



MASTER THESIS | MASTER'S THESIS

Titel | Title

Sustainable Commitments in Free Trade Agreement : Case
Study of EU – New Zealand

verfasst von | submitted by

Irina Bobina

angestrebter akademischer Grad | in partial fulfilment of the requirements for the degree of
Master of Laws (LL.M.)

Wien | Vienna, 2024

Studienkennzahl lt. Studienblatt | Degree
programme code as it appears on the
student record sheet:

UA 999 082

Universitätslehrgang lt. Studienblatt |
Postgraduate programme as it appears on
the student record sheet:

Europäisches und Internationales Wirtschaftsrecht
[Vollzeit Englisch]

Betreut von | Supervisor:

Dipl.-Jur. Dr. Maria Elisabeth Sturm LL.M.

Table of Contents

TABLE OF ABBREVIATIONS	III
INTRODUCTION THESIS.....	1
PRELIMINARY CHAPTER.....	4
CHAPTER 1: SUSTAINABILITY IN FREE TRADE AGREEMENTS.....	6
I. TRADE SUSTAINABLE DEVELOPMENT CHAPTER IN EU FREE TRADE AGREEMENTS	7
II. EUROPEAN COMMISSION'S SUSTAINABILITY IMPACT ASSESSMENTS	10
III. THE INTERNATIONAL INSTITUTE FOR SUSTAINABLE DEVELOPMENT	13
CHAPTER 2: ANALYSIS OF EU- NZ FREE TRADE AGREEMENT.....	19
I. POLITICAL AND ECONOMIC IMPLICATIONS.....	19
II. TRADE AND SUSTAINABLE DEVELOPMENT CHAPTER	22
CHAPTER 3 IMPACT OF THE FREE TRADE AGREEMENT	43
I. ECONOMIC IMPACT	44
II. SOCIAL IMPACT.....	44
III. GENDER IMPACT	46
IV. HUMAN RIGHTS IMPACT	49
V. ENVIRONEMENTAL IMPACT	51
VI. IMPACT ON LEAST DEVELOPED COUNTRIES	52
CONCLUSION.....	54
BIBLIOGRAPHY	57
ABSTRACT	60

Table of Abbreviations

DDA:	Doha Development Agenda
EFTA:	European Free Trade Association
EU :	European Union
FAO:	Food and Agriculture Organisation
FTA :	Free Trade Agreement
IEEP:	Institute for European Environmental Policy
IISD:	International Institute for Sustainable Development
ILO:	International Labour Organisation
IUU:	Illegal Unreported and Unregulated
NDC:	NATO Defence College
NGO:	Non-governmental Organization
NZ:	New Zealand
OECD:	Organisation for Economic Cooperation and Development
SDG:	Sustainable Development Goals
SIA:	Sustainability Impact Assessment
TEU:	Treaty of the European Union
TFEU:	Treaty on the Functioning of the European Union
TSD:	Trade and Sustainable Development
UN:	United Nations
UNFCCC:	United Nations Framework Convention on Climate Change
VSS:	Voluntary Sustainability Standards
WTO:	World Trade Organization

Introduction Thesis

“Trade and foreign politics have constantly been closely connected, with trade interests frequently being the focus of international policy¹”. This has been the case for centuries. “China employed force to preserve the Silk Road for trade purposes in the Han Dynasty (3rd century BC). “Rome took control of Egypt in 30 BC, mostly to improve its grain supplies²”. Based on its commercial interests, the British East India Company shaped British foreign policy towards South Asia in the eighteenth century³”. Throughout the years, nations were constantly seeking to create trade arrangements and commercial alliances with each other⁴.

Since the 20th century, significant advancements were made to promote free trades. With the Atlantic Charter, which Churchill and Roosevelt signed on August 14, 1941 that set out American and British goals for the world after the end of World War II, which fostered the creation of the General Agreement on Tariffs and Trade (“GATT”). The "Atlantic Charter" outlines the "common principles" that those nations "based their hopes for a better future for the world"⁵.

A few years later, at the Palais des Nations in Geneva, twenty-three countries signed the General Agreement on Tariffs and Trade (“GATT”) which included regulations intended to prevent restrictive trade policies from undermining the tariff concessions made during the initial round of international trade discussions⁶.

The GATT made possible to create the fastest growth rates in international trading and established regulations for a significant part of global trade for nearly 50 years, from 1948 to 1994⁷ when the World Trade Organisation (“WTO”) was created on the 1st of January 1995.

¹ Pironet Olivier, “Chronologie”, Le Monde Diplomatique, <https://www.monde-diplomatique.fr/mav/141/PIRONET/52990#partage> accessed 21 July 2024

² *Ibid*

³ *Ibid*

⁴ Wolff Alan WM, *Paradigm lost? US Trade Policy as an Instrument of Foreign Policy*, WTO News, February 5, 2018, https://www.wto.org/english/news_e/news18_e/ddgra_ogfeb18_e.htm, accessed 21 July 2024

⁵ Nottage Hunter, *Trade in War's Darkest Hour: Churchill and Roosevelt's daring 1941 Atlantic Meeting that linked global economic cooperation to lasting peace and security*, WTO History of Trade, https://www.wto.org/english/thewto_e/history_e/tradewardarkhour41_e.htm, accessed 21 July 2024

⁶ WTO NEWS, 1998 Press Releases, PRESS/88, 5 February 1998, https://www.wto.org/english/news_e/pres98_e/pr88_e.htm, accessed 21 July 2024

⁷ World Trade Organization, *The GATT Years: from Havana to Marrakesh* https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm, accessed 21 July 2024

A significant increase in cross-border commercial activity has been made possible by the WTO's "Binding rules for global trade in goods and services"⁸.

Currently, the WTO negotiation functions are undergoing an experimental phase that could result in new regulations directly related to the economy of the twenty-first century and modern sustainability issues⁹.

Research Objectives and Scope

The primary goal of this thesis is to focus on the future issues that governments will encounter in their commercial trades, particularly through free trade agreements.

The challenges we face in the 21st century are different from those of the 20th. Climate change, wars, notably the war in Ukraine, on the Europe's doorstep, and inflation are all variables that have a direct impact on our lives and, more importantly, international economic relations.

In this uncertain context, how can we build free trade agreements promoting equitable trade relations, for all contracting parties, while addressing the current climate challenges?

Following the Paris Agreement on December 12, 2015, all signatory states agreed to make commitments for combatting global warming.

Is it possible to produce more in a capitalist world while also addressing climate issues? Can we link trade agreements and environmental challenges?

This raises the question of how today's international economic relations can produce free trade agreements that are economically advantageous while adhering to the Paris Agreement and addressing present and future climate challenges.

What does a free trade deal connecting both the economic and environment aspect would look like? Is this possible? And how? What are the economic, environmental, social, and governmental implications of this free trade agreement?

The purpose of this thesis is to analyze the sustainability commitments in the Free Trade Arrangements between the European Union and New Zealand.

⁸Director-General Roberto Azevêdo, *The WTO's 25 years of achievement and challenges*, 1 January 2020 https://www.wto.org/english/news_e/news20_e/dgra_ojjan20_e.htm, accessed 21 July 2024

⁹*Ibid*

Background of the EU-New Zealand Free Trade Agreement

It is essential to understand the background, the negotiation process, and the timeline to properly understand this Free Trade Agreement (“FTA”).

“The EU-New Zealand negotiations have officially begun on May 22, 2018¹⁰”. “A “Sustainability Impact Assessment (“SIA”) Draft Final Report” carried out for the Commission was published on December 13, 2019¹¹”. “The SIA examines the potential economic, social, human rights, and environmental effects of the agreement¹²”.

“On 30 June 2022, Commission President Von der Leyen and New Zealand Prime Minister Ardern announced the conclusion of negotiations in Brussels¹³”. “The agreement would eliminate 100% of remaining New Zealand tariffs on EU exports of goods at entry into force, while 94% of EU tariff lines on New Zealand exports would be eliminated from entry into force¹⁴”.

It is important to note that “twelve rounds of negotiations were held between July 2018 and March 2022, with a political agreement declared on June 30, 2022¹⁵”. “In most scenarios, negotiations were done based on the EU's textual suggestions¹⁶”.

“The EU and New Zealand signed the FTA upon approval by the Council (the Commission sent it in February 2023)¹⁷”.

“Following the signature, the text was transmitted to the European Parliament¹⁸”. “Once the European Parliament has given its consent and once the agreement has been ratified by New Zealand, it can enter into force on 1st of May 2024¹⁹”.

“The agreement can come into effect after having received the approval from the European Parliament and ratification from New Zealand²⁰” have been received.

“On November 22, 2023, the text was accepted by Parliament²¹”.

End of November 27, 2023, the Council made a resolution regarding the FTA's

The FTA has entered into force on 1st of May 2024.

¹⁰ Delivorias Angelos, *Legislative Train 4 a stronger Europe in the World*, European Parliament, EU-New Zealand Free Trade Agreement, 20 March 2024, p 1

¹¹ *Ibid*, p 1

¹² *Ibid*, p 1

¹³ *Ibid*, p 1

¹⁴ *Ibid*, p 1

¹⁵ *Ibid*, p 2

¹⁶ *Ibid*, p 2

¹⁷ *Ibid*, p 2

¹⁸ *Ibid*, p 2

¹⁹ *Ibid*, p 2

²⁰ *Ibid*, p 2

²¹ *Ibid*, p 2

Preliminary Chapter

Definitions

In the present document, the following terms shall have the meaning as described below:

Sustainability - ‘meeting the needs of the present without compromising the ability of future generations to meet their own needs²²’. This was first defined in ‘1987, by the United Nations Brundtland Commission. Creating a free trade agreement to meet today’s needs (not compromising the well-being of our planet) while remaining viable for the years to come. Without a sustainable earth, the future quality of exported and imported goods will be compromised. To put it differently ‘Sustainability is about meeting the world’s **needs of today and tomorrow** by creating systems that allow us to live well and **within the limits of our planet**²³’.

Sustainable development - ‘*Sustainable development is a guiding principle found only in soft law instruments, particularly the Brundtland UN Commission Report and the 1993 Rio declaration. It's existence only within the context of soft law makes its legal status problematic, its implementation thus seems to depend on, or consist of, a number of other principles, such as the right to development, intergenerational equity, balancing of development needs with conservation of natural resources and others, many of which themselves are of dubious normative value*²⁴’.

On an international level, in 2015, all Member States of the United Nations unanimously adopted a collective strategy for peace and prosperity for both people and the planet²⁵. The core of the initiative consists of the 17 Sustainable Development Goals (“SDG”s), which serve as a pressing demand for action from all nations, both developed and developing, in a worldwide collaboration²⁶. On the European level, “*Sustainable development is the primary objective of the European Community’s Fifth Environmental Action Programme where it is defined as a policy and strategy for continued economic and social development without detriment to the environment and the natural resources on the quality of which continued activity and further*

²²United Nations, Academic Impact, <https://www.un.org/en/academic-impact/sustainability>, accessed 20 July 2024

²³ European Environment Agency, *Sustainability*, 24 June 2024 <https://www.eea.europa.eu/en/topics/at-a-glance/sustainability?activeTab=07e50b68-8bf2-4641-ba6b-edara1d544be>, accessed 20 July 2024

²⁴ Webb, Julian. *The Penguin Dictionary of Law*. London: Penguin Books, 2009. Print, Page 488

²⁵ United Nations, 'Sustainable Development Goals: History' (United Nations Sustainable Development, 2024) <https://sdgs.un.org/goals#history> accessed 21 June 2024.

²⁶ *Ibid*

development depend²⁷”. We will delve later into the integration of the SDGs within a free trade agreement, specifically focusing on the FTA between the European Union and New Zealand. Chapter 1 will provide a detailed analysis of how the SDGs are included into free trade agreements, while Chapter 2 will specifically examine the FTA between the EU and New Zealand. Including those measures in FTA is not only a legal obligation, but also shows the necessity of international collaboration to promote a healthy and sustainable way to do trade.

Commitment is defined as ‘*An agreement to do something in the future, esp. to assume a financial obligation <the shipper made a firm commitment to deliver the goods>²⁸*’. In this instance, the EU and New Zealand have reached a mutual agreement to undertake shared responsibilities as outlined in the FTA, with the aim of establishing a prosperous collaboration in the future, particularly with regards to sustainability matters.

Free trade can be defined as “*The open and unrestricted import and export of goods without barriers, such as quotas or tariffs, other than those charged only as a revenue source, as opposed to those designed to protect domestic businesses²⁹*”. “The free trade agreement between the EU and New Zealand is expected to lead to a 30% increase in commerce in this case³⁰”. Merely removing tariffs would result in an annual savings of €140 million for companies in duties³¹. “Moreover, there is a potential for EU investment in New Zealand to increase by almost 80%³²”. We will address this topic in greater detail in Chapter 3, where we will examine the probable consequences of the Free Trade Agreement based on the Sustainability Impact Assessment (refer to chapter 1).

Agreement - “*A mutual understanding between two or more persons about their relative rights and duties regarding past or future performances; a manifestation of mutual assent by two or more persons. The parties’ actual bargain as found in their language or by implication from*

²⁷ Woodley, M.G, and Percy George Osborn. *Osborn’s Concise Law Dictionary*. 11th ed. edited by Mick Woodley. London: Sweet & Maxwell, 2009. Print. Page 402

²⁸ Garner, Bryan A, and Henry Campbell Black. *Black’s Law Dictionary*. Abridged 8th ed. St. Paul MN: Thomson West, 2005. Print. Page 227

²⁹ *Ibid*, p 553

³⁰ European Commission, 'EU-New Zealand Agreement' (EU Trade, 2024) https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/new-zealand/eu-new-zealand-agreement_en accessed 21 June 2024.

³¹ *Ibid*

³² *Ibid*

*other circumstances, including course of dealing, usage of trade, and course of performance*³³”.

Chapter 1: Sustainability in Free Trade Agreements

Overview

Over three decades after the establishment of the WTO, significant global environmental concerns of an unparalleled scale have become more severe, with climate change, biodiversity losses, and pollution being the most concerning³⁴. The international community has undertaken an exceptional endeavour to address these issues, primarily by endorsing the UN SDGs, the Paris Agreement and the Kunming-Montreal Global Biodiversity Framework³⁵.

Increasing evidence indicates that worldwide efforts to protect the environment have substantial trade repercussions that necessitate global trade coordination³⁶. This can be observed in the initiatives undertaken by the EU and other organisations to promote access to sustainable development commitments in free trade agreements.

Therefore, this chapter primarily focuses on the role of the EU and other Non-Government Organizations (“NGO”), organizations in implementing sustainable development goals within free trade agreements. Firstly, we will examine how the European Union incorporates sustainable goals into its free trade agreements. Next, we will focus on the Sustainable Impact Assessments (“SIA”s), including its purpose and function in free trade agreements. And finally, we will look into the International Institute for Sustainable Development and its significance in free trade agreements.

³³ Garner, Bryan A, and Henry Campbell Black. *Black’s Law Dictionary*. Abridged 8th ed. St. Paul MN: Thomson West, 2005. Print. Page 58

³⁴ Paugam Jean-Marie, *Trade, Sustainability and climate : What is at stake 30 years after WTO’s creation?*, WTO Blog, 5 march 2024 https://www.wto.org/english/blogs_e/ddg_jean_marie_paugam_e/blog_jp_28feb24_e.htm accessed 12 June 2024

³⁵ *Ibid*

³⁶ *Ibid*

I. Trade Sustainable Development Chapter in EU Free Trade Agreements

“Since the signing of the free trade agreement (“FTA”) with South Korea in 2009, European Union trade agreements have incorporated a Trade and Sustainable Development (“TSD”) chapter³⁷”. This chapter encompasses provisions related to the protection of the environment, labour rights, and climate change³⁸. “As a result, the European Union's trade policy has prioritised enhancing the implementation of sustainability clauses, including the Trade and Sustainable Development (“TSD”) chapters of its trade agreements³⁹”.

The European Commission released a new policy on June 22, 2022, with the objective of strengthening the impact of EU trade agreements in safeguarding global climate, environment, and labour rights⁴⁰. The indicated strategy can be found in the Commission's Communication titled “The power of trade partnerships: together for green and just economic growth⁴¹”. This document provides detailed ideas for improving the implementation and enforcement of the TSD chapters in EU trade agreements⁴². Each trade agreement inside the European Union incorporates provisions on trade and sustainable development, covering a wide array of commitments that have been mutually agreed upon⁴³.

