

Sustainability Impact Assessment (SIA) of the Free Trade Agreement between the European Free Trade Association and Thailand – A Critical Analysis

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Summary

EFTA has published a Sustainability Impact Assessment (SIA) of the Free Trade Agreement between the European Free Trade Association and Thailand.² This was eagerly awaited as it is the first time that EFTA has undertaken such an exercise.

Credit goes to EFTA for having drawn up Terms of Reference (ToRs) that enabled a fully-rounded assessment. The ToRs call for analysis of tariff and non-tariff measures, ask for a combination (“intermingling”³) of quantitative and qualitative considerations, direct attention to a broad range of sustainability aspects (“economic, social, human rights, and environment”⁴) and attribute due weight to stakeholder consultations. In addition, the SIA was initiated in time to inform the negotiations.

The SIA report makes a positive first impression. It reports a detailed consultation process giving weight to diverse stakeholder views and paying attention to their subjective perceptions of impacts of the agreement. Its summary announces a case-study approach to specific issue areas. The report recognizes the shortcomings of quantitative modelling and draws on other sources and methods for analysis of issues where data are lacking.

Unfortunately, though, the SIA falls short of its promises. It contains strong methodological and analytical shortcomings which limit its usefulness for negotiators, stakeholders or the general public. It has four main flaws: (1) the economic impact analysis is essentially unconnected from the sustainability analysis, (2) the lens through which the sustainability aspects are analysed is too broad to enable useful conclusions, (3) the analysis and risk assessment that the report promises are not clearly presented, and (4) the report contains many inconsistencies, further diminishing its capacity to serve as a basis for policy conclusions.

Our analysis leads to the conclusion that most of the SIA remains at an unacceptable level of generality and fails to provide a useful description of possible sustainability impacts in EFTA States and Thailand in relation to the planned trade agreement. Its lack of actionable recommendations further limit its usefulness. We are not convinced that the SIA meets the ToRs’ objectives; in other words the SIA report does not enhance understanding of the sustainability impact of the planned agreement, does not serve as a basis for future monitoring and engagement regarding the implementation and enforcement of the agreement nor helps inform the public about potential benefits and risks of the agreement.

We recognize the challenges involved in carrying out impact assessments of trade agreements. Holding EFTA to the high standards that could otherwise be expected would be unwarranted for its first SIA. We welcome the fact that a SIA was mandated, and commend EFTA on the quality of the ToRs, which respond in large part to the recommendations of the Commission de gestion on impact

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² *Sustainability Impact Assessment of the Free Trade Agreement between the European Free Trade Association and Thailand*, September 2024.

³ ToRs page 2.

⁴ ToRs page 1.

assessments of trade agreements.⁵ We offer this analysis with a view to improving the expectations, process and results of future Sustainability Impact Assessments of trade agreements.

Part I of this analysis sets out our key points and recommendations from a Swiss policy perspective. Part II sets out the detailed analysis on which our key points and recommendations are based.

Part I - Key Points and Recommendations

I.1 Key Points

(1) Economic impact analysis essentially unconnected from the sustainability analysis

The SIA approaches the economic analysis completely separately from the sustainability analysis, in effect relegating sustainability dimensions to the level of second order concerns. This disconnect is an incorrect application of SIA methodology, and can only result in weak sustainability findings. Established methodologies, as well as the ToRs for this SIA, specify that the economic analysis is supposed to feed into the sustainability analysis – not to remain separate.

(2) Broad and unclear sustainability framing

The lens through which the sustainability aspects are analysed is unclear. Established methodologies specify that a SIA must select the key sustainability issues that will be assessed in further detail and explain why a focus should be put on those selected. This SIA seems to have skipped this crucial methodological step, known as screening, leaving the report reader wondering what sustainability lens the SIA adopted.

What sustainability framing we can glean appears so broad that it cannot provide useful insights into the channels linking sustainability impacts with the trade agreement. A narrower framing (whether by specific sector, trade measure, concern, group or region) is necessary to enable analytical focus and to develop recommendations to respond to the sustainability concerns identified. A human rights framing, for instance, will result in completely different analysis if it is looking at the impacts of increased fisheries exports on the right of migrant workers on ships or if it is looking at the impacts on the right to food of informal workers in agriculture due to trade-related changes in the poultry or palm oil sectors.

