

DIRECTORATE-GENERAL FOR EXTERNAL POLICIES
POLICY DEPARTMENT



**Comparing EU and EFTA
trade agreements:
drivers, actors, benefits,
and costs**

INTA



STUDY

Comparing EU and EFTA trade agreements: drivers, actors, benefits, and costs

ABSTRACT

EFTA states have built up a network of 26 preferential trade agreements (PTAs) with 37 partners, compared to more than 120 trade agreements concluded by the EU with more than 45 partners.

There are substantial differences between EU and EFTA PTAs in terms of scope and ambition. EFTA agreements still focus on traditional areas of market access, while the post-1990 EU agreements are more elaborate, values-driven, political and comprehensive.

As a bloc, the EU has more leverage when it negotiates around the world. The size of its market and its highly developed common policies mean that the EU can bring more to the negotiating table and has stronger tools to enforce its economic interests and political conditions compared to the smaller EFTA states whose political and economic cooperation is limited.

Although the EFTA states do not form a customs union like the EU, they usually negotiate PTAs as a group, bringing their combined economic and political weight to bear. However, they retain the right to reach bilateral trade agreements with third countries outside the EFTA framework, such as Switzerland's PTAs with Japan and China, and Iceland's bilateral PTA with China.

EFTA's small size nonetheless has some benefits. Since EFTA states are not so constrained by — often diverging — interests they can be more flexible in their negotiations. In some cases EFTA has concluded trade deals relatively quickly compared to the EU, but this has been at the expense of relatively shallow trade agreements.

This paper was requested by the European Parliament's Committee on International Trade.

English-language manuscript was completed on 30 May 2016.

Printed in Belgium.

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This paper will be published on the European Parliament's online database, '[Think tank](#)'.

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ISBN: 978-92-823-9272-0 (PDF)

ISBN: 978-92-823-9271-3 (paper)

doi:10.2861/67855 (PDF)

doi:10.2861/942223 (paper)

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Executive Summary

The European Free Trade Association (EFTA) constitutes the world's twelfth largest trader in merchandise goods and seventh largest trader in commercial services. Its members represent important markets for both outward and inward investment. EFTA states have built up a large network of 26 preferential trade agreements (PTAs) with 37 partners. Although the EFTA states do not form a customs union, they usually negotiate PTAs as a group, combining their economic and political weight. But the EFTA countries retain their right to enter into bilateral trade agreements with third countries outside the EFTA framework. Thus, Switzerland has concluded bilateral FTAs with Japan and China and Iceland has a bilateral PTA with China.

EFTA PTAs have been concluded in three phases. Phase One began in the early 1990s with the negotiation of PTAs with the Central and Eastern European transition states. Here EFTA followed the example set by the EU in negotiating the Europe Agreements. The main aim was to protect EFTA's commercial interests by ensuring equivalent access to these transitional economies. In Phase Two, EFTA also mirrored the EU by negotiating with the countries in North Africa and the Middle East that were included in the EU's Euromed policy from 1995. Again, the main aim was to match the EU agreements, but the EFTA states also supported the political and strategic aims of the Europe Agreements and the EU's Euromed policy. However, as EFTA had no colonial legacy it did not follow the EU's strategy of deepening ties with the African, Caribbean and Pacific (ACP) states. The third phase of EFTA PTA policy began in the early to mid-2000's when it 'went global' in seeking to negotiate agreements with partners around the world. The first of these agreements were concluded with Canada, Singapore and the South African Customs Union (SACU). At this point, EFTA was ostensibly negotiating with those countries that had sought to negotiate PTAs with Europe, but with which the EU had not pursued negotiations, for a variety of reasons. Subsequently, either EFTA or individual EFTA states have continued activist PTA policies.

This study describes the intergovernmental nature of cooperation in EFTA and the scope for independent trade policies in the light of EFTA's institutional set-up and decision-making process. This is in clear contrast to the EU, which has always negotiated as a single entity, and where the progressive development of exclusive EU competence over means that all essential trade and investment topics in PTAs are now negotiated by the EU. Article 43 (g) of the EFTA Convention provides that the Council shall 'negotiate trade and co-operation agreements between the Member States and any other State, union of States or international organization.' As neither the Convention nor the EFTA Council's Rules of Procedure indicate specific procedures regarding the preparation, negotiation, ratification and implementation of such agreements, the EFTA Member States' individual constitutional provisions apply.

Unlike the EU, EFTA has not systematically produced detailed quantitative assessments of the impact of potential PTAs. There has therefore been little detailed econometric modelling of the sort commissioned by DG Trade at the Commission and no systematic production of studies equivalent to the EU's Sustainable Impact Assessments (SIAs). However, there appears to be a trend towards the production of more detailed studies in Switzerland. Parliament has a relatively strong say in the early phases of negotiation on international agreements and is able to push the government into ex-ante debate on and evaluation of new PTAs. The EFTA Secretariat in Geneva, which leads the coordination of PTA policy, may also be requested to provide studies. Again, these have tended to be much less detailed than those produced by the EU.

The national character of EFTA PTAs means that although EFTA approaches PTA partners as a group, the individual EFTA states conclude their own bilateral schedules in some areas, such as agriculture. The loose, purely intergovernmental, character of EFTA also means that members can opt to negotiate

separate bilateral agreements, such as the Switzerland-Japan PTA, which may raise some questions about the continued viability of EFTA as a negotiating body.

This study shows that the drivers shaping EFTA PTA policy have been both commercial and political. Compared to the EU, EFTA's PTA policy has always been focused more on commercial considerations and less on broader geopolitical, geo-economic or foreign policy interests. EFTA's motive for negotiating PTAs has also been a desire to match EU access to — or preferences with — third countries. In this respect, EFTA's PTA policy appears to support one of the dominant theories explaining the spread of PTAs, which is the desire to prevent or pre-empt trade diversion or protect the interests of existing exporters and investors (Baldwin, 1993).

The EFTA template for PTAs is very similar to that of the EU but with some important distinctions. In terms of tariff liberalisation for manufactures, EFTA seeks extensive and progressively full tariff liberalisation, but market access for agricultural products is more restricted and negotiated bilaterally by each EFTA Member. EFTA's approach to services commitments is also very similar to that of the EU, with both seeking GATS plus provisions but opting for similar exclusions (such as health, social and educational services). But EFTA countries negotiate separate agreements in the related area of investment. With regard to 'regulatory' policies that facilitate market access, EFTA's approach to PTAs is the same as the EU's because the EFTA states effectively follow the *acquis communautaire* (or body of EU laws and norms). This is the case for technical barriers to trade (TBT), sanitary and phytosanitary measures (SPS), competition and rules on public procurement. Like the EU, EFTA seeks a 'high standard' of protection for intellectual property rights (or TRIPS plus provisions).

However, this study suggests that the cost of EFTA's apparent ability to conclude some agreements quickly is that the agreements are relatively shallow. The 'first generation' of EFTA PTAs was essentially concerned with tariff liberalisation but with limited liberalisation of agriculture. They included nothing in the way of non-tariff measures that was in any real sense WTO plus. The second and third generations of EFTA PTAs have, like all PTAs negotiated by OECD economies, included more WTO plus provisions, but they have still tended to lag behind the EU in terms of depth.

One major difference between the EU and EFTA concerns the binding nature of references to human rights and labour standards as well as environmental and sustainability issues. While the EU regards these norms as 'essential elements of the agreements', EFTA has developed a separate template to negotiate with PTA partners. Here the relative ability of EFTA to negotiate PTAs more quickly could pose a challenge to the EU's own PTA policy. For example, Switzerland's and Iceland's PTAs with China do not include any of the human rights or labour rights commitments that the EU has sought to include as key conditions for any agreement. What impact will these EFTA agreements have on EU negotiations with China?

The Transatlantic Trade and Investment Partnership (TTIP) poses a challenge to EFTA as it can be expected to shape global trade and investment norms that EFTA will be obliged to follow, or risk seeing investment relocate to the EU in order to benefit from secure access to TTIP. This study notes that two studies by the Centre for Economic Policy Research (CEPR) and the Institution for Economic Research (IFO) each present different econometric estimates of the economic impact of TTIP on Norway and Switzerland. While the CEPR predicts small positive effects for Norway, the IFO estimates a fall in Norwegian GDP of almost 4 % as well as an increase in unemployment of 0.44%. For Switzerland, the IFO study predicts that a comprehensive TTIP agreement would result in a negative welfare effect of -3.8%. Another study by the World Trade Institute (WTI) predicts a welfare effect for Switzerland ranging from -0.88 % to +3.7 % of GDP per year. According to the WTI study, the worst case scenario of a far-reaching, exclusionary, and discriminatory deal between Switzerland's two largest trading partners could wipe 0.5 % off the Swiss economy, shaving more than CHF3 billion from the country's annual economic output.

The Trans-Pacific Partnership (TPP) could equally lead to trade diversion even where earlier EFTA PTAs exist with TPP signatories. Overall, a world trading system dominated by mega-regional agreements to which EFTA states are not party might push the remaining EFTA members to reconsider EU membership.

1 Introduction

This study covers EFTA's approach to preferential trade agreements (PTAs) and provides a broad comparison with that of the European Union. It examines the evolution of EFTA PTA policy, including how EFTA policies have been shaped by the EU, but also how the EFTA's efforts to 'go global' with the geographical reach of its PTAs have been influenced by the general move to negotiate PTAs among virtually all countries and entities. The study discusses the factors that have shaped policy choices in EFTA. These have been both commercial and political, but compared to the EU EFTA's PTA policy EFTA has always been focused more on commercial considerations and less on broader geopolitical or foreign policy interests.

The study then considers the decision-making process within EFTA. This is based on cooperation between the EFTA states which retain the scope to pursue independent trade policies. This is of course in clear contrast to the EU because the EU has always negotiated as a single entity, and the progressive development of EU competence has meant that the EU as a whole negotiates essential trade and investment topics in PTAs. The national identity of EFTA PTAs means that although EFTA approaches PTA partners as a group, the individual EFTA states conclude their own bilateral schedules with PTA partners in areas such as agriculture. Furthermore, the loose nature of EFTA also means that members can opt to negotiate separate bilateral agreements, such as the Switzerland–Japan or Switzerland–China PTAs, which may raise some questions about the continued viability of EFTA as a negotiating body.

The study then turns to the content of the EFTA PTAs. They were initially motivated by a desire to match the access to third markets gained by EU suppliers. In recent years, the motive has been to match other trading nations or entities. Here the study shows that EFTA's apparent ability to conclude some agreements relatively quickly comes at the price of relatively shallow agreements. Regarding trade rules, EFTA follows the EU approach closely. Thus, on questions such as technical barriers to trade, sanitary and phytosanitary measures, rules of origin, government procurement, and others, the EFTA PTAs follow existing GATT/WTO rules or the EU approach. This is not surprising given that, under the European Economic Area (EEA) agreement, the EFTA states have effectively adopted the EU *acquis communautaire*, which largely determines these aspects of comprehensive trade and investment agreements,.

It is in the area of bilateral PTAs that some individual EFTA states have sought to adopt different or more ambitious agreements. This study explores these efforts by considering the case studies of Switzerland and Norway. The final section concludes with the main findings relating to the differences in the abilities of the EFTA states and of the EU to negotiate and conclude FTAs and the potential economic impacts. We draw on two working hypotheses: a) EFTA PTAs are part of an activist trade strategy necessitated by the limited size of the markets; and b) due to the desire to conclude an agreement, the functional scope of the EFTA PTAs is less extensive and less comprehensive than most recent PTAs negotiated by the EU.

1.1 The basic institutional arrangements

EFTA was founded in 1960 as a framework for those European countries that were neither able nor willing to join the EEC.¹ Article XXIV of the GATT 1947 provides two options for preferential arrangements,

¹ The EFTA Convention of 4th January 1960, amended in Vaduz on 21st June 2001, forms the legal basis of the organisation and governs free trade relations between the EFTA States. For an overall account of EFTA's origins and development, see: Kare Bryn/Gudmundur Einarsson (Eds.): EFTA 1960-2010. Elements of 50 years of European history, Reykjavik, University of Iceland

namely customs unions and free trade areas. EFTA offers free trade areas while the EU of course offers customs unions. EFTA members thus retain the scope to negotiate PTAs independently and to maintain full jurisdiction over external relations. Until the signing of the EEA Agreement with the Member States of the European Union, which entered into force in 1994, the EFTA Secretariat had no supervisory functions comparable to those of the European Commission.

One of the main purposes of EFTA was to provide a joint platform for negotiations with the six founding members of the EEC. By uniting, the EFTA states brought the EEC to the negotiating table. When Denmark, Ireland and the United Kingdom joined the EEC in 1972, this joint platform was crucial for the conclusion of the 1972 FTAs on industrial goods and processed agricultural products between the individual EFTA states and the EEC. These FTAs gradually provided full market access for industrial goods to and from the EEC. Now that most EFTA members have left to become members of the EU or have signed the EEA Agreement, Switzerland is the only country for which the 1972 FTA continues to provide the basic pillar of relations with the EU.

EFTA's overall goals are 'facilitating the free movement of goods, aiming at the progressive attainment of free movement of persons and the progressive liberalisation of trade in services and investment, further opening up the public procurement markets in the EFTA states, and providing for the appropriate protection of intellectual property rights, under fair conditions of competition'. To further these objectives, EFTA continues to manage the EFTA Convention (intra-EFTA trade), the EEA Agreement (EFTA-EU relations), and the EFTA Preferential Trade Agreements (EFTA-third country relations). Both the EFTA Convention and EFTA PTAs are managed by the Geneva office while the EEA Agreement is managed by the Brussels office of the Secretariat.

1.2 An overview of the evolution of the EFTA approach to PTAs

Apart from the negotiation of the agreement with the EU in 1972, the development of EFTA's PTA policy falls into three phases. Phase One began in the early 1990s with the negotiation of PTAs with the Central and Eastern European transition states. In this process, EFTA was following the example set by the EU in negotiating the Europe Agreements. The main aim of the EFTA states was to protect EFTA commercial interests with market access that was equivalent to that secured by EU producers and investors. However, the EFTA states also supported the wider geopolitical aim of bringing the Central and Eastern European states into the broad European economy.

Phase Two of the EFTA PTA strategy also followed the EU's example by initiating negotiations with the countries in North Africa and the Middle East that were included in the EU's Euromed policy from 1995. Again, the main aim was to ensure that the EFTA FTAs matched those of the EU but the EFTA states also supported the broad political objective of promoting economic development in the Euro-Mediterranean region.

Press 2010; Roland Maurhofer: 'Revisiting the Creation of EFTA: the British and the Swiss case', in: *Journal of European Integration History*, Vol. 7, No. 2/2001, 65-83; Wolfram Kaiser: 'Challenge to the Community: the Creation, Crisis and Consolidation of the European Free Trade Association, 1958-72', in: *Journal of European Integration History*, Vol. 3, No. 1/1997, 7-33; Wolfram Kaiser, 'Culturally Embedded and Path-Dependent: Peripheral alternatives to ECSC/EEC 'core Europe' since 1945', in: *Journal of European Integration History*, Vol. 7, No. 2/2001, 11-37; Ossi Tuusvuori: 'EFTA, Relations with other Countries and the EEA' in Hanspeter Tschäni/Ossi Tuusvuori (Eds): *Principles and Elements of Free Trade Relations: 40 Years of EFTA Experience* (European Free Trade Association (Secretariat), Zurich 2010), 81-84; Thorsten B. Olesen: 'EFTA 1959-72: an exercise in Nordic cooperation and conflict' in Norbert Götz and Heidi Haggrén (eds), *Regional Cooperation and International Organizations. The Nordic Model in Transnational Alignment*, London (Routledge) 2009, 133-151; Mikael af Malmberg/Johnny Laursen: 'The Creation of EFTA' in: Thorsten B. Olesen (Ed.): *Interdependence Versus Integration. Denmark, Scandinavia and Western Europe 1945-1960*, Odense (Odense University Press) 1995, 197-212.

There is one area in which EFTA did not follow EU policy during or prior to Phases One and Two, namely the preferential agreements that the EU (and before it the European Community and European Economic Community) concluded with the African, Caribbean and Pacific (ACP) states. These agreements had their origins in the founding of the EEC, and in particular the conduct of trade relations between the founding members of the EEC and their colonies or former colonies. These preferential agreements were, like the Europe and Euromed agreements, also shaped by non-commercial as well as commercial interests. In the case of the Yaoundé, Lomé and Cotonou agreements, the EU's motive was to develop former colonies. However, as the EFTA states had no former colonies, they had no need for such agreements.

The third phase of EFTA PTA policy began with the EFTA negotiations with Canada. PTAs were initially negotiated with Chile and Mexico in parallel to the EU's negotiations. However, from the early to mid-2000s EFTA 'went global' in seeking to negotiate agreements with partners around the world. In January 2007, just after the EU 'Global Europe' strategy, the Liechtenstein Chair of the EFTA Council redoubled efforts to conclude PTAs beyond Europe, calling for the conclusion of negotiations with Canada, Thailand, Egypt and the Gulf Cooperation Council (GCC). EFTA aimed to launch negotiations with Algeria, Indonesia, Colombia and Peru, and to prepare the ground for immediate negotiations with Ukraine once its accession to the WTO was finalised. In addition, EFTA deepened economic relations with a select number of partners via Declarations on Cooperation — often a first step towards PTA negotiations — and listed eleven possible/interesting partners.² The first PTAs were concluded with Canada, Singapore and the South African Customs Union (SACU). At this point, EFTA's approach appears to have been to negotiate with those countries that had approached the EU seeking to negotiate a PTA but with which the EU did not negotiate or complete negotiations, for a variety of reasons.³ It is also worth recalling that the EU maintained a de facto moratorium on new PTA negotiations between 1999 and 2006 in order to focus on multilateral negotiations.

It is also fair to say that there has been a general trend since the early 2000s towards negotiating PTAs on the part of nearly all trading nations, from large economies such as the United States and China, to smaller ones like New Zealand and Singapore. The EFTA states were, therefore, following the general trend in global trade policy by seeking to negotiate PTAs.⁴

1.3 The motivations for EFTA PTAs

It is clear from the above that there is a fairly strong case for arguing that EFTA's motivations for negotiating PTAs have been primarily commercial, particularly a desire to match the EU's access to or preferences with third countries. In this respect, EFTA PTA policy appears to support one of the dominant theories for the spread of PTAs, namely the desire to prevent or pre-empt trade diversion or protect the interests of existing exporters and investors (Baldwin, 1993; Manger, 2012). The EFTA states also shared the EU's broader geopolitical objectives in negotiating PTAs with countries in the neighbourhood. Thus, PTAs have also been motivated by a desire to promote European economic development and security.

The timing of the early phases of EFTA PTA policy suggests a strong link with EU policy. The choice of PTA partners in the early phases clearly corresponds to the EU's PTA policy. This is also true of the third phase, although here EFTA sometimes negotiated more quickly than the EU (for example, the agreement with Canada) or concluded agreements with the countries concerned when the EU opted not to go ahead (for

² This includes ASEAN, Central America, India, China, Japan, Vietnam, Pakistan, Russia, Malaysia, Montenegro and South East Europe.

³ Singapore requested a PTA with the EU, but the EU declined. EU and ASEAN negotiated between 2007 and 2009 on a region-to-region FTA. As these talks did not move forward, the EU and Singapore started to negotiate for a bilateral FTA in March 2010. In the case of Canada, the EU began negotiations, but then suspended them in 2006, when progress was considered to be insufficient. It was only in May 2010 that negotiations with Canada were restarted.

⁴ See for an overview on this trend: Baldwin, R. 2012, pp. 632-654; Lawrence, R. 1991, pp. 23-35; Limao, N. 2006, pp. 896-914.

example, Singapore). In this sense EFTA was opportunistic in offering itself as a negotiating partner when the EU declined to negotiate (Singapore) or complete negotiations (Canada). Since the mid-2000s, the general trend towards negotiating PTAs suggests that EFTA's motives have probably been similar to those of other trading nations, including matching what others as well as the EU have been doing.

EFTA PTA policy is also shaped, as are all PTAs, by the specific economic interests of the EFTA states and of their negotiating partners. To some extent, EFTA has continued to base its template for PTAs on these interests, for example⁵:

- In the older PTAs, the EFTA states negotiated bilateral agreements on basic agricultural products, while processed agricultural products were included in the main EFTA-third party agreement. In the newer PTAs, EFTA has abandoned this approach, with separate agreements for basic agricultural products, and has integrated such products in the main agreement.⁶ However, commitments on market access are still negotiated bilaterally. Unlike the EU, EFTA countries do not have a common agricultural policy. The EFTA states are more defensive on agriculture than the EU, and therefore have limited concessions. This, together with the fact that each state concludes a separate agreement on market access for primary agricultural products with PTA partners, reduces EFTA's leverage in negotiations. This occurs when PTA partners have sought concessions from EFTA in agriculture in return for offering liberalization or concessions on EFTA's list of offensive interests. Note that trade in processed foods is included within industrial goods negotiations;
- When it comes to developed high value-added industrial goods, EFTA favours more or less full tariff liberalisation as well as liberalisation of trade in fish, other marine products, and processed agricultural products (PAP). Regarding the EU, EFTA would like to see greater control over or the prohibition of export taxes or limitations on exports from partner countries, including minerals for example;
- The template favours provisions for the liberalisation of trade in services, given the stagnation of progress in this field since the Uruguay Round's conclusion;
- There are also provisions on investment, including rules for ensuring the same or better conditions for foreign companies compared to national companies, and free movement of capital for foreign companies. However, there is no common investment policy in EFTA, so post-establishment national treatment, or investment protection, continues to be determined by 157 bilateral investment treaties (to date) between the EFTA states and third countries (see Annex);
- For technical barriers to trade and sanitary and phytosanitary measures, EFTA follows the EU approach. The EFTA members have effectively adopted the *acquis communautaire* on this and other regulatory matters via the EEA or bilateral arrangements;
- The EFTA template's competition rules are essentially those of the EU, and primarily regulate governmental or semi-governmental companies; it also provides for government divestment in this area;
- Also for public procurement, EFTA shares the approach of the EU. EFTA states are also signatories to the WTO Government Procurement Agreement, so the rules are in line with the prevailing de facto international norms. Only the scope of a PTA may differ, and this is determined by schedules of coverage;

⁵ European Free Trade Association, 2006, „This is EFTA“, Brussels, 10-12.