The Communication outlines six policy priorities and provides specific initiatives to enhance the existing engagement-based approach to TSD⁴⁴:

1. Enhancing proactive collaboration with partners⁴⁵,
2. Improving the methodology tailored to each country⁴⁶,

³⁷ Marc Jütten, 'Trade and sustainable development in EU free trade agreements' [November 2023] Members' Research Service (PE 754613) European Parliamentary Research Service, Page 1

³⁸ *Ibid*, p 1

³⁹ *Ibid*, p 1

⁴⁰ European Commission, 'Commission unveils new approach to trade agreements to promote green and just growth', 22 June 2022, https://ec.europa.eu/commission/presscorner/detail/en/ip_22_3921 accessed 12 June 2024

⁴¹ *Ibid*

⁴² *Ibid*

⁴³ *Ibid*

⁴⁴ *Ibid*

⁴⁵ European Commission, Directorate-General for Trade, 'The power of trade partnerships: together for green and just economic growth', <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52022DCo409>, 22/06/2022, page 4, accessed 12 June 2024

⁴⁶ *Ibid*, p 4

3. Expanding the integration of sustainability measures beyond the TSD chapter of trade agreements⁴⁷,
4. Enhancing the surveillance of TSD obligations⁴⁸,
5. Strengthening the position of civil society, a practice endorsed by the European Parliament⁴⁹,
6. Strengthening the implementation of trade sanctions as a final measure, particularly for major breaches of the Paris Climate Agreement and fundamental labour norms of the International Labour Organisation⁵⁰.

“The inaugural EU-New Zealand Free Trade agreement, effective May 1, 2024, is the first FTS considering new methods in creation of the TSD chapter⁵¹”.

The Lisbon Treaty is another crucial element of the EU's sustainable obligations in its free trade agreements⁵². “Commencing in December 2009, this treaty highlighted the EU's dedication achieving sustainable economic, social, and environmental advancement as separate objectives in both internal and foreign policies⁵³”. “According to Article 207(1) of the Treaty on the Functioning of the European Union (“TFEU”), the common commercial strategy must be in line with the values and objectives of the Union's external actions⁵⁴”.

“Article 21 of the Treaty on European Union (“TEU”) provides a more comprehensive explanation of these principles⁵⁵”. It mandates the European Union (“EU”) to establish foreign policies that advance sustainable development, protect human rights, and preserve the environment⁵⁶. “EU states mandates that all pertinent EU actions, including trade policy, actively promote sustainable development⁵⁷”.

⁴⁷ European Commission, Directorate-General for Trade, ‘The power of trade partnerships: together for green and just economic growth’, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52022DCo409>, 22/06/2022, page 4, accessed 12 June 2024

⁴⁸ *Ibid*, p 4

⁴⁹ Marc Jütten, 'Trade and sustainable development in EU free trade agreements' [November 2023] Members' Research Service (PE 754613) European Parliamentary Research Service, Page 3

⁵⁰ *Ibid*, p 1

⁵¹ *Ibid*, p 1

⁵² *Ibid*, p 2

⁵³ *Ibid*, p 2

⁵⁴ *Ibid*, p 2

⁵⁵ *Ibid*, p 2

⁵⁶ *Ibid*, p 2

⁵⁷ *Ibid*, p 2

“The Commission's Better Regulation agenda seeks to guarantee that all legislative proposals are in line with the UN 2030 sustainable development objective⁵⁸”. “Sustainable development, as defined within EU trade agreements, consists on three main pillars: economic development, social improvement, and environmental preservation⁵⁹”.

“By incorporating TSD chapters into a trade agreement, trading partners demonstrate a resolute dedication in promoting sustainable development⁶⁰”. “These chapters encompass legally binding provisions and delineate fundamental principles and obligations pertaining to labour rights, environmental conservation, climate change, and social equity⁶¹”. “Usually, parties consent to uphold or endorse important International Labour Organisation (“ILO”) standards and Multilateral Environmental Agreements, that each party has officially accepted, such as the Paris Agreement on Climate Change and the Convention on Biological Diversity⁶²”.

In the EU-New Zealand Free Trade Agreement, New Zealand was required to implement and endorse specific ILO standards in order for the agreement to take effect. “The 2019 EU-Japan Economic Partnership Agreement was the inaugural agreement to incorporate commitments for the implementation of both the UN Framework Convention on Climate Change and the Paris Agreement⁶³”.

“At present, the European Union has 42 active preferential trade agreements with 74 nations that collaborates with⁶⁴”. Two noteworthy instances are the EU-South Korea Free Trade Agreement, which became effective in 2011⁶⁵, and the EU-New Zealand deal, which entered into force on May 1, 2024.

⁵⁸ Marc Jütten, 'Trade and sustainable development in EU free trade agreements' [November 2023] Members' Research Service (PE 754613)European Parliamentary Research Service, Page 2

⁵⁹ *Ibid*, p 2

⁶⁰ *Ibid*, p 3

⁶¹ *Ibid*, p 3

⁶² *Ibid*, p 3

⁶³ *Ibid*, p 3

⁶⁴ *Ibid*, p 3

⁶⁵ *Ibid*, p 3

II. European Commission's Sustainability Impact Assessments

The Sustainability Impact Assessment (“SIA”) is an essential component of the negotiation process for Free Trade Agreements (“FTA”s)⁶⁶. Created in 1999 by the European Commission's Directorate-General for Trade (“DG Trade”) for the World Trade Organization's Doha Development Agenda discussions⁶⁷, SIA’s main function is to help the Commission meet its obligation⁶⁸ by offering a thorough examination of the possible economic, social and environmental consequences that may arise from the trade agreement⁶⁹.

SIAs also allow for an analysis of the trade agreement's impact on developing countries, in line with EU treaties on policy coherence for development⁷⁰. Since 2012, each SIA has also included a human rights appraisal of the trade agreement under negotiation⁷¹. In accordance with Article 21 of the Treaty on European Union and the EU Strategic Framework and Action Plan on Human Rights and Democracy, the EU promotes and protects all human rights, civil, political, economic, social, and cultural⁷².

SIA is performing independent assessments by outside consultants during significant trade negotiations⁷³. They contribute to and direct the discussions, evaluating the expected changes brought about by the trade agreement, assisting in the identification of potential trade-offs, and making sure that the pertinent policy decisions are made in the most efficient manner⁷⁴.

SIAs are made up of two equally significant and complimentary parts: (i) a thorough evaluation of the trade agreement's possible effects on the EU and the partner country or countries (in our case New Zealand), and other pertinent nations in the areas of the economy, society,

⁶⁶ European Commission, Transparency Policy in DG TRADE, 6 September 2022, page 3 [file: https://Users/irina/Downloads/Transparency%20Policy%20in%20DG%20TRADE.pdf](https://Users/irina/Downloads/Transparency%20Policy%20in%20DG%20TRADE.pdf) accessed 12 June 2024

⁶⁷ European Commission, Directorate-General for Trade, Handbook for trade sustainability impact assessment, Publications Office, 2016, page 5 <https://data.europa.eu/doi/10.2781/872987>, accessed 12 June 2024

⁶⁸ *Ibid*, p 5

⁶⁹ European Commission, Transparency Policy in DG TRADE, 6 September 2022, page 3 [file: https://Users/irina/Downloads/Transparency%20Policy%20in%20DG%20TRADE.pdf](https://Users/irina/Downloads/Transparency%20Policy%20in%20DG%20TRADE.pdf), accessed 12 June 2024

⁷⁰ European Commission, Directorate-General for Trade, Handbook for trade sustainability impact assessment, Publications Office, 2016, page 5 <https://data.europa.eu/doi/10.2781/872987>, accessed 12 June 2024

⁷¹ *Ibid*, p 5

⁷² *Ibid*, p 5

⁷³ *Ibid* p 5

⁷⁴ *Ibid*, p 5

human rights, and the environment⁷⁵; (ii) an extensive and ongoing consultation procedure that guarantees a high level of transparency and the participation of all pertinent parties in the management of the SIA both inside and outside the EU⁷⁶.

To guarantee that the analysis can helpfully flow into the negotiating process at a useful time, SIAs are started shortly after the Council of the European Union which formally authorises the Commission to begin trade negotiations; generally, no later than six months after the start of negotiations⁷⁷.

Typically, the SIA process consists of three phases that culminate in the release of draft reports for consultation by the consultants⁷⁸ as follows:

- (1) The Inception phase⁷⁹ lays the groundwork for the SIA⁸⁰ by outlining the suggested approach for examining the economic, social, human rights, and environmental effects of the potential trade deal⁸¹.

The document comprises a preliminary consultation strategy and a roster of essential stakeholders. Initial screening detects substantial effects and chooses areas for in-depth investigation⁸². The preliminary report is released to the public for feedback and deliberated upon with relevant parties⁸³. Their feedback is integrated into the ultimate report, which is published on the SIA and DG Trade websites⁸⁴. During this phase, stakeholders are given the opportunity to provide feedback on the proposed methodology for the SIA⁸⁵.

- (2) The Interim phase⁸⁶ applies the methods outlined in the inception report and provides initial findings on the effects of the trade negotiation⁸⁷. Consultants interact with

⁷⁵ European Commission, Directorate-General for Trade, *Handbook for trade sustainability impact assessment*, Publications Office, 2016, page 5 <https://data.europa.eu/doi/10.2781/872987>, accessed 12 June 2024

⁷⁶ *Ibid*, p 6

⁷⁷ *Ibid*, p 11

⁷⁸ *Ibid*, p 11

⁷⁹ *Ibid*, p 11

⁸⁰ *Ibid*, p 11

⁸¹ *Ibid*, p 12

⁸² *Ibid*, p 12

⁸³ *Ibid*, p 12

⁸⁴ *Ibid*, p 12

⁸⁵ *Ibid*, p 12

⁸⁶ *Ibid*, p 12

⁸⁷ *Ibid*, p 12

stakeholders via different communication methods⁸⁸. The preliminary interim report is published for review, deliberated with relevant parties, and ultimately revised according to input received⁸⁹. The ultimate report is released on the SIA and DG Trade websites⁹⁰.

- (3) The final report enhances prior studies and generates a concise, comprehensible ultimate report that encapsulates discoveries, methods, and input from relevant parties⁹¹. The document provides suggestions for optimising the advantages and reducing the adverse effects of the agreement, while also examining their practicality, expenses, and consequences⁹². The final report issued by SIA for the EU and New Zealand FTA will be further analysed in Chapter III.

Discussions are held with stakeholders and the Commission services to share findings and provide input for negotiations⁹³. The preliminary version of the final report is made available for feedback, thereafter revised and officially published⁹⁴. Subsequently, the Commission releases a position paper detailing the impact of SIA findings on decision-making, which finalize the SIA process⁹⁵.

⁸⁸ European Commission, Directorate-General for Trade, *Handbook for trade sustainability impact assessment*, Publications Office, 2016, page 12 <https://data.europa.eu/doi/10.2781/872987>, accessed 12 June 2024

⁸⁹ *Ibid*, p 12

⁹⁰ *Ibid*, p 12

⁹¹ *Ibid*, p 13

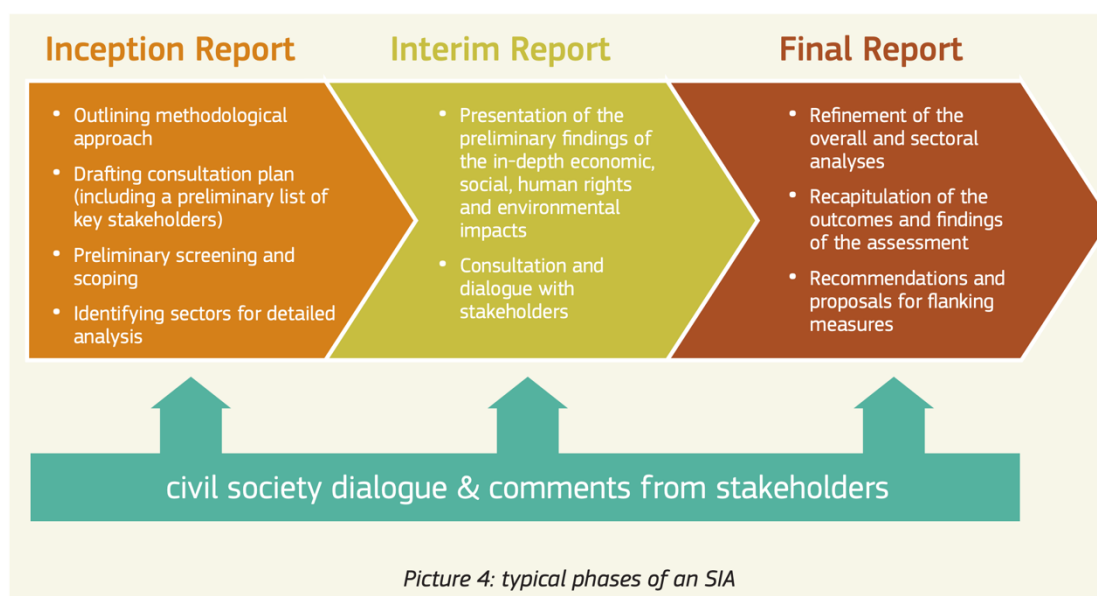
⁹² *Ibid*, p 13

⁹³ *Ibid*, p 13

⁹⁴ *Ibid*, p 13

⁹⁵ *Ibid*, p 13

The picture 4 below summarizes of the SIA phases prior to the release of a report.⁹⁶



Understanding the SIA report process allows us to reflect on its impact during the negotiation phase. It prioritises sustainability factors and makes them the primary focus of talks. It advocates a comprehensive strategy to trade negotiations in which economic goals are balanced with social and environmental concerns.

The SIA findings may result in changes to the agreement's text to address sustainability concerns and support ethical trade practices.

III. The International Institute for Sustainable Development

Given that free trade agreements are international contracts, it is crucial to consider the mechanisms employed by other international institutions to integrate and promote regulations for sustainable development inside these agreements. Therefore, this thesis includes an analysis of the International Institute for Sustainable Development (“IISD”).

The IISD is a non-profit organisation that was founded in 1990 and is dedicated to providing practical solutions to the challenge of reconciling environmental and social priorities with economic development⁹⁷.

⁹⁶ European Commission, Directorate-General for Trade, *Handbook for trade sustainability impact assessment*, Publications Office, 2016, page 13 <https://data.europa.eu/doi/10.2781/872987>, accessed 12 June 2024

⁹⁷ European Commission, ‘IISD - International Institute for Sustainable Development’ (Knowledge for Policy, 2024) https://knowledge4policy.ec.europa.eu/organisation/iisd-international-institute-sustainable-development_en accessed 12 June 2024

The aim of the International Institute for Sustainable Development is to advance human development and environmental sustainability via the implementation of innovative research, communication, and cooperation strategies⁹⁸. In addition to doing comprehensive research and reporting on international negotiations, the organisation also engages citizens, corporations, and policymakers in the common aim of development in a sustainable manner⁹⁹.

The choice to mention this organisation in this thesis was made because the IISD recently¹⁰⁰ published a study on the implementation of voluntary sustainability standards (“VSS”s)¹⁰¹. The purpose is to better understand the meaning and importance of VSSs and their involvement in free trade agreements. Additionally, we intend to examine the progression of VSSs implementation in free trade agreements over time.

“Inclusion of Voluntary Standards in Trade Agreement”¹⁰²

“The United Nations Forum on Sustainability Standards defines VSS as “*Standards specifying requirements that producers, traders, manufacturers, retailers or service providers may be asked to meet, relating to a wide range of sustainability metrics, including respect for basic human rights, worker health and safety, the environmental impacts of production, community relations, land use planning and others*”¹⁰³”.

“VSSs, or Voluntary Sustainability Standards, are mechanisms created to assist producers and other economic participants in attaining sustainable development results¹⁰⁴”. These systems consist of various elements, including sustainability requirements, processes to assure compliance with these requirements, and capacity building and supporting services, such as training and effect monitoring¹⁰⁵. VSSs are market-based mechanisms that establish a set of social, economic, and/or environmental criteria that economic actors can choose to adhere to

⁹⁸ European Commission, ‘IISD - International Institute for Sustainable Development’ (Knowledge for Policy, 2024) <https://knowledge4policy.ec.europa.eu/organisation/iisd-international-institute-sustainable-development-en> accessed 12 June 2024

⁹⁹ *Ibid*

¹⁰⁰ 23 April of 2024

¹⁰¹ Steffany Bermúdez, Florencia Sarmiento, *Will the Inclusion of Voluntary Standards in Trade Agreements Lead to More Sustainable Trade?*, 23 April 2024, <https://www.iisd.org/system/files/2024-04/ssi-voluntary-standards-agreements-sustainable-trade.pdf>, page 1, accessed 12 June 2024

¹⁰² United Nations on Trade and Development, *Voluntary Sustainability Standards in International Trade* (2022) <https://unctad.org/publication/voluntary-sustainability-standards-international-trade>, accessed 12 June 2024

¹⁰³ *Ibid*

¹⁰⁴ Steffany Bermúdez, Florencia Sarmiento, *Will the Inclusion of Voluntary Standards in Trade Agreements Lead to More Sustainable Trade?*, 23 April 2024, <https://www.iisd.org/system/files/2024-04/ssi-voluntary-standards-agreements-sustainable-trade.pdf>, page 1, accessed 12 June 2024

¹⁰⁵ *Ibid*, p 1

in order to enhance the sustainability of their production and processing methods¹⁰⁶.

