

# The Evolution of the EU's Foreign Trade Policy

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## Summary

This scientific research paper will answer the question how did the EU's foreign trade policy developed through the years and what were the motives behind the evolution? The answer to that question is reached by a research and legal analysis of all of 31 EU's FTAs that are currently in force, with the addition of the FTA concluded with the Republic Croatia which is no longer in force. The authors believe that it is important to know the past so one could understand the present and discuss the potential future. For this purpose the paper contains the classification of 32 FTAs which have different rationales, scopes, political and economic motivations. The classification as a whole represents the evolution of the EU FTAs and by that mere fact, the evolution of the EU's foreign trade policy in general.

*Key words: free trade agreement, trade policy, evolution, development, the European Union*

## 1. Introduction

This paper will analyze the EU's foreign trade policy *ab ovo usque ad mala* and try to get an answer to the following question: How did the EU's foreign trade policy develop through the years and what were the motives behind the evolution? Foreign trade policy (also called foreign commercial policy or international trade policy) is a governmental policy governing trade with third countries. This covers tariffs, trade subsidies, import quotas, voluntary export restraints, and restriction on the establishment of foreign-owned businesses, regulation of trade in services and other barriers to international trade. An important tool of the trade policy is the FTA, which is, in short, an agreement substantially aimed at liberalising trade and providing for the absence or elimination of substantially all discrimination between or among parties thereto through the elimination of existing discriminatory measures and/or the prohibition of new or more discriminatory measures, either at the entry into force of that agreement or on the basis of a reasonable time frame.<sup>1</sup>

In the following heading there will be a short introduction to EU's foreign trade policy and in the next five subheadings there will be a presentation of the evolution of EU's foreign

<sup>1</sup> See for instance: Agreement with Eastern and Southern African States OJ L 111/7 art 16

trade policy, *i.e.* EU's free trade agreements. The classification consists of five different generations of FTA's. Four out of five groups were put together because of the EU's equal or similar political and commercial motivation regarding those FTAs in the same group. For instance, EU had a similar motivation when it concluded FTAs with Algeria, Tunisia, Egypt, etc, so the authors classified them in the same group. One of the groups is called "Others" and it serves as an exception for all the FTAs that have a specific political and commercial motivation and cannot be associated with other groups. Similar motivations and common denominators for different groups will be further analysed in the beginning of each sub-heading, *i.e.* in the beginning of each particular group of FTAs which represent a single stage of the evolution. The analysis of political and commercial motivations of each generation of FTAs is important to understand on what basis was the classification made and to have a better grasp of the facts and the context of international politics and trade.

But that is only the half of the story; the order of the presentation of those five groups of FTAs was made taking into account the degree of development and the date of signing of the FTA. More or less, the degree of development of particular groups followed the date of signing of agreements, so the authors took those two criteria cumulatively. In the later groups which are more developed, the presentation will mostly look only on the things that are new or to that are an upgrade the previous FTAs because usually the new generations have most or all of the provisions from the previous groups. Because of that, the provisions that already appear in the previous groups will not be again and again elaborate in the later groups, unless there is a significant difference or upgrade.

The reader must bear in mind that every FTA is different and that exceptions are possible and that certain FTAs that come from less developed groups can be more advanced than the ones from more developed groups, or that certain FTAs which have a later date of signing could be less developed than some earlier agreements. No matter that, the authors still believe that when you look at a certain group as a whole, you can see that the similarities of the agreements put together in the same group and the differences in the development of different groups outweigh any exceptions to the classification of this paper.

## 2. EU's foreign trade policy

The European Union manages trade relations with countries outside the EU through its foreign trade policy. Common external trade policy, pursuant to Article 207 of the Treaty on the Functioning of the European Union, is an exclusive competence of the EU, meaning that the EU and not member states negotiate international trade agreements.<sup>2</sup> The dominant aim of European trade policy is sustained economic growth,<sup>3</sup> and further opening of market is one of the instruments for achieving that, since the "*open economies tend to grow faster than closed economies*".<sup>4</sup> Article 21 of the Treaty on European Union declares that the Union shall "*encourage the integration of all countries into the world economy, including*

<sup>2</sup> Although for certain areas Council shall act unanimously: in the fields of trade in services and the commercial-aspects of intellectual property, as well as foreign direct investment where such agreements include provisions for which unanimity is required for the adoption of internal rules, in the field of trade in cultural and audiovisual services, where these agreements risk prejudicing the Union's cultural and linguistic diversity, in the field of trade in social, education and health services, where these agreements risk seriously disturbing the national organization of such services and prejudicing the responsibility of Member States to deliver them; Treaty on the Functioning of the European Union (Consolidated version 2012) OJ C 115/140 art 207

<sup>3</sup> Apart from that, the EU concludes some of the trade agreements in its effort to suppress poverty and help the developing countries. Examples can be found in chapters "Others" and "the Mediterranean region". See more: A. PANAGARIYA, *EU Preferential Trade Agreements and Developing Countries*, 2002, BPL 1415 - 1432

<sup>4</sup> European Commission, *Trade Policy as a Core Component of the EU's 2020 Strategy*, 2010, TGWA 4

through the progressive abolition of restrictions on international trade".<sup>5</sup> Pursuantly, in trade policy serving Europe 2020 long term strategy for smart, sustainable and inclusive growth special emphasis was given to concluding ambitious FTAs, securing greater market access, and deepening regulatory cooperation with major trade partners.<sup>6</sup>

The European Union has already trade agreements in place with some 50 partners, making it the WTO member with most extensive network of preferential trade areas.<sup>7</sup> Opening up market opportunities by negotiating trade agreements is a key priority for the EU, since according to International Monetary Fund estimates, over the next years 90% of the world demand will be generated outside of the EU.<sup>8</sup> Assuming that all ongoing negotiations are successfully concluded, about half of the EU's external trade will be covered with free trade agreements, and according to the EU Commission that would add up to 0.5% to EU GDP.<sup>9</sup>

### 3. The first generation of the EU's free trade agreements

We start the evolution from the oldest FTAs that are still in force and the ones that are the least developed. Some of the first FTAs that the EU signed, and that are still in force today, date back to 1973, including Norway, Iceland and Switzerland.<sup>10</sup> The agreement with Faroe Islands from 1997 belongs to the same group of these FTAs and was concluded 34 years later, but has almost all of its content matched with these three FTAs. Customs Union Agreements concluded with Andorra and San Marino in 1991 and 1992 also belong to this group, but at the same time with signing them, the countries entered into customs union with the EU.<sup>11</sup>

In some cases, a FTA is one of the rare instruments that can bring a country close to the EU's market as much as it is necessary and beneficial to both sides, without it actually joining the EU. This is certainly the case with Switzerland, which had no interest in joining the European Community at the time of the conclusion of the first FTA with EU and neither has such interest today.<sup>12</sup> In other cases like Norway and Iceland,<sup>13</sup> it is the temporary so-

<sup>5</sup> Treaty on European Union (Consolidated version 2010) OJ C 83/28 art 21

<sup>6</sup> E. COMMISSION, Europe 2020: A European strategy for smart, sustainable and inclusive growth, (Communication from the Commission) (2010) 26; Trade Policy as a Core Component of the EU's 2020 Strategy, 11

<sup>7</sup> A preferential trade area (hereinafter: PTA) is a trading bloc that gives preferential access to certain products from the participating countries. This is done by reducing tariffs but not by abolishing them completely. A PTA can be established through a trade pact. It is the first stage of economic integration. The line between a PTA and a FTA may be blurred, as almost any PTA has a main goal of becoming a FTA in accordance with the General Agreement on Tariffs and Trade. Official list of regional trade agreements notified to WTO is available online: WORLD TRADE ORGANIZATION, Participation in Regional Trade Agreements: European Union (04 December 2014)

<<http://rtais.wto.org/UI/PublicSearchByMemberResult.aspx?MemberCode=918&lang=1&redirect=1>> accessed 8 December 2013

<sup>8</sup> Trade Policy as a Core Component of the EU's 2020 Strategy, 4

<sup>9</sup> Ibid 10

<sup>10</sup> All three FTAs entered into force during 1973: with Switzerland and Norway on 1<sup>st</sup> of July, with Iceland on 1<sup>st</sup> of April; For the full list of EU Trade Agreements still in force see: European Commission, 'Agreements'

<[http://ec.europa.eu/trade/policy/countries-and-regions/agreements/#\\_europe](http://ec.europa.eu/trade/policy/countries-and-regions/agreements/#_europe)> accessed 6 March 2014. Other FTAs that entered into force in 1973, and are part of this so called first group of FTAs were with Austria, Portugal and Sweden, which later became members of the EU, thus derogating FTAs with EU by becoming member states of the EU. See more: EUROPEAN UNION, How the EU works: History

<[http://europa.eu/about-eu/eu-history/1970-1979/1973/index\\_en.htm](http://europa.eu/about-eu/eu-history/1970-1979/1973/index_en.htm)> accessed 6 March 2014

<sup>11</sup> A customs union is a type of a trade bloc which is composed of a free trade area with a common external tariff on imports from non-member countries.

<sup>12</sup> See more: R. SCHWOK, Switzerland - European Union: An Impossible Membership? (PIE, 2009)

<sup>13</sup> See more: V. ASA GUDJONSDOTTIR, Iceland in the European Union: Will it ever happen?, 2007, EUMA

lution, until the country makes its own mind about whether its goal is to join the EU or not, so the country would assimilate as much as possible to the market of the EU and wouldn't get behind on the tempo of the rapid economic growth within it.<sup>14</sup>

It isn't a coincidence that the EU concluded some of the first FTAs with countries that are most similar to it and fit into its political, economical and social frame. Because of that, there was no fear that standards of products that are available in the EU might drop, and that the economy of the EU or of the other party might not be affected positively. Hence, regulating such areas became obsolete and the content of the FTAs is confined only to necessary provisions that secure free trade in industrial and some agricultural products.

