

## REGIONAL TRADE AGREEMENTS: TOOL TO PROMOTE CLIMATE – SMART AND SUSTAINABLE TRADE

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### ABSTRACT

*Balancing economic prosperity with environmental sustainability is crucial in today's global landscape. As climate change poses urgent challenges, economic development remains a priority, particularly in disadvantaged regions. This paper examines the rise of environmental and climate-related provisions in trade agreements, focusing on the Asia-Pacific and Western Balkans regions. Historically, trade agreements had minimal environmental focus, but recent trends show a surge in such provisions, reflecting a growing recognition of environmental challenges. The Asia-Pacific region, heavily impacted by climate change, increasingly incorporates environmental clauses in Regional Trade Agreements (RTAs), as seen in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). Similarly, amid European Union integration, the Western Balkans embed environmental clauses in trade pacts like Central European Free Trade Agreement (CEFTA-2006), influenced by EU accession aspirations. The paper examines the emergence of environmental and climate-smart provisions in free trade agreements, before focusing on regional*

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*trade agreements in the Asia-Pacific Region and the Western Balkans. In addition, a qualitative analysis using NVivo 14 software is conducted, employing text search and word frequency analyses, to assess regional trade agreements in the Asia-Pacific and Western Balkan countries. The results show varying levels of commitment to environmental standards across the examined agreements, with the Asia-Pacific countries generally showing greater integration of climate considerations compared to the Western Balkans. Going forward, broader cooperation is essential for fostering sustainable trade practices globally.*

**Key words:** *regional trade agreements, climate-smart trade, sustainable trade, Asia-Pacific countries, Western Balkans countries, NVivo software.*

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## 1. INTRODUCTION

The world faces a critical crossroads in this era marked by the intertwined goals of economic progress and environmental protection. The pressing issue of climate change demands swift and innovative solutions, while global communities strive to promote economic well-being, especially in regions combating poverty and inequality. Climate-smart and sustainable trade is a concept that emerges at this convergence of aspirations and imperatives.

Climate-smart and sustainable trade represents a fundamental shift in how nations approach international trade. It acknowledges that the traditional trade model must evolve to address urgent environmental and climate-related challenges while simultaneously advancing goals related to sustainable development. This concept encapsulates the notion that trade, guided by principles of climate responsibility and environmental stewardship, can be a catalyst for positive change.<sup>1</sup> Climate and environment are very often used interchangeably. However, environmental issues encompass a broader spectrum of topics related to the natural world and the interactions between human activities and the environment including but not limited to climate change. Both climate-related and environmental issues are interconnected and critical for addressing global sustainability challenges.<sup>2</sup>

As a result of the inability to tackle climate problems on a global level, many countries have adopted a policy for inclusion of such provisions in their free trade agreements (FTAs). There is an ongoing debate about the advantages and disadvantages that climate-smart provisions have on international trade

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<sup>1</sup> World Trade Organization Secretariat: *Trade Policy Tools for Climate Action*, Geneva: World Trade Organization, 2023.

<sup>2</sup> Deere Birkbeck, C.: *Greening International Trade: Pathways Forward*, Geneva: Global Governance Centre and the Forum on Trade, Environment & the SDGs (TESS), May 2021.

and the countries' economic development;<sup>3</sup> at the same time, mixed evidence has been found on whether FTAs ease or mitigate environmental issues.<sup>4</sup> Nevertheless, it is undisputed that in the past decades, the prominence of environmental provisions in FTAs has increased significantly.

The paper first analyzes the emergence of environmental and climate-related provisions in FTAs by attempting to define climate and environment-related provisions, assess the main reasons for the increased number of such provisions in the past decades, and provide an overview of statistical data related to the types of environmental and climate-related provisions contained in FTAs. Afterward, in the third section, the paper aims to analyze those provisions in trade agreements in the Asia-Pacific region. It further seeks to compare the trade agreements in this region with the regional trade agreements in the Western Balkans. Climate-smart provisions in the regional trade agreements are explained in the fourth section of the paper. The Asia-Pacific and Western Balkans regions were chosen due to the acute environmental vulnerabilities and varying levels of economic development present in each region, which requires tailored approaches to integrating climate-smart provisions in RTAs. Additionally, the Asia-Pacific is at the forefront of climate change impacts, highlighting the need for effective policy responses through trade, while the Western Balkans represent a critical area for EU accession, where aligning trade agreements with EU environmental standards is vital for fostering sustainable growth and regional stability. To support the analysis, a software package NVivo 14 is utilized for qualitative analysis that provides results displayed through word clouds, word frequency, and word trees. The results of the NVivo analysis of the regional trade agreements are presented in the fifth section of the paper. The sixth section provides conclusion.

## **2. THE EMERGENCE OF ENVIRONMENTAL AND CLIMATE-SMART PROVISIONS IN FREE TRADE AGREEMENTS**

Traditionally, climate-related and environmental considerations have played a marginal role. Within the framework of the World Trade Organization (WTO), environmental issues are primarily addressed through exception clauses de-

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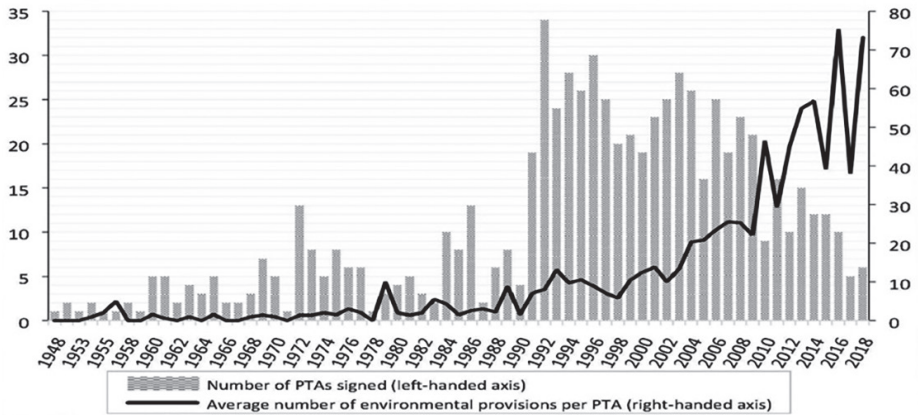
<sup>3</sup> Berger A., Brandi, C., Bruhn, D.: Environmental provisions in trade agreements: promises at the trade and environment interface, *German Development Institute Briefing Paper*, (16) 2017; also Morin, J. F., Dür, A., Lechner, L.: Mapping the trade and environment nexus: Insights from a new dataset, *Global Environmental Politics*, 18(1) 2018, pp. 122-139.