These standards encompass the principles of upholding fundamental human rights, ensuring the well-being and safety of workers, and safeguarding natural resources and the environment, among other factors¹⁰⁷.

VSS-compliant items receive formal acknowledgment in the marketplace as a result of meeting these requirements¹⁰⁸. In the last ten years, governments in both nations that produce and consume goods have started using VSSs as part of their trade policies¹⁰⁹. Governments have incorporated VSSs into trade policy by including them in FTAs to promote sustainability objectives¹¹⁰, such as TSD's Chapters in FTAs between the EU and other countries.

Evolution of Voluntary Sustainable Standards in Free Trade Agreements

Based on the analysis conducted by the International Institute for Sustainable Development ("IISD"), there has been a significant increase in the number of VSSs in FTAs during the previous 5 years¹¹¹.

Prior to 2018, there existed a total of 17 FTAs that made reference to VSSs¹¹². In 2023, 29 out of the 61 new agreements analysed, which were executed between 2018 and 2023, made reference to VSSs in some manner¹¹³. In 2018, there was a significant increase, reaching its highest point, with 60% of the examined treaties containing a mention of VSSs during that year. Refer to Figure 2¹¹⁴.

¹⁰⁶ Steffany Bermúdez, Florencia Sarmiento, *Will the Inclusion of Voluntary Standards in Trade Agreements Lead to More Sustainable Trade?*, 23 April 2024, <https://www.iisd.org/system/files/2024-04/ssi-voluntary-standards-agreements-sustainable-trade.pdf>, page 1, accessed 12 June 2024

¹⁰⁷ *Ibid*, p 1

¹⁰⁸ *Ibid*, p 1

¹⁰⁹ *Ibid*, p 2

¹¹⁰ *Ibid*, p 2

¹¹¹ *Ibid*, p 2

¹¹² *Ibid*, p 2

¹¹³ *Ibid*, p 2

¹¹⁴ *Ibid*, p 2

The notable rise in references to VSSs can be attributed to the increased presence of chapters dedicated to the environment or trade and sustainable development (“TSD”) in FTAs, together with the broader inclusion of environmental and social requirements¹¹⁵.

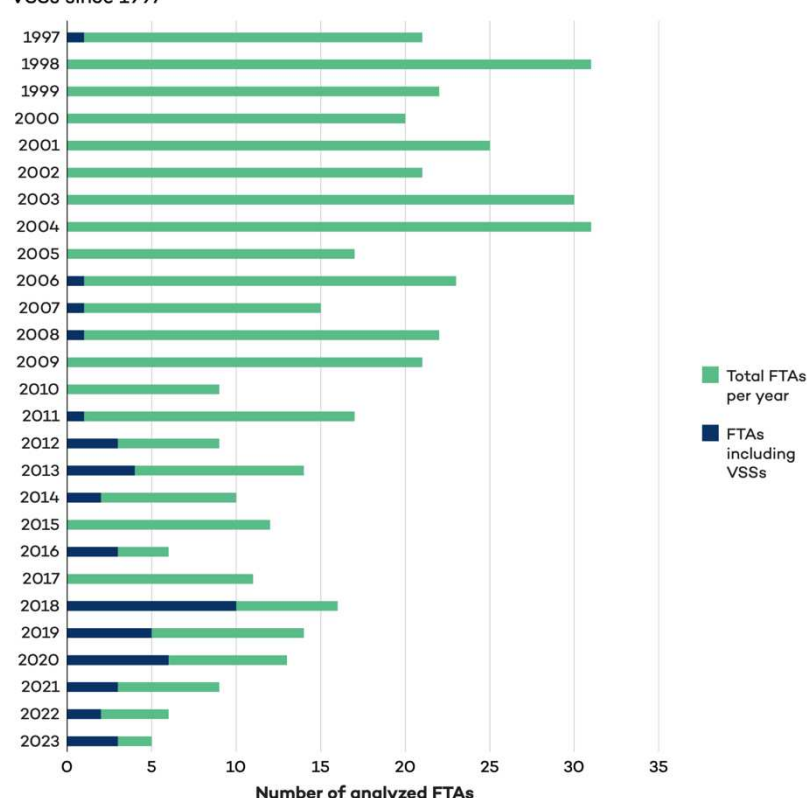
It is worth mentioning that a significant number of the treaties that include, acknowledge, or employ VSSs are the ones signed by the EU and European Free Trade Association (“EFTA”) countries¹¹⁶.

As a matter of fact, the European Union is the greatest trading bloc, representing 14% of global goods trade and offering access to the largest export market for 80 countries¹¹⁷. In response to WTO challenges during the early 2000s, the EU has pursued bilateral trade relations and negotiated FTAs with key partners¹¹⁸, including New Zealand effective 1st of May 2024.

The EU has increased bilateral and regional trade agreements over the previous 20 years, governing 37.6% of external trade through 37 main preferential agreements with 67 countries in 2020¹¹⁹.

The EU is a leading negotiator of trade agreements, making EU FTAs influence worldwide trade patterns, norms, and standards¹²⁰.

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



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

¹¹⁵ Steffany Bermúdez, Florencia Sarmiento, *Will the Inclusion of Voluntary Standards in Trade Agreements Lead to More Sustainable Trade?*, 23 April 2024, <https://www.iisd.org/system/files/2024-04/ssi-voluntary-standards-agreements-sustainable-trade.pdf>, page 2, accessed 12 June 2024

¹¹⁶ *Ibid.*, p 2

¹¹⁷ E. Blot, A. Oger and J. Harrison (2022), *Enhancing sustainability in EU Free Trade Agreements; The case for a holistic approach*, Policy report, Institute for European Environmental Policy (IEEP), page 5

¹¹⁸ *Ibid.*, p 5

¹¹⁹ *Ibid.*, p 5

¹²⁰ *Ibid.*, p 5

The International Institute for Sustainable Development outlines five primary justifications for integrating VSSs into FTAs: collaboration, advocacy, acknowledgement, directives, and assistance¹²¹.

(1) **Cooperation:** Parties can engage in cooperative efforts regarding VSSs by exchanging information or incorporating them into collaborative spaces¹²². As an illustration, the 2020 UK-Japan CEPA (Article 16.12) permits collaboration on eco-labeling programmes and ethical trading initiatives¹²³.

(2) **Promotion:** Parties can facilitate the trade of environmentally-friendly goods. Article 19.11 of the 2023 EU-New Zealand Free Trade Agreement obligates both parties to promote trade in items that comply with transparent and accurate sustainability programmes¹²⁴.

(3) **Recognition:** Parties may acknowledge the vital contribution of VSSs in the preservation of the environment. Article 12.10 of the 2021 Chile-Paraguay Free Trade Agreement acknowledges the importance of voluntary measures such as national audits and market-based incentives as supplementary to national legislation¹²⁵.

(4) **Guidelines:** Promotes the establishment of dependable voluntary procedures by private sectors. The 2020 Chile-Ecuador Economic Complementarity Agreement (Article 17.9) supports the implementation of measures that adhere to international norms¹²⁶.

(5) **Support:** VSSs can assist in the implementation of FTAs.

The incorporation of Voluntary Sustainability Standards into Free Trade Agreements has risen in recent years¹²⁷. This tendency seeks to effectively tackle environmental and social challenges in trade policy¹²⁸.

By integrating VSS, governments acknowledge the capacity of VSS to encourage responsible trading behaviour¹²⁹.

VSS organisations facilitate the collaboration of many stakeholders, such as civil society, enterprises, and occasionally public actors, to promote sustainable development through

¹²¹ Steffany Bermúdez, Florencia Sarmiento, *Will the Inclusion of Voluntary Standards in Trade Agreements Lead to More Sustainable Trade?*, 23 April 2024, <https://www.iisd.org/system/files/2024-04/ssi-voluntary-standards-agreements-sustainable-trade.pdf>, page 3, accessed 18 June 2024

¹²² *Ibid*, p 4

¹²³ *Ibid*, p 4

¹²⁴ *Ibid*, p 4

¹²⁵ *Ibid*, p 4

¹²⁶ *Ibid*, p 4

¹²⁷ *Ibid*, p 7

¹²⁸ *Ibid*, p 7

¹²⁹ *Ibid*, p 7

trade¹³⁰. Their role is to aid producers in implementing sustainable methods and provide both technical and financial assistance to farmers and small enterprises in developing nations¹³¹. Nevertheless, the extent of the influence of VSS in FTAs remains incompletely comprehended, necessitating additional substantiation and investigation¹³². This trend indicates the possibility of policymakers and VSS organisations working together to effectively incorporate these standards into trade policy and tackle sustainability issues in important industries such as cocoa, palm oil, lumber, and soybeans. Incorporating Voluntary Sustainability Standards in Free Trade Agreements provides opportunity to boost comprehension, enhance benchmarks, and tackle crucial sustainability concerns¹³³.

¹³⁰ Steffany Bermúdez, Florencia Sarmiento, *Will the Inclusion of Voluntary Standards in Trade Agreements Lead to More Sustainable Trade?*, 23 April 2024, <https://www.iisd.org/system/files/2024-04/ssi-voluntary-standards-agreements-sustainable-trade.pdf>, page 7, accessed 18 June 2024

¹³¹ Steffany Bermúdez, Florencia Sarmiento, *Will the Inclusion of Voluntary Standards in Trade Agreements Lead to More Sustainable Trade?*, 23 April 2024, <https://www.iisd.org/system/files/2024-04/ssi-voluntary-standards-agreements-sustainable-trade.pdf>, page 7, accessed 18 June 2024

¹³² Steffany Bermúdez, Florencia Sarmiento, *Will the Inclusion of Voluntary Standards in Trade Agreements Lead to More Sustainable Trade?*, 23 April 2024, <https://www.iisd.org/system/files/2024-04/ssi-voluntary-standards-agreements-sustainable-trade.pdf>, page 7, accessed 18 June 2024

¹³³ Steffany Bermúdez, Florencia Sarmiento, *Will the Inclusion of Voluntary Standards in Trade Agreements Lead to More Sustainable Trade?*, 23 April 2024, <https://www.iisd.org/system/files/2024-04/ssi-voluntary-standards-agreements-sustainable-trade.pdf>, page 7, accessed 18 June 2024

Chapter 2: Analysis of EU- NZ Free Trade Agreement

Overview

This chapter describes the way sustainability is incorporated in the free trade agreement (“FTA”) between European Union (“EU”) and New Zealand.

The following topics will be further discussed, as follows:

- (i) Analysis of the economic and political motivations that lie behind this trade,
- (ii) Analysis of the FTA taking into consideration the parties' pledges to sustainable development.

EU – Enhancing the Sustainability of Trade Agreements

EU trade policy has recently prioritised the issue of enhancing the sustainability of trade agreements, with a specific focus on the Trade and Sustainable Development (“TSD”) chapters¹³⁴. The purpose of this is to establish fairness amongst trading partners and to meet the commitments outlined in the EU treaties, which include the promotion and protection of human rights and sustainable development in third countries¹³⁵. The focal points of the discussion have been the concepts of 'implementation' and 'enforceability'¹³⁶.

I. Political and Economic Implications

In order to gain a greater overview of the free trade agreement that has been established between the European Union and New Zealand, it is essential to have a thorough understanding of the economic and political intentions of the parties involved. The formal initiation of negotiations between the European Union (EU) and New Zealand took place in June 2018¹³⁷. The swift approval of the New Zealand Free Trade Agreement by the European Parliament holds great symbolic importance¹³⁸. This is especially notable considering that a similar agreement

¹³⁴ Marc Jütten, 'Trade and sustainable development in EU free trade agreements' [November 2023] Members' Research Service (PE 754613) European Parliamentary Research Service, Page 2

¹³⁵ *Ibid*, p 2

¹³⁶ *Ibid*, p 2

¹³⁷ Kelly Serena, Doidge Mathew, *Beyond trade: The European Union – New Zealand Free Trade Agreement*, Australian and New Zealand Journal of European Studies, 11 May 2023, Vol. 15 No.1 (2023), p 25. <https://doi.org/10.30722/anzjes.vol15.iss1.17363> accessed 17 July 2024

¹³⁸ *Ibid*, p 25

was rejected just ten years ago¹³⁹. The approval comes at a time when there is a perceived threat to international rules, norms, and the global trading system¹⁴⁰. Additionally, the European Union has been somewhat weakened by the prospect of disintegration due to Brexit¹⁴¹.

Also, there were further clear challenges to the EU's ability to use the unity of its 27 Member States and maintain its strength as a trade power¹⁴². In June 2019, after lengthy negotiations that began in 1999, the European Union (EU) and MERCOSUR achieved a preliminary agreement to establish what could potentially become the largest free trade zone globally¹⁴³. Although first praised as a success, it soon became evident that EU negotiators had not succeeded in persuading the Member States to support their position, despite the difficult process of reaching an agreement¹⁴⁴. Concerns persisted, particularly over the deficiency of the free trade framework in terms of environmental safeguard¹⁴⁵. In March 2021, Austria rejected the MERCOSUR FTA based on this rationale¹⁴⁶. "Despite its limited economic significance for the EU, the EU-New Zealand free trade agreement has broader significance for the European Union¹⁴⁷". "It proved that it could continue to pursue its international trade objectives, notwithstanding the turmoil caused by Brexit¹⁴⁸". "It demonstrated that the Union would not resort to the limited economic nationalism exemplified by the Trump administration, and to a lesser degree, the United Kingdom¹⁴⁹". "This further reinforced the European Union's enduring dedication to liberal internationalism and a global order based on established standards¹⁵⁰". From the European standpoint, the symbolic significance of the agreement far surpassed the minor economic benefits¹⁵¹. It was praised as a "positive and necessary revival of an ambitious EU trade agenda" by Business Europe in 2022¹⁵².

¹³⁹ Kelly Serena, Doidge Mathew, *Beyond trade: The European Union – New Zealand Free Trade Agreement*, Australian and New Zealand Journal of European Studies, 11 May 2023, Vol. 15 No.1 (2023), p 25. <https://doi.org/10.30722/anzjes.vol15.iss1.17363> accessed 17 July 2024

¹⁴⁰ *Ibid*, p 25

¹⁴¹ *Ibid*, p 25

¹⁴² *Ibid*, p 25

¹⁴³ *Ibid*, p 25

¹⁴⁴ *Ibid*, p 25

¹⁴⁵ *Ibid*, p 25

¹⁴⁶ *Ibid*, p 25

¹⁴⁷ *Ibid*, p 25

¹⁴⁸ *Ibid*, p 25

¹⁴⁹ *Ibid*, p 25

¹⁵⁰ *Ibid*, p 25

¹⁵¹ Kelly Serena, Doidge Mathew, *Beyond trade: The European Union – New Zealand Free Trade Agreement*, Australian and New Zealand Journal of European Studies, 11 May 2023, Vol. 15 No.1 (2023), p 25. <https://doi.org/10.30722/anzjes.vol15.iss1.17363> accessed 17 July 2024

¹⁵² *Ibid*, p 26

“Indo – Pacific Strategy 2021”

“Although there are several reasons for the EU's pursuit of a Free Trade Agreement (FTA), its Indo-Pacific Strategy serves as a valuable framework for understanding its political objectives¹⁵³”. This strategy clearly articulates the EU's aspirations and intents to increase its involvement in the Indo-Pacific area¹⁵⁴. “The Strategy explicitly refers to New Zealand multiple times, designating it as an Indo-Pacific ally of the EU and as a collaborator in research (see to European Commission 2021a p.17 for specific details)¹⁵⁵”. “EU and New Zealand officials frequently emphasise the similarity of the two entities, acknowledging common ideals such as democracy, human rights, and the rule of law¹⁵⁶”. “EU collaboration with like inclined nations in the Pacific is a crucial element in its endeavour to gain acknowledgement and credibility in a region that is growing in geopolitical significance¹⁵⁷”.