⁶ Answer to the questionnaire by representatives of the Norwegian Ministry of Trade, Industry and Fisheries, May 2016.

- EFTA seeks 'high standard' (or TRIPS plus) for protection of Intellectual Property Rights (IPR) through longer periods and the inclusion of new matters within the scope of the agreement.⁷ Again, this is in line with EU policy since 2005, when the EU sought to strengthen the protection of IPRs in PTAs;
- The template includes provisions on dispute settlement, and provisions for regular upgrading of the PTA in line with WTO developments.

In general, this template is very similar to that of the EU and most other PTAs that are currently being negotiated. EFTA PTAs are also similar to those negotiated by the EU in that there is a good deal of flexibility in the application of the template. Indeed, EFTA seems to have been even more accommodating of the interests of its trading partners than the EU. When an issue appears to threaten the smooth conclusion of PTA negotiations, EFTA appears to have been ready to make concessions in order to conclude the agreement swiftly. As we will elaborate further in section 4, one major difference between the EU and EFTA concerns the binding nature of references to human and labour rights as well as environmental and sustainability issues. While the EU regards these norms as 'essential elements of the agreements', EFTA has developed a more flexible template.

2 The institutional arrangements: decision making, negotiation and parliamentary scrutiny

Unlike the Treaty on the Functioning of the European Union (TFEU) (Articles 207 and 218), the EFTA Convention text does not provide for specific legal provisions for international or free trade agreements between EFTA and third countries. However, the institutional provisions on the setting-up, functioning and working procedures of the EFTA Council (Article 43) feature a somewhat derived legal framework for EFTA's approach in negotiating PTAs with third countries.

According to Article 43 (e) of the Convention, the EFTA Council shall "[...] facilitate the establishment of closer links with other States and unions of States, [and, (f)] seek to establish such relationships with other international organisations". Specifically, Article 43 (g) provides that the Council shall "negotiate trade and co-operation agreements between the Member States and any other State, union of States or international organization." As the Convention does not provide for specific procedures regarding the preparation, negotiation, ratification and implementation of such agreements, the EFTA Member States' constitutional provisions apply.

The EFTA Council usually meets once a month at the level of Heads of Permanent Mission to EFTA in Geneva and twice a year at Ministerial level. Each Member State is represented and has one vote, although decisions tend to be reached by consensus. The Council has a broad mandate to decide on policies to promote the overall objectives of the Association and to facilitate the development of links with other states, unions of states or international organisations. The Council is also responsible for administrative and budgetary matters in EFTA and can set up other organs, committees and bodies, "as it considers necessary to assist it in accomplishing its tasks." These organs, committees and other bodies are listed in Annex S of the Convention (see annex 1 of this study for a list). Some of these bodies are particularly relevant for EFTA's PTA policy development, such as the Committee on Third Country Relations established by the Council Decision 2/96.

⁷ In March 2009, Norway 'withdrew' from the EFTA-India FTA talks on Intellectual Property Rights (IPR), over a difference in politics with Switzerland. Unlike the latter, Norway's position on IPR is that developing countries should not be pressured into accepting directives which limit their own policy space. The FTA negotiations on IPR continued without Norway's participation. Norway has kept the option of signing the final text, if the same is acceptable.

2.1 Decision-making and negotiation of PTAs

The selection of PTA partners in EFTA has been in response to approaches by third countries to negotiate a PTA or at the initiative of EFTA. In the latter case, it has been the rotating chair of the EFTA Council that has formed proposed priorities. Potential PTAs are considered by each EFTA member according to their domestic procedures. In other words, EFTA governments will consult internally within the executive branch of government, with legislative bodies and externally with interest groups according to the existing procedures.

Unlike the EU, EFTA has not systematically produced detailed quantitative assessments of the impact of potential PTAs. So there has seldom been detailed econometric modelling done as commissioned by DG Trade in the Commission, nor has there been the systematic production of studies equivalent to the Sustainable Impact Assessments (SIAs) of the EU. However, individual EFTA Member State governments may produce such studies. There appears to be a trend towards the production of more detailed studies in Switzerland, where parliament pushes the government into ex-ante debate and evaluation of new PTAs. The EFTA Secretariat in Geneva, which leads on the coordination of PTA policy, may also be requested to provide studies. Again, these have tended to be much less detailed than those produced by the EU.

For each of the negotiations, each Member State appoints a Chief Negotiator, and one of them will be entrusted as EFTA Spokesperson vis-à-vis the negotiation partner (approved by the EFTA Council). For expert groups as well, one national expert is appointed by Member States as lead negotiator (approved by EFTA Deputies). The EFTA Spokesperson and sectorial lead negotiators are responsible for ensuring that the messages delivered vis-à-vis the counterpart are consolidated by EFTA internally, with the Secretariat assisting Member States in that process. In cases where not all Member States are present during the negotiations (for example, the smaller EFTA Member States are not always able to send delegates to all sectorial expert groups), the EFTA Secretariat and the EFTA Spokesperson together ensure that the EFTA positions represent the views of all Member States.

In addition to drafting and consolidating EFTA positions, the EFTA Secretariat sits next to the EFTA Spokesperson and sectorial lead negotiators, and may contribute with advice and analysis during the negotiations. The Secretariat also holds the responsibility of keeping, updating and distributing the negotiating texts, and reporting from the negotiating rounds. In addition, the EFTA Secretariat takes a role in tracking follow-ups after each round. The EFTA Secretariat does not have any supranational powers. Its role in trade negotiations is to ensure that positions are coordinated and consolidated, so that EFTA may speak with one voice. In addition, the EFTA Secretariat prepares and drafts legal texts and reports for Member States' consideration, and keeps records of negotiations. Reports, legal texts or other negotiating documents will only be submitted to the negotiating partner when cleared with all Member States. The Secretariat also takes a lead role in tracking agreed follow-ups from the negotiations and in organisational aspects of negotiations. Furthermore, it serves as a communication channel between the EFTA states and the partner for exchanges between rounds of negotiation.

Decisions on PTA partners are taken by the EFTA Council at Ministerial level on the basis of consensus. The first step in any negotiation is either a Declaration of Cooperation with the potential PTA partner or a decision to produce a feasibility study. The latter was used, for example, when the PTAs with Korea and the ASEAN states were initiated. Expert groups are then established for a range of sectors in order to

assess the potential scope of the PTA. Again the EFTA side has tended to be content with qualitative assessments of the costs and benefits of any PTA rather than producing detailed ex ante studies.⁸

By forming a free trade area rather than a customs union the individual EFTA states have maintained authority over the management of their external trade policy. When it comes to negotiating PTAs with third countries, however, they have mostly chosen to act as a group, thereby combining their economic and political weight. Accordingly, the EFTA states have developed common approaches and positions, and internal coordination continues to play an important role in preparing and conducting negotiations.

Where national regulatory frameworks and interests differ, such as in services, investment and government procurement, country-specific commitments are taken. For primary agricultural products, as noted above, EFTA Members continue to opt for separate, bilateral agreements.

The EFTA Secretariat, through the Trade Relations Division, fulfils a coordination function by providing substantive and logistical support to Member States regarding the preparation, negotiation and maintenance of PTAs. The Division: explores and prepares background information; provides expertise, analysis and advice in customs matters, trade in services, investment, and legal and institutional aspects; organises intra-EFTA consultations and negotiating rounds, joint committee meetings and technical assistance events with EFTA's partner countries; and drafts internal EFTA and joint documents as well as legal texts (agreements, decisions, notifications, etc.).

Once negotiations are concluded, the negotiated texts are subject to a legal review. The EFTA Secretariat takes an active role in this review, which is carried out in consultation with the legal experts of the EFTA Member States. Only once texts have been reviewed and agreed upon by EFTA-internally will they be shared with the partner to finalize the legal review.

The practical arrangements for the signing ceremony are usually arranged by the Secretariat in cooperation with the Contracting Party hosting the signing event. This often takes place in conjunction with an EFTA Ministerial meeting.

The traditional EFTA values of flexibility and pragmatism⁹ are also shared by the EFTA Parliamentary Committee (CMP), an advisory body of the Council in which Members of Parliament from Iceland, Liechtenstein, Norway and Switzerland usually convene four times a year. There are also the two customary joint meetings with EFTA ministers and a third country visit. The CMP is established on the basis of: Article 32 (3) of the EFTA Convention; the Decision of the EFTA Council No. 11 on the establishment of a Committee of Members of Parliament from the EFTA Countries, which was adopted at the 20th Simultaneous Meeting at Ministerial level on 13-14 October 1977; and the Decision of the Council No. 1 of 2009 on revised terms of reference for the CMP of the EFTA Countries, which was adopted on 23 March 2009. Unlike the EFTA Council, the CMP's decides with an absolute majority of the votes cast, except when adopting or amending its rules of procedure where a majority of National Delegations present at a Committee meeting is required (Article 5, Rules of Procedure). Unlike the European Parliament, the CMP meets behind closed doors unless it has decided otherwise (Article 6, Rules of Procedure).

In 2008, the Committee obtained observer status in the Parliamentary Conference on the WTO, organised by the IPU (International Parliamentary Union) and the European Parliament. In the past, discussions in

⁸ Descriptive analysis about the procedural and interinstitutional arrangements of EFTA is almost non-existent. We therefore asked the EFTA Secretariat, the Norwegian Ministry of Trade, Industry and Fisheries, the Swiss State Secretariat for Economic Affairs (SECO), the Icelandic Ministry for Foreign Affairs as well as the Norwegian Standing Committee on Foreign Affairs and Defence, the Swiss Foreign Affairs Committee and the Icelandic Economic Affairs and Trade Committee to answer our questionnaire on institutional and procedural rules and practice in trade policy.

⁹ See: Corbet, H.1970, p. 2.; Kåre Bryn, 2012 (<http://www.efta.int/About-EFTA/news/EFTA-important-platform-future-824>).

CMP tended to focus on intra-EFTA issues and European affairs. In recent years, however, the management of EFTA's worldwide network of PTA has begun to feature more prominently on the agenda.¹⁰ The Parliamentary Committee is informed regularly about ongoing and planned PTA negotiations. Besides seeking general information about the political and economic situation of EFTA's partner countries, it also attaches importance to sustainable development issues.

Indeed, of particular relevance to parliamentarians is the coherent application of economic policies with social and environmental objectives. In March 2009, the CMP adopted a report by Marianne Aasen (Labour Party, Norway) entitled "Environmental Policies and Labour Standards in FTAs", which served as its major contribution to EFTA's Working Group on Trade and Environment (established on 30 June 2008 in Lugano), and the Working Group on Social and Labour Standards in Free Trade Agreements (established on 25 November 2008 in Geneva).¹¹ In June 2010, the EFTA Working Groups on Trade and Environment and Social and Labour Standards proposed a new chapter on Trade and Sustainable Development to be integrated into EFTA agreements.¹² In recent agreements, the principle of sustainability is reflected in the preamble as well as in a dedicated chapter on trade and sustainable development. Normally, the preamble emphasises and reaffirms the parties' commitment to democracy, the rule of law and human rights, as set out in the Charter of the United Nations and the Universal Declaration of Human Rights, as well as respect for the fundamental rights and principles at work, pursuant to the relevant conventions of the International Labour Organization (ILO). In line with WTO rules, EFTA PTAs also explicitly allow for certain measures necessary to protect human, animal or plant life or health, or the conservation of exhaustible natural resources.

The CMP is conscious of the importance of international competitiveness and supports EFTA in its PTA negotiations. Once a year, a delegation of the Parliamentary Committee pays a visit to a prospective PTA partner country. As the tasks of national parliaments continue to evolve, these types of activities will be of growing importance in both European and global contexts. Signed EFTA PTAs are subject to approval by national legislatures. From that perspective, it is essential that parliamentary-level contacts are established and PTA-related questions are discussed in an open and transparent manner. In recent years, there have been visits by the EFTA Parliamentary Committee to Albania, Canada, Costa Rica, India, Indonesia, Panama, Russia, Serbia and Vietnam.

2.2 EFTA Member State decision-making:

2.2.1 Norway

In Norway, preferential trade agreements rest in the hands of the government, but there is an obligation to inform parliament ("Storting") *ex-post* on new agreements. Trade agreements require ratification by parliament and cannot be implemented without its consent.¹³ The "normal channel used by Norwegian Government to keep the Parliament informed" via the Norwegian representatives on the EFTA Parliamentary Committee, which is kept informed of all upcoming, ongoing and concluded PTAs. In addition, the Trade Minister usually arranges two informal meetings a year with the Norwegian

¹⁰ Answers to the questionnaire by the Swiss Parliament.

¹¹ See: EFTA-CMP: Report by Marianne Aasen, on "Environmental Policies and Labour Standards in FTAs", Ref. 1090382, Brussels, 18 March 2009.

¹² See: Conclusion of EFTA Work on Trade, Environment and Labour Standards, State Secretariat for Economic Affairs, (SECO), Aug. 30, 2010,

<https://www.seco.admin.ch/dam/seco/en/dokumente/Aussenwirtschaft/Wirtschaftsbeziehungen/Freihandelsabkommen/Presse-rohstoff%20Abschluss%20oder%20Arbeiten%20oder%20EFTA%20zu%20Handel,%20Umwelt%20und%20Arbeitsnormen.pdf.download.pdf/Background%20information%20Conclusion%20of%20EFTA%20work%20on%20trade,%20environment%20and%20labour%20standards.pdf>.

¹³ See: Langhelle/Rommetvedt 2004, p 195f.

representatives of the EFTA Parliamentary Committee in order to inform them on specific Norwegian interests and policies. The Government does not need acceptance from parliament in order to sign PTAs, but asks the Parliament for acceptance before ratification.¹⁴

That said, with minority governments being the norm in recent years, the executive has intended to back its negotiations with broad parliamentary support even before and during negotiations,¹⁵ and parliament has been able to extend its influence.¹⁶

The mandating process starts with the development of the Norwegian position. The Ministry of Trade and Industry coordinates this process between different responsible ministries. Special attention is routinely paid to the demands of organised interest groups. The final output is a written, secret mandate for the negotiations and the preparation of a negotiation team.¹⁷ In order to receive some assurances about parliamentary support, the government usually consults parliament's Enlarged Committee on Foreign Affairs. Unlike the meetings of the EP committees, the deliberations of the Norwegian Committee are usually not public. The Committee consists of the ordinary members of the Standing Committees on Foreign Affairs and Defence, the President of parliament, the party groups' chairmen and optional further members to assure proportional representation. Despite the relatively low number of about eight meetings per year between 1993 and 2007,¹⁸ the Committee is seen as a very important forum for such deliberations.¹⁹ Usually the government does not seek individual opinions from the plenary, but in order to assure broader support, it regularly provides general negotiation information in the form of governmental accounts and statements, as well as annual ministerial statements. A new phenomenon in recent decades is an increased frequency of questions to ministers from the plenary.²⁰

The negotiations are carried out by the designated government representatives. Regardless of whether agreements are reached via multilateral (WTO), plurilateral (EFTA) or – very seldom – bilateral negotiations,²¹ the information and consultation channels through which government reassures its parliamentary mandate remain the same as described in the previous paragraph. Negotiations in EFTA are characterized by the additional stage of internal coordination between the EFTA members before a common position is adopted vis-à-vis potential trade partners.

After finalisation with trade partners, signed PTAs are presented to parliament as a bill. This has to pass through the Standing Committee on Foreign Affairs and be debated and voted on in the plenary on the basis of the Committee's recommendations. The Standing Committee's recommendations are regularly confirmed by a high degree of cohesion from the political parties in the plenary.²² Conventions and treaties can either be presented to parliament as separate issues for ratification when they involve important or controversial cases, or as collected in annual omnibus measures.²³ With parliament only able to accept or refuse to ratify an agreement at this stage, the choices are fairly limited since the blame for refusing ratification would fall on parliament.²⁴

¹⁴ Information provided by the Norwegian Ministry of Trade, Industry and Fisheries.

¹⁵ See: Langhelle/Rommetvedt 2004, 204.

¹⁶ See: Rommetvedt/Zajc/Langhelle 2009, 58.

¹⁷ See: Farsund (2010), 19.

¹⁸ See: Rommetvedt/Zajc/Langhelle 2009, p 67f.

¹⁹ See: Langhelle/Rommetvedt 2004, 204.

²⁰ See: Langhelle/Rommetvedt 2004, 205.

²¹ See: Farsund 2010, 18.

²² See: Rommetvedt/Zajc/Langhelle 2009, 66.

²³ See: Rommetvedt/Zajc/Langhelle 2009, p 62f.

²⁴ See: Farsund 2010, 8.

Since Norway's law forms a 'dualistic system',²⁵ all treaties have to be transformed into national law to enter into force.²⁶ In the case of 'true' bilateral agreements, this process is usually overseen by specific intergovernmental joint committees. Intergovernmental arbitration procedures provide clarifications in case of disputes.²⁷ In the special case of Norway's EFTA-based membership within the European Economic Area (EEA) agreements, the EFTA Surveillance Authority and the EFTA Court were relevant,²⁸ whereas a parliamentary dimension can be seen in the EEA Joint Parliamentary Committee.²⁹ When reviewing an existing PTA, the initiative usually comes from the government's side, with the rest of the process proceeding as in the case of a new agreement.³⁰

2.2.2 Switzerland

Traditionally, Swiss foreign policy has been the government's prerogative and it may not be delegated.³¹ Consequently, recently-established channels of parliamentary influence may not limit the government's freedom of action.³² This is understandable since, contrary to Norway, majority governments have been the norm in Switzerland, and the trend is to strengthen parliament ('Bundesversammlung') can be seen as an attempt to increase the opposition's influence on foreign relations.³³

In Switzerland, it is the government itself that presents negotiating mandates to designated negotiation teams made of representatives of the State Secretariat for Economic Affairs (SECO).³⁴

However, the government is obliged to inform parliament of its actions.³⁵ Moreover, according to Article 152 of the Federal Act on the Swiss Federal Assembly, the government has to formally "consult" the Foreign Policy Committees on "the guidelines and directives relating to mandates for important international negotiations before it decides on or amends the same". It shall inform the committees of the status of its plans and of the progress made in negotiations. If one of the committees expresses amendments to the draft guidelines or directives, the government needs to reconsider the texts and consult the committees again.³⁶ This is achieved by extensive consultations with the two Foreign Policy Committees ('Aussenpolitische Kommissionen' or APKs) of the two chambers of parliament,³⁷ which may in turn meet with the representatives of organised interests to stay informed.³⁸ The two Committees each conduct about eight regular meetings per year, with the heads of the Federal Department of Foreign Affairs ('Eidgenössisches Departement für auswärtige Angelegenheiten' or EDA) participating as government representatives, and with the possibility for additional meetings.³⁹

²⁵ Dualistic systems emphasize the difference between national and international law, requiring the explicit transposition of the latter into the former. According to dualists, national judges never apply international law as such. Instead, they only rely on international law that has been translated into national law. See P. Malanczuk: *Akehurst's modern introduction to International Law*, 7th ed. London/New York, Routledge 1997, pp. 63ff.

²⁶ See: Vahl/Grolimund 2006, 21.

²⁷ See: <http://www.efta.int/free-trade/free-trade-agreements/morocco> [30.03.2016].

²⁸ See: <http://www.eftasurv.int/about-the-authority/the-authority-at-a-glance-> [30.03.2016].

²⁹ See: Langhelle/Rommetvedt 2004, p 199f.

³⁰ See: <http://www.efta.int/Free-Trade/news/EFTA-and-Mexico-launch-negotiations-review-EFTA-Mexico-Free-Trade-Agreement-63901> [30.03.2016].

³¹ See: Tripet 2012, 15.

³² See: Tripet 2012, 41.

³³ See: Tripet 2012, p 32f.

³⁴ See: Vahl/Grolimund 2006, 21.

³⁵ See: Tripet 2012, 6.

³⁶ Regarding the practice of the consultation process, see: Tripet 2014, pp. 1036-1044.

³⁷ See: Tripet 2012, 40.

³⁸ See: Tripet 2012, 22.

³⁹ See: Tripet 2012, 44.

The parliamentary committees can at all times demand consultations with the government,⁴⁰ and in urgent cases, consultation can be conducted directly with the committees' presidents.⁴¹ In any case, the government consults the committees prior to finalising its negotiating mandates.⁴² If other committees have to get involved, it is the APK's duty to pass on the information.⁴³ In recent deliberations on the PTAs with Colombia, Peru, Central America, Japan, and China, a majority vote the Foreign Policy Committee was able to effectively influence the government by persuading it to include provisions on TBT, agriculture and labour rights in the negotiation mandate.⁴⁴ However, this is an exception to the rule.⁴⁵

Federal Act on the Swiss Federal Assembly (Parliament Act, ParlA) of 13 December 2002 (Status as of 1 March 2016)

Art. 152 Information and consultation on foreign policy

The committees responsible for foreign policy and the Federal Council shall have regular contact with each other in order to exchange views.

The Federal Council shall inform the Presiding Colleges of the Councils and the committees responsible for foreign policy regularly, comprehensively and in good time of important foreign policy developments. The committees responsible for foreign policy shall also pass on this information to other committees involved in foreign policy related matters.