(3) The report does not deliver the promised analysis or risk assessment

A major shortcoming of the report is its failure to deliver on the Sustainability Risk Analysis promised in the Executive Summary. Overall, the report's contents remain at the level of anecdotes or generalities. The sustainability sections predominantly set out summaries of views about general impacts of trade provisions, as illustrated by the "case study" on the pharmaceutical sector which does not link the general statements to the specific situation of EFTA States or of Thailand. The necessary analysis is hard to find for many of the other topics the SIA covers, and completely absent for others. A consequence is that many of the conclusions give the impression of being a reaffirmation of EFTA's negotiating mandate, rather than research findings.

(4) Inconsistencies and unclear structure

Various issues are touched on in a piecemeal and sometimes contradictory way. This makes it difficult to follow the lines of argument and gives the impression that the issues have not really been analysed. More problematic though, is that the discussion on the same topic leads to different conclusions in different parts of the report. We are surprised that EFTA accepted a report that seems to fall short of what the terms of reference required as well as minimum scientific standards, both in its content and its structure.

⁵ Confédération suisse, Commission de gestion du Conseil national (CdG-N) (2023) [Contrôle de suivi: Effets des accords de libre-échange Rapport succinct de la Commission de gestion du Conseil national](#), 31 mars 2023.

(5) Other methodological concerns

Gains from trade are rarely evenly distributed across the economy. Certain regions, industries, firms or and workers can be left worse off following trade reforms. The point of a sustainability impact assessment is to identify who and where the losers from the trade agreement may be or what the environmental risks are, so as to be able to integrate measures to respond to these risks – as was done regarding palm oil in the EFTA-Indonesia trade agreement. But as so much of this SIA remains at the level of overall generality it gives us no insights into what the risks are or what related responses could be. In addition, it seems to be unaware of the developing body of work that exists to assess distributional, biodiversity or gender equality outcomes from trade.⁶

The report's long discussion on provisions that could be included in a "trade and sustainable development" (TSD) chapter is all the more surprising given the lack of sustainability or risk analysis. Indeed, a TSD chapter is supposed to set out responses to possible sustainability risks associated with the trade agreement: if the risks from the specific agreement have not been identified, the TSD cannot set out meaningful responses.

A final shortcoming may be attributable to the fact that EFTA did not require that the SIA articulate recommendations. The SIA does not indicate how to address the sustainability "red flags" raised by the report, such as the deforestation risks linked to the Thai poultry sector.

It is particularly unfortunate that rather than learning from other SIAs, such as those produced by the EU, EFTA has accepted a SIA that on many levels, replicates the shortcomings of previous attempts, and does not live up to the diligently-formulated ToRs for this assessment.

I.2 Key Recommendations

We recommend that for future SIAs, EFTA:

- require fully blending the economic and sustainability analysis,
- insist that the SIA adopt a sharp frame of reference, and clearly define the specific trade measures and sustainability impacts that it will study in depth,
- require actionable recommendations as a SIA deliverable,
- ensure that SIA reports include structural, process and outcome indicators for future ongoing monitoring of the trade agreement,
- require that any proposed trade and sustainable development provisions respond directly to sustainability risks identified by the SIA,
- ensure that ex-ante assessments are undertaken in sufficient time to incorporate their findings through subsequent negotiation rounds.

For this SIA, we recommend that EFTA:

- withdraw this report from public circulation until it has been subject to peer review and revised to meet the scientific standards required by the Terms of Reference, and to respond to the objectives set out in the ToRs.

⁶ Engel, Jakob, et al. (2021). *The Distributional Impacts of Trade: Empirical Innovations, Analytical Tools, and Policy Responses*. Washington, DC: World Bank. doi: 10.1596/978-1-4648-1704-5.

Part II – In-Depth Analysis

II.1 Introduction and Frame of Analysis

Our analysis considers the report of the SIA based on the requirements and objectives set out in the ToRs,⁷ namely:

- Does the report set out the possible positive and negative sustainability impacts in the EFTA States and Thailand, directly attributable to the conclusion of a trade agreement between the partners?
- Does the report enhance understanding of the sustainability impact of the prospective FTA?
- Can the report serve to disseminate information to the public on potential benefits and risks of the agreement?
- Does the report provide a basis for future monitoring and engagement regarding the implementation and enforcement of EFTA trade agreements?

II.2 Economic analysis unconnected from sustainability analysis: Sustainability as an afterthought?

The methodology that the ToRs set out directs the assessment to integrate economic aspects with social, human rights and environmental aspects. Yet the report treats the sustainability aspects almost completely separately from the economic ones, resulting in an SIA report which in effect relegates sustainability dimensions to the level of second order concerns.