“New Zealand, despite its small size, has a favourable global reputation due to its autonomous foreign policy and significant role in the region (Ardern, 2022)¹⁵⁸”. “New Zealand is a member of the Pacific Islands Forum, and it was the first country in the world to negotiate a Free Trade Agreement (FTA) with China¹⁵⁹”. Additionally, New Zealand plays a stabilising role in the Pacific region¹⁶⁰. “In addition, a worldwide perceptions research discovered that New Zealand is perceived as a country that has the ability to create a significant impact through prompt decision-making and decisive action (NZ Story, 2022)¹⁶¹”. By establishing a Free Trade Agreement (FTA) with New Zealand, the Indo-Pacific region aims to enhance its global ambitions and strengthen its influence on the international stage¹⁶². “This collaboration aligns with the goal of solidifying and protecting the rules-based international order, while promoting inclusive and efficient multilateral cooperation based on shared values and principles¹⁶³”. The EU-NZ FTA can be seen as a favourable advancement that solidifies an economic partnership while highlighting shared values, objectives, and advantages that extend beyond mere financial benefits. From the European perspective, New Zealand's prospective economic benefits might be

¹⁵³ *Ibid*, p 26

¹⁵⁴ *Ibid*, p 26

¹⁵⁵ *Ibid*, p 26

¹⁵⁶ *Ibid*, p 26

¹⁵⁷ *Ibid*, p 27

¹⁵⁸ *Ibid*, p 28

¹⁵⁹ *Ibid*, p 28

¹⁶⁰ *Ibid*, p 28

¹⁶¹ *Ibid*, p 28

¹⁶² Kelly Serena, Doidge Mathew, *Beyond trade: The European Union – New Zealand Free Trade Agreement*, Australian and New Zealand Journal of European Studies, 11 May 2023, Vol. 15 No.1 (2023), p 28. <https://doi.org/10.30722/anzjes.vol15.iss1.17363> accessed 17 July 2024

¹⁶³ *Ibid*, p 28

seen as a signal of the EU's determination to expand its worldwide influence beyond commerce¹⁶⁴. This move establishes the EU as a significant political and security actor¹⁶⁵.

Despite facing criticism, the deal is ultimately a favourable advancement that allows for future improvements¹⁶⁶. Additionally, it demonstrates the EU's determination to establish its influence in the Indo-Pacific region, utilising its economic prowess to enhance its alliances, potential influence, and authority in a geographically important area¹⁶⁷. It is uncertain whether this will lead to the European Union gaining greater power in a region that it has hitherto been barred from¹⁶⁸. By aligning with a compatible partner in the region, such as New Zealand, the EU may enhance its global aspirations by leveraging its well-known resources in foreign policy, namely soft power and normative influence¹⁶⁹. As clearly mentioned in the EU's Indo-Pacific Strategy, establishing partnerships with countries, and concluding Free Trade Agreements (FTAs) are crucial pillars of the EU's objectives in the region¹⁷⁰. "Free Trade Agreements (FTAs) with nations like New Zealand can enhance the credibility of the European Union (EU)¹⁷¹". Additionally, incorporating provisions related to climate change, which is a significant and relevant matter, might further enhance the perception of the EU among its own inhabitants, as explained above¹⁷².

II. Trade and Sustainable Development Chapter

Overview

Among the three most recent EU trade agreements that have completed negotiations, only the EU-New Zealand FTA includes the comprehensive and updated TSD strategy¹⁷³. "The European Union-New Zealand FTA, which entered into force on May 1st, 2024, is the inaugural deal to incorporate the novel Trade and Sustainable Development ("TSD") methodology¹⁷⁴".

The free trade agreement between the European Union ("EU") and New Zealand consist of 25 chapters, where Chapter 19, is named "Trade and sustainable development," which is the primary focus of our attention.

¹⁶⁴ *Ibid*, p 28

¹⁶⁵ *Ibid*, p 28

¹⁶⁶ *Ibid*, p 28

¹⁶⁷ *Ibid*, p 28

¹⁶⁸ *Ibid*, p 28

¹⁶⁹ *Ibid*, p 29

¹⁷⁰ *Ibid*, p 29

¹⁷¹ *Ibid*, p 29

¹⁷² *Ibid*, p 29

¹⁷³ Marc Jütten, 'Trade and sustainable development in EU free trade agreements' [November 2023] Members' Research Service (PE 754613) European Parliamentary Research Service, Page 7

¹⁷⁴ *Ibid*, p 7

The section below describes the articles of Chapter 19 of the EU- New Zealand FTA which comprehend the sustainable commitments made by the parties and the manner in which these commitments are put into action and enforced.

Article 19.1 - Context and Objectives

Article 19.1 establishes the sustainable objective of the TSD Chapter by referencing "*Agenda 21, the Rio Declaration on Environment and Development, the ILO¹⁷⁵ Declaration on Social Justice for a Fair Globalisation, and the outcomes of the United Nations Conference on Sustainable Development¹⁷⁶*". This chapter establishes a comprehensive framework for fulfilling the sustainable commitments towards the various Sustainable Development Goals ("SDG" s) that were agreed by the "United Nations General Assembly on 25 September 2015".

Article 19.1.2 emphasises the acknowledgement of the parties that "*sustainable development encompasses economic development, social development, and environmental protection, all three being interdependent and mutually reinforcing¹⁷⁷*". The commitment to encourage the development of international commerce and investment in a manner that supports sustainable development is stated in article 19.1.3¹⁷⁸. "Furthermore, article 19.1.4 acknowledges the challenge posed by climate change and emphasises the necessity of prioritising efforts to address this issue in relation to the "*social and environmental objectives of sustainable development¹⁷⁹*".

Article 19.1.5 succinctly outlines the explicit aim and purpose of the TSD chapter: "*The objective of this Chapter is to enhance the integration of sustainable development, notably its environmental and social dimensions (in particular the labour aspects), in the trade and investment relationship between the Parties, including through strengthening dialogue and co-operation¹⁸⁰*".

The main focus in this research will be on how sustainable development commitments are actually implemented in this free trade agreement. At this point, the parties have clearly

¹⁷⁵ International Labour Organization

¹⁷⁶ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 1 (1)

¹⁷⁷ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 1 (2)

¹⁷⁸ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 1 (3)

¹⁷⁹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 1 (4)

¹⁸⁰ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 1 (5)

stated their objectives, acknowledging, and confirming their dedication to the goal of sustainable development. Now, it is necessary to see how this commitment is effectively put into action in the EU-New Zealand FTA.

Article 19.2 Rights to Regulate and Levels of Protection

Article 19.2 is about “*Right to regulate and levels of protection*¹⁸¹”. In this article, each party recognises its own rights to “*determine its sustainable development policies and priorities*¹⁸²”. This acknowledgment empowers EU and New-Zealand, the “Parties”, to “*establish the levels of domestic environmental and labor protection, including social protection, that they deem appropriate*¹⁸³”. By respecting each Party's sovereignty in setting its sustainability agenda, the agreement ensures that sustainable development efforts are tailored to the specific needs and priorities of each Party. Additionally, this right allows each Party to implement its own measures that support environmental protection, labor standards, and social welfare within their territories, contributing to the overall objective of sustainable development. By recognizing and upholding the right to regulate, the agreement provides a framework for Parties to enact policies that promote sustainability while respecting their autonomy in decision-making.

In essence, Article 19.2 of the agreement promotes sustainability by affirming the right of each Party to determine its sustainable development policies and levels of protection, thereby enabling tailored approaches to address environmental, social, and economic challenges in line with sustainable development.

“The non-derogation clause¹⁸⁴”, as stated in Article 19.2.5, mentioned that the party cannot derogate or waive “*its environmental or labour law in order to encourage trade or investment*”¹⁸⁵.

This article is crucial for maintaining high protection standards and supporting sustainable development. Robust monitoring, enforcement, and measurable indicators of progress are necessary to ensure compliance.

¹⁸¹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 2

¹⁸² Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 2 (1) (a)

¹⁸³ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 2 (1) (b)

¹⁸⁴ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 2 (5)

¹⁸⁵ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 2 (5)

In addition, Article 19.2.7 states that “*a Party shall not establish or use its environmental or labour law or other environmental or labour measures in a manner that would constitute a disguised restriction on trade or investment*¹⁸⁶”. “While strengthening their measures for the benefits of sustainable development, the Parties may not take measures that jeopardize trade, which indicates the parties willingness to respect the challenges of sustainable development while promoting trade¹⁸⁷”.

Article 19.3 Multilateral Labour Standards and Agreement¹⁸⁸

Article 19.3 of the agreement reaffirms the Parties “*commitment to promote the development of international trade in a way that is conducive to decent work for all, as expressed in the ILO Declaration on Social Justice for a Fair Globalization*¹⁸⁹”.

In addition, the article 19.3.2 mentioned that the “*Parties note that the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage and labor standards should not be used for protectionist trade purposes*¹⁹⁰”.

Also, in Article 19.3.3. “each parties commit to promote decent work and uphold fundamental labor rights in their trade relationship, in accordance with “*ILO Constitution and ILO Declaration on fundamental principles and rights at work*”¹⁹¹”.

Consequently, “*Each Party shall effectively implement the ILO conventions that New Zealand and the Member States have respectively ratified, and which have entered into force*¹⁹²”.

¹⁸⁶ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 2 (7)

¹⁸⁷ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 2 (7)

¹⁸⁸ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 3 (1)

¹⁸⁹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 3 (1)

¹⁹⁰ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 3 (2)

¹⁹¹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 3 (3)

¹⁹² Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 3 (7)

Additionally, it is required that the Parties “*strengthen their cooperation on related aspects of labor measure and policies, bilaterally, regionally and in international fora, as appropriate, including in the ILO*¹⁹³”. While granting the Parties the flexibility in implementing those conventions in their own domestic legislation, it strengthen their ongoing cooperation and commitment towards reinforcing fundamental rights at work.

Article 19.4 Trade and Gender Equality

Article 19.4 of the FTA emphasizes the “commitment of both parties in advancing gender equality and women's economic empowerment through their trade and investment relationship¹⁹⁴”.

Firstly, “the parties recognize the significant contribution of women to economic growth, particularly through their participation in international trade¹⁹⁵”. As a result, “*the Parties emphasise their intention to implement this Agreement in a manner that promotes and enhances gender equality*¹⁹⁶”.

Additionally, the Article 19.4.2 stresses the role of “*Inclusive trade policies in advancing women's economic empowerment and gender equality, aligning with the United Nations Sustainable Development Goals (“SDG”) Target 5 and the objectives of the Joint Declaration on Trade and Women's Economic Empowerment adopted at the WTO Ministerial Conference in Buenos Aires on 12 December 2017*¹⁹⁷”. This demonstrates a broader international commitment to these principles regarding “*woman economic empowerment and gender equality*¹⁹⁸”.

The Article 19.4.3 also highlights the “*importance of incorporating a gender perspective into promotion of inclusive economic growth*¹⁹⁹”. It mentions the role of “*gender-responsive policies and gender mainstreaming in advancing women's participation in the economy*”.

¹⁹³ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 3 (11)

¹⁹⁴ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 4

¹⁹⁵ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 4 (1)

¹⁹⁶ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 4 (1)

¹⁹⁷ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 4 (2)

¹⁹⁸ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 4 (2)

¹⁹⁹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 4 (3)

*and international trade*²⁰⁰. This includes “*advancing women's participation in the economy and international trade, including by providing equal rights and access to opportunities for the participation of women in the labour market*²⁰¹”.

“*Public awareness and transparency of its gender equality laws, regulations, and policies*²⁰²” are important, as stated in the Article 19.4.4. The parties commit to promoting these aspects, ensuring they contribute to inclusive economic growth and trade policy²⁰³.

Article 19.4.6 reinforce that the parties' dedication to enforcing their respective laws and obligations related to gender equality as specified in United Nations agreements that address gender equality and women's rights, with a specific emphasis on “the Convention on the Elimination of All Forms of Discrimination against Women²⁰⁴”. This provision specifically denote “*eliminating discrimination against women in economic life and in the field of employment*²⁰⁵”.

Moreover, the Article 19.4.7 outlines cooperation “*on trade-related aspects of gender equality policies and measures, including activities for women workers, businesswomen, and entrepreneurs to access and benefit from opportunities created by this Agreement*²⁰⁶”. This includes facilitating “*cooperation between relevant stakeholders, such as wāhine Māori in New Zealand*²⁰⁷”.

The cooperation will cover areas of joint interest²⁰⁸, such as “*exchanging information and best practices related to sex-disaggregated data and gender-based analysis of trade policies*²⁰⁹”, also “*the parties will share experiences in designing and implementing policies to*

²⁰⁰ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 4 (3)

²⁰¹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 4 (3)

²⁰² Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 4 (4)

²⁰³ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 4 (4)

²⁰⁴ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 4 (6)

²⁰⁵ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 4 (6)

²⁰⁶ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 4 (7)

²⁰⁷ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 4 (7)

²⁰⁸ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 4 (8)

²⁰⁹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 4 (8) (a)

*enhance women's participation in economic activities, including international trade*²¹⁰. This includes “*promoting women's leadership and education, especially in underrepresented fields like STEM and e-commerce*”²¹¹. They will also work on “*financial inclusion, financial literacy, and access to trade finance and education*”²¹² for women. Additionally, they will “*and experiences with regard to measures relating to licensing requirements and procedures, qualification requirements and procedures, or technical standards relating to authorisation for the supply of a service that do not discriminate based on gender*”²¹³.

Article 19.4.9 emphasizes the importance of multilateral cooperation to advance trade and gender issues, including in forums like the WTO and OECD: “*the Parties shall cooperate in international and multilateral fora, including at the WTO and OECD, to advance trade and gender issues and understanding*”²¹⁴.”

This article emphasises the efforts undertaken by the European Union (“EU”) and New Zealand to include gender equality and the economic empowerment of women into their trade agreement. This demonstrates their unwavering commitment to fostering equitable economic growth and upholding international standards.

It is important to note in the EU-New Zealand free trade agreement (FTA) is the first of its kind where gender obligations are legally binding for all parties involved²¹⁵. Under the provisions of this free trade agreement, both parties have made substantial commitments to attaining gender equality. This article has effectively made sustainable development commitments, specifically in relation to Sustainable Development Goal target 5, as previously specified.

²¹⁰ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 4 (8) (b)

²¹¹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 4 (8) (c)

²¹² Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 4 (8) (d)

²¹³ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 4 (8) (e)

²¹⁴ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 4 (9)

²¹⁵ John Ballingall, 'Sustainability and the New Zealand-EU Free Trade Agreement: A step up in accountability' (*International Institute for Sustainable Development*, 15 January 2023) <https://www.iisd.org/articles/policy-analysis/new-zealand-eu-free-trade-agreement> accessed 29 January 2024

Article 19.5 - Multilateral Environment Agreement and International Environmental Governance

Article 19.5 emphasizes the importance of international environmental governance and the role of multilateral environmental agreements (“MEA” s) in addressing global and regional environmental challenges. *"The Parties recognise the importance of international environmental governance, in particular the role of the United Nations Environment Programme (“UNEP”) and its highest governing body, the United Nations Environment Assembly (“UNEA”), as well as multilateral environmental agreements (“MEA” s)²¹⁶".*

Each party is encouraged to effectively *“implement the MEAs, including their protocols and amendments²¹⁷”*, which they have ratified and has entered into force. This ensures that both Parties are committed to adhere to international environmental standards.

Article 19.5.3 includes provisions for *“periodic exchanges of information regarding each Party's status in relation to becoming a party to MEAs, their protocols, and amendments²¹⁸”*. This provision facilitates transparency and ongoing dialogue²¹⁹.

Furthermore, the Parties affirm their right to *“adopt or maintain measures to further the objectives of the MEAs to which²²⁰”* they are part of. The Parties acknowledge that those *“measures, when adopted or enforced to implement MEAs, may be justified under the agreement’s general exceptions clause²²¹”*.

Article 19.5.5 also outlines the commitment to *“bilateral, regional, and international²²²”* cooperation on trade-related aspects of environmental policies and measures²²³. This includes working together in various forums such as the *“United Nations High-Level Political Forum for Sustainable Development, UNEP, UNEA, MEAs, OECD, FAO, and the WTO²²⁴”*.

