally, the mechanism lacks a proper grievance mechanism that would enable impacted local communities to seek a remedy. As a consequence, mitigation projects violating human rights might be registered under the CDM, thereby allowing these projects to generate additional revenues through the emission of reduction credits.

The decision of the EU to link its domestic ETS with the CDM had a very significant impact on the mechanism overall, creating a strong demand for the credits generated. Indeed, it provided an incentive to a great number of private actors to purchase these units that would have otherwise been primarily available to national governments. To date, EU-ETS installations represent over half of the total demand for CDM credits.<sup>81</sup>

In this context, some EU-based companies and funds have been involved in several instances in projects that have raised serious concerns in relation to their human rights impacts. It is the responsibility of the EU to make sure that the link established between its domestic climate policy and the international mechanism does not provide an incentive for projects violating human rights. Beyond the role of the EU in negotiating the modalities and procedures of the CDM, the outcomes of which depend on the position of

other key negotiating partners, the EU has a role to play in regulating its own market.

The EU has been under pressure to remedy this situation and the European Parliament called repeatedly the other institutions to address these violations and prevent that credits associated with human rights violations be traded on the EU-ETS. As a response, the EU is advocating in the climate negotiations the strengthening of the relevant modalities and procedures of the CDM. However, these attempts have remained largely unsuccessful so far.

Since the creation of the EU-ETS, the EU has established qualitative restrictions, mainly on the basis of environmental concerns. Credits generated from the Land Use, Land-Use Change and Forestry (LULUCF) and nuclear power sectors have been banned already at the time of the Linking Directive. Those related to large hydro projects (in excess of 20 MW) are accepted only if the generating project complies with the environmental and social standards included in the World Commission on Dams guidelines. Finally, additional restrictions apply for the third phase of the EU-ETS (2013-2020): credits generated after January 1, 2013 are only accepted if they originate from a project based in a Least Developed Country (LDCs). All projects related to industrial gas processes are excluded. Some individual member states have adopted more stringent requirements. Belgium, for instance, requires that all credits used by its installations comply with the Gold Standard – a rigorous certification standard for carbon offset projects.

The relevance of the CDM for the EU is fading progressively. For the current commitment period (2013-2020), the EU capped the number of credits generated by the CDM that could be used in the EU-ETS. Consequently, there is only limited incentive for private actors included in the EU-ETS to participate in the CDM. Furthermore, the EU is expected to de-link its domestic market from international schemes, demanding that emissions targets can be met only through domestic action during the fourth phase of the EU-ETS (2021-2030).<sup>82</sup> But specific sectors of the EU economy might still drive the EU demand for international credits. The new market-based mechanism established by the International Civil Aviation Organisation to ensure the compensation of

79 Schade, J.; Obergassel, W. (2014): Human Rights and the Clean Development Mechanism, Cambridge Review of International Affairs 27(4), URL: [http://epub.wupperinst.org/files/5732/5732\\_Schade.pdf](http://epub.wupperinst.org/files/5732/5732_Schade.pdf)

80 See for instance Öko-Institute (2007): Is the CDM fulfilling its environmental and sustainable development objectives? An evaluation of the CDM and options for improvement, Report prepared for WWF, URL: <https://www.oeko.de/oekodoc/622/2007-162-en.pdf>

81 Kossoy, A. et al. (2015): State and Trends of Carbon Pricing, World Bank.

82 Council of the European Union (2017): EU environment ministers reached on February 28th 2017 an agreement in support of the revision of the ETS Directive for the period after 2020, URL: [https://ec.europa.eu/clima/news/eu-emissions-trading-system-council-deal-paves-way-negotiations-parliament\\_en](https://ec.europa.eu/clima/news/eu-emissions-trading-system-council-deal-paves-way-negotiations-parliament_en)

some emissions generated by airlines – in which EU-based airlines are also expected to participate – will generate significant demand in international carbon credits markets.

The EU role in shaping the modalities of the future carbon market could be exercised either directly during the UNFCCC negotiations, or indirectly by setting additional criteria over the credits accepted for compliance with EU obligations. While the prospects for the CDM remain unclear at this stage, the experience generated through the CDM is expected to inform the establishment of a new market-based mechanism – the Sustainable Development Mechanism (SDM) – mandated under the Paris Agreement.<sup>83</sup> The SDM is the new mitigation mechanism established under the Paris Agreement to allow any party to support the reduction of emissions in another country in order to meet its own climate commitment. The parties to the Paris Agreement will need to elaborate the modalities and procedures for this new mechanism before an assessment can be made of its potential implications for human rights. Human rights experts have already emphasised the importance of learning from the pitfalls of the CDM and the importance of strong social safeguards.<sup>84</sup> These issues have, however, not been discussed during the early rounds of negotiations on this issue in 2016. The EU failed to mention this crucial requirement when highlighting its views on the design of the new mechanism.<sup>85</sup>

#### 4.4. The EU as an international donor



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The last role of the EU that is analysed in this report refers to the EU as an international donor, and how the EU can generate violations of human rights and gender equality in the context of this role.

The “no harm principle” in the context of climate finance is defined in another report of the Foundation: “Do no harm – some climate related investments may harm sustainable development objectives as well as violate human rights. Public funding for climate change should avoid such investments, including the provision of financial support for private sector investments and fund-of-fund intermediation. Areas of special concern include investments with a focus on traditional fossil fuel exploration and use, large hydro dams or nuclear power generation.”<sup>86</sup> Against this background, the focus in subsequent developments will lie on the shortcomings of EU mechanisms and processes in terms of human rights and gender equality. Some policy recommendations will follow.

83 UNFCCC (2015): Paris Agreement, URL: [http://unfccc.int/paris\\_agreement/items/9485.php](http://unfccc.int/paris_agreement/items/9485.php), Article 6(4):

“A mechanism to contribute to the mitigation of greenhouse gas emissions and support sustainable development is hereby established under the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to this Agreement for use by Parties on a voluntary basis. It shall be supervised by a body designated by the Conference of the Parties serving as the meeting of the Parties to this Agreement, and shall aim:

(a) To promote the mitigation of greenhouse gas emissions while fostering sustainable development;

(b) To incentivize and facilitate participation in the mitigation of greenhouse gas emissions by public and private entities authorized by a Party;

(c) To contribute to the reduction of emission levels in the host Party, which will benefit from mitigation activities resulting in emission reductions that can also be used by another Party to fulfil its nationally determined contribution; and

(d) To deliver an overall mitigation in global emissions.”

84 *Ibid*: Human Rights and Safeguards in the New Climate Mechanism established in Article 6, § 4 of the Paris Agreement; Letter by John H. Knox, United Nations Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, to the Subsidiary Body for Scientific and Technical Advice, 3 May 2016.

85 Slovak Republic; European Commission (2016): On Behalf Of The European Union And Its Member States, Submission On The Mechanism Established By Article 6, Paragraph 4 Of The Paris Agreement, Bratislava, 7 October 2016.