This is evidenced *inter alia* by the report's Conclusion,⁸ which dedicates nearly 5 pages to anticipated economic impacts, and only 1.5 pages to sustainability impacts.⁹ Together with the insufficient analysis of the sustainability dimensions (discussed below), this gives the impression that the assessment is seeking to reaffirm EFTA's negotiating mandate rather than to improve understanding of sustainability impacts of the planned trade agreement.

Multiple sections illustrate the disconnect between the economic and sustainability analysis in the report. One is the conclusion of Section 2.2.4 (Economic impacts/Service Sectors),¹⁰ which includes a recommendation that “policymakers in EFTA countries and Thailand should target barriers that currently increase trade costs for service providers, hinder opportunities from digital transition, and erode competitiveness.” On its own, this may be a wise recommendation if the sole objective is to increase international trade in services. Yet it would stand in direct contradiction to a sustainability-focused recommendation if the “barriers” referred to are domestic measures with environmental or social objectives.¹¹ In this case, as in many others, only the economic dimension is analysed, leaving the reader none the wiser as to what possible sustainability impacts of removing such barriers would be.

Various parts of the economic analysis do include references to sustainability. The Introduction, for instance, notes that the planned agreement “poses risks as the economic activity triggered by the

⁷ The first of these questions is what the ToRs required for the SIA report. The other three questions are the SIA objectives as defined by the ToRs. The ToRs set out a further objective, which is to inform the ongoing negotiation process. As we are not able to gauge the extent to which this happened, we do not analyse the SIA's contribution to this objective.

⁸ Pages 105-111.

⁹ Also reflected in EFTA's communication on the report. EFTA LinkedIn post (October 2024) [EFTA releases Sustainability Impact Assessment of future EFTA-Thailand FTA](#).

¹⁰ Page 43.

¹¹ The report does at several junctures recommend removing non-tariff measures (NTMs) or other barriers, but without entering into analysis of a specific NTM, nor detailing their nature or purpose.

FTA could exacerbate existing sustainability challenges in Thailand, such as exploitation of migrant workers, pressure on SMEs and smallholders, and negative environmental impacts, including deforestation and biodiversity loss.”¹² The Economic Impacts Analysis sub-section on transport and logistics services says that commitments could establish better employment conditions aboard the parties’ ships, and that better market access for vessels owned by EFTA companies could result in a relative reduction of emissions.”¹³ But the report contains no explanation of why only some of the Economic Impacts Analysis sections include references to sustainability. Nor does the report offer a rationale for the sustainability dimensions mentioned, and, even more confusingly, not all the trade-related sustainability dimensions noted in this section are discussed elsewhere in the report.

According to established methodologies for assessing sustainability impacts of trade agreements,¹⁴ economic analysis can be done first and separately as it was here. This is because the economic changes expected from the agreement can be one of the main bases for selecting the sustainability impacts to study in more depth. However, the economic analysis should feed into the screening phase of the work, and not result in stand-alone economic recommendations that are not only separate from, but also possibly contrary to, sustainability recommendations. Additionally, when economic analysis is done first, EFTA should ensure that ample time be left to also include findings on sustainability during the early negotiation phase of an agreement.

Recommendation: EFTA should ensure that sustainability- and economic-related analysis are fully and coherently integrated.

II.3 Missing methodological step: screening

An important step in a SIA is that of screening to identify sectors and products of particular relevance for sustainability. Established trade impact assessment methodology specifies that this, screening, step is a means to select the key sustainability issues that will be assessed in further detail and to explain why a particular focus should be put on those selected.¹⁵ The ToRs call for this to be done in the second step, and this SIA claims to have done so. Unfortunately, however, this is not apparent from the report and the sequencing is not clear.

The report’s Part 3 does include three sections under the heading of “Screening of possible key sectors:” one on trade in goods, one on trade in services and one on foreign direct investment (FDI). But – with the exception of the sections on environmental impacts of goods trade – the discussion in these three sections mainly stays at the level of generalities. It contains scant references to relevant literature and does not indicate whether it is based on analysis elsewhere in the SIA. It is therefore difficult to gauge whether the “screening” sections set out hypotheses or the author’s opinion, and what the basis is for the affirmations they set out. Moreover, it is hard to follow the arguments due to the three sections’ diverging structures and inconsistencies in arguments and coverage.

Concerningly, the three sections neither set out selection criteria nor identify which sectors will be studied in more depth. Certainly, they do not set the scene for more in-depth analysis of sectors chosen as a result of the screening exercise – or of being that in-depth analysis. Furthermore, the so-called screening is only done for three issue areas. Perhaps we are just supposed to assume that intellectual property is relevant and that other possible chapters of the draft agreement are not?

