

# **Mexico's "Catch-22": The Implications of Being a Trade and Climate Partner of the United States and the European Union**

Simone Lucatello



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**Simone Lucatello** is a senior researcher at Instituto Mora, CONACYT, Mexico City and coordinating lead author for the Intergovernmental Panel on Climate Change (IPCC), Sixth Assessment Report, Chapter 14, North America.

E-mail: slucatello@institutomora.edu.mx

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Tulpenfeld 6, 53113 Bonn

E-Mail: [publications@idos-research.de](mailto:publications@idos-research.de)

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## Contents

Abbreviations	IV
<b>Executive summary</b>	<b>1</b>
<b>1 Introduction</b>	<b>2</b>
<b>2 Background</b>	<b>4</b>
2.1 Trade agreements and the environment: current perspectives	4
2.2 Mexico's free trade agreements	7
2.2.1 Agreements with North America	7
2.2.2 Agreements with the European Union	8
2.3 Mexico's contribution to climate change	9
<b>3 Between trade and climate change</b>	<b>10</b>
3.1 Mexico and NAFTA/USMCA	10
3.2 Mexico and the EUMTA	11
3.3 The legacy of NAFTA and EUMTA for the environment	12
3.3.1 The impact of NAFTA on the environment in Mexico 2000–2019	12
3.3.2 The impact of the EUMTA on the environment in Mexico, 2000–2019	14
<b>4 Exploring connections, limits and compatibility</b>	<b>16</b>
<b>5 Conclusions</b>	<b>19</b>
<b>References</b>	<b>22</b>
<b>Figures</b>	
Figure 1: Cumulative number of FTAs by year of entry into force (1948–2021)	4
Figure 2: Number of environmental projects funded by the NAD-Bank–NAFTA, 1994–2019, per sector	13
<b>Tables</b>	
Table 1: International free trade agreements and removal of barriers on environmental goods and services	6
Table 2: The legacy of NAFTA (positive and negative impacts)	14
Table 3: Sustainability and climate change: an overview of EGD, EUMTA and USMCA	18

## Abbreviations

CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership
EGD	European Green Deal
US-EPA	United States Environmental Protection Agency
EU	European Union
EUMTA	EU–Mexico Trade Agreement
FTAs	free trade agreements
GHG	greenhouse gas emissions
MEAs	multilateral environmental agreements
NAAEC	North American Agreement on Environmental Cooperation
NAFTA	North American Free Trade Agreement
NCD	nationally determined contribution
OECD	Organisation for Economic Co-operation and Development
TSD	trade and sustainable development
UN	United Nations
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change
US	United States
USMCA	US–Mexico–Canada Agreement
WTO	World Trade Organization

## Executive summary

Under the current global environmental governance and trade regimes, several initiatives, such as the new United States–Mexico–Canada Agreement, the European Union’s European Green Deal, and regional free trade agreements the European Union has implemented with strategic partners like Mexico, are prompting a vibrant discussion on how trade agreements can be used as a potential mechanism to create enforceable cross-border commitments to tackle climate change. However, to cut greenhouse gas emissions within a few decades, a decisive departure from current trends in emission and trade policies is required by all countries, both developed and developing.

As a result, politicians, scholars and experts around the world have looked to trade agreements as a possible tool for reaching global climate commitments, either related to or independent from the Paris Agreement. But how well do these agreements suit this purpose? Carbon-intensive products worldwide increased when tariff reductions were implemented, resulting in destructive practices for many countries, particularly those in the Global South. For countries such as Mexico, the nexus between trade and climate change is not easy to address: the country is trapped between its ambitions to play a role in global trade platforms as an industrial manufacturer and agricultural exporter and its desire to be recognized as a global actor in climate change policy and actions within the global community. Despite recent changes in climate and environmental politics under the administration of President Andrés Manuel López Obrador (2018–2024), Mexico is a middle-income country with a long-standing tradition as climate champion and environmental leader in the Global South and needs to make clear where it stands under the new global environmental and ecological transition scenario imposed by the climate crisis and trade-related issues.

The “entanglement” of global trade treaties and commitments under the current climate crisis, represents a major shift for Mexico. Caught between the new US–Mexico–Canada Agreement, the EU–Mexico Trade Agreement and the possible impacts of the European Green Deal, Mexico needs to define its role in trade and environmental terms alongside giant partners such as the United States and the European Union, while defending its role as a regional power. If the European Green Deal takes off as an international driver for deepening climate and sustainable development goals with European Union strategic partners, it remains to be seen how Mexico will respond to the challenge.

In this paper we address the possible implications for Mexico under each of these instruments. We look at the interplay between them, explore the linkages and possible conflictual pathways, and “disentangle” the schemes in which trade and climate change are interconnected. Mexico may be trapped in a “catch-22” situation. Environmental provisions embedded in trade treaties provide critical benefits to the country, but this often comes at the expense of “unacceptable” environmental enforcement measures that can put at risk national development plans, especially at a time when the environment and climate change issues are not at the top of the current administration’s political agenda.

# 1 Introduction

Climate-related measures and their linkage with free trade agreements (FTAs) began to arise in the early 1980s. It took a long time for truly significant measures to be incorporated and a critical mass of trade partners to sign up to them, but since 2010 there has been a huge increase in activities linking the two domains. FTAs have become another vehicle for an increasing number of countries to meet climate action targets, while also presenting a potential for trade and environmental policy to reach sustainable development.

Over this period, literature and practice have evolved around interconnected empirical fields of research where several themes are treated and debated. Trade agreements can help to achieve climate mitigation goals by lowering tariffs, harmonising environmental standards and eliminating trade barriers. But they can also have negative consequences; despite the trade–climate synergies, average tariff reductions have grown. Carbon-intensive and environmentally destructive products such as fossil fuels and chemicals are traded, and trade liberalisation and acceleration may increase pollution-intensive industries, the extraction of natural resources and carbon emissions embedded in trade, as well as deforestation and other environmental concerns (Balogh, 2021).

To reduce emissions drastically in order to keep the planet surface temperature below 1.5 degrees Celsius to avoid irreversible damages (IPCC, 2021), trade and climate efforts are currently concerned with emission mitigation and are frequently associated with carbon trading offset agreements. This is the case for international carbon pricing schemes such as the European Union Emissions Trading Scheme and other international trading emission schemes.

Secondly, the development of the clean energy sector in many regions is resulting in vigorous analysis and practices around trade, energy and industrial policy initiatives. These focus on increasing the productive (and thus trading) capacity of various decarbonising and low-emission technologies to comply with energy efficiency (Dent, 2021), the promotion and liberalisation of trade in climate-relevant treaties, and agreements that aim directly to reduce greenhouse gas emissions. This is the case with the European Green Deal (EGD) or the free trade agreements the EU is promoting with strategic partners such as Mexico.

At the same time, there are other co-existing trade regimes, where import tariffs and other barriers to trade are being progressively removed. In this case, trading partners agree to meet each other's standards where these are applicable, and environmental and technological norms, such as shared or mutually compatible standards, are embedded in specific chapters of the agreement.

Trade and climate governance frameworks are therefore interconnected and are being constantly reshaped. Mexico is a major economy within the Latin American region, the main commercial partner of the United States (US) in North America and an important Latin American partner for the European Union (EU). It is an interesting case study, as a middle-income country torn between big trading powers, looking for a more sovereign position in global trade and finding its way to national and international climate action. The country has recently renewed its trade relation with the United States under the US–Mexico–Canada Agreement (USMCA) and has also agreed on a modernisation of the EU–Mexico Global Agreement<sup>1</sup>, including a trade agreement (referred to in this paper as the EUMTA). At the same time, Mexico updated, in 2020, its nationally determined contribution (NDC) in order to reinforce its commitment to climate goals, and has started the first Latin American emissions trading scheme.