<sup>4</sup> Tian, K., et al.: Regional trade agreement burdens global carbon emissions mitigation, *Nature Communications*, 13(1) 2022.

signed to safeguard the environment (such as the General Agreement on Tariffs and Trade – GATT, Article XX). Nevertheless, empirical data indicates a rise in the inclusion of environmental provisions in trade agreements over recent decades. A comprehensive study by Prof. Morin scrutinized over 660 trade agreements spanning the period from 1947 to 2020, resulting in the most extensive original dataset on trade and environment (TRade and ENvironment Database – TREND).<sup>5</sup>

According to this dataset, at the global level, the prevalence of environmental provisions within trade agreements began to surge in the 1990s, reaching its zenith in 2016. As depicted in Figure 1, during the 1990-2000 period, more trade agreements were, on average, concluded each year, albeit containing fewer environmental provisions compared to the 2010-2018 period.

**Figure 1. Average number of preferential trade agreements and average number of environmental provisions per year**



Source: Brandi, C. et al.: Do environmental provisions in trade agreements make exports from developing countries greener?, *World Development*, 129(May) 2020, pp. 104899.

Furthermore, a study conducted by Morin involved the categorization of the environmental provisions within trade agreements.<sup>6</sup> According to the study the most frequently utilized provisions are exception clauses, specifically designed for the conservation of natural resources and the protection of plants

<sup>5</sup> Berger, A. et al.: *TREND analytics – Environmental Provisions in Preferential Trade Agreements*, Bonn: German Development Institute, 2017.

<sup>6</sup> Morin, J. F., Dür, A., Lechner, L.: Mapping the trade and environment nexus: Insights from a new dataset, *Global Environmental Politics*, 18(1) 2018, pp. 122-139.

and animals, which were utilized in around 300 agreements.<sup>7</sup> Similarly, a research conducted by the Organization for Economic Co-operation and Development (OECD) in 2023 has highlighted that the most frequently incorporated environmental provisions involve “carving out exceptions” for environmental objectives, present in over 80% of all RTAs.<sup>8</sup> These clauses, often referred to as “carve-out clauses” or “safeguard clauses,” allow countries to implement specific measures for environmental protection, even if such measures might be deemed trade-restrictive under normal circumstances.

Environmental protection has also been the subject of disputes in the World Trade Organization (WTO). Under the GATT, from 1948 to 1994, six-panel proceedings examining environmental or human health-related measures under GATT Article 20 (XX) were completed.<sup>9</sup> In the Appendix we provide Table A1 with the cases brought under GATT and WTO on environmental issues. As evident from Table A1, only three of those six reports were adopted. In 1995, the WTO’s dispute settlement procedure took over from GATT. Since then, three such proceedings have been completed. From the analysis of these cases, it can be derived that the USA has been most often accused of protectionist measures concerning environmental issues, along with Canada and the EU. In addition, both the USA and the EU have a history of losing WTO disputes over similar programs, the US in the context of local content requirements for renewable energy and the EU for its efforts to protect its domestic biodiesel market from subsidized overseas competition that also happens to come from deforested land.<sup>10</sup>

While we have underscored the correlation between climate and the environment, it’s important to recognize that environmental protection extends beyond the realm of climate change. The existing data predominantly focuses on environmental provisions, and although climate change is not explicitly mentioned, it doesn’t imply a neglect of climate-related aspects. Provisions related to climate change are found more broadly, encompassing references to climate-related Multilateral Environmental Agreements (MEAs), the promotion of environmental goods and services, encouragement of fossil fuel subsidy

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<sup>7</sup> Ibid.

<sup>8</sup> Organization for Economic Co-operation and Development (OECD): *OECD work on Regional Trade Agreements and the environment Policy Perspectives*, Paris: OECD Environment Directorate, February 2023.

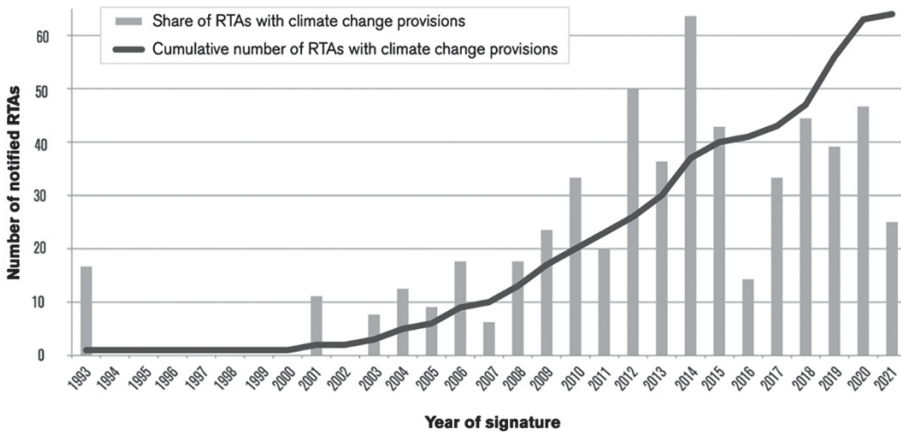
<sup>9</sup> World Trade Organization: Environmental disputes in GATT/WTO, <[https://www.wto.org/english/tratop\\_e/envir\\_e/edis00\\_e.htm](https://www.wto.org/english/tratop_e/envir_e/edis00_e.htm)>, last accessed on 02/11/2024.

<sup>10</sup> Meyer, T.: Copernican Revolution or Green Protectionism?, in: Claussen, K., Vidigal, G. (eds.): *The Sustainability Revolution in International Trade Agreements*, Oxford: Oxford University Press, forthcoming 2024..

phase-outs, etc.<sup>11</sup> The OECD notes that climate-related provisions are present in at least 212 RTAs out of the 775 RTAs signed between 1947 and 2021.<sup>12</sup>

According to WTO research, there is a growing presence of explicit provisions on climate change in RTAs.<sup>13</sup> However, in comparison to other types of environmental provisions, explicit climate-related provisions tend to be less detailed. Among the 349 RTAs notified to the WTO, approximately 18%, or 64 agreements, include at least one provision explicitly referring to climate change, global warming, greenhouse gas reduction, or the establishment of a low-emission economy.<sup>14</sup>

**Figure 2. Total number and share of regional trade agreements with climate change provisions.**



Source: Monteiro, J. A, et al.

As depicted in Figure 2, there has been a notable rise in the number of climate-related provisions since 2010, accompanied by a cumulative increase in the number of RTAs featuring such provisions. Climate change provisions within trade agreements can take diverse forms. Some underscore the significance of addressing climate change, while others reference developing and adopting climate change policies and adhering to the United Nations Framework Convention on Climate Change (UNFCCC). The prevalent type of climate change

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Monteiro, J. A., Chobanova, S., Ramos, D.: *WTO Trade and Climate Change, Climate change in regional trade agreements*, Geneva: World Trade Organization, 2022.