The Federal Council shall consult the committees responsible for foreign policy on important plans, on planned changes to the number of Switzerland's diplomatic and consular representations abroad, and on the guidelines and directives relating to mandates for important international negotiations before it decides on or amends the same. It shall inform these committees of the status of its plans and of the progress made in negotiations.¹

The Federal Council shall consult the committees responsible before it provisionally applies an international treaty that must be approved by the Federal Assembly. If the committees of both Councils are against the proposal, it shall refrain from provisionally applying the treaty²

In urgent cases, the Federal Council shall consult the presidents of the committees responsible for foreign policy. The presidents shall inform their committees without delay.

The committees responsible for foreign policy or other relevant committees may request that they be informed or consulted by the Federal Council.

Another means to influence the government's negotiating position can be through informal meetings between the parliamentary presidents and vice presidents with the government, which take place four times a year.⁴⁶ The government has to periodically inform parliament of its policies,⁴⁷ and has to deliver comprehensive information on foreign economic relations („Aussenwirtschaftsbericht“) at least once a year, with future guidelines, finalised PTAs or tariffs measures included.⁴⁸ In both cases, the information is processed by the Foreign Policy Committees of both chambers. Furthermore, questions and interpellations from the plenary to the government during question time are very popular, but they may not be used to direct the government in a desired direction.⁴⁹ Even so-called "postulates" („Postulat“) that task the government to report on a topic only result in written reports, although they can be the basis of

⁴⁰ See: Tripet 2012, 41.

⁴¹ See: Tripet 2012, 42.

⁴² See: Tripet 2012, 53.

⁴³ See: Tripet 2012, 40.

⁴⁴ See: Tripet 2012, 57.

⁴⁵ See: Tripet 2012, 62.

⁴⁶ See: Tripet 2012, p 48f.

⁴⁷ See: Tripet 2012, 20.

⁴⁸ See: Tripet 2012, 22.

⁴⁹ See: Tripet 2012, 27.

fruitful committee discussions before being sent to the plenary to be noted.⁵⁰ Thus, despite its right of initiative, the Swiss parliament's choices of influencing the government in foreign policy matters are limited, mainly due to the purely political and non-binding character of resolutions.⁵¹ However, though unable to interfere in concrete negotiations, basic decisions ('Grundsatzbeschlüsse') can shape the general orientation of Swiss foreign policy.⁵²

PTA negotiations are conducted solely by government representatives.⁵³ Just as in the case of Norway the nature of the trade negotiations, namely whether multilateral, plurilateral or bilateral does not change the procedures described above.

The ratification of PTAs is formally conducted by the government, with the necessity of parliament to 'confirm' them in most cases.⁵⁴ In the case of agreements being ratified without needing parliamentary confirmation, information is provided via an annual report on all agreements.⁵⁵ In certain cases, a referendum may have to be conducted.⁵⁶

The Swiss law forms a 'monistic system', which means that, after ratification, PTAs enter directly into force without further transposition by national law.⁵⁷ By working closely with the relevant parliamentary committees, the government can sometimes allow agreements to enter into force before ratification.⁵⁸

To oversee the correct implementation of agreements, intergovernmental joint committees are usually created.⁵⁹ In the case of the recent Swiss-Chinese agreement, Switzerland supplemented these regulations with a tripartite delegation composed of Swiss union and employers' representatives, together with representatives of SECO, to visit China and assess implementation of the agreement.⁶⁰ As in Norway, a review process is commenced and conducted by the government.⁶¹

3 The geographical scope of EFTA's policy on PTAs

As summarised above, the first phase of EFTA's PTA policy was "initially established in 1990 to mirror the European Union's external economic relations approach after the end of the Cold War. In 1995, the EFTA Ministers decided to extend the reach of preferential trade relations beyond the Euro-Mediterranean region. At the same time, the scope of PTAs was extended beyond trade in goods, to the protection of intellectual property rights, trade in services, investment, competition and government procurement."⁶² In recent years, EFTA's network of PTAs has reached across the Atlantic and into Asia.

The original format used for PTA negotiations – preparing jointly, speaking at the negotiation table with one voice, and concluding agreements separately – proved a successful template for EFTA. Joint engagement with third countries started in 1967 when EFTA created a first joint working group with the former Yugoslavia, which by 1983 had evolved into a Joint EFTA-Yugoslavia Committee. EFTA as a group also negotiated a PTA with Spain, which entered into force in 1980 and expired in 1985 upon Spain's

⁵⁰ See: Tripet 2012, 26.

⁵¹ See: Tripet 2012, p 23f.

⁵² See: Tripet 2012, p 19f.

⁵³ See: Vahl/Grolimund 2006, 21.

⁵⁴ See: Vahl/Grolimund 2006, 21.

⁵⁵ See: Tripet 2012, 20.

⁵⁶ See: Vahl/Grolimund 2006, 21.

⁵⁷ See: Vahl/Grolimund 2006, 21.

⁵⁸ See: Tripet 2012, p 41f.

⁵⁹ Swiss Confederation/People's Republic of China (2013), Art. 14.1.

⁶⁰ See: Die Volkswirtschaft 10/2015, 56.

⁶¹ See: <http://www.efta.int/Free-Trade/news/EFTA-and-Mexico-launch-negotiations-review-EFTA-Mexico-Free-Trade-Agreement-63901> [30.03.2016].

⁶² „Mission Statement“ of EFTA at www.efta.int.

accession to the EEC. EFTA's policy received a fresh impulse in June 1990, when the EFTA summit of Gothenburg decided to develop a network of PTAs in parallel to that of the EU. The primary motivation was to avoid discrimination vis-à-vis economic stakeholders from the EU, which had initiated talks on what were to be the Europe Agreements with the Central and Eastern European countries. EFTA states entered into agreements with Poland, Romania, the Czech and Slovak Republics, Bulgaria and Hungary in 1992-1993 and followed the EU in concluding PTAs with Turkey (1991) and Israel (1992).

In 1995, the EFTA states decided to broaden the geographical scope of their collective PTA beyond the European continent and followed the EU's initiatives in the Mediterranean region. PTAs were concluded with Morocco in 1997 and with the Palestinian Authority in 1998. With Egypt, Jordan, Lebanon and Tunisia, EFTA first signed so-called joint declarations on cooperation (JDC), which subsequently developed into PTAs. Meanwhile, EFTA's network in Europe expanded to include the Baltic States and Slovenia. After the conclusion of the multilateral Uruguay Round of the GATT and the establishment of the WTO in 1994, EFTA began to expand the geographical scope of its PTA policy. Negotiations with Canada kicked off in 1998, and the PTA entered into force in July 2009. EFTA also successfully concluded PTAs with a range of partners from the Americas, Asia and Africa. The "going global" approach was mainly driven by a desire to secure a competitive position for EFTA's exporters on international markets. The traditional driver of securing a level playing field with the EU was augmented by new initiatives, which now seek economic opportunities in the global marketplace.⁶³

The geographical scope of the EFTA PTA network has expanded significantly over time. With the addition of Montenegro in 2011, and Bosnia and Herzegovina in 2013, EFTA now has over 98% of merchandise trade with European partners covered by PTAs. As for the remaining 2%, EFTA is currently engaged in negotiations with the customs union of Russia, Belarus and Kazakhstan, which accounts for the biggest part of the difference. EFTA is currently focusing its efforts on the dynamic Asia-Pacific region, which as a whole represents EFTA's second largest international market (with USD 98 billion worth of merchandise trade). Here, EFTA is engaged in negotiations with India, Indonesia and Vietnam, while processes with Malaysia and Thailand have been launched or are pending resumption. In the Americas, EFTA has concluded PTAs with Mexico, Chile, Canada, Colombia, Peru, Costa Rica and Panama, which collectively account for about a fifth of merchandise trade with the region. Furthermore, negotiations are still underway with Honduras. In Northern Africa and the Middle East, over 80% of EFTA's merchandise trade is now based on PTAs. In the rapidly growing Sub-Saharan African region, almost half of EFTA's merchandise trade is conducted under the PTA with the Southern African Customs Union (SACU). Table 1 provides details on the EFTA PTAs negotiated jointly as well as bilateral PTAs negotiated by individual EFTA states.

⁶³ According to the replies to a survey conducted for this study, the main drivers for Norway are the following: "to improve market access for our export industries in important, or potentially important, foreign markets outside the EU. Emerging economies in Asia is a priority and negotiations with Indonesia, Malaysia and Vietnam are currently ongoing. An agreement with the Philippines was signed 28 April 2016. Trade volume, trade potential and size of the economy of the partner country in question are important criteria for selecting PTA partners. Companies in the EU generally are the main competitors for companies in the EFTA States. Creating a level playing field for our companies by negotiating PTAs with countries that EU has concluded PTAs is therefore an important driver for EFTA's trade agreements. Considerations of the institutional and political setup in potential partner countries are also taken into account. Such considerations may lead to the decision not to enter into trade negotiations with a country despite commercial interests. Lack of progress on the multilateral level (WTO) has also led to more industry pressure to engage in bilateral trade negotiations with countries that have important markets." Regarding Switzerland, the SECO pointed to the following drivers: "Switzerland is a small country without any natural resources. Switzerland is further export oriented and produces high quality products. It is therefore important to have an open economy and to be able to access other markets. In the race for PTAs, our objectives are to gain a comparative advantage over or to avoid discriminations vis-à-vis our main competitors."

Table 1 EFTA Preferential Trade Agreements with third countries and regional organizations (February 2016)

| EFTA PTAs | Partner Country | Start of negotiations | PTA signed | PTA entry into force |
|----------------------------------|--|-----------------------|-------------------------|----------------------------------|
| | Turkey | | 10 December 1991 | 1 April 1992-1 September 1992 |
| | Israel | | 17 September 1992 | 1 January 1993-1 May 1994 |
| | Morocco | 17 April 1996 | 19 June 1997 | 1 December 1999 |
| | Palestine Authority | 22 January 1998 | 30 November 1998 | 1 July 1999-1 November 2000 |
| | FYROM | 22 June 1999 | 19 June 2000 | 1 May 2002-1 August 2002 |
| | Mexico | 6 July 2000 | 27 November 2000 | 1 July 2001 |
| | Jordan | 22-23 September 1998 | 21 June 2001 | 1 September 2002 |
| | Singapore | 2-6 July 2001 | 26 June 2002 | 1 January 2003 |
| | Chile | 4 December 2000 | 26 June 2003 | 1 December 2004 |
| | Lebanon | 8-9 April 2003 | 24 June 2004 | 1 January 2007 |
| | Tunisia | 7-8 October 1996 | 17 December 2004 | 1 June 2005 |
| | Republic of Korea | 17 January 2005 | 15 December 2005 | 1 September-1 October 2006 |
| | SACU | 19-23 May 2003 | 26 June – 7 August 2006 | 1 May 2008 |
| | Egypt | 2 December 1998 | 27 January 2007 | 1 August 2007 |
| | Canada | 14 October 1998 | 26 January 2008 | 1 July 2009 |
| | Colombia | 4-8 June 2007 | 25 November 2008 | 11 July 2011-1 October 2014 |
| | GCC | 20-21 June 2006 | 22 June 2009 | 1 July 2014 |
| | Albania | 12-14 May 2009 | 17 December 2009 | 1 November 2010 – 1 October 2011 |
| | Serbia | 28-30 April 2009 | 17 December 2009 | 1 October 2010-1 October 2011 |
| | Peru | 4-8 June 2007 | 14 July 2010 | 1 July 2011-1 October 2011 |
| | Ukraine | 21-22 April 2009 | 24 June 2010 | 1 June 2012 |
| | Hong Kong, China | 18 January 2010 | 21 June 2011 | 1 October 2012 – 1 November 2012 |
| | Montenegro | 30 March 2011 | 14 November 2011 | 1 September -1 November 2012 |
| | Central America I (Panama, Costa Rica) | 1 March 2012 | 24 June 2013 | 19 August -5 September 2014 |
| | Central America II (Guatemala) | 1 March 2012 | 22 June 2015 | |
| | Bosnia and Herzegovina | 28-29 March 2011 | 24 June 2013 | 1 January 2015 |
| | Philippines | 24-27 March 2015 | 28 April 2016 | |
| EFTA ongoing negotiations | | | | |
| | Algeria | 21 October 2003 | on hold since 2008 | |
| | Kingdom of Thailand | 11-15 October 2005 | on hold since 2006 | |
| | India | 26 January 2008 | | |
| | Indonesia | 7 July 2010 | | |
| | Russia, Belarus, Kazakhstan | 23 November 2010 | on hold since 2014 | |
| | Vietnam | 22-25 May 2012 | | |
| | Malaysia | 5 November 2012 | | |

| | | | | |
|-------------------------------|-------------------|------------------------------|-------------------|-----------------------------|
| | Turkey revision | 16-17 September 2014 | | |
| | Georgia | 7 September 2015 | | |
| Bilateral PTAs | | Start of negotiations | PTA signed | PTA entry into force |
| | NOR Faroe Islands | | 28 August 1992 | 1 July 1993 |
| | CH Faroe Islands | | 12 January 1994 | 1 March 1995 |
| | ICE Faroe Islands | | 31 August 2005 | 1 November 2006 |
| | CH Japan | 19 January 2007 | 19 February 2009 | 1 September 2009 |
| | CH PR China | 12 May 2011 | 15 July 2013 | 1 July 2014 |
| | ICE PR China | 13 April 2007 | 15 April 2013 | 1 July 2014 |
| Bilateral PTAs ongoing | | | | |
| | NOR PR China | 18 September 2008 | | |

Data retrieved from the WTORTA database (<http://rtais.wto.org/ui/PublicMaintainRTAHome.aspx>). See also annex 3 for a summary of the scope of PTAs.

The core objective of EFTA's trade policy is to improve the competitive position of its business operators and to avoid discrimination resulting from PTAs concluded by EFTA's main competitors.⁶⁴ One may wonder why these four rather small EFTA countries have been so successful at developing economic ties on a global scale. The reasons for this are manifold. Firstly, the EFTA countries are attractive trading partners. They have high per capita incomes and reasonably sized aggregate markets. Together, the EFTA countries are the twelfth largest merchandise trader and sixth largest services trader (counting the European Union as one). Furthermore, EFTA sees PTAs as a complement to the multilateral framework of the WTO, not as an alternative. From the EFTA member states' point of view, both the WTO system and PTAs are essential components of international economic governance. Today, EFTA has one of the world's largest PTA networks. In addition to participating in the Internal Market of the European Union through the EEA Agreement and the bilateral Swiss-EU arrangements, the EFTA states currently maintain 26 third-country agreements with 35 partners worldwide. In addition, six JDCs are in force.⁶⁵

Since the EFTA is a free trade area and not a customs union, the individual EFTA states are not obliged by the EFTA Convention to conclude PTAs as a group, and countries maintain the option of entering into bilateral third-country arrangements. So one must also take into account the bilateral agreements between all the EFTA states and the Faroe Islands, which dates back to the early 1990s, a bilateral PTA between Switzerland and Japan (in force since 2009), and the bilateral PTAs of Iceland and Switzerland with China (signed in 2013).

While the EU remains by far EFTA's leading trading partner, its share in merchandise trade has dropped by five percentage points since 2005 (to 68.3% in 2012). Meanwhile, the proportion of third country PTA partners has continued to grow. Today, EFTA trade with third-country PTA partners accounts for 9.3% of overall EFTA merchandise trade and is worth some USD 63 billion, which represents an almost threefold increase since 2005. This growth reflects both the steady addition of new PTAs as well as the trade-creation effects of mutual market access and liberalisation measures implemented through the PTAs. For EFTA, this trade expansion has been largely export-driven, as evidenced by the strong growth of exports to third countries that has outpaced the growth in total trade.

Therefore, since the late 1990s EFTA has become activist in PTA negotiations, but the agreements have substantively achieved less compared to existing WTO rules than have the EU PTAs. Initially, EFTA PTAs

⁶⁴ See especially the Norwegian reply to our questionnaire.

⁶⁵ For the overview, see: <http://www.efta.int/free-trade/free-trade-agreements>.

were limited to market access agreements covering tariffs and services, and the relative absence of provisions on rules was a characteristic of earlier EFTA PTAs. Given the European Economic Area (EEA) and the bilateral agreements between the EU and Switzerland that apply the *acquis unionaire* to most policy areas in EFTA, the EFTA PTAs have not offered alternative rules to those of the EU. However, as we will demonstrate in the next chapter, PTAs are much softer regarding inclusion and "conditionalization" of human rights, labour rights, and environmental and sustainability issues.⁶⁶ Accordingly for third parties, EFTA offers a less 'rules-heavy' model for PTAs than does the EU. This might explain why EFTA is able to negotiate agreements faster than the EU.

4 The content of EFTA PTAs

For a comprehensive assessment of PTAs negotiated by EFTA and its Members, this study includes an analysis of 21 PTAs.⁶⁷The indicators were initially based on the DESTA/WTI dataset⁶⁸ and augmented with more qualitative assessments of the scope of EFTA PTAs.

EFTA free trade agreements typically foresee the elimination of import duties on industrial goods, including fish and other marine products, and provide for tariff concessions on processed agricultural products and selected basic agricultural products. While in principle, EFTA grants duty-free access for so-called "processed agricultural products" (e.g. chocolate and soup), certain measures are maintained to compensate for higher costs of raw materials used by the processing industries of the EFTA states. As previously stressed, concessions on primary agricultural products (including fruit and meat) have traditionally been dealt with in bilateral agreements between the individual EFTA states and partner countries, which then form an integral part of the PTA. Unlike the EU, EFTA states do not have a common agricultural policy, as their needs for protection vary according to their particular conditions. Otherwise, EFTA's position would be defined by the lowest common denominator, and the leeway provided for its Member states to offer concessions would be unnecessarily curtailed. According to a civil servant from Switzerland, the bilateral approach allows for more flexibility and maximises the market opening possible under each EFTA state's agricultural policy. "This approach has proven to be a good means to reach mutually agreeable solutions in a sensitive sector. In general, inter-EFTA coordination mechanisms are functioning well. They are long-standing proven processes that have improved over time."

Like all PTAs EFTA agreements contain rules of origin, which establish the extent to which products may contain imported materials without losing their preferential status under the agreements. In addition to these elements, the "first generation" of EFTA PTAs typically featured provisions on sanitary and phytosanitary (SPS) measures, technical barriers to trade (TBT), trade remedies (e.g. safeguard measures) and the protection of intellectual property rights (IPR). Rules on competition were also included to ensure that trade liberalisation under the PTA is not hampered by business practices that restrict or distort competition. But all of these provisions were not significantly WTO-plus.

⁶⁶ See: Elena Fierro (2003), *The EU's Approach to Human Rights Conditionality in Practice*, The Hague/London, Martinus Nijhoff 2003; Lorand Bartels (2007), *Human Rights Conditionality in the EU's International Agreements*, Oxford University Press 2007.

⁶⁷ EFTA- Israel, EFTA-Morocco, EFTA-FYROM, EFTA-Mexico, EFTA-Jordan, EFTA-Singapore, EFTA-Chile, EFTA-Lebanon, EFTA-Korea, EFTA- Egypt, EFTA-Canada, EFTA-Colombia, EFTA-Albania, EFTA-GCC, EFTA-Serbia, EFTA-Peru, EFTA-Hong Kong, EFTA-Montenegro, EFTA-Bosnia and Herzegovina, Switzerland-Japan, and Switzerland-China.

⁶⁸ See: Andreas Dür, Leonardo Baccini and Manfred Elsig (2014), *The Design of International Trade Agreements: Introducing a New Database*, *Review of International Organizations*, 9(3): 353-375; Roy, Martin (2011), *Services Commitments in Preferential Trade Agreements: An Expanded Dataset*, WTO Staff Working Paper; Roy, Martin, Juan Marchetti and Hoe Lim 2009, *Services Liberalization in the New Generation of Preferential Trade Agreements (PTAs): How Much Further than the GATS?*, in Antoni Esteveordal, Robert Teh, and Kati Suominen (eds) *Regional Rules in the Global Trading System* (Cambridge: CambridgeUniversity Press).

A "second generation" of EFTA free trade agreements added substantive rules and commitments on services, investment and/or public procurement, thereby responding more broadly to opportunities and challenges faced by businesses operating in today's globalised economic environment. Building on the General Agreement on Trade in Services (GATS) of the WTO, these agreements provided for the further liberalisation of trade in services through sector-specific commitments. With respect to investment, the focus lies on ensuring non-discriminatory conditions for the establishment of companies, subject to specific reservations. Bilateral investment treaties from individual EFTA states complement that framework. PTAs contain comprehensive rules on government procurement and foresee access to procurement markets on the basis of reciprocity, non-discrimination and transparency, setting out the covered government entities.

In line with other PTAs globally, EFTA has also begun to include disciplines on trade facilitation, which are aimed at simplifying and accelerating the clearance of traded goods. Since 2010, in what may be called a "third generation" of FTAs, EFTA has also begun to systematically introduce model provisions on sustainable development in its negotiating processes and reviews of existing agreements. These address environmental and labour standards insofar as they relate to trade and investment. FTAs containing such provisions have since been concluded with Hong Kong China, Montenegro, Bosnia and Herzegovina, and the Central American States of Costa Rica and Panama. Moreover, provisions on technical cooperation that seek to strengthen the capacity of developing partner countries to implement and benefit from PTAs are found in an increasing number of EFTA agreements. Finally, all EFTA PTAs contain institutional and other horizontal provisions, notably establishing a joint committee to administer the PTA. They also include mechanisms for the settlement of possible disputes between the parties that focus on consultations, but in all recent agreements, also foresee the possibility of resorting to dispute settlement. The following sections provide more detail on the content of the EFTA agreement and a brief comparison with the scope of EU PTAs.

4.1 Tariffs

Tariff coverage in EFTA PTAs is similar to that found in EU PTAs, but with less agriculture coverage. Both boast approximately 100% tariff liberalization for industrial products in the new agreements they are negotiating. The EFTA and the EU also provide for asymmetry when it comes to PTAs with developing countries, in which they allow the developing partner to exclude more tariff lines in order, for example, to maintain tariff revenue. Asymmetry also comes in the form of longer transition periods for developing country partners.