¹² Page 12.

¹³ Page 31.

¹⁴ See e.g. European Commission (2016) *Handbook for Trade Sustainability Impact Assessment*, 2nd edition; Moisé, E. and S. Rubínová (2021) *Sustainability impact assessments of free trade agreements: A critical review*. OECD Trade Policy Paper No. 255, OECD Publishing.

¹⁵ See e.g. European Commission (2016) *Handbook for Trade Sustainability Impact Assessment*, 2nd edition; IEEP et al (2021). [Methodology for assessing the impacts of trade agreements on biodiversity and Ecosystems](#).

Another concern is that the three “screening” sections leave aside key sustainability-related questions, such as trade-related impacts of reducing domestic regulations for services and investments, that are often raised in trade/sustainability literature.¹⁶

Recommendation: EFTA should ensure that the screening step is adequately carried out, based on established methodology and following clearly defined criteria. It should require that this stage result in the selection of a few sharply defined areas for in-depth study, and that the report coherently explain and summarize the selection process and criteria.

II.4 What should sustainability analysis cover?

(1) Unclear sustainability framing

An SIA needs a clear sustainability framing, as the CdG-N has emphasised.¹⁷ This SIA does not set out what sustainability lens it is adopting and inconsistencies throughout the report leave the reader guessing. Sometimes the report refers to impact areas, such as “climate change, air pollution, deforestation and biodiversity,”¹⁸ or to “existing sustainability challenges in Thailand, such as exploitation of migrant workers, pressure on SMEs and smallholders, and negative environmental impacts, including deforestation and biodiversity loss.”¹⁹ In another part of the report it lists a set of topics such as “employment, gender equality, working conditions, labour standards, welfare effects, and consumer rights, international human rights commitments, vulnerable groups, corporate social responsibility (CSR) and inclusive economic development.”²⁰ Elsewhere, social aspects are set out as “consumers, welfare, handicrafts”²¹ or as “working conditions, child labour, gender equality and migrant rights.”²²

Inconsistent framing makes it hard to know what sustainability impacts are being assessed, whether the focus is on a particular economic sector, measure, group of people (migrant workers, smallholders or others²³) or concern (palm oil production, air pollution or informality in the export-oriented agriculture sector).²⁴ Moreover, it contributes to disconnects and contradictory messages in the analysis throughout the report. For instance, the report makes inconsistent points about possible environmental outcomes on the machinery and motor vehicles sectors²⁵ or of FDI spillovers.²⁶ A number of inconsistencies or contradictions appear in similarly fragmented discussions of other topics throughout the report.

¹⁶ See e.g. Rodrik, D (2018) "What Do Trade Agreements Really Do?" *Journal of Economic Perspectives*, 32 (2): 73–90. DOI: 10.1257/jep.32.2.73; Onwachukwu, C. I. et al. (2021) *The causal effect of trade liberalization on the environment*, *Journal of Cleaner Production*, <https://doi.org/10.1016/j.jclepro.2021.128615>.

¹⁷ See e.g. Confédération suisse, Commission de gestion du Conseil national (CdG-N) (2023) *Contrôle de suivi: Effets des accords de libre-échange Rapport succinct de la Commission de gestion du Conseil national*, 31 mars 2023.

¹⁸ Page 10.

¹⁹ Page 12.

²⁰ Page 110.

²¹ Page 83.

²² Page 144.

²³ See e.g. page 66.

²⁴ Similarly, the country framework of analysis oscillates throughout the report, sometimes focussing on Thailand and sometimes on EFTA countries, often with no explanation as to why the focus varies, as is the case in Section 3.1. A different country focus may be justified – but the absence of explanation as to what this might be, the shifting focus of analysis leaves an impression of incomplete or inconsistent analysis.

²⁵ Page 28 says that reduction of tariffs and TBTs could increase exports of advanced machinery products, electrical equipment and vehicles and parts from EFTA countries which would “improve Thailand’s access to advanced technology products including green technologies and environmental goods.” But page 63 says that the machinery and equipment production sector has been the leading consumer of electricity in Thailand and the FTA is expected to increase the primary inputs for this electricity production, such as coal, oil, gas, and petroleum products.