<sup>14</sup> Ibid.

provisions, identified in 58 regional trade agreements, involves recognizing climate change mitigation and adaptation as collaborative action areas.<sup>15</sup>

Various reasons may drive nations to insist on environmental and climate provisions in regional trade agreements. While developing countries may perceive such provisions as a form of “green protectionism,” research from 2020 suggests that environmental provisions do not significantly impede the exports of developing countries.<sup>16</sup> From a subjective standpoint, pinpointing the precise motivations for countries’ insistence on including environmental and climate-related provisions can be challenging, as official representatives may not always disclose their motives. However, from a more objective or rational perspective, the general motivations for incorporating environmental and climate-related objectives in RTAs include contributing to the overarching goal of sustainable development; pursuing an international environmental agenda; ensuring a level playing field among Parties to the agreement and enhancing environmental cooperation.<sup>17</sup>

Some authors question the effectiveness of environmental and climate-smart provisions. According to Lottici et al., although the protection of the environment is a legitimate and desirable goal for the international community, the environment is being used by certain developed countries to justify protectionist measures endowed with a higher degree of social legitimacy.<sup>18</sup> They consider that standards like carbon footprint labelling and border carbon adjustments can hinder market access for developing countries’ exports and would be in violation of the WTO’s non-discriminatory principles or shift the burden of environmental responsibility onto developing nations.<sup>19</sup> Finally, they point out that liberalization of environmental goods could favour exports from developed countries while restricting the technological growth of developing economies.<sup>20</sup> Similarly, Lester and Watson have argued that trade liberalization would better promote sustainability than trade barriers.<sup>21</sup>

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<sup>15</sup> Ibid.

<sup>16</sup> Brandi, C., et al.: Do environmental provisions in trade agreements make exports from developing countries greener?, *World Development*, 129(May) 2020, pp. 104899

<sup>17</sup> Organization for Economic Co-operation and Development (OECD): *OECD work on Regional Trade Agreements and the environment Policy Perspectives*, Paris: OECD Environment Directorate, 2023.

<sup>18</sup> Lottici M. V., Galperin C., Hoppstock J.: “Green Trade Protectionism”: An Analysis of Three New Issues that Affect Developing Countries, *Chinese Journal of Urban and Environmental Studies*, 2(2) 2014, pp. 1450016.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Lester, S., Watson, K.: Free Trade in Environmental Goods: The Trade Remedy Problem, *Cato Institute Free Trade Bulletin*, (54) 2013.

On the other hand, some authors are proponents of environmental and climate-smart provisions and deem them as necessary steps that would not hinder trade.<sup>22</sup> According to Brandi et al., environmental provisions do not substantially limit the exports of developing countries.<sup>23</sup> Their research suggests that including environmental provisions in RTAs does not appear to create a general trade-off between environmental and economic outcomes.<sup>24</sup> Even more, they suggest that environmental provisions can help to decrease dirty exports and promote green exports from developing countries.<sup>25</sup> In addition, some authors highlight the importance of achieving legitimate environmental goals, like preventing deforestation, which is crucial for mitigating climate change. Abman et al. suggest that environmental provisions in RTAs contribute to reducing deforestation, particularly in ecologically vulnerable areas, by primarily restricting the expansion of agricultural land, thereby helping to conserve forests.<sup>26</sup> Some authors also propose methods for the incorporation of environmentally related subsidies in RTAs that would not be in violation with WTO's provisions.<sup>27</sup>

### **3. CLIMATE-SMART PROVISIONS IN THE REGIONAL TRADE AGREEMENTS IN ASIA-PACIFIC**

Asia, with its rising economies and climate challenges, has become a hotspot for integrating trade and climate action. Research conducted by the International Monetary Fund (IMF) indicates that Asia is the region that has been hit the hardest by global warming<sup>28</sup>. Temperatures are rising two times faster in Asia than the global average, making the climate change issue one of the most pressing problems on the agenda of the countries from the region. Considering this, RTAs in the region are evolving to include climate-smart and environ-

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<sup>22</sup> Brandi C., Morin F.: *Trade and the Environment – Drivers and Effects of Environmental Provisions in Trade Agreements*, Cambridge University Press, 2023.

<sup>23</sup> Brandi, C. et al.: Do environmental provisions in trade agreements make exports from developing countries greener?, *World Development*, 129(May) 2020, pp. 104899.

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

<sup>26</sup> Abman, R. M., Lundberg, C. C., Ruta, M.: The effectiveness of environmental provisions in regional trade agreements, *Policy Research Working Paper Series*, (9601) 2021.

<sup>27</sup> Yamaguchi, S.: Greening regional trade agreements: Subsidies related to energy and environmental goods, *OECD Trade and Environment Working Papers*, (01) 2020.

<sup>28</sup> Dabla-Noris, E., Nozaki, M., Daniel, J.: Asia's climate emergency, *International Monetary Fund Finance & Development Magazine*, September 2021.

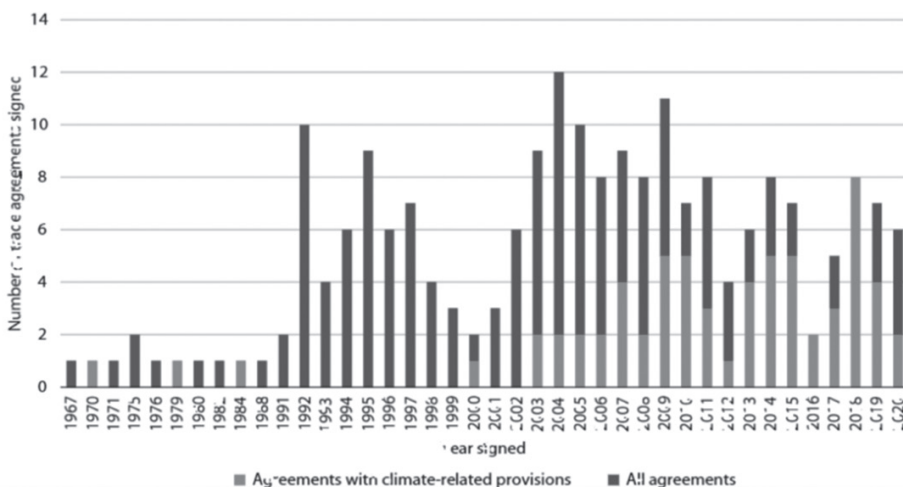


mental provisions. This section aims to examine the most significant RTAs and the climate and environment-related provisions contained therein.

As of 2020, there are more than 200 RTAs signed and in force, and almost 100 are under negotiations.<sup>29</sup> In the region there is also a growing trend for the inclusion of environmental or climate-related provisions. As evident from Figure 3, from 2009 at least half of the agreements in the region contain climate-related provisions.