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1 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 (1997). Retrieved from [http://www.sice.oas.org/trade/mex\\_eu/english/index\\_e.asp](http://www.sice.oas.org/trade/mex_eu/english/index_e.asp)

Under these complex settings and strong global environmental changes, dominated by the urgency to tackle climate change, problems may arise for Mexico whenever external partners – on a multilateral and regional basis – show different level of commitment to and ambition for environmental schemes – or even complete disengagement for political or strategic reasons. The implications of Mexico’s current commitments to environmental components of global governance and its relationship with global players such as the EU under the European Green Deal (EGD) and the United Nations (UN) under the United Nations Framework Convention on Climate Change (UNFCCC) remain to be seen.

Crucial questions therefore arise: how will Mexico, squeezed as it is by the USMCA, the new EUMTA and further international schemes such as the EGD, comply with sustainable development and climate ambitions? And how will the country cope with the adoption of previous commitments consistent and compatible with the objectives of the current global demand for stronger sustainability and environmental concerns?

The following paper is comprised of four sections that address key questions regarding the relationship of Mexico to the other parties of the USMCA and the EUMTA, and of the potential role of the EGD. The first part looks briefly at the international context, revisiting trade and environmental discussions. The section also deals with Mexico’s environmental and trade agenda with the United States and the EU. The second section explores the negotiation of the USMCA and of the EUMTA in the light of the climate change and environmental concerns of other Latin American countries. The third section looks at the impacts of NAFTA and the EUMTA on Mexico in environmental terms and provides the groundwork for an exploration in the fourth section of Mexico’s relationship with the European Green Deal and future prospects.

We argue that under the current international trade settings and rules, as well as national political circumstances, Mexico can become vulnerable to major global environmental shifts taking place in both public and private domains. The number of trade schemes, rules, norms, clauses and production shifts available worldwide to reach climate neutrality and face the global environmental crisis, represents a daunting challenge for Mexico. Environmental, climate and sustainable development provisions in the EGD, and in EU and US trade agreements have a powerful influence in the Global South. The amendments to the USMCA Environment Chapter, for example – such as the introduction of a limited “supremacy clause”<sup>2</sup> – strengthen enforceability of compliance with environmental standards. Similarly, if approved and enforced, the EU’s planned supply chain due diligence measures within the EGD and other regional FTAs, may increase the pressure on parties to adopt more environmental and climate friendly initiatives. If Mexico is unable to deal with these multiple scenarios, climate ambition and climate actions within free trade agreements may remain very limited and even have negative effects on the country.

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2 The supremacy clause is a “particular measure” to comply with obligations of a listed multilateral environmental agreement (MEA) “covered agreement”, including MEAs added to the chapter in the future, such as the Paris Agreement. It can be used when new obligations coming from international agreements represent a generalised threat to trade in the form of restrictions (USMCA Chapter 1, Article 1.3.1) (see USTR, 2020a).



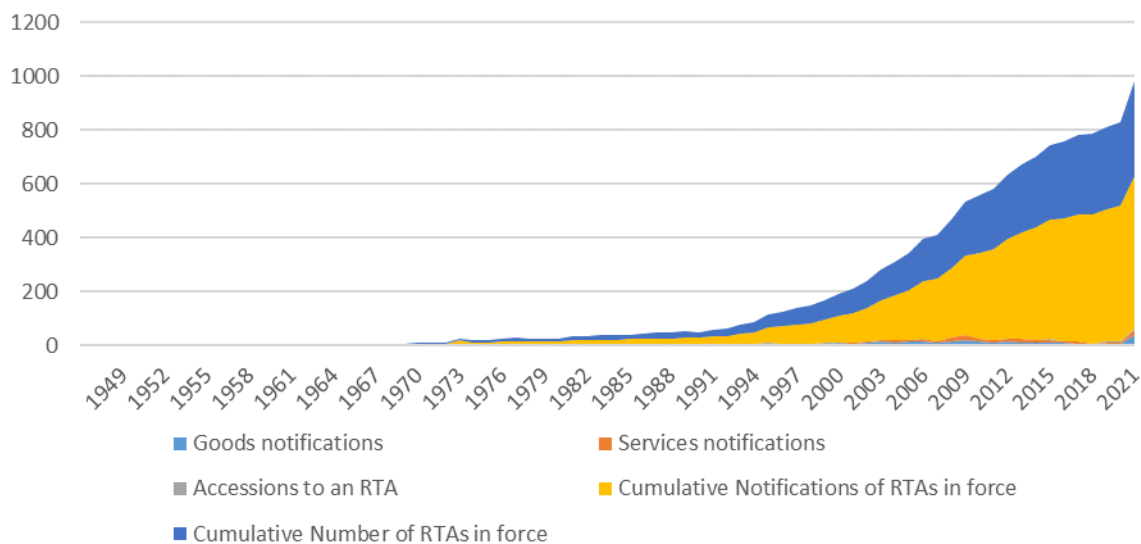
## 2 Background

### 2.1 Trade agreements and the environment: current perspectives

The number and scope of regional free trade agreements with environmental provisions has grown significantly since the year 2000. Environmental concerns, sustainability and trade were integrated in the agreements' text by specific chapters or general objectives and goals that raised much interest in the trade and environmental communities across the world (Brandi et al., 2020).

There is a very comprehensive and well-documented literature on the relationship between trade and the environment. From the 1990s to the present, a significant number of FTAs and economic integration agreements were ratified in many countries and regions, including, progressively and inclusively, environmental aspects in the text of the agreements themselves. NAFTA is an example of a parallel environmental agreement with specific provisions, and the Agreement on Environmental Cooperation, signed by Canada, Mexico and the United States in 2018, which led to the creation of the Commission for Environmental Cooperation. At that time, the agreement was the most advanced in terms of incorporating environmental issues in relation to a trade agreement. At the same time, it is worth mentioning that the relationship between trade, environment and sustainability, and their interactions, were part of the main global negotiating frameworks to the current UN Sustainable Development Goals following the Rio+20 summit in 2012. A growing number of trade agreements has entered into force over the last two decades, reaching more than 250 FTAs by 2021 (OECD (Organisation for Economic Co-operation and Development), 2021).

**Figure 1: Cumulative number of FTAs by year of entry into force (1948–2021)**



Source: Author, based on World Trade Organization (RTA Gateway) data

Fairly strict environmental measures and provisions have been introduced over time, and these included a wide range of cooperation mechanisms in a specific area of special interest to the parties, such as natural raw materials (minerals and woods), fisheries or other ecosystems providing goods relevant to national trade interests. The areas of cooperation vary significantly and depend on a range of factors, including from geographical boundaries and comparable levels of development (OECD, 2021).

There are also several reasons why environmental measures are included in FTAs or denied incorporation. For some countries, environmental issues in trade agreements are seen as offering an opportunity to achieve environmental objectives more efficiently and quickly than, for example, through other environmental methods. Those countries that do not include environmental measures in FTAs, highlight concerns that such measures could result in trade barriers, or that their implementation could result in an excessive burden in terms of human and financial resources to address or internalise a company's environmental costs. Since 2007, the Organisation for Economic Co-operation and Development (OECD) has been conducting periodic reviews of how environmental aspects have been dealt with in FTAs, and compiling an inventory of FTAs with environmental provisions.

As part of one of the difficult-to-resolve environmental dilemmas, the literature and experts agree that trade expansion and economic growth based on business practices can damage the environment in a variety of ways. In particular, the effect of trade on economic growth has very profound impacts: an increase in pollution due to the expansion of economic activity and increased consumption resulting from the increase in spending power. According to Gallagher (2011), the most debated and studied topics of trade impacts on the environment include the deterioration of the ozone layer due to GHG emissions from transport and other emissions, which threatens climate changes on the planet. Pollutants associated with trade expansion, such as sulphur dioxide and other acid rain precursors, DDT and other pesticides, mercury and other heavy and toxic metals have had an adverse impact on the health of populations exposed to the risk of both their production (manufacture) and consumption. Another problem may be linked to the limited environmental controls in coastal areas that can strongly affect the fishing sector and the biodiversity of both ocean and terrestrial ecosystems (Gallagher, 2011).