²⁶ The contradiction is found between page 82 and page 145. The former, in the conclusion of the FDI screening section, says “Provisions of the FTA on FDI, and especially on sustainability-related aspects, may further help limit any negative spillover, encouraging due diligence activities and making sure that the investments are not channelled towards activities that are not sustainable from the environmental and labour perspectives.” Later on though, the report refers to a mine operated by an Australian company that the Thai government closed on environmental and health grounds in 2017. The report notes that under the investment chapter of Thailand’s FTA with Australia, the mine was reopened in 2023.

In addition, the sustainability lens adopted appears to be excessively broad. Enquiry about the human rights impact of goods liberalization under the agreement would look very different if we are thinking about right to health impacts of pharmaceutical imports into Thailand or right to work impacts of increased competition in the fisheries sector. A narrow framing (whether by specific sector, concern, group or region) is necessary to enable analytical focus, to get a sense of the planned agreement's likely sustainability impacts on a specific sector, group or region and to develop recommendations to respond to the sustainability concerns identified.

The sustainability framing should have been clearly set out in one of the first sections of the report. Starting from the Sustainable Development Goals (SDGs) framework, for instance, would have brought with it an integrated framing of economic, environmental and social dimensions, as well as a set of indicators.

(2) Coverage

The section²⁷ on provisions that could be included in a “trade and sustainable development” (TSD) chapter is surprising and deflects attention from study of possible sustainability impacts of the agreement itself.

While the SIA seems to acknowledge that the jury is still out the use of sustainability-related chapters in trade agreements,²⁸ it asserts that “assessment of the TSD provisions listed in the Moldova+ scenario offers a qualitative perspective on what would be the impact of such provisions if they were included in the EFTA-Thailand FTA from a sustainability perspective.”²⁹ This premise is impossible to validate: the EFTA-Moldova trade agreement is both too recent to know the impact of the inclusion of these provisions on sustainability outcomes and also has not been studied in an ex-post assessment. There is thus no empirical basis for the report's affirmation that the “impact across the various thematic areas is expected to be overall positive.”³⁰

Beyond this the proposed TSD provisions look like planning a band-aid to stick on a wound after it has been inflicted. The purpose of an SIA is to identify possible sustainability risks and opportunities, to reduce the former and maximize the latter. Yet, other trade agreements include provisions in TSD Chapter that contradict the effects of substantive provisions of other Chapters. A common example is TSD Chapters' inclusion of right to regulate provisions, while investment and services chapters of the same agreement reduce a country's right or ability to regulate. A possible example from the EFTA-Thailand trade agreement is that private consumption is expected to increase in Thailand³¹ while the TSD Chapter would require the country to commit to environmental commitments, many of which would implicitly require reduction of consumption. It makes little sense to assess provisions in key areas of concern only in the TSD Chapter if the remaining agreement includes the very provisions causing the problem.

Moreover, to be able to craft TSD Chapter wording to minimize or respond to adverse sustainability impacts, one must know what these impacts might be. The EFTA-Indonesia provision favouring sustainably produced palm oil is based on study of possible sustainability issues in the countries concerned, and the TSD Chapter provision on the topic is linked to from a footnote in the tariff schedules. Thus, this SIA's “potential recommendation” to consider the implementation of similar provisions falls flat, as understand the drivers behind the concern and the best possible response requires understanding the impacts of the trade agreement on the issue at stake – which this SIA fails to help us do.

²⁷ Section 3.5, page 87.

²⁸ See e.g. Smith, A. et al. (2021) *Free Trade Agreements and Global Labour Governance The European Union's Trade-Labour Linkage in a Value Chain World*; Bertram, C., Van Coppenolle, H. (2024) *Strengthening the Paris Agreement through trade? The potential and limitations of EU preferential trade agreements for climate governance*. *Int Environ Agreements*. <https://doi.org/10.1007/s10784-024-09653-x>

²⁹ Page 99.

³⁰ Page 103.

³¹ Page 54.

Recommendations:

Future SIAs should be required to adopt a sharp sustainability frame of reference, and clearly define the specific trade measures and sustainability impacts for in-depth study,

SIA reports should clearly set out the indicators it uses as well as structural, process and outcome indicators for future ongoing monitoring of the trade agreement,

EFTA member states should ensure that their foreign economic policy legal framework include material provisions linked to sustainable development and human rights, to help clarify the sustainability criteria to be applied in an SIA.

Impact assessments should focus on the expected impacts of the substantive provisions of a planned trade agreement and any recommended TSD provisions should respond directly to risks identified in the assessment's analysis

II.5 Reflecting relevant knowledge and practice?