FTAs from this group were not comprehensive at all and are considered to be baby steps in what is to become a large and expansive EU foreign trade policy. Although they aren't vast in scope,<sup>15</sup> they comprise the basic content that can be found in each following FTA that EU signed in the years to come, with some variations in that basic content from case to case that either act as a remedy to the problems that occurred as consequence of vague provisions in previous FTAs, either they are specific for certain countries<sup>16</sup> or were the result of broadening the scope of the agreements.<sup>17</sup>

Seeing that FTAs were a new experience for the EU and the results could hardly be predicted, neither the EU nor the other party were keen on making unnecessary experiments, so they were confined to the establishing just one freedom in trade between the countries – free movement of industrial goods as well as some agricultural products, and articles that were necessary to secure free movement of these products, rather than including three more freedoms that exist in many FTAs that EU signed in the years to come.<sup>18</sup>

All FTAs from this group have almost identical content,<sup>19</sup> with some minor, not so relevant exceptions. The content of the FTAs can be divided into following groups, concerning the common goal of each group:<sup>20</sup> aims, the removal of barriers to trade, protection of member states of EU, free movement of payments, justifications for measures, measures not in question, safeguard measures, institutional provisions and the denouncement of the agreement.

Aims are the first part of the FTAs and they serve two main purposes. Through them the contracting parties express goals that they want to achieve by signing the agreement. Moreover, they are used for interpretation of certain provisions in the agreement, in case that there may be some doubts about their meaning.<sup>21</sup>

The most important part of the FTAs is the removal of barriers to trade (for industrial and some agricultural products). This is the very core of each agreement, because without this part, the free trade could not be established.

<sup>14</sup> See more: L. MILES, *The European Union and the Nordic Countries*, 1996

<sup>15</sup> The FTAs with Norway and Switzerland have 36 articles, the Agreement with Iceland has 37 and Faroe Islands FTA has 40 Articles.

<sup>16</sup> Like for example, conservation of exhaustible natural resources as a justification, found in Lebanon's FTA with the EU.

<sup>17</sup> Free trade in goods is going to consist of all goods, not just industrial and agricultural products.

<sup>18</sup> Those three more freedoms are: freedom of services, capital and workers. See more: P. HOELLER; N. GIROUARD; A. COLECCHIA, *The European Union's Trade Policies and Their Economic Effects*, 2000

<sup>19</sup> Exceptions are the agreements with Andorra and San Marino, which are even more general and vague, since the one with Andorra has 26 articles, and the one with San Marino 21.

<sup>20</sup> Such sections are not explicitly named in any version of the agreements, and the authors made them with a view of a common goal that the groups of provisions are to achieve.

<sup>21</sup> Aims of the first group of FTAs are: 1) the development of economic relations, thus fostering economic activity, the improvement of living and employment conditions, increased productivity and financial stability; 2) providing fair conditions for trade competition; 3) the development and expansion of world trade. Agreement between the European Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part (signed 06 December 1996, entered into force 01 January 1997) OJ L 053 art 1

Four barriers, which are considered main obstacles to free trade, are to be removed:

- import customs;
- export customs;
- quantitative restrictions and measures having equivalent effect;
- discriminatory taxation.<sup>22</sup>

Provisions that protect the Member States of EU are the ones that consist of securing that Member States of the EU will have the equal or more favourable treatment in comparison with the other contracting party at hand.<sup>23</sup> Later FTAs did not include such provision.<sup>24</sup>

The following part of the FTAs is regulating the free movement of payments and credits covering commercial transactions.<sup>25</sup> Such provisions are necessary for establishing free trade, since free movement of goods in trade is naturally linked with free movement of payments for those goods.<sup>26</sup>

Justifications for measures that prohibit or restrict the trade of certain products are also included in the agreement, allowing the contracting parties to impose restrictions to trade.<sup>27</sup> Similar to justifications, measures not in question are also added to the FTAs.<sup>28</sup> Safeguard measures are the part of the agreements that consists of situations where contracting party can undertake certain actions with the goal of protecting against cases of breach of contract, forbidden actions, dumping, serious disturbances in the economy, or the detrimental increase of import.<sup>29</sup>

Institutional part of the FTAs is the one that is concerned with setting up Joint Committee,<sup>30</sup> a body established for securing the enforcement of the FTAs that is „*responsible for the administration of the Agreement and shall ensure its proper implementation.*“<sup>31</sup>

<sup>22</sup> Agreement between the European Economic Community and the Republic of Iceland (signed 22 July 1972, entered into force 01 April 1973) OJ L 301 art: 3, 4, 5, 6, 7, 13 and 19.

<sup>23</sup> It secures that that „*products originating from the party may not enjoy a more favorable treatment when imported into the Community than that applied by the member states of the Community between themselves*“. Agreement between the European Economic Community and the Kingdom of Norway (signed 14 May 1973, entered into force 01 July 1973) OJ L 171 art 16

<sup>24</sup> As can be seen in the agreement EU signed with Faroe Islands. The articles concerning this area were removed.

<sup>25</sup> Iceland's FTA didn't cover short and medium term credits covering commercial transactions in which a resident participates; Agreement between the European Economic Community and the Republic of Iceland (signed 22 July 1972, entered into force 01 April 1973) OJ L 301 art 20

<sup>26</sup> Agreement between the European Economic Community and the Swiss Confederation (signed 22 July 1972, entered into force 01 January 1973) OJ L 300 art 19

<sup>27</sup> The grounds on which a measure of prohibition or restriction on import, export or good in transit can be justified, are: „*public morality, law and order or public security, protection of life and health of humans, animals or plants, the protection of national treasures of artistic, historic or archaeological value, the protection of industrial and commercial property, or rules relating to gold or silver*“. Agreement between the European Economic Community and the Republic of Iceland art 21

<sup>28</sup> Such measures are: the ones necessary to prevent the disclosure of information contrary to its essential security interests; which relate to trade in arms, munitions or war materials or to research, development or production indispensable for defense purposes and those which the contracting party considers essential to its own security in time of war or serious international tension. Agreement between the European Economic Community and the Kingdom of Norway art 21

<sup>29</sup> Agreement between the European Economic Community and the Swiss Confederation art 22,23,24,25,26 and 27. What is specific when it comes to Customs Union Agreements is the arbitration procedure. Agreement in the form of an exchange of letters between the European Economic Community and the Principality of Andorra (signed 28 June 1990, entered into force 01 January 1990) OJ L 374 art 18

<sup>30</sup> Name of a body that secures the enforcement of the FTAs varies from agreement to agreement, e.g. Association Committee, Interim Committee etc., but the merit stays the same, with minor variations. In the case of San Marino Customs Union Agreement the institutional body is called Cooperation Committee. Interim agreement on trade and customs union between the European Economic Community and the Republic of San Marino, [1992] OJ L359, Art 13

<sup>31</sup> Agreement between the European Economic Community and the Republic of Iceland art 30

The last section of the FTAs, the denouncement of the agreement, is the *ultima linea* means that a contracting party can use if it isn't satisfied with the way agreement is carried out by the other side, or if it has decided that the further maintaining the agreement in force could be detrimental either to its economy or to some other important interests.<sup>32</sup>

In the years to come after the conclusion of these first agreements, when the European Union was convinced that good can come from free trade agreements, many more of them will be signed with a variety of countries from all over the world. These FTAs to come after the first generation will liberalize not only the movement of goods, but workers, services and capital, as well as establish cooperation in a number of fields, thus making the EU market grow ever stronger and ever bigger, as will be shown in the following chapters. All in all, the first generation of the free trade agreements was the safest approach to trying out new ways of improving trade of the Community and its economy.

#### 4. The mediterranean region

The first big step in the evolution of the EU's foreign trade policy came on the doorsteps of Europe - the Mediterranean region. The following countries in that region have a FTA (that is in force) with the EU: Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Occupied Palestinian Territory, Syria, Tunisia, and Turkey.<sup>33</sup>

The fact that the EU has such a large amount of FTAs with neighbouring countries is not a coincidence, because politics, more than economy, was a key motive in pursuit of these agreements.<sup>34</sup> One could ask oneself, is the region one of the EU's biggest trade partners? No, it is not. Do FTAs with those countries have more economic impact than for instance FTAs with the countries from North America or Asia? No, they do not.<sup>35</sup> So what does Europe get in return for every euro it invests directly or indirectly in the Mediterranean region? The answer is, in short, a peaceful neighbourhood.

For the EU, the more the neighbouring countries develop, the less it will have illegal or unwanted legal immigration; the more EU promotes democracy<sup>36</sup> and human rights the more politically stable<sup>37</sup> the region will be and the bigger economic growth it will have, the more consumers will be able to buy EU goods and services and the more firms will be able to invest in EU.

The EU has two main instruments to achieve that goal. The first one is the European Neighbourhood Policy (hereinafter: ENP), and the second one is the Euro-Mediterranean Partnership (hereinafter: Euromed).<sup>38</sup> The objective of the ENP is to share the benefits

<sup>32</sup> Agreement between the European Economic Community and the Republic of Iceland art 35

<sup>33</sup> Turkey, unlike all the other states in the region, has a customs union.

<sup>34</sup> E.g. in 2012 EU imports of goods from the Occupied Palestinian Territory were worth 0.016 billion euros, and EU exports of goods were worth 0.1 billion euros, while EU imports of goods from South Korea were worth 37.9 billion euros, and EU exports of goods were worth 37.8 billion euros.