86 Schalatek, L; Bird, N. (2016): The Principles and Criteria of Public Climate Finance – A Normative Framework, HBS & ODI, URL: <https://www.odi.org/sites/odi.org.uk/files/resource-documents/11018.pdf>, p. 3.

The EU is the world's leading aid donor. In 2014, 14.5 billion euros were allocated by the EU and its Member States to climate finance.<sup>87</sup> This leading position contrasts with the pitfalls of the EU regarding human rights and gender equality safeguards and criteria.<sup>88</sup>

The policy recommendations expressed in this report address both EU internal climate funding policy and positions that the EU should advocate at the international level, in view of its leading position.

In a nutshell,<sup>89</sup> the EU climate finance goes mainly through five main channels:

- The Global Energy Efficiency and Renewable Energy Fund (GEEREF)<sup>90</sup>
- The Global Climate Change Alliance (GCCA)<sup>91</sup>
- The European Development Fund (EDF)<sup>92</sup> – including the European Union ACP Energy Facility<sup>93</sup>
- The Electrification Financing Initiative (ElectriFI)<sup>94</sup>
- The Global Public Good and Challenges (GPGC)<sup>95</sup>

The EU approaches to externally foster human rights have been exposed above in section 3. As illustrations of the proclaimed human rights and gender equality's pre-eminence in EU cooperation policies, the so-called Cotonou Agreement (in which the European Development Fund is established)<sup>96</sup> and Regulation 233/2014 establishing a financing instrument for development cooperation for the period 2014-2020<sup>97</sup> both

have very clear and strong language in terms of human rights protection and gender equality requirements within the EU's cooperation policy and instruments.<sup>98</sup>

But, on the other hand, the general conditions of the **European Development Fund (EDF)** foresee the Financial Agreement's hypothetical suspension "if the Beneficiary breaches an obligation relating to respect for human rights, democratic principles and the rule of law and in serious cases of corruption".<sup>99</sup> Two remarks can be made. First, gender equality is not specifically mentioned. The EU should fill that gap. Also, the suspension is hypothetical ("may be suspended in the following cases) and the EU should modify the phrasing and replace "may" with "shall", in order to turn the suspension into an obligation. This would better reflect the Cotonou Agreement and Regulation 233/2014.

Turning to the **Global Climate Change Alliance (GCCA)**, the EU launched a new phase for the 2014-2020 period (GCCA+). The expected commitment is around 350 million euros. Against that background, the GCCA+ falls very short regarding criteria or safeguards in terms of human rights and gender equality.

The GCCA claims that it is driven by aid effectiveness principles (ownership, alignment, harmonisation, delivering for results and mutual accountability).<sup>100</sup> Still, the EU has not set up yet specific criteria and safeguards on how to operationalise these principles in the use of this finance tool.

87 Council of the European Union (2015): Council conclusions on climate finance, 10 November 2015, URL: <http://www.consilium.europa.eu/en/press/press-releases/2015/11/10-conclusions-climate-finance/>

88 On the link between climate change and gender, see Schalatek, L.; Nakhouda, S. (2016): Gender and Climate Finance, Heinrich Böll Stiftung, URL: <https://www.odi.org/sites/odi.org.uk/files/resource-documents/11046.pdf>

89 For a more detailed overview, see the Heinrich Böll Stiftung website "Climate Funds Update", URL: <http://www.climatefundsupdate.org>

90 Global Energy Efficiency and Renewable Energy Fund (2017): GEEREF, URL: <http://geeref.com>

91 Global Climate Change Alliance (2017): GCCA, URL: <http://www.gcca.eu>

92 European Commission (2017): European Development Fund (EDF), URL: [http://ec.europa.eu/europeaid/funding/funding-instruments-programming/funding-instruments/european-development-fund\\_en](http://ec.europa.eu/europeaid/funding/funding-instruments-programming/funding-instruments/european-development-fund_en)

93 European Commission (2017): ACP – multi-country cooperation – Energy, URL: [http://ec.europa.eu/europeaid/regions/african-caribbean-and-pacific-acp-region/acp-multi-country-cooperation/energy\\_en](http://ec.europa.eu/europeaid/regions/african-caribbean-and-pacific-acp-region/acp-multi-country-cooperation/energy_en)

94 ElectriFI (2017): Electrification Financing Initiative, URL: <http://electrifi.org>

95 European Commission (2017): Development Cooperation Instrument (DCI), URL: <https://ec.europa.eu/europeaid/node/7432>; European Commission (2014): Commission Implementing Decision adopting a Multiannual Indicative Programme for the Thematic Programme 'Global Public Goods and Challenges' for the period 2014-2020. C(2014)5072, URL: [https://ec.europa.eu/europeaid/commission-implementing-decision-adopting-multiannual-indicative-programme-thematic-programme-global\\_en](https://ec.europa.eu/europeaid/commission-implementing-decision-adopting-multiannual-indicative-programme-thematic-programme-global_en)

96 Official Journal of the European Communities (2000): PARTNERSHIP AGREEMENT between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June, URL: [https://ec.europa.eu/europeaid/sites/devco/files/cotonou-agreement-2000\\_en.pdf](https://ec.europa.eu/europeaid/sites/devco/files/cotonou-agreement-2000_en.pdf)

97 Official Journal of the European Communities (2014): REGULATION (EU) No 233/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 March 2014 establishing a financing instrument for development cooperation for the period 2014-2020, URL: [https://eeas.europa.eu/sites/eeas/files/regulation\\_eu\\_no\\_2332014\\_of\\_the\\_ep\\_and\\_the\\_council\\_establishing\\_a\\_financing\\_instrument\\_for\\_development\\_cooperation\\_2014-2020\\_0.pdf](https://eeas.europa.eu/sites/eeas/files/regulation_eu_no_2332014_of_the_ep_and_the_council_establishing_a_financing_instrument_for_development_cooperation_2014-2020_0.pdf)

98 As for the Cotonou Agreement, see European Commission (2000): ACP – The Cotonou Agreement, Preamble, Articles 1, 8(3) and (4), 9, 13, 23(b), 25(1), 26(a), 27(b), 30(3), 31, 33(1), 46, 48(1), 50, 51, 54(1), 72(2), 84(e), 96. As for Regulation 233/2014, see Preamble (5, 6, 7, 11, 12, 15, 18, and Articles 2(1)(b)(ii), 3(1), 3(2) (c), 3(3), 3(7), (8)(b), 5(3)(a), 10(5), 11(5), 12(1), 12(2), 15(2) (Annexes omitted).