²¹⁶ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 5 (1)

²¹⁷ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 5 (2)

²¹⁸ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 5 (3)

²¹⁹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 5 (3)

²²⁰ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 5 (4)

²²¹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 5 (4)

²²² Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 5 (5)

²²³ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 5 (5)

²²⁴ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 5 (5)

Several specific areas of cooperation are identified, such as “*promoting policies and measures that support both trade and the environment*”²²⁵. This includes sharing information to encourage the shift to a circular economy²²⁶ and “*initiatives that remove obstacles to trade and investment in a circular economy*”²²⁷.

Article 19.5.b also addresses sustainable “*production and consumption initiatives aimed at promoting green growth and pollution abatement*”²²⁸.

Furthermore, the parties commit to “*encouraging trade and investment in environmental goods and services by addressing related tariff and non-tariff barriers*”²²⁹.

“*The impact of environmental laws and standards on trade and investment*”²³⁰, as well as “*the impact of trade and investment laws on the environment*”²³¹, is also a focus area.

Lastly, the agreement highlights the importance of other “*trade-related aspects of MEAs, including their implementation*”²³².

This article provides a detailed framework for incorporating environmental factors into trade policy, with the aim of maintaining the commitment of both parties to international environmental standards and fostering collaboration at all levels.

Article 19.6 Trade and Climate Change

The Article 19.6 highlights the critical connection between trade and climate change. The Parties acknowledge the urgency of addressing climate change and the role of trade in this endeavor, aligning with key international frameworks like the United Nations Framework Convention on Climate Change (“UNFCCC”) and the goals of the Paris Agreement, which establishes a foundational commitment in combating climate change through cooperative trade practices.

²²⁵ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 5 (5) (a)

²²⁶ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 5 (5) (a) (i)

²²⁷ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 5 (5) (a) (ii)

²²⁸ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 5 (5) (b)

²²⁹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 5 (5) (c)

²³⁰ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 5 (5) (d)

²³¹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 5 (5) (d)

²³² Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 5 (5) (e)

The Article 19.6.2 emphasizes the necessity for each party to "*effectively implement the UNFCCC and the Paris Agreement*²³³," specifically mentioning "commitments with regard to nationally determined contributions²³⁴". It creates an obligation for both parties to adhere to their respective climate commitments under these international agreements, ensuring that trade policies do not undermine these goals.

Article 19.6.3 states that each party must "*refrain from any action or omission that materially defeats the object and purpose of the Paris Agreement*²³⁵." This clause is important as describes the obligation of each Party to take both measures and activities that could counteract the Paris Agreement's objectives. Furthermore, the entire TSD Chapter is subject to the dispute resolution processes as outlined in the FTA which makes it legally binding and enforceable²³⁶.

"The parties' obligations to avoid any action or omission that significantly hinders the goals of the Paris Agreement, can be resolved through dispute resolution mechanisms, and may result in trade sanctions if breached²³⁷". Trade sanctions may be imposed for violations related to the objectives and extent of the Paris Agreement, marking a precedent for both countries²³⁸.

Article 19.6.4(a) calls for the promotion of "*the mutual supportiveness of trade and climate policies and measures*²³⁹," which is aimed at "*transitioning to a low greenhouse gas emission, resource-efficient, and circular economy*²⁴⁰". This reflects an integrated approach where trade and climate policies could be compatible.

²³³ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 6 (2)

²³⁴ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 6 (2)

²³⁵ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 6 (3)

²³⁶ John Ballingall, 'Sustainability and the New Zealand-EU Free Trade Agreement: A step up in accountability' (*International Institute for Sustainable Development*, 15 January 2023) <https://www.iisd.org/articles/policy-analysis/new-zealand-eu-free-trade-agreement> accessed 29 January 2024

²³⁷ John Ballingall, 'Sustainability and the New Zealand-EU Free Trade Agreement: A step up in accountability' (*International Institute for Sustainable Development*, 15 January 2023) <https://www.iisd.org/articles/policy-analysis/new-zealand-eu-free-trade-agreement> accessed 29 January 2024

²³⁸ John Ballingall, 'Sustainability and the New Zealand-EU Free Trade Agreement: A step up in accountability' (*International Institute for Sustainable Development*, 15 January 2023) <https://www.iisd.org/articles/policy-analysis/new-zealand-eu-free-trade-agreement> accessed 29 January 2024

²³⁹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 6 (4) (a)

²⁴⁰ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 6 (4) (a)

Article 19.6.4(b) highlights the importance of removing “*obstacles to trade and investment in goods and services relevant to climate change mitigation and adaptation*²⁴¹”. This includes “*renewable energy and energy-efficient products and services*²⁴²”. By addressing “*tariff and non-tariff barriers*²⁴³” and fostering conducive policy frameworks, the agreement seeks to facilitate the deployment of best available technologies that are crucial for combating climate change.

Article 19.6.4(c) states that the Parties should “*promote emissions trading as an effective tool for reducing greenhouse gas emissions efficiently*²⁴⁴,”. This article emphasises the importance of market mechanisms in achieving cost-effective emissions reductions.

Article 19.6.5 describes that the parties should collaborate on “trade-related aspects of climate change initiatives²⁴⁵”. “This cooperation takes place bilaterally, regionally, and with third countries in international fora such as the UNFCCC, Paris Agreement, WTO, Montreal Protocol, ICAO, and IMO²⁴⁶”.

Article 19.6.5(a) promotes “*policy dialogue and cooperation of the Paris Agreement*²⁴⁷”, including “*climate resilience, renewable energy, low-carbon technology, and sustainable infrastructure development*²⁴⁸”. It involves collaboration on the Paris Agreement's implementation as well as promotion of climate resilience and sustainable transportation.

Additionally, Article 19.6.5(b) emphasises the development and implementation of carbon price mechanisms, such as emissions trading. This involves effective environmental regulations ensuring that carbon markets function correctly and leads to effective emission reductions²⁴⁹.

²⁴¹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 6 (4) (b)

²⁴² Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 6 (4) (b)

²⁴³ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 6 (4) (b)

²⁴⁴ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 6 (4) (c)

²⁴⁵ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 6 (5) (a)

²⁴⁶ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 6 (5)

²⁴⁷ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 6 (5) (a)

²⁴⁸ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 6 (5) (a)

²⁴⁹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 6 (5) (b)

Article 19.6.5(c) promotes the IMO's development “*of ambitious and effective greenhouse gas emission reduction measures*²⁵⁰” for international shipping.

Finally, Article 19.6.5(d) discusses how the “Montreal Protocol will phase out ozone-depleting chemicals and hydrofluorocarbons, limiting their “*production, consumption, and trade, the introduction of environmentally friendly alternatives to them*²⁵¹”, upgrading appropriate standards, and eliminating illegal trading in regulated substances. This aims to protect the ozone layer while also reducing potent greenhouse gases²⁵².

To summarise, Article 19.6 provides a solid framework for integrating trade and climate policy between the European Union and New Zealand ensuring that trade contributes positively to global climate goals by encouraging cooperation and adhering to international agreements. This article demonstrates a commitment to sustainable development and emphasise trade's vital role in effectively combating climate change.

Article 19.7 Trade and Fossil Fuel Reform

Article 19.7 of the FTA between the European Union and New Zealand is “EU’s first FTA article on fossil fuel subsidy reform²⁵³”. This article is divided into four main Sections, where each contributes to a consistent position on fossil fuel subsidy reform.

In Article 19.7 (1), the Parties refer to Target 12.C of the UN Sustainable Development Goal “*to rationalise and eliminate inefficient fossil fuel subsidies*²⁵⁴”. In this article the Parties reinforce their mutual commitment to meet the goals set in Target 12.C.

In Article 19.7 (2), acknowledges that “*fossil fuel subsidies can distort markets, disadvantage renewable and clean energy, and be inconsistent with the goals of the Paris Agreement*²⁵⁵.”

²⁵⁰ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 6 (5) (c)

²⁵¹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 6 (5) (d)

²⁵² Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 6 (5) (d)

²⁵³ John Ballingall, 'Sustainability and the New Zealand-EU Free Trade Agreement: A step up in accountability' (*International Institute for Sustainable Development*, 15 January 2023) <https://www.iisd.org/articles/policy-analysis/new-zealand-eu-free-trade-agreement> accessed 29 January 2024

²⁵⁴ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 7 (1)

²⁵⁵ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 7 (2)

Consequently, the Article 19.7 (3), states that the Parties' goal "*reforming and progressively reducing fossil fuel subsidies and reaffirm their commitment to work to meet that goal in accordance with national circumstances, while taking fully into account the specific needs of populations affected*²⁵⁶." In other words, the Parties reaffirm their commitment to this goal by giving each party the flexibility to implement its own national rules in order to meet the goal set.

The Article 19.7 (4) emphasises the collaboration between the Parties themselves, WTO, and WTO's members on the trade-related fossil fuel subsidy regime²⁵⁷. The Parties collaborate and urge WTO members to change, especially through transparency and reporting. The aim is to "*enable the evaluation of the trade, economic, and environment effects of fossil fuel subsidy programmes*²⁵⁸". International forums should be open and collaborative, with collective action and shared accountability to solve global issues, according to the FTA. In this regard, the Parties formalised a mutual sustainability commitment towards fossil fuel subsidy reform acknowledging subsidies' detrimental effects, sets a common goal for progressive change, and offers a collaborative structure to achieve them.

Article 19.8 Trade and Biological Diversity

This Article 19.8.1 points out the importance of trade and biological diversity referencing the key Multilateral Environmental Agreements ("MEA" s) such the Convention on Biological Diversity and Convention on International Trade in Endangered Species²⁵⁹.

In Article 19.8.2 of the agreement, is mentionned each party's obligations towards biodiversity conservation, such as "*implement measures to combat the illegal wildlife trade, including with respect to third countries as appropriate*²⁶⁰" formalising a proactive approach to

²⁵⁶ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 7 (3)

²⁵⁷ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 7 (4)

²⁵⁸ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 7 (4)

²⁵⁹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 8 (1)

²⁶⁰ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 8 (2)

illegal biodiversity-threatening behaviours. The agreement also encourages "*long-term conservation and sustainable use of CITES-listed species*²⁶¹" requiring periodic species listing reviews to ensure they meet conservation standards²⁶².

In addition, "*products derived from the sustainable use of biological resource*²⁶³" goods are encouraged to be traded under Article 19.8.2 (c) while promoting sustainable practices by linking economic activities to conservation efforts. Article 19.8.2 (d) further emphasises the necessity to control "*invasive alien species*²⁶⁴" due to commerce and investment's impact on local ecosystems in order to "*conserve biological diversity*²⁶⁵" promoting a proactive approach to avoid negative outcomes.

In the Article 19.8.3, "*the parties recognise the importance of respecting, protecting, preserving and maintainig knwoledge, innovation and practices of indigenous peoples and local communities*²⁶⁶". This article emphasises that trade should be supportive of this cultural heritage.

Finally, Article 19.8.4, encourages the parties to "*cooperate on trade relates aspects of biodiversity policies*²⁶⁷" by using "bilateral, regional, and international measures, as well as the Convention on Biological Diversity and CITES²⁶⁸". Parties should share their sustainable "*biological resource*²⁶⁹" and best practices, developing natural capital and ecosystem accounting methods, and fighting illicit wildlife trade²⁷⁰. In other words, it highlights the need to share information and management experience in relation to invasive alien species in order to promote mutual collaboration in protecting global biodiversity.

²⁶¹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 8 (1)

²⁶² Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 8 (1)

²⁶³ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 8 (2) (c)

²⁶⁴ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 8 (2) (d)

²⁶⁵ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 8 (2) (d)

²⁶⁶ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 8 (3)

²⁶⁷ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 8 (4)

²⁶⁸ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 8 (4)

²⁶⁹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 8 (4)(a)

²⁷⁰ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 8 (4)(b)

Article 19.9 - Trade and Forests

In this article, the Parties “*recognise the importance of the conservation and sustainable management of forests for providing environmental functions and economic and social opportunities for present and future generations, and the role of trade in pursuing this objective*”²⁷¹.

Both parties agree to “*combat illegal logging and related trade*”²⁷² through legislation and other means, such as collaboration with third countries.

They also commit to encourage forest protection and sustainable management, ensuring that forest products are harvested lawfully and responsibly²⁷³. The parties prioritise information exchange on trade-related measures such as sustainable forest management, conservation efforts, and anti-illegal logging policies²⁷⁴. “Recognising the negative impact of deforestation on global warming and biodiversity, the agreement asks for the sharing of both information and experiences to stimulate the consumption and trade of products sourced from deforestation-free supply chains”²⁷⁵. “Furthermore, the parties agree to strengthen bilateral and international cooperation on trade-related aspects of sustainable forest management, including reducing deforestation and forest degradation and promoting the role of forests and wood-based products in climate change mitigation, circular economies, and the bioeconomy”²⁷⁶.

Article 19.10 - Trade and Sustainable Management of Fisheries and Aquaculture

Trade and sustainable management of fisheries and aquaculture are essential commitments in the EU-New Zealand free trade agreement. Both parties acknowledge the importance of conserving marine biological resources.

The Parties confirm a need to act against poor fisheries management, damaging subsidies, and illegal fishing²⁷⁷. Each party commits to long-term conservation and management

²⁷¹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 9 (1)

²⁷² Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 9 (2) (a)

²⁷³ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 9 (2) (b)

²⁷⁴ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 9 (2) (c)

²⁷⁵ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 9 (3)

²⁷⁶ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 9 (4)

²⁷⁷ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 10 (2)

based on science and best practices²⁷⁸. This includes preventing overfishing, reducing non-target bycatch, and recovering overexploited fish stocks²⁷⁹.

They also commit to actively participating in regional fisheries management organisations in order to promote governance and enforce conservation measures²⁸⁰. They advocate ecosystem-based fisheries management to conserve marine habitats and endangered species²⁸¹.

Both parties agree to work together nationally, regionally, and worldwide to prevent illicit, unreported, and unregulated (“IUU”) fishing²⁸². This requires improving monitoring, control, surveillance, compliance, and enforcement²⁸³. They supported traceability and IUU fishing product bans in international trade²⁸⁴.

The Article 19.10.6 describes the economic, social, cultural, and environmental sustainability in aquaculture following the “*FAO Code of Conduct for Responsible Fisheries principles is encouraged*”²⁸⁵.

Finally, both Parties agree to cooperate on fishery and aquaculture policies and measures in bilateral, regional, and international forums. This collaborative initiative promotes sustainable fishing and facilitates trading in sustainable fisheries products²⁸⁶. It is the first time that the European Union has formalised this initiative in a free trade agreement²⁸⁷.

²⁷⁸ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 10 (2)

²⁷⁹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 10 (2)

²⁸⁰ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 10 (3) (b)

²⁸¹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 10 (3) (c)

²⁸² Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 10 (4)

²⁸³ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 10 (5)

²⁸⁴ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 10 (5) (b)

²⁸⁵ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 10 (6)

²⁸⁶ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 10 (7)

²⁸⁷ John Ballingall, 'Sustainability and the New Zealand-EU Free Trade Agreement: A step up in accountability' (*International Institute for Sustainable Development*, 15 January 2023) <https://www.iisd.org/articles/policy-analysis/new-zealand-eu-free-trade-agreement> accessed 29 January 2024

Article 19.11 - Trade and Investment Supporting Sustainable Development

In Article 19.11 both parties recognise that “*trade and investment in goods and services that are related to the protection of the environment or that contribute to enhancing social conditions*”²⁸⁸ are essential for attaining sustainability objectives²⁸⁹. “In order to achieve these goals, both parties commit to promote “environmental and climate goals by preventing, limiting, minimising, or remediating environmental damage to water, air and soil by assisting the transition to circular economy²⁹⁰”. These actions have the objective of reducing the negative effects on the environment and promoting the shift towards a circular economy²⁹¹. Both parties shall actively encourage and support trade and investment in environmental goods and services, commodities that enhance social conditions, and products that are certified under transparent sustainability programmes²⁹². Their strategy involves implementing a range of measures, including public awareness campaigns, regulations promoting innovative technology, and initiatives aimed at reducing non-tariff obstacles²⁹³. Finally, the Parties commit to strengthening engagement on key sustainability challenges related to trade through active cooperation and international partnerships.