EFTA's average bound MFN tariff is at 3.5%, which is marginally higher than that of the EU (2.8%), due mostly to the EFTA's higher agricultural tariffs. Average bound MFN tariffs in agriculture across the EFTA states is 30-40%, with Norway and Iceland having bound agricultural tariffs of over 100%. The EU has an average bound MFN tariff for agriculture of nearly 10%. More EFTA products are also covered by special agricultural safeguard measures, a full 37% for Switzerland compared to 11% in the EU. Regarding the coverage of agriculture by PTAs tariff, EFTA PTAs are also inferior to those of the EU. For example, only 74% of agricultural tariff lines were covered by the EFTA – Korea PTA, while the EU – Korea PTA covered 98% of agricultural tariffs.

4.2 Rules of Origin

Rules of origin and other border or customs-related issues are assuming more importance as tariff barriers are reduced, particularly considering the costs of proving originating status for products or compliance with customs and other border measures. Since the adoption of a common PanEuroMed (PEM) system of rules of origin, the EU and EFTA have essentially the same rules. Both the EU and EFTA are introducing similar reforms in rules of origin, such as a progressive simplification of origination rules

for PTAs with developing economies is based on the greater use of value content rather than the more complex specific rules in the existing PEM.

4.3 Services

For the EFTA states, services account for approximately 70 percent of overall GDP. Trade in services accounts for a higher share of total trade for EFTA Members than for most countries. This is especially true for Iceland, and increasingly for Switzerland. According to the statistics of TradeEconomics.com and the United Nations Common Database (UNCD), in 2010, trade in services accounted for 37 percent of overall trade in Iceland, 19,8 percent in Norway and 23,3 percent in Switzerland.

Table 2 Trade in Services (in percent of GDP)

| | 1990 | 2000 | 2010 | 2014 |
|-------------|------|------|------|------|
| Iceland | 17,5 | 25,4 | 37,0 | 43,1 |
| Norway | 21,4 | 19,4 | 19,8 | N.A. |
| Switzerland | 12,7 | 18,2 | 23,3 | N.A. |

Source: Own compilation, Basis: TradingEconomics.com; World Bank; UNCD.

According to a former Head of the EFTA Division at the SECO, the EFTA motivation to strengthen services commitments through its PTA network stems from a frustration and perceived lack of progress at the multilateral level. "The GATS negotiations were finished more than 10 years ago (1994). Considering the dynamism experienced in trade in services over this last decade, it is fair to assume that the commitments are not up to date.... In this situation, bilateral negotiations on services allow parties to move ahead and benefit from an 'early harvest' on the offers made in the WTO context."

For EFTA, all PTAs included in the study explicitly refer to GATS. However, only the PTAs with Israel, Mexico, Singapore, Chile, Korea, Egypt, Colombia, the GCC, and Hong Kong, as well as the Swiss PTAs with Japan and China, mention services trade liberalization as a general objective and include substantive provisions liberalizing trade in services.

With the exception of Mexico, the EFTA PTAs use a positive list approach regarding service commitments (in other words they list all the sectors to be covered). GATS-plus provisions differ between agreements, mirroring EFTA's flexible approach and specific interests, vis-à-vis different partners. Hence, although most of the second generation agreements provide for new commitments on rules in financial services and telecommunications, the PTA with Mexico is unique in its provision on maritime transport (normally excluded from coverage) and a standstill provision on new discriminatory measures. Overall, EFTA PTAs contain commitments to eliminate further trade discrimination within agreed time frames. They also include broadly the same exceptions as EU PTAs, such as audio-visual (where EFTA PTAs follow the EU model closely), air transport and others, in which both follow the general pattern of PTAs.

EFTA PTA provisions on services have followed the EU approach. Until the conclusion of the agreement with Canada (CETA), the EU's approach was a positive listing, GATS-type approach to coverage, with specific sectoral agreements for telecommunications, financial services and electronic commerce. With the CETA agreement, the EU has also moved to adopt a separate chapter for investment that replaces what was the mode 3 establishment means of delivery under the GATS model. Like EFTA, the EU has sought to extend coverage beyond the GATS, as it has been twenty years since the conclusion of that agreement. In terms of exceptions, the EU only covers privately funded services in education and health services, audio visual, maritime cabotage and air transportation.

4.4 Provisions on investment

Given the exclusion of investment provisions from the Doha Development agenda, EFTA has used PTAs as an easier means of achieving their investment ambitions. Their collective goal is twofold: to improve legal security for foreign economic operators, and to open new sectors to foreign investment. On balance, the EFTA states have WTO-plus investment measures with a number of partners. The PTA with Singapore is among the most progressive in terms of investment provisions, covering for the first time the right of establishment for nationals of each respective partner (subject to coverage determined by schedules). It also envisages, but does not include, investor-state dispute settlement. An evolutionary clause and institutional cooperation mechanisms also encourage Parties to take further liberalizing measures when the time is ripe. The FTAs with Canada, Egypt, Israel, the GCC, Jordan, the countries of the Western Balkans, and Morocco contain best endeavours wording on protecting investment in the agreements' preambles, without deeper commitments within the agreements. The EFTA-Korea and the Switzerland-China PTAs base their respective provisions regarding the protection of investment on already existing BITs. Against these agreements that are rather limited in scope, the PTAs with Colombia, Mexico, Singapore, Hong Kong, and Peru, as well as the Swiss PTA with Japan, go much further and provide for specific chapters on the protection of investments.

On the related question of performance requirements, however, none of the PTAs analysed in this study makes specific reference to the Agreement on Trade Related Investment Measures (TRIMs). Table 3 provides for an overview on the scope of non-discriminatory provisions granted to foreign investors at the various phases of the investment procedure.

In comparison, the EU initially started with fairly limited and fragmented investment coverage in the PTAs it negotiated. However, since the adoption of the Lisbon Treaty and the extension of exclusive EU competence to foreign direct investment, the EU has become more ambitious than what is found in the EFTA agreements. This is illustrated by the EU Singapore and CETA agreements, both of which are still to be ratified. As the table below shows, these provide for establishing all investment subject to a two schedule, negative listing system (one binding with a ratchet preventing the introduction of new restrictions and one that provides for changes in regulatory policies). The EU PTAs now also include investment protection in the form of post-establishment national treatment, and fair and equitable treatment with investor-state dispute settlement (based on an investment court system in the CETA revision of 2016). Regarding EFTA, two of the FTAs under scrutiny provide for specific investor-state DSM (EFTA-Singapore and Switzerland-Japan), and another five contain provisions for state-to-state DSM (EFTA-Chile, EFTA-Korea, EFTA-Hong Kong, EFTA-Peru, and Switzerland-China).

In the EU PTAs, host-state interests are now defended by the inclusion of clear "right to regulate" provisions. This emerging template for EU investment provisions is in advance of the provisions in existing EFTA PTAs, but it can be expected that EFTA states will actively consider developing similar approaches in their PTAs and bilateral investment agreements.

Table 3 Treatment of Investment in Selected PTAs

| PTA | Pre-estab. NT | Post-estab. Protection | Sensitive Sector Exclusion | Investor States Dispute Settlement |
|---------------------|---------------|------------------------|----------------------------|------------------------------------|
| EU-Korea | yes | yes | Yes | x |
| EU-Colombia-Peru | yes | yes | Yes | x |
| EU Singapore | yes | yes | Yes | yes |
| EU Canada | yes | yes | Yes | yes |
| EFTA- Korea | yes | x | Yes | x |
| EFTA Canada | x | x | X | x |
| EFTA Singapore | yes | yes | Yes | x |
| Bosnia Herz. EFTA | x | x | X | x |
| Switzerland - Japan | yes | yes | Yes | yes |

Source: authors

4.5 Intellectual Property Right Protection

Most PTAs reaffirm the existing international provisions on intellectual property right protection. These take the form of the existing IP conventions, such as the Bern Convention on copyright protection or the Paris Convention on trademarks (see Table 4) and the Trade Related Intellectual Property Rights (TRIPs) agreement of the WTO. Table 4 shows that EFTA PTAs do not all refer to each existing convention. This contrasts with bilateral agreements such as the Switzerland - Japan PTA, which includes high standards of protection for IPRs. In comparison, the EU PTAs generally include most existing conventions. In general, EFTA PTAs have been significantly less comprehensive in their coverage of IPRs than have EU PTAs.

Table 4 Requirements to comply with existing IP conventions in selected PTAs

| Name | IPR protection | Rome Convention | Paris Convention | Bern Convention | WIPO Copyright | WIPO Phonogram |
|-----------------------------|-----------------|-----------------|------------------|-----------------|----------------|----------------|
| Canada EFTA | No | No | No | No | No | No |
| Chile EFTA | Substantive | No | No | No | No | No |
| Colombia EFTA | Substantive | Yes | Yes | Yes | Yes | Yes |
| EFTA Egypt | Substantive | No | No | No | No | No |
| EFTA Korea | Substantive | No | No | No | No | No |
| EFTA Mexico | Substantive | Yes | Yes | Yes | Yes | Yes |
| EFTA Morocco | Substantive | Yes | Yes | Yes | No | No |
| EFTA Serbia | Objectives only | No | No | No | No | No |
| EFTA Singapore | Substantive | No | No | No | No | No |
| EFTA Peru | Objectives only | Yes | Yes | Yes | Yes | Yes |
| Bosnia and Herzegovina EFTA | No | Yes | Yes | Yes | Yes | Yes |
| Japan Switzerland | Substantive | Yes | Yes | Yes | Yes | Yes |
| EU - Korea | Substantive | Yes | Yes | Yes | Yes | Yes |
| EU Canada | Substantive | Yes | Yes | yes | Yes | Yes |

With no progress in the WTO's multilateral negotiations on IPRs, PTAs have provided a means of strengthening protection of property rights. This has generally taken the form of fairly minor adjustments to the existing TRIPs provisions, with an exception for stronger protection for Geographic Indications (GIs). Table 5 below provides some more detail on the TRIPs-plus coverage for some selected EFTA and EU PTAs, which shows the more extensive TRIPs-plus provision in EU PTAs. Only in the case of the Switzerland – Japan PTA are these high levels of protection matched.

EFTA PTAs therefore tend to reaffirm existing TRIPs provisions for trademarks and copyright protection. There are no provisions on GIs except in the Switzerland – Japan PTA, although EFTA-Korea includes a rendezvous clause on GIs, meaning there is a commitment to consider the topic in the future. With regard to patent life restoration (5 years) and industrial designs (now 15 years) EFTA PTAs are TRIPs – plus in most cases. However, this is not uniform. For example, EFTA – Colombia only refers to an 'adequate term' for the protection of industrial designs. For data protection, most EFTA PTAs provide 5 years for pharmaceutical active agents and 10 years for agricultural chemicals. These terms provide protection for

patent holders in the sense that generic producers may not have access to clinical or other trial data for the specified period.

In comparison, EU PTAs are TRIPs-plus in copyright (life plus 70 years), as seen in the Switzerland – Japan PTA. EU PTAs are also TRIPs-plus for industrial designs, which include a 15-year term of protection and 20 years in the Switzerland – Japan PTA. EU PTAs are equivalent to the EFTA approach for data protection and patent life restoration, but include substantive provisions on GI.

Table 5 TRIPs-plus coverage in selected PTAs

| TRIPs | EU-Korea | EU- Colombia Peru | EU Canada | EFTA Korea | EFTA Columbia | Switzerland - Japan |
|--|----------|-------------------|-----------|------------|---------------|---------------------|
| Existing conventions, see table 4 | yes | yes | yes | yes | yes | yes |
| Copyright | yes | yes | | | | |
| Trademarks | | | | | | |
| Geographic Indications | yes | yes | yes | | | |
| Patent life | yes | yes | yes | yes | yes | yes |
| Genetic and traditional knowledge | yes | yes | yes | | | |
| Data exclusivity | yes | yes | yes | | | |
| Industrial designs | yes | | | yes | yes | yes |
| Internet domains | | | | | | |
| Civil enforcement | yes | yes | | | | |
| Criminal enforcement | yes | yes | | | | |
| Border measures | | | | | | |
| S&DT | | yes | | | | |
| Sub-committee | | yes | | | | |

4.6 Provisions on public procurement

Both EFTA and the EU have made comprehensive coverage of public procurement an objective of PTAs since the third phase of PTA policy in EFTA and the EU's Global Europe strategy of 2006. The EU has generally been more successful in negotiating deeper commitments than has EFTA. As Table 6 below illustrates, EFTA has negotiated relatively few PTAs with concrete provisions, and there is only reference to future coverage of procurement in most cases.

Procurement provisions in PTAs take the form of rules aimed at promoting transparency, specific commitments on coverage (in the form of thresholds and schedules of entities included) and enforcement provisions in the shape of the so-called bid-challenge procedures. In terms of the rules on transparency, both EFTA and the EU base their PTAs on the rules set out in the WTO Government Procurement Agreement (GPA).

All EFTA states are signatories to the plurilateral WTO Government Procurement Agreement (GPA). As such, the EFTA states aim to include provisions of the GPA in their PTAs, or at least nudge their partners who are signatories to take on certain provisions of the GPA. The GPA is incorporated into agreements

with fellow GPA members Singapore and Korea. However, these PTAs are not GPA-plus, in the sense that they do not extend coverage beyond what was agreed to in the bilateral agreements within the GPA.

With non-members to the GPA such as Chile, EFTA manages to agree on a threshold that is identical to its GPA commitments, with the noted exception of the electricity sector. While the EFTA threshold with Mexico is also identical to its GPA commitments, the threshold for Mexico is identical to its NAFTA commitments. Here EFTA has followed the same approach as the EU to reconciling the GPA and NAFTA. For developing partners and first generation agreements like the EFTA-Morocco FTA, the ambition is limited to language on the progressive liberalization of government procurement at some future date.

Table 6 The scope of public procurement provisions in selected EFTA and EU PTAs

| Name | Substantive provisions | National treatment guarantee | Scope of provisions | References to WTO/GATT agreements |
|-----------------------------|-------------------------------|-------------------------------------|----------------------------|--|
| EFTA Israel | Foreseen with timeframe | No | no provisions | Yes |
| EFTA Morocco | Foreseen with timeframe | No | no provisions | Yes |
| EFTA Macedonia | Foreseen with timeframe | No | no provisions | Yes |
| EFTA Mexico | concrete provisions | Yes | goods & services | Yes |
| EFTA Jordan | Foreseen with timeframe | No | no provisions | Yes |
| EFTA Singapore | Foreseen with timeframe | No | no provisions | Yes |
| EFTA Chile | Concrete provisions | Yes | goods & services | No |
| EFTA Lebanon | Foreseen with timeframe | No | no provisions | No |
| EFTA Korea | Foreseen with timeframe | No | no provisions | Yes |
| EFTA Egypt | Foreseen with timeframe | No | no provisions | No |
| Canada EFTA | Foreseen with timeframe | No | no provisions | Yes |
| Colombia EFTA | Concrete provisions | Yes | goods & services | No |
| Albania EFTA | Concrete provisions | Yes | no provisions | No |
| EFTA GCC | Concrete provisions | Yes | goods & services | No |
| EFTA Serbia | Concrete provisions | Yes | no provisions | No |
| Japan Switzerland | Foreseen with timeframe | No | no provisions | Yes |
| EFTA Peru | Concrete provisions | Yes | goods & services | No |
| EFTA Hong Kong | Foreseen with timeframe | No | no provisions | Yes |
| EFTA Montenegro | Foreseen with timeframe | No | no provisions | No |
| Bosnia and Herzegovina EFTA | No | No | no provisions | No |
| China Switzerland | Foreseen with timeframe | No | no provisions | Yes |

Compared to the provisions in most EU PTAs, these EFTA PTAs are rather weak on procurement. Like EFTA, the EU effectively adopts the WTO GPA rules in terms of that element of agreements. There is little

difference when EFTA includes substantive provisions. In terms of entity coverage in PTAs with countries that are signatories to the WTO Government Purchasing Agreement, the EU seeks to extend coverage beyond the GPA level. For countries that are not signatories to the GPA, the EU approach is to introduce transparency provisions broadly in line (or exactly in line) with the GPA rules. The EU then seeks to establish specific commitments that go beyond the GPA coverage of entities. This has been the case for middle income partners such as Colombia and Peru. Note that the EFTA agreements with non-GPA signatories that include substantive provisions are all with countries that have negotiated extensive procurement agreements with either the US, the EU or both.

The recent EU PTAs have also included more coverage of sub-federal level procurement than has been the case in EFTA PTAs, such as the CETA that extends to almost all Provincial and municipal procurement.⁶⁹ In contrast, the EFTA PTA with Canada did not include any sub-federal level procurement. It is interesting to note that the EFTA – Canada PTA was completed at a time when the EU had put negotiations with Canada on hold, in part because of Canada’s inability to include sub-federal levels of government, particularly in procurement. Unlike the EU, EFTA was ready to accept a less comprehensive agreement with Canada, thus illustrating how EFTA was able and willing to negotiate quicker than the EU. However, we should not jump on conclusions about whether the sub-national coverage on procurement is the EU’s state-of-the-art achieved with CETA, since the need to extend coverage to sub-national or sub-central state entities largely depends on the territorial organisation of the state in question and its readiness to open sub-national markets. As regards the ongoing negotiations on TTIP, Woolcock underlines that US public procurement markets are only partially covered by the WTO provisions of the GPA for the sub-federal level of state and city/municipal contracts).⁷⁰ One of the major challenges in the field of public procurement in TTIP is therefore to get “subfederal government in the USA to agree to be covered by rules that would make these markets more transparent and free from explicit ‘buy America(n)’ provisions favouring local suppliers. If anything, recent trends suggest that state legislatures are consolidating their control in this field and making negotiation of greater coverage in TTIP more difficult”.⁷¹

4.7 Provisions regarding Technical Barriers to Trade (TBT) and Sanitary and phytosanitary (SPS) measures

The EFTA states are closely linked to the EU’s models for Sanitary and Phytosanitary (SPS) and TBT regulation in the sense that they apply the *acquis communautaire* domestically. However, SPS and TBT commitments in EFTA’s PTAs with third countries do not go far beyond reaffirming the Parties’ rights under the existing multilateral SPS and TBT agreements in the WTO. All EFTA FTAs under scrutiny contain an SPS chapter, and all FTAs except those with Israel, Morocco, FYROM, and Jordan make specific reference to the WTO SPS agreement. The most comprehensive SPS measures are to be found in the EFTA-Chile PTA and the Switzerland-China FTA, which mention consultation, cooperation, contact points and the prospect for developing bilateral arrangements, even between their respective regulatory agencies at some future time.

There is no mention of mutual recognition, equivalence or harmonization measures in any other EFTA FTA. This might reflect an unwillingness from the EFTA states to forego any policy flexibility for their

⁶⁹ See: Woolcock, Stephen (2015): TTIP: Opportunities and Challenges in the area of Public Procurement, European Parliament, In-depth analysis for the IMCO Committee, Doc. No. IP/A/IMCO/2014-14, Brussels 2015, p. 13.

⁷⁰ To date, only 37 states agree to - partial - coverage under the GPA. Moreover, only federal purchasing in the US is covered by a uniform set of rules. State level tendering and contract award procedures vary as do those at the level of cities.

⁷¹ See: Woolcock, Stephen (2015): TTIP: Opportunities and Challenges in the area of Public Procurement, European Parliament, In-depth analysis for the IMCO Committee, Doc. No. IP/A/IMCO/2014-14, Brussels 2015, p. 5.

protected agricultural sectors. However, the recent PTA between Switzerland and China formulates the aim of SPS harmonization with international rules in Article 7.4: "Harmonisation [Title]. To harmonise sanitary and phytosanitary measures as broadly as possible, the Parties shall base their sanitary and phytosanitary measures on international standards, guidelines and recommendations established by the Codex Alimentarius Commission (CAC), the World Organisation for Animal Health (OIE), and the relevant international regional organisations operating within the framework of the International Plant Protection Convention (IPPC) where they exist or their completion is imminent." This does little, if anything, to build on the best endeavours wording of the WTO agreement.

While the EU also bases the SPS provisions in its PTAs on the WTO Agreement, there are WTO/SPS plus provisions for the procedural means used to implement the SPS Agreement's principles. Thus, EU PTAs set out in some detail, for example, how the principle of equivalence should be applied in dedicated specialist committees. In some cases, there are bilateral veterinary equivalence agreements between the EU and its PTA partner. In the case of CETA, specific Canadian and EU regulations are specified as being equivalent.

Regarding TBT commitments, all EFTA FTAs contain specific chapters on TBT, a reference to the WTO Agreement on TBTs (the GATT Standards code), and provisions to facilitate cooperation and information exchange on TBTs between the parties. Moreover, the EFTA FTAs contain three different types of provisions on technical regulations:

- The FTA with Turkey contains an information procedure on draft technical regulations.
- Only the FTAs with Israel and Japan contain provisions stipulating the general aim for partial harmonization of TBT.
- FTAs with Morocco and Tunisia, for example, contain no such information procedure but provide for consultation and cooperation. They also foresee notifications in accordance with the weaker WTO Agreement on Technical Barriers to Trade (TBT).
- The FTAs with Mexico, Chile and Singapore provide for rights and obligations of the parties to be governed by the WTO TBT Agreement. They specify areas of cooperation and call on the concluding parties to facilitate the exchange of information. As is the case with the second category of FTAs, a consultation mechanism has been set up for these FTAs, with the aim being to work out solutions in conformity with the WTO Agreement on TBT.
- The FTAs with Chile and the GCC, as well as the Swiss FTA with Japan, contain specific requirements for standards to be least trade-distorting.
- All agreements, except those with countries of the Western Balkans and the Swiss FTA with Japan, contain a dispute settlement provision for TBTs or a provision that relevant disputes should be dealt with by the joint committee established by the agreement.