The climate-related provisions go beyond the standard of environmental exceptions. According to a report by United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), United Nations Environment Programme (UNEP), and UN Trade and Development (UNCTAD) from 2021 almost half of the RTAs that contain climate-related provisions contain a dedicated environment, climate, or sustainable development chapter.<sup>30</sup>

**Figure 3. All RTAs vs. RTAs with climate-related provisions in Asia-Pacific region.**



Source: ESCAP, UNEP & UNCTAD Report

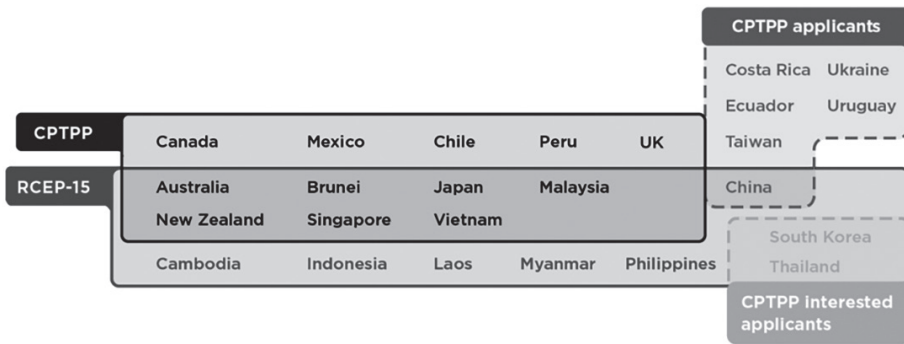
While there are many FTAs concluded by countries from Asia, the two most notable regional agreements are the Comprehensive and Progressive

<sup>29</sup> ESCAP, UNEP & UNCTAD: *Asia-Pacific trade and investment report 2021: Accelerating climate-smart trade and investment for sustainable development*, United Nations publication, 2021.

<sup>30</sup> Ibid.

Agreement for Trans-Pacific Partnership (CPTPP) and the Regional Comprehensive Economic Partnership (RCEP). These two latest megaregional agreements are most economically and politically significant for the region of Asia. The main difference is that the RCEP is comprised of countries from Asia, whereas the CPTPP has members from other continents as well. Figure 4 illustrates the current members of both trade agreements including countries that are formally applicants to the CPTPP, and countries that have expressed interest in applying for membership to the RCEP.<sup>31</sup>

**Figure 4. Members and applicants to the CPTPP and RCEP**



Source: Peterson Institute for International Economics (PIIE)

While both regional trade agreements aim to regulate areas of trade comprehensively, there is a notable difference and stark contrast in their ambition concerning environmental and climate issues. The CPTPP contains an extensive and detailed chapter on the environment, covering commitments to Multilateral Environmental Agreements, protection of the ozone layer, protection of the marine environment from ship pollution, corporate social responsibility, voluntary mechanisms to enhance environmental performance, protection of biodiversity, transition to a low emissions and resilient economy, environmental goods and services as well as rules for environmental cooperation, consultations, and dispute resolution.<sup>32</sup> In this sense, the CPTPP is truly a monumental regional agreement where major efforts are made through a comprehensive set of rules aimed at the protection of the environment. The RCEP on the other

<sup>31</sup> Song, A.Y.: Linking trade and environment in emerging economies: Korea’s ambition for making green free trade agreements, *The Pacific Review*, 34(2) 2021, pp. 321-350.

<sup>32</sup> Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP Agreement), 2018, Chapter 20.

hand, does not contain any provisions related either to the environment or climate – change.

Bearing in mind the fact that 7 countries are members of both agreements, and the agreements were negotiated around the same time, the question that imposes itself is why there is such a difference in the approach towards environment and climate in both agreements? According to a report by the ESCAP, UNEP & UNCTAD the answer may be in previous agreements that influenced the final text of both RTAs, countries that were leading the negotiating process as well as the levels of development of participating countries.<sup>33</sup> Some authors suggest that the contents of the CPTPP were predominantly taken from past USA agreements and consequently, reflect the US preferences.<sup>34</sup> The RCEP on the other hand can be viewed as a method for consolidating Association of Southeast Asian Nations (ASEAN+1) agreements, which contain few environmental provisions.<sup>35,36</sup>

Despite the differences between these two megaregional agreements, it remains that the region of Asia has seen a significant shift in regulating environmental and climate-specific aspects. This has also led to several trade agreements on a bilateral level that aim to regulate environmental issues. Regardless of the drivers of this process, it is expected to yield results in the near future, leading to more sustainable and green trade.

#### **4. CLIMATE-SMART PROVISIONS IN THE REGIONAL TRADE AGREEMENTS IN THE WESTERN BALKANS**

Following the accession of Slovenia and Croatia to the EU, the term “Western Balkans” is now commonly used to collectively refer to the remaining countries of the region that are aspiring to join the EU: Albania, Bosnia and Herzegovina, Kosovo,<sup>37</sup> Montenegro, North Macedonia, and Serbia. Often denoted

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<sup>33</sup> ESCAP, UNEP & UNCTAD: *Asia – Pacific Trade and Investment Report 2021, Accelerating Climate-smart Trade and Investment for Sustainable Development*, United Nations publication, 2021.

<sup>34</sup> Allee, T., Lugg, A.: Who wrote the rules for the Trans-Pacific Partnership?, *Research & Politics*, 3(3) 2016, pp. 2053168016658919..

<sup>35</sup> ESCAP, UNEP & UNCTAD: *Asia – Pacific Trade and Investment Report 2021, Accelerating Climate-smart Trade and Investment for Sustainable Development*, United Nations publication, 2021.

<sup>36</sup> Cuyvers, L.: The sustainable development clauses in free trade agreements of the EU with Asian countries: perspectives for ASEAN?, *Journal of Contemporary European Studies*, 22(4) 2014, pp. 427-449.

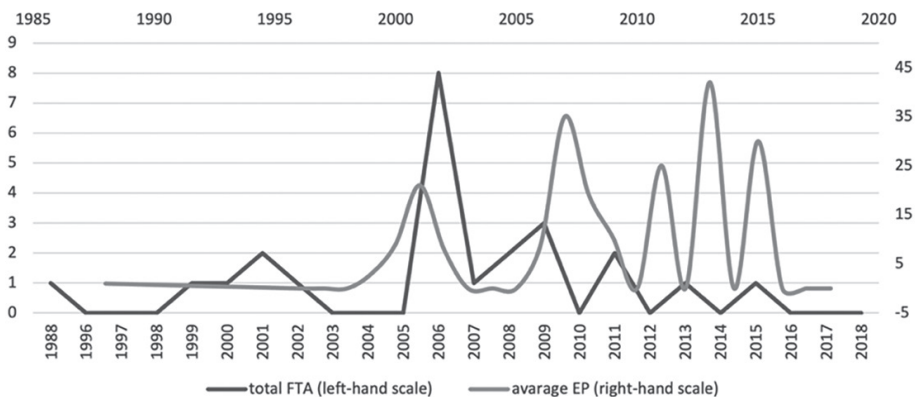
<sup>37</sup> Kosovo’s status is regulated by UN Security Council Resolution 1244.

as the Western Balkan 6 or WB6 in discussions related to regional politics, international relations, regional integration, and EU integration, these countries hold significance in the context of EU enlargement, being at various stages of the accession process.