The United Nations Environment Programme (UNEP) reports regularly that regional agreements with a focus on environmental issues represent more than 60% of all international treaties, but they receive scant attention in relation to the importance of linking global environmental governance and trade. As seen in the previous section, the number of new FTAs fluctuated during the 1990s to the present day, but global interest has grown around the question of how FTAs could strengthen environmental and sustainable development objectives not only through side agreements or dedicated chapters but also by strongly "mainstreaming" environmental concerns. Chapters related to market access, investment, tariffs, technical barriers to trade, implementation and capacity building among others begun to receive attention in terms of their possible relation to sustainable development and climate change. This trend is also known as "greening FTAs" or making FTAs *friendlier* to the environment (Yamaguchi, 2020).

The environmental approach to FTAs can be considered as an additional tool for reaching international environmental objectives alongside multilateral environmental agreements (MEAs) and environmental provisions within the different trade agreements. Over the last two decades, and based on the Doha Development Round outcomes, several multilateral and plurilateral trade and environment agreements have proliferated, the most prominent being the 2015 Paris Agreement and the 2030 Agenda for Sustainable Development. Another important environmental agreement that addresses trade relations is the UNFCCC that was adopted at the United Nations Conference on Environment and Development in Rio de Janeiro in 1992.

Table 1 summarises the relation between FTAs and the removal of barriers to environmental goods and services. It shows that, in the case of the USMCA and other international environmental agreements listed, there is little ambition in terms of addressing climate change.

**Table 1: International free trade agreements and removal of barriers on environmental goods and services**

Free trade agreement	Text mentioning removal of barriers on environmental goods & services	Level of ambition	Legally binding	Enforcement possibility
EU–Mexico	YES	Low	No	YES
EU–Canada	YES	Low	No	YES
CPTPP	YES	Low	No	YES
USMCA	YES	Null	No	YES

Source: Author, based on Economist Intelligence Unit (2019).

However, during international climate change meetings, such as the Conference of the Parties under the UNFCCC, the relation between trade and climate change is now at the core of the agenda. After the entry into force of the Paris Agreement, a Global Forum to discuss the impact of the implementation of response measures within the agreement was created (UNFCCC, 2021). The forum offers a space for dialogues on trade-related concerns in the context of the UNFCCC and provides guidance on the impact assessment of response measures on developing countries and trade impacts from tariffs and carbon border adjustments (Mehling et al, 2019, p. 5). Interestingly, this is a major issue in discussion about the outreach in global trade of the European Green Deal. During COP26 in Glasgow in 2021, the limitations to progress in the implementation of the functions and modalities of the forum was noted, and the secretariat was asked to hold a workshop in conjunction with the fifty-sixth session of the subsidiary bodies in mid-2022 to “further advance the implementation of workplan activities 3, 4 and 11” (UNFCCC, 2021).

Another important consideration is that climate change concerns were scarcely included in World Trade Organization (WTO) discussions until 2009, when the organisation became actively interested in climate change and trade interface, producing a joint report with UNEP. The adoption of the Kyoto Protocol and flexible mechanisms such as joint implementation and the clean development mechanism, other tools such as the EU Emissions Trading Scheme, and other international efforts to reduce GHG emissions through trading schemes, gave impetus to the debate and interlinkages between environmental international trade and climate change (OECD, 2021). For example, emission trading systems are being developed by countries and regions all over the world to put a price on GHG emissions. Such programmes exist in Europe, North America and portions of Asia, and they are being examined in South America and other regions. Mexico has been the first country in Latin America to launch an ETS pilot programme and it could be a useful instrument for engaging with the European Green Deal (Lucatello, 2022).

In sum, with the adoption of the Paris Agreement in 2015, the global climate regime has begun to link up with the international trade regime and has introduced some important changes within the traditional structure of the WTO. Article 6 of the Paris Agreement is the current gateway for channelling and improving the discussion. The change towards a universal approach whereby decisions are made on how to face climate impacts by reducing GHG and introducing other green policies, is holding potential implications for trade. In particular, the strong use of “flexibility” allows for a variety of measures that may have several trade implications. As we mentioned, the system of trade rules that has been in place during the past two decades under the WTO regime has seen an important shift, with the increasing number of FTAs and, more recently, new mega-regional agreements such as the Transatlantic Trade and Investment Partnership (TTIP) between the USA and the European Union (EU), and the Regional Comprehensive Economic Partnership (RCEP) between Australia, China and other countries of the region. This is leading to a changing

panorama in which WTO guidance on setting international trade rules is under severe scrutiny. However, if taken as an opportunity, this situation may offer important future changes in the relationship between environmental provisions, climate change and trade (WTO, 2019).

Nevertheless, climate change is not an easy phenomenon to include in trade dimensions. Climate change has the potential to disrupt trade rather than improve it: more frequent extreme weather events and increasing sea levels could be direct implications of climate change on trade. Climate change is also anticipated to make supply, transportation and distribution chain infrastructure more sensitive to disruptions (Dellink et al., 2017). The relationship between climate change and trade under severe impacts and extreme events is a relevant new topic to address in the literature and new research is needed in this area.

## **2.2 Mexico's free trade agreements**

### **2.2.1 Agreements with North America**

Since the 1990s, Mexico has been committed to strong economic integration and liberalisation through the development of free trade agreements (FTAs), and its trade policy is among the most liberal in the world (CRS, 2020). Mexico's global engagement in global trade is evidenced in its being a member of the WTO, the Asia-Pacific Economic Cooperation (APEC), the G20, and the OECD. Mexico has signed and ratified 13 FTAs with 50 countries – including the USMCA with the United States and Canada, and FTAs with the European Union as part of the Global Agreement, with Japan, Israel, and 33 countries in Latin America, as well as with 11 countries belonging to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). Mexico is also a member of the Pacific Alliance, a trade bloc formed by Mexico, Chile, Colombia and Peru in 2011 (SE, 2021).

Mexico's pursuit of FTAs with other countries not only delivers economic benefits, but also has the potential to diminish Mexico's economic dependence on the United States. By far Mexico's most important trading partner, the United States is the recipient of roughly 80% of Mexico's exports, while the United States supplies about 47% of Mexico's imports (CRS, 2020, p.4). Improvement in economic conditions and a reduction in poverty rates are often the driving forces behind the development of free trade agreements, alongside other political and security considerations.

Concerning free trade with North America and the European Union, Mexico's has been building its relation almost in parallel with the two partners over the last four decades.

Mexico signed NAFTA in 1992. The agreement opened up the Mexican market to the United States and Canada and resulted in the world's largest single market at the time. Some tariffs were immediately reduced, while others were phased out over a period of five to 15 years (CRS, 2020 p. 8). NAFTA allowed for the acceleration of tariff reductions, and quotas and import licenses were abolished.

Market access in goods, agriculture, and most service sectors was also covered, as were provisions for foreign direct investment, intellectual property rights protection, sanitary and phytosanitary measures, government procurement, antidumping and countervailing duty issues, land transportation, dispute resolution, and special safeguard mechanisms among others. (CRS, p. 9)

When the agreement entered into force, around half of all agricultural trade between the United States and Mexico became duty-free. Sugar, corn, dried beans, frozen concentrated orange juice, winter vegetables and peanuts were among the sensitive products with 14 to 15-year phase-out schedules (CFR, 2020). NAFTA had specific safeguard measures that allowed a partner country to apply the tariff rate when the agreement went into effect if imports of a product

reached a “trigger” threshold set out in the agreement. During the Trump administration in the USA (2017–2021), NAFTA was renegotiated and culminated in the creation of the US–Mexico–Canada Treaty (USMCA), which replaced NAFTA in 2020.