As in the case of SPS, these provisions are therefore not WTO/TBT plus. In comparison, the EU has been more innovative in addressing TBTs. For example, in the EU – Korea PTA, sector working groups have been established to deal with technical barriers to trade in sectors such as automobiles and chemicals. The EU – Korea FTA also provides for a mediator and a means of more rapid response to non-tariff barriers. In the case of the PTA with Canada, a separate Protocol on the mutual acceptance of conformity assessment results has been negotiated, which promises to significantly facilitate recognition while it develops the procedural measures required to realise the objective of mutual acceptance. The EU – Canada agreement also makes moving towards mutual acceptance of conformance assessment a priority in certain sectors, starting with electrical and electronic goods, machinery, measuring instruments and boilers. The trade costs associated with TBT and SPS measures can be far greater than the costs associated with tariffs. Since effective action to reduce these measures depends on how agreements are

implemented, stronger procedural provisions are important and appear to be more developed in PTAs negotiated by the EU than those negotiated by EFTA.

4.8 Provisions regarding Trade Defence Instruments (TDI)

In general, the EFTA Agreements contain provisions that address TDIs, such as anti-dumping, competition, subsidies and countervailing duties and safeguard measures. In almost all PTAs, including EFTA and EU PTAs, the parties incorporate GATT provisions on global safeguards, anti-dumping and countervailing duties.

PTAs generally add a further bilateral safeguard that enables the parties to stop or reverse liberalisation under the PTA in the event of an unforeseen surge in imports. The criteria used for determining whether a safeguard measure is justified are also the same as those used in the GATT/WTO. Both the EFTA and the EU include bilateral safeguard measures in their PTAs. In the case of EFTA these can be applied, provided the criteria are satisfied, for a period of three years. In the case of the EU, bilateral safeguard measures in PTAs tend to be for two years only. However, in both cases there is scope for extending these measures for a longer period, provided there is evidence of restructuring or adjustment.

Both EFTA and the EU go somewhat beyond the existing GATT/WTO provisions on anti-dumping by providing for the lesser duty rule in the post-2009 PTAs they negotiate. In other words, the applied duty will be the lesser of the duty determined by the dumping margin and the duty required to remove the injury caused by dumped imports. Regarding EFTA, only the EFTA-Korea PTA explicitly provides for a lesser duty rule on the basis of Article 6.2 of the Korea-Singapore PTA in Article 2.10.: “the Parties shall observe the following practices in anti-dumping cases between them in order to enhance transparency in the implementation of the WTO Anti-dumping Agreement: [...] (b) if a decision is taken to impose an anti-dumping duty pursuant to Article 9.1 of the WTO Agreement on Anti-dumping, the Party taking such a decision, should apply the ‘lesser duty’ rule, by imposing a duty which is less than the dumping margin where such lesser duty would be adequate to remove the injury to the domestic industry.” In addition to this, the Korea-EFTA PTA stipulates that parties “shall endeavor to refrain from initiating anti-dumping procedures against each other” and consult “with the other with a view to finding mutually acceptable solution”, although it does not mandate any specific additional legal requirements. Similarly, Article 2.13 of the recent EFTA-Philippines PTA holds that “6. If a Party decides to impose an anti-dumping duty, the Party shall apply the “lesser duty” rule if such lesser duty would be adequate to remove the injury to the domestic industry. [...]”.

The EU also includes best endeavours wording on the use of the ‘public interest’ in the application of anti-dumping measures. This can work against the application of dumping when, for example, downstream or user industries face higher costs due to the application of anti-dumping duties. EFTA PTAs also include best endeavours wording not to use anti-dumping in PTAs (for example with Chile and Korea) and to consider the elimination of the scope for anti-dumping duties within these agreements. However, none of the EFTA PTAs under review do explicitly agree on taking broader public interest (beyond sector interests) in account.

However, commercial instruments are seldom applied against imports from PTAs partners, and the EFTA states have yet to apply any commercial instruments to their trade partners.

Table 7 Provisions on Anti-Dumping and Subsidies in EFTA FTAs

| Name | FTA explicitly allows AD measures | FTA explicitly rules out AD measures | FTA explicitly allowing subsidies | FTA explicitly rules out subsidies |
|-----------------------------|-----------------------------------|--------------------------------------|-----------------------------------|------------------------------------|
| EFTA Israel | Yes | No mention | No | No |
| EFTA Morocco | Yes | No mention | No | No |
| EFTA Macedonia | Yes | No mention | No | No |
| EFTA Mexico | Yes | No mention | No | No |
| EFTA Jordan | Yes | No mention | No | No |
| EFTA Singapore | No mention | Yes | No | No |
| Chile EFTA | No mention | Yes | No | No |
| EFTA Lebanon | Yes | No mention | No | No |
| EFTA Korea | Yes | No mention | No | No |
| EFTA Egypt | Yes | No mention | No | No |
| Canada EFTA | Yes | No mention | No | No |
| Colombia EFTA | Yes | No mention | No | No |
| Albania EFTA | No mention | Yes | No | No |
| EFTA GCC | Yes | No mention | No | No |
| EFTA Serbia | No mention | Yes | No | No |
| Japan Switzerland | Yes | No mention | No | Yes |
| EFTA Peru | Yes | No mention | No | No |
| EFTA Hong Kong | No mention | Yes | No | No |
| EFTA Montenegro | No mention | Yes | No | No |
| Bosnia and Herzegovina EFTA | No mention | Yes | No | No |
| China Switzerland | Yes | No mention | No | No |

All EFTA FTAs, with the exception of the Swiss FTA with Japan, mention measures against subsidies or countervailing duties. Further, all FTAs contain specific safeguard provisions, and all agreements allow the contracting parties to retain rights and obligations under GATT Article XIX.

Both the EU and EFTA PTAs follow the practice of relying on existing GATT (1994) provisions on safeguards and anti-dumping duties. Both also include scope for bilateral safeguard actions in case there is a sudden surge in imports due to a PTA. In applying these bilateral measures, however, the GATT procedures and criteria are used. Both the EFTA and EU PTAs include bilateral specialist committees to monitor the application of commercial instrument provisions of the agreements.

4.9 Dispute Settlement provisions (scope regarding consultation, mediation, arbitration, sanctioning non-compliance)

Regarding dispute settlement, all EFTA FTAs include provisions for resolving disputes. All FTAs contain provisions on arbitration, either in the form of ad hoc panels or by authorizing the joint committee to delegate dispute settlement to specialized expert groups to make binding recommendations. However, only the FTAs with Singapore, Chile, Korea, Colombia, the GCC, Peru, Hong Kong and the two bilateral Swiss FTAs include provisions on mediation. None of the FTAs provide for the creation of a standing body with delegated powers for dispute settlement, but the FTAs with Mexico, Singapore, Chile, Korea, Canada, Colombia, Albania, the GCC, Peru, Hong Kong and the Swiss FTAs in Asia explicitly refer to external DS institutions such as the WTO or ICJ.

With the exception of the FTA with Lebanon, all EFTA FTAs include explicit provisions on binding dispute settlement. Of the ten pre-1995 FTAs involving European countries, the EU and the EFTA use the judicial model,⁷² six (EU-Iceland, EU-Norway, EU-Switzerland/Liechtenstein, EU-Syria, EFTA-Turkey, and Norway-Faroe Islands) use the political model,⁷³ and two (EU-Andorra and EFTA-Israel) use the quasi-judicial model.⁷⁴ Since 1995, four out of the 24 FTAs that the EU concluded (EU-Faroe Islands, EU-Croatia, EU-Albania, and EU-FYROM) employ the political model, while 20, including the recent Economic Partnership Agreements signed with ACP countries, employ the quasi-judicial model. FTAs between individual EFTA members and the Faroe Islands use the political model of dispute settlement. Regarding the FTAs concluded between EFTA collectively and third parties, only the first EFTA-Turkey agreement (1992) uses the political model. All other EFTA FTAs use the quasi-judicial model.

In its FTAs, the EU has moved to adopt quasi-judicial models of state-to-state dispute settlement covering the provisions of the agreements. Like the EFTA approach, these are based on the WTO model of dispute settlement.

4.10 Provisions relating to non-trade issues

With regard to human rights and sustainable development, the EU now includes a standard human rights clause in all PTAs and peer review provisions on labour and environmental aspects of sustainable development. For example, the PTA between the EU and Colombia-Peru corresponds closely with EU-Korea and other EU PTAs. It commits the Parties to the promotion and effective implementation of five internationally recognised core labour standards contained in the ILO Declaration (1998), namely: freedom of association; the right to collective bargaining; elimination of all forms of forced and compulsory labour; effective abolition of child labour; and the elimination of discrimination in respect of employment. In the Preamble to the agreement, while there is reference to labour rights, greater emphasis is placed on the broader question of fundamental human rights compared to EU-Korea, which reflects persisting concerns on the issue. The PTA also emphasises the goals of reducing poverty and raising living standards, while noting the differences in the economic and social development of the Parties. A key to the success of EU-Colombia/Peru PTA could be the way in which it is implemented, through a process of peer review, and the extent to which it is backed by wider flanking measures to promote development.

Regarding social matters, Ingunn Yssen, the International Secretary in the Norwegian Confederation Trade Unions, made an argument in favour of including social clauses in international trade agreements to the EFTA Bulletin. She stated: "It is important that authorities, when entering into free trade agreements, include social clauses that are based on the core conventions of the International Labour Organization (ILO), or that they encourage cooperation between the social partners to develop workers' rights and human rights in parallel with extended trade." She takes as her inspiration the EU's PTA with Chile, which includes provisions that aim to establish a common consultative committee to promote

⁷² We refer to the definitions of Chase/Yanovich/Crawford/Ugaz 2013. Accordingly, the judicial DSM model incorporates PTAs that provide for judicial bodies with a greater degree of independence and institutional permanence. Members of judicial bodies are not appointed by the parties on an ad-hoc basis, but for fixed terms. The judicial bodies have more functional and administrative autonomy, own legal personality and budget. Moreover, judicial models feature a greater degree of legalism in terms of the applicable procedures.

⁷³ According to Chase/Yanovich/Crawford/Ugaz 2013, the political DSM model covers PTAs (i) that have no dispute settlement provisions at all, (ii) that provide exclusively for negotiated settlement among disputing members *and/or* the referral of a dispute to a *political body* for resolution; and (iii) that provide for referral of a dispute to a third-party adjudicator but accord to PTA members a right to veto such referral.

⁷⁴ According to Chase/Yanovich/Crawford/Ugaz 2013, the quasi-judicial DSM model covers PTAs that provide an "automatic" right of access to third-party adjudication at some stage of the dispute settlement process.

dialogue and cooperation between the various economic and social organisations in the two parties, including the possibility for wider civil society participation.

Politically, one can argue that the EFTA PTAs with the CEECs and the Euromed region complement the EU motivation to create a stable and prosperous post-Cold War order. In a development context, the Norwegians have highlighted the agreement with SACU. According to Lars Nordgaard, former Norwegian Head Negotiator, one of the goals of this agreement was the promotion of fair and equitable trade relations between developed and developing countries. He noted that “technical assistance and asymmetrical provisions could help facilitate the implementation of the PTA, to enhance trade and investment opportunities and to support the SACU States’ efforts to achieve sustainable economic and social development.” However, the political impact of the EFTA states is marginal – perhaps negligent – and does not guide the PTA policy. The willingness of the EFTA states to grant China market economy status without political conditionality is more characteristic of its overall apolitical approach.

This does not mean that EFTA ignores public debate about the inclusion of non-trade related values and rights into their PTA policy. Citizen protests against the WTO and its Ministerial conferences in Seattle, Doha and Cancun had their impact on EFTA. EFTA Ministerial Conferences of 30 June 2008 and 25 November 2008 respectively mandated specific working groups to consider the anchoring of provisions relating to trade, environment and labour standards in EFTA PTAs, and to elaborate a template for new model provisions likely to be proposed to EFTA partners during trade negotiations. The Working Groups met between September 2008 and December 2009, and the CMP issued its report in March 2009. By June 2010, the Working Groups presented new model provisions relating to trade and sustainable development. The Working Groups presented their conclusions to the EFTA Ministers in June 2010 during the EFTA Ministerial Conference of 24 June 2010 in Reykjavik. The ministers acknowledged with satisfaction the joint report produced by the Working Groups and considered their mandate to have been fulfilled. These cover the following aspects: ⁷⁵

- PTA Preamble

The clauses contained in the Preamble should refer to the principles of democracy and the rule of law, human rights and fundamental freedoms, to the fundamental principles and rights at work set out in the ILO, to multilateral environmental agreements, and to the principle to implement the PTA in accordance with the objective of sustainable development.

- PTA Article on the objectives of the free trade agreement

The article should build on the respect for the principles of democracy and human rights as well as on the principle of contributing to the development of trade in such a way as to contribute to the objectives of sustainable development.

- PTA Article on relations between the PTA and other international agreements

The article should give assurances that the PTA does not infringe other international agreements, including international agreements on human rights, the environment and labour standards.

⁷⁵ See:

<https://www.seco.admin.ch/dam/seco/en/dokumente/Aussenwirtschaft/Wirtschaftsbeziehungen/Freihandelsabkommen/-Presserohstoff%20Abschluss%20oder%20Arbeiten%20oder%20EFTA%20zu%20Handel,%20Umwelt%20und%20Arbeitsnormen.pdf.download.pdf/Background%20information%20Conclusion%20of%20EFTA%20work%20on%20trade,%20environment%20and%20labour%20standards.pdf>

- Provisions contained in the PTA's sectorial chapters

The general provisions in the chapters on goods, services, investment, government procurement and Intellectual Property Rights should allow parties to take, under certain conditions and by referring to GATT Art. XX b and g; GATS Art. XIV, GPA revised Art. III (2) and X (6) and (9), TRIPS Art. 27.2, measures which would deviate from the PTA's obligations in order to protect human, animal or plant life or health, conserve natural resources and protect the environment. If PTAs contain a specific chapter on technical cooperation and development cooperation, the model provision foresees taking into account the principles of sustainable development in the activities or projects undertaken.

- PTA chapter on "Trade and Sustainable Development"

A model chapter on "Trade and Sustainable Development" brings together provisions on the environment and labour standards. These provisions would cover: (a) the principle by which economic and social development and environmental protection constitute interdependent and mutually supportive components of sustainable development; (b) the promotion of sustainable development at the level of bilateral relations between the parties to the agreement as well as globally; (c) efforts to guarantee high levels of environmental and labour standards protection; (d) the effective implementation of national legislation relating to environmental protection and labour standards; (e) the commitment not to weaken, waive or derogate from the level of environmental protection and labour standards provided by national legislation, in order to: encourage investment or enhance a competitive trade advantage; affirm a commitment to observe the fundamental conventions of the ILO (freedom of association and the effective recognition of the right to collective bargaining; elimination of all forms of forced labour; abolition of child labour; elimination of discrimination in respect of employment and occupation); and affirm a commitment to multilateral environmental agreements; (f) the promotion of trade in goods and services as well as investment favouring the environment and sustainable development (including products carrying labels certifying that they have been produced according to principles of fairness and respect for the environment and labour standards); and (g) the strengthening of cooperation within international organisations active in the field of sustainable development. Moreover, the new model chapter on trade and sustainable development includes the possibility of conducting bilateral consultations or discussions in the framework of the Joint Committee established under the PTA, in the event of disagreement concerning compliance with the provisions under the chapter on "Trade and Sustainable Development".⁷⁶

4.10.1 Labour Standards

Traditionally, EFTA PTAs have not contained many substantive requirements on labour standards, other than the allowance – also provided for in the GATT/WTO – of trade barriers in order to protect against the products of prison labour. Overall, the PTAs with Mexico, Chile, SACU, Canada, Colombia, the Western Balkans, the GCC, Peru, Ukraine, Hong Kong, Central America, and the bilateral PTA between Iceland and China limit references to labour standards to the agreements' preamble. In contrast, the PTAs with Morocco, Mexico, Jordan, Singapore, Lebanon, Tunisia, Peru, Ukraine, Central America and the bilateral PTAs, all contain more specific provisions on labour standards (such as the promotion of higher labour standards, the enforcement of labour law, and fair treatment of workers or social security rights) in the agreements' main corpus. Only post-2010 PTAs contain specific references to ILO conventions.

EFTA-Korea thus has minimal and indirect reference to labour conditions, simply stating in the preamble that the Parties reaffirm their commitment to the UN Charter and the Universal Declaration of Human

⁷⁶ Background information: Conclusion of EFTA Work on Trade, Environment and Labour Standards, STATE SECRETARIAT FOR ECON. AFFAIRS (SECO) (Aug. 30, 2010).

Rights. Compared with EFTA-Korea, EFTA-Colombia has a somewhat fuller reference in the preamble to human rights and the Parties' commitment to the rule of law and fundamental freedoms in accordance with their obligations under international law. In addition, unlike EFTA-Korea, the Colombia PTA refers explicitly to labour rights, with the Parties reaffirming their respect for the fundamental rights of workers, including the principles set out in the ILO Conventions to which they are party. However, this is still essentially hortatory, and in the absence of any other references to workers' rights, falls well short of the provisions on labour rights found in the EU and US agreements with Colombia.

Article 13 of the PTA between Switzerland and China only refers to bilateral side agreements: "The Parties shall enhance their cooperation on labour and employment according to the Memorandum of Understanding between the Ministry of Human Resources and Social Security of the People's Republic of China and the Federal Department of Economic Affairs of the Swiss Confederation regarding Cooperation on Labour and Employment Issues signed in Bern on 15 June 2011 and the Agreement on Labour and Employment Cooperation between the Ministry of Human Resources and Social Security of The People's Republic of China and the Federal Department of Economic Affairs, Education and Research of the Swiss Confederation signed in Beijing on 6 July 2013".

Table 8 Provisions on labour rights

| | Year | Labour rights preamble | Provisions on labour rights | References to ILO |
|-------------------------|------|------------------------|-----------------------------|-------------------|
| EFTA Turkey | 1991 | No | No | No |
| EFTA Israel | 1992 | No | No | No |
| EFTA Morocco | 1997 | No | YES | No |
| EFTA FYROM | 2000 | No | YES | No |
| EFTA Mexico | 2000 | YES | YES | No |
| EFTA Jordan | 2001 | No | YES | No |
| EFTA Singapore | 2002 | No | YES | No |
| EFTA Chile | 2003 | YES | No | No |
| EFTA Lebanon | 2004 | No | YES | No |
| EFTA Tunisia | 2004 | No | YES | No |
| EFTA Korea | 2005 | No | No | No |
| EFTA SACU | 2006 | YES | No | No |
| EFTA Egypt | 2007 | No | No | No |
| EFTA Canada | 2008 | YES | No | No |
| EFTA Colombia | 2008 | YES | No | No |
| EFTA Albania | 2009 | YES | No | No |
| EFTA GCC | 2009 | YES | No | No |
| EFTA Serbia | 2009 | YES | No | No |
| EFTA Peru | 2010 | YES | YES | No |
| Switzerland Japan | 2009 | No | YES | No |
| EFTA Ukraine | 2010 | YES | YES | YES |
| EFTA Hong Kong | 2011 | YES | No | YES |
| EFTA Montenegro | 2011 | YES | YES | YES |
| EFTA Bosnia Herzegovina | 2013 | YES | YES | YES |
| EFTA Central America | 2013 | YES | YES | YES |
| Iceland China | 2013 | YES | YES | No |
| Switzerland China | 2013 | No | YES | YES |

The bilateral PTA between Switzerland and China is thus supplemented by a bilateral agreement on cooperation on labour and employment issues. This labour agreement is directly linked to the PTA by a reference within the PTA text. China and Switzerland reaffirm the commitments arising from their membership in the ILO, including the obligation to effectively implement the applicable ILO conventions. Furthermore, the Parties reaffirm their commitments under the Ministerial Declaration of the United Nations Economic and Social Council (ECOSOC) on Full Employment and Decent Work" (2006), as well as the ILO Declaration on Social Justice for a Fair Globalisation (2008). Parties reaffirm their will to improve working conditions and protect and enhance the fundamental rights at work. They commit to effectively implement their labour legislations. Both Parties also acknowledge that the level of labour standards as laid down in the national legislation shall not be reduced in order to attract investment or to obtain a trade advantage, and that labour standards should not be abused for protectionist purposes. The labour agreement underlines the importance of bilateral cooperation on labour and employment issues. This should be carried out in particular within the framework of the bilateral Memorandum of Understanding on cooperation on labour and employment issues of 2011. In order to facilitate its implementation, specific points of contact are established by the labour agreement. In the event of differences of opinion over the application of the agreement, each of the contracting Parties may request consultations between the Parties, within the framework of which they are required to reach a solution. If necessary these consultations may take place at the ministerial level.

4.10.2 Environmental Policy Standards

Until 2010, EFTA's agreements had only minimal reference to the environment. There were, however, provisions on biodiversity and access to genetic resources in EFTA-Colombia that are not found in the earlier EFTA agreement with Korea, either reflecting particular concerns that Colombia had or a more general growing awareness of these issues in the interval between the two agreements.

The preamble to EFTA-Korea recognises that trade liberalisation should allow for the optimal use of the world's resources in accordance with the objectives of sustainable development, seeking both to protect and preserve the environment. The agreement, invoking GATT Article XX, acknowledges measures necessary to protect human, animal or plant life or health as justifying an exception to liberalisation commitments for both trade in goods (Article 2.13) and trade in services (Article 3.15). And in the schedules of services commitments, both Korea and the EFTA states generally maintain open markets for the provision of environmental services (Annex VII).

EFTA-Colombia has similar environmental provisions to EFTA-Korea in its preamble and in the schedules on environmental services. It also invokes GATT Article XX regarding exceptions to liberalisation commitments in government procurement as well as in goods and services. Unlike EFTA-Korea, however, EFTA-Colombia also has extensive reference in the chapter on intellectual property rights to measures related to biodiversity and access to genetic resources (see above section on IPRs). The PTA refers to rights and obligations under the Convention on Biodiversity and provides for the imposition of sanctions in the event of misleading patent applications in the field of biodiversity. The agreement also requires the Parties to ratify the International Convention for the Protection of New Varieties of Plants.