Article 19.12 - Trade and Responsible Business Conduct and Supply Chain Management

In this article, New Zealand and the EU make a commitment in relation to international rules such as “*OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the United Nations Global Compact and the United Nations Guiding Principles on Business and Human Rights “Implementing the United Nations “Protect, Respect and Remedy²⁹⁴” Framework²⁹⁵”*”. “The parties shall also set up policies that will help businesses become more responsible in areas like

²⁸⁸ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 11 (1) (a)

²⁸⁹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 11 (1) (b)

²⁹⁰ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 11 (3)

²⁹¹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 11 (3)

²⁹² Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 11 (4)

²⁹³ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 11 (5)

²⁹⁴ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 12 (2) (a)

²⁹⁵ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 12 (2) (a)

supply chain management and corporate social responsibility²⁹⁶". The Parties shall promote ethical and sustainable business practices in trade. "The Parties agree that international sector-specific standards can help with corporate social responsibility and ethical business conduct, and they will work together to make that happen²⁹⁷. "When it comes to the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, each Party must take steps to encourage others to follow it²⁹⁸". They will also promote the "*Principles for Responsible Investment in Agriculture and Food Systems*²⁹⁹" and the "*Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security*³⁰⁰" as members of the "FAO Committee on World Food Security³⁰¹". Finally, the Parties will work together to "improve their trade-related cooperation on problems covered by this Article on a bilateral, regional, and international level as needed³⁰²". Among other activities, the Parties will do this by sharing information, best practices, and other additional programmes³⁰³.

Article 19.13 - Scientific and Technical Information

Article 19.13 formalises the measures that each Party should take all "*scientific and technical information available protect to implementing measures for protecting the environment and/or labour conditions that may affect trade or investment*³⁰⁴". Fail to have sufficient

²⁹⁶ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 12 (2) (b)

²⁹⁷ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 12 (3)

²⁹⁸ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 12 (3)

²⁹⁹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 12 (3)

³⁰⁰ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 12 (3)

³⁰¹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 12 (3)

³⁰² Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 12 (4)

³⁰³ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 12 (4)

³⁰⁴ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 13 (1)

scientific and technical information the Parties should refrain in taking actions that could “*seriously and/or irreversible harm to the environment or occupational safety and health*³⁰⁵”. However, these measures should not be used to “*arbitrarily discriminate or unfairly limit international trade*³⁰⁶”.

Article 19.14 - Transparency

This article states that both parties allow “*interested persons and stakeholders with reasonable opportunity to comment on*³⁰⁷” appropriate measures, such as: (a) “*Environmental protection measures or labour conditions that may affect trade or investment*³⁰⁸” and (b) “*Trade or investment policies that may have an impact on environmental or labour standards*³⁰⁹”.

Due to the inclusion of interested persons and stakeholders in the implementation process leads to greater transparency and accuracy in the way sustainable commitments are implemented³¹⁰.

Article 19.15 - Committee on Trade and Sustainable Development

The provision specifies the functions and responsibilities of the Committee on Trade and Sustainable Development under the EU-New Zealand Free Trade Agreement. The Committee has three primary functions: (a) Compliance measures³¹¹, (b) Assist the with the concerns raised in this chapter (TSD Chapter 19), including discussions with domestic advisory groups³¹² and (c) Address any other agreed-upon issues connected to this chapter³¹³.

³⁰⁵ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 13 (2)

³⁰⁶ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 13 (3)

³⁰⁷ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 14 (a)

³⁰⁸ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 14 (a)

³⁰⁹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 14 (b)

³¹⁰ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 14 (b)

³¹¹ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 15 (2) (a)

³¹² Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 15 (2) (b)

³¹³ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 15 (2) (c)

Also, the “Committee must publish reports after each meeting³¹⁴” and “the Parties should consider public feedback on chapter-related issues and exchange relevant information with domestic advisory groups and the other party's contact point³¹⁵”.

Enforcement of Trade and Sustainable Development Chapter

Upon careful examination of TSD Chapter 19 in the FTA, it becomes obvious that the parties have chosen to include provisions on sustainable development in their Agreement. It is now imperative to consider whether these provisions may be legally enforced.

“As denoted in Article 19.6.3 of the TSD Chapter, “*A Party's commitment to effectively implement the Paris Agreement under paragraph 2 includes the obligation to refrain from any action or omission that materially defeats the object and purpose of the Paris Agreement*”³¹⁶”. Parties agree that sanctions can be imposed, through a dispute resolution mechanism³¹⁷, where one of the Parties breaches its legal obligations in relation to the Paris Agreement.

Overall, the incorporation of the TSD Chapter into the European Union and New Zealand FTA represents a significant enhancement in the degree of responsibility on both Parties in relation to issues of sustainability³¹⁸.

The practical implications of this are still uncertain, however it is possible that as a final option, it could result in the temporary removal of certain obligations in other aspects of the agreement (such as tariff reductions) if a dispute resolution panel determines that a party has implemented policies or regulations that significantly contradict the goals of the Paris Agreement³¹⁹.

³¹⁴ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 15 (3)

³¹⁵ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 15 (4)

³¹⁶ Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19 article 6 (3)

³¹⁷ John Ballingall, 'Sustainability and the New Zealand-EU Free Trade Agreement: A step up in accountability' (*International Institute for Sustainable Development*, 15 January 2023) <https://www.iisd.org/articles/policy-analysis/new-zealand-eu-free-trade-agreement> accessed 29 January 2024

³¹⁸ John Ballingall, 'Sustainability and the New Zealand-EU Free Trade Agreement: A step up in accountability' (*International Institute for Sustainable Development*, January 15, 2023) <https://www.iisd.org/articles/policy-analysis/new-zealand-eu-free-trade-agreement> accessed 14 June 2024

³¹⁹ John Ballingall, 'Sustainability and the New Zealand-EU Free Trade Agreement: A step up in accountability' (*International Institute for Sustainable Development*, January 15, 2023) <https://www.iisd.org/articles/policy-analysis/new-zealand-eu-free-trade-agreement> accessed 14 June 2024

These provisions serve as a strong indication to other nations than New Zealand and the EU are determined to address trade and climate policy with great ambition³²⁰. Both EU and New Zealand convey the message that they are willing to go beyond dialogue and are ready to face possible trade sanctions if they fail to meet important sustainable development obligations³²¹.

Conclusion

After a thorough analysis of this Trade and Sustainable Development Chapter, we have seen that “*labour, women's empowerment, and environmental and climatic challenges are specifically addressed*”³²². This Chapter guarantees the rights of “*both Parties to regulate and promote commerce and investment*”³²³. Also, “*civil society organisations are engaged in overseeing the execution of the agreement*”³²⁴. The whole Chapter “*is based on international standards and requires adherence to fundamental principles of the International Labour Organisation (“ILO”), including the protection of freedom of association, collective bargaining, the eradication of forced and child labour, and the promotion of workplace non-discrimination*”³²⁵. Most importantly, the free trade agreement obligates the European Union and New

³²⁰ John Ballingall, 'Sustainability and the New Zealand-EU Free Trade Agreement: A step up in accountability' (*International Institute for Sustainable Development*, January 15, 2023) <https://www.iisd.org/articles/policy-analysis/new-zealand-eu-free-trade-agreement> accessed 14 June 2024

³²¹ John Ballingall, 'Sustainability and the New Zealand-EU Free Trade Agreement: A step up in accountability' (*International Institute for Sustainable Development*, January 15, 2023) <https://www.iisd.org/articles/policy-analysis/new-zealand-eu-free-trade-agreement> accessed 14 June 2024

³²² Director-General for Trade, *Key elements of the EU-New Zealand trade agreement*, 30 June 2022, https://policy.trade.ec.europa.eu/news/key-elements-eu-new-zealand-trade-agreement-2022-06-30_en accessed 16 July 2024

³²³ Director-General for Trade, *Key elements of the EU-New Zealand trade agreement*, 30 June 2022, https://policy.trade.ec.europa.eu/news/key-elements-eu-new-zealand-trade-agreement-2022-06-30_en accessed 16 July 2024

³²⁴ Director-General for Trade, *Key elements of the EU-New Zealand trade agreement*, 30 June 2022, https://policy.trade.ec.europa.eu/news/key-elements-eu-new-zealand-trade-agreement-2022-06-30_en accessed 16 July 2024

³²⁵ Director-General for Trade, *Key elements of the EU-New Zealand trade agreement*, 30 June 2022, https://policy.trade.ec.europa.eu/news/key-elements-eu-new-zealand-trade-agreement-2022-06-30_en accessed 16 July 2024

Zealand to comply with the Paris Agreement and cooperate on climate-related issues³²⁶ which are legally binding and can be enforced through dispute settlement mechanisms³²⁷.

Chapter 3 Impact of the Free Trade Agreement

Overview

The European Commission, has issued a request for a "*SIA to support the FTA negotiations between the European Union and New Zealand*"³²⁸. This study focuses on the SIA final report on the FTA between the European Union and New Zealand. The Sustainable Impact Assessment ("SIA") comprise of two equally significant and interrelated elements: a comprehensive examination of the potential economic, social, human rights, and environmental consequences that the ongoing trade deal could have on the European Union, the partner nations, and other pertinent countries³²⁹.

Introduction

This chapter aims to examine and assess the possible impacts of the FTA regarding the economic, social, human rights aspects and least developing countries ("LDC"). In order to accomplish this, the final report from the SIA will be the only available source of information, as the free trade agreement did not become effective until May 1, 2024.

Therefore, currently we lack any alternative means to accurately measure the expected influence of this treaty. The analysis will commence with a study of the (1) economic repercussions, subsequently followed by an investigation into the (2) social consequences, an evaluation of the effects on (3) gender impact, (4) human rights, and ultimately, an appraisal of the (5) environmental implications. Finally, we will examine the possible influence on (6) least developing countries.

³²⁶ Director-General for Trade, *Key elements of the EU-New Zealand trade agreement*, 30 June 2022, https://policy.trade.ec.europa.eu/news/key-elements-eu-new-zealand-trade-agreement-2022-06-30_en accessed 16 July 2024

³²⁷ Director-General for Trade, *Key elements of the EU-New Zealand trade agreement*, 30 June 2022, https://policy.trade.ec.europa.eu/news/key-elements-eu-new-zealand-trade-agreement-2022-06-30_en accessed 16 July 2024

³²⁸ European Commission, 'Trade Sustainability Impact Assessment in support of FTA negotiations between the European Union and New Zealand - Final Report' (*CIRCABC*, 13 March 2020) <https://circabc.europa.eu/ui/group/09242a36-a438-4ofd-a7af-fe32e36cbdoe/library/1458c970-91f2-4562-adeb-6ad789680ace/details>, p1, accessed on 25 June 2024

³²⁹ *Ibid*, p1

I. Economic Impact

“The EU-NZ FTA is expected to benefit both the EU and New Zealand economies in both ambitious and cautious scenarios”³³⁰. The conservative scenario expects real gross domestic product (“GDP”) in the EU to increase by €1.8 billion and the ambitious scenario by €3.9 billion by 2030, compared to the baseline³³¹. Real GDP is predicted to rise €1.3 billion in New Zealand's ambitious scenario and €0.7 billion in the conservative scenario³³². In the conservative scenario, the EU-NZ FTA affects welfare (producers, consumers, government) by €2.2 billion for the EU and €381 million for New Zealand, while in the ambitious scenario, by €4.1 billion and €567 million³³³. EU exports to New Zealand promote economic growth, but New Zealand exports to the EU should also improve³³⁴. EU bilateral exports to New Zealand climb 13.5% and New Zealand exports to the EU rise 10.2% in the conservative scenario and 31.7 and 23.4% in the ambitious scenario³³⁵. EU overall exports gain 0.1% in the ambitious scenario and remain unchanged in the conservative one³³⁶. New Zealand's export benefits are bigger, 0.7 and 0.4 percent in the ambitious and conservative scenarios³³⁷.

II. Social impact

The EU-NZ FTA is expected to have a mixed impact on employment in New Zealand across sectors and a limited positive impact on real wages (0.3 percent for unskilled workers and 0.2 percent for skilled ones under the conservative scenario and 0.7 percent and 0.5 percent under the ambitious one)³³⁸. However, even if wages for unskilled workers grow slightly more than for competent ones under both scenarios, the predicted differences are too minor to reduce inequality³³⁹. Prices in New Zealand are projected to grow as wages do, but imported goods like vehicles are expected to fall³⁴⁰.

While wages in New Zealand are expected to rise in the coming years, social benefit recipients may continue to struggle due to rising housing costs and loss of allowances, which may

³³⁰ *Ibid*, p 15

³³¹ *Ibid*, p 15

³³² *Ibid*, p 15

³³³ *Ibid*, p 15

³³⁴ *Ibid*, p 15

³³⁵ *Ibid*, p 15

³³⁶ *Ibid*, p 15

³³⁷ *Ibid*, p 15

³³⁸ *Ibid*, p 49

³³⁹ *Ibid*, p 49

³⁴⁰ *Ibid*, p 49

only be partially offset by Families Package³⁴¹. In such circumstances, an FTA's price increase (even if small) in categories like food, which are vital to less affluent populations' expenditure baskets, may compound and lower their purchasing power³⁴². After the 2017/2018 debate on implementation of TSD chapters and commitments to improve it, the European Commission advised New Zealand to ratify the fundamental ILO Minimum Age Convention No. 138³⁴³. Thus, negotiation and implementation of the EU-NZ FTA may help New Zealand ratify Convention No. 138 and improve children's rights³⁴⁴.

Regarding forms of working activities and motives of working youth, the EU-NZ FTA is unlikely to directly affect the quantity of jobs available to young people or their shares³⁴⁵. However, it may indirectly affect their economic well-being by affecting their parents' or other household members' occupations³⁴⁶. In this context, it will be important to observe rules related to young people's work, such as the prohibition of hazardous work for people under 18, night work restrictions, and working hour restrictions, to ensure that work doesn't negatively impact education, rest, physical and mental development, and wellbeing³⁴⁷.

Convention No. 138 establishes framework conditions for youth employment and requires domestic legislation and practice to comply³⁴⁸. Therefore, its ratification and alignment of national legislation and practice with its provisions would protect working youth³⁴⁹.

Employers must also follow health and safety rules and teach young workers³⁵⁰. Revenue lost due to a possible tariff reduction will be small compared to New Zealand's health care, social protection, and education expenditures, so trade liberalisation should not negatively impact the state's ability to provide public policies and services in these areas³⁵¹. Economic modelling predicts New Zealand will export more ruminant meat to the EU³⁵². If past practices continue, cheaper and fatty meats like mutton flaps may remain on New Zealand's market or be transported to Pacific islands, promoting obesity among poorer people, particularly children³⁵³.

³⁴¹ *Ibid*, p49

³⁴² *Ibid*, p 49

³⁴³ *Ibid*, p 49

³⁴⁴ *Ibid*, p 49

³⁴⁵ *Ibid*, p 49

³⁴⁶ *Ibid*, p 49

³⁴⁷ *Ibid*, p 49

³⁴⁸ *Ibid*, p 49

³⁴⁹ *Ibid*, p 49

³⁵⁰ *Ibid*, p 49

³⁵¹ *Ibid*, p 49

³⁵² *Ibid*, p 49

³⁵³ *Ibid*, p 49

III. Gender impact

This section explores how the EU-NZ FTA may affect women workers, entrepreneurs, merchants, and consumers³⁵⁴. First, it compares current labour market data for men and women in the EU and New Zealand³⁵⁵. Second, it assesses how employment changes predicted by economic models will impact women compared to men and examines the effects on women-led companies³⁵⁶. Finally, it considers how changes in trade performance may affect women merchants and suggests ways to promote gender equality and address challenges posed by the EU-NZ FTA³⁵⁷.

Women as workers: Eurostat (2018) says that most women in the EU work in service industries like retail, health care, education, and public management³⁵⁸. The EU-NZ FTA is not expected to change the number of jobs in these areas³⁵⁹. This means that the lives of about 80% of EU women workers will not change³⁶⁰. Only the gas production (0.4%) and auto (0.3%) sectors, which have more men than women working, are expected to see small job growth³⁶¹.

As a result, any new jobs in these areas are more likely to help men. It is projected that ruminant meats (-1.4%), rice, sugar, vegetables, fruits, nuts (-0.2%), and cereals, vegetable oils, and other crops (-0.1%) will all lose jobs in EU agriculture. 2.2% of all jobs in these areas are held by men, compared to 0.9% by women³⁶². This means that these cuts may have a bigger effect on men, though the effects may be different in each Member State.