99 European Commission (2012): Financing Agreement – EDF, Financing Agreement 15(2) (Annexes omitted), Articles 1, Article 23(1), URL: [https://ec.europa.eu/europeaid/sites/devco/files/general-conditions-financing-agreement-2012-edf\\_en.pdf](https://ec.europa.eu/europeaid/sites/devco/files/general-conditions-financing-agreement-2012-edf_en.pdf)

100 GCCA (2012): GCCA Global Learning Event 2012, Aid delivery modalities and approaches: GCCA experience, URL: [http://www.gcca.eu/sites/default/files/gcca\\_tp\\_aid\\_delivery\\_modalities\\_final\\_2012-09-03.pdf](http://www.gcca.eu/sites/default/files/gcca_tp_aid_delivery_modalities_final_2012-09-03.pdf)

In the documents that refer to past experiences, there is not a single reference to human rights or gender (in the latter case, the gender issue is mentioned in the case of Sierra Leone).<sup>101</sup>

Given that the GCCA+ is meant to enter a second phase in which the funding and geographical coverage will be expended, it seems absolutely crucial that the EU sets clear safeguards and criteria that guarantee the prevention of human rights violations and the mainstreaming of gender equality.

With regards to the Global Energy Efficiency and Renewable Energy Fund (GEEREF), it is a “Fund-of-Funds catalyzing private sector capital into clean energy projects in developing countries and economies in transition.”<sup>102</sup> It was initiated by the European Commission and is advised by the European Investment Bank Group. It is funded by the European Union, Germany and Norway for a total of 112 million euros, and by private sector investors for a total of 100 additional million euros.<sup>103</sup>

However, its impact methodology includes only two criteria that address gender issues but does not include human rights.<sup>104</sup> The EU could push forward in order to have human rights criteria introduced and the criteria on gender issues reinforced in the impact methodology, in order to be in line with the general framework that applies to international cooperation (e.g. the Cotonou agreement).

The **Electrification Financing Initiative (ElectriFI)**, is “an

innovative mechanism to unlock, accelerate and leverage investments providing access to affordable, reliable, sustainable and modern energy”<sup>105</sup> launched in 2016 and funded by the European Commission and Power Africa (initial amount of EUR 115 million). As for the **GPGC**, it is a thematic programme of the Development Cooperation Instrument (DCI).<sup>106</sup> 27% of the programme is spent on climate change and environment objectives.

Here again, no requirements for impact assessments or check lists foresee the prevention or redress of human rights violations or infringements of the gender equality requirement in the ElectriFi or GPGC.<sup>107</sup> As for the former EU aid mechanisms (and in light of the huge sums involved), the EU should introduce such mechanisms aimed at preventing and redressing such violations.

Another set of concerns is raised by the **blending instruments**. The blending principle is a combination of EU grants with loans or equity from public and private financiers.<sup>108</sup> The underlying idea is that “EU grant element can be used in a strategic way to attract additional financing for important investments in EU partner countries by reducing exposure to risk.”<sup>109</sup> According to the Commission, the EU grant can take diverse forms that will depend on the case at hand.<sup>110</sup> The use of the blending principle has raised very serious concerns in civil society.

101 Bird, N.; Ferrandes, F. (2014): Review of EU experience, best practices and lessons learned in the field of environment and climate change through the aid modality of budget support, November 2014,  
URL: [http://www.gcca.eu/sites/default/files/gcca\\_review\\_of\\_budget\\_support\\_-\\_final\\_technical\\_report\\_pdf\\_0.pdf](http://www.gcca.eu/sites/default/files/gcca_review_of_budget_support_-_final_technical_report_pdf_0.pdf)

102 GEEREF (2017): What GEEREF is, URL: <http://geeref.com/about/what-geeref-is.html>

103 *Ibid.*

104 GEEREF (2015): GEEREF Impact Methodology, Pillar 3: Sustainable Development, Impact criteria, Permanent female jobs created and Temporary female jobs created,  
URL: <http://geeref.com/assets/documents/GEEREF%20Impact%20Methodology%20June%202016.pdf>

105 European Development Finance Institutions (2016): ElectriFI, URL: <http://www.edfi.be/news/news/36-electrifi.html>

106 On the DCI, see European Commission (2017): DCI – Funding Instruments and Programming,  
URL: [https://ec.europa.eu/europeaid/how/finance/dci\\_en.htm\\_en](https://ec.europa.eu/europeaid/how/finance/dci_en.htm_en)

107 In the guidelines of the ElectriFi (2017): Guidelines, Call for Investment Proposals #2017-1,  
URL: <http://electrifi.org/wp-content/uploads/2017/02/ElectriFI-Investment-Criteria-and-Guidelines-Call-2017-1-v3.pdf>, the ElectriFI mentions gender statistics, but specifies that gender is not a criteria for the selection process: “ElectriFI collects some gender information only for statistical purposes; this will be not used in the selection process,” at p. 5. As for the GPGC, the Commission Implementing Decision of July 23rd 2014 adopting a Multiannual Indicative Programme for the Thematic Programme “Global Public Goods and Challenges” for the period 2014-2020 and the Multiannual Indicative Programme 2014-2017 do not address human rights or gender issues.

108 Web page of the European Commission on Innovative Financial Instruments (blending),  
[https://ec.europa.eu/europeaid/policies/innovative-financial-instruments-blending\\_en](https://ec.europa.eu/europeaid/policies/innovative-financial-instruments-blending_en), available on March 4th 2017. Such blending mechanisms include the Electrification Financing Initiative and the Climate Finance Initiative.

109 Web page of the European Commission (2017): Innovative Financial Instruments (blending),  
URL: [https://ec.europa.eu/europeaid/policies/innovative-financial-instruments-blending\\_en](https://ec.europa.eu/europeaid/policies/innovative-financial-instruments-blending_en)

110 *Ibid.* Those forms are: (1) Investment grant & interest rate subsidy – reducing the initial investment and overall project cost for the partner country, (2) Technical assistance – ensuring the quality, efficiency and sustainability of the project, (3) Risk capital (i.e. equity & quasi-equity) – attracting additional financing, and (4) Guarantees – unlocking financing for development by reducing risk.

111 European Network on Debt and Development (Eurodad) (2013): A dangerous blend? The EU’s agenda to ‘blend’ public development finance with private finance, URL: <http://eurodad.org/Entries/view/1546054/2013/11/07/A-dangerous-blend-The-EU-s-agenda-to-blend-public-development-finance-with-private-finance>

For example, the EU-based NGO Eurodad has put forward multiple concerns that refer to, among other items, the blending mechanisms' compliance with development objectives, the risk to a developing country's ownership, and loopholes in terms of transparency and accountability.<sup>111</sup> Of particular concern in the report, the claim that blending mechanisms lack transparency and are unaccountable, is extremely relevant.

The bottom line is that no proper transparency mechanisms and accountability can induce the risk of human rights violations and infringements of the gender equality requirement. It can also generate impunity in cases of human rights violations.<sup>112</sup>

Eventually, the EU and EU Member States are critical players in **international funds**, due to the volume of funds to which they are committed. This critical role contrasts with the human rights and gender concerns generated by the funded projects, and the expected role of the EU in advocating for human rights and gender mainstreaming. REDD+ is a good example.