The PTAs with Colombia and Peru make specific reference (in Article 6.5) to the Convention on Biological Diversity. The PTA with Hong Kong explicitly refers (in Article 8.1) to the Stockholm Declaration on the Human Environment of 1972, the Rio Declaration on Environment and Development of 1992, Agenda 21 on Environment and Development of 1992, and the Johannesburg Plan of Implementation on Sustainable Development of 2002; and (in Article 11.3) to the Stockholm Declaration on the Human Environment of 1972. The PTA with Central America has been developed on this basis and mentions (in Article 9.1) the Declaration of the United Nations Conference on the Human Environment of 1972, the Rio Declaration on Environment and Development of 1992, the Agenda 21 on Environment and

Development of 1992, the Johannesburg Plan of Implementation on Sustainable Development, and the United Nations Conference on the Human Environment of 1972.

The PTA between Switzerland and China refers (in Article 12.1) to the Stockholm Declaration on the Human Environment of 1972, the Rio Declaration on Environment and Development of 1992, Agenda 21 on Environment and Development of 1992, the Johannesburg Plan of Implementation on Sustainable Development of 2002 and the 2012 Rio+20 Outcome Document, "The Future We Want". On the other hand, the bilateral PTA between Iceland and China does not contain substantial provisions on environmental issues. It only refers (in Article 96) to the "Memorandum of Understanding on Environmental Protection Cooperation between the State Environmental Protection Administration of the People's Republic of China and the Ministry for the Environment of Iceland".

In comparison EU-Korea, as with earlier EU PTAs, contains overarching references to sustainable development, including environmental objectives. This is reflected throughout the agreement: in the broad objective of promoting foreign direct investment without lowering environmental (and labour) standards (Chapter 1 and repeated in Article 13.7); in reference to GATT Article XX, allowing exceptions necessary to protect human, animal or plant life or health (trade in goods, Article 2.15, repeated in SPS chapter, Article 5.1); and in the requirement to protect plant varieties (IPR chapter, Article 10.39). In addition, EU-Korea contains a separate chapter on trade and sustainable development in which the Parties commit: to effective implementation in their laws and practices of multilateral environment agreements to which they are party (Article 13.5); to reaching the objectives of the UN Framework Convention on Climate Change and its Kyoto Protocol; to facilitate and promote trade and foreign direct investment in environmental goods and services (Article 13.6); and to cooperate on trade related aspects of social and environmental policies (Article 13.11 and Annex 13), in consultation with Civil Society (Article 13.13) and through a process of consultation via a Panel of Experts (Articles 13.14, 13.15 and 13.16).

EU-Korea does not permit the use of trade sanctions when violations of environmental (or labour) provisions have been deemed to occur. The environmental provisions of the EU-Colombia/Peru PTA correspond very closely to those of EU-Korea, including the presence of a specific chapter on trade and sustainable development. There are, however, areas of difference. First, the commitments on climate change are formulated weaker - Parties resolve only to enhance their efforts". Second, there is relatively more emphasis on biodiversity and traditional knowledge. Third, as an element of asymmetry, recognition is made of the common but differentiated" responsibilities of the Parties, of the sovereign right of each Party to establish its own policy and priorities on sustainable development", and of the need to take account of their [respective] capacities, in particular technical and financial capacities" (Article 267).

4.10.3 Human Rights, Democracy, Gender issues, Rule of Law, Minorities

Since 1995, the EU has incorporated a human rights clause as an "essential element" in all of its external agreements, including PTAs. The clause stipulates that respect for human rights and democratic principles forms the basis of the agreement. While it has mainly been used by the EU as an open door for dialogue on human rights with its trading partners, the human rights clause does allow for the suspension of the PTA in the event of a serious breach. All EU member states agreed on the inclusion of

this human rights clause in EU-third country agreements in 2003, and this position was reinforced in the Council of Ministers' Common Approach on the Use of Political Clauses in 2009.⁷⁷

In contrast, the place of the human rights clause within the EFTA 2010 model provisions related to trade and sustainable development reveals a rather reduced prioritization of human rights concerns. The clause is integrated into the model article on the objectives of the PTAs. The article "builds [on the] respect for the principles of democracy and human rights as well as on the principle of contributing to the development of trade in such a way as to contribute to the objectives of sustainable development." In contrast to the EU's "essential element" wording, EFTA's model article remains aspirational in nature. Moreover, EFTA's approach does not allow for interpreting a serious breach of the model provision (through the commission of systematic and grave human rights violations) as having a direct bearing on the continuance of trade among the parties.⁷⁸

Table 9 Provisions on human rights (HR) and democracy in EFTA PTAs

| | HR preamble | Democracy preamble | Social development preamble | HR references | Democracy text | Democracy references |
|-------------------------|-------------|--------------------|-----------------------------|---------------|----------------|----------------------|
| EFTA Turkey | - | - | - | - | - | - |
| EFTA Israel | X | - | - | - | - | - |
| EFTA Morocco | X | X | X | - | X | - |
| EFTA FYROM | X | X | - | - | X | - |
| EFTA Mexico | - | - | X | - | X | - |
| EFTA Jordan | X | X | - | - | X | - |
| EFTA Singapore | X | - | X | - | - | - |
| EFTA Chile | X | X | X | - | - | - |
| EFTA Lebanon | X | X | - | - | X | - |
| EFTA Tunisia | X | X | X | - | - | - |
| EFTA Korea | X | - | X | - | - | - |
| EFTA SACU | X | - | X | - | - | - |
| EFTA Egypt | X | - | - | - | - | - |
| EFTA Canada | X | - | X | - | - | - |
| EFTA Colombia | X | X | X | - | - | - |
| EFTA Albania | X | X | X | - | X | - |
| EFTA GCC | X | - | X | - | - | - |
| EFTA Serbia | X | X | - | - | X | - |
| EFTA Peru | X | X | X | - | - | - |
| Switzerland | X | X | - | - | - | - |
| Japan | X | X | - | - | - | - |
| EFTA Ukraine | X | X | X | - | - | - |
| EFTA Hong Kong | X | X | X | X | - | - |
| EFTA Montenegro | X | X | X | X | X | - |
| EFTA Bosnia Herzegovina | X | X | X | X | X | - |
| EFTA Central America | X | X | X | X | X | - |
| Iceland China | X | X | X | - | - | - |
| Switzerland China | - | X | X | X | - | - |

⁷⁷ See: Council of the EU: Reflection Paper on Political Clauses in Agreements with Third Countries, Doc 7008/09, 27 February 2009 (partially derestricted); European Parliament: Report on Human Rights and Social and Environmental Standards in International Trade Agreements, (Rapp. Tokia Saifi), DOC. A7-0312/2010 (8 November 2010).

⁷⁸ Iona Cismas: "The Integration of Human Rights in Bilateral and Plurilateral Free Trade Agreements: Arguments for a Coherent Relationship with Reference to the Swiss Context", *Currents: International Trade Law Journal*, Vol. 21, No. 2/2013, 1-20.

Regarding human rights, democracy and social development, the EFTA PTAs are not silent and cannot be seen as „apolitical“ agreements. However, qualifications must be made with regard to the quality and strength of provisions. We first note that all PTAs, with the exception of those with Turkey and Mexico, as well as the bilateral PTA between Switzerland and China, contain references to human rights“ in the preamble. Most PTAs also refer to „democracy“ in the preamble (exceptions are the PTAs with Turkey, Israel, Mexico, Korea, SACU, Egypt, Canada, and the GCC), and the majority of PTAs contain references to „social development“.

The PTA between Switzerland and China contains provisions on environmental issues, whereby the Parties acknowledge the principle that economic development, social development and environmental protection are mutually supportive elements of sustainable development. Parties reaffirm their commitment to promoting economic development and bilateral trade in a way that contributes to sustainable development, and to effectively implement in national law and practice the multilateral environmental agreements and the obligations under other multilateral environmental instruments applicable to them. The language is best endeavours to improve the level of environmental protection, in particular through effective implementation of their environmental legislation. The Parties acknowledge that the level of environmental protection as laid down in national legislation shall not be reduced in order to attract investment or to obtain a trade advantage, and that environmental standards should not be abused for protectionist purposes. The PTA also defines specific points of contact to facilitate the implementation of the environmental provisions. At the request of a Party, consultations on matters that fall under the environmental provisions will take place in the Joint Committee of the PTA. Differences of opinion over the application of the environmental provisions are to be resolved by the Parties within this framework. A review clause provides that the Parties periodically review progress made in the implementation of environmental objectives, taking into account relevant international developments. Although there was the possibility that some of the Swiss political parties or cantons would seek to bring the question of accepting the free trade deal to a referendum, the Swiss House of Representatives ratified the PTA in December 2013, despite misgivings by the Swiss Social Democratic Party and NGOs such as Alliance Sud and the Bern Declaration (EvB) that the agreement would undermine labour rights and environmental protection. In commenting on the question of human rights in the context of the PTA in July 2013, Swiss President Ueli Maurer stated that „Switzerland is not the world’s teacher. There are different stories, different cultures, and that is to be considered too.“ The Social Democrats opposed the PTA in its current form and brought forward a motion to negotiate an additional protocol with China that explicitly mentioned the protection of human rights and labour rights. The motion, however, was defeated in the Swiss Parliament in December 2013.

Overall, the template of EFTA agreements remains classic. They are not uniform, and are tailored to each member. Post-2010 EFTA PTAs contain a chapter on trade and sustainable development, yet without offering innovative rules on key issues such as Process and Production Methods (PPMs) of technology transfer in the operative part on trade in goods. Liberalisation in services remains cautious and intellectual property protection largely follows „WTO plus“ rules. Both the templates and models of the EU and the North American Free Trade Agreement have been more influential in shaping new approaches to international rules.

5 Norway's Trade Policy

As witnessed by the recent WTO Trade Policy Review, compared to other WTO members Norway can be said to be a „free trader“, as its tariffs for manufactured goods are low and markets are relatively open.⁷⁹ Norway has a comparatively generous system of tariff preferences for developing countries, in which tariffs are zero for most manufactured items, but remain above zero for some clothing products, making the tariff average for manufactured goods in 2003 below one percent. The least-developed countries (LDCs) face zero tariffs for all goods, including agriculture, which is highly protected for other nations.

However, Norway's liberal trade policy is not universal. Two main exceptions have been textile quotas and agricultural protection. As a hilly country in the northern polar region, Norway lacks the usual preconditions for a successful agricultural sector. Following a decline in agricultural employment in the 1960s, a new agricultural policy was decided in the aftermath of the 1972 referendum on EEC membership, backed by strong populist sentiments in favour of rural areas. This policy, with budgetary support and trade protection as its main pillars, is still in place. Some liberalization has occurred in regional trade agreements, mainly with the EU, and as a result of minimum import requirements in the WTO and trade preferences for LDCs. Agricultural trade protection does not apply to all goods, tariffs are zero for tropical fruit and some other items not produced in Norway. On the whole, however, Norway maintains a system with high support and high trade protection for agriculture. In the so-called „Commitment to Development Index“, Norway drops several places in the ranking due to its agricultural protection (Birdsall and Roodman, 2003). The trade liberalisation in agriculture envisaged as part of the Doha Development Agenda is currently the most controversial WTO-related trade policy issue in Norway. Within the WTO system, Norway is a party to the G-10, a coalition of countries lobbying for agriculture to be treated as a special case.

Regarding its relations with the EU, the EEA Agreement constitutes the cornerstone of Norway's cooperation, since it "ensures that Norway enjoys the benefits of free movement of persons, goods, services and capital [...], gives Norwegian businesses access to a 'domestic market' [...], includes rules for consumer protection and common environmental rules, entitles Norwegians to live, work and study in other European countries [...], and facilitates cooperation on civil protection and emergency planning." In addition to the EEA framework, Norway closely collaborates with the EU through the Schengen agreement, making Norway an integral part of the EU's area without internal borders. Moreover, Norway cooperates with the EU on foreign and security policy issues.⁸⁰

In terms of the scope of PTAs it is worth mentioning that Norway has not entered into bilateral investment treaties since the mid-1990s, due to concerns about their content. As a consequence EFTA generally does not include provisions on investment protection and investor-state dispute settlement (ISDS) in its PTAs. Due to domestic political sensitivities Norway did not participate in negotiations on the IPR chapter with India. There is opposition to TRIPS plus provisions in IPRs with developing countries in certain areas such as patents, undisclosed information and plant variety protection. However, since many developing countries have concluded PTAs with partners outside EFTA that go beyond the TRIPS level of protection, this is becoming less controversial for Norway.

⁷⁹ See: WTO Secretariat: 6th Trade Policy Review, Norway, Geneva 2012, https://www.wto.org/english/tratop_e/tpr_e/tp369_e.htm.

⁸⁰ Note that Norway contributes to the EU budget, joining efforts to reduce disparities in Europe and contributing to the budget of EU programs and agencies. For the running MFF period 2014–2021, Norway contributes 388 Mio. EUR per year to 15 beneficiary states. Moreover, since Norway participates in EU programs such as Horizon 2020, Erasmus+, Galileo and Copernicus, it contributes 447 Mio. EUR per year to the budget of the programs. Regarding its cooperation within the EU's field of justice and home affairs, Norway's financial contributions amount to ca. 6 Mio. EUR per year. In addition, for the period 2014 – 2020, Norway contributes around 25 Mio. EUR annually for its contribution in programs under the European Territorial Cooperation INTERREG.

In June 2014, the government presented its strategy for cooperation with the EU for the period 2014 - 2017.⁸¹ Regarding Norway's mid-term strategy in trade policy, the government issued a specific White paper in May 2015 that is still subject to parliamentary debate.⁸² Here, the government formulated the following priorities:

- Strengthening of efforts to make active use of trade policy in its economic diplomacy work,
- Giving greater priority to ensure free trade in seafood on the EU market,
- Phasing out all export subsidies, at the latest by the end of 2019,⁸³
- Considering reforms to change the Norwegian GSP scheme to give further preferences to trade with countries that are just above the least-developed-country (LDC) threshold,
- Increasing support for trade-related development cooperation, also in connection with free trade agreements,
- Continuing the aim to include a separate chapter on trade and sustainable development in the free trade agreements Norway enters into, and
- Seeking to safeguard Norway's overall interests while the TTIP negotiations between the EU and the US are being conducted, and emphasising the Norwegian business sector's need for equal conditions of competition.

Hence, the government considers the launch of mega-regional negotiation processes that aim to achieve far-reaching liberalisation of trade as one of the country's key challenges. The White paper underlines that while Norway is not part of these processes and has limited opportunities to influence them, Norwegian interests are affected in many ways. Among the mega-regional free trade agreements that are currently being negotiated, TTIP constitutes the most important challenge for Norway.

Table 10 US and EU shares of Norway's foreign economic activity

| | Type of activity | Year | USA (%) | EU (%) |
|--------------------------|------------------|------|---------|--------|
| FDI | Outward | 2012 | 11 | 61 |
| | Inward | 2012 | 8 | 70 |
| Trade in goods | Export | 2013 | 4 | 82 |
| | Import | 2013 | 5 | 65 |
| Trade in services | Export | 2013 | 8 | 53 |
| | Import | 2013 | 7 | 65 |

Data source: Statistics Norway

⁸¹ See: Globalisering og handel. Muligheter og utfordringer for Norge i handelspolitikken / Norway in Europe. The Norwegian Government's Strategy for Cooperation with the EU 2014-2017, Oslo 2014, https://www.regjeringen.no/en/dokumenter/norway_in_europe/id762511/.

⁸² See: Norwegian Government (2014): Trade policy challenges and opportunities for Norway, Meld. St. 29 (2014–2015) Report to the Storting (white paper), <https://www.regjeringen.no/en/dokumenter/meld.-st.-29-20142015/id2413532/>. For the respective debate in the Storting, see: Storting (2014/2015): Globalisering og handel. Muligheter og utfordringer for Norge i handelspolitikken, Meld. St. 29 (2014-2015), Innst. 101 S (2015-2016), <https://www.stortinget.no/no/Saker-og-publikasjoner/Saker/Sak/?p=62559>.

⁸³ See: „Export subsidies to be terminated“, <https://www.regjeringen.no/en/aktuelt/slutt-pa-eksportsubsidier/id2414005/>.

In her address to the AmCham-Norway on 6 April 2016, Minister of EEA and EU Affairs Elisabeth Aspaker pointed to Norway's key concerns: "If tariff barriers are dismantled between the EU and the US, our seafood exports will be particularly affected, as Norwegian seafood exporters do not enjoy free market access to these markets. It is therefore in our interest to secure equal conditions of competition in the EU and US." Turning to the possibility that the EU and US would agree to open TTIP for third countries to join the agreement, she underlined that "we have not yet taken a stand on how to use such a possibility." Moreover, Norway would support the EU position with regard to the level of protection: TTIP should not "lead to lower levels of regulatory protection, any change to levels of protection could only be upward, and the right to regulate will always be protected."⁸⁴

Against this background, EFTA agreed with USTR to meet at expert level to discuss regulatory issues, services and investments, rules of origin and trade facilitation. For Norway, this dialogue helps in identifying the impact of the agreement. Already in May 2014, former Norwegian EU and EEA Minister Vidar Helgesen proposed to use Protocol 12 to the EEA Agreement on Mutual Recognition Agreements for EFTA-EU cooperation on TTIP.⁸⁵

As Norway needs more information to identify the possible consequences of TTIP, the government has requested an external report on the consequences of TTIP for Norway and the consequences of different policy options for Norway, such as association with TTIP in some form or a free trade agreement with the US. In response to TTIP, the government's White paper already proposed entering into PTAs with regional groupings to a greater extent than before: "For the Norwegian business sector, the main advantage of taking a regional approach is that a single agreement opens a significantly larger market, and Norwegian companies will be able to serve the whole market using a single set of rules".⁸⁶ The government has also requested an impact assessment on Norway's regulatory cooperation under the EEA Agreement, and on specific sectors such as seafood and agriculture. The Norwegian Institute of International Affairs (NUPI) is conducting the study, and the report is due in autumn 2016.

In their 2014 NUPI Policy Brief, Maurseth, Medin, and Melchior already pointed to the likely implications of TTIP for the Norwegian economy.⁸⁷ Building on the Ecorys study on Non-tariff measures in EU-US trade and investment (Ecorys 2009), they assume that TTIP will lead to a near-total elimination of tariffs, but it will not lead to a removal of many NTBs, related to safety measures, national preferences, or politically sensitive areas. Regarding TTIP's potential impact on trade in goods, Maurseth et.al. consider two distinct scenarios: the elimination of all tariffs, and the elimination of all tariffs and 50% reductions in NTBs. Under the latter, the authors estimate that Norwegian exports to the EU and the USA combined would only decrease by about 0.1% of Norwegian export to the two partners, and 0.08% of total Norwegian export. Only some products might be heavily affected, such as seafood, chemical products, transport equipment, fats and machines for the US, and seafood for the EU. Replicating CEPR's (2013) "impact ranking" on the sectors with the greatest trade potential from tariff and NTB reductions, Maurseth et.al. identify metals, chemicals and electrical machinery at the top of Norway's ranking for goods, and maritime transport and business services for services.

⁸⁴ See: Minister of EEA and EU Affairs Elisabeth Aspaker: Address at the American Chamber of Commerce (AmCham), Oslo, 6 April 2016, https://www.regjeringen.no/en/aktuelt/address_amcham/id2482329/.

⁸⁵ See: Minister of EEA and EU Affairs Vidar Helgesen: Statement at the EEA Council Meeting, Brussels, 13 May 2014, https://www.regjeringen.no/en/aktuelt/statement_eea/id760051/.

⁸⁶ See: Norwegian Government (2014): Trade policy challenges and opportunities for Norway, Meld. St. 29 (2014–2015) Report to the Storting (white paper), p. 21.

⁸⁷ See: Maurseth, Per Botolf/Medin, Hege/Melchior, Arne (2014): TTIP – Economic Consequences and Possibilities for Third Countries: the Case of Norway, NUPI Policy Brief, No. 12/2014, Oslo.

Regarding TTIP's impact on Norway's GDP, the authors underline that existing predictions between the CEPR and IFO studies diverge considerably. While CEPR predicts small positive effects for Norway, IFO estimates a fall in Norwegian GDP of almost 4%, as well as an increase in unemployment of 0.44%.

Any trade diversion effects of TTIP are likely to irreversibly impact Norwegian exports of most goods to the EU, since the EEA eliminates tariffs and most NTBs. Consequently, Norway might not be in a position to regain new conditions of competition by negotiating further reductions in barriers to trade. The only area that might be subject for reconsideration could be seafood, since the EU is an important market for Norway, and Norway is still facing EU tariffs on important products like salmon, herring and mackerel. With TTIP in force, Norway might therefore opt for duty-free export of seafood to the EU. In Norway, the work carried out in relation to FTA negotiations has broad support in Parliament, the business community and business associations, and the trade unions. As noted above before every EFTA Ministerial meeting, the Minister of Trade and Industry meets with the Norwegian members of EFTA's advisory bodies – the Parliamentary Committee and the Consultative Committee. Regular meetings regarding ongoing and upcoming negotiations are also held between the Minister of Trade and Industry and all interested stakeholders. Consultations are conducted with the business community in connection with the various negotiations to ensure that Norwegian export interests are covered. In addition, stakeholders are encouraged to give feedback to the Ministry of Trade and Industry concerning matters related to Norway's FTAs through the Ministry's webpage.