<sup>35</sup> The Mediterranean region represents 8.6% of total EU external trade. For instance Association of South East Asian Nations is the EU's 3rd largest trading partner outside Europe (after the US and China) with more than €206 billion of trade in goods and services in 2011.

<sup>36</sup> See more: H. SCHOLTZ; F. SHIMMELFENNING, EU Democracy Promotion in the European Neighbourhood: Political Conditionality, Economic Development and Transnational Exchange, 2008 (2) EUP 187-215

<sup>37</sup> See more: J. KELLEY, New Wine in Old Wineskins: Promoting Political Reforms through the New European Neighbourhood Policy, 2006, JCMS 29-55

<sup>38</sup> See more: Y. BROUDET, M. PERSSON, Reaping the Benefits of Deeper Euro-Med Integration Through Trade Facilitation, 2011 RIIIE 1-26; A. LORCA; G. ESCRIBANO, The Euromediterranean Free Trade Area: From Competition to Integration, Seventh Economic Research Forum International Conference, <<http://unpan1.un.org/intradoc/groups/public/documents/cafrad/unpan013747.pdf>> accessed 7 January 2014; I. MARTIN, The Social Impact of Euro-Mediterranean Free Trade Areas: A First Approach with Special Reference to the Case of Morocco, 2004, MP 422-458

of the EU with neighbouring countries, thus helping to strengthen stability, security and well-being for all concerned.<sup>39</sup> The ENP is designed to prevent the emergence of new dividing lines between the enlarged EU and its neighbours, and to offer them the chance to participate in various EU activities, through greater political security, economic and cultural co-operation.<sup>40</sup>

The key objective of the Euromed trade partnership is the creation of a deep Free Trade Area, which aims at removing barriers to trade and investment between both the EU and the Southern Mediterranean countries and between the Southern Mediterranean countries themselves.<sup>41</sup> From the standpoint of intra-regional trade in the Arab Mediterranean world, the first step toward the economic and social integration came on 25 February 2004. A FTA was concluded between Jordan, Egypt, Morocco and Tunisia. This agreement, known as the Agadir Declaration,<sup>42</sup> can be seen as an additional step toward the achievement of the Euromed free trade area.<sup>43</sup> The EU strongly applauded the move and offered to negotiate Deep and Comprehensive Free Trade Areas (hereinafter: DCFTA) with Jordan, Egypt, Morocco and Tunisia.<sup>44</sup> In the short run, the main objective of these DCFTAs would be the participation of these partners in the EU single market.<sup>45</sup> But, even more important, in the long run, the main objective would be to achieve political and economical success with the DCFTAs and persuade the other countries in the region to accept the EU's twofold plan: to remove the barriers to the trade and investment between all countries in the region, and to the trade and investment between all countries in the region, and to remove the barriers to the trade and investment between EU and the region.

Agreements from this group generally contain all provisions and areas mentioned in the previous chapter such as: aims, the removal of barriers to trade, free movement of payments, justifications for measures, measures not in question, safeguard measures, *etc.* In comparison with the first generation of the EU's FTAs there are a lot of new provisions in place. The first difference is that the provisions regarding services, the right of establishment and movement of workers are added to the agreements. The majority of Euromed agreements have an aim to establish the conditions for the gradual liberalisation of trade, *inter alia*, in services.<sup>46</sup> Also, the parties agree to widen the scope of the agreement to cover the right of establishment<sup>47</sup> of firms of one party in the territory of another party.<sup>48</sup> Further-

<sup>39</sup> E. COMMISSION, 'European Neighbourhood Policy' <[http://ec.europa.eu/economy\\_finance/international/neighbourhood\\_policy/index\\_en.htm](http://ec.europa.eu/economy_finance/international/neighbourhood_policy/index_en.htm)> accessed 30 December 2013

<sup>40</sup> Ibid

<sup>41</sup> E. COMMISSION, Countries and regions: Euro-Mediterranean partnership <<http://ec.europa.eu/trade/policy/countries-and-regions/regions/euro-mediterranean-partnership/>> accessed 1 January 2014

<sup>42</sup> See more: Agreement setting up a free trade area between the Arab Mediterranean countries (Agadir agreement) (signed 25 February 2004, entered into force 6 July 2006)

<sup>43</sup> N. PÉRIDY, Toward a Pan-Arab Free Trade Area: Assessing Trade Potential Effects of the Agadir Agreement, 2005, 3 DE 329-345

<sup>44</sup> E. COMMISSION, Trade with Jordan <<http://ec.europa.eu/trade/policy/countries-and-regions/countries/jordan/>> accessed 1 January 2014

<sup>45</sup> Preparations for these negotiations have already started.

<sup>46</sup> Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part (signed 17 May 1995, entered into force 01 March 1998) OJ L 097 art 1

<sup>47</sup> The crucial features of establishment are the "*stable and continuous basis*" on which the economic or professional activity is carried on, and the fact that there is an established professional base within the host Member State. For the provision of services, the temporary nature of the activity is to be determined by reference to its "*periodicity, continuity and regularity*", and providers of services will not be deemed to be "*established*" simply by virtue of the fact that they equip themselves with some form of infrastructure in the host Member State. See more: P. CRAIG; G. BÚRCA, *EU Law: Text, Cases and Materials* (4<sup>th</sup> edn, OUP, Oxford 2008) 793-94

<sup>48</sup> Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part (signed 26 February 1996, entered into force 01 March 2000) OJ L 70 art 31

more, citizens workers of Moroccan, Tunisian and Algerian nationality employed in EU's territory shall have treatment which is free from any discrimination based on nationality, as regards working conditions, remuneration and dismissal, relative to its own nationals and *vice versa*.<sup>49</sup> Although, some of these provisions are basic and others are very vague, one thing is quite clear, and that is a wish for a new direction in trade relations.

The second upgrade in trade relations is from the perspective of capital, investment promotion and taxation. Almost all<sup>50</sup> Euromed parties have agreed to include movement of capital in their FTAs.<sup>51</sup> As capital and investment go hand in hand, so the corresponding articles go hand in hand in (most of) the Euromed agreements. More precisely, objective of cooperation is the creation of a favourable and stable environment for investment in the countries of the contracting parties.<sup>52</sup> For instance, EU and Egypt have agreed to establish mechanisms for encouraging and promoting investments.<sup>53</sup> What's more, the EU-Turkey FTA includes provisions regarding direct and indirect taxation.<sup>54</sup>

Third example of novelties in the Euromed agreements is: the liberalisation of public procurement, the cooperation on standardisation and customs cooperation that broaden the scope of the FTA and deepen the trade relation. Firstly, it has been agreed that there is an objective of reciprocal and gradual liberalisation of public procurement contracts.<sup>55</sup> This objective will open yet another market in the Mediterranean region for EU firms and ensure equal or more equal treatment in the tender process. Secondly, one important step closer to mutual recognition and integration is the provision on cooperation in standardisation and conformity assessment.<sup>56</sup> Cooperation in standardisation is not just important from the

<sup>49</sup> Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part (signed 22 April 2002, entered into force 01 September 2005) OJ L 265. All Euromed partners have that provision except Lebanon, Syrian Arab Republic and the Palestinian Authority.

<sup>50</sup> Syrian Arab Republic and Lebanon do not have those provisions.

<sup>51</sup> Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the State of Israel, of the other part (signed 20 November 1995, entered into force 01 June 2000) OJ L 147 art 31. The movement of capital and promotion of investment is very valuable for EU, especially in trade relations with Israel. For instance, in 2011 Israel has invested 29.3 billion euros in EU, thus making it the biggest investor from the Mediterranean region. In comparison, EU invested „only“ 7.5 billion euros in Israel; see more: -, Countries and regions: Israel <<http://ec.europa.eu/trade/policy/countries-and-regions/countries/israel/>> accessed 20 April 2014

<sup>52</sup> Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part (signed 24 November 1997, entered into force 01 May 2002) OJ L 129 art 67. *Ibid*, the cooperation will entail the development of: harmonised and simplified administrative procedures; co-investment machinery, especially for small and medium-sized enterprises of both Parties; and information channels and means of identifying investment opportunities a legal environment conducive to investment between the production, two Parties, where appropriate through the conclusion by the Member States and Euromed country of investment protection agreements and agreements to prevent double taxation, access to the capital market for the financing of productive investments, joint ventures between the contracting party and Community business.

<sup>53</sup> Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part (signed 25 June 2001, entered into force 01 June 2004) OJ L 304 art 46

<sup>54</sup> Decision No 1/95 of the EC-Turkey Association Council of 22 December 1995 on implementing the final phase of the Customs Union (adopted 22 December 1995) OJ L 35 art 49 and 50

<sup>55</sup> Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part (signed 24 February 1997, entered into force 01 July 1997) OJ L 187 art 34

<sup>56</sup> Euro-Mediterranean Agreement with Morocco art 51: „...the Parties shall cooperate in developing: (a) the use of Community rules in standardisation, metrology, quality control and conformity assessment; (b) the updating of Moroccan laboratories, leading eventually to the conclusion of mutual recognition agreements for conformity assessment; (c) the bodies responsible for intellectual, industrial and commercial property and for standardisation and quality in Morocco.”



perspective of the removal of barriers to trade but it is also significant for quality control and by that itself, for quality improvement. Thirdly, the parties have agreed to develop customs cooperation to ensure that the provisions on trade are observed.<sup>57</sup> Such mutual assistance will allow the parties to improve the exchange of information to prevent, investigate, and punish operations in breach of customs legislation.<sup>58</sup>

Finally, unlike the first generation of FTAs, the second generation of the FTAs has a broad range of general provisions on: economic, technical and financial cooperation;<sup>59</sup> cooperation in social and cultural matters, environment, tourism, money laundering,<sup>60</sup> energy;<sup>61</sup> cooperation on audiovisual matters, information and communication<sup>62</sup>; regional cooperation,<sup>63</sup> *et cetera*.