Between 2006 and 2014, the EU and EU Member States have provided 3 billion Euros to REDD+ activities. Against the huge sums involved, the literature and NGOs have severely criticised the REDD+ activities for their potential (and demonstrated) negative impact on human rights, and more specifically for indigenous peoples' rights and land rights.<sup>113</sup>

"The programme has been severely criticised by NGOs and scholars. Basically, these contend that governments have such appetite for financial aid that they may deprive indigenous and local communities of their rights in relation to lands covered by forests in order to receive financial aid. They also shed light on the fact that despite having set up their REDD+ strategies, the governments do not sufficiently consult local and indigenous communities."<sup>114</sup>

Several concrete cases illustrate the human rights' violations caused by REDD+. Guyana is one of those.<sup>115</sup> In this Guyana case, Guyana's legislation's inadequacy in terms of consultation together with the absence of recognition of 11 communities' formal recognition of their land rights have been denounced. Despite those shortcomings, the Forest Carbon Partnership Fund (FCPF) approved Guyana's Readiness Preparation Proposal (R-PP). Another example is Indonesia, where the Committee for the Elimination of Racial Discrimination rules that "the REDD+ process was in violation of the Convention against the Elimination of Racial Discrimination."<sup>116</sup>

In light of those problems, the EU should proactively advocate for the introduction of human rights and gender safeguards, criteria and mechanisms to monitor their respect into all the projects it finances, including through international funds.

111 European Network on Debt and Development (Eurodad) (2013): A dangerous blend? The EU's agenda to "blend" public development finance with private finance, URL: <http://eurodad.org/Entries/view/1546054/2013/11/07/A-dangerous-blend-The-EU-s-agenda-to-blend-public-development-finance-with-private-finance>

112 Concretely, Eurodad mentions human rights and gender equality requirements in its recommendations towards a "full and independent review of the effectiveness of existing blending mechanisms", and monitoring and evaluation methods of the poverty impact analyses of the facilities, and monitoring "should include interests and views of the concerned population/citizens to ensure local ownership of the project and to prevent human rights violations and social damage." European Network on Debt and Development (Eurodad) (2013): A dangerous blend? The EU's agenda to 'blend' public development finance with private finance, p. 25, URL: <http://eurodad.org/files/pdf/1546054-a-dangerous-blend-the-eu-s-agenda-to-blend-public-development-finance-with-private-finance.pdf>

113 For an overview of the critics and literature references, see Gouritin, A. (2016): EU Environmental Law, International Environmental Law, and Human Rights Law: confirmation, complement and conflicts. The Case of Environmental Responsibility. BRILL, International Environmental Law Series, January 2016, pp. 9-10.

114 *Ibid.*, p. 9.

115 On the Guyana case, see Lemaitre, S. (2011): Indigenous Peoples' Land Rights and REDD: A Case Study, RECIEL, Vol. 20 (2), pp. 150-162.

116 Dooley, K.; Saskia, O. (2011): Buidling on Forest Governance Reforms through FLEGT: The Best Way of Controlling Forests' Contribution to Climate Change?, RECIEL, Vol. 20 (2), pp. 169-170.

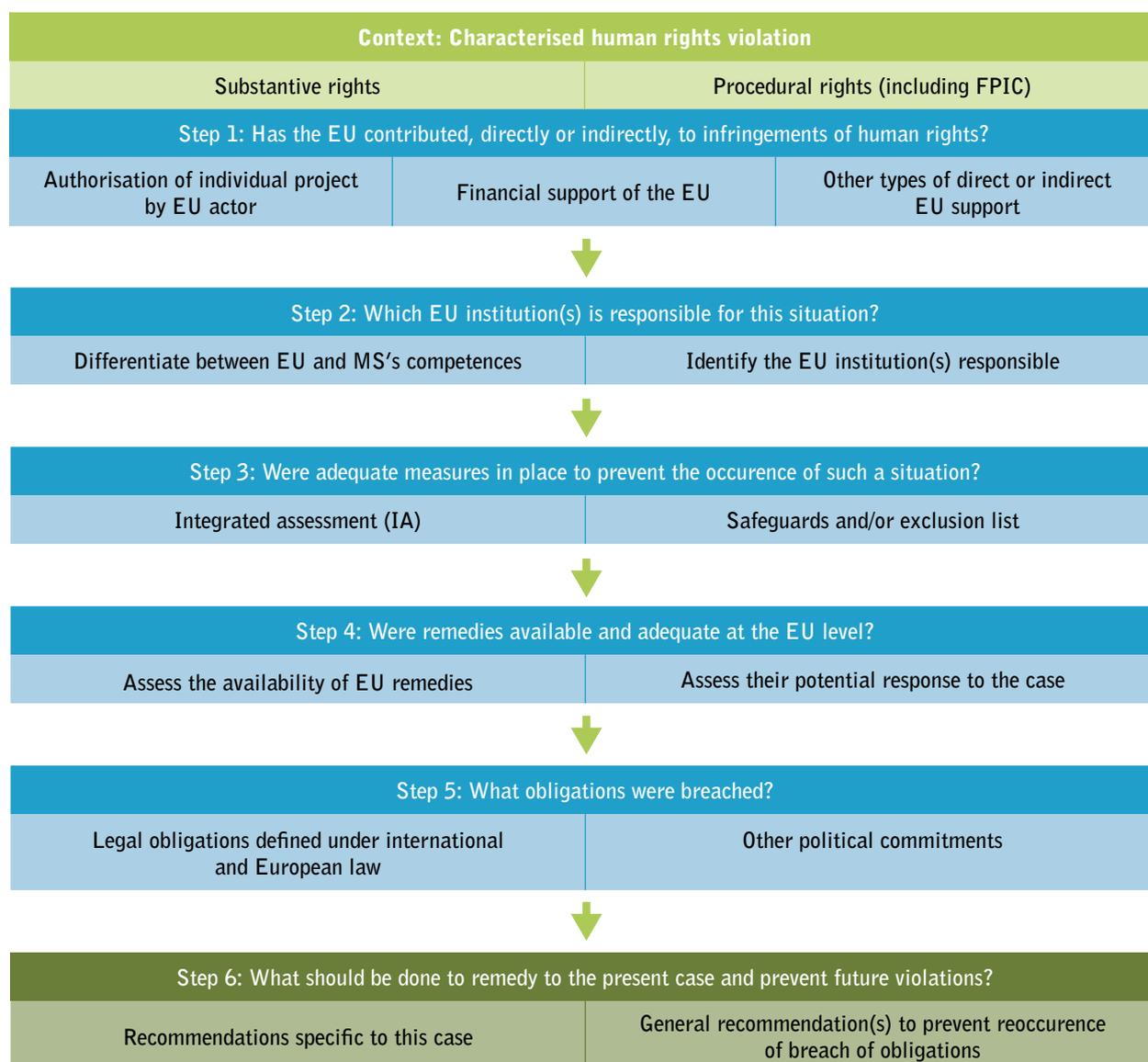
## 5. Blueprint for Case Studies

This report offers a general assessment of the responsibility of the EU to promote gender equality and human rights in the context of climate action. Case studies addressing the specific roles of the EU defined in this report are necessary to provide a more systematic assessment regarding whether EU institutions have established adequate procedures and mechanisms to uphold this responsibility.