So far, nearly all EFTA PTAs have been ratified without any considerable opposition. The only exception is the PTA between EFTA and Colombia that was signed in 2008. Towards the end of the negotiations, opposition started to build up in the Storting and in the trade unions against the agreement because there was not enough emphasis on labour rights. At the time, EFTA had not yet included a specific sustainable development chapter in its agreements, and Norwegian MPs in the EFTA parliamentary committee began to push the EFTA ministers to introduce this in its PTAs. In June 2010, two years after the signature of the EFTA-Colombia agreement, the EFTA ministers decided to negotiate for the introduction of a separate chapter on sustainable development in its future negotiations. This was too late for the EFTA-Colombia agreement, but the Norwegian government subsequently negotiated a bilateral cooperation agreement with Colombia, which made the ratification of the PTA possible in 2014.⁸⁸ The Norway-China negotiations are currently on hold, since the Nobel Peace Prize was given to Chinese dissident Liu Xiaobo in 2010. The degree of functioning of the co-ordination mechanisms in EFTA is often dependent on the underlying interests of the member states in the respective areas.

6 Switzerland's trade policy

Switzerland enjoys privileged access to the EU internal market thanks to a set of bilateral agreements,⁸⁹ the 1972 Free Trade Agreement between Switzerland and the European Community, and the Agreement on Customs Facilitation and Security. The EFTA Convention does not oblige the EFTA states to negotiate and conclude PTAs as a group. While Switzerland has concluded 37 PTAs under the EFTA umbrella (12 of these with countries that have in the meantime become members of the European Union), it recently entered into bilateral PTAs with Japan and China.

The EFTA states are in many respects like-minded and carry more economic and political weight as a group, making them more attractive to trading partners. Nevertheless, Switzerland and the other EFTA states also retain the possibility of concluding PTAs bilaterally. Switzerland and Japan initiated regular

⁸⁸ Interview with a senior adviser of the Storting, Innsbruck/Oslo, 7 April 2016.

⁸⁹ See: List of Agreements Switzerland-EU, 1 January 2016, Bern,

https://www.eda.admin.ch/content/dam/dea/de/documents/publikationen_dea/accords-liste_de.pdf.

bilateral economic consultations in 1995, in which both countries explored the possibility of deepening economic relations through an PTA. Negotiations with EFTA as a group were considered, but ruled out early on by Japan due to differences between Japan's trade structure and that of individual EFTA states.⁹⁰ As for China, while the EFTA states were willing to negotiate as a group, China made it clear from the outset that it would prefer individual bilateral negotiations with each EFTA state. So far, Iceland and Switzerland have signed bilateral PTAs with China (in April and July 2013, respectively), while negotiations with Norway are on hold.

Despite the fact that the mandate of EFTA is to deal with trade agreements and take into account the interests of all its members, there is evidence of both divergence as well as similarities of interests: While Norway is rich in natural resources, Switzerland is primarily a trade dependent country. This creates a diversion in preferences regarding restrictions on the export of natural resources and rules that define the country of origin of a product. Another area of differing views within EFTA concerns Intellectual property Rights (IPR). Since Switzerland has created a large part of its wealth on IPR income, it seeks stronger laws to protect the rights of patent holders. On the other hand, Norway has played a core role in linking the WTO agreement on intellectual property rights (the TRIPS agreement) with the Convention on Biological Diversity, thus arguing for limiting patent holders rights in the IPR regime. In the sector of investment, however, their position is similar, with specific sectors of interest for each. Finance, insurance and pharmaceuticals are of interest to Switzerland, while Telecommunication, Maritime and Energy services are of interest to Norway. It is worth mentioning that Norway's interest in the latter sectors is linked to its own interests and history of economic development, especially with regard to the oil and natural gas industries. Agriculture is a sensitive sector for both countries, while fisheries is a sensitive sector for Norway.

The legal framework in Switzerland provides higher protection to local producers, a provision, which is "hijacked" by larger (corporate) producers such as Nestle, Migros and Coop. On the other hand, agriculture is seen as the soul of Norway, specifically domestic family-farming production. "Within EFTA, Switzerland is seen to be playing the role of a bully, while Norway takes cognizance of public opinion within the country. This is very apparent in the case of the Free Trade Agreement between EFTA and Colombia. Issues of human rights violations were raised within the context of negotiations, and while it became an embarrassment for the Norwegian government to the point that ratification of the agreement was halted, the Swiss government moved forward and its Parliament ratified the agreement."⁹¹

For the Swiss business sector, the EU and USA are by far the most important export markets. In 2014, Swiss companies exported more than two-thirds of their products to these two economic areas (EU: 54,7% / USA: 12,4%). With regard to imports, the proportion was even higher, at 79,3% (EU: 73,2% / USA: 6,1%). The levels of direct investment that Switzerland holds in the EU (43,3%) and the USA (17,6%), and that the USA (13%) and the EU (82%) hold in Switzerland, are also large. Interestingly, the picture changes fundamentally if one looks at FDI in Switzerland in terms of origin of the financial beneficiary. According to AmCham-Switzerland and EconomieSuisse, in 2013, "the USA held 266 billion Swiss francs via intermediary companies domiciled in the EU, or 39% of the inventory of FDI. By contrast, the inventory from the EU was 240 billion Swiss francs, or only 35%. The USA therefore invests more in Switzerland than the EU."⁹²

⁹⁰ „Strengthening Competitiveness“, Interview with Marie-Gabrielle Ineichen-Fleisch, State Secretary and Director of the State Secretariat for Economic Affairs (SECO), in: EFTA-Bulletin, December 2013, pp. 25-26.

⁹¹ See: Handelskampanjens tekstserie (Ed.): Free Trade Agreement between India - EFTA Facts and reflections on the ongoing negotiations, Oslo 2010, p. 12.

⁹² See: Swiss-American Chamber of Commerce/EconomieSuisse: TTIP and its significance for Switzerland, dossierpolitik, No. 10, 21 September 2015, p.6.

Against this background, successful TTIP negotiations would generate far-reaching consequences for Swiss companies. Risks and opportunities associated with the TTIP largely depend on the scope of the agreement and the respective Swiss implementing measures. Switzerland has neither a PTA nor a comprehensive agreement on customs facilitation and security with the USA, which would facilitate access to the US market for Swiss companies. The Federal Council broke off PTA negotiations with the USA in 2006, mainly due to differences concerning agricultural policy.

Two-thirds of Switzerland's exports go to the EU and the USA. The TTIP agreement is therefore of great significance for Switzerland given the sheer magnitude of the markets involved and the strong export orientation of Switzerland's economy, but also due to the highly developed international networking of production and value chains of numerous companies in Switzerland. The IFO (2014) study predicted that a comprehensive TTIP agreement would result in a negative welfare effect of -3,8% for Switzerland. A study of the World Trade Institute (WTI) predicts varying welfare effects for Switzerland, ranging from -0,88 to +3,7% of GDP.⁹³ According to the WTI study, the worst case scenario of a far-reaching, exclusionary and discriminatory deal between Switzerland's two largest trade partners could wipe 0,5% off the Swiss economy, shaving more than CHF3 billion from the country's annual economic output.

For WTI's managing director Thomas Cottier, "TTIP could be a 'Treaty of Rome' moment...If Switzerland does not get on board then we could see Swiss firms being forced to leave Switzerland and relocate to EU countries."⁹⁴ Speaking to swissinfo.ch, Cottier said: "At the very least, Switzerland has to signal to the US and EU that it is interested in taking part in whatever deal finally emerges."⁹⁵ Ambassador Didier Chambovey, head of the world trade division at SECO argued that there were three options on the table for Switzerland: try to reopen PTA negotiations with the US that fell apart in 2006, try to gain access to the TTIP as a third party country or do nothing. However, the chances of the US agreeing to negotiate a separate deal with Switzerland or EFTA are negligible. According to Cottier, "US trade negotiators already have their hands full with TTIP." He further stated that "Switzerland missed the boat in 2006 when its free trade negotiations with the US broke down on disagreements over opening up agricultural markets." Doing nothing appears hardly a feasible option either, particularly when one puts the WTI's forecasts together with SECO's own estimates on the impact for Swiss exporters on the isolated 'rules of origin' dossier. SECO researched how Swiss-made exports might fare if Switzerland was not part of a TTIP that would favour products and services originating from the US and EU. The study found that suppliers of automobile parts and precision engineering instruments would be most heavily hit, but other sectors such as pharmaceuticals and chemicals would also be adversely affected. Chambovey himself is more optimistic about achieving access to TTIP once it has been finalised.

"Economiesuisse", the Swiss corporate union composed of the merger between the "Union suisse du commerce et de l'industrie" ("Swiss union of commerce and industry"), and the Société pour le développement de l'économie suisse ("society for development of Swiss economy"), questioned its members about the anticipated impacts of the TTIP.⁹⁶ The results of the survey were summarised as follows:

In the area of technical barriers to trade, TTIP is likely to affect companies in terms of product approval (pharmaceuticals, agrochemicals) and differing regulation on chemicals (TSCA for the USA/REACH for the

⁹³ World Trade Institute (2014): Potential Impacts of EU-US Free Trade Agreement on the Swiss Economy and External Economic Relations, Bern.

⁹⁴ See: Mathew Allen (2014): „Swiss face tough US-EU trade deal decisions“, 14 July 2014, <http://www.swissinfo.ch/eng/swiss-face-tough-us-eu-trade-deal-decisions/40499264>.

⁹⁵ See: Ibid.

⁹⁶ See: Swiss-American Chamber of Commerce/EconomieSuisse: TTIP and its significance for Switzerland, dossierpolitik, No. 10, 21 September 2015, p. 7-12.

EU). Approximation of the regulatory systems of the EU and the USA could result in further disadvantages for Swiss companies. With regard to preferential rules of origin, the watch-making industry fears discriminatory potential if TTIP would allow for relatively weak rules of origin with, for example, specified value criteria of 60 or 70% (i.e. the value of primary materials from third countries may not exceed 60 to 70% of the value of the finished product). Regarding the machinery, electrical engineering and metals industries sector, TTIP could discriminate against Swiss companies in tariffs as well as technical barriers to trade. This is because EU companies would have lower trade costs in exporting to the USA. Swiss companies who produce for the US market would be at a disadvantage both in the EU and the USA, since only products that are manufactured in these areas would benefit from tariff preferences. On the other hand, if TTIP led to an USA-Switzerland economic area without tariffs and with mutually recognised standards and regulations, Swiss companies in this sector would enjoy substantial cost savings. Furthermore, trade costs due to customs formalities would be reduced, which would in turn stimulate exports and create jobs.

Overall, this survey of Swiss companies concludes that "the majority of Switzerland's export sectors (goods as well as services) need to anticipate direct or indirect disadvantages if the TTIP negotiations were to be brought to a successful conclusion." This be in the fields of product standards and certification, tariffs on industrial and agricultural products, trade facilitation, rules of origin, and Swiss participation in public the procurement markets in the USA ("one of the main negotiating objectives of the EU").

Larger companies would be able to react more readily to these disadvantages by relocating their production (with implications for employment in the country!). On the other hand, SMEs that supply international industry groups in the EU or the USA would face more difficulties in "transfer their production to the EU (or the USA)". Given the existing challenges (strong currency, shortage of qualified personnel, implementation of the "mass immigration initiative"/respective "anti-EU" policy), TTIP could create a major setback for the Swiss economy.

The options for Switzerland are limited. If TTIP would contain a section dealing with the treatment of third countries, Switzerland would be obliged to consider this option. As it is not yet clear what such a third country clause would look like, Switzerland could propose one through EFTA. The alternative would be to re-enter negotiations for a separate EFTA-USA or Switzerland-USA FTA. In terms of content, such an agreement would have to correspond with TTIP, as any kind of downgraded "wording" could cause disagreement with - and possibly sanctions - by the EU. However, there are no signs that the USA would be willing to negotiate.

Conclusions

Asia's economic growth is causing the geo-economic pendulum to swing east. Brazil's and China's economic crises show that the trend is not linear and global economic strength is continuing to shift towards the east and south. Emerging economies are seeking greater global influence. The gradual crumbling of global trade regimes and mega-regional trade deals challenges the EFTA states' preference for safeguarding and strengthening the WTO. Since major economic powers such as the US, the EU and China are increasingly focusing their trade policy efforts on bilateral PTAs, EFTA needs to address its position vis-à-vis the negotiating fora from which it is often excluded. In this regard, the TTIP agreement could have far-reaching consequences for EFTA and the EEA Agreement. As Norway's foreign minister, Børge Brende, underlined in his 2016 foreign policy address to the Storting:

'We risk seeing less favourable conditions of competition for Norwegian companies in our most important markets. [...] The stimulus to economic growth provided by the major regional trade agreements is good news for Norway. Regionalisation is a logical response to the complex global

situation. But regional agreements could quickly undermine global solutions if we simply replace national barriers with regional ones. In areas where the world is not ready for genuinely multilateral solutions, we must make sure that plurilateral agreements build bridges across regions — that it is not geography that determines who takes part in new initiatives, but the desire to promote cooperation, growth and development through open markets.¹⁹⁷

A Norwegian senior adviser to Parliament underlined the major ambiguity of EFTA's trade policy: 'EFTA isn't as integrated as the EU, just a free trade association and not an integrated entity. [...] The EU has more leverage when it negotiates around the world. We are smaller and have less developed common policies, so the EU can bring more to the table in these negotiations. On the other hand, we have the advantage that EFTA's four small member countries have fewer interests to fight for. For example, we don't have a large car industry. This makes us flexible. Although we are small in terms of population, we are quite strong as an economic bloc.'¹⁹⁸ EFTA's third-country policy has evolved over the years — from mirroring the European Union's approach to external economic relations in the 1990s, to taking a more proactive and ambitious approach with partners worldwide. The offensive and defensive interests of large emerging economies and the highly developed economies of the EFTA countries may differ substantially, despite the existence of economic complementarities. Furthermore, due to the size of their domestic markets, large emerging economies are less dependent on opportunities abroad. At the same time, given their growth potential, they are well aware of their attractiveness as FTA partners. Emerging economies may not like to open up sectors in which they wish to develop their own industries first. Some prospective partners do not consider human rights or labour and environmental standards as trade-related issues, and fear the emergence of a hidden protectionist agenda. The latter is certainly not a motive for the EFTA states. Given that EFTA does not operationalise any kind of joint foreign policy, it has little leverage to effectively promote human rights, labour rights, sustainability or democracy. While the EU makes them conditions of its trade commitments by qualifying these 'framing issues' as 'essential elements' of its PTAs, the very nature of EFTA prevents its members from 'instrumentalising' PTAs to reward or sanction third countries for complying or not complying with related requirements. However, given the absence of international models for incorporating these issues into trade agreements, a lot of work is needed to convince partners that a consistent approach is needed that reconciles purely economic aspirations with political ones.

Since 1990, EFTA's members have jointly concluded 27 PTAs. These agreements were negotiated as a group and using a common template. In some cases, countries preferred autonomy, depending on prevailing and potentially conflicting interests. Thus, Switzerland concluded separate PTAs with Japan, China and the Faroe Islands. Likewise Iceland, Liechtenstein and Norway concluded separate agreements with the Faroe Islands. In a way, the member countries reduced EFTA to a marriage of convenience, where each partner reserved the right to go it alone. Nevertheless, all these agreements have some structure and content in common. They rely strongly upon WTO disciplines and exclude agriculture to the greatest extent possible. They waded cautiously into services, without major advances compared to the level of liberalisation in GATS. They involve elements of 'TRIPS plus', in particular on the part of Switzerland, and expand prudently into investment protection in line with current trends.

However, EFTA and EU agreements differ considerably. EFTA agreements still focus on traditional areas of market access, while EU agreements are more elaborate, values-driven, political and comprehensive. EU agreements are closer to association and overall economic cooperation agreements, with trade investment as an important component. Moreover, the geographical scope varies considerably. The EU

¹⁹⁷ See: Minister of Foreign Affairs Børge Brende: Foreign policy address to the Storting 2016, The Storting, 1 March 2016, https://www.regjeringen.no/en/aktuelt/address_storting/id2477557/.

¹⁹⁸ Interview with a senior adviser of the Storting, Innsbruck/Oslo, 7 April 2016.

currently has 20 association agreements in place, many of which are in regions where the EFTA countries are absent. Pressing problems related to immigration, which affect the EFTA countries equally, still lack a proper response in terms of economic and commercial cooperation. Overall, EU association agreements offer deeper and more conditional relations, and are likely to marginalise the current generation of EFTA agreements to the extent that they exist.

On the other hand, as their functional scope and strength remains limited, EFTA and its member states are faster in negotiating and concluding PTAs. The EU should not underestimate this trend. Given that the EEA agreement creates mutual conditions, rights and obligations, EFTA PTAs could potentially challenge the EU's own political agenda. For instance, when and under which circumstances do Chinese exports enter the EU market? Given that Iceland and Switzerland could not impose human rights and labour rights commitments on China that the EU would normally expect as key conditions for any agreement, how does the EU check whether Sino-Swiss or Sino-Icelandic imports comply with EU standards and levels of protection? These questions need to be considered in the near future. If not, the EU risks being isolated from an emerging range of PTAs, which in turn might create unexpected difficulties for the EU.

EFTA is following the TTIP negotiations very carefully. Since they began, the EFTA states have established a trade policy dialogue with the United States in order to get first-hand information on the process. With the EU, the EFTA states use their existing contacts from within the EEA agreement and its institutions.

If concluded and ratified, the prospects of TTIP and TPP, encompassing some 50 % of world trade and 30 % of world GDP, risk creating a major and perhaps final challenge for EFTA. If the EU and the USA are able to hammer out an agreement even if this is only in selected areas and sectors such as the chemical, pharmaceutical or automotive industries, new global standards are likely to emerge. Moreover, new forms of trade-related regulatory cooperation risk making EFTA dependent on norms production without an opportunity to properly voice its concerns. To date, CETA includes a Regulatory Cooperation Forum to determine priorities, TTIP is likely to include an EU-US Regulatory Cooperation Body, and the EU-Japan FTA negotiations are likely to follow suit.

EFTA would be obliged to follow the standards and norms adopted if it wished to engage effectively in these mega-regional economies and supply chains. The EFTA countries might be able to adjust unilaterally, but to the extent that they depend upon mutual recognition, they would clearly face discrimination. Efforts to latch onto TTIP agreements may be successful, yet may also fail in light of the fact that most countries around the world seek equal treatment. It could be more likely that TTIP will become multilateralised within the WTO. If EFTA does not adjust, this development is likely to force industries to relocate to the EU in order to avoid trade distortions. Likewise, the implications of the TPP are likely to produce market access restrictions and discrimination, even where EFTA PTAs exist with TPP members. It is unlikely that the TPP will extend cumulation of origin and mutual recognition to non-members and thus allow market access to the TPP by way of an EFTA PTA with one of its members. Overall, the potential for EFTA PTAs to secure long-term market access in light of the impending TTIP, TPP, and other mega-regional agreements is limited. Comparable to the EEA Agreement in 1992, a successful TTIP might push the remaining EFTA members to reconsider EU membership.

Annex 1 Specialist Committees and bodies established by the EFTA Council

To date, the Council's substructure comprises the following bodies:

- Committee on Technical Barriers to Trade⁹⁹
- Committee of Origin and Customs Experts¹⁰⁰
- Economic Committee¹⁰¹
- Committee of Members of Parliament¹⁰²
- Consultative Committee¹⁰³
- Budget Committee¹⁰⁴
- Board of Auditors¹⁰⁵
- Committee on Third Country Relations¹⁰⁶
- Committee on seeds
- Committee on organic agriculture (Annex F)
- Committee established under Annex I
- Committee on the movement of persons (Annex K)
- Committee on land transport (Annex P)
- Committee on air transport (Annex Q)
- Committee on public procurement (Annex R)
- Committee on Trade Facilitation¹⁰⁷

⁹⁹ Set up by Council Decision No. 10/84, as amended by Council Decisions Nos. 8/88 and 4/94.

¹⁰⁰ Set up by Council Decision No. 8/74, as amended by Council Decision No. 4/92.

¹⁰¹ Set up by Council Decision No. 16/64, as amended by Council Decision No. 11/73 and replaced by EFTA/C.SR 9/95 (EFTA/EC 1/95).

¹⁰² Set up by Council Decision No. 11/77.

¹⁰³ See: Council Decision No. 5/61, as amended by Council Decisions Nos. 10/68, 11/88, 1/94 and 2/94.

¹⁰⁴ Set up by Council Decision No. 10/60.

¹⁰⁵ Set up by EFTA/C.SR 14/92 (EFTA/EEA 46/92 paragraph 14) and Council Decision No. 6/98.

¹⁰⁶ Set up by Council Decision No. 2/96.

¹⁰⁷ Inserted by Decision of the Council No. 1 of 2010 (17 May 2010)

Annex 2 Example of the work of a specialist committee

The Committee on Trade Facilitation was created in 2010 - replacing a former Group of Experts on Trade Facilitation – to underline growing importance of this subject in the EFTA's network.¹⁰⁸

The functions and mandate of the Committee are identical to the functions and mandate of the Group of Experts on Trade Facilitation as provided for in the Council's Decision N°3 of 2009. Accordingly, the Committee shall exchange information, review developments and advise EFTA Members or the Council on trade facilitation proposals related to FTAs negotiated by EFTA, measures to monitor and strengthen the implementation of trade facilitation commitments by FTA partners of EFTA, including related technical assistance, training and other cooperation, matters relating to the policy of the EU Commission or practice affecting trade facilitation policy or efficient trade procedures of the EFTA countries. Regarding its impact on EFTA, answers to a questionnaire of UNCTAD mention the „elaboration of a model text on trade facilitation as a proposal for bilateral or regional trade negotiations“.¹⁰⁹

In addition, several expert groups report directly to the Council and assist where necessary the Committee on Third-Country Relations. Regarding the EFTA's approach to FTAs, the Council decided in March 1993 to set up a „group of experts on efficient trade procedures“ (GEETP). Given the impact of globalization on EFTA and its economies, and the extension of the functional scope of bi- and multilateral trade agreements in the late 1990s, the Council decided, by decision no. 3/2009 to adopt a new mandate for a specific „group of experts on trade facilitation“ (GETF). The Council first defined trade facilitation as „the simplification and standardisation of procedures and associated information flows required to move goods across borders from seller to buyer and to pass payment in the other direction.“ Within this conceptual framework, the GETF shall exchange information, review developments and advise the EFTA Member States and the Council on (a) trade facilitation proposals related to free trade agreements negotiated by EFTA, on (b) measures to monitor and strengthen the implementation of trade facilitation commitments by free trade partners of EFTA, including related technical assistance, training and other cooperation, and on (c) matters relating to EU policy or practice affecting trade facilitation policy or efficient trade procedures of EFTA countries. The GETF cooperates the „Third Country Committee“ and the „Committee of Origin and Customs Experts“, with the EU and other relevant international bodies such as WCO, WTO, World Bank and UN/CEFACT. EFTA Council decisions, usually taken by unanimity, are binding on all Member States. According to Article 43 (5) of the Convention, decisions or recommendations „shall be regarded as unanimous unless any Member State casts a negative vote“.