To sum up, we can conclude that the FTAs with the countries from the Mediterranean region are a bigger,<sup>64</sup> more comprehensive, more detailed and a deeper version than the FTAs from the first generation. But, there's still a long way to go.

## 5. Western Balkans

After the Mediterranean region, the next group comprises countries from the Western Balkans. This group brings different EU's political and commercial motivations to the table, but also more developed FTAs with an (in average) later date of signing. The third generation of the FTAs consists of the ones that are concluded with following countries: Albania, Bosnia and Herzegovina, Croatia, Macedonia, Montenegro and Serbia. The main goal of this group of FTAs is to prepare candidate-countries for accession to the EU,<sup>65</sup> *inter alia*, through progressive establishment of a free trade area between the EU and the candidate countries.

Preparations for EU accession are done through the Stabilisation and Association Process (hereinafter: SAP),<sup>66</sup> which is „*European Union's policy towards the Western Balkans established with the aim of eventual EU membership*“.<sup>67</sup> A key instrument in this EU policy

<sup>57</sup> EU-Lebanon Interim Agreement, [2002] OJ L 262/7, Art 31. For this purpose they shall establish a dialogue on customs matters. Cooperation shall focus on the simplification of controls and procedures concerning the customs clearance of goods, and shall take the form of exchange of information among experts and vocational training. Mutual assistance between administrative authorities in customs matters shall take place in accordance with the provisions of Protocol 5 of the agreement.

<sup>58</sup> Some countries, such as Colombia, conclude FTA's with the primary objective of gaining customs cooperation and mutual assistance. See more: Colombian Industry, Business and Tourism Ministry, Customs cooperation, a key gain for Colombia in trade agreement with Panama <<http://www.mincit.gov.co/englishmin/publicaciones.php?id=8025>> accessed 6 January 2014

<sup>59</sup> Cooperation Agreement between the European Economic Community and the Syrian Arab Republic (signed 18 January 1977, entered into force 01 November 1978) OJ L 269 art 6

<sup>60</sup> Euro-Mediterranean Agreement with Tunisia art 61

<sup>61</sup> Euro-Mediterranean Agreement with Morocco art 57

<sup>62</sup> Euro-Mediterranean Agreement with Israel art 58

<sup>63</sup> Euro-Mediterranean Agreement with Jordan art 62

<sup>64</sup> Agreements from the first generation have in average 37.25 articles, while the second generation agreement has in average 83.56 articles.

<sup>65</sup> See more: --, Integration of the Western Balkans in the Internal Market <[http://www.westernbalkans.info/htmls/save\\_pdf2.php?id=550](http://www.westernbalkans.info/htmls/save_pdf2.php?id=550)> accessed 7 March 2014

<sup>66</sup> The Stabilization and Association process was created by the European Union in 1999 as its primary contribution to the Stability Pact for Southeast Europe. See more: G. SHENKER, The Stabilisation and Association Process: An Engine of European Integration in Need of Tuning <<http://www.ecmi.de/fileadmin/downloads/publications/JEMIE/2008/issue%201/1-2008-Schenker.pdf>> 1-19

<sup>67</sup> E. COMMISSION, Stabilisation and Association Process, <[http://ec.europa.eu/enlargement/policy/glossary/terms/sap\\_en.htm](http://ec.europa.eu/enlargement/policy/glossary/terms/sap_en.htm)> accessed 6 March 2014

is Stabilisation and Association Agreement (hereinafter: SAA) which is in its core an elaborate free trade agreement with some provisions on cooperation and development of certain areas which are deemed important for accession, such as improving the legal framework or level of human rights. The SAP is important for all Western Balkan countries: official candidates for the EU, which are the Former Yugoslav Republic of Macedonia, Montenegro and Serbia, applicant-country Albania and potential candidates: Bosnia and Herzegovina and Kosovo. To this group belonged the former candidate country, Croatia which has not been a part of SAP policy since its accession into EU on 1 July 2013.<sup>68</sup>

It is beneficial and more secure for all Western Balkans countries that "...*market liberalisation and restriction of regulatory autonomy take place gradually, over several basic stages – WTO membership, conclusion of the Stabilisation and Association Agreement, accession negotiations, and finally full membership in the EU*".<sup>69</sup> Since the life of EU regulation depends on regulatory framework and legal mentality of a country as a whole, some time is needed to introduce EU ways to Western Balkans countries, because in previous years they had less contact with EU than they have today.

SAAs with the Former Yugoslav Republic of Macedonia,<sup>70</sup> Albania,<sup>71</sup> Montenegro,<sup>71</sup> and Serbia<sup>72</sup> are currently in force. The trade part of the SAA is in force through the Interim Agreement on Trade and Trade Related Matters with Bosnia and Herzegovina. This country already signed SAA, and although ratified by all EU member states, the entry into force of SAA has been delayed by the EU since Bosnia has yet to meet the preconditions set by the EU.<sup>73</sup> Ongoing negotiations between EU and Kosovo about SAA will determine the contents and date of signing. Since the Treaty of Accession of Croatia to the EU entered into force it is implied that the SAA with Croatia is no longer applied.<sup>74</sup>

SAAs are a new kind of mixed agreements<sup>75</sup> that EU concludes with third parties of the Western Balkans, bigger and different from Association Agreements,<sup>76</sup> also known as the „*Europe Agreements*“, with countries of Middle and Eastern Europe.<sup>77</sup> Interim Agreements on Trade and Trade Related Issues serve as some kind of pre-SAA temporary instruments,<sup>78</sup> and they usually comprise only the free movement of goods until SAA comes into force.

<sup>68</sup> Almost all of these countries are members of WTO, except Serbia and Bosnia and Herzegovina, which are currently just observer countries that applied for membership in WTO with full support from the EU. EU signed bilateral agreement on Bosnia and Herzegovina's accession to the World Trade Organisation in 2012, which is a key step for the country to become a WTO member. See more: E. COMMISSION, Western Balkans <<http://ec.europa.eu/trade/policy/countries-and-regions/regions/western-balkans/>> accessed 7 March 2014

<sup>69</sup> I. GOLDNER LANG; T. PERIŠIN, Gradual Liberalisation of movement of goods and persons in Croatia and Macedonia – Before and After Accession to the EU, 2011, 61 ZPFZG 613-642

<sup>70</sup> Detailed analysis of the Albanian SAA is available in: Y. ZAHARIADIS, The Effects of the Albania-EU Stabilisation and Association Agreement: Economic Impact and Social Implications <<http://www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/2527.pdf>> 1-92

<sup>71</sup> See more: G. ĐUROVIĆ; S. ROŽNATOVIĆ; N. MILOVIĆ, Obaveze Crne Gore po Sporazumu o Stabilizaciji i Pridruživanju u Dijelu Unutarnjeg Tržišta <<http://www.tehnologijaidrustvo.org/Prilozi/zbornik14.pdf>> 16-34

<sup>72</sup> See more: CENTAR ZA DEMOKRATIJU, Evropski standardi u Srbiji <[http://www.centaronline.org/postavljen/60/Zbornik\\_zaz%20web.pdf](http://www.centaronline.org/postavljen/60/Zbornik_zaz%20web.pdf)>

<sup>73</sup> --, Press: Bosnia-EU relations put on hold (Zagreb 26 April 2011) <<http://daily.tportal.hr/124423/Press-Bosnia-EU-relations-put-on-hold.html>> accessed 7 March 2014

<sup>74</sup> Statement by Iris Goldner Lang (Personal email correspondence 18 March 2014)

<sup>75</sup> Mixed agreements are the ones that contain both articles that concern with establishing free trade area and other articles that aren't important for establishing free trade area.

<sup>76</sup> Greece 1961, Turkey 1963, Malta 1970, Cyprus 1972, all countries of Easter and Central Europe which became members of EU in 2004 and 2007.

<sup>77</sup> See more: S. RODIN, Sporazum o Stabilizaciji i Pridruživanju u Pravnom Poretku Europske Zajednice i republike Hrvatske, <[http://www.pravo.unizg.hr/\\_download/repository/Rodin\\_Zbornik\\_SSP.pdf](http://www.pravo.unizg.hr/_download/repository/Rodin_Zbornik_SSP.pdf)> 1-20

<sup>78</sup> All contracting countries of SAAs have signed in about the same time The Interim Agreements on Trade and trade related matters that came into force very quickly after signing.

SAs generally contain all provisions and areas mentioned in previous two chapters, such as free movement of goods, workers, capital and investment, services and right of establishment, public procurement provisions, cooperation on standardisation and customs cooperation, as well as all provisions necessary to ensure functioning of the Agreement, which are specified in the first chapter.

Provisions that are new as a consequence of the goal of SAs, and appear for the first time in these FTAs are: regional cooperation, approximation of laws and law enforcement, justice and home affairs (freedom and security), new areas of cooperation and financial cooperation (grants and loans from the EU).