In the context of external obligations and/or indirect impacts, a sound methodology is particularly important in order to define causal linkages between decisions or policies attributed to EU actors and outcomes affecting local communities.

The methodology proposed in this blueprint serves several objectives. Firstly, it allows assessing whether one of the EU institutions failed to meet its obligations regarding the respect and promotion of human rights and gender equality. Secondly, it enables the identification of procedural loopholes that might have contributed to this infringement. Thirdly, it seeks to promote forward-looking proposals that could remediate on-going human rights violations and prevent similar infringements in the future.

**Figure 4: Blueprint for case studies to assess EU’s responsibility for human rights in the context of climate action (Source: own illustration)**



The application of this blueprint takes as a starting point (**Step 1**) the characterisation of an infringement of the human rights of local communities or peoples. This infringement might relate to substantive rights (right to life, right to access to clean water...). It might also relate to procedural rights (right of access to information, public participation in decision making, access to a legal remedy). Once such a determination has been made, this blueprint will support the analysis of the responsibility of EU institutions. Also, an emphasis is put on the national legal system (both the legal basis of the rights infringed and the national system available for remedies).

**Step 2** seeks to define to what extent a direct or indirect causal link exists between an EU policy or action provided an incentive to the project under review. This determination focuses on material aspects of the case – not legal factors. Such a link could involve authorisation of individual projects by EU actors, financial support of the EU or other types of direct or indirect EU non-financial support.

**Step 3** intends to determine to what extent the EU is competent in the relevant policy area – and if so, which of its institutions. This determination must first define to what extent the EU and/or its member states are competent in the relevant policy area. The TFEU codifies in articles 3, 4 and 6 the exclusive, shared and complementary competences of the EU, respectively. Evidence of past legislative or executive actions might also provide an indication of the type of competence enjoyed by the EU in the relevant policy area. Once this competence is established, the responsibility of the relevant institution within the EU must then be identified.

**Step 4** assesses the adequacy of existing procedures seeking to prevent harm. These procedures include mandatory integrated assessment (IA) as well as safeguards and/or exclusion lists. While preventive measures might not always be in a position to identify future challenges and issues, these must at least build on adequate standards.

**Step 5** enables the assessment the availability of effective remedies at the EU level. This step should also take into consideration the response provided by the remedy if it has been triggered in the case researched or in similar circumstances. This analysis can help determine whether the remedy is effective to repair or compensate for the violation of rights. Sections 2 and 3 of this report provide an introduction to EU processes and mechanisms that might be relevant in the context of steps 4 and 5 suggested in this blueprint.

**Step 6:** concludes this process by seeking to propose concrete policy recommendations to prevent and remedy human rights violations considered in the present case. The information collected through all previous steps of the blueprint must contribute to the determination of the most relevant recommendations. These recommendations should ideally seek both to remedy the specific case under review, if it remains on-going, as well as to prevent the occurrence of similar cases in the future.

The six-step approach proposed below aims at addressing specifically the institutional context related to EU policy making. Case studies focused on the responsibility of other actors (such as international financial institutions) could use a relatively similar methodology after adjusting step 3 taking into consideration specific institutional characteristics.

## 6. Policy Recommendations to the European Union

### EU legislative process

- The Impact Assessments should comprehensively address potential impacts in relation to external impacts.
- Human rights and gender equality requirements should be systematically addressed in Impact Assessments.
- When realizing the Impact Assessments, the Commission's "Fundamental Rights check-list" should be systematically and fully addressed.

### The EU as a consumer of international goods

- The Renewable Energy Directive should be modified to include in its criteria the potential social implications of its target.
- Sustainability criteria for biofuels should explicitly address land rights issues.
- The Renewable Energy Directive should consider the land tenure and other rights-related issues potentially linked with the biofuels.
- The inclusion of biomass combustion as one of the options to meet the EU's renewable energy targets for 2020 should be reconsidered or severely framed.
- The Timber and FLEGT Regulations should integrate human rights and gender equality criteria under the heading of the due diligence system, the checks on monitoring organisations and in the notion of "legally produced timber."
- The Report of the European Parliament on palm oil (adopted by the ENVI Committee, still to be adopted at first reading) could pave the way towards EU policies that encompass human rights requirements into sustainability criteria.

### The EU as a participant to international carbon markets

- The EU should influence the UNFCCC negotiations with a view to providing clear and strong guarantees in terms of human rights and gender equality protection in the context of carbon markets (including the new market-based mechanism mandated under the Paris Agreement, the Sustainable Development Mechanism SDM).

- The EU should set additional EU compliance criteria for the credits accepted to meet any EU-related mitigation target.

### The EU as an international negotiating actor

- Early coordination among EU delegations is critical to ensure that the EU can adequately support the principles to which it is strongly committed in negotiations.
- Greater coordination between the EU delegations before the negotiations would ensure a consensus on the support for human rights and gender equality provisions' inclusion in the relevant negotiated texts.
- The EU Commission and the EEAS should ensure the participation of a human rights expert in the process in order to support the EU delegation and the Member States.
- The EU should sign the Geneva Pledge for Human Rights in Climate Action.
- The EU gender team as a coordination and exchange of information mechanism is a good example that should be applied with human rights.

### The EU as an international donor

- The EU should introduce human rights and gender safeguards, criteria and mechanisms to monitor the respect of human rights and gender requirements in all the projects it finances, including through international funds.
- The blending mechanism is of particular concern. Independent evaluations of the blending mechanism should be undertaken with a particular focus on human rights and gender requirements and the negative effects of the blending mechanism.
- Financial support should be automatically suspended (instead of being a possibility) in cases of violations and risk of violations of human rights and gender requirements.

## 7. Conclusions

Against a clear legal framework that requires the EU to respect and promote Human Rights and gender equality in its external policies, multiple roles played by the EU in climate actions could potentially impact human rights and gender requirements. In this report, attention was paid more specifically to four of these roles: the EU as an international negotiating actor, the EU as a consumer of international goods, the EU as a participant to international carbon markets, and the EU as an international donor.

The potential (and demonstrated) negative impact of the EU performing those roles in its climate actions calls for political, institutional, and legal changes.

Some of the changes are minor (such as the strengthening of the language used in relevant legislation), others are consequent (such as the systematisation of impact assessments for all the climate finance mechanisms).

Those changes illustrate both the potential for improvement, and the conduct of a true and strong move towards human rights and gender requirements mainstreaming at the EU and international levels, with a view to moving towards climate actions fully in line with sustainable development. The report identifies several routes for taking on this challenge.