To its credit, the SIA report recognized the need to combine quantitative and qualitative methodologies, to refer to relevant empirical literature and draw on stakeholder expertise, noting that the purpose of doing so is to direct attention to possible sustainability impacts of the trade agreement and fill data gaps.

(1) Too narrow sources of information

But on this point the report disappoints. On closer reading, the literature review seems mainly limited to methodological approaches and quantitative modelling. Moreover, the sources of the literature cited in a number of the substantive sections is narrow and partial, with content remaining at the level of generalities rather than applying to the specific context of the EFTA-Thailand trade agreement. This is the case for the discussion on trade in services which draws almost exclusively on research by the Heritage Foundation, the IMF, McKinsey and the World Economic Forum (WEF). This might explain why the report leaves aside risks associated with services trade liberalization, and does not raise essential and much-researched questions about sustainability impacts of deregulation, including impacts of liberalization on public services.³² Similar concerns are raised by the section on channels through which intellectual property (IP) can have sustainability impacts³³ which relies almost exclusively on WIPO publications, and surprisingly does not reflect having considered Thai research on the topic or the specific situations of Thailand or Switzerland's pharmaceutical industry. A more detailed and more specific literature review would have yielded more insights into the links between the proposed trade agreement and sustainability outcomes.

(2) Lack of references

The report often does not indicate the sources or bases for affirmations it makes. On page 28 for instance, we read that “pharmaceutical imports are subject to various technical barriers to trade (TBTs) when entering the Thai market. The elimination of import tariffs and a reduction of TBTs could increase pharmaceutical exports from Switzerland to Thailand and improve access to more affordable medicines in Thailand.” There is no indication of the SIA having studied the determinants of affordable medicines in Thailand, nor does the report share information about which TBTs are at stake.³⁴ This is but one of many instances where readers are left wondering about the validity of a statement, and whether it is a hypothesis, opinion or the result of analysis.

³² See e.g. Krajewski, M (2003) Public Services and Trade Liberalization: Mapping the Legal and Policy Issues” (*Journal of International Economic Law*; Mercurio, B (2013) *The Regulation of Services and Intellectual Property – Volume III*; Tutulmaz, O., & Dogan, B. (2015). Investment under Financial Liberalization: Post 1980 Turkey Case. *Expert Journal of Economics*; UNCTAD (2016) Services, development and trade: The regulatory and institutional dimension.

³³ Section 3.4.1, page 82.

³⁴ It is unfortunate that this discussion does not refer to the later case study on IP and pharmaceuticals where access to medicines is discussed in more detail.

Sometimes this give a strong impression that the report’s authors have not properly understood the issue at stake, as is the case in many parts of the case study on “plant varieties and UPOV,”³⁵ for which almost no sources are provided. The case study does not present its analysis of the sustainability impacts of a change of Thailand’s current law to what the agreement is likely to require, yet the authors state that “our assessment shows that Thailand's PVA (*sic*) regulations align with UPOV's mission and general principles.” The case study provides no sources or references for this statement, so, given the difference between the Thai PVP law and UPOV, it is hard to understand how an assessment can have taken place.

(3) Methodological developments

In recent years, new methodologies and data on sustainability impacts of trade have been developed, including new ways of modelling for these. These include ways to model for deforestation, ecosystem services, biodiversity loss, enjoyment of women’s rights, inequality and other sustainability concerns,³⁶ which hold promise for assessing sustainability impacts of trade agreements, contrary to what the SIA report asserts.³⁷

Reducing inequalities is one of the SDGs and also an increasing concern in trade policy. This derives from the observation that gains from trade are rarely evenly distributed across the economy and that certain regions, industries, firms or and workers can be left worse off following trade reforms, particularly in developed countries. Yet policy choices exist to improve both distributional outcomes and the speed of adjustment to reforms. A developing body of work exists to assess distributional outcomes from trade as well as policies to address those disadvantaged by changes in trade.³⁸ It is regrettable that this SIA did not apply these approaches to analyse impacts of the planned trade agreement on the groups or regions likely to be adversely impacted in the transition to new trade patterns.

(4) Responding to lack of data

Trade agreements’ impacts on sustainability is still largely uncharted territory, even if there is significant literature in some areas such as gendered impacts of liberalization or health impacts of changed intellectual property (IP) rules. The report notes that where quantitative data are lacking, it uses qualitative analysis often relying on limited information, affecting the quality and the level of certainty of the analysis.³⁹ The fact that information is lacking in some areas does not, however, excuse the report’s almost complete lack of engagement with scholarship and knowledge in some crucial areas including those noted above.

