Trade sustainability impact assessments (“SIAs” or “TSIAs”) were first launched by the European Union (“E.U.”) in 1999, and have been a part of all subsequent major E.U. negotiations. Although not always covering the same range of issues, similar instruments have been developed by many different actors and are labeled by a variety names, from Canadian Environmental Assessments to American Environmental Reviews. The European Commission defines TSIAs as “studies that determine the likely economic, social and environmental impact of a trade liberalization agreement.” While recognizing the potential benefits of open trade, including the promotion of sustainable development and the creation of opportunities for economic growth and social development, the Commission considers TSIAs, supported by strong domestic rules and regulations, to be necessary in ensuring that the environmental and social impact of any given trade agreement is positive and sustainable.

The assessments involve extensive consultation with a broad range of parties affected by the potential trade agreements, including civil society organizations. When carrying out the assessments, independent external consultants study the likely impact of trade liberalization in a wide variety of areas, including “income, employment, capital investment, equity and poverty, health and education, gender inequality, environmental quality of air, water and land,”

---


* Samuel B. Fegly Professor of Law and Director, International Trade and Business Law Program, University of Arizona, Rogers College of Law. The reviewer may be reached at gantz@law.arizona.edu.
biological diversity and other natural resource stocks.”² Going well beyond the field of trade to include social and environmental issues, the study results provide guidelines for legislation and other policy measures which will accompany any trade agreement. The assessments guide EU negotiators in envisioning the best possible outcome for trade negotiations, and help them to ensure that trade liberalization takes place with “all the necessary supports and safeguards.”³

At approximately 350 pages, Ekins’ and Voituriez’s interesting but narrowly-focused volume is a collection of articles relating to the TSIA process which cover the context of SIAs, and analyze various challenges to the effectiveness of the process. The volume also assesses the challenges to the trade liberalization process generally, including but not limited to national policy framework issues and the improvement of international cooperation. This reviewer is not aware of any previous volume with a similar focus on the TSIA process. Thus, for academics, practitioners, and policy-makers who may wish to understand the process in detail, this volume is likely to provide valuable information and analysis, despite certain limitations noted below.

In North America, where environmental reviews or assessments, rather than TSIA, are undertaken when trade agreements are negotiated,⁴ an understanding of the E.U.’s TSIA process could be useful to political scientists and lawyers as well as economists, environmental scientists, and trade policy specialists, including those employed by academic institutions, governments, and NGOs. This is particularly true if the TSIA process may eventually result, as the editors hope, in a mechanism by which “new trade patterns can contribute to sustainable development.”⁵

The volume purports to respond to the question of what has been achieved after ten years of TSIA, beginning with the debacle of the World Trade Organization’s (“WTO”) 1999 Seattle Ministerial meeting. The broad SIA process addresses the economic, social, and environmental aspects of a proposed trade agreement,⁶ thus dovetailing with the traditional focus of sustainable development. TSIA also aim to promote a more transparent process leading to the formation of trade agreements, and greater involvement of civil society. According to the editors, “[t]he idea is to assess how best to define a full package of domestic policies and international initiatives to yield the best possible outcome, not just in terms of liberalization and economic growth but also of other components of sustainable development.”⁷ Of course, reasonable people may differ as to what constitutes the “best possible outcome”, or the proper mix of sustainable development and development through economic growth, making the overall concept less precise than might otherwise be the case.

---

² Ibid.
³ Ibid.
⁶ Ibid. at 2.
⁷ Ibid.
While the editors and authors are convinced of the importance of TSIAs, they are not as a general rule naïve about the impact. As the editors frankly admit, "SIAs, for their part, while generating much interesting and potentially useful information, have failed to have a significant impact on either the course or outcomes of trade negotiations." They believe that the idea of a "development round" (as the WTO’s Doha Round negotiations have been billed) was “fundamentally misconceived.” Much of the volume is devoted to explaining the lack of success of both the SIA process and the Doha negotiations, and to suggesting potential future improvements in the process.

Following the editors’ overview and general introduction, the volume is divided into four parts with a total of fifteen chapters, reflecting a varied approach to the issues. The editors canvass authors with academic and practical expertise in economics, environmental science, and political science, among other fields. Ekins and Voituriez are both doctorate-level economists, with degrees from the University of London and the Sorbonne, respectively. Surprisingly, despite many sterling sets of credentials, not one author has legal training in international trade, environmental law or otherwise.