The NAFTA’s overarching goal was to eliminate all tariffs on trade between member countries. All such fees were abolished after a ten-year period. The agreement has been a success from a macroeconomic standpoint, based on trade volumes between the United States, Canada and Mexico. Trade between the North American partners surged by 400% between 1994 and 2015. From Mexico’s standpoint, the agreement converted the country from one of the most protected and closed economies in the world to one of the most open, which brought both benefits and drawbacks (Ochoa, 2020).

In general, the literature about NAFTA concurs that the agreement failed to deliver on the promises made by the officials who negotiated it in the early 1990s. Mexico’s economy as a member of the NAFTA did not grow at the expected rates. While some manufacturing areas, such as the automobile industry, have grown since NAFTA was signed, others, such as Mexican agriculture, have been negatively damaged by cheap imported goods from the United States. While it is possible to conclude that NAFTA has benefited Mexico’s industrial north, it has had less benefit for Mexico’s rural south. Concerning the environmental impacts of NAFTA in Mexico, these will be treated extensively in the next section of the paper.

## 2.2.2 Agreements with the European Union

Free trade agreements between the EU and Mexico date back to 1975, when both signed the first bilateral framework agreement (Luna Barrios, 2016). Under this accord, the former European Economic Community (EEC) granted to Mexico – which was not yet a member of the General Agreement on Tariffs and Trade (GATT) – the treatment of a most-favoured nation, allowing general exports from Mexico to Europe, and the beginning of an ongoing bilateral economic relation.

In 1991, the two partners signed the second Framework Agreement of Cooperation, followed by the Solemn Joint Declaration in 1995. Under the European new collaboration framework, a vision of a long-term relationship based on economic and trade exchanges was promoted. However, the preliminary negotiations were not easy, given that the EU was asking to include in the agreement non-traditional trade provisions such as “democratic clauses” or human rights issues. Eventually, the incorporation of this disposition was overcome by modifying the text and eliminating every reference to internal political issues (Ruano, 2019).

In the year 2000, following the previous path of continuous dialogue between the two parties, the first EU–Mexico Global Agreement was reached. This agreement meant different things for the two partners. For Mexico, cooperation offered the opportunity to gain commercial and political access to the EU (EC, 2014). For the EU, which was already enlarging its role as a commercial and economic world power, the agreement represented the possibility of expanding its influence in Latin America and through NAFTA in order to become more connected to the United States. In sum, this FTA represented for Mexico an opportunity to diversify its commercial relations with other international powerful actors such as the EU, and counterbalance the asymmetrical commercial relations with the United States, which still represents today the major commercial partner of Mexico (EC, 2020). In 2016, Mexico and the EU started negotiating the modernisation of the EU–Mexico Global Agreement and reached a new agreement in principle on the trade chapter in April 2018. Besides trade, the new bilateral framework is planned to include elements of a political and cooperation agreement, and an investment protection agreement.

## 2.3 Mexico's contribution to climate change

In terms of climate change, Mexico, with the 14th largest GDP in the world, is responsible for 1.4% of global GHG emissions, releasing 490 megatons of carbon dioxide (MtCO<sub>2</sub>) (Global Carbon Atlas, 2019). As such, it is the second-largest emitter of greenhouse gases in Latin America and the Caribbean. The energy sector is the largest contributor to Mexico's overall GHG emissions, accounting for more than 70% of the country's total emissions. Agriculture and livestock production are also significant sources of emissions (14%). Mexico's forest sector is a "net carbon sink", meaning it absorbs more GHGs than it emits. Forest covers about half of Mexico, totalling 88 million hectares (Lucatello, 2022).

Mexico has pledged to reduce GHGs by 22% by 2030. Latin America's second-largest economy is also a participant in a global initiative to reduce methane emissions. While the primary goals of its NDCs are to reduce emissions and adapt to climate change, their implementation can have cross-sectoral development advantages (IASS, 2017b; Office of the Presidency et al., 2018). In fact, putting NDCs in place is a big deal for the country and it must be done by implementing cross-cutting actions, including trade. And this is where Mexico, as well as other developing and developed economies, may find it difficult within a global trade agenda to make climate action a win-win situation. There is a scarcity of country-specific evidence in this area, but the interrelationships between climate change and economic development and trade connections needs to be improved.

In recent times, Mexico has faced criticism over its climate-related policies. The current administration has been acting in a conflicted way about the environment and climate change issues. During his electoral campaign in 2018, President López Obrador committed to meeting Mexico's obligations to address global warming and discussed shifting the oil-producing nation away from fossil fuels. When he got into office, environmental initiatives were concentrated on a massive reforestation programme (*Sembrando Vida*), and he committed to phase out the pesticide glyphosate and decried fracking. However, López Obrador has prioritised the health of Mexico's state-owned energy companies, *Petróleos Mexicanos* (Pemex) and *Comisión Federal de Electricidad* (CFE), in terms of policy. He has promised the construction of an \$8-billion oil refinery, modifications to six existing Pemex plants, as well as backing, in 2021, the purchase – as part of a plan to make Mexico self-sufficient in gasoline – of the Deer Park refinery outside Houston, Texas, by Pemex for some \$596 million (Rousseau, 2021). He has also tried to keep several privately owned wind and solar projects from connecting to the national grid for the time being, claiming that their output was too unreliable. This development put European energy companies' investments on hold.

López Obrador's administration also postponed a law requiring cleaner-burning fuel until after he leaves office in late 2024, claiming Pemex lacked the capacity to satisfy the need (Rousseau, 2021, p. 6). While supporters argue that López Obrador's backing for energy conglomerates will reduce Mexico's reliance on foreign fuel and encourage economic development, others accuse him of backsliding on environmental promises.

As it is now, López Obrador's energy agenda may seem to have little in common with many of the environmental goals of progressive global climate agendas, but it is a tried-and-tested strategy for leftist leaders in developing countries: focus on state-centric industrial development as well as local pragmatism and convenience to combat poverty (Kelly, 2008). Climate change and environmental concerns will be faced, depending on financial resources available – both political circumstances and external pressures, such as those that may come for the United States, in relation to geopolitical concerns in the region (e.g. massive migration from Central America to the United States via Mexico) or from the EU through the European Green Deal.

Thus, Mexico needs to prove consistency at global level in its climate pledges and environmental actions, while also being coherent with its environmental policy within trade agreements such as the USMCA, the EUMTA and many others it has ratified globally.

## **3 Between trade and climate change**

### **3.1 Mexico and NAFTA/USMCA**

More than 20 years after its entry into force in 1994, the North American Free Trade Agreement (NAFTA) went through a process of in-depth review and renegotiation. The trilateral agreement was renewed after more than a year of negotiations between Mexico, the United States and Canada, and under repeated pressure from the US government of President Trump to turn it into bilateral agreements between the parties instead of a regional agreement. In October 2018, the three countries agreed that the new agreement would be regional in nature and be called the United States–Mexico–Canada Agreement (USMCA). No mention of free trade agreement was included in the text of the treaty, as explicitly required by President Trump in order to fulfil his electoral promise to tear up NAFTA as a free trade agreement that had damaged the US economy and US workers.

Environmental analysts agree that the USMCA is clearly a backwards step, compared to NAFTA. Even though some recent literature exaggerates the environmental component of the USMCA, considering it the greenest Treaty ever (Laurence et al. 2019), a more critical view of the agreement is needed. In fact, the legally binding rules of USMCA favour higher GHG emissions and promote extractive industries over environmental concerns. It ignores climate change, the impact on GHG emissions, and the future effects of climate change on the three countries (Lucatello et al., 2019). The new NAFTA is a missed chance to rethink trade agreements in light of climate change and its compatibility with broader and deeper international environmental schemes such as the European Green Deal is at stake. Twenty-six years after NAFTA, the new accord represents not only a reduction in terms of environmental outreach, but also limits environmental and climate change ambitions within North America. Under pressure from President Trump, to comply with his internal political and electoral concerns, the treaty ended up as a reshuffle of the text on commercial concerns in the previous agreement, and environmental concerns were reduced to a minimum, in line with the anti-environmental rhetoric that characterised the Trump administration.