Provisions that concern regional cooperation oblige the contracting country to cooperate with other countries that signed the SAA,<sup>79</sup> with countries that are included in SAP, and with countries-candidates for EU accession, that are not part of the SAP.<sup>80</sup>

Approximation of laws and law enforcement is the part not strictly related to trade, but since the legal system of a country makes a frame in which trading occurs, rule of law and reliable legal systems are one of the pre-requisites for the fluent economic exchange to take place. New provisions that can be found here are the ones related to public contracts, public undertakings, consumer protection, intellectual, industrial and commercial property, working conditions and equal opportunities. Articles concerning competition and standardisation, metrology, accreditation and conformity assessment can already be found in agreements of the previous generation.<sup>81</sup> These provisions reflect the desire of EU to gradually assimilate legal system of the contracting party to the *acquis communautaire*.

Justice and home affairs is the area similar to the previously mentioned, but it is different in so far as they tackle domestic issues of justice, freedom and security, such as: reinforcement of institutions and rule of law; cooperation in the area of movement of persons;<sup>82</sup> cooperation on money laundering; financing of terrorism and illicit drugs; cooperation in criminal matters and provisions concerning protection of personal data.<sup>83</sup>

A number of new areas of cooperation are added, which do not exist in prior agreements.<sup>84</sup> Seeing that one of the most important aims of the SAA is preparing a country to

<sup>79</sup> The main elements of such cooperation are: 1) political dialogue, 2) establishment of free trade areas, 3) mutual concessions concerning the movement of workers, establishment, supply of services, current payments and movement of capital, 4) provisions on cooperation in other fields whether or not covered by this Agreement; Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part (signed 9 April 2001, entered into force 1 April 2004) OJ L 84 art 12

<sup>80</sup> Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Republic of Albania, of the other part (signed 12 June 2006, entered into force 1 April 2009) OJ L 107 art 15

<sup>81</sup> Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part (signed 15 October 2007, entered into force 01 May 2010) OJ L 108 art 77

<sup>82</sup> Specifically, this area concerns: visa, border control, asylum, migration, prevention and control of illegal immigration and readmission. This is an area which is very important for the EU, seeing that EU wants to stop unwanted immigrants from gaining EU citizenships through becoming citizens of candidate-country with low requirements for gaining citizenship, prior to country's accession to the EU. Thus EU wants to control standards and requirements for gaining citizenship of candidate-country so it would prevent massive intake of new EU citizens which weren't born in EU country, and are fresh citizens themselves of the country, and came from the 3rd country, not part of the EU.

<sup>83</sup> Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part (signed 29 October 2001, entered into force 01 February 2005) OJ L 26 art 75

<sup>84</sup> Areas of cooperation in SAs : Economic policy, Statistical cooperation, Banking, insurance and other financial services, Investment promotion and protection Industrial cooperation, Small and medium-sized enterprises, Tourism, Customs, Taxation, Social cooperation, Agriculture, and the agro-industrial sector, Fisheries, Education

eventually join the EU, extensive cooperation is necessary for it to assimilate to the EU's legal, political, economic and social system as much as possible, so the accession itself would be as less turbulent as possible for both parties.

Financial cooperation that concerns grants and loans given by the EU is definitely the part of the SAA that makes it stand out among other agreements. They are certainly important stimulation for the countries to cooperate with the EU in the SAP policy, and are the part of the agreements that differentiates SAAs from other FTAs the most.

It can be said that SAAs are just temporary agreements with a clear goal in mind: getting a candidate-country ready to eventually join the EU. Once the country has accessed to the EU, SAA is no longer in force, and fundamental contracts of EU take over its place in economic provisions, and non trade related articles get replaced by the directives, and other relevant legal documents. Since we see them for what they really are, a temporary solution, we can conclude that they act as a starting point from which a candidate-country builds and improves with the purpose of joining the EU. As can be seen in the case of Croatia that joined the EU, the SAA served its purpose well.

## 6. Others

In this chapter the paper analyses five different FTAs which as a whole represent an anomaly in the evolution. Those agreements are with: Papua New Guinea and Fiji (together); numerous African states; South Africa; Mexico and Iraq. They as group entered into force later than the agreements from the Western Balkans, but it cannot be said that they as a whole are definitely more advanced than the previous agreements and that they are the next step in the evolution. Despite some deficiencies in content of certain FTAs from this group, they do contribute to the evolution of FTAs and will be analyzed.

Their common denominator is that there is no common denominator between them and any other group of FTAs, *i.e.* stage of the evolution. These five agreements cannot be classified as one coherent group because they vary in the stage of development and the EU has different political and commercial motivations for these FTAs. This should not come as a surprise, since they come from different geographical positions. These five agreements are divided into following three subheadings: 1. African states, 2. Mexico, and 3. Iraq.

### 6.1. African states

This section will examine trade agreements concluded between the EU and some African, Caribbean and Pacific (hereinafter: ACP) states – the area occupying seventy-nine countries divided into seven ACP regions.<sup>85</sup> Trade and development agreements with this group of states are called Economic partnership agreements (hereinafter: EPAs). All Economic partnership agreements are part of wider development agenda and have their origins in the trade chapter of the Cotonou agreement – a broad agreement building a framework for political dialogue, development support and economic and trade coope-

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and training, Cultural cooperation, Information and communication, Cooperation in the audio-visual field-Electronic Communications Infrastructure and Associated, Services, Information Society, Transport, Energy, Nuclear safety, Public administration, Environment, Cooperation in Research and Technological Development and Local Development; Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Serbia, of the other part (signed 29 April 2008, entered into force 01 September 2013) OJ L 278 art 88

<sup>85</sup> ACP is group of countries created by a Georgetown Agreement in 1975. ACP contains 48 countries from south of the Sahara in Africa, 16 from the Caribbean, and 15 from Pacific; 39 of the world's 49 least-developed countries are ACP countries, most of them in Africa; EUROPEAN COMMISSION, The Cotonou Agreement, 12 September 2012, <<http://ec.europa.eu/europeaid/where/acp/overview/cotonou-agreement/>> accessed 8 January 2014

ration with an objective of "...*reducing and eventually eradicating poverty*".<sup>86</sup> Other than the name, the purpose of Economic partnership agreements is also specific: 1) promoting sustainable development and growth, 2) poverty reduction, 3) better governance and 4) the gradual integration of ACP countries into the world economy.<sup>87</sup> In short, EPAs are used as a tool for growth, jobs and development considering that "...*trade is development*".<sup>88</sup>

Since EPAs are primarily focused on ACP development they go beyond conventional FTAs by offering some benefits: while they provide full and immediate free access to the EU states, ACP countries can gradually open their market in the period of 15, and up to 25 years, while they can keep permanent protection for the most sensitive 20% of imports.<sup>89</sup> That means no quotas and no duties for ACP exporters to the market of half a billion people. Asymmetry is present in numerous other obligations, as well as flexibility in implementation and unilateral help in achieving the above stated objectives. In order to ensure that ACP exports comply with strict EU standards (i.e. food safety), all EPAs include technical support, training and measures to promote knowledge transfer and strengthen public services and infrastructure.<sup>90</sup> Economic partnership agreements are therefore considered as the "...*most generous trade partnerships the EU has ever offered to any trading partner*", offering "...*best possible trade conditions*".<sup>91</sup>

Even though EU and ACP states have agreed to take all the necessary measures to ensure the conclusion of Economic Partnership Agreements,<sup>92</sup> only four EPAs with total of twenty-two states have been concluded so far: with South Africa, Caribbean Group of ACP States (hereinafter: CARIFORUM),<sup>93</sup> Eastern and Southern African States<sup>94</sup> and with Papua New Guinea and Fiji. Eastern and Southern African States and Papua New Guinea and Fiji have concluded only interim agreements intended to serve as a framework for negotiating full EPA (currently being negotiated with both regions), and therefore are deficient in some areas. In the following analysis EPA with CARIFORUM will not be examined

<sup>86</sup> The Cotonou Agreement (ACP – EU) (adopted 23 June 2000, entered into force in April 2003, revised 22 June 2010) OJ L 287/48 art 1

<sup>87</sup> E. COMMISSION, Africa, Caribbean, Pacific (ACP), 06 May 2010 <<http://ec.europa.eu/trade/policy/countries-and-regions/regions/africa-caribbean-pacific/>>, accessed 9 January 2014

<sup>88</sup> E. COMMISSION, How economic partnership agreements benefit both consumers and producers in Europe and developing countries, 2013 <[http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc\\_151010.pdf](http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_151010.pdf)> accessed 9 January 2014, p 2

<sup>89</sup> See more: How economic partnership agreements benefit both consumers and producers in Europe and developing countries, 2; I. TOWNSEND, Economic Partnership Agreements (EPAs) between the EU & African, Caribbean and Pacific countries, 2009, HCL <<http://www.parliament.uk/briefing-papers/SN03370.pdf>> accessed 10 January 2014

<sup>90</sup> Ibid

<sup>91</sup> K. DE GUCHT, Economic Partnership Agreements (EPAs) - State of Play, Future Perspectives and Implementation, (Speech 13/812 European Commission Trade website 2013) <[http://europa.eu/rapid/press-release\\_SPEECH-13-812\\_en.pdf](http://europa.eu/rapid/press-release_SPEECH-13-812_en.pdf)>, accessed 25 December 2013

<sup>92</sup> The Cotonou Agreement, OJ L 287/48, art 36

<sup>93</sup> „*The Forum of the Caribbean Group of African, Caribbean and Pacific States is the body that comprises Caribbean ACP States for the purpose of promoting and coordinating policy dialogue, cooperation and regional integration, mainly within the framework of the Cotonou Agreement between the ACP and the European Union.*“ There are sixteen Participating States and all of them are signatories to both the Cotonou Agreement and Economic Partnership Agreement, with the exception of Cuba; CARIBBEAN COMMUNITY AND COMMON MARKET, What is CARIFORUM?, 2011, <[http://www.caricom.org/jsp/community\\_organisations/cariforum/cariforum\\_main\\_page.jsp?menu=cob](http://www.caricom.org/jsp/community_organisations/cariforum/cariforum_main_page.jsp?menu=cob)> accessed 15 January 2014

<sup>94</sup> This includes: Union of Comoros, The Republic of Madagascar, The Republic of Mauritius, The Republic of Seychelles, The Republic of Zambia, and the Republic of Zimbabwe. Despite the fact that all six countries were engaged in negotiations, agreement was finally signed by only four countries (Madagascar, Mauritius, Seychelles and Zimbabwe); E. COMMISSION, Fact sheet on the interim Economic Partnership Agreements: Eastern and Southern Africa, 2012, <[http://trade.ec.europa.eu/doclib/docs/2009/january/tradoc\\_142193.pdf](http://trade.ec.europa.eu/doclib/docs/2009/january/tradoc_142193.pdf)> accessed 16 January 2014

because considering complexity of its provisions and new areas covered this agreement belongs in the latest stage of the evolution.