For some of these issue areas, trade literature will not provide all the answers about possible impacts. Research will therefore have to link different fields of study to be able to hypothesize about, say, what potential trade-related drivers are for local manifestations such as biodiversity loss, deforestation or worker rights violations. Indeed, the data for modelling in these areas may be less robust and the research may not yield perfect analytical results, but investigating possible drivers and channels of impact, and monitoring them in the future is precisely the objective of SIAs such as this one. Even imperfect investigations will help us build the body of knowledge we need.

Recommendations:

³⁵ Page 86.

³⁶ See e.g. Fontana, M. (2004) “Modelling the effects of trade on women, at work and at home: comparative perspectives.” *Économie internationale*, n° 99(3), 49-80. <https://doi.org/10.3917/ecoi.099.0049>; IEEP, Trinomics, IVM and UNEP-WCMC (2021). *Methodology for assessing the impacts of trade agreements on biodiversity and ecosystems*; Johnson, J.A. et al. (2020). *Global Futures: modelling the global economic impacts of environmental change to support policy-making. Technical Report*, <https://www.wwf.org.uk/globalfuture>; Government of Canada (2024) *Gender-Based Analysis Plus (GBA Plus) of trade policy and free trade agreements*.

³⁷ Page 23.

³⁸ Engel, Jakob, et al. (2021). *The Distributional Impacts of Trade: Empirical Innovations, Analytical Tools, and Policy Responses*. Washington, DC: World Bank. doi: 10.1596/978-1-4648-1704-5.

³⁹ Page 23.

EFTA should insist on a literature review that includes research specific to the countries being assessed.

EFTA should require that SIAs engage with cutting-edge methodology, particularly those on distributional impacts of trade developed by the World Bank

EFTA should require SIA reports to employ high degrees of academic rigour and ensure that findings hold up to current scientific recommendations of best practice, preferably subjecting draft SIA reports to academic-level peer review before publication.

II.6 Consultations and Use of Stakeholder Input

This SIA is to be commended for its engagement with stakeholders. The SIA team contacted a range of different actors and observers, ran surveys in different languages, took time for individual meetings and feedback, and paid heed to subjective views about the agreement. It is regrettable though, that Parliamentarians do not appear to have been consulted alongside other stakeholders.

However, the way stakeholder views are represented in the report is sometimes surprising. The first reference is in the Summary which says that the conclusions and recommendations were based on stakeholder engagement throughout the project. One could have imagined the analysis undertaken in the assessment would have been the main basis for the conclusions and recommendations, with that stakeholder views contributing to them.

More significant is the fact that stakeholder views pop up⁴⁰ at different points in the report, muddling arguments and making for a very long report. When a stakeholder is quoted in one of the substantive sections it is not always clear why that particular view is put forward on that particular topic. Sometimes it is clear that it the stakeholder quoted is bringing specific expertise, but sometimes it weakens the credibility of a line of analysis. A number of the sections end with long compilations of stakeholder views. This makes for confusing reading as the views are – naturally – varied and sometimes contradictory.

Additionally, the ample space given to subjective impressions about the planned trade agreement means that the statements conveyed may not always be grounded in fact. This conveys the impression that stakeholder consultations serve to bring anecdotal evidence, when in fact they should provide a basis, or pointers, for areas that deserve to be better studied or explained.

Moreover, it would have been easier to read the report if a synthesis of views had been presented, perhaps in an Annex, so as to avoid conflating individual views with evidence. This is particularly important in light of the fact that lack of references and a clear indication of the analytical framework means that it is already hard to disentangle analysis from opinion or hearsay.

Recommendation:

Parliamentarians should be consulted during the SIA process.

EFTA member states should main a register of key local actors with expertise on questions relating to sustainability and/or international trade and ensure that future SIA authors be referred to these stakeholders to ensure inclusion of as broad a range of expertise and perspectives as possible.

Stakeholder views should be used as a guide for in-depth research but not reproduced in extenso.

II.7 Lack of actionable recommendations

⁴⁰ Sometimes attributed to a specific person, sometimes not, thus contradicting what the report said on page 21, that organizations are only referred to by type. See e.g. page 100 “the provisions should also include migrant workers given that Thailand is a major destination country, as reported by the stakeholder from IOM.”