It's noteworthy that, excluding Albania, all countries in this group gained independence in the last three decades following the dissolution of the former Socialist Federative Republic of Yugoslavia. Consequently, in terms of the dynamics of concluded RTAs, the majority were finalized between 2000 and 2015. While the TREND Analytics platform contains data on all RTAs concluded by the countries of the WB6 group, for this analysis we excluded agreements that are terminated either because the contracting country became an EU member, leading to the termination of the agreement as trade relations fell under the Stabilization and Association Act with the EU, or the agreement was concluded between WB6 countries, and after the CEFTA-2006 agreement, individual RTAs were terminated as trade relations were subsumed under CEFTA-2006.

As depicted in Figure 5, most active RTAs were concluded between 2000 and 2010, with 18 out of 24 RTAs (75%) falling within this period. Correspondingly, a significant portion of environmental provisions, approximately 65%, would be from this timeframe as well. However, it's noteworthy to observe that despite only 4 RTAs being concluded after 2010, they collectively encompass 122 environmental provisions, constituting almost 34% of the total. This suggests a trend towards increased integration of environmental provisions in the trade agreements of Western Balkan countries.

**Figure 5. Total number of RTA concluded between 1945-2018, and an average number of environmental provisions contained within per year in WB countries.**



Source: author's calculations from TREND Analytics

In terms of individual nations, as illustrated in Table 1, Montenegro and Bosnia and Herzegovina have concluded RTAs with the most extensive array of environmental provisions (88 and 99, respectively), while Kosovo has the fewest number of environmental provisions (8).

**Table 1. Number of RTA's and environmental provisions concluded in the period 1945-2018**

COUNTRY	NUMBER OF RTAS	TOTAL NUMBER OF EP	AVERAGE NUMBER OF EP
Albania	4	43	10,75
Bosnia & Herzegovina	4	88	22
Kosovo	1	8	8
Montenegro	5	99	19,8
North Macedonia	5	62	12,4
Serbia	5	60	12
Total	24	360	14,1

Source: author's calculations from TREND Analytics

When examining the composition of RTAs of Western Balkan countries, it becomes apparent that they fall into two primary categories. The first category comprises the CEFTA-2006, a regional free trade agreement involving all countries from the WB6 group, along with Moldova. This agreement serves the dual purpose of fostering deeper regional cooperation and integration while also acting as a preparatory step for EU accession. The second category includes individually negotiated Stabilization and Association Agreements (SAAs) between specific countries from the WB6 group and the EU as part of their accession process. Additionally, a third category consists of RTAs established between a Western Balkans country and third parties, such as European Free Trade Association (EFTA) countries or notable economic partners like Turkey, Ukraine, or the UK. Nevertheless, CEFTA-2006 and the corresponding SAAs hold particular significance as they represent the most pivotal trade agreements concluded by these countries. This is because the primary trading partners for the WB6 countries are either members of the WB6 group or EU member states, leading to the largest volume of trade occurring under the provisions of these agreements.<sup>38</sup>

<sup>38</sup> Toshevska-Trpchevska, K. et al.: Challenges for Western Balkan Countries Regional Integration: the Case of North Macedonia, *European Scientific Journal*, 18(22) 2022, pp. 23-36.

#### *4.1. ENVIRONMENTAL PROVISIONS IN THE CEFTA-2006 AGREEMENT*

The primary text of this agreement is complemented by two annexes and six additional protocols, governing various aspects of trade. According to the TREND database, the CEFTA–2006 agreement encompasses eight environmental provisions.<sup>39</sup> However, upon scrutinizing the comprehensive text of the CEFTA Agreement, it becomes apparent that these provisions exert only an indirect influence on environmental protection. Explicit provisions directly referencing environmental agreements are absent. Instead, a general clause within the preamble emphasizes that the parties must respect obligations undertaken by other international agreements, especially the WTO. The main agreement itself does not explicitly mention the terms “environment” or “climate.” It merely includes a provision related to exceptions, specifying that the agreement would not hinder restrictions justified on the grounds of “the protection of health and life of humans, animals, or plants [...] or the conservation of exhaustible natural resources.”<sup>40</sup> A similar provision is found in Protocol 5 of the Agreement, pertaining to trade in goods, with the exception that the protection of the environment is explicitly listed as a ground for restricting the import, export, or transit of goods.<sup>41</sup> Additionally, Protocol 6, regulating trade in services, explicitly identifies environmental services, encompassing the protection of ambient air and climate, as public utilities subject to potential public monopolies or exclusive rights granted to private operators.<sup>42</sup>

In essence, even though there are several provisions related to environmental protection within CEFTA-2006, they fall short of being comprehensive and cannot be deemed adequate in addressing climate change and safeguarding the environment. Notably, the provisions explicitly referring to environmental protection are included with the purpose of allowing exceptions.

#### *4.2. ENVIRONMENTAL PROVISIONS IN THE SAAS SIGNED BETWEEN THE WESTERN BALKANS COUNTRIES AND EU*

The SAAs represent crucial framework acts that govern the process of a candidate country’s accession to the European Union. While SAAs essentially address a broad spectrum of issues related to the accession process, a significant

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<sup>39</sup> Berger, A. et al.: *TREND analytics – Environmental Provisions in Preferential Trade Agreements*, Bonn: German Development Institute, 2017.

<sup>40</sup> Central European Free Trade Agreement (CEFTA – 2006), 2006, Article 17.

<sup>41</sup> (CEFTA – 2006), Protocol 5, Article 29.

<sup>42</sup> (CEFTA – 2006), Protocol 6, ANNEX III.

component of these agreements focuses on trade relations between the EU and the applicant, categorizing them as free trade agreements.

Given that all candidate countries aiming for EU accession must adhere to high standards in environmental and climate protection to meet EU criteria, the SAAs play a pivotal role in this context. The EU places considerable importance on climate protection, prioritizing it on its agenda.<sup>43</sup> Consequently, as evident from Table 2, all the SAAs concluded between Western Balkan countries and the EU encompass a larger number of environmental provisions.

**Table 2. Date of conclusion of the SAA and Number of EP contained within the agreement.**

COUNTRY	DATE OF CONCLUSION OF THE SAA	NUMBER OF EP
Albania	2006	17
Bosnia & Herzegovina	2015	30
Kosovo	2015	n/a
Montenegro	2007	35
North Macedonia	2001	36
Serbia	2008	32

Source: author's calculations from TREND Analytics

While the SAA is individually negotiated and concluded with each candidate country, they all share core provisions aimed at promoting the values and principles integral to the EU. Consequently, despite minor variations among the SAAs, the fundamental content remains largely consistent for all applicant countries.