¹⁰⁸ Decision N° 1 adopted by the EFTA Council at its 4th meeting on 17 May 2010

¹⁰⁹ See: http://unctad.org/en/DTL/TLB/Documents/131031_EFTA_countries.pdf

Annex 3 EU and EFTA trade agreements 1977-2016

| FTA Title | Coverage according to WTO classification | Type according to WTO classification | Date of entry into force |
|------------------------------|--|--------------------------------------|---------------------------------|
| EU - Syria | Goods | FTA | 01. Jul 77 |
| EFTA - Turkey | Goods | FTA | 01. Apr 92 |
| EFTA - Israel | Goods | FTA | 01. Jan 93 |
| Faroe Islands - Norway | Goods | FTA | 01. Jul 93 |
| EU - Turkey | Goods | Customs Union | 01. Jan 96 |
| EU - Palestinian Authority | Goods | FTA | 01. Jul 97 |
| EU - Tunisia | Goods | FTA | 01-Mar-1998 |
| EFTA - Palestinian Authority | Goods | FTA | 01. Jul 99 |
| EFTA - Morocco | Goods | FTA | 01-Dec-1999 |
| EU - South Africa | Goods | FTA | 01. Jan 00 |
| EU - Morocco | Goods | FTA | 01-Mar-2000 |
| EU - Israel | Goods | FTA | 01. Jun 00 |
| EU - Mexico | Goods & Services | FTA & EIA | 01-Jul-2000(G) / 01-Oct-2000(S) |
| EU - FYROM | Goods & Services | FTA & EIA | 01-Jun-2001(G) / 01-Apr-2004(S) |
| EFTA - Mexico | Goods & Services | FTA & EIA | 01. Jul 01 |
| EU - Jordan | Goods | FTA | 01-May-2002 |
| EFTA - FYROM | Goods | FTA | 01-May-2002 |
| EFTA - Jordan | Goods | FTA | 01. Sep 02 |
| EFTA - Singapore | Goods & Services | FTA & EIA | 01. Jan 03 |
| EU - Chile | Goods & Services | FTA & EIA | 01-Feb-2003(G) / 01-Mar-2005(S) |
| EU - Lebanon | Goods | FTA | 01-Mar-2003 |
| EU - Egypt | Goods | FTA | 01. Jun 04 |
| EFTA - Chile | Goods & Services | FTA & EIA | 01-Dec-2004 |
| EFTA - Tunisia | Goods | FTA | 01. Jun 05 |
| EU - Algeria | Goods | FTA | 01. Sep 05 |
| EFTA - Korea, Republic of | Goods & Services | FTA & EIA | 01. Sep 06 |
| EU - Albania | Goods & Services | FTA & EIA | 01-Dec-2006(G) / 01-Apr-2009(S) |
| EFTA - Lebanon | Goods | FTA | 01. Jan 07 |
| EFTA - Egypt | Goods | FTA | 01. Aug 07 |
| EU - Montenegro | Goods & Services | FTA & EIA | 01-Jan-2008(G) / 01-May-2010(S) |
| EFTA - SACU | Goods | FTA | 01-May-2008 |
| EU - Bosnia and Herzegovina | Goods & Services | FTA & EIA | 01-Jul-2008(G) / 01-Jun-2015(S) |
| EU - CARIFORUM States EPA | Goods & Services | FTA & EIA | 01. Nov 08 |
| EU - Côte d'Ivoire | Goods | FTA | 01. Jan 09 |
| EFTA - Canada | Goods | FTA | 01. Jul 09 |

Comparing EU and EFTA trade agreements: drivers, actors, benefits, and costs

| | | | |
|---|------------------|-----------|---------------------------------|
| Switzerland - Japan | Goods & Services | FTA & EIA | 01. Sep 09 |
| EU - Papua New Guinea / Fiji | Goods | FTA | 20-Dec-2009 |
| EU - Serbia | Goods & Services | FTA & EIA | 01-Feb-2010(G) / 01-Sep-2013(S) |
| EFTA - Serbia | Goods | FTA | 01-Oct-2010 |
| EFTA - Albania | Goods | FTA | 01. Nov 10 |
| EFTA - Colombia | Goods & Services | FTA & EIA | 01. Jul 11 |
| EU - Korea, Republic of | Goods & Services | FTA & EIA | 01. Jul 11 |
| EFTA - Peru | Goods | FTA | 01. Jul 11 |
| EU - Eastern and Southern Africa States Interim EPA | Goods | FTA | 14-May-2012 |
| EFTA - Ukraine | Goods & Services | FTA & EIA | 01. Jun 12 |
| EFTA - Montenegro | Goods | FTA | 01. Sep 12 |
| EFTA - Hong Kong, China | Goods & Services | FTA & EIA | 01-Oct-2012 |
| EU - Colombia and Peru | Goods & Services | FTA & EIA | 01-Mar-2013 |
| EU - Ukraine | Goods & Services | FTA & EIA | 23. Apr 14 |
| Iceland - China | Goods & Services | FTA & EIA | 01. Jul 14 |
| Switzerland - China | Goods & Services | FTA & EIA | 01. Jul 14 |
| EU - Cameroon | Goods | FTA | 04. Aug 14 |
| EFTA - Central America (Costa Rica and Panama) | Goods & Services | FTA & EIA | 19. Aug 14 |
| EU - Georgia | Goods & Services | FTA & EIA | 01. Sep 14 |
| EU - Rep. of Moldova | Goods & Services | FTA & EIA | 01. Sep 14 |
| EFTA - Bosnia and Herzegovina | Goods | FTA | 01. Jan 15 |

Annex 4 Questionnaire sent to officials, elected and appointed representatives of Iceland, Norway, and Switzerland

Q 1: In your opinion what are the main drivers for your country / EFTA as a whole to conclude bilateral free trade agreements with third countries?

Q 2: The EFTA countries usually negotiate FTAs with third countries as a group, pooling their economic and political weight, while agricultural matters are negotiated bilaterally between each EFTA country and the respective partner country. In your opinion, which kind of inter-EFTA coordination mechanisms are working well, which could perform better?

Q 3: In your opinion, what kind of common problems (functional scope/depth of the agreement, trade-offs between market liberalization and internal socio-economic policy-making) do EFTA states face in FTA negotiations? What kind of problems are specific to your country and how does your government accommodate specific demands or concerns?

Q 4: Thinking of the different stages up to a bilateral FTA, what kind of problems/challenges/constraints does your country face...

- When drafting and agreeing on a negotiation mandate
- At the beginning of negotiations
- During the negotiations
- At the stage of signing and concluding an agreement
- At the stage of provisional application of an agreement
- At the stage of ratification of an agreement
- During the application and implementation of an agreement

Q 5: How does your country's government deal with the potential conclusion of TTIP? How does your government / government's administration follow and analyse the TTIP negotiations (specific ministerial working units or inter-ministerial coordination mechanisms...). Does your government / administration organise a specific kind of impact assessment regarding the potential economic, societal and/or political consequences of the potential conclusion of TTIP.

Questions for Parliaments

Q 6: How does the EFTA Parliamentary Committee participate at the different stages of negotiations towards an FTA?

- At the stage of drafting and adoption of a negotiation mandate
- At the beginning of negotiations
- During the negotiations
- At the stage of signing and concluding an agreement
- At the stage of provisional application of an agreement
- At the stage of ratification of an agreement
- During the application and implementation of an agreement

Q 7: How does your country's Parliament participate at the different stages of negotiations towards an FTA?

- At the stage of drafting and adoption of a negotiation mandate
- At the beginning of negotiations
- During the negotiations
- At the stage of signing and concluding an agreement
- At the stage of provisional application of an agreement
- At the stage of ratification of an agreement
- During the application and implementation of an agreement

Bibliography

- Agu, C. (2009): „Multilateralism, Regionalism and the Paradox of the „Spaghetti Bowl“ in Developing Countries”, in: *Aussenwirtschaft*, Heft III, pp. 293-316.
- Alston, P. (2004): „Core Labour Standards' and the Transformation of the International Labour Rights Regime”, in: *European Journal of International Law* Vol. 15(3), 2004.
- Baier, S.L./Bergstrand, J.H. (2009): „Estimating the effects of free trade Agreements on international trade flows using matching econometrics”, in: *Journal of International Economics*, Vol. 77, No. 1, pp. 63-76.
- Balastèr, P./Moser, C.: *Sur la voie du bilatéralisme: enjeux et conséquences*. Etudes mandatées par le Secrétariat d'Etat à l'économie SECO, Berne 2008.
- Baldwin, R. (1993): *A Domino Theory of Regionalism* NBER Working Paper 4465. www.nber.org/papers/w4465.
- Bartels, L. (2012): *A Model Human Rights Clause for the EU's International Trade Agreements*, German Institute for Human Rights and Misereor, 2012: http://www.institut-fuer-menschenrechte.de/uploads/tx_commerce/Studie_A_Model_Human_Rights_Clause.pdf.
- Beke, L./Hachez, N./D'Hollander, D./Pérez de la Heras, B. (2014): *Report on the integration of human rights in EU development and trade policies*, FRAME Deliverable No. 9.1, September 2014, <http://www.fp7-frame.eu/reports/>.
- Binswanger, M. (2009): *Globalisierung und Landwirtschaft - Mehr Wohlstand durch weniger Freihandel*, Vienna 2009.
- Bourgeois, J., Dawar, K., and Evenett, S.J. (2007): *A Comparative Analysis of Selected Provisions in Free Trade Agreements*, Commissioned paper by DG Trade, October 2007. http://trade.ec.europa.eu/doclib/docs/2008/march/tradoc_138103.pdf.
- Bryn, K./Einarsson, G. (2010) (Eds.): *EFTA 1960-2010. Elements of 50 years of European history*, Reykjavik, University of Iceland Press 2010.
- Capaldo, J. (2014): *The trans-Atlantic trade and investment partnership: European disintegration, unemployment and instability*. GDAE working paper 14-03. Medford, MA: Global Development and Environment Institute, Tufts University.
- CEPR (2013) [J. Francois, M. Manchin, H. Norberg, O. Pindyuk and P. Tomberger]: *Reducing transatlantic barriers to trade: An economic assessment prepared for the European Commission. Final project report*, March 2013. Centre for Economic Policy Research (CEPR), London.
- Chase, Claude/Yanovich, Alan/Crawford, Jo-Ann/Ugaz, Pamela (2013): *Mapping of Dispute Settlement Mechanisms in Regional Trade Agreements – Innovative or Variations on a Theme?*, WTO Staff Working Paper ERSD-2013-07, Geneva 2013.
- Cismas, I. (2013): „The Integration of Human Rights in Bilateral and Plurilateral Free Trade Agreements: Arguments for a Coherent Relationship with Reference to the Swiss Context”, *Currents: International Trade Law Journal*, Vol. 21, No. 2/2013, 1-20.
- Cottier, Thomas/Egger, Peter/Francois, Joseph/Manchin, Miriam/Shingal, Anirudh/Sieber-Gasser, Charlotte (2014): *Potential Impacts of a EU-US Free Trade Agreement on the Swiss Economy and External Economic Relations*, World Trade Institute, Bern.

- Dawar, K. (2008): *Assessing Labour and Environmental Regimes in Regional Trading Arrangements*, Society of International Economic Law (siel) online proceedings working paper No. 55/08. <http://www.ssrn.com/link/SIEL-Inaugural-Conference.html>.
- Die Volkswirtschaft 10/2015. „Dossier – Freihandelsabkommen Schweiz-China: Ein Jahr danach“. Eidgenössisches Departement für Wirtschaft, Bildung und Forschung WBF, Staatssekretariat für Wirtschaft SECO, Bern, 53-61.
- Dür, A./Baccini, L./Elsig, M. (2014): *The Design of International Trade Agreements: Introducing a New Database*, *Review of International Organizations*, 9(3): 353-375
- Ecorys (2009) [K.G. Berden, J. Francois, M. Thelle, P. Wymenga and S. Tamminen]: *Non-tariff measures in EU-US trade and investment – an economic analysis*, reference: OJ 2007/S 180219493, final report, ECORYS Nederland BV.
- EFTA-CMP (2009): Report by Marianne Aasen, on „Environmental Policies and Labour Standards in FTAs, Ref. 1090382, Brussels, 18 March 2009.
- Esty, D.C./Geradin, D. (1997): „Market Access, Competitiveness, and Harmonization: Environmental Protection in Regional Trade Agreements“, in: *Harvard Environmental Law Review* Vol. 21, 1997
- European Free Trade Association (2006): „This is EFTA“, Brussels 2006.
- Farsund, A. (2010): „Norway: Agricultural exceptionalism and the quest for free trade“. Paper prepared for delivery at International Political Science Association World Congress, Madrid, Spain, July 8-12, 2010.
- Fierro, E. (2003): *European Union's Approach to Human Rights Conditionality in Practice*, Leiden, Martinus Nijhoff, 2003.
- Fontagné, L./Gourdon, J./Jean, S. (2013): *Transatlantic Trade. Whither Partnership, Which Economic Consequences*. CEPII policy brief 1 – September 2013. Paris: Centre d'Etudes Prospectives et d'Informations Internationales.
- Freiburghaus, Dieter (2009): *Königsweg oder Sackgasse? Sechzig Jahre schweizerische Europapolitik*, Zürich 2009.
- Greven T. (2005): *Social Standards in Bilateral and Regional Trade and Investment Agreements*. 2005. Dialogue on Globalisation. N° 16 / March 2005.
- Greven, T. (2005): *International Standards in Bilateral and Regional Trade and Investment Agreements*, Friedrich Ebert Stiftung, Dialogue on Globalisation, Occasional Papers No. 16, March 2005 Geneva.
- Hachez, N. (2015): „Essential Element“ Clauses in EU Trade Agreements. Making Trade Work in a way that helps human rights?, Leuven Centre for Global Governance Studies, Working Paper No. 158 – April 2015.
- Halle, M./Wolfe, R. (2007): *Process Matters. Sustainable Development and Domestic Trade Transparency*, International Institute for Sustainable Development, 2007.
- Heydon, K./Woolcock, S. (2007): *Entwicklung der Freihandelsabkommen: Strategien, Inhalte und Vergleich*, in: *Die Volkswirtschaft*, Heft No. 11, Bern.
- IFO (2013) [G. Felbermayr, B. Held and S. Lehwald]: *Transatlantic trade and investment partnership (TTIP). Who benefits from a free trade deal? Part 1: Macroeconomic effects*. Bertelsmann Stiftung, Gütersloh.
- Kaiser, W. (2001): „Culturally Embedded and Path-Dependent: Peripheral alternatives to ECSC/EEC „core Europe“ since 1945“, in: *Journal of European Integration History*, Vol. 7, No. 2/2001, 11-37.
- Kaiser, W (1997): „Challenge to the Community: the Creation, Crisis and Consolidation of the European Free Trade Association, 1958-72“, in: *Journal of European Integration History*, Vol. 3, No. 1/1997, 7-33.

Kimberly A. E. (2003), Labor Standards and the Free Trade Area of the Americas. The Institute for International Economics. WP 03-7. 2003.

Langhelle, O./Rommetvedt, H. (2004): „The role of parliament in international relations and WTO negotiations: the case of Norway“. World Trade Review 3:02, 189-223.

Lanteigne, M. (2014): The Sino-Swiss Free Trade Agreement, CSS Analyses in Security Policy, N0. 147, February 2014.

Malmborg, M./Laursen, J. (1995): „The Creation of EFTA“ in: Thorsten B. Olesen (Ed.): Interdependence Versus Integration. Denmark, Scandinavia and Western Europe 1945-1960, Odense (Odense University Press) 1995, 197-212.

Manger, M. (2012): „Preferential Agreements and Multilateralism“, in: Heydon/Woolcock (Eds.): The Ashgate Research Compendium on International Trade Policy.

Maurhofer, R. (2001): „Revisiting the Creation of EFTA: the British and the Swiss case“, in: Journal of European Integration History, Vol. 7, No. 2/2001, 65-83

Melchior, Arne/Jo Thori Lind/Christine Mee Lie (2013): Norway, Asia and the Global Value Chains: Asia's Growth and Norway's Economic Links to Asia, Oslo: NUPI Report, December. <http://www.nupi.no/content/download/494691/1644338/version/2/file/NUPI+report+Asia+Final.pdf>.

New Zealand Ministry of Foreign Affairs & Trade, Framework for Integrating Labour Issues into Free Trade Agreements. Available at <http://www.mfat.govt.nz/Trade-and-Economic-Relations/NZ-and-the-WTO/Trade-Issues/0-labour-framework.php>.

NUPI and Norstella (2014) [O.G. Hermansen, S.Ø. Johansen, P.B. Maurseth, H. Medin, A. Melchior, T.B. Olsen, U. Sverdrup and M.G. Theie]: Transatlantisk frihandel og Norge. NUPI Report 7, 2014. Norwegian Institute of International Affairs, Oslo.

Okano-Heijmans, Maaïke (2014): Trade Diplomacy in EU–Asia Relations, Time for a Rethink, Clingendael report, September 2014.

Olesen, Thorsten (2009): „EFTA 1959-72: an exercise in Nordic cooperation and conflict“ in Norbert Götz and Heidi Haggrén (eds), Regional Cooperation and International Organizations. The Nordic Model in Transnational Alignment, London (Routledge) 2009, 133-151.

Örn D. Jónsson/Ingjaldur Hannibalsson/ Li Yang (2013): A bilateral free trade agreement between China and Iceland, Reykjavík: Félagsvísindastofnun Háskóla Íslands 2013.

Polaski, Sandra (2004): „Protecting Labor Rights Through Trade Agreements: An Analytical Guide“. Journal of International Law and Policy.

Rommetvedt, Hilmar/Zajc, D./Oluf Langhelle (2009): „The Internationalization of National Parliaments: the Norwegian Storting and the Slovene Državni zbor“. Politics in Central Europe 5:1, 55-85.

Roy, Martin (2011): Services Commitments in Preferential Trade Agreements: An Expanded Dataset, WTO Staff Working Paper.

Roy, Martin, Juan Marchetti and Hoe Lim (2009): „Services Liberalization in the New Generation of Preferential Trade Agreements (PTAs): How Much Further than the GATS?“, in: Antoni Estevadeordal, Robert Teh, and Kati Suominen (eds): Regional Rules in the Global Trading System (Cambridge: CambridgeUniversity Press).

Sander, G.S. (2005): Freihandel und Umweltschutz : Legitimation und Grenzen grüner Handelsbeschränkungen in EU und WTO, Frankfurt a. M.

Schweizer, M./Ursprung, D. (Eds.) (2015): *Integration am Ende? Die Schweiz im Diskurs über ihre Europapolitik*, Zürich, Chronos Ed..

Senti, R. (2008): „Freihandel statt Freihandelsabkommen? Anmerkungen zum geplanten Agrarfreihandelsabkommen Schweiz-EU“, in: *Zeitschrift für Europarecht*, pp. 132-141.

Senti, R./Ziegler, A. (Eds.) (2005): *Die Schweiz und die internationalen Wirtschaftsorganisationen*, Zürich.

Tripet, Florent Manuel (2012): „Ein Instrument der parlamentarischen Mitwirkung im Bereich der schweizerischen Aussenpolitik: Die Information und Konsultation gemäss Art. 152 Parlamentsgesetz“. IDHEAP, Chavannes-Lausanne.

Tripet, Florent Manuel (2014): „Kommentar zu Artikel 152“, in: Graf, M./Theler, C./von Wyss, M. (Eds.): *Parlamentsrecht und Parlamentspraxis der Schweizerischen Bundesversammlung, Kommentar zum Parlamentsgesetz vom 13. Dezember 2002*, Basel, Helbig&Lichtenhahn, pp. 1029-1044.

Tschäni, Hanspeter/Tussvuori, Ossi (Eds.) (2000): *Principles and Elements of Free Trade Relations. 40 Years of EFTA Experience*, Chur/Zürich.

Tussvuori, Ossi (2010): „EFTA, Relations with other Countries and the EEA“ in Hanspeter Tschäni/Ossi Tussvuori (Eds): *Principles and Elements of Free Trade Relations: 40 Years of EFTA Experience (European Free Trade Association (Secretariat), Zurich 2010)*, 81-84.

Vahl, Marius/Nina Grolimund (2006): „Integration Without Membership – Switzerland’s Bilateral Agreements with the European Union“. Centre for European Policy Studies, Brussels.

Veyrassat, Paul (1969): *La Suisse et la création de l’AELE 1958-1960*, Neuchâtel.

Zbinden, Martin (2006): *Der Assoziationsversuch der Schweiz mit der EWG 1961-1963. Ein Lehrstück schweizerischer Europapolitik*, Bern.

Ziltener, Patrick (2006): „Die neuen Aussenwirtschaftspolitiken der Staaten Ostasiens und ihre Bedeutung für die Schweiz“, in: *Aussenwirtschaft*, Heft No. 1, pp. 71-88.

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PHOTO CREDIT: iStock International Inc

ISBN 978-92-823-9271-3

ISBN 978-92-823-9272-0

doi: 10.2861/942223

doi: 10.2861/67855