Given the diversity of the contributions, it is useful to set out the chapter headings verbatim. The volume covers, inter alia, trade in goods, trade in services, commodities trade, trade and labour, and trade and the environment (including climate change), as well as more direct development and sustainable development issues.

Part I focuses on “The Context: Trade, SIAs and Development”, emphasizing the relationship of trade liberalization, development, and environment through the following chapters: “Trade Induced Changes in Economic Inequality: Assessment Issues and Policy Implications for Developing Countries”; “Why Did ‘Development’ Entrap the Doha Round?”; and “Have Sustainability Impact Assessments of Trade Agreements Delivered on Development Issues: A Reflexive Analysis of the Emergence and Main Contributions of Trade SIAs.”


Part III shifts into a national policy framework, examining the importance of public participation, the role of civil society in policy-making, and the implementation of trade agreements under domestic law: “Improving Public Participation in Sustainability Impact Assessments of Trade Agreements”; “Identifying Trade Victims”; “Trade-Induced Changes in Labour Market Inequalities: Current Findings and Policy Implications”; and “The Value of Value Chains: Spreading the Gains from Liberalization.”

---

8 Ibid. at 9.
9 Ibid. at 10.
10 Additional information, including short biographies of the editors and contributors, is available on the Earthscan website: http://www.earthscan.co.uk/?tabid=56993.
Part IV introduces a final shift in perspective, this time toward international cooperation, exploring such issues as the non-trade concerns of exporting and importing countries: "Collective Preferences and International Compensation"; "Reducing the Impacts of the Production and Trade of Commodities"; and "The Trade and Environment Relationships Reconsidered: The Case of Regional Trade and Climate Change."

In one example of this volume’s approach, Daniel Blobel, Benjamin Gorlach, and Wesley Ingwersen, respectively a geo-ecologist, international economist, and environmental engineer, analyze thorny investment issues, including the balance between investor rights and investor obligations, inappropriate limits on a host country’s right to regulate, and the consistency of investment and development goals.¹¹ For the authors, a key question is how to assess different investment methodologies for trade and investment agreements in a context in which investment action “depend[s] on individual investor decisions” and is thus influenced by a variety of factors.¹² The same question arises where quantification of the links between the conclusion of investment agreements and actual investment and development benefits for a host country is lacking. Ultimately, the authors find it difficult to trace the sustainable development aspects of investment to any appreciable degree. Not surprisingly, after a thoughtful and thorough analysis they conclude that the host country’s overall investment climate is more determinative of investment levels than are investment agreements, that the regulatory framework will likely “be determinative of the usefulness of foreign investment in terms of sustainable development,” and that the circumstances of an individual investment, including the motivations of the investor, control its sustainable development potential.¹³

In a chapter addressing the effects of regional trade on climate change,¹⁴ Tancrede Voituriez recognizes that he is analyzing an area of great uncertainty; that is, “whether trade liberalization effects could be predicted to turn positive or negative.”¹⁵ Voituriez observes that, despite the uncertainties of the available data, the trade and environment dichotomy remains a focal point of the climate change debate, raising issues such as the benefits to the environment of short-distance trade and carbon taxes on imports, designed to restore the competitiveness of E.U. Members, as well as the effects on trade and the environment of the increasing number of regional trading schemes (“RTS”). The bulk of the essay focuses on the last question, using empirical analysis to discuss the different types of RTS in terms of partner status (rich vs. poor, North vs. South, South vs. South) and the impact of transportation and environmental policies at the regional level as compared with the multilateral level. Voituriez concludes that, despite some alternative possibilities, “the drivers of positive environmental change induced by freer trade in the multilateral case are very unlikely to be met in a wide range of regional trade patterns and agreements.”¹⁶