# ANNEXES

## Annex 1: List of Civil Society Experts Interviewed for this report

Name	Position	Organisation
Anke Stock	Senior Specialist Gender and Rights	Women in Europe for a Common Future
Celine Mias	EU Representative	CARE
Fanny Petitbon	Advocacy Manager	CARE
Femke de Jong	EU Policy Director	Carbon Market Watch
Francesco Martone	Policy Advisor	Forest Peoples Programme
Gotelind Alber	Cofounder and consultant	Gender CC
Hannah Mowat	Forests and Climate campaigner	Fern
Irene Dankelman	Scholar	Radboud University
Liane Schalatek	Associate Director	Heinrich-Böll-Stiftung, North America
Lies Craeynest	Policy Advisor	Oxfam
Maeve McLynn	Climate and Development Policy Coordinator	Climate Action Network Europe
Meera Ghani	Policy and Advocacy Officer Climate Justice	CIDSE
Sally Nicholson	Head, Development Policy & Finance	WWF-European Policy Office

In addition, a climate negotiator from a Member State was also interviewed but wished to remain anonymous.

## References

Adelle, C.; Andrew, J. (2014): Policy Coherence for Development in the European Union: Do New Procedures Unblock or Simply Reproduce Old Disagreements?, *Journal of European Integration* 36(4).

Bird, N.; Ferrandes, F.(2014):Review of EU experience, best practices and lessons learned in the field of environment and climate change through the aid modality of budget support.

[http://www.gcca.eu/sites/default/files/gcca\\_review\\_of\\_budget\\_support\\_-\\_final\\_technical\\_report\\_pdf\\_0.pdf](http://www.gcca.eu/sites/default/files/gcca_review_of_budget_support_-_final_technical_report_pdf_0.pdf)

Carbon Market Watch (2017): Campaigns: Barro Blanco – Large hydro project, Panama.

<http://carbonmarketwatch.org/category/barro-blanco-large-hydro-project-panama/>

Carbone, M.; Furness, M. (2016): Report of the Workshop: EU Policy Coherence for Development: The challenge of sustainability, European Parliament’s Committee on Development.

Clean Development Mechanism (2017): CDM Rulebook. <http://www.cdmrulebook.org>

Center for International Environmental Law (2016): Human Rights and the “Intended Nationally Determined Contributions” (INDCs) submitted in the context of the Paris Climate Conference (COP-21).

<http://www.climaterights.org>

CONCORD and the Federation International des Droits de l’Homme (FIDH)(2015):The European Commission’s “Better Regulation Package” Will It Serve Poverty Eradication And Human Rights?, Spotlight Report Policy Paper.

<http://library.concordeurope.org/record/1636/files/DEEEP-REPORT-2016-010.pdf>

CONCORD Denmark (2015): The European Commission’s Impact Assessments continuously neglect obligations to Developing Countries.

[http://globaltfokus.dk/images/Politik/Rapporter/IA\\_analysis\\_2015.pdf](http://globaltfokus.dk/images/Politik/Rapporter/IA_analysis_2015.pdf)

Council of the European Union (2017): EU environment ministers agreement reached on February 28th 2017 in support of the revision of the ETS Directive for the period after 2020.

[https://ec.europa.eu/clima/news/eu-emissions-trading-system-council-deal-paves-way-negotiations-parliament\\_en](https://ec.europa.eu/clima/news/eu-emissions-trading-system-council-deal-paves-way-negotiations-parliament_en)

Council of the European Union (2015): Council conclusions on climate finance, 10 November 2015.

<http://www.consilium.europa.eu/en/press/press-releases/2015/11/10-conclusions-climate-finance/>

Council of the European Union (2015): Council Conclusions on the Gender Action Plan 2016-2020, 26 October 2015.

<http://www.consilium.europa.eu/en/press/press-releases/2015/10/26-fac-conclusions-gender-development/>

Council of the European Union (2015): Council Conclusions on the Action Plan on Human Rights and Democracy 2015-2019, 20 July 2015.

[https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/action-plan-on-human-rights-and-democracy-2015-2019\\_en.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/action-plan-on-human-rights-and-democracy-2015-2019_en.pdf)

Council of the European Union (2010): Council Decision of 26 July 2010 establishing the organisation and functioning of the European External Action Service (2010/427/EU).

Cournil, C.; Tabau, A.-S. (2012): Human Rights and Climate Change: EU Policy Options, Report to the European Parliament.

[http://europarl.europa.eu/RegData/etudes/etudes/join/2012/457066/EXPO-JOIN\\_ET\(2012\)457066\\_EN.pdf](http://europarl.europa.eu/RegData/etudes/etudes/join/2012/457066/EXPO-JOIN_ET(2012)457066_EN.pdf)

Diop, D. et al. (2011): Assessing the impact of biofuels production on developing countries from the point of view of Policy Coherence for Development, Final report for the European Commission.

[https://ec.europa.eu/europeaid/sites/devco/files/study-impact-assessment-biofuels-production-on-development-pcd-201302\\_en\\_2.pdf](https://ec.europa.eu/europeaid/sites/devco/files/study-impact-assessment-biofuels-production-on-development-pcd-201302_en_2.pdf)

Dooley, K.; Saskia, O. (2011): Building on Forest Governance Reforms through FLEGT: The Best Way of Controlling Forests' Contribution to Climate Change?, RECIEL, 20 (2).

Duyck, S.; Lador, Y. (2016): Human Rights and International Climate Politics - Human Rights into Climate Actions After Paris: Opportunities for the UNFCCC, the Human Rights Institutions and the G-20, Friedrich Ebert Stiftung Briefing Paper.

<http://library.fes.de/pdf-files/iez/12893.pdf>

ElectriFI (2017): Electrification Financing Initiative.

<http://electrifi.org>

ElectriFi (2017): Guidelines, Call for Investment Proposals #2017-1.

<http://electrifi.org/wp-content/uploads/2017/02/ElectriFI-Investment-Criteria-and-Guidelines-Call-2017-1-v3.pdf>

European Commission (2017): European Development Fund (EDF).

[http://ec.europa.eu/europeaid/funding/funding-instruments-programming/funding-instruments/european-development-fund\\_en](http://ec.europa.eu/europeaid/funding/funding-instruments-programming/funding-instruments/european-development-fund_en)

European Commission (2017): ACP – multi-country cooperation – Energy.

[http://ec.europa.eu/europeaid/regions/african-caribbean-and-pacific-acp-region/acp-multi-country-cooperation/energy\\_en](http://ec.europa.eu/europeaid/regions/african-caribbean-and-pacific-acp-region/acp-multi-country-cooperation/energy_en)

European Commission (2017): Development Cooperation Instrument (DCI).

<https://ec.europa.eu/europeaid/node/7432>

European Commission (2017): DCI – Funding Instruments and Programming.

[https://ec.europa.eu/europeaid/how/finance/dci\\_en.htm\\_en](https://ec.europa.eu/europeaid/how/finance/dci_en.htm_en)

European Commission (2016): Commission Staff Working Document (CSWD): Evaluation of the EU Action Plan for Forest Law Enforcement Governance and Trade (FLEGT), SWD(2016) 275, Brussels, 2.8.2016.