Considering the EU–North Macedonia SAA, it is evident from the TREND database that the 36 environmental provisions are structured as follows: 17 for environmental protection, 8 for coherence, 5 for implementation, 3 referring to Multilateral Environmental Agreements (MEAs), and 1 provision each for regulatory aspects, development, and ensuring a level playing field.<sup>44</sup> In contrast to the CEFTA-2006, where environmental protection is only envisioned as a general exception, upon closer examination it can be deduced that the North

<sup>43</sup> European Commission: EU Climate Change, n.d., <[https://commission.europa.eu/energy-climate-change-environment/topics/climate-change\\_en](https://commission.europa.eu/energy-climate-change-environment/topics/climate-change_en)>, last accessed on 16/03/2024

<sup>44</sup> Berger, A., Brandi, C., Bruhn, D.: Environmental provisions in trade agreements: promises at the trade and environment interface, *German Development Institute Briefing Paper*, (16) 2017.

Macedonia – EU SAA includes a significantly greater number of provisions on this topic.

Title VIII of the SAA, addressing cooperation policies, features several articles explicitly referring to environmental protection. It broadly envisions that policies aimed at fostering economic and social development in North Macedonia should encompass environmental considerations.<sup>45</sup> Furthermore, industrial cooperation, modernization, and industry restructuring should not impede environmental protection.<sup>46</sup> The modernization of transport and transport-related infrastructure is tied to the protection of the environment and the reduction of harmful effects and pollution.<sup>47</sup> In terms of energy cooperation, Article 99(2) explicitly includes promoting energy-saving, energy efficiency, renewable energy, and studying the environmental impact of energy production and consumption. The SAA also dedicates an extensive provision to environmental and nuclear safety.<sup>48</sup>

A recent EU initiative to address climate change is the implementation of the Carbon Border Adjustment Mechanism (CBAM), effective from October 1, 2023, with a transitional period until 31 January. CBAM aims to assign a fair price to the carbon emitted during the production of carbon-intensive goods entering the EU, encouraging cleaner industrial production in non-EU countries.<sup>49</sup> Initially applicable to imports of carbon-intensive goods like cement, iron and steel, aluminum, fertilizers, electricity, and hydrogen, CBAM seeks to ensure the carbon price of imports aligns with the carbon price of domestic production, safeguarding the EU's climate objectives.<sup>50</sup> Given that EU member states are the primary trading partners for Western Balkans countries, the introduction of CBAM will directly impact the region. However, the adaptation of economic operators to these newly established rules remains to be observed.

The EU is on the position that this measure is structured to comply with WTO rules, ensuring it does not discriminate against foreign producers or serve as a disguised restriction on international trade.<sup>51</sup> However, from the outset of its

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<sup>45</sup> Stabilization 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 – Final Act, *Official Journal*, (L 84) 20.03.2004, Article 80.

<sup>46</sup> *Ibid*, Article 85.

<sup>47</sup> *Ibid*, Article 98.

<sup>48</sup> *Ibid*, Article 103.

<sup>49</sup> European Commission: Carbon Border Adjustment Mechanism, n.d..

<sup>50</sup> *Ibid*.

<sup>51</sup> European Commission: Carbon Border Adjustment Mechanism: Questions and Answers, Brussels: European Commission, 14.07.2021.



announcement in 2019, it has been criticized by many as a form of green protectionism. Discussions have been held under the auspices of the WTO where concerns have been raised by many developed and developing countries. For example, countries such as Russia and China have raised issues about the CBAM's compatibility with international trade norms' effect on global trade dynamics, while countries like India and Brazil have questioned the mechanism's implications for developing nations.<sup>52</sup> While there was an announcement from China that it would commence a dispute under the WTO's dispute settlement system, to challenge the application of the mechanism, so far, no formal actions have been taken.

## **5. ANALYSIS OF THE REGIONAL TRADE AGREEMENTS WITH NVIVO SOFTWARE**

To provide a qualitative analysis we applied the NVivo 14 software package as one of the most prominent applications for qualitative data management.<sup>53</sup> NVivo is a successor of the first qualitative data analysis software, Non-numerical, Unstructured, Data: Indexing, Searching, and Theorizing, or NUD\*IST constructed after many transformations and alterations. NVivo is widely used for inductive content analysis, which is particularly suitable for the present exploratory study of the concept of climate-smart and sustainable trade.

We applied the NVivo tool to confirm the fact that there is still room for improvement and increase of environment and climate-smart provisions in the regional trade agreements signed both by the Asia-Pacific and by the Western Balkan countries. We ran two analyses: text search and word frequency. For the text search, we searched for the words “environmental”, “climate”, and “sustainable”, and their stemmed words. As a result of the text search, we have obtained a list of references and word trees. And, from the second analysis of word frequency, we have obtained word clouds and word counts.

All agreements were divided into 3 groups – two of which contain RTA for the Asia-Pacific countries and one for the Western Balkans countries. The first group contains the ASEAN agreement and the CPTPP agreement as the most important regional free trade agreements in the Asia-Pacific region. The RCEP was not included because this agreement does not contain any provisions related either to the environment or climate – change. The second group of regional trade agreements for the Asia-Pacific countries comprised the trade

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<sup>52</sup> World Trade Organization: Trade Concerns Database.

<sup>53</sup> Izza, N. N., Mi'raj, D. A.: A Qualitative Analysis on Pesantren Economic: NVivo Approach, *The Economic Review of Pesantren*, 2(1) 2023, pp. 67-83.

agreements signed on a bilateral basis between the EU and South Korea, Japan, Singapore, and Vietnam. We have chosen these trade agreements as those are trade agreements signed by the Asia-Pacific countries that contain the most climate-related articles.<sup>54</sup> The third group of regional trade agreements that were run under the NVivo software was the regional trade agreements of the Western Balkans countries where we had the regional CEFTA-2006 agreement; six trade agreements between EU and Albania, B&H, Kosovo, Macedonia, Montenegro, and Serbia; and publicly available trade agreements concluded between WB6 countries and the UK, Turkey, Ukraine, and EFTA countries. In total, this group comprised 1 regional trade agreement (CEFTA-2006) and 20 bilateral trade agreements.

The results from NVivo have shown that the highest coverage of the searched words was obtained in the ASEAN and the CPTPP agreements, or 0.08% and 0.07% respectively. The EU – Asian agreements have a higher number of references, but the coverage of the whole agreement ranges between 0.06% as the highest to 0.03% as the lowest. The searched words have even lower coverage and a lower number of references in the regional trade agreements of the Western Balkans countries.

The word trees obtained from the text search are provided in the Appendix. The word trees are a visualization technique that displays the results as a tree with branches representing the various contexts in which the word or phrase occurs. The searched word “environmental” shows up frequently with “protection” in the word trees of ASEAN and CPTTP agreements and EU-Asian trade agreements, which indicate a focus on the measures of environmental protection. Besides, ASEAN and CPTTP agreements link “environmental” with “law” frequently, emphasizing regulations against environmental damage. This contrasts with the EU-Asian and Western Balkan trade agreements, with “environmental” appearing frequently with “issues,” “impacts,” “standards,” “principles,” and “services.” This implies that EU-Asian and Western Balkan trade agreements are concerned with the environmental consequences, the fulfillment of requirements, and the relevant environmental services.