The ToRs for this SIA did not require that the report offer recommendations, even though specialists concur that SIAs should lead to well-targeted conclusions and policy recommendations to help officials in the conduct of the trade negotiations.⁴¹ Various recommendations do appear in various parts of the SIA report, but many remain general and do not state what analysis or sources they are based on.⁴² A related question is how EFTA or member states will respond to sustainability “red flags” mentioned by the report, such as the deforestation risks linked to the Thai poultry sector.⁴³ It seems unsatisfactory to raise these kinds of concerns without proposing how they can be addressed.

The report refers to the need for ongoing monitoring⁴⁴ but without clearly setting out a set of areas to be monitored, nor the indicators to be used to monitor sustainability impacts of the planned trade agreement. The report says that this SIA can provide the basis for future monitoring under the TSD chapter, but does not set out indicators to guide the monitoring of actual sustainability impacts under the TSD Chapter or an ex post SIA. Ideally the indicators for future monitoring should be the same as those used for the ex-ante SIA of a trade agreement.

Recommendations:

EFTA should require SIA reports to provide actionable and evidence-based recommendations in relation to key sustainability concerns.

EFTA should insist that SIA reports offer guidance for subsequent analysis of trade agreements. This includes identifying measurable and actionable areas for monitoring along with recommendations on the timing of said monitoring.

II.8 Format, length and structure

The SIA report runs to double the length specified in the ToRs. Sections are inconsistently organized, section headings do not always correspond to their content and the report fails to deliver on all its promises, such as the assessment of the sustainability risks of the future FTA promised in the Executive Summary.⁴⁵ Readers are left wondering at which stage the authors intend to undertake a deeper discussion of sustainability impacts – and of which impacts. Moreover, the report uses the same terms to refer to different things, as is the case for the word “baseline”.

Various issues are touched on in a piecemeal and sometimes contradictory way, making it difficult to follow lines of argument and giving the impression that the issues have not really been analysed. An example is the discussion of the motor vehicle sector in Thailand: at some points the report says increased exports will lead to more carbon emissions. But elsewhere it says that services trade liberalization and stronger intellectual property protection will help the transfer of green technologies and therefore have a positive environmental impact.

⁴¹ European Commission (2016) *Handbook for Trade Sustainability Impact Assessment*, 2nd edition; Moisés, E. and S. Rubínová (2021), “Sustainability impact assessments of free trade agreements: A critical review”, *OECD Trade Policy Papers*, No. 255, OECD Publishing, Paris, <https://doi.org/10.1787/65b1a07e-en>

⁴² Even though the EU Handbook EU handbook says that conclusions should be substantiated with evidence and stakeholder views. Examples in the SIA report are “Given the key service sectors for the Thai economy, namely tourism, transportation, and financial services, FTA provisions that focus on the sustainability of the services should benefit the society,” (page 77) “Thailand should align its IP laws with international standards,” (page 14) “EFTA countries should prioritise attaining a higher level of openness in Thailand’s services industries,” (page 43) “Large-scale aquaculture operations and extensive fishing activities have already displaced SMEs and small-scale fishers, a situation that the FTA with Thailand could exacerbate and contribute to a shift from artisanal to large-scale fishing globally. Based on this report, the potential risk should be monitored,” (page 68) or “a key component of our recommendations is the monitoring and implementation of the FTA” (page 111).

⁴³ Page 65.

⁴⁴ See e.g. pages 68 and 111.

⁴⁵ Page 10.

These shortcomings undermine the report's ability to meet the ToR objective of enhancing the understanding of sustainability impact of the prospective FTA and make it even less suited to disseminate information to the public on potential benefits and risks of the trade agreement.

Recommendations: EFTA should withdraw the present draft report and ensure that a properly revised version be produced.

Conclusion

We have analysed the SIA report in light of the objectives and requirements of the ToRs, bearing in mind common methodologies for SIA. We acknowledge the challenges of carrying out SIAs, and that the time and budget available for this project were limited.

However, our analysis of the SIA report shows that its shortcomings stem not from a lack of resources, but to a lack of adequate framing of the sustainability dimensions to be assessed and a lack of rigour in the final report. Our analysis does not enable us to conclude that this SIA helps understand sustainability impact of the prospective trade agreement beyond the results of the economic modelling. Added to the inadequate sustainability framing, the general, hypothetical and often incomplete discussion of links between the trade agreement and sustainability impacts and make it unsuited to informing the public on potential benefits and risks of the planned EFTA-Thailand trade agreement. The complicated structure and excessive length of the report confirm this perspective.

It is particularly unfortunate that rather than learning from other SIAs, such as those produced by the EU, EFTA has accepted a SIA that on many levels, replicates the shortcomings of previous attempts and does not live up to the diligently-formulated ToRs for this assessment.