European Commission (2016): European Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank, Clean Energy for All Europeans, COM/2016/0860 final, Brussels, 30.11.2016.

European Commission (2014): Commission Implementing Decision adopting a Multiannual Indicative Programme for the Thematic Programme 'Global Public Goods and Challenges' for the period 2014-2020. C(2014)5072.

[https://ec.europa.eu/europeaid/commission-implementing-decision-adopting-multiannual-indicative-programme-thematic-programme-global\\_en](https://ec.europa.eu/europeaid/commission-implementing-decision-adopting-multiannual-indicative-programme-thematic-programme-global_en)

European Commission (2013): The impact of EU consumption on deforestation: Comprehensive analysis of the impact of EU consumption on deforestation, Final Report, Technical Report – 2013 – 063.

<http://ec.europa.eu/environment/forests/pdf/1.%20Report%20analysis%20of%20impact.pdf>

European Commission (2012): Financing Agreement – EDF.

[https://ec.europa.eu/europeaid/sites/devco/files/general-conditions-financing-agreement-2012-edf\\_en.pdf](https://ec.europa.eu/europeaid/sites/devco/files/general-conditions-financing-agreement-2012-edf_en.pdf)

European Commission (2011): Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Increasing the impact of EU Development Policy: an Agenda for Change, COM(2011) 637 final, Brussels, 13.10.2011.

[eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX%3A52011DC0637&qid=1412922281378&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX%3A52011DC0637&qid=1412922281378&from=EN)

European Commission (2010): Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union, COM/2010/573 final, Brussels, 19.10.2010.

European Commission (2006): European Consensus on Development.

[https://ec.europa.eu/europeaid/sites/devco/files/publication-the-european-consensus-on-development-200606\\_en.pdf](https://ec.europa.eu/europeaid/sites/devco/files/publication-the-european-consensus-on-development-200606_en.pdf)

European Commission (2000): ACP – The Cotonou Agreement.

[http://eeas.europa.eu/archives/delegations/namibia/documents/eu\\_namibia/cotonou-agreement\\_en.pdf](http://eeas.europa.eu/archives/delegations/namibia/documents/eu_namibia/cotonou-agreement_en.pdf)

European Court of Justice (2012): European Court of Justice of 19 July 2012 in the Case C 130/10, Parliament v. Council (Al Qaeda).

<http://curia.europa.eu/juris/liste.jsf?num=C-130/10>

European Court of Justice (2011): European Court of Justice of 21 December 2011 in the Case C-366/10, Air Transport Association of America and others.

<http://curia.europa.eu/juris/liste.jsf?language=en&num=C-366/10>

European Development Finance Institutions (2016): ElectrIFI. <http://www.edfi.be/news/news/36-electrifi.html>

European Network on Debt and Development (Eurodad) (2013): A dangerous blend? The EU's agenda to "blend" public development finance with private finance.

<http://eurodad.org/files/pdf/1546054-a-dangerous-blend-the-eu-s-agenda-to-blend-public-development-finance-with-private-finance.pdf>

European Parliament (2017): Report on Palm oil and deforestation of rainforests adopted by the Environment, Public Health and Food Safety Committee (ENVI) on 3 March 2017.

[http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2016/2222\(INI\)&l=en](http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2016/2222(INI)&l=en)

European Parliament (2017): Legal Observatory – Procedure file 2016/2222(INI), Palm oil and deforestation of rainforests.

<http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2016/2222%28INI%29&l=en>

European Parliament (2015): Motion for the European Parliament Resolution on the EU 2015 Report on Policy Coherence for Development, 2015/2317(INI), Brussels, 20.5.2016.

European Parliament; European Council (2015): Directive (EU) 2015/1513 of 9 September 2015.

European Parliament; European Council (2009): Directive 2009/28/EC of 23 April 2009.

European Parliament; European Council (2004): "Linking Directive", Directive 2004/101/EC of the European Parliament and of the Council, L 338/18.

European Parliament, Council and Commission (2012): EU Charter of Fundamental Rights.

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>

Fediol(2016): Vegetable Oils Production, Imports, Exports and Consumption.

<http://www.fediol.be/data/1471594102Stat%20oils%202015%20total%20only.pdf>

Global Climate Change Alliance (2017): GCCA.

<http://www.gcca.eu>

Global Climate Change Alliance (2012): GCCA Global Learning Event 2012, Aid delivery modalities and approaches: GCCA experience.

[http://www.gcca.eu/sites/default/files/gcca\\_tp\\_aid\\_delivery\\_modalities\\_final\\_2012-09-03.pdf](http://www.gcca.eu/sites/default/files/gcca_tp_aid_delivery_modalities_final_2012-09-03.pdf)

Global Energy Efficiency and Renewable Energy Fund (2017): GEEREF.

<http://geeref.com>

GEEREF (2017): What GEEREF is.

<http://geeref.com/about/what-geeref-is.html>

GEEREF (2015): GEEREF Impact Methodology, Pillar 3: Sustainable Development, Impact criteria, Permanent female jobs created and Temporary female jobs created.

<http://geeref.com/assets/documents/GEEREF%20Impact%20Methodology%20June%202016.pdf>

Gouritin, A. (2016): EU Environmental Law, International Environmental Law, and Human Rights Law: confirmation, complement and conflicts. The Case of Environmental Responsibility. BRILL, International Environmental Law Series.

Gouritin, A. (2013): L'impact de l'adhésion de l'UE à la Convention européenne des droits de l'Homme sur le lien entre droits de l'homme et politiques climatiques de l'UE; in: Cournil, C. ; Tabau, A.-S. (Eds): Changements climatiques et droits de l'Homme : les options politiques de l'Union européenne, Bruylant, Oct. 2013.

Greenpeace (2016): Cutting Deforestation Out Of Palm Oil Company Scorecard.

<http://www.greenpeace.org/international/en/publications/Campaign-reports/Forests-Reports/Cutting-Deforestation-Out-Of-Palm-Oil/>

Greenpeace (2016): 4 stories of Indigenous Peoples' struggle for climate justice.

<http://www.greenpeace.org/international/en/news/Blogs/makingwaves/4-stories-of-indigenous-peoples-struggle/blog/57235/>

Heinrich-Böll-Stiftung Southern Africa (2014): Gender and Climate Change: Botswana Case Study – Climate Change, February 3, 2014. <https://za.boell.org/2014/02/03/gender-and-climate-change-botswana-case-study-climate-change>

Heinrich-Böll-Stiftung (2017): Website “Climate Funds Update”. <http://www.climatefundsupdate.org>

High-level Panel of Experts on Food Security and Nutrition (2013): Biofuels and food security, HLPE Report No. 5.

Human Rights Council (2017): Resolutions.