When comparing EPAs with previous stages of the evolution, three major novelties are introduced. The first difference we can perceive when examining EPAs is development cooperation:<sup>95</sup> a great number of provisions aiming to satisfy social, democratic and economic development needs of ACP states, supporting regional integration, enhancing competitiveness, insertion to world economy, strengthening rule of law and democratic society in which human rights and their freedoms are respected. The cooperation is conducted in numerous fields in the form of financial and non-financial support. Having in mind that all EPAs are concluded primarily to help ACP states to develop, the chapter on development cooperation did not come as a surprise.

Further, and most significant advancement brought by EPA is an elaborate dispute settlement mechanism,<sup>96</sup> with the objective to avoid and settle any dispute between the signatory parties with a view to arriving at mutually agreed solution. Means for resolution of disputes are present from the first generation of agreements, but provisions are basic and serve more as waymarks, which is not the case here. The rules regulating rights of the parties, modalities and deadlines for consummation of those rights are precisely given. Although there are some differences between the agreements, parties are obliged to do essentially the same: first of all they shall “*endeavour to resolve any dispute concerning the interpretation and application of this Agreement by entering into consultations in good faith with the aim of reaching an agreed solution*”.<sup>97</sup> In case that the consultations do not succeed either party may request a settlement of the dispute by arbitration.<sup>98</sup> Each party to the dispute is bound to take measures necessary to carry out the decision of the arbitrators.

Technical barriers to trade<sup>99</sup> (hereinafter: TBT) and sanitary and phytosanitary (hereinafter: SPS) measures<sup>100</sup> are for the first time thoroughly regulated with the distinct chapter in Economic Partnership Agreements.<sup>101</sup> Both TBTs and SPSs are usually introduced by gov-

<sup>95</sup> Agreement on Trade, Development and Cooperation between the European Community and its Member States, of the one part, and the Republic of South Africa, of the other part (adopted 11 October 1999, entered into force 01 May 2004) OJ L 331/23 art 65; Interim agreement establishing a framework for an Economic Partnership Agreement between the Eastern and Southern Africa States, on the one part, and the European Community and its Member States, on the other part (adopted August 2009) OJ L 111/8 art 19; Interim economic partnership agreement with Papua New Guinea and Fiji does not have such chapter, but it is planned once the full EPA is concluded.

<sup>96</sup> Agreement with South Africa OJ L 311/25 art 77, OJ L 311/30 art 104; Agreement with Eastern and Southern African States OJ L 111/23 art 54; Interim Partnership Agreement between the European Community, of the one part, and the Pacific States, of the other part (adopted 30 July 2009, entered into force 20 December 2009) OJ L 272/16 art 47

<sup>97</sup> Agreement with Eastern and Southern African States OJ L 111/23 art 54

<sup>98</sup> Agreement with Fiji and Papua New Guinea enables intervention of the mediator: “*If consultations fail to produce a mutually agreed solution, the Parties to the dispute may, by agreement, seek recourse to a mediator*”... “*The mediator’s opinion may include a recommendation on how to resolve the dispute consistent with the provisions of this Agreement. The mediator’s opinion is non-binding*” OJ L 272/16 art 50

<sup>99</sup> Technical barriers to trade refers to the “...*mandatory technical regulations and voluntary standards that define specific characteristics that a product should have, such as its size, shape, design, labelling, marking, packaging, functionality or performance*”; E. COMMISSION, Technical barriers to trade, 2013 <[http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc\\_150987.pdf](http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_150987.pdf)> accessed 28 January 2014

<sup>100</sup> Sanitary and phytosanitary measures include “...*all relevant laws, decrees, regulations, requirements and procedures*” that are “...*applied to protect human, animal or plant life or health within the territory of a country from risks arising from plant pests (insects, bacteria, virus), additives, residues (of pesticides or veterinary rugs), contaminants (heavy metals), toxins or disease-causing organisms in foods, beverages or feedstuffs, and diseases carried by animals*”; E. COMMISSION, Sanitary and phytosanitary (SPS) issues, 2013 <[http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc\\_150986.pdf](http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_150986.pdf)> accessed 29 January 2014

<sup>101</sup> Agreement with Fiji Island and Papua New Guinea OJ L 272/12 art 33

ernment authorities with a legitimate public policy objective in mind.<sup>102</sup> Nevertheless, they often have powerful impact to trade and competitiveness of exporters, since complying with those regulations often demands serious expenses, which is why there is an increased interest nowadays for the reduction of TBTs and SPSs, and other non-tariff barriers.<sup>103</sup> The objective of these rules is the cooperation of the parties in order to “*facilitate and increase trade in goods between them, by identifying, preventing and eliminating obstacles to trade arising from TBT and SPS measures*”.<sup>104</sup>

## 6.2. Mexico

Mexico was the first Latin American country to sign an FTA with EU and the EU’s first ever transatlantic FTA, and “*proved to be a pathfinder for others in the region*”.<sup>105</sup> Trade agreement with Mexico has been concluded in two parts: first one regulating trade in goods (including regular high-level political dialogue on bilateral and international issues),<sup>106</sup> and second one regulating services and some other trade-related issues.<sup>107</sup>

EU and Mexico have “*strong and longstanding*” relationship with important economic links.<sup>108</sup> The EU is Mexico’s second biggest export market after the US and Mexico’s third largest source of imports after the United States and China.<sup>109</sup> Flow of investment between EU and Mexico is also significant. However, despite these long and solid links, trade between the parties declined sharply in the 1990s.<sup>110</sup> This decline is often identified as a consequence of NAFTA<sup>111</sup> and some other FTAs concluded by Mexico.<sup>112</sup> FTA concluded with Mexico is therefore considered to be motivated primarily with the purpose to neutralize

<sup>102</sup> For example protecting human life and safety, animal and plant life, protection of costumers, etc.

<sup>103</sup> A. V. DEARDORFF; R. M. STERN, Measurement of Non-Tariff Barriers, 1997, OECD Economics Department Working Papers, No. 179 <<http://www.oecd-ilibrary.org/docserver/download/5lgsjvhv865f.pdf?expires=1394372726&id=id&accname=guest&checksum=3C489EBC3D3DDC6AF142D987490B3CBE>> accessed 7 March 2014

<sup>104</sup> Agreement with Fiji Island and Papua New Guinea OJ L 272/12 art 34

<sup>105</sup> P. LAMY, Mexico and the EU: Married Partners, Lovers, or Just Good Friends? (Speech at Institute of European Integration Studies in Mexico City, European Commission Trade website 2002) <[http://trade.ec.europa.eu/doclib/docs/2004/september/tradoc\\_118831.pdf](http://trade.ec.europa.eu/doclib/docs/2004/september/tradoc_118831.pdf)> accessed 12 February 2014

<sup>106</sup> The agreement covers political dialogue, trade relations in goods and cooperation; Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and its Member States, of the one part, and the United Mexican States, of the other part (adopted 8 December 1997, entered into force 20 March 2000) OJ L 276

<sup>107</sup> This agreement was brought by the Joint Mexico-EU Council by Decision No 2/2001 of the EU-Mexico Joint Council of 27 February 2001 implementing Articles 6, 9, 12(2)(b) and 50 of the Economic Partnership, Political Coordination and Cooperation Agreement (adopted 24 November 1999 entered into force on 1 March 2001) OJ L 70. Apart from services, the agreement contains provisions on intellectual property, capital flows and international payments and dispute settlement. The negotiations began in the latter part of 1998 and after nine negotiating rounds were concluded by the end of 1999, making it the fastest trade negotiations concluded by the EU and a third party.

<sup>108</sup> K. DE GUCHT, Open for business: The European Union’s relations with Mexico in a changing world (Speech on EU relationship with Mexico in Mexico City, speech 12/825 European Commission Trade website 2012) <[http://trade.ec.europa.eu/doclib/docs/2012/november/tradoc\\_150094.pdf](http://trade.ec.europa.eu/doclib/docs/2012/november/tradoc_150094.pdf)> accessed 14 February 2014

<sup>109</sup> E. COMMISSION, Countries and regions: Mexico (European Commission web site 19 November 2013) <<http://ec.europa.eu/trade/policy/countries-and-regions/countries/mexico/>> accessed 14 February 2014

<sup>110</sup> “Our share of total Mexican trade, fell from nearly 11% in 1991 to 6% in 1999, and for the first half of the booming 1990s, EU-Mexico trade barely increased at all even in absolute terms. Whether this was trade diversion, trade distraction, trade delusion, I don’t know.”; Mexico and the EU: Married Partners, Lovers, or Just Good Friends?, 3

<sup>111</sup> The North American Free Trade Agreement (hereinafter: NAFTA) is an agreement signed by Canada, Mexico and the United States, creating a trilateral based trade bloc in North America. The agreement came into force on January 1, 1994. It superseded the Canada-United States Free Trade Agreement.