Apart from text search, we have run word frequency analysis with the NVivo software, and we have obtained word clouds and word frequencies, which are also provided in the Appendix. However, the words environment, climate, and sustainable, are not visible at all in the word clouds.

The results from the word frequencies show that in the ASEAN and CPTPP agreements, the word climate is not among the 1000 most frequently appeared

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<sup>54</sup> ESCAP, UNEP & UNCTAD: *Asia – Pacific Trade and Investment Report 2021, Accelerating Climate-smart Trade and Investment for Sustainable Development*, United Nations publication, 2021.

words; the words “environment” and “environmental” are mentioned 172 times and have a total weighted percentage of 1%; the word “sustainability” is mentioned 43 times weighting 0.03% of the agreements. In the EU – Asian trade agreements the word climate is also not among the 1000 most frequently appeared words, the words “environment” and “environmentally” are mentioned 426 times with a total weighted percentage of 0.04%; and the word “sustainability” is mentioned 207 times weighting 0.02%. The word “climate” and the word “sustainability” are not among the 1000 most frequently appeared words in the regional trade agreements of the Western Balkans countries also. The words “environment” and “environmentally” are mentioned 251 times weighting a total of 0.02% of the agreements.

The qualitative analysis conducted using NVivo underscores important disparities in the integration of environmental provisions within RTAs in the Asia-Pacific and Western Balkans regions. The findings reveal that the ASEAN and CPTPP agreements place a stronger emphasis on environmental protection, suggesting a robust regulatory framework for environmental considerations. In contrast, the Western Balkans RTAs show a significant deficiency in the prominence of climate-related language, indicating a missed opportunity to address critical environmental issues.

## **6. CONCLUSION**

While historically, environmental and climate provisions played a peripheral role in international trade, there has been a significant increase in such provisions in regional trade agreements in recent decades. The reasons for incorporating these provisions in trade agreements are diverse, but they generally aim to contribute to sustainable development, pursue international environmental goals, ensure a level playing field among agreement parties, and enhance environmental cooperation. This paper investigates the emergence and types of these provisions in trade agreements, with a focus on comparing the Asia-Pacific region with the Western Balkans, shedding light on the global effort to balance economic development with environmental responsibility.

The Asia-Pacific region, despite traditionally not being at the forefront of climate change efforts, is now witnessing a significant transformation in its RTAs to include climate and environmental provisions, reflecting a new era of sustainable trade. This shift is especially notable in the CPTPP which boasts a comprehensive and detailed environmental chapter.

The Western Balkan countries, being at various stages of the EU accession process, have been increasingly incorporating environmental and climate-related provisions into their trade agreements. The inclusion of such provisions

has been particularly evident in trade agreements concluded from 2000 to 2010, with a notable increase in environmental provisions in agreements concluded after 2010. Despite the region's diverse economic development levels, these countries are actively working to meet higher environmental and climate standards, as they aim to align with EU criteria. SAAs between these countries and the EU include provisions related to environmental protection and sustainability, emphasizing the region's commitment to environmental considerations.

The Nvivo analysis has confirmed the fact that there is still space for improvement and increasing the climate and environmental provisions in the agreements. The analysis has shown that although there is an increase in the climate-smart and environmental provisions in the Asia-Pacific and Western Balkans countries' regional trade agreements, they are still not enough to enable sustainable trade. The qualitative approach that is applied highlights the importance of embedding environmental standards in trade agreements to encourage sustainable practices. However, the study could benefit from quantitative methods to assess the practical impact of these provisions on trade and environmental outcomes.

Quantitative analyses, such as those conducted by Monteiro,<sup>55</sup> show the importance of structured environmental provisions in RTAs and their diverse applications across trade contexts. Furthermore, Brandi et al. demonstrate that environmental provisions can foster greener exports, particularly from developing countries, underscoring the potential impact of quantitative evaluations on understanding sustainable trade practices.<sup>56</sup> Additionally, research by Paredes Quintana et al. identifies the varying trade effects of environmental provisions across different trade structures, highlighting a nuanced compliance dynamic between North and South trade partners that further supports the need for quantitative approaches.<sup>57</sup>

Nevertheless, there is skepticism about the effectiveness of the environmental provisions in the regional trade agreements, pointing out that the evidence of the impact of trade agreements on the environment is relatively thin and mostly theoretical and only a small number of environmental provisions are widespread. However, we believe regional trade agreements are only “one piece in the puzzle” to enable sustainable and climate-smart trade. Policymakers

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<sup>55</sup> Monteiro, J. A.: Typology of Environment-Related Provisions in Regional Trade Agreements, *WTO Working Papers ERSD*, August 2016.

<sup>56</sup> Brandi, C. et al.: Do environmental provisions in trade agreements make exports from developing countries greener?, *World Development*, 129(May) 2020, pp. 104899.

<sup>57</sup> Paredes Quintana, P. N. et al.: Environmental Provisions in Trade Agreements: Effects on Andean and Southern Common Market Members, *Latin American Journal of Trade Policy*, 6(17) 2023, pp. 7-37.

should prioritize the inclusion of enforceable environmental provisions in trade agreements, as doing so can drive sustainable practices across trade networks. In this context we would like to underpin that cooperation on environmental issues is essential, environmental norms and environmental policies should be promoted and diffused across borders, countries should work on strengthening their environmental policy and try to apply WTO-compatible trade measures that should promote green export and decrease dirty exports.

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## APPENDIX

**Table A1. Number of cases brought under GATT Article 20 (XX)**

CASE NAME	AGAINST	CASE BROUGHT BY	YEAR	OUT-COME
Prohibition of Imports of Tuna and Tuna Products from Canada	USA	Canada	1982	Ruling adopted
Measures Affecting Exports of Unprocessed Herring and Salmon	Canada	USA	1988	Ruling adopted
Restrictions on the Importation of and Internal Taxes on Cigarettes	Thailand	USA	1990	Ruling adopted
Restrictions on Imports of Tuna	USA	Mexico, etc.	1991	Ruling not adopted
Restrictions on Imports of Tuna	USA	EU	1994	Ruling not adopted
Taxes on Automobiles	USA	EU	1994	Ruling not adopted
Standards for Reformulated and Conventional Gasoline	USA	Venezuela & Brazil	1996	Ruling adopted
Import Prohibition of Certain Shrimp and Shrimp Product	USA	Malaysia, etc.	1998	Ruling adopted
Measures affecting asbestos and asbestos – containing products	EC (EU)	Canada	2001	Ruling adopted