Recalling that the environmental component of NAFTA was for Mexico a direct result of pressures from the US Congress during the second Clinton administration – the crucial question is what the future will be for environmental issues within the USMCA. Likewise, various environmental institutions and efforts made in several years by the three countries through trilateral cooperation actions (in the context of the North American Agreement on Environmental Cooperation – NAAEC) and bilateral actions (with the United States regarding the US–Mexico border) to improve environmental conditions in North America, are at risk of being lost.

For these and other reasons, uncertainty about the future of the environment in the “new NAFTA” were multiplying even as the agreement was signed. What impacts can an environmental agenda submerged in trade rules have for the improvement of the region’s environment?

Trump’s climate change denier’s stance, his internal policy of dismantling the work left by the Obama administration and a return to disruptive environmental practices, caused the US not to accept a proposed trilateral agreement in which climate change would be included. Subsequently, Mexico and the United States fast-tracked bilateral negotiations, and in July 2018, without Canada, closed the negotiations of the environmental chapter of the USMCA without modernising it. The former North American Agreement on Environmental Cooperation (NAAEC) that entered into

force in 1994, remains in force, still requires all parties to apply their own environmental laws and contains an enforcement mechanism in the event of non-compliance with these laws by one of the parties (EPA [Environmental Protection Agency], 2018). In this regard, Chapter 24 of the USMCA requires parties: 1) to maintain regulations consistent with the multilateral environmental agreements signed by the two countries to which they are signatory parties; 2) to effectively apply environmental laws through a sustained or recurrent course of action in a matter that affects trade or investment between the parties; 3) not to waive or repeal their environmental laws to promote trade or investment (Opportimes, 2018).

Parties to the USMCA may also seek provisions to combat trade in endangered species; combat illegal, unreported and unregulated fishing; prohibit fisheries subsidies; and support the formulation of inclusive and transparent policies in the future through rules requiring the publication of laws and regulations (USTR, 2020b).

In short, the chapter on the environment was discussed and approved bilaterally by the United States and Mexico, but how Mexico and Canada will agree on environmental provisions of mutual interest for the continuation of the same USMCA remains an open question and subject to constant consultation among the parties. For example, a half-hearted effort to discuss climate change issues under the treaty was made in the last annual Council Session (2021) of the North American Commission for Environmental Cooperation that focused on climate change and environmental justice for vulnerable communities that are facing disproportionate impacts in the region.

## **3.2 Mexico and the EUMTA**

After 20 years of the EU–Mexico Global Agreement, including its trade agreement (EUMTA), the parties decided in 2016 to modernise it, based on global trends and lessons learned from two decades of implementation. Within the modernised agreement and the commercial pillar, the EU and Mexico reached a new agreement on trade whereby all trade in goods are duty-free, including the agricultural sector. Most importantly, the agreement also envisages the inclusion of progressive rules on sustainable development and general statements that the two partners have committed to effectively implement their obligations under the Paris Agreement on Climate Change. However, as has happened with many EU FTAs, provisions included in the agreements are still weak and may not fit the purpose of addressing emissions reductions properly or tackling sustainable development according to needs. As clearly illustrated by a recent comparative study by the European Institute for Environmental Policy:

none of the reviewed EU FTAs – including the EU-MEXICO FTA – provide fully adequate provisions for protecting the environment, neither in terms of mitigating negative impacts of trade, nor in terms of using trade to boost environmental sustainability. Although some agreements appear to be headed in the right direction, no single existing trade agreement can yet be considered a “gold standard”. (Blot & Kettunen, 2021, p.3)

As in the case of the renewal of NAFTA, the new FTA with the EU and the global partnership agreement were negotiated in secrecy and not much information was available concerning the inclusion of environmental provisions in the new accord. The sustainability dimension of present and future agreements in the implementation of all chapters of the available treaty is mentioned briefly. The sustainable trade issue is also poorly addressed and sustainability commitments are hard to find.

In 2021, the European Commission brought forward a review of its Trade and Sustainable Development Action Plan, which promised to elaborate on further measures to improve implementation and enforcement of sustainable trade through different mechanisms (EC, 2021).



As for all the EUMTA, the strategy of the European Commission to assess the sustainable trade dimension component of the agreement focuses on strengthening procedures that underpin free trade agreements, including the revision of the civil society dialogue mechanism and a deepening of analytical and data-gathering initiatives, including environmental ex-post analyses of FTAs. All these processes might make a significant contribution to assuring the achievement of environmental protection and/or benefits of the EUMTA (Blot & Kettunen, 2021).

Ex-post assessments would also help stakeholders monitor the consequences of the FTA and keep their government responsible, with higher data quality and analytical rigour providing deeper insights into the FTAs' environmental impact. In this sense, a lot of work needs to be done to provide further accountability and a clear picture of how trade, sustainable development and climate change are embedded in the FTA, and the extent to which they can be beneficial for both partners. Scepticism also remains about the efficiency and effectiveness of provisions and their enforcement (EC, 2021).

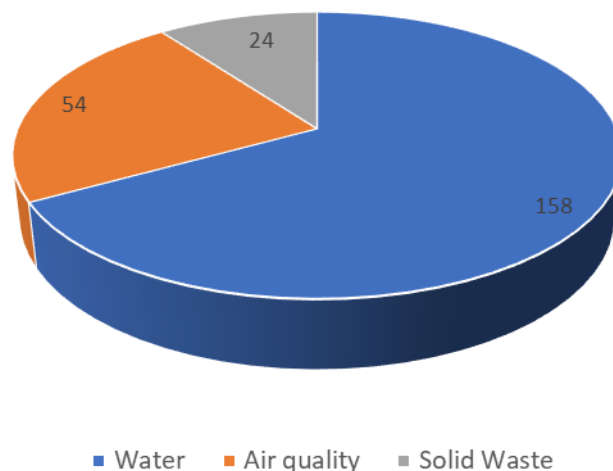
### **3.3 The legacy of NAFTA and EUMTA for the environment**

Several studies from the entry into force of NAFTA in the mid-1990s pointed in the direction of economic and environmental regulations among the three North American countries, and questioned whether Mexico, as a developing nation, would experience an “environmental dumping effect”, transforming the Latin country into a huge polluters “paradise”. Over the years, this great fear has proven to be unfounded. Gladstone et al. (2021) indicate that impacts related to NAFTA have been modest in terms of water availability and air pollution, although results have been mixed in relation to nature conservation and waste management. However, important evidence shows that impacts of NAFTA on mining and agricultural exports have produced substantial regional water resource depletion and contamination.

#### **3.3.1 The impact of NAFTA on the environment in Mexico 2000–2019**

It is worth remembering that NAFTA was among the world trade agreements to generate specific environmental institutions, one for the whole NAFTA region and two just for the US–Mexico border, one of the areas in the world with the heaviest trade traffic. Three institutions were created. The Commission for Environmental Cooperation was established to provide research studies and review citizen complaints about the lack of environmental enforcement on behalf of the three countries. The Border Environment Cooperation Commission was created to monitor “environmentally sustainable” projects such as water supply and treatment in US–Mexico border communities as well as providing capacity building and environmental training in the border. The North American Development Bank (NAD-Bank) has provided financial support for environmental infrastructure projects on the US–Mexico border (Figure 2).