In New Zealand, jobs are expected to grow in sectors with more men working, like utilities and building (0.9% for unskilled workers and 1.2% for skilled workers)³⁶³. However, jobs may go away in sectors like motor vehicles and machinery (~3%)³⁶⁴. Most of the people working in the motor vehicle field in 2015 were men (86%; Mito, 2016)³⁶⁵. Over 80% of people who work in New Zealand's service areas are women. Under the most optimistic scenario, there will be few changes or small losses (0.3% to 0.4% for unskilled workers)³⁶⁶. The sector did,

³⁵⁴ *Ibid*, p 54

³⁵⁵ *Ibid*, p 54

³⁵⁶ *Ibid*, p 54

³⁵⁷ *Ibid*, p 54

³⁵⁸ *Ibid*, p 54

³⁵⁹ *Ibid*, p 54

³⁶⁰ *Ibid*, p 54

³⁶¹ *Ibid*, p 54

³⁶² *Ibid*, p 54

³⁶³ *Ibid*, p 55

³⁶⁴ *Ibid*, p 55

³⁶⁵ *Ibid*, p 55

³⁶⁶ *Ibid*, p 55

however, grow, adding 156,000 jobs from 2007 to 2017. Growth is expected to continue, especially in health care, education, and business services (MBIE, 2018d)³⁶⁷. It is more likely that the EU-NZ FTA will lead to limit employment growth than net job losses if these trends continue³⁶⁸.

The FTA will have different effects on New Zealand's farms depending on the type of work and the skill level of the workers³⁶⁹. It is not possible to give specifics about the predicted changes for women in agriculture because there is not enough information on how many women work in these sub-sectors³⁷⁰.

Women as entrepreneurs and traders: In the EU, most businesses run by women are in the service sector. There are a lot of them in health care, social services, and shopping³⁷¹. The European Commission (2014) says that 30% of EU farmers are women and 20% of manufacturers are women³⁷². The economic model shows that the EU-NZ FTA has no major effect on the output of EU service sectors³⁷³ which means that it has no effect on businesses run by women³⁷⁴. In agriculture, the production of fruits, veggies, nuts, and oilseeds is expected to go down slightly, while the production of beef and sheep meat is expected to go up slightly³⁷⁵.

Only the motor vehicles and tools sectors in manufacturing expect output to rise by 0.2% to 0.3%³⁷⁶. Clothing, food, and electrical parts are all exported by a lot of companies that are run by women³⁷⁷.

Under both conservative and optimistic situations, economic modelling shows that exports of textiles, food, and electronics to New Zealand will grow significantly³⁷⁸ which will be good for female exporters³⁷⁹. Labelling rules, rules of origin, and product certification can be hard for shipping businesses that are run by women³⁸⁰; this is because they are small, only 4% of these businesses buy things from the government, compared to 9% of companies run by men,

³⁶⁷ *Ibid*, p 55

³⁶⁸ *Ibid*, p 55

³⁶⁹ *Ibid*, p 55

³⁷⁰ *Ibid*, p 55

³⁷¹ *Ibid*, p 55

³⁷² *Ibid*, p 55

³⁷³ *Ibid*, p 55

³⁷⁴ *Ibid*, p 55

³⁷⁵ *Ibid*, p 55

³⁷⁶ *Ibid*, p 55

³⁷⁷ *Ibid*, p 56

³⁷⁸ *Ibid*, p 56

³⁷⁹ *Ibid*, p 56

³⁸⁰ *Ibid*, p 56

and only 19% follow private standards, while 81% of companies run by men do³⁸¹. This means that the EU and New Zealand need to think about how technical rules, rules of origin, and state procurement affect small businesses, especially those that are run by women³⁸². Third of New Zealand's business owners were women in 2018³⁸³. Property and business services, retail trade, and personal services are the main areas where women-led businesses work³⁸⁴.

Based on economic modelling, these areas will see 0.2% more output in the most conservative case and 0.3% to 0.5% more output in the most optimistic case³⁸⁵. It is expected that exports of services will grow by 8%, which will give women businesses chances to trade internationally³⁸⁶. As part of the “*Trade for All agenda*”, the New Zealand Government wants to make proposals in 2019 to help women in trade policy and agreements³⁸⁷. This could help women entrepreneurs and help them deal with problems they face in the international market³⁸⁸.

Women as consumers: The overall economic analysis suggests that the EU-NZ FTA will have little impact on EU consumers' wage and price levels (i.e., their purchasing power) and workers³⁸⁹. The availability of products and services and general welfare should improve³⁹⁰. It may increase the choice of goods and services (with lower import prices) and contribute to limited welfare and wage growth in New Zealand, benefiting consumers³⁹¹. It may also cause a small price increase below wage growth. Similar conclusions will apply to women as consumers, especially wage-earners³⁹². Some groups in New Zealand, such as single adults, sole parent households, Pacific People, Māori, and social security beneficiaries, may face greater poverty risk and may receive less benefit from trade agreements (e.g., if social benefits do not increase as much as wages)³⁹³. These groupings include women, therefore impacts on women as consumers in New Zealand may vary based on income, sector of work or economic activity, individual situation (e.g. household composition)³⁹⁴.

³⁸¹ *Ibid*, p 56

³⁸² *Ibid*, p 56

³⁸³ *Ibid*, p 56

³⁸⁴ *Ibid*, p 56

³⁸⁵ *Ibid*, p 56

³⁸⁶ *Ibid*, p 56

³⁸⁷ *Ibid*, p 56

³⁸⁸ *Ibid*, p 56

³⁸⁹ *Ibid*, p 57

³⁹⁰ *Ibid*, p 57

³⁹¹ *Ibid*, p 57

³⁹² *Ibid*, p 57

³⁹³ *Ibid*, p 57

³⁹⁴ *Ibid*, p 57

IV. Human Rights Impact

European union : The 2000 EU Charter of Fundamental Rights (“CFR”) protects human rights in all EU Member States since the Lisbon Treaty of 2009³⁹⁵. This Charter reflects the ECHR ratified by all Member States³⁹⁶. The Lisbon Treaty's democratic and human rights principles influence EU trade³⁹⁷. According to Article 6(1) TEU, the EU legal system “*recognises the rights, freedoms and principles set forth in the Charter of Fundamental Rights*”, making it obligatory like the Treaties³⁹⁸.

Other EU Member States developed differently before entering, hence some face more human rights issues³⁹⁹. Despite a decline in migration flows to Europe, numerous EU Member States continue to abuse the rights of migrants and asylum seekers, notably women, Roma, and LGBTI persons (HRW, 2019)⁴⁰⁰. Human Rights Watch praised the EU for retaining a global human rights champion and for its 2018 reaction to attacks on democratic institutions and rule of law in Hungary and Poland (HRW, 2019)⁴⁰¹. Many of these concerns are internal and unlikely to effect New Zealand trade. However, present conditions and specific terms in the proposed EU-NZ FTA may be important for analysing human rights consequences, notably their degree, while taking into consideration existing sensitivities and vulnerabilities⁴⁰².

New Zealand: Human rights and gender issues are covered by the EU-New Zealand Partnership Agreement for Relations and Cooperation (“PARC”) (EEAS, 2018; New Zealand Government, 2016)⁴⁰³. New Zealand is a signatory to seven of the nine key international human rights treaties and six of the eight basic ILO conventions⁴⁰⁴.

Since January 2016, it has backed the United Nations Agenda 2030 for Sustainable Development⁴⁰⁵. When New Zealand signs key international treaties, the leading government agency

³⁹⁵ *Ibid*, p 58

³⁹⁶ *Ibid*, p 58

³⁹⁷ *Ibid*, p 58

³⁹⁸ *Ibid*, p 58

³⁹⁹ *Ibid*, p 58

⁴⁰⁰ *Ibid*, p 58

⁴⁰¹ *Ibid*, p 58

⁴⁰² *Ibid*, p 58

⁴⁰³ *Ibid*, p 58

⁴⁰⁴ *Ibid*, p 58

⁴⁰⁵ *Ibid*, p 58

prepares a National Interest Analysis (“NIA”)⁴⁰⁶. New Zealand's trade agreements aim to guarantee that labour and environmental rules are not jeopardised for economic gain⁴⁰⁷.

Domestically, human rights are protected by the New Zealand Bill of Rights 1990 and the Human Rights Act 1993, which are backed by an institutional framework for promotion and monitoring⁴⁰⁸. The Treaty of Waitangi, signed in 1840, ensures Māori self-determination and requires consultation on decisions that impact them⁴⁰⁹. Despite its great human rights record, New Zealand has difficulties such as child rights, violence against women, and high imprisonment rates among Māori⁴¹⁰. The research focuses on concerns of health, indigenous peoples' rights, and the rights of migrants, refugees, and asylum seekers⁴¹¹. “Both the EU and New Zealand have strong human rights records, but they continue to address persistent challenges via continuous improvement initiatives”⁴¹².

The analysis of the EU NZ FTA's effect on human rights mostly concentrated on the subsequent human rights: the right to health, right to an adequate standard of living, freedom of expression, freedom of association and peaceful assembly, right to participate in the conduct of public affairs⁴¹³. In fact most rights will experience only minor impacts⁴¹⁴.

The primary rights expected to be affected are the “*right to freedom of expression, freedom of association and peacefully assembly and the right to participate in public and political life*”⁴¹⁵, especially concerning the transparency of the negotiations⁴¹⁶. These rights are anticipated to have either a neutral or positive outcome⁴¹⁷. Economic models are utilized to identify where the EU-NZ FTA is most likely to impact human rights, particularly at the industry level⁴¹⁸. This includes examining the right to work in industries that either expand or shrink, the effect of the growth of water-intensive sectors on the rights of indigenous peoples, and how

⁴⁰⁶ *Ibid*, p 58

⁴⁰⁷ *Ibid*, p 58

⁴⁰⁸ *Ibid*, p 58

⁴⁰⁹ *Ibid*, p 59

⁴¹⁰ *Ibid*, p 59

⁴¹¹ *Ibid*, p 59

⁴¹² *Ibid*, p 59

⁴¹³ *Ibid*, p 59

⁴¹⁴ *Ibid*, p 59

⁴¹⁵ *Ibid*, p 59

⁴¹⁶ *Ibid*, p 59

⁴¹⁷ *Ibid*, p 59

⁴¹⁸ *Ibid*, p 59

changes in tariff revenue influence funding for public policies such as education and healthcare⁴¹⁹. These factors can affect the right to education and the right to health⁴²⁰.

V. Environemental Impact

The SIA final report originally examines six environmental impacts^{421,422}. But for purpose of this thesis we will concentrate only on the Climate Change impact. New Zealand's performance is compared to the EU when relevant⁴²³.

New Zealand is on track to meet its 2020 Nationally Determined Contributions (“NDC”) to reduce net Greenhouse Gas (“GHG”) emissions by 5% below 1990 levels. Climate Action (2018) calls their 2020 NDC “compatible with the 2 °C target”⁴²⁴. New Zealand also pledged a 30% reduction in 2030 emission levels below 2005 levels, which is “insufficient to keep global warming below 2 °C”⁴²⁵. The EU pledged a 40% reduction from 1990 levels, but that is too low to meet the Paris goal (Mathiesen & Sauer, 2018)⁴²⁶. National gross GHG emissions rose 19.6% from 1990 to 2016, but 2016 emissions (79 Megaton CO₂-equivalents) were lower than 2006 peak emissions (83 Mton CO₂-eq). Over time, transport and agriculture (dairy) have contributed most to gross emissions⁴²⁷. New Zealand's LULUCF policy reverses net GHG emissions. New Zealand's LULUCF policy offset 24 Mton CO₂-eq in 2017⁴²⁸. New Zealand's largest GHG is methane (CH₄), not carbon dioxide (CO₂) or nitrous oxide (N₂O) 43, 41, and 15%, respectively⁴²⁹. The agricultural sector emits most CH₄ and N₂O. More than 95% of CH₄ and N₂O emissions came from agricultural activities, mostly enteric fermentation and manure⁴³⁰.

Impact on climate change: As GHG emissions have worldwide repercussions, their global influence matters⁴³¹. CH₄ emissions in New Zealand are predicted to drop by 0.42 percent (0.154 Mton CO₂-eq) in the conservative scenario and increase by 1.44 percent (0.527 Mton

⁴¹⁹ *Ibid*, p 59

⁴²⁰ *Ibid*, p 59

⁴²¹ Climate change, air quality, land use & soil quality, ecosystems & biodiversity, water quality & quantity, and waste & waste management

⁴²² *Ibid*, p 85

⁴²³ *Ibid*, p 85

⁴²⁴ *Ibid*, p 85

⁴²⁵ *Ibid*, p 85

⁴²⁶ *Ibid*, p 85

⁴²⁷ *Ibid*, p 85

⁴²⁸ *Ibid*, p 85

⁴²⁹ *Ibid*, p 85

⁴³⁰ *Ibid*, p 85

⁴³¹ *Ibid*, p 89

CO₂-eq) in the ambitious scenario⁴³². The conservative scenario expects EU CH₄ emissions to rise 0.02 percent (0.109 Mton CO₂-eq) and the ambitious scenario to fall 0.09 percent (0.409 Mton CO₂-eq)⁴³³. In the rest of the world¹³⁰, both scenarios predict CH₄ emissions to drop by 0.01% (0.213–0.812 Mton)⁴³⁴. The conservative scenario expects New Zealand N₂O emissions to rise 0.25 percent (0.033 Mton CO₂-eq) and the ambitious scenario 1.51 percent (0.196 Mton CO₂-eq)⁴³⁵. In the EU, conservative and ambitious scenarios estimate N₂O emissions to fall by 0.02 percent (0.048 Mton CO₂-eq) and 0.09 percent (0.226 Mton CO₂-eq)⁴³⁶. N₂O emissions are anticipated to rise 0–0.002% globally⁴³⁷.

These findings show that an ambitious FTA (complete trade liberalisation) will lower the cost of certain goods and services, increasing demand, production, and world emissions⁴³⁸. Because of trade diversion, the predicted rise in output in New Zealand and the EU is largely offset by a reduction in production elsewhere⁴³⁹. However, trade creation from an ambitious FTA is likely to raise world CH₄ and N₂O emissions⁴⁴⁰. Especially because of the long distance between the EU and New Zealand, more trade between the two will usually lead to more greenhouse gas emissions from transportation⁴⁴¹. Instead of trade between countries that are close to each other, more trade between the EU and New Zealand increases greenhouse gas emissions from transport both when trade is created and when trade is diverted⁴⁴². This is because trade between the EU and New Zealand usually replaces trade between two countries that are close to each other⁴⁴³.

VI. Impact on Least Developed Countries

Least Developed Countries (“LCD”), the world's poorest states, make up less than 2% of the global economy, 1% of worldwide commerce in goods, and 1% of global trade in services⁴⁴⁴.

⁴³² *Ibid*, p 89

⁴³³ *Ibid*, p 89

⁴³⁴ *Ibid*, p 89

⁴³⁵ *Ibid*, p 89

⁴³⁶ *Ibid*, p 89

⁴³⁷ *Ibid*, p 89

⁴³⁸ *Ibid*, p 89

⁴³⁹ *Ibid*, p 89

⁴⁴⁰ *Ibid*, p 89

⁴⁴¹ *Ibid* p 87

⁴⁴² *Ibid*, p 87

⁴⁴³ *Ibid*, p 87

⁴⁴⁴ *Ibid*, p 25

EU-African Caribbean and Pacific commerce accounts for about 5% of EU imports and exports, €23.5 billion, making the EU an important trade partner for most LDCs⁴⁴⁵.

LDCs export largely agricultural, commodity, and transformed items to the EU⁴⁴⁶. LDC exports to New Zealand totaled €123.6 million in 2017, making it a modest market⁴⁴⁷. New Zealand's LDC imports have surged in recent years, mostly due to textile and oil imports⁴⁴⁸. The economic study suggests the EU-NZ FTA will not affect LDCs⁴⁴⁹. By 2030, real GDP should remain unchanged from the baseline⁴⁵⁰. Due to their relative sizes, LDCs have larger absolute changes than Turkey⁴⁵¹.

All LDC welfare is predicted to decline by €26 million in the conservative scenario and €47 million in the ambitious scenario⁴⁵². Overall commerce, consumer prices, and CO2 emissions are unaffected in LDCs⁴⁵³.

⁴⁴⁵ *Ibid*, p 25

⁴⁴⁶ *Ibid*, p 25

⁴⁴⁷ *Ibid*, p 26

⁴⁴⁸ *Ibid*, p 26

⁴⁴⁹ *Ibid*, p 26

⁴⁵⁰ *Ibid*, p 26

⁴⁵¹ *Ibid*, p 26

⁴⁵² *Ibid*, p 26

⁴⁵³ *Ibid*, p 26

Conclusion

Throughout this thesis, the aim has been to illustrate the nature of sustainable commitments within a Free Trade Agreement (“FTA”), with a specific focus on the agreement between the European Union (“EU”) and New Zealand.

Chapter 1 provided the necessary background to integrate the principles of sustainable development into free trade agreements. The European Union actively promotes the inclusion of the TSD Chapter in its free trade agreements to align with its own environmental principles and international commitments. In addition, it has examined the significance of the Sustainability Impact Assessment (“SIA”), a research that has become essential in the discussions surrounding a free trade deal.