<sup>112</sup> Mexico also has FTAs with Bolivia, Chile, Columbia, Peru, Uruguay, Venezuela and others.

trade diversion, with the objective of gaining NAFTA equivalent access to the Mexican market, as EU's "NAFTA parity".<sup>113</sup>

FTA with Mexico is broad and comprehensive. Apart from very substantial coverage of the trade in goods,<sup>114</sup> the trade in services and number of other market access issues inherent for "developed" FTAs are included,<sup>115</sup> all with a short transition period. Although the FTA with Mexico in some aspects went further than EU's many previous and future FTAs, no new significant areas are regulated, and as a consequence this agreement won't be further analysed.

### 6.3. Iraq

Trade and Cooperation Agreement from 2012,<sup>116</sup> marks the first ever contractual relation between the EU and Iraq. The EU is the major trading partner for Iraq, second in importance after USA, with its trade predominantly characterized by oil exports, making it important strategic energy partner for the EU.<sup>117</sup>

When analysing the agreement we can see two aspects of it.<sup>118</sup> First one is non-trade related,<sup>119</sup> while the second one is regulating trade and investment.<sup>120</sup> Essentially non-preferential and quite simple trade agreement mainly incorporates basic WTO rules, since Iraq is not yet a member of WTO, thus helping Iraq to prepare for eventual WTO accession.<sup>121</sup> Agreement improves and clarifies trade relations between Iraq and the EU, covering trade in goods, trade in services and few trade related issues.

Only significant novelty brought by this agreement, where preferential market access is given to EU companies is public procurement.<sup>122</sup> Public procurement has already been

<sup>113</sup> Mexico and the EU: Married Partners, Lovers, or Just Good Friends?, 3; See more: J. REITER, The EU-Mexico Free Trade Agreement: Assessing the EU approach to regulatory issues, 2003, RMEI 62 - 99

<sup>114</sup> 95 per cent of current total trade is covered; J. REITER, The EU-Mexico Free Trade Agreement: Assessing the EU approach to regulatory issues, 72

<sup>115</sup> Such as: investment and related payments, intellectual property, public procurement, competition, advanced dispute settlement procedure and framework for future negotiation.

<sup>116</sup> The agreement is in force provisionally until the ratification procedures for the whole agreement are completed.

<sup>117</sup> Mineral fuels, lubricants and related materials constitute 99,7% of total trade flows, making €8,1 billion surplus in favour of Iraq. Total bilateral trade between the EU and Iraq amounted to over €13 billion; D. G. for TRADE, European Union, Trade in goods with Iraq, 2013 <[http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113405.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113405.pdf)> accessed 2 March 2014.

<sup>118</sup> Cf. PARLIAMENT Recommendation (EP) 0411/2012 of 11 December 2012 on the draft Council decision on the conclusion of a Partnership and Cooperation Agreement with Iraq [2012] OJ L71

<sup>119</sup> This part includes the introduction of an annual dialogue at ministerial and senior official level on many topics, including democracy, rule of law, peace, reconciliation, human rights, foreign and security policy, and regional security, as well as topics regarding some present issues, such as combating the terrorism, prevention of the illegal arms trade, countering proliferation of weapons of mass destruction, etc.; After the signing ceremony High Representative of the EU for Foreign Affairs and Security Policy Catherine Ashton said that "this agreement is above all a symbol of the EU's wish to be a positive partner for Iraq in its democratic efforts" C. ASHTON, Remarks by High Representative Catherine Ashton following the signature of EU-Iraq Partnership & Cooperation Agreement, (Speech in Brussels on 11 May 2012 European Union External Action website 2012)

<sup>120</sup> Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Iraq, of the other part (signed 11 May 2012) OJ L 204/22 art 8

<sup>121</sup> Iraq applied for the WTO accession in September 2004. Accession efforts are being supported by EU, since it is believed that „a WTO membership will contribute to enhancing structural reform in the country as well as Iraq's reintegration into the multilateral trading system". Working Party is still examining Iraq's foreign trade regime; EU-ROPEAN COMMISSION, Countries and Regions: Iraq, <<http://ec.europa.eu/trade/policy/countries-and-regions/countries/iraq/>> accessed 5 March 2014; WORLD TRADE ORGANIZATION, Accessions: Iraq <[http://www.wto.org/english/thewto\\_e/acc\\_e/a1\\_iraq\\_e.htm](http://www.wto.org/english/thewto_e/acc_e/a1_iraq_e.htm)> accessed 5 March 2014

<sup>122</sup> Partnership and Cooperation Agreement OJ L 204/30 art 41; It must be noted that because of its development, financial and trade needs, Iraq will benefit from the transitional ten year time period of asymmetrical application Ibid OJ L 204/37 art 59



brought up by several previous FTAs, but only basic provisions could be found, while Partnership and Cooperation Agreement with Iraq offered at that time the most detailed provisions on this topic. All public procurements are covered, except cases explicitly set out.<sup>123</sup> General principle is that each party, including its procuring entities shall offer “*treatment no less favourable*” than treatment given to domestic goods, services and suppliers.<sup>124</sup> Rules of conducting procurement are precisely given in order to ensure that procurement is held in a “*transparent and impartial manner that avoids conflicts of interest and prevents corruptive practices*”,<sup>125</sup> and that implies the accurately prescribed obligations for the parties.<sup>126</sup>

## 7. The latest stage of the evolution

In the last group of FTAs, we have the most advanced EU FTAs being in force at the moment when this paper has been written. In the latest stage of the evolution of the EU's foreign trade policy there are FTAs with Chile, CARIFORUM States,<sup>127</sup> Colombia and Peru (together), Central America<sup>128</sup> and South Korea. The question is - what was the motivation of the EU to conclude (such advanced) FTAs with countries that are at least more than 5,000 kilometres away from Europe? Unlike in the case of Western Balkan countries, the Mediterranean region, African states and (in part) the first generation of the FTAs; these FTAs were overwhelmingly motivated by pure commercial and economic factors.

These FTAs are the most comprehensive free trade agreements ever negotiated by the EU. Albeit, they fall short to some FTAs concluded by other countries, such as NAFTA and USA-Korea FTA that have investor state dispute settlements (hereinafter: ISDS);<sup>129</sup> these agreements are unprecedented for EU both in their scope and in the speed at which trade barriers were removed. By the end of the transitional periods, virtually all import duties between the two economies have been removed.<sup>130</sup> Exporters and importers of all industrial products and almost all agricultural products are able to trade without having to pay duties. Additionally, the FTAs break new ground in tackling significant non-tariff barriers to trade, with a specific focus on the automotive, pharmaceuticals, medical devices and electronics sectors.<sup>131</sup> These agreements also create new opportunities for market access in services and investments, and lead to major advances in areas such as intellectual property, government procurement and competition policy.<sup>132</sup>

One can identify three mostly commercial motivations for these FTAs: forging strategic links with countries or regions experiencing rapid economic growth; enforcement of

<sup>123</sup> Ibid OJ L 204/31 art 42

<sup>124</sup> Ibid OJ L 204/32 art 43

<sup>125</sup> Ibid

<sup>126</sup> Ibid OJ L 204/30 art 41 - OJ L 204/37 art 59

<sup>127</sup> As aforementioned, although EU had political and economic motivations for the FTA with CARIFORUM States similar to ones with the EPAs, the FTA with CARIFORUM States will be elaborated in this group because of its complexity and developed provisions.

<sup>128</sup> Countries referred to as belonging to the „*Central America*“ are: the Republic of Costa Rica, the Republic of El Salvador, the Republic of Guatemala, the Republic of Honduras, the Republic of Nicaragua and the Republic of Panama.

<sup>129</sup> ISDS are provisions in trade treaties and investment agreements that allow investors to bring proceedings against a foreign government that is a party to the treaty. Importantly, these proceedings are brought under international law, thereby providing more certainty that the investor will have their claim adjudicated in an impartial manner. If the government is found to be in breach of its treaty obligations, the harmed investor can receive monetary compensation or other forms of redress.

<sup>130</sup> EUROPEAN COMMISSION, The EU-Korea Free Trade Agreement in practice, 2011, POEU 1

<sup>131</sup> Ibid

<sup>132</sup> Ibid

international trade rules (such as intellectual property rights);<sup>133</sup> and neutralizing potential trade diversion resulting from FTAs between third countries.<sup>134</sup> For instance, after the USA concluded the FTA with Chile, the EU-Chile FTA was motivated by promotion of EU relations with Latin America and by a desire to neutralize the potential trade diversion in favour of the USA by ensuring equivalent access for EU exporters and service providers.<sup>135</sup> Other EU FTA initiatives, such as the EU–Central America FTA and EU–South Korea FTA, have also followed FTAs negotiated or envisaged with the USA and to a lesser extent Japan.<sup>136</sup>

The EU–South Korea FTA is the most ambitious trade agreement ever negotiated by the EU; it is also the EU's first trade deal with an Asian country. The agreement is expected not only to boost bilateral trade and economic growth in both the EU and South Korea, but also to have a wider impact in Asia and elsewhere by signalling the EU's openness to doing business with third countries and its commitment to free trade.<sup>137</sup>

Agreements from this generation contain (more or less) all provisions and areas mentioned in the previous chapters. Yet these FTAs are more voluminous and nuanced than the previous trade agreements.<sup>138</sup> And that is nowhere more true than in the intellectual property chapter. Although protection of intellectual property rights was mentioned in previous EU agreements, the authors think that it did not deserve to be mentioned, at least until now. The reason for this is that the FTAs did not bring anything new to the intellectual property rights (hereinafter: IPR, or just: IP for intellectual property) protection; they only made a reference to the international standards and international treaties. In contrast, the rest of the new generation FTAs has detailed provisions regarding copyright and related rights, duration of authors' rights,<sup>139</sup> trademarks,<sup>140</sup> geographical indications,<sup>141</sup> designs,<sup>142</sup> patents,<sup>143</sup> plant varieties and protection of undisclosed information.<sup>144</sup>

The new generation of FTAs goes a step further in IP protection and includes provisions on enforcement of IPR.<sup>145</sup> The means for enforcement of IPR are: seizure, penalties, damages, confiscation, liability of legal persons, liability of online service providers - "*mere conduit*", border measures, codes of conduct and criminal sanctions.

