

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

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Executive Summary

EFTA has published an ex-ante Sustainability Impact Assessment (SIA) of the Free Trade Agreement between the European Free Trade Association and Thailand, marking the first time it has undertaken such an exercise.

We credit EFTA for having drawn up Terms of Reference (ToRs) enabling a well-rounded assessment. The ToRs had called for analysis of tariff and non-tariff measures, asked for a combination (“intermingling”) of quantitative and qualitative considerations, direct attention to a broad range of sustainability aspects (“economic, social, human rights, and environment”) and attributed due weight to stakeholder consultations. In addition, the SIA process was initiated in time to inform the negotiations.

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

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

Our analysis leads to the conclusion that most of the SIA remains at an unacceptable level of generality and fails to provide a useful description of possible sustainability impacts in EFTA States and Thailand in relation to the planned trade agreement. The lack of actionable recommendations further limits its usefulness.

We are not convinced that the SIA meets the ToRs’ objectives; in other words, the SIA report neither enhances understanding of the sustainability impact of the planned agreement, nor serves as a basis for future monitoring and engagement regarding the implementation and enforcement of the agreement nor helps inform the public about potential benefits and risks of the agreement.

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

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assessments of trade agreements.² We offer this analysis with a view to improving the expectations, process and results of future Sustainability Impact Assessments of trade agreements.

Key Points and Recommendations

1 Key Points

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

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

(2) Broad and unclear sustainability framing

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

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

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

(4) Inconsistencies and unclear structure

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

(5) Other methodological concerns

Gains from trade are rarely evenly distributed across the economy. Certain regions, industries, firms or and workers can be left worse off following trade reforms. The point of a sustainability impact assessment is to identify who and where the losers from the trade agreement may be or what the environmental risks are, so as to be able to integrate measures to respond to these risks. For example, as was done regarding palm oil in the EFTA-Indonesia trade agreement. As much of this SIA remains at the level of overall generality, it gives readers little insights into what the risks are or what related responses could be. In addition, it seems to be unaware of the developing body of work that exists to assess distributional, biodiversity or gender equality outcomes from trade.

Somewhat surprising given the lack of sustainability or risk analysis, the report lengthy discussion of provisions that could be included in a “trade and sustainable development” (TSD) chapter.

² Confédération suisse, Commission de gestion du Conseil national (CdG-N) (2023) [Contrôle de suivi: Effets des accords de libre-échange Rapport succinct de la Commission de gestion du Conseil national](#), 31 mars 2023.

Indeed, a TSD chapter is supposed to set out responses to possible sustainability risks associated with the trade agreement. If the risks from the specific agreement have not been identified, the TSD cannot set out meaningful responses.

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

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

2 Key Recommendations

We recommend that for future SIAs, EFTA:

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

For this SIA, we recommend that EFTA:

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