**Figure 2: Number of environmental projects funded by the NAD-Bank–NAFTA, 1994–2019, per sector**



Source: NAD-Bank/BECC projects to 2018, based on Gladstone et al. (2021)

However, changing political administrations within the three NAFTA countries and their shifts towards neoliberal policy and soft environmentalism, as well as other external conditions that have emerged since its implementation, such as China's rise, US border security after 9/11 terrorist attacks, and energy liberalisation initiatives, make it difficult to identify general environmental benefits attributed to NAFTA in the past 25 years (Blecker, Moreno Brid, & Salat, 2017).

As a result of NAFTA, Mexican agriculture has restructured to meet the trend towards producing products for export, particularly vegetables and fruit, with environmental consequences for the soil as a result of intensive practices, changes in land use, etc. Fruit and vegetable production doubled (FAO, 2019), but this has led to the exploitation of aquifers, pesticide use, and land clearing for intensive agriculture, amongst other issues (FAO, 2019). These national trends are particularly evident in the states on the northern border. In addition, NAFTA introduced profound changes in Mexican food traditions and cuisine, with proliferation of fast-food chains and snack foods, which has led to health problems such as obesity. The US market share of the five largest food production firms more than doubled between 1997 and 2006 (Gálvez, 2018).

Mexico's industrial infrastructure and production have also expanded, thanks to the *maquiladora*, manufacturing plants that at the beginning of NAFTA were mostly based on the border, but have since spread throughout Mexico. Toxic waste created in manufacturing plants has continued to be inadequately addressed by companies, and accidental spillages have increased, affecting air and water quality in cities along the border (Gladstone et al., 2021).




An important discussion in the literature on the impact of NAFTA is the issue of air pollution and GHG emissions due to the increase in industry, power generation, agriculture, mining, together with open burning and other factors in the US–Mexico border region (GNEB, 2017). The significant concentration of cars, heavy trucks and carriers, as well as long delays at ports of entry, are also causes of air pollution connected to increased trade as a result of NAFTA (Quintana et al., 2015). According to air pollution data, air quality in border cities has largely improved since 1990, with lower levels of nitrous oxide, ozone, and particulate matter (EPA, 2018). Air pollution has decreased in numerous cases during the last decade. For example, in San Diego, California, ozone exceedance days decreased from 2006 to 2014, and particulate matter pollution in Ciudad Juarez/El Paso (Mexico/Texas), decreased during the period 2006 to 2014 (EPA, 2018).

According to the Texas Commission on Environmental Quality (2019), NOx levels have been steadily decreasing over time. Commercial trucking associated with cross-border trade is a chronic source of air pollution in the borderlands, with commercial vehicles emitting “11 times the PM2.5 and six times the NOx than privately owned cars” (Kear et al., 2012). While air quality in the borderlands remains a persistent threat to border people’s respiratory health, statistics and literature suggest that it generally improved after the adoption of NAFTA. However, emissions data on air quality in the border area is still a matter of scrutiny among scholars both in the United States and Mexico, as a consequence of which NAFTA’s environmental impact and attribution to free trade are very difficult to estimate.

Another important indicator of NAFTA’s impact is related to groundwater depletion and salinisation because of changes in the scale and composition of agriculture, as well as groundwater depletion and pollution from the mining industry (Gladstone et al., 2021)).

Table 2 summarises what it is possible to observe about the impact of NAFTA on the three environmental sectors.

**Table 2: The legacy of NAFTA (positive and negative impacts)**

Environmental sector	Trends 1994–2019	What the literature says
Air pollution		Available literature considers that in general there have been positive consequences for air quality improvements. Current conditions may change under the USMCA if the topic is not considered.
Water depletion		Available literature considers that in general there have been negative consequences for communities. NAFTA has been causing pressure on natural resources, mainly on water for industrial use.
GHG emissions		Available literature considers that in general there have been positive consequences in emission reduction improvements in North America. However, the increasing trend in heavy truck transportations of goods along the border may outbalance the positive trends.

Source: Author.

### 3.3.2 The impact of the EUMTA on the environment in Mexico, 2000–2019

What is the legacy, in environmental terms, of the EUMTA? As in the previous section, we provide a brief account of how the agreement performed environmentally from 2000 to 2020. However, despite some interesting data being available, it is quite difficult to establish the legacy of the EUMTA in environmental terms and the question of attribution is tremendously challenging in both cases.

As mentioned at the beginning of this section, the EUMTA is different in terms of scale from NAFTA and the current USMCA. In 2020, Mexico was the 12th largest partner for EU exports of goods (1.6%) and the 15th largest partner for EU imports of goods (1.2%) (EC, 2020). As a result, any positive or negative environmental consequences for Mexico are likely to be minor. The EU and Mexico have made bold commitments to increase renewable energy use and

reduce overall energy consumption and this can be an area of opportunity for both blocks. Under the current President of Mexico, López Obrador, energy policy is changing and EU–Mexico relations may suffer severe challenges as a consequence.

For the EUMTA, two important instruments should also be considered in analysing the relation between trade and environment: the High-Level Dialogue (HLD) on the Environment and the Sustainability Impact Assessment (SIA). The HLD is a mechanism available on both sides to deal with topics of mutual interest such as natural resource conservation and sustainable management of biodiversity or international environmental governance among other issues (European Commission, 2019). The HLD can also be considered a soft power mechanism to support Mexico without favour in multilateral fora where EU interests on environmental issue, like climate change, are affecting EU trade. The most recent HLD was held in Mexico City in April 2019 and discussions centred on circular economy, air pollution, biodiversity (including forests and deforestation), water and sanitation, and environmental compliance. However, documents available for these meeting and resolutions taken are not easy to access and, apart from press releases or general media coverage, it is hard to find robust sources for the content and resolutions of these HLD meetings.

A sustainability impact assessment (SIA) is an instrument that measures the effects of trade liberalisation on the economy and assesses related impacts on society and the environment. SIAs also look for opportunities, such as increased trade in environmentally friendly products; as a result, SIAs are an important tool for assessing an FTA's environmental impact and providing negotiators with policy and recommendations to mitigate negative impacts while enhancing potential positive outcomes. In the specific case of the SIA carried out by Mexico and the EU to modernise the Global Agreement between them, we will only examine the environmental dimension, setting aside the economic, social and human rights aspects of the SIA (European Commission, 2019).

The 2019 SIA report points out that the EU-Mexico free trade agreement negotiated in 1997 – as with many other promoted by the European Union – did not contain fully adequate provisions for environmental protection, neither in terms of mitigating negative impacts of trade nor in terms of environmental safeguards (LSE, 2018). Thus, the existing trade agreement cannot be yet considered as a successful standard for both parties in environmental terms. Renewable energy-related disputes among European investors in Mexico are subject to profound criticism by the current Mexican administration for energy imbalances in sectors such as fisheries, land use etc.

The environmental effects of the EUMTA are small compared to those of NAFTA, according to the models used by the SIA. In terms of resource intensity, the EUMTA has little impact on fisheries (+0.02%) and land use (+0.13%) in Mexico, while the effects in the EU are even smaller, with less than 0.01%. Global transportation changes due to the EUMTA are also minor: while air and water transport increased slightly (0.17% and 0.6% respectively), CO<sub>2</sub> emissions in Mexico fell by 0.41 million tonnes as a result of the EUMTA's tariff liberalisation, corresponding to a 0.1% decrease in Mexican CO<sub>2</sub> emissions. In the EU, a small increase of about 0.56 million tonnes occurred, resulting in a 0.01% increase in CO<sub>2</sub> emissions (Bergstrand et al., 2011).