---

¹² Ibid. at 102.
¹³ Ibid. at 118.
¹⁴ Ibid., Chapter 15: “The Trade and Environment Relationships Reconsidered: The Case of Regional Trade and Climate Change.”
¹⁵ Ibid. at 309.
¹⁶ Ibid. at 327.
The Eurocentric focus of the volume is both an advantage and a disadvantage. It is an advantage because it permits the editors and authors to delve into the issues in considerable depth, producing thoughtful essays and useful suggestions for policy-making. In this way, the book is faithful to its focus on “development and the environment, and the role that trade can play in helping to achieve sustainable development.” The Eurocentric focus is, however, a disadvantage to the extent that most WTO Members, while considering economic development one of the highest priorities of the international trading system and directly tied to the reduction of trade barriers, show little interest in moving beyond lip service to sustainable development in the trade forum, likely out of fear that addressing the purported environmental concerns of developed countries will lead to new tariff or non-tariff barriers against imports from developing countries. Highlighting only European efforts to promote sustainable development in international trade fora constitutes a missed opportunity. It fails to call attention to what nascent efforts exist in developing countries to promote sustainable development in trade policy. This is an analytical gap which remains to be addressed in future literature.

The generally minimal influence of sustainable development in the international trade arena is further reflected by the fact that the WTO’s Committee on Trade and Development, created at the Marrakesh Ministerial Meeting in 1994, has accomplished relatively little. The Doha Development agenda limits the Committee’s negotiations to three main themes: the relationship between the WTO rules and multilateral environmental agreements (“MEAs”); collaboration between WTO and MEA secretariats; and the elimination of tariff and non-tariff barriers on environmental goods and services. The relationship between MEAs and trade agreements has been on the Committee’s agenda since 1994, with little apparent progress, despite the fact that the issue has been addressed squarely in a number of regional trade agreements, such as NAFTA. It is also telling that among the issues on the Committee’s agenda is “Environmental requirements and market access: preventing ‘green protectionism’.” This reflects the fears of developing countries noted above, and is no doubt being reinforced today by the proposals in the United States and Europe to impose border taxes (an “equalization levy” in the E.U.) to offset the costs imposed on American and E.U. manufacturers by national legislation requiring more “green” production and process methods (“PPMs”) when goods from countries which permit less environmentally-friendly PPMs are imported.

17 Ibid at 332.
20 See North American Free Trade Agreement Between the Government of Canada, the Government of Mexico and the Government of the United States, 17 December 1992, 32 I.L.M. 289 (1993) (entered into force 1 January 1994) at art. 104 (providing that in the event of inconsistency between the NAFTA and a list of MEAs, obligations in the MEAs prevail to the extent of the inconsistency).
Aside from the E.U., the United States is one of the few WTO Members for which trade-related environmental issues are of high importance. For this reason, it would have been useful if the editors had included a chapter discussing the U.S. counterpart to SIAs: the flawed Environmental Review process that is undertaken when American trade agreements are concluded.\textsuperscript{23} The Obama Administration in the United States shares many E.U. objectives concerning responses to climate change and the promotion of sustainable development in trade agreements.\textsuperscript{24} Therefore, even though the American Environmental Review procedure is quite different from the SIA process in Europe and may well be revised in a future regional trade agreement or Doha Round deal, a comparative analysis of the two systems would have been a useful addition to the volume.

Whether the SIA approach embraced by the E.U. can be applied elsewhere in the world is uncertain, but it is clear that the E.U. experience offers valuable lessons (both in what to do and what to avoid) for the United States, for Canada, and for other WTO Members who seek a transparent, democratic process for assuring that trade negotiators take into account other economic, social, environmental, and development goals. That said, the editors’ suggestion that dealing with global environmental and economic integration demands can quickly lead to “integrated global governance”,\textsuperscript{25} seems much more problematic. Overall, Ekins’ and Voituriez’s volume makes a useful contribution to the economic, environmental and public policy literature on the challenges raised by seeking liberalized trade and sustainable development at the same time.

\textsuperscript{23} American academics knowledgeable about the environmental review process include Daniel Bodanski, Steven Charnovitz, Daniel Esty, and Sanford Gaines.

\textsuperscript{24} See U.S., Office of the United States Trade Representative, Executive Office of the President, \textit{The President’s Trade Policy Agenda} (Washington, D.C.: USTR, 2009) at 3 (including an undertaking to “make trade an important policy tool for achieving progress on national energy and environmental goals”).

\textsuperscript{25} Ekins & Voituriez, \textit{supra} note 5 at 336.