<sup>133</sup> The EU and the USA advocate enforcement of intellectual property rights because they are big producers, while their commercial partners are big consumers of goods protected by intellectual property rights such as medicines, industrial products, IT, software, films, books, etc.

<sup>134</sup> S. WOOLCOCK, European Union policy towards Free Trade Agreements, 2007, 3 ECIPE 1, 3

<sup>135</sup> Ibid

<sup>136</sup> Ibid

<sup>137</sup> The EU–Korea Free Trade Agreement in practice, 1

<sup>138</sup> These FTAs have in average 285,6 articles, while all the other FTAs have in average only 80,6 articles.

<sup>139</sup> See more: EU–South Korea FTA [2011] OJ L 127/44 art 10.6

<sup>140</sup> See more on trademark provisions: Economic Partnership Agreement between the CARIFORUM States, of the one part, and the European Community and its Member States, of the other part (signed 15 December 2010) OJ L 289//48 art 144

<sup>141</sup> See more on geographical indications provisions: Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part (signed 26 June 2012, entered into force 01 August 2013) OJ L 354/65 art 207

<sup>142</sup> See more on industrial design provisions: Agreement Establishing an Association between Central America, on the one hand, and the European Union and its Member States, on the other (signed 29 June 2012) OJ L 346/73

<sup>143</sup> See more on patents provisions: EU–South Korea FTA OJ L 127/50 and OJ L 127/51.

<sup>144</sup> See more: EU–Colombia and Peru Trade Agreement OJ L 354/63 art 196

<sup>145</sup> See more: General Obligations: 1. The Parties reaffirm their rights and commitments under the TRIPS Agreement and in particular of its Part III, and shall provide for the following complementary measures, procedures and remedies necessary to ensure the enforcement of the intellectual property rights. Those measures, procedures and remedies shall be fair, proportionate and equitable, and shall not be unnecessarily complicated or costly, or entail unreasonable time-limits or unwarranted delays (1). 2. Those measures and remedies shall also be effective and dissuasive and shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.

Besides provisions on enforcement of IPR, the FTAs in the latest stage of the evolution moved away from proclamations and generic words, such as “*cooperation*”, “*dialogue*”, “*promotion*” and offered more substance on enforcement and implementation of the agreements in general. For instance, the EU-Korea FTA foresaw the establishment of a six specialised committees<sup>146</sup> and seven working groups<sup>147</sup> between the two parties to monitor the implementation for ensuring the proper operation of the EU-Korea FTA, while the Trade Committee may decide to establish other specialised committees and working groups in order to assist its tasks.<sup>148</sup> On a higher level, meeting annually, the Trade Committee co-chaired by the Minister for Trade of Korea and the Member of the European Commission responsible for Trade or their respective designees will manage the agreement.<sup>149</sup> These different bodies provide an opportunity both to seek resolution of market access concerns and to engage in closer regulatory cooperation.<sup>150</sup>

Another upgrade from the previous agreements is articles on services. The scope of these FTAs includes diverse services sectors: international maritime transport services,<sup>151</sup> financial services,<sup>152</sup> telecommunication services,<sup>153</sup> postal and courier services,<sup>154</sup> computer services,<sup>155</sup> tourism services,<sup>156</sup> electronic commerce,<sup>157</sup> professional services such as legal, accounting, engineering and architectural services, and a large variety of other business services. The most advanced agreement, the EU-Korea FTA commits parties to market access liberalisation in more than 100 sectors.<sup>158</sup> These provisions ensure that EU service suppliers and investors will benefit from the growing need of countries for imports of services and long-term foreign direct investment.<sup>159</sup> The FTAs preferentially open the services market and provide the important legal certainty that EU services suppliers and investors will not be discriminated against *vis-à-vis* their domestic competitors.

The FTAs bring a new approach on trade and sustainable development. The parties recognise that it is not their intention in these FTAs to harmonise the labour or environment standards of the parties, but to strengthen their trade relations and cooperation in ways that promote sustainable development.<sup>160</sup> Yet, the new FTAs commit parties to consulting and cooperating as appropriate on trade-related labour and employment issues of mutual

<sup>146</sup> Specialised committees: Committee on Trade in Goods, Committee on Sanitary and Phytosanitary Measures, Customs Committee, Committee on Trade in Services, Establishment and Electronic Commerce, Committee on Trade and Sustainable Development, Committee on Outward Processing Zones on the Korean Peninsula, Committee on Cultural Cooperation.

<sup>147</sup> Working groups: Working Group on Motor Vehicles and Parts, Working Group on Pharmaceutical Products and Medical Devices, Working Group on Chemicals, Working Group on Trade Remedy Cooperation, Working Group on Mutual Recognition Agreements on Services, Working Group on Government Procurement, Working Group on Geographical Indications, Enforcement of trade contracts.

<sup>148</sup> E. COMMISSION, The EU-Korea Free Trade Agreement in practice, 2011, POEU 17

<sup>149</sup> EU-South Korea FTA OJ L 127/69 art 15.1

<sup>150</sup> The EU-Korea Free Trade Agreement in practice, 17

<sup>151</sup> EU-Chile Association Agreement OJ L 352/35 art 106

<sup>152</sup> EU-CARIFORUM States Economic Partnership Agreement OJ L 289//37 art 103

<sup>153</sup> EU-Central America Association Agreement OJ L 346/52 art 185

<sup>154</sup> EU-South Korea Free Trade Agreement OJ L 127/34 art 7.26

<sup>155</sup> EU-Central America Association Agreement OJ L 346/51 art 180

<sup>156</sup> EU-CARIFORUM States Economic Partnership Agreement OJ L 289//40 art 110. Only this FTA has provisions on „tourism services“. The reason for this is a dominant position of tourism industry in the economies of CARIFORUM states.

<sup>157</sup> See more on electronic commerce provisions: EU-Colombia and Peru Trade Agreement OJ L 354/51 art 162.

<sup>158</sup> The EU-Korea Free Trade Agreement in practice, 16

<sup>159</sup> Ibid

<sup>160</sup> EU-South Korea FTA OJ L 127/62 art 13.1

interest and with respect to negotiations on trade-related environmental issues of mutual interest.<sup>161</sup>

## 8. Conclusion

In the end, we can conclude that the EU's foreign trade policy has gone through an evolution. Although there are thirty-two different FTAs with different rationales, scopes, political and economic motivations, there is one thing that they have in common: they have developed significantly in past forty years. With some exceptions, FTAs have gone through profound changes as the newer generations were getting „wider“ and „deeper“ than the previously concluded agreements.

Firstly, areas regulated in previous stages of development are also present in the FTAs from the new generations, but they are generally dealt more comprehensively and with the higher reaching impact. A great example of this are provisions on services, which were not even a part of the FTAs at the very start, but became later a frequent component and subsequently became more and more detailed as they went through the different stages of the evolution, at the end liberalising services in more than a hundred sectors. Along with the more detailed provisions, new generations of FTAs include more effective means of enforcement and implementation.

Secondly, number of areas regulated in new agreements increased substantially. First generation of FTAs contained only basic content necessary to partially liberalize trade in goods. As the time passed by agreements were getting more and more ambitious, and included further liberalization in trade in services, capital and workers movement, as well as various advanced and not strictly to trade related areas: environment, intellectual property rights, government procurement, etc. The EU customizes and offers different FTAs to different countries depending on their development level and EU's economic and political goals. After the research and the legal and political analysis of EU's FTAs, the paper comes to the conclusion that trade agreements are now much more than just economics of import and export; they have become a major political weapon with great social, environmental and cultural consequences.

## Evencija vanjske trgovinske politike Evropske Unije

U ovome znanstveno-istraživačkom radu istražiti će se i dati odgovor na pitanje kako se razvijala vanjska trgovinska politika EU i koji su bili motivi za njezinu evenciju. Odgovor na to temeljno pitanje rada postignut je pomoću istraživanja te pravne analize svih ugovora o slobodnoj trgovini EU koji su na snazi, uz dodatak ugovora o slobodnoj trgovini između EU i RH koji više nije na snazi. Autori smatraju da je važno poznavati prošlost kako bi se moglo razumijeti sadašnjost i raspravljati o potencijalnoj budućnosti. Radi toga, rad sadrži klasifikaciju svih trgovinskih ugovora EU koji imaju različite ciljeve, djelokruge, političke i ekonomske motivacije. Klasifikacija kao cjelina predstavlja evenciju trgovinskih ugovora EU i samim time, općenito evenciju vanjske trgovinske politike EU.

*Ključne riječi: ugovor o slobodnoj trgovini, trgovinska politika, evencija, razvoj, Evropska Unija*

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<sup>161</sup> Ibid, Art 13.4 and 13.5