The disparities in CO<sub>2</sub> emissions between the EU and Mexico are due to shifts in sectoral output patterns for both partners, with Mexico seeing a decrease in polluting industries while the EU sees an increase. According to the same SIA, the EUMTA contributed to a reduction in some air pollutants, most notably sulphur oxide emissions (-0.28%). The agricultural, electricity, and petrochemicals sectors, which all reduced output because of the EUMTA, account for the majority of anthropogenic SO<sub>x</sub> emissions in Mexico (SIA, 2019). The effects of the EUMTA on other environmental elements (such as water, waste and biodiversity) are ambiguous, but they are thought to be minor, based on the overall economic and environmental results of the

assessment. As for the case of NAFTA, direct attribution of environmental negative and positive changes due to trade agreements is hard to define.

Even though the SIAs can be considered a robust instrument for measuring advancement and assessing impacts in different sustainable development dimensions, the political rhetoric behind the EU–Mexico Trade Agreement and its opaque negotiations are not fully consistent with the results of the SIA. Recent criticism of EU trade policy and the treatment of the environment in trade agreements concerns the lack of enforceability of the sustainable development provisions in general. Environmental protection is not sufficiently covered or specified, either because of unclear provisions in the trade and sustainable development (TSD) chapters, or because of weak and vague dispute settlement mechanisms, which are not as stringent as other enforceable tools (Blot & Kettunen, 2021, p. 75).

Another criticism concerns the quality and timing of the SIA, the findings of which should underpin environmental protection in the trade agreement. As part of the European Green Deal in 2020 the Commission stepped up efforts to enforce TSD chapter commitments by introducing new officials such as a Chief Trade Enforcement Officer and promoting a platform to provide all stakeholders with the possibility of highlighting to the Commission potential violations of the TSD chapters in the agreement.

As a result, we are now facing a time when the EU's trade policy is being closely scrutinised in order to ensure that future agreements are implementing sustainable development provisions and measures to address climate change. The European Green Deal, as we will see in the next section, may ensure compatibility with all the new regional schemes where the EU has strategic interests such as with Mexico both bilaterally and through the USMCA. However, it is unclear how far these additional commitments by the Commission will prevent negative environmental consequences and whether they will be legally binding.

## **4 Exploring connections, limits and compatibility**

In this section we sketch a preliminary analysis of the connections and limits as well as possible consequences for Mexico of the inter-relations between the USMCA, EUMTA and the European Green Deal.

In December 2019, the EU launched the European Green Deal (EGD), an important and ambitious plan to transform the EU's economy in a sustainable way and reach carbon neutrality by 2050. The EGD has the potential to address short- and long-term climate change threats to European countries. However, the EGD is a sectoral programme neither aimed at climate change mitigation or adaptation nor at biodiversity conservation. According to the Commission, it is a comprehensive strategy to "...transform the EU into a fair and prosperous society, with a modern, resource-efficient, and competitive economy," with a "just and inclusive" human dimension (Anglin, 2021). The EGD also implies a transformational agenda for the EU, with ramifications for its partners with long-standing strategic relations.

One of the underlying features of the EGD is that it also aims to decouple growth from resource exploitation: this means that the EU will have to rethink its consumption of resources in relation to nature and natural resources. This can be done not only with technological progress and digital transformation, but also by introducing new lifestyles, creating more resilient communities, and much more awareness among its citizens.

As a result, it appears that with the EGD the EU has embarked on a mission to promote global sustainability through a variety of regulatory mechanisms, including assistance and encouragement, monitoring of foreign operations, setting binding standards and border modifications, as well as penalties and sanctions (Bolt & Kettunen, 2021). While such measures may elicit investigation

under WTO rules, particularly under the Technical Barriers to Trade Agreement, the EU may face credibility issues if the EGD fulfils its domestic pledges but causes concerns to be raised by partners about its potential environmental measures. All nations aspiring to lead the transition to climate neutrality and sustainable development may soon share such worries. Under this important premise of looking to change resource consumption patterns, how can the alignment of trade policy with the EGD be treated? How is this going to match with the USMCA and the EUMTA?

The adoption of the EGD brings back into focus the concern about environmental sustainability. In this sense, trade policy comes to play a crucial role in achieving impact across EU borders and beyond. As explained in previous sections, one of the main EU tools to reach international presence and geopolitical relevance is through the implementation of trade instruments such as bi- and plurilateral free trade agreements worldwide. The premise of the EGD and its extension in the global FTAs scenarios, is therefore the basis for looking at the relation with Mexico and the new North America settings under the USMCA and the EUMTA.

Nonetheless, it is unclear how the aims of deep and extensive FTAs with non-European countries are compatible with the EGD. The bulk of non-European trading partners lack, for example, a CO<sub>2</sub> taxation mechanism, such as direct carbon taxes or an emissions trading programme. The EGD considers a CO<sub>2</sub> border adjustment tax for specific industries as a possibility. However, this might hamper the conclusion of comprehensive FTAs, which aim to abolish tariffs on the vast majority of products. Balancing these conflicts will undoubtedly be a significant challenge for the EGD and the EU's transformation towards a sustainable economy (Blot et al., 2021).

The EUMTAs with Mexico and the EGD's possible linkages with the USMCA diverge also in the lack of power to penalise trading partners for failing to comply with sustainability standards, which is a major roadblock to these objectives. Because of the EU's "soft power" strategy, environmental sections in EU FTAs are free from general dispute settlement procedures, unlike in those negotiated by the United States. Issues will be handled via discussion and expert committees rather than legislation. This is certainly a governance and legal issue to be addressed in the near future. In the absence of a clear rule that has also to be defined within the WTO, there is free-ride situation for major economies such as China, Mexico, India and Brazil, which might benefit from most-favoured-nation concessions made by participants of the accord without them having to commit to liberalising their domestic markets for environmental commodities under bilateral FTAs such as the EUMTA or the USMCA. As a result, the EU would have to take the lead, assuming the risk of trade diversion in the process.

In the specific case of the EUMTA and climate change, for example, and in terms of the impact of policy options addressing the climate change caused by GHG, the EGD has a great potential for lowering trade barriers between the EU and Mexico. The EU and Mexico also signed the Cancun Agreements at the United Nations Climate Change Conference in 2010. The EU committed to a 55% reduction in GHG by 2030 compared to 1990, while Mexico made a voluntary commitment to reduce emissions by 30% (in comparison to business-as-usual projections) with international support (Climate Transparency, 2020). In the case of the USMCA, there is no opportunity to include measures to combat climate change unless the Biden administration agrees to modify the treaty.

For the reasons explained above, there seems to be a much more effective partnership and compatibility in climate change and sustainability measures between Mexico and the EU bilaterally through the EUMTA rather than through the USMCA. If the United States includes a chapter or a clause in the USMCA about climate change and emissions trading, the balance may tip toward cooperation by the EU and Mexico through the USMCA and a rebalancing of the "triad" relation. The same can be said about sustainability issues.

Table 3 provides an overview of the sustainability and climate change dimensions of the EGD, the EUMTA, and USMCA.

**Table 3: Sustainability and climate change: an overview of EGD, EUMTA and USMCA**

Main issues	EGD	EUMTA	USMCA
Climate change at centre stage	YES	YES	NO
Sustainable development ambitions	YES	YES	NO
Environmental chapters	YES	NO	YES
Relations with MEAs	YES	YES	YES
Enforceable measures on cross-border trade	YES	NO	NO
Require any trading partner to comply with its domestic standards throughout the supply chain	YES	YES	NO
Sustainability regulations place implementation responsibilities on the private sector	YES	YES	NO

Source: Author.