Source: World Trade Organization



Figure 6. ASEAN and CPTPP

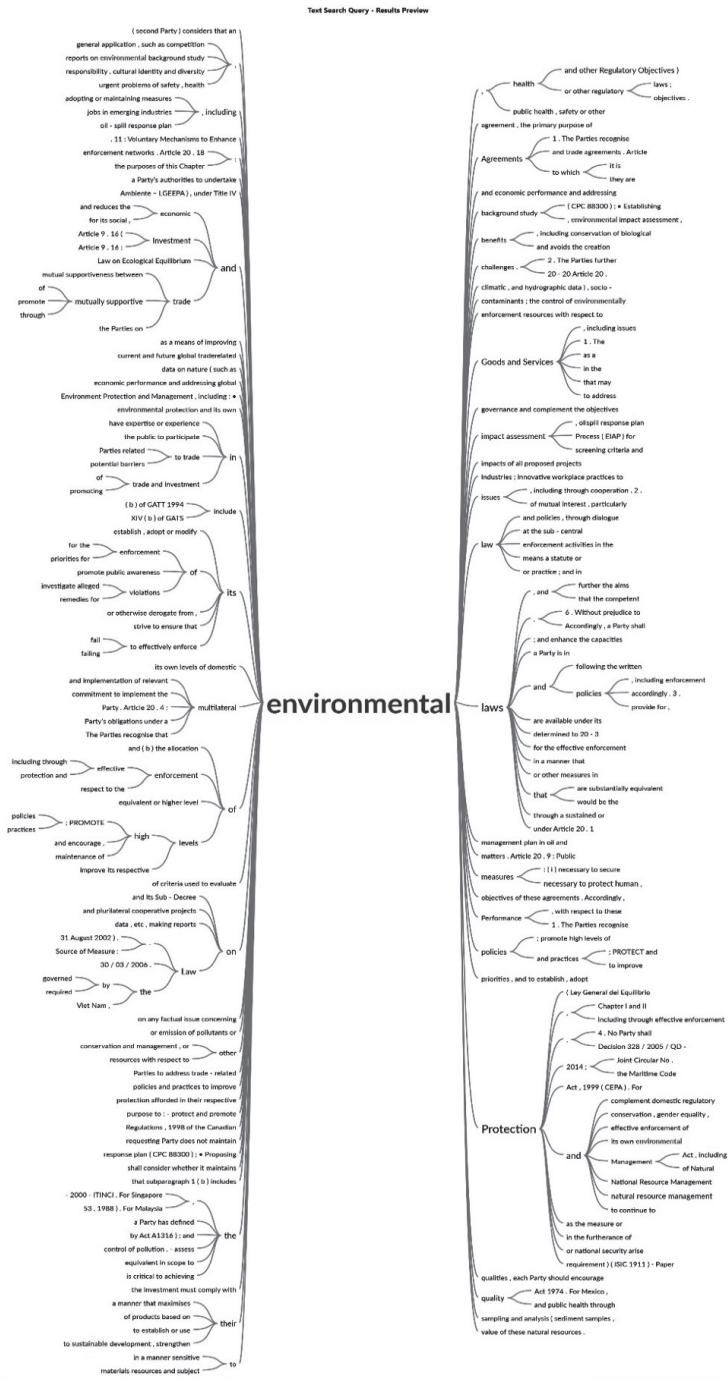




Figure 8. Western Balkans RTAs

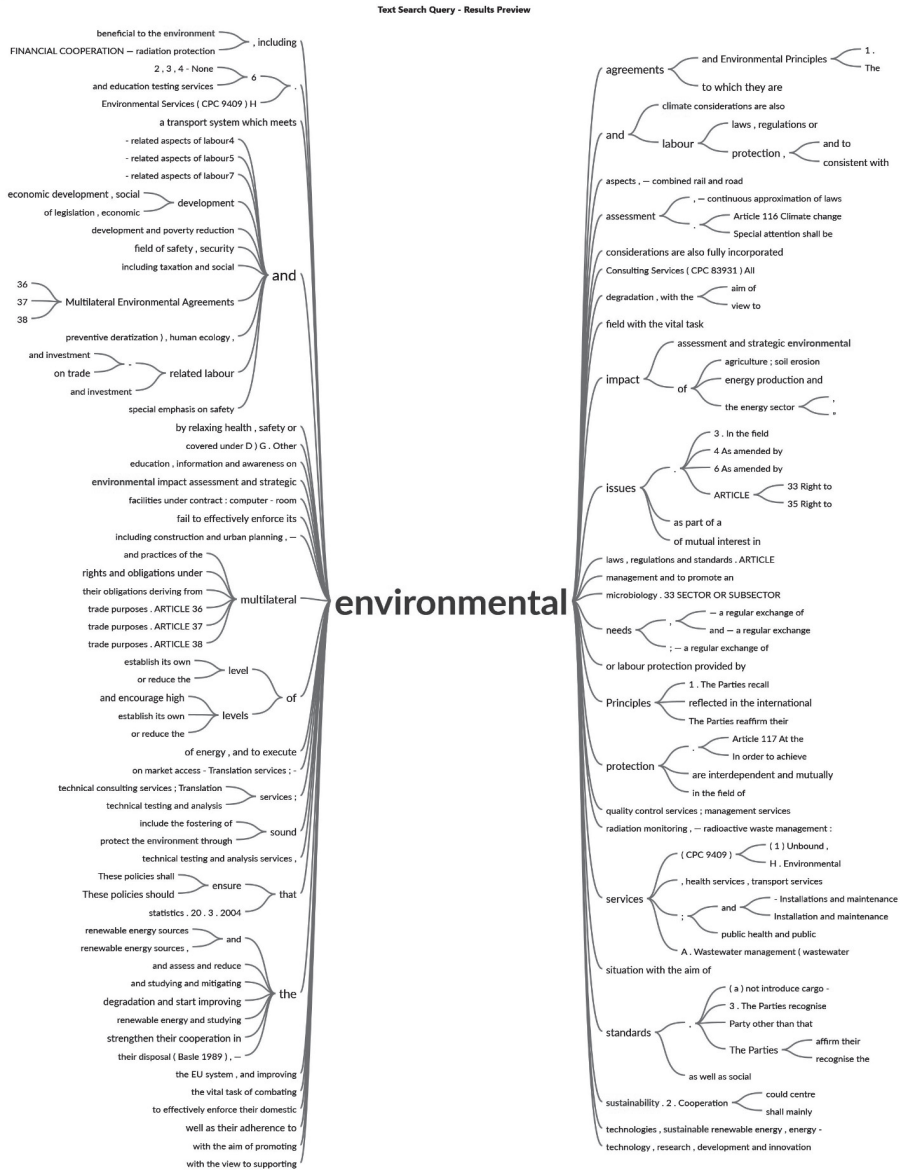


Figure 9. ASEAN and CPTPP



Figure 10. EU – Asian RTAs



Figure 11. Western Balkans RTAs