<http://www.ohchr.org/EN/Issues/HRAndClimateChange/Pages/HRClimateChangeIndex.aspx>

Human Rights Council (2015): Mandate Holders on the Effects of Climate Change on the Full Enjoyment of Human Rights, April 30, 2015. <http://www.thecvf.org/wp-content/uploads/2015/05/humanrightsSRHRE.pdf>

Inuit Circumpolar (2005): Petition to the Inter American Commission on Human Rights Violations resulting from Global Warming caused by the United States, December 7, 2005.

[www.inuitcircumpolar.com/uploads/3/0/5/4/30542564/finalpetitionsummary.pdf](http://www.inuitcircumpolar.com/uploads/3/0/5/4/30542564/finalpetitionsummary.pdf)

Kossoy, A. et al. (2015): State and Trends of Carbon Pricing, World Bank.

Lemaitre, S. (2011): Indigenous Peoples' Land Rights and REDD: A Case Study, RECIEL, 20 (2).

Lendle, A.; Schaus, M. (2010): Sustainability Criteria in the EU Renewable Energy Directive – Consistent with WTO Rules, ICTSD information note No. 2, September 2010.

Mary Robinson Foundation for Climate Justice (2016): Incorporating Human Rights into Climate Action.

<http://www.mrfcj.org/wp-content/uploads/2016/05/Incorporating-Human-Rights-into-Climate-Action-Version-2-May-2016.pdf>

Millennium Project (2006): The 0.7% target: An in-depth look. <http://www.unmillenniumproject.org/press/07.htm>

Ministerio de Relaciones Exteriores y Culto – Costa Rica (2017): Geneva Pledge For Human Rights In Climate Action.

<http://www.rreee.go.cr/?sec=politica exterior&cat=medio ambiente y desarrollo sostenible&cont=974>

Office of the United Nations High Commissioner for Human Rights (2009): Report on the relationship between climate change and human rights, UN Doc. A/HRC/10/61, § 65-68.

Official Journal of the European Communities (2014): REGULATION (EU) No 233/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 March 2014 establishing a financing instrument for development cooperation for the period 2014-2020. [https://eeas.europa.eu/sites/eeas/files/regulation\\_eu\\_no\\_2332014\\_of\\_the\\_ep\\_and\\_the\\_council\\_establishing\\_a\\_financing\\_instrument\\_for\\_development\\_cooperation\\_2014-2020\\_0.pdf](https://eeas.europa.eu/sites/eeas/files/regulation_eu_no_2332014_of_the_ep_and_the_council_establishing_a_financing_instrument_for_development_cooperation_2014-2020_0.pdf)

Official Journal of the European Communities (2000): PARTNERSHIP AGREEMENT between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June.

[https://ec.europa.eu/europeaid/sites/devco/files/cotonou-agreement-2000\\_en.pdf](https://ec.europa.eu/europeaid/sites/devco/files/cotonou-agreement-2000_en.pdf)

Öko-Institute (2007): Is the CDM fulfilling its environmental and sustainable development objectives? An evaluation of the CDM and options for improvement, Report prepared for WWF.

<https://www.oeko.de/oekodoc/622/2007-162-en.pdf>

Rulli, M.C.; D'Odorico, P.(2014): Food appropriation through large scale land acquisitions, Environmental Research Letters 9 (6).

Schade, J.; Obergassel, W. (2014): Human Rights and the Clean Development Mechanism, Cambridge Review of International Affairs 27 (4). [http://epub.wupperinst.org/files/5732/5732\\_Schade.pdf](http://epub.wupperinst.org/files/5732/5732_Schade.pdf)

Schalatek, L.; Bird, N. (2016): The Principles and Criteria of Public Climate Finance – A Normative Framework, Heinrich-Böll-Stiftung & ODI. <https://www.odi.org/sites/odi.org.uk/files/resource-documents/11018.pdf>

Schalatek, L.; Nakhoda, S. (2016): Gender and Climate Finance, Heinrich Böll Stiftung.

<https://www.odi.org/sites/odi.org.uk/files/resource-documents/11046.pdf>

Schuster Institute for Investigative Journalism at Brandeis University (2014): Palm Oil Controversies, Human Rights abuses and controversies. <http://www.schusterinstituteinvestigations.org/palm-oil-controversies-forced-labor-child-labor>

Slovak Republic; European Commission (2016): On Behalf Of The European Union And Its Member States: Submission On The Mechanism Established By Article 6, §4 Of The Paris Agreement, Bratislava, 7 October 2016.

The Greens/European Free Alliance (2012): Don't get bio fooled.

<http://www.greens-efa.eu/en/article/news/dont-get-bio-fooled/>

UNDP (2013): Overview of Linkages between Gender and Climate Change, UNDP Policy Brief 1 on Gender and Climate Change in Asia and the Pacific.

UNFCCC (2017): CDM Project Cycle. <http://cdm.unfccc.int/Projects/diagram.html>

UNFCCC (2016): Report of the Conference of the Parties on its twenty-second session, held in Marrakech from 7 to 18 November 2016 – Addendum - Part two: Action taken by the Conference of the Parties at its twenty-second session. <http://unfccc.int/resource/docs/2016/cop22/eng/10a02.pdf>

UNFCCC (2015): The Paris Agreement. [http://unfccc.int/paris\\_agreement/items/9485.php](http://unfccc.int/paris_agreement/items/9485.php)

UN High Commissioner for Human Rights (2009): Report of the United Nations High Commissioner for Human Rights (A/HRC/10/61). <http://www.ohchr.org/Documents/Press/AnalyticalStudy.pdf>

UNFCCC (2010): The Cancun Agreements. [http://unfccc.int/meetings/cancun\\_nov\\_2010/items/6005.php](http://unfccc.int/meetings/cancun_nov_2010/items/6005.php)

UNFCCC(2010): UNFCCC COP Decision 1/CP.16, “The Cancun Agreements: Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention” UN Doc. FCCC/CP/2010/7/Add.1, § 7.

UN Special Rapporteur on the Issue of Human Rights Obligations relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment (John Knox)(2016): Annual Report to the Human Rights Council. [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/31/52](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/31/52)

UN Special Rapporteur on the Right to Food (Olivier De Schutter)(2009):Report to the Human Rights Council: Crisis into opportunity: reinforcing multilateralism, UN Doc. A/HRC/12/31.

UNCTAD (2016) : Huile de Palme, Un profil de produit de base par INFOCOMM. Fonds de la CNUCED pour l’information sur les marchés des produits de base agricoles. [http://unctad.org/fr/PublicationsLibrary/INFOCOMM\\_cp08\\_PalmOil\\_fr.pdf](http://unctad.org/fr/PublicationsLibrary/INFOCOMM_cp08_PalmOil_fr.pdf)

United Nations (2015): UN General Assembly Resolution 70/1: “Transforming our world: the 2030 Agenda for Sustainable Development” (2015), UN Doc. A/RES/70/1, § 20.

World Health Organisation (2014): Gender, Climate Change and Health. <http://www.who.int/globalchange/GenderClimateChangeHealthfinal.pdf>

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