If the EU wants other nations to adopt legally binding environmental obligations under the EGD or its FTAs, it must ensure that its trade offer is sufficiently appealing. Take, for example, the Mercosur pact that has yet to be ratified. In that case, the EU has been successful in securing restricted tariff-free access for selected imported products in exchange for compliance with EU animal welfare criteria (Lowe, 2021). However, if the EU wants to go further and tie preferential access to the EU market to measures to tackle deforestation, for example, it will have a hard time persuading its negotiating partners to agree unless it offers to lower tariffs far more than it has in the past. According to Lowe, convincing Mercosur's beef-exporting states to accept additional conditionality would be tough if the EU's beef offer were to decrease tariffs for only 99,000 tonnes per year.<sup>3</sup>

Countries will only agree to conditionality if they receive substantial benefits in other areas of the EU's trade policy that the EU has already accepted. If the EU pursues severe conditionality in its FTAs and the EGD, it should be conscious that domestic realities in the prospective FTA partner's country can sometimes imply that no deal could be the result. In such circumstances, the EU's commitment to binding sustainability measures will be put to the test, and the conclusion will be determined by which party, if any, most needs the trade agreement. In this case, EU policy makers may face the never-ending challenge of deciding whether they will opt for more protection measures for EU producers or pursue a pragmatic liberalisation that fits its environmental and climate global ambitions. For countries like Mexico, squeezed among a coexistence of trade systems, the final decision will be based on national and sovereign decisions that can help to create a level playing field for domestic producers as well as favouring its exports and balancing environmental concerns with its national ambitions.

<sup>3</sup> For context, around 6 million tonnes of beef and veal is estimated to be consumed in the EU every year.

## 5 Conclusions

Under the current international trade settings and rules, completely reshaping and redesigning free trade agreements to be “climate friendly” is no easy undertaking. The sheer number of trade schemes, rules, norms and clauses agreed worldwide makes it a complex puzzle to grasp. A full revision of global trade policy to modernise it and include measures to address climate change is much needed. Even though the European Green Deal is certainly a step forward, much remains to be modified under the current global governance trade scheme.

Similarly, enforcing environmental provisions within trade agreements by “greening” trade, including new carbon taxes or carbon pricing schemes and ensuring that every link in a supply chain complies with sustainability criteria — whether as part of an FTA or as a “behind the border” standard — is extremely difficult. Any of these solutions might potentially face additional challenges and be thwarted by the so-called elephant in the room: the WTO and its rules (Anglin Treat, 2021).

Beyond continuing proposals for new climate rules within FTAs to link up with the UNFCCC and comply with emissions reductions or the Paris Agreement voluntary commitments, the real story is that many nations have turned to negotiating bilateral and multilateral FTAs as an alternative to the continued WTO dysfunction in this matter. At the same time, the practice of “treaty shopping”, whereby a major player such as the US opts to move in and out of global governance schemes (such as the Paris Agreement), has been taking place more often.

The amendments to the USMCA Environment Chapter – as we have seen before, such as shifting the burden of evidence on whether a situation is “trade relevant” and introducing a limited “supremacy clause,” increase enforceability but do not solve the issue of reducing adverse impacts on the environment. Similarly, if approved and enforced, the EU’s planned supply chain due diligence measures within the EGD and other regional FTAs, provide a method for preventing and accounting for trade-related climate damage (Anglin Treat, 2021).

The question here is whether those two different approaches may merge into one effective solution to be adopted permanently in new FTAs or, alternatively, be introduced as enforceable elements directly into the Paris Agreement – which is not enforceable so far – to pressure the WTO to successfully implement climate commitments. Meanwhile, transforming climate ambition into climate action within FTAs may remain a “chimera”.

Another proposal is that WTO should adopt waiver, meaning that there should be an exception to the applicable trade regulations, explicitly making room for climate change provisions. According to Bacchus (2018), the core of a WTO climate waiver should

be a waiver from the applicable trade rules for national measures that: discriminate on the basis of carbon and other greenhouse gases used or emitted in making a product; fit the definition of a climate response measure as defined by the UNFCCC; and do not discriminate in a manner that constitutes a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

The adoption of a WTO climate waiver may be crucial for the redesigning of global trade rules that engage also with the objectives of sustainable development and the global climate agenda.

In the case of the EU and Mexico as global partners in trade, sustainability and climate change, as explained in this essay, can be incorporated within the current framework whereby both partners in international cooperation fora share very similar climate goals and development pathways, even when internal political circumstances such as the current presidency of Mexico may change the game in specific sectors such as energy. Climate cooperation between Mexico and the EU should include trade and investment in low-emission and climate-resilient infrastructure and technologies, as well as other environmental challenges such as biodiversity,



natural resources, and waste management. The compatibility between the USMCA and the EUMTA is low and it will possibly replicate the dynamics of 20 years of parallel relations between NAFTA and the Global Agreement between Mexico and the EU. As described in this paper, environmental approaches and impacts varied a lot under the two FTA agreements with Mexico. However, Mexico and the EU can play a much stronger role under the UNFCCC and Paris Agreement commitments, given the high compatibility between their climate goals and ambitions.

Concerning the EGD and the USMCA, any possible scenario must consider the evolution of the relationship between the EU and the United States, the revitalisation of transatlantic relations and also a change in approach to FTAs. On both sides of the Atlantic, there is increasing support for a change in policy and investment that can lead to important changes in the climate domain. In the United States, Congress is pressing for a Green New Deal, while Europe already has its own Green Deal. The EGD and the USMCA offer a potential road to explore further provisions that may transcend a regional scope and involve the WTO, which is desperately seeking new global trade and environmental rules. However, the EU and US approaches to FTAs have been distinct from one another. The EU has adopted the so called “promotional” approach, as opposed to a “sanctions-based” approach promoted by the USA. The EU carrot system, as opposed to the stick system proposed by the US, is still an unsolved issue. And Mexico is caught in the middle.

The USMCA, on the other hand, has very limited scope in environmental terms, compared to its predecessor, the NAFTA. Even though Mexico’s main trade partner is the United States, and Mexico will experience most of the environmental impacts of this trade agreement, this may not be the proper place for advancing climate change ambitions and projecting its ambitions regionally and globally. Unless there is an abrupt change by the United States in terms of including climate change direct provisions within the treaty, the USMCA and the EGD remain fundamentally at odds.

However, after two decades of experience under the two different trade regimes, Mexico can play a role on both sides of the coin: on one side it can keep exploring and continue to expand its influence as a soft power in climate change issues within the EUMTA and the European Green Deal, and on the other it can help to pave the way for improved environmental provisions within the USMCA by building on more than two decades of environmental lessons learned from its North American partners.

The implications of being caught between different demands from its trade partners, as well as the pressure to comply with its own agenda and global commitments, can be different in nature. We already mentioned possible positive and negative effects, but increased commerce is likely also to be the result for both winners and losers. Indeed, in a broader context of rising inequality in many countries, especially in the Global South, public concern about the detrimental effects of trade and globalisation on certain parts of society has grown in recent years. These concerns are credited as contributing to the emergence of populism in certain developed countries, as happened with the rise to power of the Trump administration and its approach to the revision of the NAFTA. The same has happened to the UK and Brexit, which has also led to a complicated renegotiation of its trading relations with the EU.

Recent changes in the Mexican government – which several analysts consider as “populist” – had already had some direct consequences, such as those for the energy sector. In July 2022, several US and European companies voiced serious concerns over a worsening investment climate in Mexico in the energy sector and urged the new government to uphold its USMCA and EUMTA commitments to the sector.

Under a narrative of foreign exploitation and unequal deals between strategic partners in Europe, the Mexican government changed its policy by modifying the law. In a scenario in which

environmental provisions and “external pressures” to comply with climate goals (such as those of the EGD) may be too difficult and disadvantageous for Mexico, the country may react with even further restrictive measures.

Mexico does, however, have a long and prestigious tradition of support for multilateralism and the rule of international law, as well as its engagement in broadening global trade rules and environmental agreements, mostly in climate change and within a multilateral frame. For Mexico to counteract the effects of escalating environmental and trade pressures, a “Mexican way” and new strategies to deal with both partners are needed to ensure long-term economic growth and sustainable development. The country also needs to support multilateralism to help maintain an open global economy and stable international government, despite the United States’ waning commitment to the multilateral system.

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