In the present day, it is crucial to thoroughly examine the future consequences of this agreement. The aim is to establish an agreement that adheres to the principles of sustainable development, ensuring that these commitments are not only meaningful but also effectively implemented. By utilising SIA reports, the Parties are empowered to make optimal selections by having access to relevant information for making accurate choices, especially during the negotiation process. Therefore, every aspect of this agreement has been carefully considered to ensure it is one of the most exemplary in terms of sustainable development regulations. Notably, these developments occur not only within Europe but also on a global scale, facilitated by specific non-governmental organisations such as the IISD. Consequently, it has been observed the progression of VSSs over time and the diverse methods by which they are incorporated into free trade agreements (TSD Chapters). These methods enhance awareness of sustainable problems and improve the implementation of actions that can lessen the environmental impact of these treaties. Therefore, it is feasible to establish a free trade agreement that upholds sustainable development measures, provided that every effort is made to advance this objective.

In Chapter 2, discusses a comprehensive analysis of the TSD Chapter (which is solely devoted to the principles of sustainable development) of the free trade agreement between the European Union and New Zealand.

It has been established that the Parties involved in the free trade agreement acknowledge the majority of international agreements, including the ILO Declaration on Social Justice for a Fair Globalisation and the Paris Agreement. Hence, the parties commit to implementing policies and activities directly linked to sustainable development. However, they still let themselves to enact legislation at the national level, while fostering collaboration amongst them during the implementation process.

The TSD Chapter has demonstrated that the parties recognise, promote for, and pledge to achieve certain UN SDG goals, including Target 5 on gender equality and Target 12 on responsible consumption and production.

“Furthermore, the TSD Chapter is legally binding and can be enforced through the general dispute settlement mechanism of the agreement⁴⁵⁴”. “Additionally, the TSD Chapter in the EU trade agreement introduces the option of trade sanctions as a final measure in cases of severe breaches of key TSD obligations, specifically the fundamental principles and rights at work outlined by the International Labour Organisation (“ILO”) and the commitments of the Paris Agreement on Climate Change⁴⁵⁵”.

Undoubtedly, the implementation of these measures will determine their effectiveness, and only the usage over time will reveal the outcome. However, it is important to emphasise the willingness of the parties to establish a free trade agreement with advanced commitments towards sustainable development.

Based on SIA’s final report, Chapter 3 contains an analysis of the potential effects that this free trade agreement could have on economy, climate, social elements, human rights and Least Developing Countries (“LDC”).

Overall, this free trade agreement does not have any adverse effects on the factors presented, however, the Parties involved in this arrangement would have some economic advantages.

Nevertheless, there are some concerns in relation to the potential consequences on ecological and specifically climate aspect. Considering the significant geographical distance between the EU and New Zealand, it is quite likely that the trade expansion resulting from this agreement will affect the environment by emitting carbon dioxide during the transportation of goods between the two countries. We may also consider the concerns raised amongst the farmers of certain EU member states regarding the potential impact of this deal on employment in the agricultural sector as well as the overall climate impact on the agriculture sector as a result of this free trade agreement⁴⁵⁶.

⁴⁵⁴ Director-General for Trade, *Key elements of the EU-New Zealand trade agreement*, 30 June 2022, https://policy.trade.ec.europa.eu/news/key-elements-eu-new-zealand-trade-agreement-2022-06-30_en accessed 17 July 2024

⁴⁵⁵ Director-General for Trade, *Key elements of the EU-New Zealand trade agreement*, 30 June 2022, https://policy.trade.ec.europa.eu/news/key-elements-eu-new-zealand-trade-agreement-2022-06-30_en accessed 17 July 2024

⁴⁵⁶ Latifa Madani, *Pourquoi le traité de libre échange avec la Nouvelle Zelande est il nocif?*, *L’Humanite*, 3 decembre 2023, <https://www.humanite.fr/en-debat/accord-de-libre-echange/pourquoi-le-traite-de-libre-echange-avec-la-nouvelle-zelande-est-il-nocif> accessed 17 July 2024

These are unresolved issues that will be determined in the future following the implementation of the free trade agreement.

Since the free trade agreement has recently been enforced (1st of May 2024), it is currently impossible to observe its market effects. It will inevitably take several years to determine whether the sustainable development measures are fulfilled, and we should remain patient and vigilant in monitoring the overall impact of the agreement.

As we look ahead, it is crucial for future negotiators to integrate these considerations into their strategies actively, as it was the case for the EU-NZ FTA. This will help ensure that the trade agreements are not only economically beneficial but also aligned with global sustainability goals. The transition to a future where sustainability is central to trade policy requires a concerted effort to bridge the gap between economic objectives and environmental stewardship.

Furthermore, the approach that was taken in this thesis was willingly descriptive because the objective was to discuss what it is in place today and how it might impact be the future. The purpose of this thesis was to discuss the positive developments that have been established by supranational organisations, non-governmental organisations (NGOs), and other nations in order to align themselves for a common cause (effective trade) while respecting the environment. This FTA could inspire a sense of hope in us, especially for future generations who will be forced to deal and live with the consequences of this agreement.

Until now, this agreement is one of the most ambitious towards sustainable development commitments.

P.S.: Question for 2044

Has this Free Trade Agreement respected its commitments towards sustainable development?

Bibliography

Dictionary :

- Garner, Bryan A, and Henry Campbell Black. *Black's Law Dictionary*. Abridged 8th ed. St. Paul MN: Thomson West, 2005. Print. Page 58, page 227, page 553.
- Sheppard, Steven Michael, and John Bouvier. *The Wolters Kluwer Bouvier Law Dictionary*. Compact edition. Alphen aan den Rijn: Kluwer Law International, 2011. Print, Page 395
- Webb, Julian. *The Penguin Dictionary of Law*. London: Penguin Books, 2009. Print, Page 488
- Woodley, M.G, and Percy George Osborn. *Osborn's Concise Law Dictionary*. 11th ed. edited by Mick Woodley. London: Sweet & Maxwell, 2009. Print. Page 402

Web sites blogs, articles :

- Ballingall John, 'Sustainability and the New Zealand-EU Free Trade Agreement: A step up in accountability' (*International Institute for Sustainable Development*, 15 January 2023) <<https://www.iisd.org/articles/policy-analysis/new-zealand-eu-free-trade-agreement>>
- Council of the European Union, 'EU Relations with the United Kingdom' (Council of the EU) <https://www.consilium.europa.eu/en/policies/eu-relations-with-the-united-kingdom/> accessed 12 June 2024.
- Delivorias Angelos, *Legislative Train 4 a stronger Europe in the World*, European Parliament, EU-New Zealand Free Trade Agreement, 20 March 2024
- Director-General for Trade, *Key elements of the EU-New Zealand trade agreement*, 30 June 2022, https://policy.trade.ec.europa.eu/news/key-elements-eu-new-zealand-trade-agreement-2022-06-30_en
- Director-General Roberto Azevêdo, *The WTO's 25 years of achievement and challenges*, 1 January 2020 https://www.wto.org/english/news_e/news20_e/dgra_01jan20_e.htm
- European Commission, 'Commission unveils new approach to trade agreements to promote green and just growth', 22 June 2022, https://ec.europa.eu/commission/presscorner/detail/en/ip_22_3921
- European Commission, 'EU-New Zealand Agreement' (EU Trade, 2024) https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/new-zealand/eu-new-zealand-agreement_en
- European Commission, 'IISD - International Institute for Sustainable Development' (Knowledge for Policy, 2024) https://knowledge4policy.ec.europa.eu/organisation/iisd-international-institute-sustainable-development_en accessed 12 June 2024.
- European Commission, 'Trade Sustainability Impact Assessment in support of FTA negotiations between the European Union and New Zealand - Final Report' (*CIRCABC*, 13 March 2020) <https://circabc.europa.eu/ui/group/09242a36-a438-40fd-a7af-fe32e36cbd0e/library/1458c970-91f2-4562-adeb-6ad789680ace/details>
- European Commission, Directorate-General for Trade, 'The power of trade partnerships: together for green and just economic growth', <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52022DC0409> , 22/06/2022
- European Commission, Directorate-General for Trade, Handbook for trade sustainability impact assessment, Publications Office, 2016, page 4 <https://data.europa.eu/doi/10.2781/872987>

- European Commission, Transparency Policy in DG TRADE, 6 september 2022, <file:///Users/irina/Downloads/Transparency%20Policy%20in%20DG%20TRADE.pdf>
- European Environment Agency, *Sustainability*, 24 June 2024 <https://www.eea.europa.eu/en/topics/at-a-glance/sustainability?activeTab=07e50b68-8bf2-4641-ba6b-ed1afd544be>
- Kelly Serena, Doidge Mathew, *Beyond trade: The European Union – New Zealand Free Trade Agreement*, Australian and New Zealand Journal of European Studies, 11 May 2023, Vol. 15 No.1 (2023), p 25. <https://doi.org/10.30722/anzjes.vol15.iss1.17363>
- New Zealand Foreign Affairs & Trade <https://www.mfat.govt.nz/en/trade/free-trade-agreements/free-trade-agreements-concluded-but-not-in-force/new-zealand-european-union-free-trade-agreement/>
- Nottage Hunter, *Trade in War's Darkest Hour: Churchill and Roosevelt's daring 1941 Atlantic Meeting that linked global economic cooperation to lasting peace and security*, WTO History of Trade, https://www.wto.org/english/thewto_e/history_e/tradewardarkhour41_e.htm
- Paugam Jean-Marie, *Trade, Sustainability and climate : What is at stake 30 years after WTO's creation?*, WTO Blog, 5 march 2024, https://www.wto.org/english/blogs_e/ddg_jean_marie_paugam_e/blog_ip_28feb24_e.htm
- Pironet Olivier, "Chronologie", Le Monde Diplomatique, <https://www.monde-diplomatique.fr/mav/141/PIRONET/52990#partage>
- United Nations on Trade and Development, *Voluntary Sustainability Standards in International Trade* (2022) <https://unctad.org/publication/voluntary-sustainability-standards-international-trade>, accessed 12 June 2024
- United Nations, 'Sustainable Development Goals: History' (United Nations Sustainable Development, 2024) <https://sdgs.un.org/goals#history> accessed 21 June 2024.
- United Nations, Academic Impact, *Sustainability* <https://www.un.org/en/academic-impact/sustainability>
- Vowles, Jack , Blyth, Conrad Alexander , Dalziel, Raewyn , Moran, Warren , Sinclair, Keith and Oliver, William Hosking. "New Zealand". Encyclopedia Britannica, 11 Jun. 2024, <https://www.britannica.com/place/New-Zealand>. Accessed 12 June 2024.
- Wolff Alan WM, *Paradigm lost? US Trade Policy as an Instrument of Foreign Policy*, WTO News, February 5, 2018, https://www.wto.org/english/news_e/news18_e/ddgra_09feb18_e.htm
- World Trade Organization, "The GATT Years: from Havana to Marrakesh" https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm
- WTO NEWS, 1998 Press Releases, PRESS/88, 5 February 1998, https://www.wto.org/english/news_e/pres98_e/pr88_e.htm

Study/Research:

- Bermúdez Steffany, Sarmiento Florencia, *Will the Inclusion of Voluntary Standards in Trade Agreements Lead to More Sustainable Trade?*, 23 April 2024, <https://www.iisd.org/system/files/2024-04/ssi-voluntary-standards-agreements-sustainable-trade.pdf>
- Blot, E., Sgarbi, F. and Oger, A. (2023). Reconciling agricultural and sustainability objectives in the EU-New Zealand FTA. Institute for European Environmental Policy. <https://ieep.eu/publications/reconciling-agricultural-and-sustainability-objectives-in-the-eu-newzealand-fta/>
- E. Blot, A. Oger and J. Harrison (2022), *Enhancing sustainability in EU Free Trade Agreements; The case for a holistic approach*, Policy report, Institute for European Environmental Policy (IEEP), page 5, page 15

- Jütten Marc, 'Trade and sustainable development in EU free trade agreements' [November 2023] Members' Research Service (PE 754613)European Parliamentary Research Service

Laws :

- Free Trade Agreement between the European Union and New Zealand 25.3.2024 Chapter 19

Abstract

Sustainable Commitments in Free Trade Agreement

Das 21. Jahrhundert wird maßgeblich von den bedeutenden Herausforderungen und tiefgreifenden Veränderungen geprägt, denen die Menschheit ausgesetzt ist. In Anbetracht des Klimawandels, der Wirtschaft, der Politik und der Gesellschaft befindet sich die Welt in einem stetigen Wandel. Dies impliziert die kontinuierliche Notwendigkeit, nach innovativen Lösungsansätzen zu suchen, um uns an diese Veränderungen anzupassen und unsere Entwicklung unter optimalen Bedingungen fortzuführen.

Die vorliegende Dissertation wird primär den Fokus auf die Herausforderungen im Kontext der internationalen Geschäftsbeziehungen legen, insbesondere im Hinblick auf die Thematik der Freihandelsabkommen. Die Globalisierung manifestiert sich in einer signifikanten Steigerung des Ausmaßes des internationalen Handels. Aus ökonomischer Perspektive erweisen sich Freihandelsabkommen als unverzichtbar für das Wachstum und die Prosperität der beteiligten Parteien. Darüber hinaus fungieren sie als bedeutende politische Bündnisse. Es wird über die Entwicklung von Freihandelsabkommen diskutiert, welche implementiert werden, um den Handel zu stimulieren. Es ist jedoch von essenzieller Bedeutung, den Einfluss der Freihandelsabkommen auf zukünftige Herausforderungen der nachhaltigen Entwicklung, wie beispielsweise Klima-, soziale, politische und wirtschaftliche Krisen, gebührend zu berücksichtigen. Wie lassen sich Freihandelsabkommen konzipieren, die den beteiligten Vertragsparteien von Nutzen sind und gleichzeitig eine minimale Klimaauswirkung aufweisen? Um dieses Thema eingehender zu erörtern, werden wir uns mit dem Freihandelsvertrag zwischen der Europäischen Union und Neuseeland befassen, welcher am 1. Mai 2024 in Kraft getreten ist. In diesem exemplarischen Fall werden wir uns auf drei wesentliche Aspekte konzentrieren: (1) Die Bedeutung der nachhaltigen Entwicklung in Freihandelsabkommen, (2) die Untersuchung des Freihandelsvertrags zwischen der Europäischen Union und Neuseeland unter Berücksichtigung der Verpflichtungen der Vertragsparteien in Bezug auf nachhaltige Entwicklung und (3) die potenziellen Auswirkungen dieses Freihandelsabkommens.

Das Ziel besteht darin, zu ermitteln, ob ein Freihandelsabkommen geschaffen werden kann, um den internationalen Handel und die nachhaltige Entwicklung miteinander zu verbinden. Welche Erkenntnisse können wir aus dieser Vereinbarung für die Zukunft gewinnen?

Abstract

Sustainable Commitments in Free Trade Agreement

The 21st century has been defined by the numerous significant challenges and disruptions that face humanity. The world is subject to continuous changes in terms of climate, economic, political, and social factors. This implies that it is imperative for us to consistently seek alternative methods to adapt and ensure the continuing progress of our evolution under optimum circumstances. This research will primarily concentrate on matters that involve sustainability in free trade agreements.

The phenomenon of globalisation is associated with a rise in the occurrence of cross-border trade. From an economic perspective, free trade treaties play a crucial role in fostering the development of the involved regions. However, it is important to note that these agreements also hold significant political implications, serving as strong alliances between nations.

Nevertheless, it is imperative to consider the impact of free trade agreements on forthcoming obstacles pertaining to sustainable development, including issues related to climate change, social inequality, political instability, and economic downturns.

How can free trade agreements be formulated in a manner that maximizes the benefits for the participating nations while minimizing their contribution to climate change?

In order to provide a more comprehensive analysis of the matter at hand, we shall consider the Free Trade Agreement that was established between the European Union (“EU”) and New Zealand, which officially came into effect on the 1st of May 2024. In this case study, our analysis will focus on three primary elements: (i) the significance of incorporating sustainable development principles within free trade agreements, (ii) an examination of the EU-New Zealand Free Trade Agreement, with particular attention to the parties' commitments towards sustainable development, and (iii) potential impact resulting from the implementation of this free trade agreement.

The objective of this study is to assess the feasibility of establishing of a free trade agreement that would connect international trade with the principles of sustainable development.

What insights can be gleaned from this agreement that can inform future endeavors?